

# REQUEST FOR LEGAL SERVICES

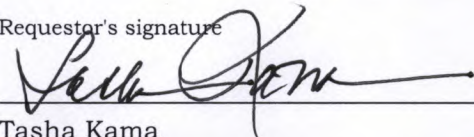
**Date:** March 4, 2019  
**From:** Tasha Kama, Chair  
Affordable Housing Committee

TRANSMITTAL  
**Memo to:** DEPARTMENT OF THE CORPORATION COUNSEL  
Attention: Jeffrey Ueoka, Esq.

**Subject:** AUTHORIZING THE DIRECTOR OF THE DEPARTMENT OF HOUSING AND HUMAN CONCERNS TO WAIVE THE REQUIREMENTS OF CHAPTER 2.96, MAUI COUNTY CODE, IN RELATION TO THE COUNTY'S PURCHASE OPTIONS FOR THE KAIWAHINE PROJECT AND ACKNOWLEDGING THAT TWO OF THE UNITS IN THE PROJECT WILL BE MANAGER'S UNITS AH-16

**Background Data:** Please revise the proposed resolution as indicated on the attached marked-up copy. A hard copy of the revised proposed bill is requested with your response.

**Work Requested:**  FOR APPROVAL AS TO FORM AND LEGALITY  
 OTHER:

Requestor's signature  Tasha Kama	Contact Person <u>Leslee Matthews</u> (Telephone Extension: <u>7662</u> )
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ROUTINE (WITHIN 15 WORKING DAYS)       RUSH (WITHIN 5 WORKING DAYS)  
 PRIORITY (WITHIN 10 WORKING DAYS)       URGENT (WITHIN 3 WORKING DAYS)

SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): March 11, 2019  
REASON: To submit for posting on the March 22, 2019 Council Agenda.

## FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO:	ASSIGNMENT NO.	BY:
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TO REQUESTOR:  APPROVED  DISAPPROVED  OTHER (SEE COMMENTS BELOW)  
 RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE): \_\_\_\_\_

DEPARTMENT OF THE CORPORATION COUNSEL

Date \_\_\_\_\_

By \_\_\_\_\_

(Rev. 7/03)

ah:ltr:016acc01:ldm

Attachment

# Resolution

No. \_\_\_\_\_

WAIVE

AUTHORIZING THE DIRECTOR OF THE DEPARTMENT OF HOUSING AND HUMAN CONCERNS TO ~~MODIFY~~ THE REQUIREMENTS OF CHAPTER 2.96, MAUI COUNTY CODE, IN RELATION TO THE COUNTY'S PURCHASE OPTIONS FOR THE KAIWAHINE PROJECT AND ACKNOWLEDGING THAT TWO OF THE UNITS IN THE PROJECT WILL BE MANAGER'S UNITS

WHEREAS, Resolution 11-23 approved with modifications the Kaiwahine Village project ("Project"); and

WHEREAS, Resolution 16-32 approved a two-year time extension to the construction initiation date imposed by Modification 4 of Resolution 11-23, with construction to begin by March 18, 2018, and be completed by March 18, 2021; and

WHEREAS, Resolution 18-25 authorized a variation from the plans and specifications approved in Resolution 11-236 to allow the one hundred and twenty (~~120~~) residential workforce housing units in the Project to be rental units approved a time extension with construction to begin by September 30, 2018, and be completed by September 30, 2021; and

WHEREAS, Resolution 18-25 did not specify that two (~~2~~) of the one hundred and twenty (~~120~~) units in the Project will be utilized by resident, on-site managers to help ensure the efficient management of the Project; and

WHEREAS, Section 2.96.070(B)(2)(a), Maui County Code, requires that the owner grant the County a first right to purchase the development to owner in the event the owner decides to sell during the deed restricted period; and

WHEREAS, Section 2.96.070(B)(3), Maui County Code, requires that within ninety (~~90~~) days of the expiration of the thirty (~~30~~) year deed restricted period, the owner shall offer to sell the Project to the County at a price determined by the owner; and

WHEREAS, owner is unable to comply with these requirements allowing the County the first right to purchase as they are in conflict with various agreements that were necessary to finance the project; and

WHEREAS, a sixty-five (~~65~~) year deed restriction is being recorded against the Project pursuant to the Maui County Code; and

**Resolution No. \_\_\_\_\_**

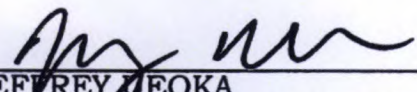
WHEREAS, the owner is willing to comply with Section 2.96.070(B)(2)(b), Maui County Code, requiring that any new owner during the deed restricted period is required to comply with the deed restrictions; and

WHEREAS, in accordance with Section 2.96.030(D), Maui County Code, the Director of the Department of Housing and Human Concerns is requesting that the requirements of Sections 2.96.070(B)(2)(a) and (B)(3), Maui County Code, be waived; now, therefore;

BE IT RESOLVED by the Council of the County of Maui:

1. The Council acknowledges that two (2) of the one hundred and twenty (120) units in the Project will be utilized by resident, on-site managers, which two (2) units will not be subject to affordability restrictions; and
2. The Council authorizes the Director of the Department of Housing and Human Concerns to waive the requirements of Sections 2.96.070(B)(2)(a) and (B)(3), Maui County Code, provided that the Project is subject to a sixty-five (65) year deed restriction (to be recorded promptly after adoption of this resolution) and the requirements of Section 2.96.070(B)(2)(b); and
3. All other requirements of Resolutions 11-23 and 18-25 remain in full force and effect; and
4. That certified copies of this resolution shall be transmitted to the Department of Housing and Human Concerns and the ~~owner~~ owners of the Project, A0578 Kihei, L.P., a Hawaii limited partnership, and A0688 Kihei, L.P., a Hawaii limited partnership.

APPROVED AS TO FORM  
AND LEGALITY:

  
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JEFFREY DEOKA  
Deputy Corporation Counsel  
County of Maui  
2011-0108  
2018-11-06 Proposed Resolution for Management Units