

RECEIVED
 Karlynn K. Fukuda
 PRESIDENT
 Mark Alexander Roy AICP, LEED AP
 VICE PRESIDENT
 Tessa Munekiyo Ng AICP
 VICE PRESIDENT
 Michael T. Munekiyo AICP
 FOUNDER
 2024 MAY 17 AM 10:57
**OFFICE OF THE
 COUNTY COUNCIL**

TO: Tasha Kama, Chair
 Housing and Land Use Committee
County Council
 County of Maui
 200 South High Street
 Wailuku, Maui, Hawai'i 96793

DATE: May 17, 2024

SUBJECT: HLU-26 Unilateral Agreement for Bill 28
 (2024) District Boundary Amendment for
 Hale Mahaolu Ke Kahua Project
 (Wailuku)

Enclosed is/are:

Copies	Date	Description
3 Originals	May 2024	Unilateral Agreement

X	For your information For necessary action For your review For your files	For your use As requested For your signature Returning
---	---	---

REMARKS: As requested, we are providing three (3) hard copies of the signed Unilateral Agreement for your review and processing.

Please call us at (808)244-2015, if you have any questions. Thank you.

Signed: 
 Hoku Krueger, Associate

HK:yp
 Copy to: Grant Chun, Hale Mahaolu (w/enclosure)
 Moe Mohanna, Highridge Costa (w/enclosure)
K:\DATA\Highridge\Waiehu AH PERMITTING\Applications\Unilateral Agreement\UA trans.docx

LAND COURT SYSTEM

REGULAR SYSTEM

Return By Mail (X) Pickup (): To:

Office of the County Clerk
County of Maui
200 South High Street
Wailuku, Hawai'i 96793

Total Number of Pages: 11

(Including exhibits, notary certification pages, and all other components)

Affects Tax Map Key (Maui) (2) 3-3-001:106

**UNILATERAL AGREEMENT AND DECLARATION OF CONDITIONS FOR STATE LAND
USE DISTRICT BOUNDARY AMENDMENT**

THIS INDENTURE, referred to as "***Declaration***" or "***Unilateral Agreement***," is made this, 7th day of May, 2024, by the following "Declarant," who is the owner of real property located at Wailuku, Maui, Hawaii, referred to as "***the Property***," comprised of 11.476 acres, and identified for real property tax purposes as Tax Map Key: (2) 3-3-001:106.

The Declarant is WAIEHU HOUSING, LP, whose principal address is at 330 WEST VICTORIA STREET, GARDENA, CALIFORNIA 90248, Hawaii, and whose Managing General Partner is HIGHRIDGE COSTA DEVELOPMENT COMPANY, LLC, and whose Administrative General Partner is HALE MAHAOLU. Its authorized contact persons are its MANAGING GENERAL PARTNER and its ADMINISTRATIVE GENERAL PARTNER, who are currently MOHANNAD H. MOHANNA and GRANT Y. M. CHUN, and any of their successors.

WITNESSETH:

WHEREAS, the Council is considering the Declarant's Petition ("***Petition***") for a State

Land Use District Boundary Amendment for a 9.798-acre portion of the Property, described in Exhibit "1" and more particularly identified in Exhibit "2," State Land Use District Boundary Amendment Map No. 415; and

WHEREAS, the Council's Housing and Land Use Committee recommended passage on first reading of a State Land Use District Boundary Amendment bill for that portion of the Property in accordance with Section 19.68.040, Maui County Code; and

WHEREAS, the Declarant has agreed to execute this Unilateral Agreement in accordance with Section 19.68.040, Maui County Code;

NOW, THEREFORE, the Declarant makes the following Declaration:

1. In accordance with Maui County Code. That this Declaration is made in accordance with the provisions of Section 19.68.040, Maui County Code, relating to State Land Use District Boundary Amendments;

2. Binding until Maui County written release. That until written release by the County of Maui, (a) the Property, and all its parts, are held subject to this Declaration's covenants, conditions, and restrictions, which are effective as to and run with the Property, from and after the recording of this Declaration with the Bureau of Conveyances or the Land Court of the State of Hawaii, without the execution, delivery, or recordation of any further deed, instrument, document, agreement, declaration, covenant, or the like with respect to the Property by the Declarant, the County of Maui, or any successor or assign; (b) the acquisition of any right, title or interest in or with respect to the Property by any person or entity constitute acceptance of all of the covenants, conditions, and restrictions of this Declaration by the person or entity; and (c) upon any transfer of any right, title, or interest in or with respect to the Property, the transferee assumes, is bound by, and is obligated to observe and perform all of the covenants, conditions, and restrictions of this Declaration;

3. Running with the Land. That this Declaration and all of its covenants, conditions, and restrictions contained are effective as to and run with the land in perpetuity, or until the Declarant notifies the County Department of Planning that any of the covenants, conditions, and restrictions are satisfied by the Declarant, and the Department verifies the satisfaction and provides a written release of the covenant, condition, or restriction;

4. WAIEHU HOUSING, LP as Declarant. That the term "Declarant" and any pronoun in reference to it, wherever used in this Declaration, means the singular or the plural, the masculine or the feminine, or the neuter, and vice versa, and includes any corporation or any other entity, and means and includes WAIEHU HOUSING, LP, as Declarant and the Declarant's successors, and assigns;

5. Effective as of date State Land Use District Boundary Amendment ordinance approved. That this Declaration is fully effective on the effective date of the State Land Use District Boundary Amendment ordinance approving the establishment of a State Land Use reclassification from the AGRICULTURAL District to the URBAN District for that portion of the Property;

6. Develop consistent with State Land Use District Boundary Amendment conditions. That the Declarant agrees to develop the Property in conformance with the conditions stated in Exhibit "3" and in the State Land Use District Boundary Amendment ordinance;

7. Conditions reasonable and rationally related to public health, safety and welfare. That the conditions imposed are reasonable and rationally related to the objective of preserving the public health, safety, and general welfare and fulfill the need for the public service demands created by the Property's proposed use;

8. Conditions enforceable by County of Maui. AND IT IS EXPRESSLY UNDERSTOOD AND AGREED that until released in writing by the County of Maui, the conditions imposed in this Declaration run with the land identified in this Declaration and bind and constitute notice to all subsequent owners, lessees, grantees, assignees, mortgagees, lienors, and any other persons who claim an interest in the Property. The Declarant further understands and agrees that the County of Maui has the right to enforce this Declaration by appropriate action at law or suit in equity against all such persons, with the understanding the Declarant or its successors and assigns may at any time file a petition with the County Department of Planning for the removal of the conditions and termination of this Unilateral Agreement, which will be processed in the same manner as petitions for State Land Use District Boundary amendments.

This Declaration may be executed in counterparts, each of which will be deemed to be an original, but all of which, taken together, constitute one and the same Declaration.

Any persons signing this Unilateral Agreement represent that they are duly authorized and have legal capacity to execute and deliver this Unilateral Agreement. Each party represents to the other that the execution and delivery of this Unilateral Agreement and the performance of the party's obligations have been duly authorized and that this Unilateral Agreement is a valid and legal agreement binding on the party and enforceable in accordance with its terms.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the undersigned has executed this Declaration on the day and year indicated on the following notary public certification pages.

DECLARANT:

WAIEHU HOUSING, LP

MANAGING GENERAL PARTNER:

Highridge Costa Development Company, LLC, a Delaware limited liability company

By: 

MOHANNAD H. MOHANNA
PRESIDENT

ADMINISTRATIVE GENERAL PARTNER:

Hale Mahaolu, a Hawaii domestic nonprofit corporation

By: 

GRANT Y. M. CHUN
EXECUTIVE DIRECTOR

Approved as to Form and Legality:

By: _____

Print name: _____

Deputy Corporation Counsel

County of Maui

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Los Angeles)

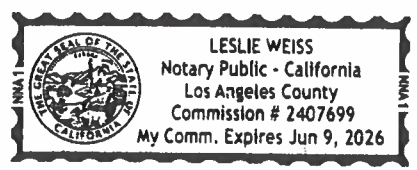
On May 15, 2024 before me, Leslie Weiss, Notary Public,
(insert name and title of the officer)

personally appeared Mohannad H. Mohanna,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) (s) are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

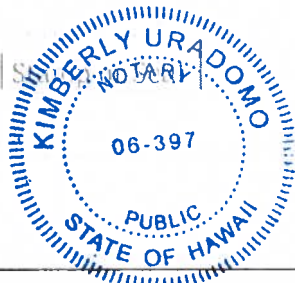
Signature *Leslie Weiss* (Seal)



STATE OF HAWAII)
)
COUNTY OF MAUI) SS.

On this 17th day of MAY 2024, before me personally appeared GRANT Y. M. CHUN, to me personally known, who being by me duly sworn, did say that he/she is the ADMINISTRATIVE GENERAL PARTNER of WAIEHU HOUSING, LP, and that said instrument was signed on behalf of said WAIEHU HOUSING, LP by authority of its Board of Regents, and said GRANT Y. M. CHUN, as said ADMINISTRATIVE GENERAL PARTNER, acknowledged said instrument to be the free act and deed of said WAIEHU HOUSING, LP.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



Kimberly Uradomo

Notary Public, State of Hawaii

Print Name: _____ Kimberly Uradomo
Comm exp: 7-02-2026
My Commission Expires: Second Judicial Circuit

NOTARY PUBLIC CERTIFICATION	
Doc Date: <u>05/17/2024</u>	# Pages: <u>11</u>
Notary Name: <u>Kimberly Uradomo</u> Commission expires: <u>7/2/2026</u>	Judicial Circuit: <u>Second</u>
Document Description: <u>Unilateral Agreement and Declaration of conditions for state land USE District Boundary Amendment</u>	
Notary Signature: <i>Kimberly Uradomo</i>	
Date: <u>05/17/2024</u>	

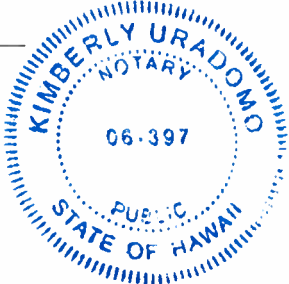


EXHIBIT "1"

DESCRIPTION OF THE PROPERTY

AGRICULTURAL STATE LAND DISTRICT AREA

Being a portion of Land Commission Award 8559-B, Apana 20 to William C. Lunalilo,
and a portion of Grant 3343 to Claus Spreckels
being also a portion of Lot 1-C of the Paukukalo Large Lot Subdivision
Subdivision File No. 3.1744

at
Waiehu, Wailuku, Maui, Hawaii

Beginning at the Southerly corner of this parcel, also being the Northeast corner of Lot 1-B Being a portion of Land Commission Award 8559-B, Apana 20 to William C. Lunalilo, and a portion of Grant 3343 to Claus Spreckels, the coordinates of said point of beginning referred to Government Survey Triangulation Station "LUKE" being 11,352.04 feet North, 887.43 feet West and running by azimuths measured clockwise from true South:

1. 102° 44' 413.27 feet along Lot 1-B, being a portion of Land Commission Award 8559-B, Apana 20 to William C. Lunalilo, and a portion of Grant 3343 to Claus Spreckels;

thence along Kahekili Highway, on a curve to the right, with a radius of 1800.00 feet, the chord azimuth and distance being

2. 198° 44' 43" 110.24 feet;

3. 200° 30' 1664.46 feet along the same;

thence along the same, on a curve to the right, with a radius of 1050.91 feet, the chord azimuth and distance being

4. 203° 46' 15" 119.92 feet;

5. 297° 02' 30" 18.97 feet along the same;

6. 207° 02' 30" 150.00 feet along the same;

7. 297° 02' 30" 20.00 feet along the same;

8. 207° 02' 30" 12.11 feet along the same;
- thence along the same, on a curve to the left, with a radius of 776.20 feet, the chord azimuth and distance being
9. 203° 11' 30" 104.24 feet;
10. 282° 46' 30" 111.07 feet along Waiehu Beach Road;
11. 12° 46' 30" 43.44 feet along Lots 81 of the Waiehu Heights Subdivision Unit II (File Plan No. 1567), being a portion of Land Commission Award 8559-B, Apana 20 to William C. Lunalilo;
12. 323° 18' 20" 28.89 feet along the same;
13. 22° 28' 45" 1427.95 feet over 1-C of the Paukukalo Large Lot Subdivision, being a portion of Land Commission Award 8559-B, Apana 20 to William C. Lunalilo, and a portion of Grant 3343 to Claus Spreckels;
14. 18° 13' 30" 222.62 feet along Lots 59, 58, and 57 of the Waiehu Heights Subdivision Unit II (File Plan No. 1567), being a portion of Land Commission Award 8559-B, Apana 20 to William C. Lunalilo and Lot 157 of Waiehu Heights Subdivision (File Plan No. 1482), being a portion of Land Commission Award 8559-B, Apana 20 to William C. Lunalilo;
15. 347° 51' 40" 73.62 along Lot 157 of Waiehu Heights Subdivision (File Plan No. 1482), being a portion of Land Commission Award 8559-B, Apana 20 to William C. Lunalilo;
16. 349° 07' 40" 176.08 feet along the same;
-
17. 348° 11' 30" 135.68 feet along Lot 157 of Waiehu Heights Subdivision (File Plan No. 1482), being a portion of Land Commission Award 8559-B, Apana 20 to William C. Lunalilo and Lot 92 Waiehu Heights Subdivision III (File Plan No. 1715)

being a portion of Land Commission Award 8559-B,
Apana 20 to William C. Lunalilo;

18. 353° 25' 30"

88.66 feet along Lot 93 Waiehu Heights Subdivision III (File Plan
No. 1715) being a portion of Land Commission Award
8559-B, Apana 20 to William C. Lunalilo to the point of
beginning and containing an area of 9.798 acres;



A handwritten signature in black ink, appearing to read "Kevin J. Clarke", written over a horizontal line.

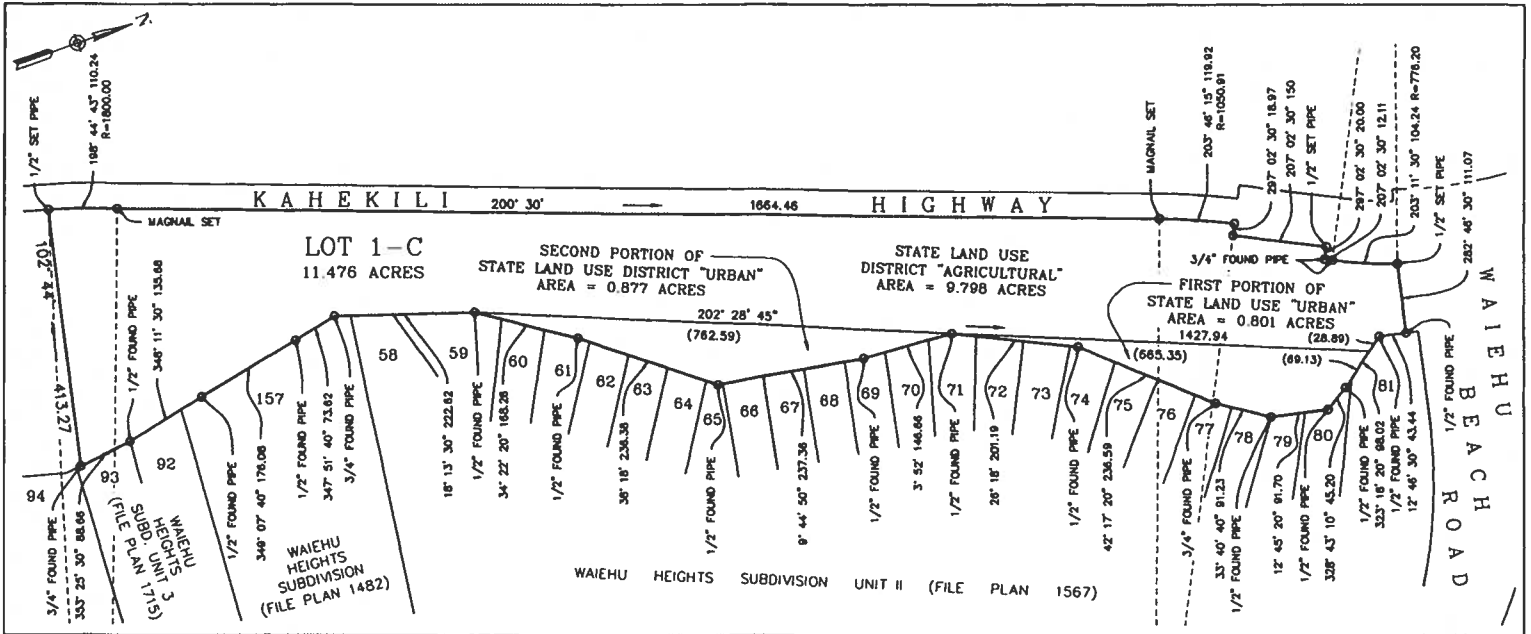
Kevin J. Clarke
Licensed Professional Land Surveyor
Certificate No. 17011-LS
Exp. 04/2022

11/16/2023

TOPO Ke Kahua (SLU Ag)
File 20-0559

EXHIBIT "2"

STATE LAND USE DISTRICT BOUNDARY AMENDMENT MAP



Land Use District Boundary Amendment Map No. 415

District Boundary Amendment

Paukukalo, Waiehu, Wailuku, Maui, Hawaii

From Agricultural District to Urban District

EXHIBIT "3"

CONDITIONS OF STATE LAND USE DISTRICT BOUNDARY AMENDMENT

CONDITIONS

1. The Property must be developed as a one hundred percent residential workforce housing project under the letter dated May 4, 2023, from the director of housing and human concerns, approving, with modifications, the independent development of the Hale Mahaolu Ke Kahua Affordable Housing Community Project under Chapter 2.97, Maui County Code (“DHHC Approval Letter”), attached as Exhibit “1”.
 2. The Property must be developed in substantial compliance with the representations made to the department of housing and human concerns in obtaining the DHHC Approval Letter and to the Maui County Council in obtaining the State District Boundary Amendment.
 3. The developer must work with the State Department of Transportation to inspect the drainage culvert located to the east of the Kahekili Highway and Waiehu Beach Road intersection quarterly, prior to forecasted large rain events, and following large rain events for blockage. The developer must request that the State Department of Transportation clear the culvert before occupancy of the first dwelling unit and as needed, after quarterly inspection, prior to forecasted large rain events, and following large rain events.
 4. Before occupancy of the first dwelling unit, the developer must replace the ginger, heliconia, fern tree, tropha, golden glory, and Singapore plumeria in the landscape planting plan with native plants, fruit trees, or non-invasive lei plants, and substitute the fern tree with koai’a in the landscape planting plan.
 5. To the extent allowed by law, the developer must give preference to Maui County residents based on their length of residency and to those displaced by the August 2023 wildfires on Maui Island.
-

hlu:misc:026abill04_conditions:emb/pmg