

**EXHIBIT "B"**

**Modifications (Polanui Gardens)**

1. The Polanui Gardens Affordable Housing Project ("Project") approved by this resolution and the exemptions set forth in Exhibit "A" shall all lapse and become void if:
  - a. By the end of 180 days from the effective date of this resolution, Kipa Centennial LLC has failed to receive the Maui County Council's approval of a State Land Use District Boundary Amendment from Agricultural District to Urban District, for the approximately 14.453 acres of land for the 50 residential workforce housing units, as depicted in the Application; or
  - b. Construction of the Project has not started within two years of the adoption of this resolution. Start of construction shall mean the visible start of grading, pursuant to a valid grading permit as needed for the development of the 14.453 acres containing the 50 residential workforce housing units.
2. The Developer shall act in good faith and with its reasonable best efforts to complete construction of all 50 residential workforce housing units on the 14.453 acres, with all related roads and infrastructure, not later than five years from the effective date of this resolution.
3. The height of all buildings, including but not limited to the 50 residential workforce housing units and all homes to be constructed on lots sold at market prices, shall be limited to one story.
4. The Developer shall develop all workforce housing units before or concurrently with the development of homes on the 16 market-rate lots.
5. The Developer shall develop a well for non-potable water for irrigation with a yield sufficient to meet the non-potable water demand of all 66 lots. Market-rate lots shall absorb the costs of the non-potable water system. Said yield shall serve the project either directly or by dedication to Launiupoko Irrigation Co. in order to alleviate any project impact in Kauaula Stream flows. The County of Maui shall not grant final subdivision approval if, and as long as, the Developer is in breach of this modification.
6. The Developer shall record in the Bureau of Conveyances of the State of Hawaii restrictions permanently providing for the following:

- a. The residential workforce housing units shall by deed restriction be owner occupied for a period of 30 years; provided, however, that if no loans are approved due to the 30-year deed restriction, the Developer may request of the Council of the County of Maui, via resolution, an adjustment of the deed restriction. The Developer shall not sell the units at market rate.
  - b. Condominium conversion or further subdivision of any of the 66 lots in the Project is prohibited.
  - c. Use or operation of any dwelling on the 66 lots for transient or short-term rentals, including any rental for a term of less than 180 days, is prohibited.
  - d. A private waste water treatment package facility shall be constructed and operated strictly in accordance with all applicable laws and regulations.
  - e. For an initial marketing period of 120 days, market-rate lots shall be offered to first-time home buyers only, as defined by the criteria set forth in Section 2.96.090(B)(5), MCC, which provides that, for a period of three years before the submittal of the ownership application, an applicant shall not have had an interest of fifty percent or more in real property in fee or leasehold in the United States, where the unit or land is deemed suitable for dwelling purposes, unless the applicant is selling an affordable unit and purchasing a different affordable unit that is more appropriate for the applicant's family size.
7. The construction of accessory dwellings shall be prohibited in the Project area.
8. The Project shall comply with all applicable requirements of Chapter 2.96, MCC, and Chapter 201H, HRS.
9. The Project shall be developed in strict compliance with the representations made to the Maui County Council in obtaining approval of this Resolution, including the following:
- a. The Project will be developed in conformance with the Residential District standards set forth under Section 19.08 MCC.
  - b. Internal Project roadways will be constructed to the Design standards as specified under Section 18.16.050, MCC.

- c. The 66 lots shall be limited to residential and agricultural uses.
10. The Department of Housing and Human Concerns shall oversee the distribution of all affordable units via lottery. No affordable units shall be promised or pledged to applicants prior to such lottery.