



R-364

STATE OF HAWAII
BUREAU OF CONVEYANCES
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/s/ CARL T. WATANABE
REGISTRAR OF CONVEYANCES

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Return by Mail (X) Pickup () To:

ADELBERT GREEN
DWYER SCHRAFF MEYER GRANT & GREEN
900 FORT ST MALL STE 1800
HONOLULU, HI 96813TGOH 200655797-S
TGES A6-101-2479
BARBARA PAULO

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Document contains 39 pages

Tax Map Key: (3) 7-4-008:030
Honokohau**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR STORM WATER AND SURFACE WATER RUN-OFF**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR STORM WATER AND SURFACE WATER RUN-OFF is made as of the date set forth on the signature page hereof by:

WEST HAWAII BUSINESS PARK LLC, a Hawaii limited liability company, whose address is at 3465 Waialae Avenue, Suite 260, Honolulu, Hawaii 96816;

PATRICIA G. GREENWELL, unmarried, whose mailing address is P. O. Box 306, Kamuela, Hawaii 96743;

MARTHA L. GREENWELL, Trustee of the Martha L. Greenwell Revocable Living Trust dated January 17, 1983, as amended and restated, whose mailing address is P. O. Box 4220, Kailua-Kona, Hawaii 96745;

JAMES S. GREENWELL and MARY EMILY GREENWELL, husband and wife, whose mailing address is 664 Onaha Street, Honolulu, Hawaii 96816;

WENDY G. CRAVEN, Trustee of the Wendy G. Craven Revocable Living Trust dated June 18, 1984, as amended and restated, whose mailing address is 71-1626 Puu Napoo Place, Kailua-Kona, Hawaii 96740;

ImanageDB:618562.4

Exhibit 5

CHRISTINE G. CHURCHILL, Trustee of the **Christine G. Churchill Revocable Living Trust** dated March 12, 2003, whose mailing address is 550 Kai Hele Ku Road, Lahaina, Hawaii 96761;

JAMES L. GREENWELL, Trustee of the **James L. Greenwell Revocable Living Trust** dated January 9, 1997, whose mailing address is 664 Onaha Street, Honolulu, Hawaii 96816;

SCOTT C. CRAVEN, Trustee of the **Scott C. Craven Revocable Living Trust** dated August 20, 1987, whose mailing address is 65-1692 Kohala Mountain Road, Kamuela, Hawaii 96743-8476;

HEATHER L. POLHEMUS (formerly known as **Heather L. Craven**), Trustee of the **Heather L. Craven Revocable Living Trust** dated August 20, 1987, whose mailing address is P. O. Box 437476, Kamuela, Hawaii 96743;

ANTHONY B. CRAVEN, JR., Trustee of the **Anthony B. Craven, Jr. Revocable Living Trust** dated August 20, 1987, whose mailing address is c/o PM Realty Group, 76-1000 Henry Street, Suite 202, Kailua-Kona, Hawaii 96740;

DAVID R. GREENWELL and **MARY TERESA GREENWELL**, husband and wife, whose mailing address is P. O. Box 1964, Kamuela, Hawaii 96743 (In the Limited Warranty Deed recorded on December 29, 2006 as Document No. 2006-2400552, the middle name of Mary Teresa Greenwell was misspelled as Theresa, and her middle name has been corrected herein);

JOAN G. ANDERSON, Trustee of the **Joan G. Anderson Revocable Living Trust** dated September 18, 2001, whose mailing address is P. O. Box 1237, Kamuela, Hawaii 96743;

CORD D. ANDERSON, unmarried, whose mailing address is P. O. Box 1237, Kamuela, Hawaii 96743; and

BRAD R. ANDERSON, unmarried, whose mailing address is P. O. Box 1237, Kamuela, Hawaii 96743

(collectively "**Declarant**").

Declarant is the owner of the real property described on Exhibit A attached hereto and incorporated herein by reference. This Declaration is required by the LUC Conditions (as defined in Article 1 below) and imposes certain covenants, conditions and restrictions upon the Property (as defined in Article 1 below) in order to contain spills and prevent materials associated with industrial uses attributable to the operations of the Property, including petroleum products, chemicals, or other pollutants, from leaching or draining into the ground or subsurface storm drain collection areas. Also, Declarant reserves the right to cause the Association (as defined in Article 1 below), to be formed to administer and enforce the provisions of this instrument as required by the LUC Conditions if the Property is subdivided into Units (as defined in Article 1 below).

Declarant hereby declares that all of the real property described on Exhibit A and any additional property subjected to this Declaration shall be held, sold, used and conveyed subject to the following restrictions, covenants and conditions, which shall run with the title to the real property subjected to this Declaration. This Declaration shall be binding upon all parties having any right, title, or interest in any portion of the Property, their heirs, successors, successors-in-title and assigns, and shall inure to the benefit of each owner of any portion of the Property.

ARTICLE 1 **DEFINITIONS**

The terms in this Declaration and the attached exhibits shall generally be given their natural, commonly accepted definitions except as otherwise specified. Capitalized terms shall be defined as set forth below.

1.1 "Articles of Incorporation" or "Articles". The Articles of Incorporation of the Association, as may be filed with the Department of Commerce and Consumer Affairs of the State of Hawaii.

1.2 "Association". An association of Owners of Units into which the Property may be divided, which association may be incorporated as a Hawaii non-profit corporation, and its successors and/or assigns.

1.3 "Association CC&Rs". Any Declaration of Covenants, Conditions and Restrictions for the Property or the Association, as the same may be amended from time to time.

1.4 "Board of Directors" or "Board". The body responsible for administration of the Association, generally serving the same role as the board of directors under Hawaii corporate law.

1.5 "Burial Treatment Plan". That certain Burial Treatment Plan dated September 1, 2005, prepared by International Archaeological Research Institute, Inc. in which preservation in place of the subject burial in Cave Site 18088 was approved by the Hawaii Island Burial Council on October 20, 2005, and formally acknowledge by the State Historic Preservation Division of the State Department of Land and Natural Resources in a letter dated November 29, 2005, and which plan was approved by the State Historic Preservation Division of the State Department of Land and Natural Resources in a letter dated January 20, 2006 (copies of the approved final Burial Treatment Plan are on file with the State Historic Preservation Division and the County of Hawaii Planning Department), as the same may be amended from time to time.

1.6 "By-Laws". The By-Laws of the Association, as they may be amended from time to time.

1.7 "Common Area". All real and personal property, including easements, which the Association owns, leases or otherwise holds possessory or other rights in for the common use and enjoyment of the Owners as may be further defined in the Association CC&Rs.

1.8 "Declarant". All of the parties named above and collectively defined as the "Declarant," or any successor Declarant.

- 1.9 "DOH". Department of Health of the State of Hawaii.
- 1.10 "Governing Documents". This Declaration, all Supplemental Declarations, By-Laws, Articles of Incorporation, the LUC Order, the Zoning Ordinance, any Association CC&R's, Pollution Prevention Plan, Burial Treatment Plan, and the rules of the Association, or any of the above, as each may be amended from time to time.
- 1.11 "HAR". Hawaii Administrative Rules, as the same may be amended from time to time.
- 1.12 "HRS". Hawaii Revised Statutes, as the same may be amended from time to time.
- 1.13 "KAHO National Park". The Kaloko-Honokohau National Historical Park, which is located directly west of the Property, seaward of Queen Ka'ahumanu Highway, and administered by the United States National Park Service.
- 1.14 "LUC Conditions". The conditions set out in the LUC Order, as such conditions may be amended from time to time, which conditions are set out in that certain Certificate of Conditions recorded in the Public Records as Document No. 2004-032728.
- 1.15 "LUC Order". That certain Decision and Order dated June 16, 2003 and entered on September 26, 2003, issued by the Land Use Commission of the State of Hawaii, as part of its Stipulated Findings of Fact, Conclusions of Law, and Decision and Order for a State Land Use District Boundary Amendment in Docket No. A00-730, as such order may be amended from time to time.
- 1.16 "Majority". Those votes, Owners, Members, or other group, as the context may indicate, totaling more than 50% of the total eligible number.
- 1.17 "Member". A Person subject to membership in the Association.
- 1.18 "Owner". One or more Persons who hold the record title to any Unit (including the Declarant, if Declarant holds record title to any Unit), but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a recorded contract of sale, and the contract specifically so provides, the purchaser (rather than the fee owner) will be considered the Owner.
- 1.19 "Person". A natural person, a corporation, a partnership, a limited liability company, a trustee, or any other legal entity.
- 1.20 "Pollution Prevention Plan". That certain Pollution Prevention Plan applicable to the Property dated November 2006, prepared by Masa Fujioka & Associates, as the same may be amended from time to time.
- 1.21 "Property". The real property described on Exhibit A, as such exhibit may be amended or supplemented from time to time to reflect any additions or removal of property in accordance with Article 4 below.

1.22 **"Public Records"**. The Bureau of Conveyances of the State of Hawaii or such other place which is designated as the official location for recording of deeds and similar documents affecting title to real estate.

1.23 **"Supplemental Declaration"**. An instrument filed in the Public Records pursuant to Article 4 which subjects additional property to this Declaration and/or imposes, expressly or by reference, additional restrictions and obligations on the land described in such instrument.

1.24 **"Unit"**. A portion of the Property, whether improved or unimproved, which is subdivided and may be independently owned and conveyed (but not units in any condominium project) and which is intended for development, use and occupancy for purposes consistent with the Governing Documents. In the case of a portion of the Property intended and suitable for subdivision but as to which no final lot subdivision map has been filed, such property shall be deemed to be a single Unit until such time as a final lot subdivision map is filed of record with respect to all or a portion of the property. The term "Unit" shall refer to the land which is part of the Unit as well as any improvements thereon. The development of a condominium project on any Unit shall not, by reason thereof, convert such Unit into separate Units.

ARTICLE 2

STORM WATER AND SURFACE WATER RUN-OFF

2.1 To the extent possible, all storm and surface water runoff shall be captured on the Property. To the extent possible, all runoff entering the ground shall be first treated to remove all industrial waste so that no industrial pollutants will reach KAHU National Park or enter the water table.

2.2 The Declarant or the Association shall obtain all required permits and construct required improvements for storm water discharge on and from the portions of the Property comprising the Common Area. Each Owner shall obtain all required permits and construct required improvements for storm water discharge on and from the Owner's Unit.

2.3 Prior to the occupancy of the portions of the Property comprising the Common Area, Declarant or the Association shall engineer, construct (or require to be constructed) and maintain surface water/storm water containment systems that ensure no Federal, State or County of Hawaii water quality standards will be violated.

2.4 Prior to the occupancy of any Unit, Owner shall engineer, construct (or require to be constructed) and maintain surface water/storm water containment systems that ensure no Federal, State or County of Hawaii water quality standards will be violated.

2.5 No injection well shall be constructed as an element of a surface water/storm water containment system on the Property, including any Unit, unless, prior to the start of any construction, appropriate requirements of HAR Chapter 11-23 are satisfied and the DOH issues an UIC (Underground Injection Control) permit. Contaminants shall be monitored and removed with best efforts prior to entering injection wells pursuant to the monitoring protocols for injection wells established in the Pollution Prevention Plan. All monitoring records shall be maintained and made available to the DOH, the County of Hawaii and the National Park Service, upon request.

2.6 If a large void, such as a lava tube or solution cavity, is encountered during drilling, where the drill rod drops more than three feet, measures shall be taken to prevent migration of the injected fluids to KAHU National Park to the satisfaction of the DOH as described in HAR §11-23-09(f).

2.7 All injection wells established within the Property shall be operated in such a manner that they do not violate any of the DOH's administrative rules under Title 11 HAR, regulating various aspects of water quality and pollution, and chapters 342-B, 342-D, 342-F, 342-H, 342-J, 342-L, and 342-N, HRS. Relevant HAR sections include but, are not limited to: (i) Chapter 11-20, "Rules Relating to Potable Water Systems"; (ii) Chapter 11-62, "Wastewater Systems"; and (iii) Chapter 11-55, "Water Pollution Control".

2.8 The operator of any injection well or wells in the Property shall keep detailed records of the operation of the well or wells, including, but not limited to, the type and quantity of injected fluids, and the method and rate of injection for each well. Such records will be available for inspection or review by the DOH as specified under appropriate sections of HAR Chapter 11-28.

2.9 Any Person who violates any of these conditions shall be subject to penalties as prescribed in appropriate chapters of HRS and HAR as they relate to (but are not limited to): Potable Water Systems; Wastewater Systems; Water Pollution Control; Safe Drinking Water; and Underground Injection Control.

2.10 The Declarant shall ensure that all drainage injection wells or subsurface drainage structures on the portions of the Property comprising the Common Area be designed with an appropriate size debris catch basin to allow the detention and periodic removal of rubbish and sediments deposited by runoff. Each Owner shall ensure that all drainage injection wells or subsurface drainage structures on the Owner's Unit be designed with an appropriate size debris catch basin to allow the detention and periodic removal of rubbish and sediments deposited by runoff. Storm water runoff shall first enter the debris catch basin before flowing into the drainage well. The debris catch basin shall be periodically inspected and cleaned accordingly. Oil/water separators shall be utilized where petroleum products are used.

2.11 Declarant and/or the Association shall have the power to oversee and report violations of this Declaration to DOH or other governmental authority having jurisdiction over the violation.

ARTICLE 3

ESTABLISHMENT AND RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

3.1 **Establishment.** If the Property is divided into Units and sold to more than two (2) Owners, the Declarant or successor Owner of the Property shall form the Association to administer and enforce the provisions of this instrument as required by the LUC Conditions.

3.2 **Enforcement.** The Board or any committee established by the Board, with the Board's approval, may impose sanctions for violation of this Declaration. Such sanctions may include, without limitation:

(a) reporting violations of this Declaration to DOH or other governmental authority having jurisdiction over the violation;

(b) imposing monetary fines which shall constitute a lien upon the Unit of the violator (In the event that any employee, lessee, occupant, invitee, client, customer or guest of a Unit violates this Declaration, and a fine is imposed, the fine shall first be assessed against the occupant; provided however, if the fine is not paid by the occupant within the time period set by the Board, the Owner shall pay the fine upon notice from the Board.);

(c) filing liens in the Public Records for nonpayment of any assessments or fees;

(d) filing notices of violations in the Public Records providing record notice of any violation of this Declaration; and

(e) levying assessments against the Owner of a Unit to cover costs incurred in bringing a Unit into compliance.

In addition, the Board, or the covenants committee if established, may elect to enforce any provision of this Declaration by entering the Unit and exercising self-help (specifically including, but not limited to, the correction of any maintenance, construction or other violation of this Declaration) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both.

All remedies set forth in this Declaration shall be cumulative of any remedies available at law or in equity. In any action or remedy taken by the Association to enforce the provisions of this Declaration, if the Association prevails, it shall be entitled to recover, to the maximum extent permissible, all costs, including, without limitation, attorneys fees and court costs, reasonably incurred in such action.

The Association shall not be obligated to take action to enforce any covenant, restriction, or rule which the Board in the exercise of its business judgment determines is, or is likely to be construed as, inconsistent with applicable law, or in any case in which the Board reasonably determines that the Association's position is not strong enough to justify taking enforcement action. Any such determination shall not be construed a waiver of the right of the Association to enforce such provision under any circumstances or estop the Association from enforcing any other covenant, restriction or rule.

The Association may, but is not required to, by contract or other agreement, enforce county, city, state and federal ordinances, rules, regulations and laws, if applicable, and permit local and other governments to enforce ordinances on the Property for the benefit of the Association and its Members.

3.3 Implied Rights; Board Authority. The Association may exercise any right or privilege given to it expressly by this Declaration, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in this Declaration, the By-Laws, the Articles, or by law, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

ARTICLE 4
ANNEXATION AND WITHDRAWAL OF PROPERTY

4.1 Unilateral Annexation by Declarant. Within 10 years of recording this Declaration, Declarant shall have the unilateral right, but not an obligation, to subject to the provisions of this Declaration and the jurisdiction of the Association any additional property which is adjacent or contiguous to the boundaries of the Property or which serves all or any portion of the Property. Annexation of property shall be accomplished by recording a Supplemental Declaration in the Public Records. Any such annexation shall be effective upon the recording of the Supplemental Declaration unless otherwise provided therein. The Supplemental Declaration may contain additional covenants, conditions and restriction, or modify those contained in this Declaration as appropriate to reflect the different character of any such annexed property.

4.2 Annexation With Approval of Membership. The Association may annex any real property to the provisions of this Declaration with the consent of the owner of such property, the affirmative vote of Members representing a Majority of the votes of the Association (other than Declarant) represented at a meeting duly called for such purpose, and the consent of the Declarant so long as Declarant owns any portion of the property subject to this Declaration.

Such annexation shall be accomplished by filing a Supplemental Declaration describing the property being annexed in the Public Records. Any such Supplemental Declaration shall be signed by the president and the secretary of the Association, and by the owner of the annexed property, and by the Declarant, if the Declarant's consent is required. Any such annexation shall be effective upon filing unless otherwise provided therein.

4.3 Withdrawal of Property. The Declarant reserves the right to amend this Declaration for the purpose of removing any portion of the Property from the coverage of this Declaration if such removal is permitted by the LUC or the LUC Conditions. Such amendment shall not require the consent of any Person unless such property is owned by a Person other than the Declarant, in which case, the consent of the Owner is required. Removal or withdrawal of all or any portion of the Property shall be accomplished by recording a Supplemental Declaration in the Public Records. Any such removal or withdrawal shall be effective upon the recording of the Supplemental Declaration unless otherwise provided therein.

ARTICLE 5
DECLARANT'S RIGHTS

Any or all of the special rights and obligations of the Declarant set forth in this Declaration, may be transferred or assigned from time to time, in whole or in part, to other Persons, including the Association, which will assume the position of Declarant pertaining to the particular rights, powers, easements and reservations assigned, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that which the Declarant has under this Declaration. No such transfer or assignment shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Public Records, provided, however, that, effective upon any assignment of all of the Declarant's rights and obligations under any

Association CC&Rs to another Person, the Declarant's rights and obligations under this Declaration shall automatically transfer to such Person.

This Article may not be amended without the written consent of the Declarant. The rights contained in this Article shall terminate upon the earlier of (a) 20 years from the date this Declaration is recorded, or (b) upon recording by Declarant of a written statement that all sales activity has ceased.

ARTICLE 6

GENERAL PROVISIONS

6.1 **Successors and Assigns; Duration; No Rights of Third Parties.** The covenants and restrictions of this Declaration shall run with and bind the Property, and shall inure to the benefit of and shall be enforceable by the Association or the Owner of any property subject to this Declaration, their respective legal representatives, heirs, successors and assigns. No adjoining property owner other than the owner of the property described in Exhibit B that is the subject of the LUC Order, or third party shall have any right, title or interest whatsoever, in the Property or in the operation or continuation thereof or in the enforcement of any of the provisions hereof.

6.2 **Amendment.**

(a) **By Declarant.** Declarant may unilaterally amend this Declaration in any manner if such amendment is necessary (i) to bring any provision into compliance with any applicable governmental statutes, rule, regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Units; (iii) to enable any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans, to make, purchase, insure or guarantee mortgage loans on the Units; (iv) to enable any reputable private insurance company to insure mortgage loans on the Units; or (v) to satisfy the requirements of any local, state or federal governmental agency. However, any such amendment shall not adversely affect the title to any Unit unless the Owner shall consent in writing. In addition, so long as the Declarant owns any portion of the property described in Exhibit A, Declarant may unilaterally amend this Declaration for any other purpose, including, without limitation, for the purpose of amending the description of the Property with the description of the Units after subdivision thereof or to withdraw any portions of the Property to be dedicated or otherwise transferred to a governmental entity or utility company.

(b) **By Members.** Except as otherwise specifically provided above and elsewhere in this Declaration, if the Association has been formed, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Members holding at least 67% of the total votes in the Association other than the Declarant, and the consent of the Declarant, so long the Declarant owns any portion of the property described in Exhibit A for development as part of the Property. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

(c) **Validity and Effective Date.** Any amendment to the Declaration shall become effective upon recording in the Public Records, unless a later effective date is specified in the

amendment. Any procedural challenge to an amendment must be made within six months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

No amendment may remove, revoke, or modify any right or privilege of the Declarant without the written consent of the Declarant, or the assignee of such right or privilege.

If an Owner consents to any amendment to this Declaration, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any mortgage or contract between the Owner and a third party will affect the validity of such amendment.

6.3 Severability. Invalidation of any provision of this Declaration, in whole or in part, or any application of a provision of this Declaration by judgment or court order shall in no way affect other provisions or applications.

6.4 Litigation. Except as provided below, no judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of Members holding 75% of the total votes in the Association. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens); (b) counterclaims brought by the Association in proceedings instituted against it; or (c) actions brought by the Association against any contractor, vendor, or supplier of goods or services arising out of a contract for services or supplies. This Section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

6.5 Dispute Resolution. It is the intent of the Declarant to encourage the amicable resolution of disputes involving the Property and to avoid the emotional and financial costs of litigation if at all possible. Accordingly, the Association, the Declarant and each Owner covenants and agrees that it shall attempt to resolve all claims, grievances or disputes involving the Property, including, without limitation, claims, grievances or disputes arising out of or relating to the interpretation, application or enforcement of this Declaration through alternative dispute resolution methods, such as mediation and arbitration. To foster the amicable resolution of disputes, the Board may adopt alternative dispute resolution procedures.

6.6 Cumulative Effect; Conflict. The provisions of this Declaration shall be cumulative with the provisions of any applicable Supplemental Declaration. The Association shall have the standing and authority to enforce the provisions of any Supplemental Declaration.

6.7 Compliance. Every Owner and occupant of any Unit shall comply with this Declaration. Failure to comply shall be grounds for an action by the Declarant or the Association or, in a proper case, by any aggrieved Unit Owner(s) to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, in addition to those enforcement powers granted to the Association in Section 3.1. In any legal or equitable proceeding for the enforcement of or to remedy the violation of these covenants or any provision hereof, the losing party or parties shall pay the reasonable attorney's fees and costs of the

prevailing party or parties, in such amount as may be fixed by the court in such proceeding. Such fees upon appropriate docketing of a judgment to such effect shall become a lien against the Unit (if any) of the losing party. All remedies provided herein and/or otherwise available, at law or in equity, shall be cumulative and not exclusive.

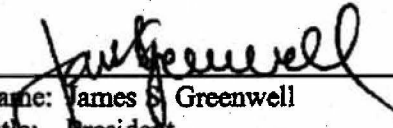
6.8 Exhibits. Exhibit A attached to this Declaration is incorporated by this reference and amendment of such exhibits shall be governed by the provisions of Section 6.2.

IN WITNESS WHEREOF, the undersigned 31st day of January 2007.

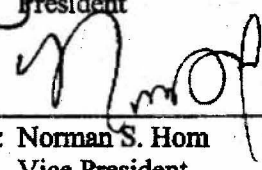
DECLARANT

WEST HAWAII BUSINESS PARK LLC,
a Hawaii limited liability company

By


Name: James S. Greenwell
Title: President

By

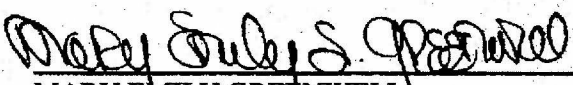

Name: Norman S. Horn
Title: Vice President

PATRICIA G. GREENWELL

MARTHA L. GREENWELL, Trustee as aforesaid



JAMES S. GREENWELL



MARY EMILY GREENWELL

WENDY G. CRAVEN, Trustee as aforesaid

IN WITNESS WHEREOF, the undersigned _____ day of January 2007.

DECLARANT WEST HAWAII BUSINESS PARK LLC,
a Hawaii limited liability company

By _____
Name: James S. Greenwell
Title: President

By _____
Name: Norman S. Hom
Title: Vice President


PATRICIA G. GREENWELL

MARTHA L. GREENWELL, Trustee as aforesaid

JAMES S. GREENWELL

MARY EMILY GREENWELL

WENDY G. CRAVEN, Trustee as aforesaid


IN WITNESS WHEREOF, the undersigned _____ day of January 2007.

DECLARANT WEST HAWAII BUSINESS PARK LLC,
a Hawaii limited liability company

By _____
Name: James S. Greenwell
Title: President

By _____
Name: Norman S. Hom
Title: Vice President

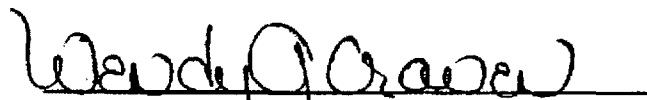
PATRICIA G. GREENWELL



MARTHA L. GREENWELL, Trustee as aforesaid

JAMES S. GREENWELL

MARY EMILY GREENWELL



WENDY G. CRAVEN, Trustee as aforesaid

Christine G. Churchill

CHRISTINE G. CHURCHILL, Trustee as aforesaid

JAMES L. GREENWELL, Trustee as aforesaid

SCOTT C. CRAVEN, Trustee as aforesaid

HEATHER L. POLHEMUS (formerly known as
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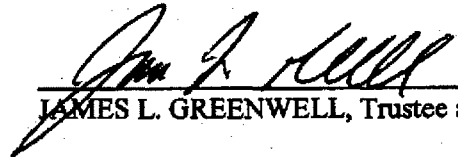
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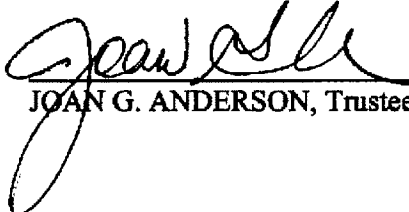
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CORD D. ANDERSON



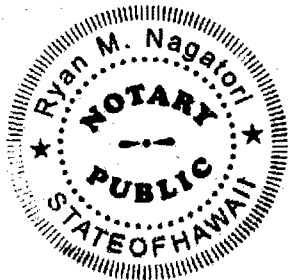
BRAD R. ANDERSON

STATE OF HAWAII

CITY AND COUNTY OF HONOLULU

)
) SS:
)

On this ____ day of JAN 25 2007, 2007, before me personally appeared ~~JAMES S. GILBERT~~ **NORMAN S. HOM**, to me known, who, being by me duly sworn or affirmed, did say that such persons executed the foregoing instrument as the free act and deed of such person and if applicable in the capacities shown, having been duly authorized to execute such instrument in such capacities.



Signature: _____

Name: _____

Notary Public, State of Hawaii

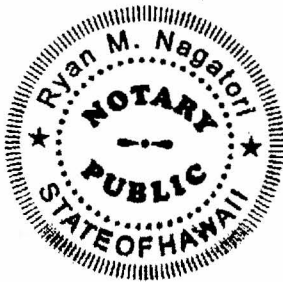
My commission expires August 29, 2008 **Ryan M. Nagaton**

STATE OF HAWAII

CITY AND COUNTY OF HONOLULU

)
) SS:
)

On this _____ day of **JAN 29 2007**, 2007, before me personally appeared **JAMES S. GREENWELL** ~~and NORMAN G. HERR~~, to me known, who, being by me duly sworn or affirmed, did say that such persons executed the foregoing instrument as the free act and deed of such person and if applicable in the capacities shown, having been duly authorized to execute such instrument in such capacities.



Signature: _____

Name: _____

Notary Public, State of Hawaii

My commission expires: **Ryan M. Nagatori**
Expiration Date: August 29, 2008

STATE OF HAWAII

)

) SS:

COUNTY OF HAWAII

)

On this 25th day of January, 2007, before me personally appeared **PATRICIA G. GREENWELL**, to me personally known, who, being by me duly sworn or affirmed did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.



Signature: Diana Hudgins
Name: _____
Notary Public, State of Hawaii

My commission expires: _____

DIANA HUDGINS
Expiration Date: November 6, 2009

STATE OF HAWAII

)

) SS:

COUNTY OF HAWAII

)

On this _____ day of _____, 2007, before me personally appeared **MARTHA L. GREENWELL, Trustee as aforesaid**, to me personally known, who, being by me duly sworn or affirmed did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Signature: _____
Name: _____
Notary Public, State of Hawaii

My commission expires: _____

STATE OF HAWAII
COUNTY OF HAWAII

)
) SS:
)

On this _____ day of _____, 2007, before me personally appeared **PATRICIA G. GREENWELL**, to me personally known, who, being by me duly sworn or affirmed did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Signature: _____
Name: _____
Notary Public, State of Hawaii
My commission expires: _____

STATE OF HAWAII
COUNTY OF HAWAII

)
) SS:
)

On this 24th day of January, 2007, before me personally appeared **MARTHA L. GREENWELL**, ~~Trustee as aforesaid~~, to me personally known, who, being by me duly sworn or affirmed did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Signature: Marlene Elisaga
Name: _____
Notary Public, State of Hawaii
My commission expires: _____
Marlene Elisaga
Expiration Date: August 1, 2009

STATE OF HAWAII

)

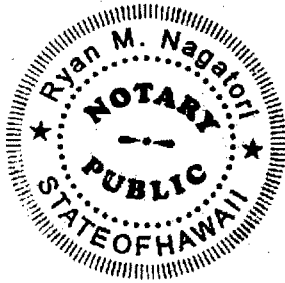
) SS:

CITY AND COUNTY OF HONOLULU

)

JAN 29 2007

On this _____ day of _____, 2007, before me personally appeared **JAMES S. GREENWELL**, to me personally known, who, being by me duly sworn or affirmed did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.



Signature: _____

Name: _____

Notary Public, State of Hawaii

Ryan M. Nagatori

My commission expires: Expiration Date: August 29, 2008

STATE OF HAWAII

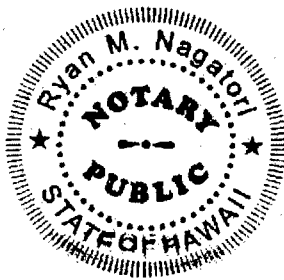
)

) SS:

CITY AND COUNTY OF HONOLULU

)

On this _____ day of JAN 29 2007, 2007, before me personally appeared **MARY EMILY GREENWELL**, to me personally known, who, being by me duly sworn or affirmed did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.



Signature: _____

Name: _____

Notary Public, State of Hawaii

Ryan M. Nagatori

My commission expires: Expiration Date: August 29, 2008

STATE OF HAWAII

)

) SS:

COUNTY OF HAWAII

)

On this 23rd day of January, 2007, before me personally appeared **WENDY G. CRAVEN**, Trustee as aforesaid, to me personally known, who, being by me duly sworn or affirmed did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Signature: _____

Name: _____

Notary Public, State of Hawaii

Marlene Elisaga

Expiration Date: August 1, 2009

My commission expires: _____

STATE OF HAWAII

)

) SS:

COUNTY OF MAUI

)

On this _____ day of _____, 2007, before me personally appeared **CHRISTINE G. CHURCHILL**, Trustee as aforesaid, to me personally known, who, being by me duly sworn or affirmed did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Signature: _____

Name: _____

Notary Public, State of Hawaii

My commission expires: _____

STATE OF HAWAII
COUNTY OF HAWAII

)
) SS:
)

On this ____ day of _____, 2007, before me personally appeared **WENDY G. CRAVEN**, Trustee as aforesaid, to me personally known, who, being by me duly sworn or affirmed did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Signature: _____
Name: _____
Notary Public, State of Hawaii

My commission expires: _____

STATE OF HAWAII
COUNTY OF MAUI

)
) SS:
)

On this 24th day of JANUARY, 2007, before me personally appeared **CHRISTINE G. CHURCHILL**, Trustee as aforesaid, to me personally known, who, being by me duly sworn or affirmed did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.



Signature: _____
Name: _____
Notary Public, State of Hawaii

My commission expires: _____

JOEL Z. NAVARRO
Expiration Date: July 31, 2009

STATE OF HAWAII

)
) SS:
)

CITY AND COUNTY OF HONOLULU

On this 24th day of January, 2007, before me personally appeared **JAMES L. GREENWELL, Trustee as aforesaid**, to me personally known, who, being by me duly sworn or affirmed did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Signature: 

Name: _____

Notary Public, State of Hawaii

Barbara T. Paulo

My commission expires: Expiration Date: June 14, 2008

STATE OF HAWAII

)
) SS:
)

COUNTY OF HAWAII

On this _____ day of _____, 2007, before me personally appeared **SCOTT C. CRAVEN, Trustee as aforesaid**, to me personally known, who, being by me duly sworn or affirmed did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Signature: _____

Name: _____

Notary Public, State of Hawaii

My commission expires: _____

STATE OF HAWAII)
) SS:
CITY AND COUNTY OF HONOLULU)

On this _____ day of _____, 2007, before me personally appeared **JAMES L. GREENWELL, Trustee as aforesaid**, to me personally known, who, being by me duly sworn or affirmed did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Signature: _____

Name: _____

Notary Public, State of Hawaii

My commission expires: _____

STATE OF HAWAII)
) SS:
COUNTY OF HAWAII)

On this 23rd day of January, 2007, before me personally appeared **SCOTT C. CRAVEN, Trustee as aforesaid**, to me personally known, who, being by me duly sworn or affirmed did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.



Signature: Edna Mae Shaffer

Name: _____

Notary Public, State of Hawaii

My commission expires: _____

EDNA MAE SHAFFER
Expiration Date: December 13, 2010

STATE OF HAWAII

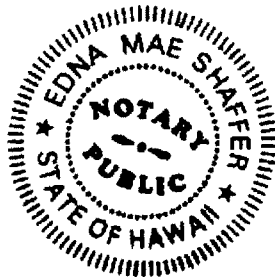
)

) SS:

COUNTY OF HAWAII

)

On this 23rd day of January, 2007, before me personally appeared **HEATHER L. POLHEMUS (formerly known as Heather L. Craven)**, Trustee as aforesaid, to me personally known, who, being by me duly sworn or affirmed did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.



Signature: *Edna Mae Shaffer*

Name: _____

Notary Public, State of Hawaii

My commission expires: _____

EDNA MAE SHAFFER
Expiration Date: December 13, 2010

STATE OF HAWAII

)

) SS:

COUNTY OF HAWAII

)

On this _____ day of _____, 2007, before me personally appeared **ANTHONY B. CRAVEN, JR.**, Trustee as aforesaid, to me personally known, who, being by me duly sworn or affirmed did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Signature: _____

Name: _____

Notary Public, State of Hawaii

My commission expires: _____

STATE OF HAWAII
COUNTY OF HAWAII

)
) SS:
)

On this _____ day of _____, 2007, before me personally appeared **HEATHER L. POLHEMUS (formerly known as Heather L. Craven)**, Trustee as aforesaid, to me personally known, who, being by me duly sworn or affirmed did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

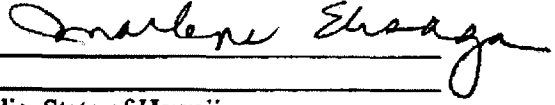
Signature: _____
Name: _____
Notary Public, State of Hawaii

My commission expires: _____

STATE OF HAWAII
COUNTY OF HAWAII

)
) SS:
)

On this 25th day of January, 2007, before me personally appeared **ANTHONY B. CRAVEN, JR.**, Trustee as aforesaid, to me personally known, who, being by me duly sworn or affirmed did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Signature: 
Name: _____
Notary Public, State of Hawaii

My commission expires: Expiration Date: August 1, 2009

STATE OF HAWAII

)

) SS:

COUNTY OF HAWAII

)

On this 25th day of January, 2007, before me personally appeared **DAVID R. GREENWELL**, to me personally known, who, being by me duly sworn or affirmed did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.



Signature: Diana Hudgins
Name: _____
Notary Public, State of Hawaii

My commission expires: _____

DIANA HUDGINS
Expiration Date: November 6, 2009

STATE OF HAWAII

)

) SS:

COUNTY OF HAWAII

)

On this 25th day of January, 2007, before me personally appeared **MARY TERESA GREENWELL**, to me personally known, who, being by me duly sworn or affirmed did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.



Signature: Diana Hudgins
Name: _____
Notary Public, State of Hawaii

My commission expires: _____

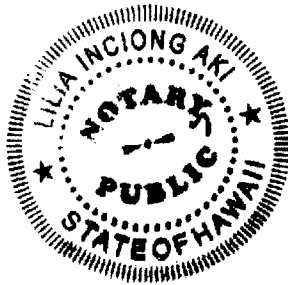
DIANA HUDGINS
Expiration Date: November 6, 2009

STATE OF HAWAII

)
) SS:
)

COUNTY OF HAWAII

On this 25th day of June, 2007, before me personally appeared **JOAN G. ANDERSON, Trustee as aforesaid**, to me personally known, who, being by me duly sworn or affirmed did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.



Signature: _____

Name: _____

Notary Public, State of Hawaii

My commission expires: _____

Lilia Inciong Aki
Expiration Date: March 9, 2007

STATE OF HAWAII

)
) SS:
)

CITY AND COUNTY OF HONOLULU

On this ____ day of _____, 2007, before me personally appeared **CORD D. ANDERSON**, to me personally known, who, being by me duly sworn or affirmed did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Signature: _____

Name: _____

Notary Public, State of Hawaii

My commission expires: _____

STATE OF HAWAII

)

) SS:

COUNTY OF HAWAII

)

On this _____ day of _____, 2007, before me personally appeared JOAN G. ANDERSON, Trustee as aforesaid, to me personally known, who, being by me duly sworn or affirmed did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Signature: _____

Name: _____

Notary Public, State of Hawaii

My commission expires: _____

STATE OF HAWAII

)

) SS:

CITY AND COUNTY OF HONOLULU

)

On this 24th day of January, 2007, before me personally appeared CORD D. ANDERSON, to me personally known, who, being by me duly sworn or affirmed did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Signature: _____

Name: _____

Notary Public, State of Hawaii

Barbara T. Paulo

My commission expires: Expiration Date: June 14, 2008

STATE OF HAWAII

CITY AND COUNTY OF HONOLULU

)
) SS:
)

On this 24th day of January, 2007, before me personally appeared **BRAD R. ANDERSON**, to me personally known, who, being by me duly sworn or affirmed did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Signature: 

Name: _____

Notary Public, State of Hawaii

Barbara T. Paule

My commission expires: _____

Expiration Date: June 14, 2008

EXHIBIT A

All of Tax Map Key No. (3) 7-4-8:30, being LOT A-3, as shown on subdivision map prepared by Russell Figueiroa, Land Surveyor, with R.M. Towill Corporation, dated May 14, 2004, approved by the Planning Director, County of Hawaii, on October 20, 2004:

BEING A PORTION OF ROYAL PATENT 6855, LAND COMMISSION AWARD 9971,

APANA 9 TO WILLIAM PITT LELEIOHOKU AND

ALL OF GRANT S-15098 TO LANIHAU CORPORATION, ET. AL

AT HONOKOHAU 2ND, NORTH KONA, ISLAND OF HAWAII, HAWAII

Beginning at the northwest corner of this parcel of land and along the East side of Queen Kaahumanu Highway (Project Number BD-65-352), same being the Southwest corner of Lot A-1, being portions of R.P. 7587, L.C. Aw. 11216, Ap. 36 to M. Kekauonohi (Certificate of Boundaries No. 138) and Grant 15096 to Lanihau Corporation, et.al., the coordinates of said point of beginning referred to Hawaiian Plane Coordinate Grid System Zone 1 being 306,857.07 feet North and 321,150.92 feet East and thence running by azimuths measured clockwise from true South:

- | | | | |
|----|--------------|---------|---|
| 1. | 258° 15' 30" | 1000.00 | feet along Lot A-1 being portions of R.P. 7587, L.C. Aw. 11216, Ap. 36 to M. Kekauonohi (Certificate of Boundaries No. 138) and Grant 15096 to Lanihau Corporation, et.al.; |
| 2. | 328° 10' | 459.24 | feet along Lot 3, being a portion of R.P. 6855, L.C. Aw. 9971, Ap. 9 to William Pitt Leleiohoku; |
| 3. | 78° 15' 30" | 1000.00 | feet along Lots IX-A, IX-B and IX-C, being portions of R.P. 6855, L.C. Aw. 9971, Ap. 9 to William Pitt Leleiohoku; |
| 4. | 148° 10' | 459.24 | feet along the east side of Queen Kaahumanu Highway (Project Number BD-65-352) to the point of beginning and containing an area of 9.901 Acres; and |

SUBJECT, HOWEVER, to Easement A, for road and utility purposes, as shown on map prepared by Nobuchika Santo, revised February 6, 1991.

-1-

420 Waiakamilo Road
Suite 411
Honolulu Hawaii 96817-4941
Telephone 808 842 1133
Fax 808 842 1937
Internet www.rmtowill.com



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Construction Management

EXHIBIT B

All of Tax Map Key No. (3) 7-4-8:13, being LOT A-1, as shown on subdivision map prepared by Russell Figueiroa, Land Surveyor, with R.M. Towill Corporation, dated May 14, 2004, approved by the Planning Director, County of Hawaii, on October 20, 2004:

BEING PORTIONS OF ROYAL PATENT 7587,
LAND COMMISSION AWARD 11216, APANA 36 TO M. KEKAUONOHI
(CERTIFICATE OF BOUNDARIES NO. 138) AND
GRANT S-15096 TO LANIHAU CORPORATION, ET. AL

AT HONOKOHAU 1ST, NORTH KONA, ISLAND OF HAWAII, HAWAII

Beginning at the Northwest corner of this parcel of land and along the east side of Queen Kaahumanu Highway (Project Number BD-65-352), the coordinates of said point of beginning referred to Hawaiian Plane Coordinate Grid System Zone 1 being 310,073.83 feet North and 320,034.85 feet East and thence running by azimuths measured clockwise from true South:

- | | | | |
|----|--------------|----------|--|
| 1. | 259° 01' 40" | 2,361.73 | feet along Lots 57 and 17 of Kaloko Light Industrial Subdivision Unit 1 (File Plan 1806), Kaaalani Street, Lots A, being a portion of R.P. 8214, L.C. Aw. 7715, Ap. 11 to Lots Kamehameha, Lots 53 and 52 of Kaloko Light Industrial Subdivision Unit 1 (File Plan 1806), Lot 50-A, being a portion of R.P. 8214, L.C. Aw. 7715, Ap. 11 to Lots Kamehameha, Lots A and F, being portions of R.P. 8214, L.C. Aw. 7715, Ap. 11 to Lots Kamehameha; |
| 2. | 349° 01' 40" | 596.91 | feet along Lot A-2, being a portion of R.P. 7587, L.C. Aw. 11216, Ap. 36 to M. Kekauonohi (Certificate of Boundaries No. 138); |
| 3. | 260° 55' 30" | 525.68 | feet along Lot A-2, being a portion of R.P. 7587, L.C. Aw. 11216, Ap. 36 to M. Kekauonohi (Certificate of Boundaries No. 138); |

- 1 -

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4. Thence along Lot A-2, being a portion of R.P. 7587, L.C. Aw. 11216, Ap. 36 to M. Kekauonohi (Certificate of Boundaries No. 138), on a curve to the left with a radius of 45.00 feet, the chord azimuth and distance being:
244° 08' 46.9" 25.98 feet;
5. Thence along Lot A-2, being a portion of R.P. 7587, L.C. Aw. 11216, Ap. 36 to M. Kekauonohi (Certificate of Boundaries No. 138), on a curve to the right with a radius of 45.00 feet, the chord azimuth and distance being:
250° 33' 58.4" 35.45 feet;
6. 170° 55' 30" 265.00 feet along Lot A-2, being a portion of R.P. 7587, L.C. Aw. 11216, Ap. 36 to M. Kekauonohi (Certificate of Boundaries No. 138);
7. 260° 55' 30" 645.08 feet along Lot A-2, being a portion of R.P. 7587, L.C. Aw. 11216, Ap. 36 to M. Kekauonohi (Certificate of Boundaries No. 138);
8. 152° 40' 40" 345.77 feet along Lot A-2, being a portion of R.P. 7587, L.C. Aw. 11216, Ap. 36 to M. Kekauonohi (Certificate of Boundaries No. 138);
9. 260° 55' 29" 367.55 feet along Lot F, being a portion of R.P. 8214, L.C. Aw. 7715, Ap. 11 to Lots Kamehameha;
10. 331° 21' 32" 3,433.20 feet along Lot B, being a portion of R.P. 7587, L.C. Aw. 11216, Ap. 36 to M. Kekauonohi (Certificate of Boundaries No. 138);
11. 78° 15' 10" 3,429.84 feet along Lots 14, 13, 8, 7, 6 and 5; Road G; and Lot 3, being portions of R.P. 6855, L.C. Aw. 9971, Ap. 9 to William Pitt Leleiohoku;
12. 78° 15' 30" 1,000.00 feet along Lot A-3, being a portion of R.P. 6855, L.C. Aw. 9971, Ap. 9 to William Pitt Leleiohoku and all of Grant S-15098 to Lanikai Corporation, et. al;

-2-

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13. 148° 10' 213.70 feet along the east side of Queen Kaahumanu Highway (Project Number BD-65-352);
14. Thence along the East side of Queen Kaahumanu Highway (Project Number BD-65-352), on a curve to the right with a radius of 5,904.00 feet, the chord azimuth and distance being:
158° 04' 45" 2,032.68 feet;
15. 167° 59' 30" 1,175.19 feet along the East side of Queen Kaahumanu Highway (Project Number BD-65-352) to the point of beginning and containing an area of 314.378 Acres;

- 3 -

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