

# SMC KONA LLC

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June 10, 2026

VIA USPS and EMAIL to  
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Mr. Daniel E. Orodener, Executive Director  
State of Hawaii, Land Use Commission  
235 S. Beretania Street, RM 406  
Honolulu, Hawai'i 96813

Mr. Jeff Darrow, Planning Director  
Ms. Michelle Ahn, Deputy Planning Director  
County of Hawaii Planning Department  
101 Pauahi Street, Suite 3  
Hilo, HI 96720

**RE: 2025 ANNUAL REPORT to the Land Use Commission Docket No.  
A03-744 - Successor Petitioner SMC KONA LLC  
TMK: (3) 7-2-005-001, (3) 7-2-005-009, 010, 011, 012, 013, 014, 015, 016, 017,  
018, 19 and 020.**

Dear Mr. Orodener and Mr. Darrow,

Successor Petitioner and Owner SMC KONA, LLC ("Petitioner") submits its 2025 Annual Report to the Land Use Commission, State of Hawai'i and the County of Hawaii Planning Department in compliance with Condition 26 of the Findings of Fact and Conclusions of Law, and Decision and Order in Docket No. A03-744 ("Decision and Order") approved on June 13, 2005.

1. **Overview and General Progress of the Project**

Pursuant to the Findings of Fact, Conclusions of Law, and Decision and Order dated June 13, 2005, under Docket No. A03-744, the Land Use Commission, State of Hawai'i reclassified approximately 725.2 acres of land in Kau, North Kona, Island, County, and State of Hawai'i (the "Petition Area") from the Agricultural District to the Urban District to allow for the development of a master-planned village community known as Palamanui.

Subsequently, the County of Hawai'i approved a change in zoning from Agricultural and Open to Project District ("PD") for the Palamanui development. This zoning change was originally enacted through Ordinance No. 06-105 on July 17, 2006. Currently, approximately 695 acres of Palamanui is subject to Project District Ordinance No. 09-132 ("PD 2"). The County approved the remainder of the Palamanui project, approximately 30 acres within the Palamanui project area from Project District to Industrial-Commercial Mixed – 20,000 square feet which is subject to Ordinance No. 09-131 ("MCX 1"). Both existing ordinances were effective November 4, 2009.

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Project District Ordinance No. 09-132 (“PD 2”) was later amended by Ordinance No. 09-132, enacted on November 4, 2009 and further amended by Ordinance No. 21-27 (“PD 3”), enacted on March 31, 2021.

The MCX Ordinance No. 09-131 (“MCX 1”) was enacted through Ordinance No. 09-131 on November 4, 2009, and subsequently amended by Ordinance No. 21-25 (“MCX 2”), enacted on March 16, 2021.

On April 1, 2022, Successor Petitioner SMC KONA LLC took over ownership of the property and Palamanui development project. Petitioner prepared an updated development phasing plan for the Property.

The Palamanui Phase I Bulk Lot Subdivision application was approved and granted on October 14, 2024. As a result, Lot TMK (3) 7-2-005-001 has been subdivided into a total of 13 lots, now designated as Lot A7 with TMK (3) 7-2-005-001, Lot A1 through A6, Lot B1 through B4, Road Lot 1 and 2A, with TMK (3) 7-2-005-009 through 020.

An updated Regulating Plan for the Palamanui Project District was accepted by County of Hawai’i on January 09, 2025.

Technical Report for Palamanui Wastewater Reclamation Facility Phase I was submitted to Environmental Management Division Wastewater Branch on June 26, 2024. Phase I was approved for construction by the Department of Health (“DOH”) on January 12, 2026.

The mass grading permit for Lot A3 was approved on February 7, 2025. The mass grading permit for Road Lot 1 and 2A was approved on February 25, 2025 and renewed on April 28, 2026.

Petitioner is working with the Department of Hawaiian Home Land (“DHHL”) to develop affordable housing on an 18-acre parcel (Lot A3) that was donated to DHHL by the Petitioner. The project will consist of 40 single-family homes and 92 multifamily units, including 28 units designated for kūpuna.

The development is intended to serve households earning up to 60% of the Area Median Income (“AMI”), as well as those within the 80% AMI range. Two LIHTC funding applications were submitted in February 2025, and resubmitted in February of 2026—one for the single-family homes and another for the multifamily component. If funding is awarded as expected in August or September 2026, construction is anticipated to begin in the first half of 2027. Occupancy is projected to commence before the end of 2029.

## 2. **Progress In Complying with Condition Imposed**

As to the Conditions of Approval in the Commission’s Decision and Order, here is a status report on compliance. These conditions are each numbered as identified in the Decision and Order and set forth below, followed by a brief status summary.

1. **Affordable Housing.**

**Petitioner shall provide affordable housing opportunities for residents of the State of Hawai'i to the satisfaction of the County, acting in accordance with the County's Ordinance No. 05-23, Affordable Housing Policy for the County of Hawai'i. Petitioner shall provide no less than 100 onsite affordable units in accordance with the Petitioner's representations to the Commission or whatever number of affordable units is deemed acceptable by the County in accordance with the County's Ordinance No. 05-23, Affordable Housing Policy for the County of Hawai'i, whichever is greater. The location and distribution of the affordable housing units or other provisions for affordable housing shall be under such terms as may be mutually agreeable between the Petitioner and County.**

Petitioner will continue to work with the County of Hawaii to satisfy its requirements consistent with Hawaii County's Chapter 11 Article 1, Affordable Housing, codified in the Hawaii County Code. All affordable housing units will be built within the Petition area. There will be a sufficient number of affordable housing units to fully satisfy all credit requirements outlined in the chapter and agreed upon with the County. Petitioner has had discussions with the County Office of Housing & Community Development and provided for their review a draft of the housing agreement in October 2021. Petitioner met again with County Mayor and Planning Director over the draft proposed housing agreement and affordable housing proposal on November 22, 2023. Petitioner also continued to follow up with the County Office of Housing & Community Development with multiple discussions, including a meeting with the Housing Administrator and her staff on October 8, 2024, regarding our affordable housing proposal and draft affordable housing agreement. Petitioner then continued discussions and sharing of information with the new Office of Housing & Community Development from March 2025 and will continue to work with the Housing Administrator and staff to finalize the affordable housing agreement. Petitioner anticipates building affordable units incrementally on the site and desires to start building the first affordable units at Palamanui by 2028. Petitioner will continue to work with the Housing Administrator and when finalized, will submit the agreement for approval by the Housing Administrator of the Office of Housing and Community Development. The current proposal that is being supported by the County is to work in collaboration with DHHL (Department of Hawaiian Home Lands) to provide 132 affordable housing units for DHHL and its constituents. The current proposal is to provide 132 mixed-units (single family, multi-family and Kupuna) of affordable housing which will primarily target those earning 60% or less of the Area Median Income (AMI) to meet the affordable housing credits required by the county.

2. **Public School Facilities.**

**Petitioner shall contribute to the development, funding and construction of public-school facilities as determined by and to the satisfaction of the DOE. Petitioner shall enter into an agreement with the DOE covering the specific terms of such contribution prior to final subdivision approval and file such agreement with the Commission and the County.**

Petitioner has met this condition. An agreement has been executed with DOE under which Petitioner proposed to provide the DOE with either the rent-free use of 8,000 square feet building for 20 years or payment of per unit impact fees to satisfy this condition.

3. **Wastewater Facilities.**

**Petitioner shall design and construct its wastewater disposal system in compliance with the requirements of the County and the DOH.**

Petitioner intends to comply with this condition. Petitioner has obtained the required State Department of Health approvals for the onsite injection wells, which is planned to be used in the final wastewater treatment plant design in compliance with the DOH. Petitioner engaged WSI International to complete the design of the onsite packaged Wastewater treatment plant (WWTP) for Phase I. The WWTP will be designed and constructed in compliance with the requirements of the County and DOH. Technical Report for Palamanui Wastewater Reclamation Facility Phase I was submitted to Environmental Management Division Wastewater Branch on June 26, 2024 and has been approved for construction on January 12, 2026. The drainage calculation report was submitted to the County on May 18, 2026, for review and approval. The Plan Approval and building permit applications will follow thereafter.

4. **Wastewater Agreement for Underground Injection Offsite.**

**Prior to final subdivision approval, Petitioner shall provide the Commission and the County with a copy of the executed agreement to inject wastewater underground offsite and above the UIC line on the adjacent State-owned land to the south of the Petition Area, or with other such landowner and location as approved by DOH.**

Petitioner has met this condition as modified below with concurrence from the State Department of Health (DOH).

Upon further review of the situation for the backup underground injection well required by the State Department of Health for the sewer treatment plant, previous Petitioner determined that the well could be located within the Petition area in its second

Final Environmental Impact Statement (FEIS II) filed on September 17, 2004. The State Department of Health concurred.

On October 7, 2004, the State Land Use Commission accepted the previous Petitioner's FEIS II at a hearing held in Hilo, Hawaii. An Order Accepting Petitioner's Environmental Impact Statement Filed on September 17, 2004 was served on January 12, 2005.

The injection wells were subsequently constructed and permitted, and the Petitioner's actions therefore represent continued use, permit modification, and ongoing compliance rather than new construction or siting decisions.

Petitioner has updated the two on site disposal wells permits as required by DOH. DOH granted approval to operate the two injection wells, issued on January 30, 2024.

Petitioner subsequently submitted a permit modification application for the two wells, and DOH granted approval to operate the two injection wells under the terms and conditions of the modified permit issued on September 19, 2025, expiring on January 29, 2029.

The Petitioner submitted Underground Injection Control (UIC) Daily Records to the DOH-UIC and will continue to do so on a quarterly basis. The 2026 UIC Annual Status Report was completed in March 2026 by Tom Nance Water Resource Engineering and submitted to DOH-UIC.

##### **5. Traffic Impact and Mitigation.**

**Petitioner submitted the Draft Final Traffic Impact Analysis Report (TIAR) on October 30, 2023 and received a written approval from the Hawaii Department of Transportation (HDOT) on January 29, 2024. The TIAR complies with the County of Hawaii Ordinance No. 21-27 Condition U.1.a and will serve as the basis for obtaining final design approval from HDOT. Petitioner shall fund, design and construct its share of local and regional transportation improvements as determined by the SDOT and the County, which includes but is not limited to:**

Petitioner intends to comply with this condition with updates below:

a. **Midlevel connection with Ka'iminani Drive.**

**Petitioner shall provide at its sole cost and expense a two-lane roadway between the Petition Area and Ka'iminani Drive in an alignment approved by the County and the University and the acceptable to any other State agency with a property interest in the land on which the two-lane roadway is located.**

Petitioner has met this condition.

This is also required by Condition U of the County Rezoning Ordinance No. 21-27.

The alignment of the road was approved by the State Department of Land & Natural Resources. The roadway was constructed in 2013-2014. This roadway is currently open to the public and provides access to the University of Hawai'i campus and Palamanui.

**b. Mauka-Makai Connector Road.**

**A mauka-makai connector road providing public access between Queen Kaahumanu Highway and the Mamalahoa Highway shall be provided at Petitioner's sole cost and expense. Said mauka-makai connector road shall connect to Mamaloahoa Highway as Petitioner and the County may agree.**

Petitioner intends to comply with this condition.

The County of Hawaii zoning conditions concerning the connector roads between Queen Kaahumanu Highway and Mamalahoa Highway will be complied with.

**c. Right-Of-Way for an Alternative Mauka-Makai Connector Road.**

**Petitioner shall reserve a right-of-way along the east (*mauka*) portion of the Petition Area to support the possible future connection to the Mamalahoa Highway. Petitioner shall construct at its sole cost and expense all portions of said future road that is within the Petition Area. Any proposed road construction plans and associated utility easements which may impact the Lowland Dry Forrest Preserve shall be subject to prior review and approval of the Commission and shall include consultation with the County, such that County engineering standards or other County requirements do not adversely impact the Lowland Dry Forest Preserve.**

Petitioner's plans include rights-of-way that will allow connection to a new connector to Mamalahoa Highway. Petitioner will be responsible for the costs of the road within the project which will provide that connection.

**d. Request to Limit Vehicle Traffic on Portions of Makalei Drive.**

**In the event that the mauka-makai road connector road utilizes Makalei Drive, to promote greater traffic safety, Petitioner shall prior to final subdivision approval, use reasonable efforts to petition the County to limit motor vehicle traffic on Makalei Drive as a through street, as it transverses Makalei Estates, to only those vehicles that have gross vehicle weight of less than 10,000 pounds.**

Petitioner intends to comply with this condition.

6. **Integrated Natural Cultural Resource Management Plan (INCRMP).**

**Petitioner shall implement the revised INCRMP including completion of all plans (with appropriate approvals), covenants and easements required under the revised INCRMP. Such implementation shall include, but not be limited to the following:**

Petitioner has complied, and intends to continue to comply with this condition. Petitioner is drafting Master Covenants that will apply to the Petition area. The covenants will include the provisions described in the Integrated Natural Cultural Resource Management Plan (INCRMP). Petitioner is also drafting Master Design Guidelines which will apply to development within the Petition Area. The design guidelines cover preservation of certain landforms. Petitioner will also be preparing Conservation Easements to cover the preservation access described in the INCRMP. Copies of the recorded Master Covenants and Master Design Guidelines have been previously provided to Commission and the County of Hawaii Planning Department.

Petitioner obtained the following additional studies which were attached to the First Annual Report as Exhibits B, C, D, and E respectively. Exhibit B is an Update Biological Study done by Dr. Patrick Hart. Exhibit C is a study done by Robert Peck regarding insects and invertebrates in the Project Area. Exhibit D is a survey done by Dr. Patrick Hart regarding the Hawai'ian Hawk ('Io). Exhibit E is a study done by Marcos Gorresen and Kathryn Turner in November 2005 regarding the Hawai'ian Hoary Bat in the Project Area.

Dr. Robert Rechtman of ASM Associates has completed the data recovery plan which has been approved by the State Historic Preservation Division.

An inventory map showing all preservation sites is currently being finalized. All preservation areas have been fenced so they are clearly visible. Petitioner completed clearing of the fire break area around the dry land forest and continues to monitor it. Cultural monitors will be utilized as appropriate.

a. **Preservation of Significant Historic, Cultural, and Natural Resources.**

**Petitioner shall preserve all of the identified significant historic, cultural, and natural resources on the Petition Area as represented by the Petitioner to the Commission.**

Petitioner intends to comply with this condition. As reported above, these sites have been identified and marked. They are also shown on the Inventory Map.

**b. Historic Preservation Mitigation Plan.**

**Petitioner shall submit data recovery plans and preservation plans to the SHPD and obtain approval of those plans within one year of the issuance of this Decision and Order. If said plans as approved vary from those incorporated into the revised INCRMP, Petitioner shall amend the revised INCRMP to reflect SHPD's recommendations and submit the amended revised INCRMP to the Commission for its approval prior to final subdivision approval.**

Petitioner has met this condition.

The State Historic Preservation Division has approved the Data Recovery Plan and the Preservation Plan. The approval letter was previously submitted. There are no changes to these plans which were incorporated into the INCRMP.

Pursuant to the above approval, Petitioner has completed the data recovery as outlined in the approved Data Recovery Plan.

**c. Preservation of Lowland Dry Forest.**

**Petitioner shall permanently protect the Lowland Dry Forest Preserve. Any proposed road construction plans, irrigation well sites and proposed access and utility easements which may impact the Lowland Dry Forest Preserve shall be subject to prior review and approval of the Commission.**

Petitioner intends to comply with this condition. As reported above, a fire break and fence around the perimeter of the dryland forest have been established.

Petitioner has the additional information from the updated biological study. Potential corridors and sites for roads, irrigation wells, and access and utility easements have been identified and will not impact the Lowland Dry Forest Preserve.

**d. Coordination of Lowland Dry Forest Preservation Efforts.**

**Petitioner shall use reasonable efforts to coordinate its preservation of the Lowland Dry Forest Preserve with the State of Hawai'i Department of Land and Natural Resources as the Lowland Dry Forest Preserve extends in some places onto the neighboring state-owned property. Such coordination shall include, but not be limited to: sharing information regarding updated biological surveys; coordinating the development of a fire prevention plan; establishing appropriate firebreaks; and exploring contingencies for using the Project's irrigation systems to control brush fires.**

Petitioner intends to comply with this condition.

Discussions with the State DLNR and non-profit groups regarding the management and stewardship of the Lowland Dry Forest Preserve occurred.

Firebreaks have been established around the Palamanui dry forest preserve and a plan for a firebreak around some adjacent lands has been agreed upon by DLNR and U.S. Fish and Wildlife Services.

The Palamanui Dry Forest Working Group was formed and was composed of Dr. Pat Hart, Lisa Hadway, Roger Harris and Susan Cordell. This group has met several times in past years. A follow up meeting with DOFAW Palamanui Dryland Forest Project and HCC-Pālanuanui was held in July 2025 with continued discussions with the North Kona Dry Land Forest Group about cooperative efforts to preserve the native dry land forests. Also discussions with Maya LeGrand of LeGrande Biological Surveys Inc who is in contact with DLNR and USFWS on protection efforts occurred late last year as well.

Petitioner and the Working Group previously have met with other interested community groups, including the University of Hawai'i, about participating in the management of the preserve and forest preservation. Petitioner is open to continue discussions when needed.

e. **Preservation of Flora Outside of Lowland Dry Forest.**

**Petitioner shall preserve all flora that are federally listed as Endangered Species throughout the Petition Area. Petitioner shall to the extent practicable, preserve flora identified as non-endangered indigenous and Species of Concern by incorporating such plants into the Project's landscaping and exclusionary fenced areas.**

Petitioner intends to comply with this condition. Several such plants have been fenced in the Petition Area.

f. **Unidentified Archaeological Finds.**

**If any burials, archaeological or historic sites such as artifacts, marine shell concentrations, charcoal deposits, or stone platforms, paving's or walls are discovered during the course of construction of the Project, then all construction activity in the vicinity of the discovery shall stop until the issuance of an archaeological clearance from the SHPD that mitigative measures have been implemented to its satisfaction.**

Petitioner intends to comply with this condition. No incidents have been reported to date.

g. **Preservation of Native Hawai’ian Gathering and Access Rights.**

**Petitioner shall preserve and protect any established Native Hawai’ian traditional and customary rights exercised for subsistence, cultural and religious practices on the Petition Area.**

Petitioner intends to comply with this condition.

h. **Updated Biological Survey.**

**Petitioner shall submit an updated biological survey of the Petition Area to the Commission before construction of the Project begins. The updated biological survey shall include but not be limited to, detailed information pertaining to any significant invertebrates and Hawai’ian Hoary Bats within the Petition Area.**

Petitioner has complied, and will implement the BMP’s discussed below into our construction plans. Petitioner has submitted the additional studies in its first annual report regarding updated biological study, insects and invertebrates, Hawai’ian Hawk and Hawai’ian Hoary Bat.

Based on the presence of a specimen of the ‘aiea (host tree for the moth) in the Petition Area, Robert Peck’s study indicated there was a probability of locating the Blackburn’s Sphinx Moth in the Petition Area. Since the time of the study, Petitioner’s botanist Patrick Hard has been in the area of said tree but did not see any moths. Dr. Hart will continue to inspect those areas to see if there are signs of the moth.

Gorresen and Turner’s report recommended preventing tree cutting or grubbing in forested areas during September through May during breeding season of the Hoary Bat. Although Petitioner will be conducting construction activities during the breeding season of the bat, most construction will take place in open areas with few standing trees. No forested areas will be affected.

Petitioner has enacted the following safeguards to protect the bats: a) Prior to the start of construction in forested areas, Petitioner will have the bat biologists go through the area where roads and waterlines will be constructed to perform reconnaissance for any Hoary Bats that may be present; b) Petitioner will have bat biologists perform inspections at construction sites for the bat in September and December. If bats are sighted in a construction area during breeding season, the biologist will be immediately consulted on mitigative measures to prevent harm to the Hoary Bat and those measures will be implemented. Construction activities have been very minimal over the past few years.

i. **Cultural Monitor for Grubbing and Grading Activities.**

**Petitioner shall retain the services of an appropriate number of qualified cultural monitors such that all grubbing and grading activities within the Petition Area are duly monitored.**

Petitioner has complied, and intends to continue to comply with this condition.

7. **Open Space Buffer.**

**Petitioner shall maintain an open space buffer on the Petition Area along Queen Kaahumanu Highway with a minimum width of 800 feet. The only man-made structures allowed in this open space buffer shall be the Northern Project Access Road, the Project's wastewater treatment plant, limited portions of the Project's golf course, and a groundwater monitoring well – as represented by the Petitioner to the Commission. Petitioner shall appropriately screen such uses to maintain the visual continuity of such buffer.**

Petitioner has met this condition. An Open Space Buffer notice has been recorded in the Bureau of Conveyances as Document No. 2007-006828. The Project's wastewater treatment plant currently being designed will be located in this open space buffer area.

8. **Civil Defense.**

**Petitioner shall, on a fair-share basis, fund and construct adequate civil defense measures as determined by the State and County Civil Defense Agencies.**

Petitioner intends to comply with this condition.

9. **Air Quality Monitoring.**

**Petitioner shall participate in an air quality-monitoring program as specified by DOH.**

Petitioner intends to comply with this condition.

10. **Noise and Avigation Easement.**

**Petitioner shall notify all prospective buyers and future occupants of the Petition Area or portions of the Petition Area that over flights can occur from aircraft using KOA airport. Petitioner shall grant to the State an avigation (right of flight) and noise easement in the form prescribed by the SDOT on any portion of the Petition Area subject to noise levels exceeding 55Ldn.**

Petitioner intends to comply with this condition.

**11. Notification of Potential Nuisances – Agricultural.**

**Petitioner shall notify all prospective and future buyers and future occupants of the Petition Area or portions of the Petition Area of potential odor, noise and dust pollution if there are any lands in the Agricultural District surrounding the Petition Area.**

Petitioner intends to comply with this condition. Documents for this purpose will be developed in conjunction with the Petitioner's sales and leasing documents.

**12. Notification of Potential Nuisances – HELCO.**

**Petitioner shall notify all prospective buyers and future occupants of the Petition Area or portions of the Petition Area of the potential noise and air quality impacts associated with the existing use and proposed improvements to Hawaii Electric Light Company, Inc.'s Keāhole Generating Station and Airport Substation.**

Petitioner intends to comply with this condition. Documents for this purpose will be developed in conjunction with the Petitioner's sales and leasing documents.

**13. Hawai'i Right to Farm Act.**

**Petitioner shall notify all prospective buyers and future occupants of the Petition Area or portions of the Petition Area that the Hawai'i Right to Farm Act, Chapter 165, HRS, limits the circumstances under which pre-existing farm activities may be deemed a nuisance if there are any lands in the Agricultural District surrounding the Petition Area.**

Petitioner intends to comply with this condition.

**14. Drainage Improvements.**

**Petitioner shall fund the design and construction of drainage improvements required as a result of the development of the Petition Area to the satisfaction of the appropriate State and County agencies.**

Petitioner intends to comply with this condition.

All the development generated runoff will be disposed of on-site and will not be directed toward any adjacent properties. Drain studies are project based and have been submitted and approved for all past projects and will be submitted for new projects.

Petitioner submitted revised housing lot A3 Drainage Report to DPW - Engineering Division on October 28, 2025, and received approval on April 1, 2026.

**15. Integrated Solid Waste Management Plan.**

**Petitioner shall cooperate with the DOH and the County to conform to the program goals and objectives of Chapter 342G, HRS, and the County’s approved integrated solid waste management plans in accordance with a schedule and timeframe satisfactory to the DOH. Petitioner shall, in coordination with appropriate State and County government agencies, assist in the planning and promotion of solid waste recycling facilities for the Project. This condition shall be included in the Project’s CC&Rs.**

Petitioner intends to comply with this condition and is discussing the same with both the State and County. An initial solid waste management plan has been approved by the County by letter dated August 29, 2008.

**16. Groundwater and Near Shore Water Monitoring.**

**Petitioner shall participate in the coastal water-monitoring program with the SDOT Airports Division. Petitioner shall conduct groundwater monitoring from a monitoring well to be located at the *makai* end of the Petition Area. Monitoring programs and mitigation measures shall be approved by the DOH.**

Petitioner has complied, and intends to continue to comply with this condition. Petitioner and State Department of Transportation Airports Division engineers have agreed that monitoring will be coordinated with Airport monitoring programs. Petitioner constructed the subject monitoring well by December 31, 2008, and this well is being monitored and managed by the State Airport engineers at Keāhole Airport.

Since a golf course will not be constructed, Petitioner believes that the risk of contamination of ground water from fertilizers or other chemicals has been substantially reduced.

**17. Water Service.**

**Petitioner shall fund and construct adequate water source, storage, and transmission facilities and improvements as represented to the Commission and as required by the County Department of Water Supply to accommodate the Project.**

Petitioner has complied, and intends to continue to comply with this condition.

Pursuant to the prior agreements, as amended, substantial progress was made by Petitioner on planning and constructing the agreed-upon public water system which will bring water through the Palamanui project site, deliver water to the new University of Hawaii HCC Palamanui Campus, and connect to the County Department of Water Supply’s existing water system which currently terminates just mauka of the Kona International Airport. In mid-2014, this new water system was completed and is now in service. This created a much needed “loop” for the North Kona regional water system;

effectively connecting the well sources up mauka along Mamalahoa Hwy, with the storage reservoirs and transmission lines now serving the Airport and uses along Queen Kaahumanu Hwy. Prior to commencing construction on the water system improvements described above, Petitioner's engineers prepared and submitted detailed engineering/construction plans. These have been reviewed and approved by the Department of Water Supply.

Petitioner's 2013 Water Master Plan was updated and a Revised Water System Master Plan Dated April 7th, 2025 was been submitted to Department of Water Supply ("DWS") on April 10th, 2025, in compliance the requirements of the Water Agreement, and dedication of necessary water system improvements after the completion and acceptance of DWS. The revision of the Water Master Plan was done in support of the Amended and Restated Water Agreement. The Agreement incorporates the downsizing of the pump in the Kau 2 Well from 700 to 350 GPM and the development of new wells, herein referred to future Palamanui offsite wells, with a combined capacity of 860 GPM to provide for the project's ultimate demand. Also, this revision eliminates from the hydraulic analysis of the Palamanui Corridor the unallocated supply originally included for the Kohanaiki project. The updated Water Master Plan is under the reviewing of Department of Water Supply.

Petitioner has constructed water system improvements as approved by DWS on November 14, 2012, and dedicated said improvements to the County Water Board in accordance with the water agreement approved by Petitioner and Water Board on October 1, 2014. Improvements include an eleven-million-dollar waterline and storage reservoir constructed in 2014. This system serves the University of Hawai'i Community College at Palamanui (on the adjacent State-owned land), which commenced operations in 2015. Additional water system improvements are ongoing will be constructed per updated Water Master Plan and Phasing Plan.

In 2024, a new replacement pump with a pump capacity of 350 GPM with a variable frequency drive ("VFD") was installed as the new pump for Well No. 2 after adequate cleaning and debris removal was completed. Additional efforts were made by Petitioner to clean the well by swabbing, brushing and bailed water from the well per direction by DWS. Petitioner then completed the well chlorinated water purge of Kau Well No. 2 and ordered monitoring equipment for the operation of the well. DWS conducted water quality testing in August and September of 2025 for Kau Well No. 2, resulting in favorable water quality. DWS has accepted and has been using water from Kau Well No. 2 for its needs with the Trial Operating Period for Kau Well No. 2 having started on September 22, 2025. Original Water Agreements dated July 15, 1999, which were amended on January 11, 2007 and further amended on August 7, 2013 are currently being updated between DWS and the County Water Board. Petitioner has met with the DWS on multiple occasions to try to finalize the Water Agreement and other matters. An

updated draft Water Agreement was submitted to DWS on January 14, 2026. We will continue to work with DWS on finalizing the Water Agreement.

Petitioner plans to use reclaimed R-1 water from WWTP for common areas and park irrigation. The R-1 water irrigation system is under design.

In summary, water improvements to serve the project and the new UH campus have been constructed and a new pump is ready for testing. Petitioner's total investment in the design and construction of these facilities is well over was \$12 million at this time. Petitioner will continue to comply with the requirements of this condition.

**18. Best Management Practices.**

**Petitioner shall implement best management practices to reduce or eliminate soil erosion and groundwater pollution and implement dust control measures during the development process in accordance with DOH guidelines.**

Petitioner intends to comply with this condition.

**19. Water Conservation Measures.**

**Petitioner shall implement water conservation measures and best management practices, such as use of indigenous and drought tolerant plants and to the extent possible, use Species of Concern and Endangered Species, and incorporate such measures into common areas landscape planning, and shall incorporate low flow fixtures into the construction of all residential and commercial units.**

Petitioner intends to comply with this condition.

The covenants and design standards for Palamanui will require owners to use a list of plants which will include indigenous and drought tolerant plants common to the area. Low flow fixtures will be part of the design standards as well.

Petitioner plans to use reclaimed R-1 water from WWTP for common area and park irrigation.

**20. Energy Conservation Measures.**

**Petitioner shall incorporate solar energy and energy conservation techniques where feasible into design of all residential and commercial units.**

Petitioner intends to comply with this condition.

**21. Hazardous Materials.**

**Storage and/or disposal of hazardous materials on the Petition Area shall comply with all applicable DOH requirements and all necessary permits shall be obtained.**

Petitioner intends to comply with this condition.

**22. Golf Course.**

**Petitioner shall comply with the principles of the DOH's "Guidelines Applicable to Golf Courses in Hawai'i" (July 2002, Version 6). Petitioner shall develop and maintain the golf course in accordance with the Audubon International's Signature Silver Program Standard. To the extent practicable, the Petitioner will utilize R-1 recycled wastewater to irrigate the golf course.**

During the rezoning application the former Petitioner Hiluhilu Development, LLC revised the project by agreeing not to develop the golf course.

Since there will be no golf course, many of the potential impacts such as leaching of fertilizers and pesticides arising from the operation of a golf course will be lessened.

Petitioner will be using the treated wastewater in part for irrigation. The wastewater will be treated to produce waters of R-1 quality. The treated wastewater will be used for irrigation of landscaped portions of the road, the 20-acre active park area, passive parks and for landscaping of the common areas.

The treated wastewater will also be available for irrigation of larger areas such as the hotel site and for use in the plant propagation activities for native Hawai'ian plants.

Although the elimination of the golf course lessens the recreational opportunities for golfers, the recreational opportunities for the general public increased with the provision of the 20-acre active park area, of which 10 acres will be developed by the Petitioner. The first 10 acres will be built by the Petitioner, including baseball and soccer fields and associated facilities that will be part of the first phase of the park master plan will benefit the entire Kona community. The remaining of the 20-acre park areas undeveloped in Phase I will be dedicated to the County. The County Department of Parks & Recreation has expressed the need for these recreational opportunities in Kona.

**23. University Inn and Conference Center.**

**As represented before the Commission, the Project shall include an approximate 120-unit University Inn and Conference Center, which shall serve as a business hotel and provide accommodations in conjunction with University operations. The University Inn and Conference Center shall not be designed and operated as resort-type hotel or be used for time-share purposes.**

Petitioner intends to comply with this condition.

**24. Compliance with Representations to the Commission.**

**Petitioner shall develop the Petition Area in substantial compliance with the representations made to the Commission. Failure to so develop Petition Area may result in reversion of the Petition Area to its former classification, or change to a more appropriate classification.**

Petitioner intends to comply with this condition. During the rezoning process, Petitioner had to modify plans which were presented to the Commission. The adoption of the County's Kona Community Development Plan in 2008 also required revisions to the Project plans presented to the Commission. Nevertheless, the current Project remains in substantial compliance with the representations made to the Commission.

During the County rezoning process, Petitioner was asked, and subsequently agreed to cover a number of costly off-site capital improvements. These included \$5,000,000 for the University building on State land and the construction of Road 4. Petitioner also had to comply with the new affordable housing requirements and its attendant costs.

In order to partially offset the increased cost, Petitioner discussed an increase in the number of residential units for Palamanui. The rezoning ordinance authorized a maximum of 1,116 units which is 271 more units than originally planned, which remains in substantial compliance with the representations made to the Commission. The main constraint on the actual number of units that can be built will most likely be the water units available.

The supporting infrastructure for Palamanui, even with the increased residences will be more than adequate. Petitioner submitted an updated traffic study prepared for review by the State DOT and County DPW. The data from the updated study shows that the planned road and intersection improvements will be adequate for Palamanui. The State DOT reviewed the Draft Final Traffic Impact Analysis Report (TIAR), dated October 30, 2023, and approved with comments on January 29, 2024.

**25. Notice of Change of Ownership.**

**Petitioner shall provide notice to the Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interests in the Petition Area, prior to development of the Petition Area.**

Petitioner took ownership of Palamanui on April 1, 2022 by that certain Limited Warranty Deed, recorded at the Bureau of Conveyances, State of Hawaii as Doc. No. A-81310260.

Petitioner intends to comply with this condition in the future.

**26. Annual Reports.**

**Petitioner shall timely provide without any prior notice, annual reports to the Commission, OP and the County in connection with the status of the subject Project proposed for the reclassification area, and Petitioner's progress in complying with the conditions imposed. The annual report shall be submitted in a form prescribed by the executive officer of the Commission. The annual report shall be due prior to or on the anniversary date of the approval of the Petition.**

This report is being submitted in compliance with this Condition 26.

**27. Release of Conditions.**

**The Commission may fully or partially release the conditions provided herein as to all or any portion of the Petition Area upon timely motion and upon the provision of adequate assurance of satisfaction of these conditions by the Petitioner.**

Petitioner is not seeking to be released from any conditions imposed at the present time.

**28. Notice of Imposition of Conditions.**

**Within seven days of the approval date of the Petition, the Petitioner shall (a) Record with the Bureau of Conveyances a statement that the Petition Area is subject to conditions imposed herein by the Commission; and (b) File a copy of such recorded statement with the Commission.**

The Notice of Imposition of Conditions was recorded in the Bureau of Conveyances on June 23, 2005, as Document No. 2005-123996.

**29. Recordation of Conditions.**

**Petitioner shall record the conditions imposed herein by the Commission with the Bureau of Conveyances within sixty days after the receipt of the Decision and Order pursuant to Section 15-15-92, HAR.**

The Conditions contained in the Decision and Order were recorded in the Bureau of Conveyances on September 7, 2005, as Document No. 2005-178780.

Please note that the County of Hawai'i amended its zoning ordinances applicable to this project by way of Ordinance No. 21 25 (MCX 2) effective March 16, 2021, and Ordinance No. 21 27 (PD 3) effective March 31, 2021. A copy of the County amended ordinances are enclosed for your convenience.

Mr. Daniel E. Orodener  
Mr. Jeff Darrow  
June 10, 2026  
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If you have any questions or comments, I may be reached at (808) 842-4929 or at [maiu@nanhawaii.com](mailto:maiu@nanhawaii.com)

Very truly yours,

A handwritten signature in black ink, appearing to read "Micah Aiu". The signature is fluid and cursive, with a large initial "M" and "A".

Micah P.K. Aiu  
General Counsel