

DRAFT MODIFICATIONS FOR LIHAU'ULA

Submitted as of 9/29/20 and acceptable to the Developer

1. The Lihau'ula Project ("Project") approved by this resolution and the exemptions set forth in Exhibit "A" will all lapse and become void if construction has not started within two years of the effective date of this Resolution. Start of construction means the visible start of grading, under a valid grading permit, as needed for the development of the residential workforce housing units.
2. The Developer must act in good faith and with reasonable best efforts to complete construction of all workforce housing units, with related roads and infrastructure, not later than five years from the effective date of this resolution.
3. The Developer must develop all workforce housing units before or concurrently with the sale of the market-rate lots or residences.
4. The distribution of the Project's 40 workforce housing units by area median income ("AMI") category will be in accordance with Chapter 2.96, Maui County Code ("MCC"), using the Department of Housing and Human Concerns' Affordable Sales Price Guidelines in effect at the time the Project marketing plan is approved.
6. The Developer must receive a "will serve" letter from Olowalu Water Company, Inc., and confirmation from the Department of Water Supply of a long-term reliable water supply for the Project.
7. The source of potable and non-potable water for the Project must not be the Olowalu Stream.
11. To the extent legally permissible, the Developer must ensure a Homeowners' Association ("HOA") is established in accordance with Chapter 421J, Hawaii Revised Statutes ("HRS").
12. There must be no accessory dwelling units or additional farm dwellings on any lot within the Project.
13. All dwellings in the Project must be limited to two stories.
15. The Agricultural District permitted uses listed under Section 19.30A.050(6) and (8), MCC, relating to minor utility and solar energy facilities will require special use permits, as set forth in Section 19.30A.060, MCC.
17. The Department of Housing and Human Concerns will oversee the waitlist and distribution of all residential workforce housing units via lottery. No residential

workforce housing units can be promised or pledged to any applicant prior to such lottery.

18. There must be no restrictions placed on workforce housing unit homebuyers in their choice of lenders, including in the pre-qualification process.
 19. To the extent legally permissible, the workforce housing units must be restricted to residents of Maui County, with preference given to residents currently employed or residing in the West Maui Community Plan area.
 20. The Developer must host at least one homebuyer financial education program for workforce housing unit applicants.
 21. The Project must comply with all applicable requirements of Chapter 2.96, MCC, and Chapter 201H, HRS.
 22. The Developer must construct a rough-in for a future photovoltaic system in each workforce housing unit prior to final building permit inspection approval by the Department of Public Works.
 26. The Project must be developed in substantial compliance with the representations made to the Council in obtaining approval of this Resolution. The County has the right to deny the issuance of building permits for any unit on any lot in the Project if, and so long as, the Developer is in breach of any of these modifications.
- (MM) The Developer must provide a secondary emergency and evacuation access route from and into the Project.

DRAFT MODIFICATIONS FOR LIHAU‘ULA

***Submitted as of 9/29/20 and not acceptable to the Developer
or requiring further consideration or clarification***

5. The Developer agrees to extend the existing private water system, in accordance with State Department of Health standards and in coordination with Olowalu Water Company, Inc., to provide necessary domestic potable and fire flow demands for the Project; and **Olowalu Water Company, Inc. agrees** to continue to service the surrounding area. The County will not grant final subdivision approval if, and so long as, the Developer is in breach of this condition.

Note: *Acceptable to the Developer, however imposes a condition on an entity other than the Project Developer (noted in red).*

8. Potable water must not be used in irrigation systems for any lot or any portion of the Project.

Note: *The Developer proposes using potable water for irrigation.*

9. On each residential workforce housing lot, the Developer must provide, at minimum, one individual waste system (“IWS”), which can accommodate up to five bedrooms. All IWS will be maintained by the Project’s Homeowners Association, and in accordance with Chapter 62, Hawaii Administrative Rules.

Note: *The Developer agrees to consider HOA maintenance of IWS, and providing ATUs, and 5-bedroom capacity IWS for all workforce units.*

- (RH) Any additional residential development on or **adjacent to** the Project property will require the construction of a wastewater treatment plant, which is to be dedicated to the County.

Note: *No response by the Developer; also imposes a condition on an entity other than the Project Developer (noted in red).*

10. The Developer must record in the State Bureau of Conveyances restrictions permanently providing for the following:

- a) All residential workforce housing units must be owner occupied for a period of 30 years. If no loans are approved due to the 30-year deed restriction, the Developer may request, and the Council may approve by resolution, an adjustment of the deed restriction. The Developer must not sell any residential workforce housing unit at market rate.

Note: *The Developer proposes a 10-year restriction as required by 201H.*

- b) An owner of a residential workforce housing unit that is being resold:
1) Must sell the unit to an income-qualified household in the same AMI category as the original homebuyer.

- 2) May retain a maximum one percent appreciation per year.
- c) The use or operation of any dwelling in the Project for transient or short-term rentals, including any rental for a term of less than 180 days, is prohibited. Only long-term residential use is allowed.
- d) Condominium Property Regimes or further subdivision of any of the lots in the Project is prohibited.

Note: Subsections (b), (c), and (d) are acceptable to the Developer, revising the appreciation in (b) from 3% to 1%.

- 14. There must be no **overnight** on-street parking within the Project.

Note: Acceptable to the Developer, but may require clarification as to whether on-street parking is prohibited overnight or at all times.

- 16. The legal instrument establishing the Project's HOA must require at least 50 percent of the board membership to be owners of workforce housing units. It must also provide for five percent of HOA dues to be donated to Mauna Kahalawai Watershed Partnership, as long as it may exist, and then to an organization that provides substantially similar services.

Note: The first part is acceptable to the Developer, but proposes removing the second part relating to the 5% donation.

- 23. There will be no fee exemptions for this Project.

Note: The Developer is willing to discuss further.

- 24. There will be no exemptions from Sections 19.68.020 and 19.68.030, MCC, relating to State land use district boundary applications and procedures.

Note: Not acceptable Developer.

- 25. There will be no exemptions from Section 8-8.4, Maui County Charter, relating to Planning Commissions.

Note: Not acceptable to the Developer.

- 27. The Developer must provide annual status reports to the Director of Housing and Human Concerns and the Council for all workforce housing units, commencing with one year of the effective date of this Resolution. The status report must include the following: (1) number of workforce housing units and market-priced lots or residences sold, (2) income bracket and purchase price for each homebuyer, and (3) status of compliance with all modifications contained in Exhibit "B".

Note: Acceptable to the Developer, but subsection (2) may require clarification as to whether it includes market-rate purchasers, or only the workforce homebuyers' AMI category and purchase price.

(MM) The Developer must provide a park or open space of at least 10,000 square feet.

Note: The Developer is amenable but may propose a site outside of the Project area.

(SS) The Developer will partner with Habitat for Humanity Maui and Nā Hale O Maui community land trust for the development of the 12 workforce housing units in the 80-100% AMI distribution category.

Note: Acceptable to the Developer, but may require clarification as to distribution between the 2 non-profits.