

MEMORANDUM OF AGREEMENT

BETWEEN THE

**DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF STATE PARKS**

AND

**COUNTY OF MAUI
DEPARTMENT OF PARKS AND RECREATION**

For Waikapu, Wailuku, Maui, Tax Map Key: (2) 3-8-007: 104

I. INTRODUCTION

This Memorandum of Agreement (“Agreement”) is made and entered into this _____ day of _____ 2016, by and between the State of Hawaii, Department of Land and Natural Resources, (hereinafter referred to as the “State” or “DLNR”), by and through the Board of Land and Natural Resources (hereinafter “BLNR”), and the County of Maui, Department of Parks and Recreation (hereinafter referred to as the “County” or “Department”), by and through the Mayor of the COUNTY OF MAUI, (hereinafter “the Mayor”), and the State and the County and identified authorities (hereinafter collectively referred to as the “Parties”).

II. TERMS

A. Completion of the Complex

The State shall complete the construction of the Complex, including Phases 1 through 3, all easement entitlements, design and construction required for the completion of the Complex, subject to legislative appropriation and allotment of funds through the executive budget process sufficient to cover the costs of completing construction of the Complex (refer to Exhibit A for the park layout). Due to available funding, it is understood that the State may not be able to include facilities such as scorer’s booths, bleachers, additional lighting and other elements.

The State shall keep the County informed on the timeframes for the completion of Phases 1, 2, and 3. Estimated timeframes will be provided to the County and any revisions will be forwarded to the County. Phase 1 was completed in November 2015, an estimated timeframe for Phases 2 and 3 is included as Exhibit “B”.

The County may conduct site visits and inspections on the areas identified as Phase 2 and Phase 3 of the Complex, however any site visit or inspection shall be coordinated with the Department of Land and Natural Resources. The County shall not communicate directly with any contractor procured by the Department of Land and Natural Resources regarding the Project.

B. Operation, Maintenance and Use of the Completed Phases of the Complex

The Parties agree that the County may use the areas completed in Phase 1 upon its completion. DLNR will coordinate with the County on the Phase 1 completion timeframe and continue to update the County on the Phase 2 construction schedules and subsequent changes.

The County shall have the option of using completed facilities in Phase 2 and 3 prior to completion of the respective phases and will be responsible for maintaining Phase 2 and Phase 3 upon the County's use of Phase 2 and Phase 3.

The County shall assume all maintenance responsibilities for the Phase 1 upon commencement of the County's use of Phase I, including but not limited to: turf and field areas, drainage swales and areas, comfort station cleaning and maintenance, parking and pathway clearing and cleaning, all completed landscaping, irrigation system operation and maintenance, and other facilities in Phase 1. The County shall be solely responsible for maintenance of Phase I, including implementing any necessary measures to keep users of Phase I from the phases of the Project that are not yet completed or maintained by the County. The same shall be applied to the completed phases or sections of Phases 2 and 3.

The State shall assume the utility costs of the Complex, unless determined otherwise by written agreement between the parties.

The Parties agree that the County will have full use of the State's irrigation water source, the well and reservoir and appurtenant areas for the operation and maintenance of the turf, field and landscaped areas in the Complex, without any charges for the water usage in return for the County's operation and maintenance of this irrigation water system. The State's irrigation water source, well, and reservoir shall be used solely for irrigation and other water needs of the Complex.

The State and County shall coordinate on any unforeseen issues not directly stated in this Agreement as they relate to the development, operation and management of the Complex.

The Parties agree to review and discuss operating equipment and expenses during the development of the Complex to support the continued operation and management of the Complex.

The Parties agree that the County is responsible for appropriate safety measures that may be needed to allow active use of the facilities in Phase 1 while construction activities are ongoing in adjacent areas.

The provisions above shall apply to Phases-2 and 3 when the County assumes maintenance responsibilities for Phase 2 and Phase 3 when they are completed or the County commences use of the phase, whichever is sooner.

The Parties will coordinate on any right of entry and other access and use instruments needed to accomplish the items above, where ingress, egress, regress for representatives of DLNR and the County at any time in the performance of their duties stated above.

The Parties agree that the County will be allowed to install and construct improvements and recreational elements and facilities that it deems appropriate for the Complex, provided that the County must obtain written approval from the Chairperson of the Board of Land and Natural Resources prior to installation or construction.

The Parties acknowledge that upon the State's acceptance of the completed phases certain warranties will inure to the State for various fixtures, components and elements within the phases, and the County will be responsible for any repairs and replacement of the fixtures, components and elements within the areas that are used that have exceeded or are not covered by the warranties or warranty periods. DLNR and the County shall coordinate on any warranty claims that need to be made.

To the extent permitted by law, subject to Maui County Council approval, the County shall be responsible for damages or injury caused by its officers, employees and agents in the course of their employment, to the extent that the County's liability for such damage or injury has been determined by a court or otherwise agreed to by the County, and the County shall pay for such damages and injury to the extent permitted by law. The State shall be responsible, to the extent permitted by law, for damage or injury caused by the State's officers and employees in the scope of their employment provided that the State's liability for such damage or injury has been determined by a court or agreed to by the State, and funds are appropriated by the Hawaii State Legislature and allotted through the executive budget process for that purpose.

C. Administration of the Agreement

The State shall be represented by a designated representative as determined by the BLNR, whom shall represent and act on behalf of the State in administering the terms and conditions of the Agreement.

The County shall be represented by a designated representative as determined by the Mayor, whom shall represent and act on behalf of the County in administering the terms and conditions of the Agreement.

The Parties agree in good faith to cooperate with each other to accomplish the intended goals identified above. Cooperation includes, but is not limited to, providing copies or access to documents referenced in this Agreement, providing copies of or access to other relevant and non-confidential documents, and participation in meetings and events as necessary.

D. Agreement Period

The period of time covered by this Agreement shall commence upon the accepted completion of Phase 1 and shall conclude on the earlier of the transfer of the Complex to the County or a vote of the Board of Land and Natural Resources denying a request to approve an executive order to set aside the Complex to the County. The County shall assume management of the completed phases of the Complex upon the release and completion of each phase by the State.

E. Transfer of the Complex to the County

The Parties agree that upon satisfactory completion of the Complex, the Department of Land and Natural Resources shall submit to the Board of Land and Natural Resources a request to approve an executive order to set aside the Complex to the County for recreational park purposes.

The County shall acknowledge and comply with all easements placed within and supporting the Complex. The easements are further detailed in Exhibit C.

The irrigation well and reservoir and appurtenant areas comprising of State's water source, shall be retained by the State.

The County shall comply with all applicable Federal, State and County regulations, requirements, approvals in regard to any improvements and additional facilities that it develops in the Complex after the transfer. IN WITNESS WHEREOF, State and the City have executed the Agreement by their signatures on the dates below.

DEPARTMENT AND BOARD OF LAND AND NATURAL RESOURCES

Date _____

By _____
SUZANNE D. CASE
Its Chairperson

THE COUNTY OF MAUI

Date _____

By _____
ALAN ARAKAWA
Mayor

APPROVED AS TO FORM:

Deputy Attorney General

Date _____

APPROVED AS TO FORM:

County of Maui Corporation Counsel

Date _____

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Exhibit A - CMRSC MOA



Central Maui Regional Sports Complex

CENTRAL MAUI REGIONAL SPORTS COMPLEX

- 4 - Softball Fields
- 4 - Youth Baseball Fields
- 3 - Soccer Fields
- 700 Parking Stalls

PREPARED BY PBR HAWAII

August 18, 2015

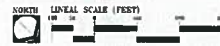


Exhibit B – CMRSC MOA

Central Maui Regional Sports Complex/Central Maui Regional Park 2

Phase * dates are estimated due to on-going contract processing and/or future solicitation and execution	Est/Confirmed Start Date	Est/Confirmed Completion Date – including turf establishment period	Operation and Management Start
Phase 1	August 29, 2014	November 21, 2015 February 18, 2016	March 1, 2016
*Phase 2	November 2015	August 2016 November 2016	November 2016
*Phase 3	Bid solicitation – November 2015 Start date TBD	TBD	TBD

We note that the anticipated completion date for Phase 3 will be in late 2017, but factors such as procurement timeframes, contract negotiation/execution, weather conditions, construction delays and other factors may affect the anticipated completion date.

Exhibit C - CMRSC MOA

Central Maui Regional Sports Complex – Easement summary

Easement	Description	Status
Easement 1	40-foot wide access & utility easement provides vehicle and utility access to S. Kamehameha Ave to A&B's boundary at Wai'ale: easement in favor of the State for access and utility, easement is permanent. This easement currently exists and runs with the Pomaikai School deed.	Easement conveyed with the property.
Easement 2A	Landscaping and signage easement in the southwest corner of the property nearest to Kuihelani Hwy: easement in favor of A&B for installation and maintenance of landscaping, signage identifying A&B's project, access, drainage and utilities.	Easement conveyed with the property.
Easement 2B	20-foot wide electrical, drainage, landscaping, signage & construction easement along the west side boundary adjacent to Road C: easement in favor of A&B for installation and maintenance of drainage, landscaping, construction and utilities. The easement must remain in a condition that allows A&B to utilize the easement area for its designated purpose including ensuring the easement width is level with the future Road C sidewalk grade.	Easement conveyed with the property.
Easement 2C	50-foot wide drainage, landscaping, signage & access easement: easement in favor of A&B to remain in a condition that allows A&B to utilize the easement area of at least 15-foot width for future access road and underground drainage line.	Easement conveyed with the property.
Easement 3A	20-foot wide access easement parallel to Easement 2A: easement in favor of the A&B for access in the location controlled by the State.	Easement conveyed with the property.

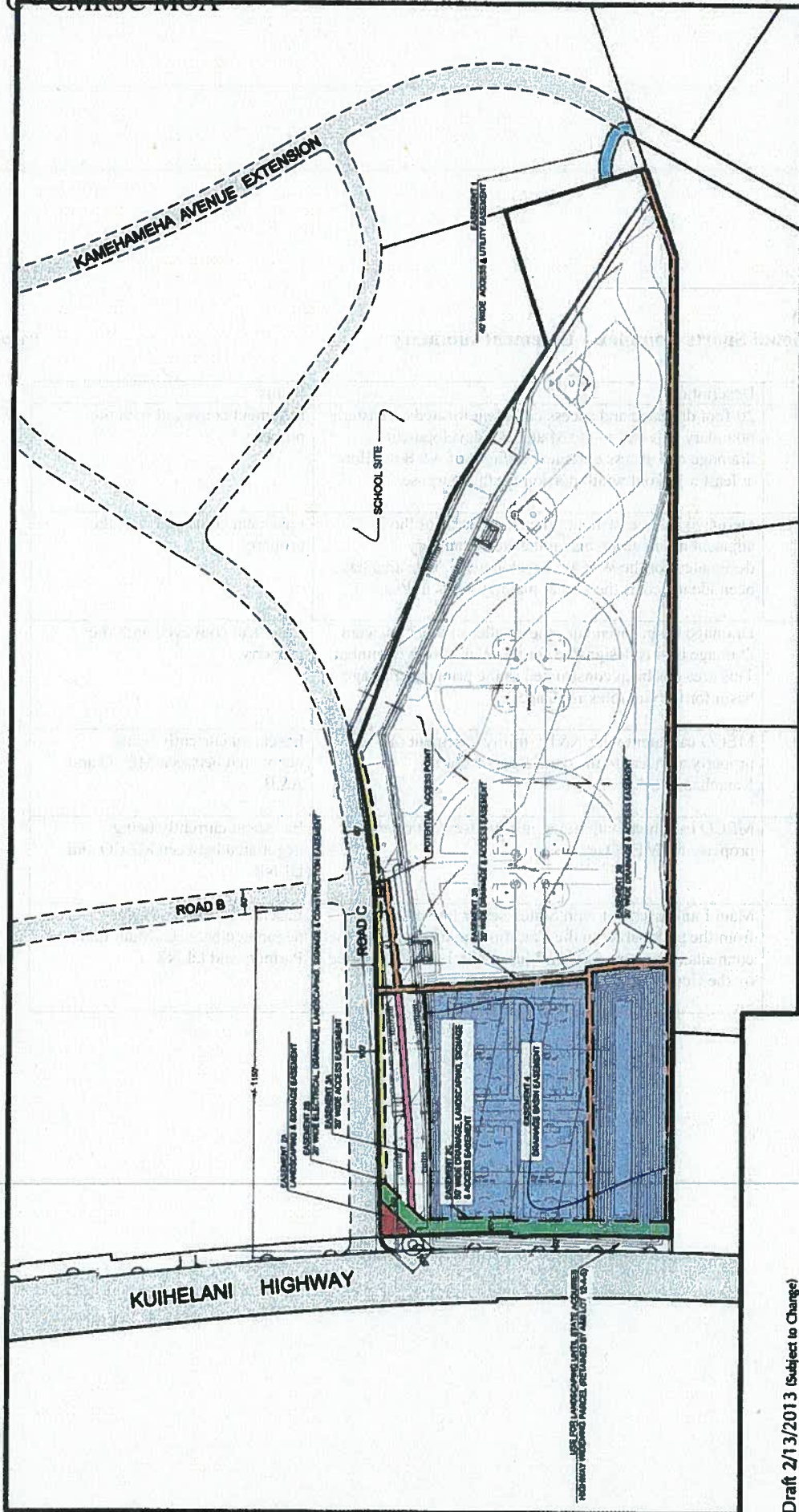
Central Maui Regional Sports Complex – Easement summary

Easement	Description	Status
Easement 3B	20-foot drainage and access easement located on eastern boundary adjacent to the Maui Lani development: drainage and access easement in favor of A&B to allow at least a 15-foot width portion for this purpose.	Easement conveyed with the property.
Easement 4	Drainage basin easement: the larger areas of the 2 adjacent drainage basins on the west boundary designated for the Wai`ale development. This area has been identified as the soccer playing fields in Phase 3.	Easement conveyed with the property.
Easement 5	Drainage basin easement: the smaller of the 2 adjacent drainage basins designated for the Wai`ale development. This area has been constructed as the primary drainage basin for the Complex in Phase 2..	Easement conveyed with the property.
Easement "6"	MECO easement with A&B: utility easement on A&B property adjacent to the park access from S. Kamehameha Ave.	Easement currently being negotiated between MECO and A&B.
Easement "7"	MECO easement with State: utility easement on park property for MECO access.	Easement currently being negotiated between MECO and DLNR.
Easement "8"	Maui Lani easement with State: sewer line easement from the park parcel to the Traditions mailbox parcel that connects to a storm drain in Meheu Circle to be operated by the County.	Easement currently being negotiated between Maui Lani Partners and DLNR.

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Draft 2/13/2013 (Subject to Change)

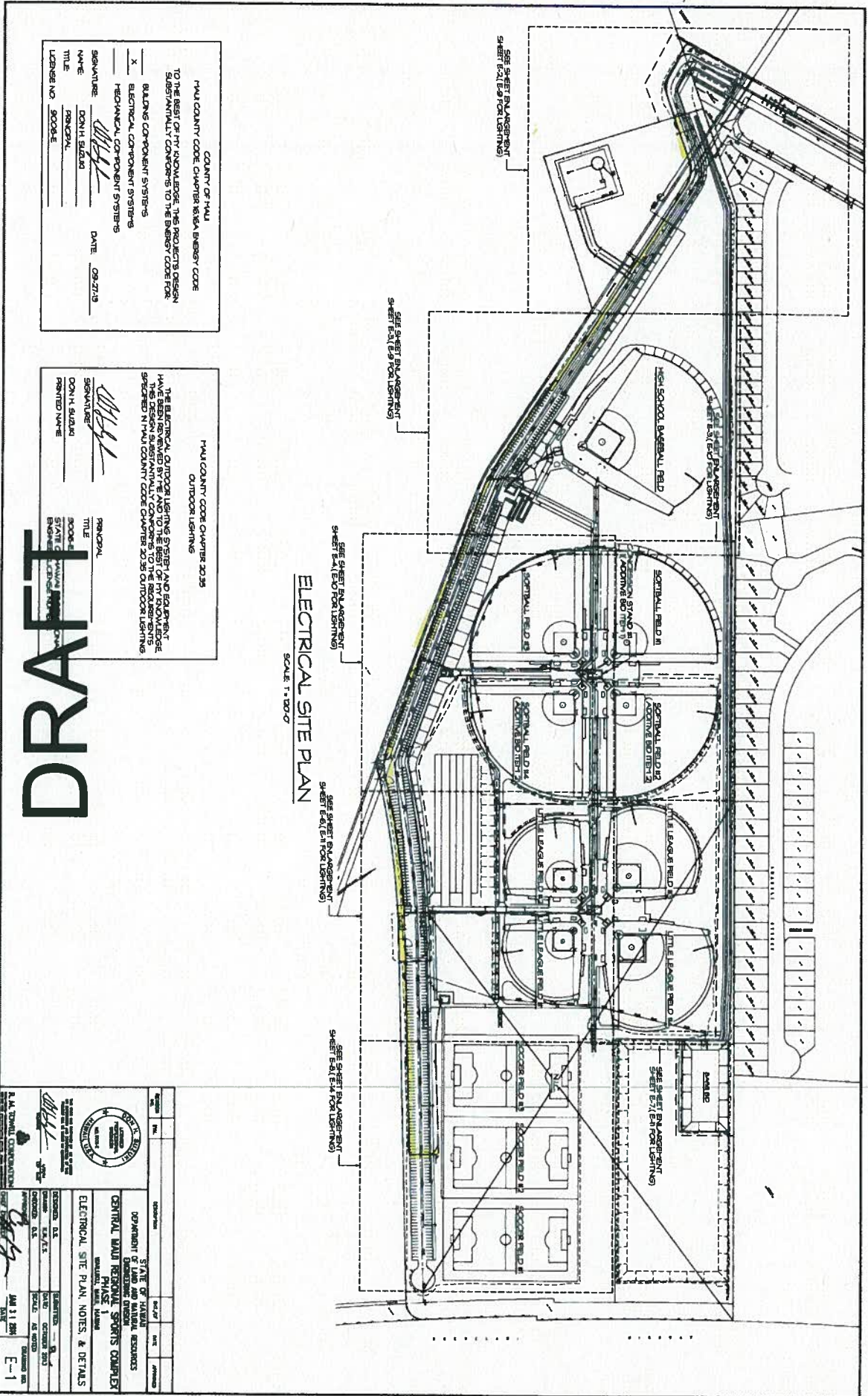
Exhibit C

448 PROPERTIES
 KUIHELANI, HAWAII
 PAR HAWAII

LINEAR SCALE (FEET)
 0 150 300 600

- Easement 1
- Easement 2A
- Easement 2B
- Easement 2C
- Easement 3A
- Easement 3B
- Easement 4

Disclaimer: This graphic was prepared for general planning purposes only and should not be used for boundary interpretations or other spatial analysis.



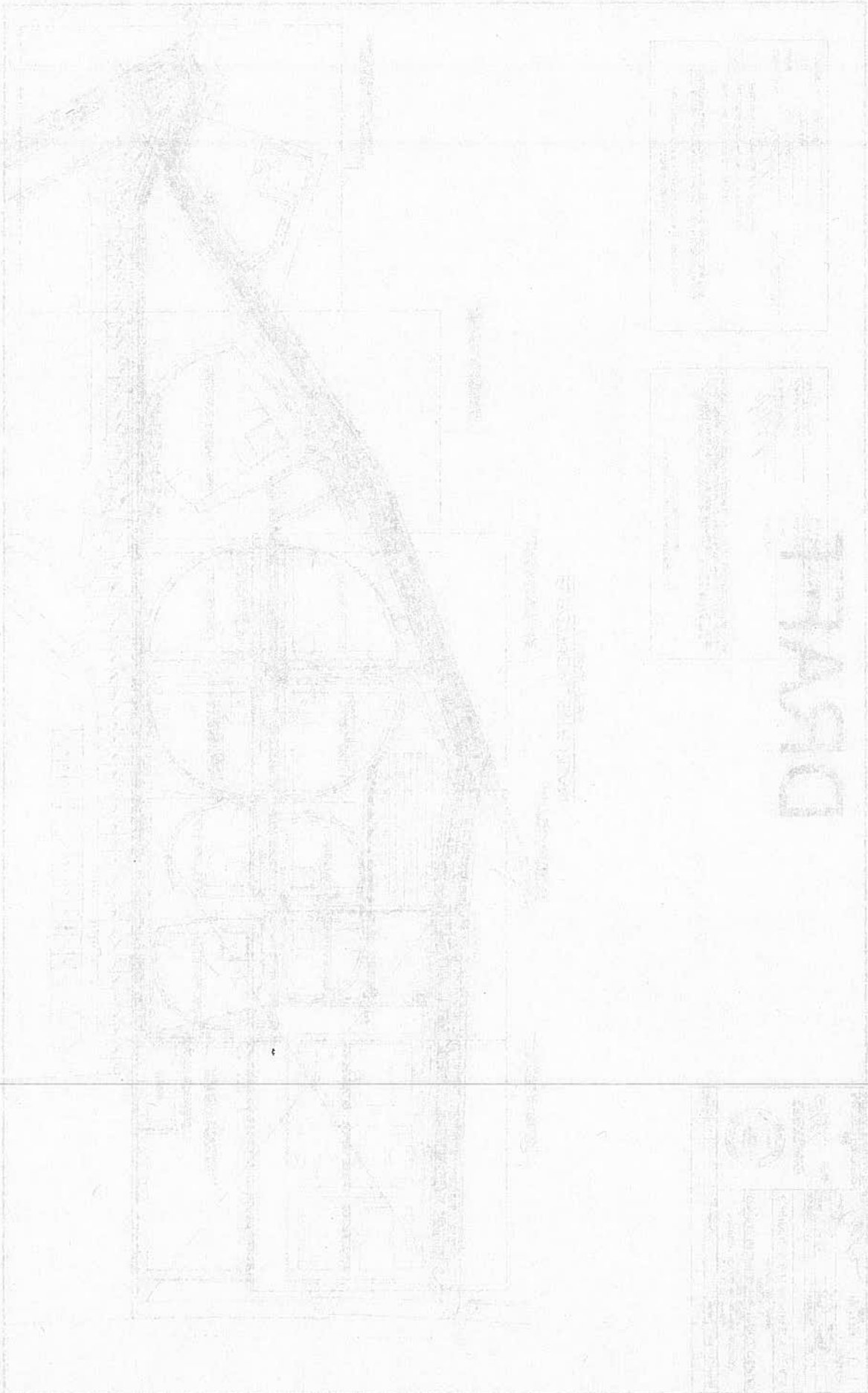
COUNTY OF MAUI
 HAWAII COUNTY CODE CHAPTER K&K&A ENERGY CODE
 TO THE BEST OF MY KNOWLEDGE, THIS PROJECT'S DESIGN
 SUBSTANTIALLY CONFORMS TO THE ENERGY CODE FOR
 BUILDING COMPONENT SYSTEMS
 X ELECTRICAL COMPONENT SYSTEMS
 MECHANICAL COMPONENT SYSTEMS
 SIGNATURE: *[Signature]* DATE: 09-27-19
 NAME: DON H. SUZUKI
 TITLE: PRINCIPAL
 LICENSE NO.: 90006

HAWAII COUNTY CODE CHAPTER 20-25
 OUTDOOR LIGHTING
 TO THE BEST OF MY KNOWLEDGE, THIS PROJECT'S DESIGN
 SUBSTANTIALLY CONFORMS TO THE ENERGY CODE FOR
 BUILDING COMPONENT SYSTEMS
 X ELECTRICAL COMPONENT SYSTEMS
 MECHANICAL COMPONENT SYSTEMS
 SIGNATURE: *[Signature]*
 NAME: DON H. SUZUKI
 TITLE: PRINCIPAL
 LICENSE NO.: 90006

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DATE	NO.	DESCRIPTION	BY	CHKD.
09/27/19	1	ISSUED FOR PERMIT	DS	DS
10/01/19	2	REVISION: AS NOTED	DS	DS
10/01/19	3	REVISION: AS NOTED	DS	DS
10/01/19	4	REVISION: AS NOTED	DS	DS
10/01/19	5	REVISION: AS NOTED	DS	DS
10/01/19	6	REVISION: AS NOTED	DS	DS
10/01/19	7	REVISION: AS NOTED	DS	DS
10/01/19	8	REVISION: AS NOTED	DS	DS
10/01/19	9	REVISION: AS NOTED	DS	DS
10/01/19	10	REVISION: AS NOTED	DS	DS

STATE OF HAWAII
 DEPARTMENT OF LAND AND NATURAL RESOURCES
 DIVISION OF PERMITS AND CONSTRUCTION
 PHASE 1
 ELECTRICAL SITE PLAN, NOTES & DETAILS
 SHEET NO. 04 OF 87 SHEETS
 SHEET NO. 04 OF 87 SHEETS



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