



BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

LAND USE COMMISSION  
STATE OF HAWAII  
2012 JUN 21 P 2:29

In the Matter of the Petition of

D.R. HORTON – SCHULER HOMES, LLC,  
a Delaware limited liability company, d.b.a.  
D.R. HORTON-SCHULER DIVISION

To Amend the Agricultural Land Use  
District Boundaries into the Urban Land Use  
District for Approximately 1,525.516 Acres  
in `Ewa District, Island of O`ahu, Tax Map  
Key Nos. (1) 9-1-017:004 (por.), 059 and  
072; (1) 9-1-018:001 and 004

DOCKET NO. A06-771

FINDINGS OF FACT, CONCLUSIONS  
OF LAW, AND DECISION AND ORDER;  
AND CERTIFICATE OF SERVICE

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER**

AND

**CERTIFICATE OF SERVICE**

This is to certify that I have made and correct  
copy of the Decision and Order in the office  
of the State Land Use Commission, Honolulu, Hawaii.

6/21/12  
Date

by   
Administrative Officer



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**D.R. HORTON – SCHULER HOMES, LLC**, a Delaware limited liability company, d.b.a. **D.R. HORTON-SCHULER DIVISION**, whose principal place of business is 650 Iwilei Road, Suite 209, Honolulu, Hawai`i 96817 (“**Petitioner**”), by and through its attorneys, **IMANAKA KUDO & FUJIMOTO**, filed with the State of Hawai`i Land Use Commission (“**Commission**”), a Petition for Land Use District Boundary Amendment on January 24, 2007; an Amended Petition for Land Use District Boundary Amendment on September 19, 2008; a Second Amended Petition for Land Use District Boundary Amendment on May 18, 2011; and a Third Amended Petition for Land Use District Boundary Amendment on July 25, 2011 (the Petition for Land Use District Boundary Amendment as so amended is referred to as “**Petition**”) pursuant to Hawai`i Revised Statutes (“**HRS**”) § 205-4 and Hawai`i Administrative Rules (“**HAR**”) chapter 15-15, to amend the land use district boundary to reclassify approximately

1,553.844 acres of land (subsequently reduced to 1,525.516 acres in the Third Amended Land Use District Boundary Amendment) in the `Ewa District, Island of O`ahu, identified by Tax Map Key (“**TMK**”) Nos. (1) 9-1-017:004 (por.), 059 and 072; (1) 9-1-018:001 and 004 (“**Petition Area**”), from the State Land Use Agricultural District to the State Land Use Urban District, to allow the development of the Ho`opili Project, a mixed-use, transit-ready community (“**Ho`opili**” or the “**Project**”).

The Commission, having heard and examined the testimony, evidence, and argument of counsel presented during the hearings, together with the pleadings filed by the Petitioner, the State of Hawai`i Office of Planning (“**OP**”), the City and County of Honolulu (“**City**” or “**County**”) Department of Planning and Permitting (“**DPP**”), The Friends of Makakilo (“**FoM**”), The Sierra Club (“**Sierra Club**”), and Clayton Hee (“**Hee**”), hereby makes the following Findings of Fact, Conclusions of Law, and Decision and Order:

### **FINDINGS OF FACT**

#### **A. PROCEDURAL MATTERS**

1. On January 24, 2007, Petitioner filed its Petition for Land Use District Boundary Amendment; Verification; Petition Exhibits “1” to “19”; and Certificate of Service (“**Original Petition**”). The Petition included an Environmental Impact Statement Preparation Notice pursuant to HRS § 343-5(a)(1) and 343-5(a)(6) and HAR § 11-200-6(b)(1)(A) and 11-200-6(b)(2)(A), marked as Petitioner’s Exhibit “9”.

2. On February 8, 2007, the Commission mailed the agenda and notice for the February 15-16, 2007 meeting to the Parties and the Statewide and O`ahu mailing lists.

3. On February 15, 2007, the Commission held a hearing in Honolulu, Hawai`i. The Commission received oral and/or written public testimony from Terrie Hayes. The Commission agreed by a written Order dated March 6, 2007, to be the accepting authority pursuant to HRS

Chapter 343, and determined that the proposed action may have a “significant effect” on the environment to warrant the preparation of an Environmental Impact Statement (“EIS”).

4. On July 11, 2008, the Commission received the Petitioner’s Final EIS for the Project (“**Ho`opili FEIS**”). The Ho`opili FEIS analyzed the Project’s impact, with the Project timeline of 2009 to 2030.

5. On July 30, 2008, the Commission received Petitioner’s Presentation before the State Land Use Commission in the matter of the Acceptability of the Ho`opili, O`ahu, Final Environmental Impact Statement dated July 2008.

6. On July 31, 2008, the Commission mailed the agenda and notice for the August 7-8, 2008 meeting to the Parties and the Statewide and O`ahu mailing lists.

7. On August 5, 2008, Petitioner filed a letter requesting the correction of non-substantive errata for the Ho`opili FEIS (“**FEIS Errata Letter**”), such as minor typographical and editing errors, by the substitution of corrected pages for the pages containing errors.

8. On August 7, 2008, the Commission held a hearing on Petitioner’s Final EIS in Honolulu, Hawai`i. The Commission received oral and/or written testimony from the following individuals: Dr. Kioni Dudley and Maeda Timson. The Commission accepted Petitioner’s Final EIS, as corrected by the FEIS Errata Letter and issued a written Order to that effect dated August 26, 2008.

9. On September 19, 2008, Petitioner filed its Amended Petition for Land Use District Boundary Amendment; Verification; Petition Exhibits “1A”, “2C”, “3A”, “5A”, “12A”, “13A”, “14A”, and “15A”; Certificate of Service (“**First Amended Petition**”).

10. By letter dated September 26, 2008, the Executive Officer of the Commission deemed the Petition, as amended, a proper filing and accepted it for processing as of September 19, 2008.

11. On October 17, 2008, DPP filed its Statement of Position (Exhibit 1), Testimony (Exhibit 2), List of Witnesses (Exhibit 3), List of Exhibits (Exhibit 4), and excerpts of the General Plan of the City and County of Honolulu (“**General Plan**”) and the City’s `Ewa Development Plan (“**Ewa DP**”)

12. On November 12, 2008, OP filed its Position Statement.

13. On November 18 2008, Notice of Hearing was published in the *Honolulu Star-Bulletin*, *Hawai`i Tribune-Herald*, *West Hawai`i Today*, *The Maui News*, and *The Garden Island*.

14. On November 24, 2008, a Corrected Notice of Hearing was published in the *Honolulu Star-Bulletin*, *Hawai`i Tribune-Herald*, *West Hawai`i Today*, *The Maui News*, and *The Garden Island*.

15. On December 3, 2008, the Friends of Makakilo (“**FoM**”) filed its Petition to Intervene; Certificate of Service (“**FoM’s Petition to Intervene**”).

16. On December 8, 2008, FoM submitted its filing fee for FoM’s Petition to Intervene.

17. On December 10, 2008, Haseko (Ewa), Inc. (“**Haseko**”) filed its Petition for Intervention; Exhibit 1; Certificate of Service (“**Haseko’s Petition for Intervention**”).

18. On December 11, 2008, Petitioner filed its Response to The Friends of Makakilo’s Petition to Intervene and Certificate of Service.

19. On December 16, 2008, OP filed its Motion to Declare Petition Deficient; Memorandum in Support of Motion; Declaration of Bryan C. Yee; Exhibits “A” to “C”; Certificate of Service (“**OP’s Motion to Declare Petition Deficient**”). The motion requested that the Commission issue a declaration of deficiency for the Petition pursuant to HAR § 15-15-41, 15-15-50(c), and 15-15-70, as Petitioner had “failed to either: (1) represent that development of the subject property will be accomplished before ten years after the date of commission approval; or (2) submit a schedule for development of the total of such project in increments together with a map identifying the location of each increment, each such increment to be completed with no more than a ten-year period.”

20. On December 19, 2008, DPP submitted a letter dated December 17, 2008, to the Commission stating that it had no objections to FoM’s and Haseko’s petitions to intervene.

21. On December 22, 2008, Petitioner filed the following: Affidavits of Publication of Notice of Hearing and Certificate of Service and Affidavit of Naomi U. Kuwaye Attesting to Mailing of the Notice of Hearing.

22. On December 24, 2008, Petitioner filed its Response to the Office of Planning’s Motion to Declare Petition Deficient; Declaration of Yuko Funaki; Exhibits “A” – “P”; and Certificate of Service.

23. On December 31, 2008, the Commission mailed the notice and agenda for its January 8-9, 2009 meeting to the Parties and Statewide and O`ahu mailing lists.

24. On January 8, 2009, DPP submitted a letter to the Commission stating that it took no position on OP’s Motion to Declare Petition Deficient.

25. On January 8, 2009, and by a written Order dated February 13, 2009, the Commission granted FoM’s Petition to Intervene with its participation specifically limited to

traffic, education, open space, agricultural lands, and sociological issues (“**FoM’s Permitted Issues**”), on the condition that FoM would provide the names and email addresses of its members for examination.

26. On January 8, 2009, and by a written Order dated February 13, 2009, the Commission granted Haseko’s Petition for Intervention with its participation limited to regional drainage issues.

27. On January 14, 2009, Petitioner filed the following: (1) Tentative List of Witnesses, Tentative List of Exhibits, and Certificates of Service; and (2) Certificate of Service Re: D.R. Horton – Schuler Homes, LLC’s Hearing Exhibits “1” and “2”.

28. On January 14, 2009, upon receipt of Petitioner’s Hearing Exhibits “1” and “2”, OP filed its Withdrawal of Its Motion to Declare Petition Deficient and Certificate of Service.

29. On January 14, 2009, pursuant to the Commission’s orders on January 8, 2009, FoM submitted a list of names and email contacts of its members to the Commission, copies of which were provided to the other parties.

30. On January 14, 2009, the first Prehearing Conference was held at the Commission’s Conference Room No. 405 in Honolulu, Hawai’i, to identify the parties and their respective positions, to identify and clarify issues, to arrange for the timely submission of exhibits, and to set schedules, with representatives of Petitioner, OP, DPP, Haseko, and FoM present.

31. On January 30, 2009, the Commission issued a Prehearing Order pursuant to the Prehearing Conference held on January 14, 2009 (“**2009 Prehearing Order**”).

32. On February 5, 2009, the Commission conducted a site visit of the Petition Area, with Commissioners Normand R. Lezy, Kyle J.K. Chock, Nicholas W. Teves, Jr., Vladimir P. Devens, Duane Kanuha, and Ransom A.K. Piltz in attendance.

33. On February 17, 2009, Petitioner filed its List of Witnesses and List of Exhibits, and Hearing Exhibits “3” – “5”, “7” – “10”, “14” – “19”, “21”, “22”, “24”, “26”, “28”, “29”, “31”, “33”, “37”, “39” – “41”, “43” – “46”, “48”, “50” – “58”, “60”, “61”, “64”, “66”, “68”, and “72”.

34. On February 17, 2009, FoM filed the following: Statement of Position and Certificate of Service; Final Witness List and Certificate of Service; List of Exhibits, Copies of Exhibits (1 – 19) and Certificate of Service.

35. On February 17, 2009, Haseko filed its Submission of Witness and Exhibit Lists; Witness Statement of Nelson Lee; Exhibit 1; Certificate of Service.

36. On February 18, 2009, Haseko filed its Errata to Submission of Exhibits List; Certificate of Service.

37. On February 20, 2009, Petitioner filed its Errata to List of Witnesses; Certificate of Service.

38. On February 20, 2009, OP filed its List of Witnesses; List of Exhibits; Exhibits 1-20 and 22; Certificate of Service.

39. On March 2, 2009, Petitioner filed its List of Rebuttal Exhibits and Certificate of Service, and Rebuttal Exhibit “73”.

40. On March 2, 2009, FoM filed the following: Clarification of Exhibit List and Exhibits #18 & #19; Addition of Resumes to Initial List of Exhibits and Exhibits; Certificate of Service; and Rebuttal Exhibit List; Rebuttal Exhibits; Certificate of Service.

41. On March 6, 2009, FoM filed Clearer Copies of Exhibits #8 and #18 and Certificate of Service.

42. On March 10, 2009, Petitioner filed a Motion to Strike Certain Witnesses and Exhibits from Friends of Makakilo's Final Witness List and List of Exhibits and Copies of Exhibits, and Reservation of Its Right to Take a Position on Witnesses Identified as "Experts" by Friends of Makakilo; Memorandum in Support of Motion; Declaration of Yuko Funaki; Exhibits "A" – "J"; and Certificate of Service ("**Petitioner's Motion to Strike FoM's Witnesses and Exhibits**"). The motion requested that the Commission strike the following witnesses and exhibits on grounds that they were repetitious, beyond the scope of FoM's Permitted Issues and/or irrelevant: Richard McCormack; Paul Brewbaker; Grant Sato; Dr. Ira Rohter; Dr. Michael Kliks; Donna Wong; Lulani Arquette; Rep. Jon Riki Karamatsu; Rep. Rida [Rita] Cabanilla; Tom Berg; Rep. Ken Ito; Governor George Ariyoshi; Dr. Kioni Dudley; Cliff Slater; and Peter Apo; and FoM Exhibits 3, 4, 5, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, and R-1, R-2, R-3, R-4, R-7, R-8, R-9 and R-10.

43. On March 11, 2009, Petitioner filed its Motion to Strike "Consultant" from Office of Planning, State of Hawaii's List of Witnesses, or in the Alternative, Reservation of Its Right to Take a Position on "Consultant"; Memorandum in Support of Motion; Declaration of Yuko Funaki; Exhibit "A"; and Certificate of Service.

44. On March 12, 2009, the Commission mailed the notice and agenda for its March 19-20, 2009 meeting in Honolulu, Hawai'i to the Parties and Statewide and O'ahu mailing lists.

45. On March 16, 2009, OP filed its First Amended Witness and Exhibit List; and Certificate of Service.

46. On March 19-20, 2009, the Commission held hearings in Honolulu, Hawai'i. The Commission received oral and/or written testimony from the following individuals: Hilary Sholin, Celeste Lacuesta, Glenn Oamilda, Kurt Fevella, Maeda Timson, Keith Timson, Michael Golojuch, Coby Lynn, Tom Berg, Deborah Agles, M.D., Thomas Galioto, Katherine Carrasco, and Danielle Swenson. The Petitioner presented testimony from the following expert witnesses: Vincent Shigekuni, Tim Van Meter, Gregory Brenner, and Sam Silverman.

47. On March 19, 2009, Petitioner filed Errata to Exhibit "4"; Declaration of Yuko Funaki; Exhibits "A" and "B"; and Certificate of Service.

48. On March 19, 2009, Petitioner filed its Withdrawal of Its Motion to Strike "Consultant" from Office of Planning, State of Hawaii's List of Witnesses, or in the Alternative, Reservation of Its Right to Take a Position on "Consultant"; and Certificate of Service.

49. On March 19, 2009, during the hearing, FoM served the parties its Response to Motion to Strike Its Witnesses and Exhibits.

50. On March 19, 2009, FoM orally withdrew Jason Shitanishi from its Witness List. FoM also stated that it expected to narrow down its six agricultural witnesses to two or three.

51. On March 19, 2009, and by written Order dated May 4, 2009, the Commission denied Petitioner's Motion to Strike FoM's Witnesses and Exhibits without prejudice, determining that the motion was premature at that time.

52. On March 19, 2009, the Commission admitted into the record Petitioner's Hearing Exhibits "1", "2", "3", "4" (as corrected), "5", "6", "7", "8", "9", "10", "11", "12", "13", "14", "15", "16", "17", "18", "19", "20", "21", "22", "23", "24", "25", "26", "27", "28", "29", "30", "31", "32", "33", "34", "35", "36", "37", "38", "39", "40", "41", "42", "43", "44", "45", "46", "47", "48", "49", "50", "51", "52", "53", "54", "55", "56", "57", "58", "59", "60",

“61”, “62”, “63”, “64”, “65”, “66”, “67”, “68”, “69”, “70”, “71”, “72”, and “73”, and witnesses listed in Petitioner’s Revised List of Witnesses.

53. On March 19, 2009, the Commission admitted into the record DPP’s Exhibits 1, 2, 3, 4, 5, 6, 7, and 8, and its witness, Deputy Director of the DPP, David Tanoue or his representative as an expert in land use planning.

54. On March 19, 2009, the Commission admitted into the record OP’s Exhibits 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 24, and 25, and its six witnesses, including the following four experts: Brennon Morioka; Heidi Meeker; Gail Suzuki-Jones; and Terry Miller. OP’s non-expert witnesses were: Abbey Seth Mayer, Director of OP; and Representative(s) from the State of Hawai’i Department of Agriculture (“**DOA**”).

55. On March 19, 2009, the Commission held in abeyance pending the actual delivery thereof, FoM’s exhibits and witnesses objected to by Petitioner in the Petitioner’s Motion to Strike FoM’s Witnesses and Exhibits. All of the other FoM exhibits and witnesses that were not object to by the Petitioner were admitted into the record.

56. On March 19, 2009, the Commission admitted into the record Haseko’s Exhibit 1 and its expert witness, Nelson Lee.

57. On March 19, 2009, the Commission admitted into the record Haseko’s Exhibit 1 and its expert witness, Nelson Lee.

58. On March 19 and 20, 2009, the Commission commenced the evidentiary hearing for this docket at the Commission’s Conference Room No. 405 in Honolulu, Hawai’i, pursuant to the Corrected Notice of Hearing published in *the Honolulu Star-Bulletin*, *Hawaii Tribune-Herald*, *West Hawaii Today*, *The Maui News*, and *The Garden Island* on November 24, 2008. The following witnesses presented their testimony on behalf of Petitioner: Vincent Shigekuni

(expert witness in Planning), Tim Van Meter (expert witness in Transit Oriented Development [“**TOD**”]), Gregory Brenner (expert witness in Insects and Arthropods), Sam Silverman (expert witness in Acoustics), and Tom Nance (expert witness in Hydrology).

59. On April 16, 2009, DPP filed its First Amended Witness and Exhibit Lists and Certificate of Service and Exhibits 9, 10, 11-A, 11-B, and 12.

60. On April 16, 2009, the Commission deferred the hearing for this docket until May 15, 2009, pursuant to concerns regarding the submittal of written testimony by expert witnesses and other related matters.

61. On April 29, 2009, a conference was held at the Commission’s Conference Room No. 405 in Honolulu, Hawai’i, with representatives of Petitioner, OP, DPP, Haseko, and FoM present, to identify and clarify issues, to agree on submission of direct written testimony for all expert witnesses, and to set schedules for timely submission of the same.

62. On May 5, 2009, pursuant to the conference held on April 29, 2009, the Commission issued a written Order for Submitting Revised Witness and Exhibit Lists, Exhibits, and Written Testimony of Expert Witnesses. The order directed, *inter alia*, that all parties shall provide written direct testimony of expert witnesses as exhibits as described above, and that all parties are encouraged to provide written direct testimony of all other witnesses.

63. On May 6, 2009, Petitioner filed a Motion to Amend Its Revised List of Witnesses filed on February 20, 2009, List of Exhibits filed with the Commission on February 17, 2009, and List of Rebuttal Exhibits filed with the Commission on March 2, 2009. (“**Petitioner’s Motion to Amend Its Revised List of Witnesses, List of Exhibits, and List of Rebuttal Exhibits**”) to allow the addition of James F. Charlier as Petitioner’s witness, and to allow his written direct testimony to be filed on May 8, 2009, rather than May 6, 2009. The

motion also requested the replacement of Petitioner's Hearing Exhibits "45" and "73" with Hearing Exhibits "45a" and "73a". Hearing Exhibits "74" through "78", which are the written direct testimonies of Petitioner's expert witnesses, were also filed pursuant to the Commission's Order for Submitting Revised Witness and Exhibit Lists, Exhibits, and Written Testimony of Expert Witnesses.

64. On May 7, 2009, Haseko filed its Response to Order for Submitting Revised Witness and Exhibit List, Exhibits, and Written Testimony of Expert Witness Issued on May 5, 2009; Certificate of Service.

65. On May 8, 2009, Petitioner filed its Filing of Hearing Exhibit "79"; Declaration of Yuko Funaki; Exhibit "79" and Certificate of Service.

66. On May 15, 2009, and by written Order dated June 5, 2009, the Commission granted Petitioner's Motion to Amend Its Revised List of Witnesses, List of Exhibits, and List of Rebuttal Exhibits.

67. On May 15, 2009, Petitioner filed its Filing of Hearing Exhibits "80" – "84" and Rebuttal Exhibit "85" and Certificate of Service.

68. On May 15, 2009, DPP filed its Supplemental Witness and Exhibit Lists and Certificate of Service.

69. On May 15, 2009, OP filed its Second Amended Witness and Exhibit List and Certificate of Service, and Exhibits 26-33. OP also filed its Extension Request for Provision of Written Testimony and Certificate of Service ("**OP's Extension Request for T. Miller's Written Testimony**"). Said motion requested that the Commission extend the time for Mr. Terry Miller to submit written expert testimony until June 3, 2009.

70. On May 15, 2009, FoM filed the following: (1) Amended Witness List and Certificate of Service; (2) Amended Exhibit List and Copies of Exhibits and Certificate of Service, Exhibits 28-40, 4 (revised), 5 (revised), 13 (revised), and 15 (revised); (3) Motion for Extension of Time for Dr. Paul Brewbaker Ph.D. to Submit Written Expert Testimony and Certificate of Service (“**FoM’s Extension Request for P. Brewbaker’s Written Testimony**”); and (4) Motion for Extension of Time for Dr. Panos Prevedouros to Submit Written Expert Testimony and Certificate of Service (“**FoM’s Extension Request for Prevedouros’ Written Testimony**”).

71. On May 15, 2009, the Commission held its continued evidentiary hearing for this docket, during which the following witnesses presented their testimonies on behalf of the Petitioner: Tom Nance (expert witness in Hydrology); Reginald David (expert witness in Faunal Resources); James Charlier (expert witness in Transportation Planning); Maya LeGrande (expert witness in Botanical Resources); and David Shideler (expert witness in Archaeology, Historical and Cultural Resources).

72. On May 19, 2009, the Commission received correspondence from Patricia Hamamoto, Superintendent at State of Hawai‘i Department of Education (“**DOE**”).

73. On May 22, 2009, Petitioner filed its Renewed Motion to Strike or Limit the Subject Matter and/or Use of Certain Witnesses and Exhibits from FoM’s Amended Witness List, List of Exhibits and Copies of Exhibits, Amended Exhibit List, and Rebuttal Exhibit List, and to Have Friends of Makakilo Identify James Dannemiller as an Expert Witness; Memorandum in Support of Motion; Declaration of Yuko Funaki; Exhibits “A” – “T”; and Certificate of Service (“**Petitioner’s Renewed Motion to Strike FoM’s Witnesses and Exhibits**”). Said motion requested that the Commission strike the following witnesses: Cliff

Slater; Donna Wong; Peter Apo; Cheryl Kaster; Rep. Jon Riki Karamatsu; Rep. Rida [Rita] Cabanilla; Rep. Ken Ito; Governor George Ariyoshi; and “Yet to be determined.” Said motion also requested that the Commission strike five out of the following seven FoM witnesses testifying on the issue of Agriculture: Goro Uehara; James Brewbaker; John McHugh; Melvin Matsuda; Leon Stollenberger; Ira Rohter; and Paul Brewbaker, and that James Dannemiller be identified as an expert witness and his written direct testimony be provided to the Commission and the parties by June 5, 2009.

74. On May 22, 2009, Petitioner also filed the following: (1) Response to Office of Planning’s Extension Request for Provision of Written Testimony and Certificate of Service; (2) Response to Friends of Makakilo’s Motion for Extension of Time for Dr. Paul Brewbaker to Submit Written Testimony and Certificate of Service; and (3) Response to Friends of Makakilo’s Motion for Extension of Time for Dr. Panos Prevedouros to Submit Written Expert Testimony; Declaration of Yuko Funaki; Exhibits “A” and “B”; and Certificate of Service.

75. On June 1, 2009, DPP filed a letter with the Executive Director of the Commission, stating that it does not take a position on OP’s request to extend the deadline for submitting Mr. Terry Miller’s written direct testimony from May 15, 2009 to June 3, 2009, and FoM’s request to extend the deadline for submitting written expert testimony for Drs. Panos Prevedouros and Paul Brewbaker.

76. On June 2, 2009, OP filed its Third Amended Witness and Exhibit List and Certificate of Service and Exhibits 21 and 34.

77. On June 5, 2009, the Commission received oral and/or written public testimony from the following individuals: Nadia Mangialetti, Kehaulani Padilla, and Jean Kapi’olani Kaohelaui’i. During the motion hearing for Petitioner’s Renewed Motion to Strike FoM’s

Witnesses and Exhibits, FoM served the parties the Responses of Friends of Makakilo to Second Motion to Strike and Certificate of Service.

78. On June 5, 2009, and by written Order dated July 1, 2009, the Commission granted in part and denied in part Petitioner's Renewed Motion to Strike FoM's Witnesses and Exhibits as follows: Denied the motion to strike – Cliff Slater, Peter Apo, “Yet to be determined” (only because there is no way to identify such person, and thus, there is no one to be stricken), James Dannemiller, Exhibits 4, 5, 13, R-9, and 30 and Goro Uehara, James Brewbaker and Leon Stollenberger; granted the motion to strike – Cheryl Kaster, Representatives Karamatsu, Ito, and Cabanilla; Governor Ariyoshi, Ira Rohter, John McHugh, Melvin Matsuda, Exhibits 8 and 17, and those witnesses and exhibits withdrawn by FoM (Donna Wong and FoM Exhibit Nos. 16, 22, R-1, R-4, R-6, R-7, R-8 and R-10).

79. On June 5, 2009, and by written Order dated July 1, 2009, the Commission granted OP's Extension Request for Terry Miller's Written Testimony and FoM's Extension Request for Paul Brewbaker's Written Testimony.

80. On June 5, 2009, the Commission denied FoM's Extension Request for Prevedouros' Written Testimony.

81. On June 5, 2009, FoM filed Testimony of Dr. Paul Brewbaker and Certificate of Service.

82. On June 10, 2009, Petitioner filed a Motion for Extension of Time for Decision-Making; Declaration of Yuko Funaki; and Certificate of Service. The motion requested for a ninety-(90)-day extension of time for the Commission's decision-making for the docket, from September 19, 2009, which is the three-hundred-sixty-fifth (365th) day after the petition in this

docket was initially deemed a proper filing and accepted for processing (“**Petitioner’s Motion for Extension of Time for Commission’s Decision-Making**”).

83. On June 15, 2009, Haseko filed its Response to D.R. Horton – Schuler Homes, LLC’s Motion for Extension of Time for Decision-Making Filed on June 10, 2009; Certificate of Service, stating that it does not object to Petitioner’s Motion for Extension of Time for Commission’s Decision-Making, but does not take any position on the reasons cited by Petitioner therefor.

84. On June 19, 2009, OP filed its Statement in Support of Petitioner’s Motion for Extension of Time for Decision-Making.

85. On June 22, 2009, DPP filed a letter with the Commission’s Executive Director stating that it takes no position on Petitioner’s Motion for Extension of Time for Commission’s Decision-Making.

86. On June 25, 2009, and by a written Order dated July 14, 2009, the Commission granted Petitioner’s Motion for Extension of Time for Commission’s Decision-Making for a period of ninety (90) days, extending the date of its decision-making deadline from September 19, 2009 to December 18, 2009.

87. On June 25 and 26, 2009, the Commission held its continued hearing in Honolulu, Hawai‘i. The Commission received oral and/or written public testimony from the following individuals: Shane Peters, Glenn Nohara, Rodolfo Ramos, Sherry Menor McNamara, and John Strom. The following Petitioner witnesses testified: David Shideler (expert witness in Archaeology, Historical and Cultural Resources); Barry Neal (expert witness in Meteorology/Air Quality); John Kirkpatrick (expert witness in Socio-Economics); Bruce Plasch (expert witness in Agricultural Economics); Ann Bouslog (expert witness in Market Analysis and Economics);

Bryant Terry Brothers (expert witness in Traffic Engineering); David Bills (expert witness in Wastewater Treatment and Drainage Systems); and Michael Jones (Representative of Petitioner).

88. On July 14, 2009, pursuant to request by the Commissioners and other parties, Petitioner filed its Motion to Amend Its Amended List of Exhibits and Amended List of Witnesses; Memorandum in Support of Motion; Declaration of Yuko Funaki; Second Amended List of Exhibits; Second Amended List of Witnesses; Exhibits “A” – “C”; Hearing Exhibits “86” (Phased Development Plan for Ho`opili) and “87” (Development Phasing Map, Ho`opili); and Certificate of Service.

89. On July 20, 2009, DPP filed its Second Amended Witness List and Certificate of Service.

90. On August 5, 2009, FoM filed its Motion to Deny the Petition; or in the Alternative to Declare the Petition Deficient; (Allowing the Petitioner to Cure the Defects, Including Amending the EIS, With With [sic] the Date of Filing Changed to the Date the Commission Determines that the Defects are Cured); Memorandum in Support of Motion, Declaration of Dr. Kioni Dudley; Exhibits “A – M”; and Certificate of Service (“**FoM’s Deficiency Motion**”). The motion requested the Commission to deny the Petition on the grounds that it does not contain a “schedule of development for the total of such project in increments together with a map identifying the location of each increment, each such increment to be completed within no more than a ten-year period.” The motion further requested that, in the event the Commission does not deny the Petition, that it declare the Petition deficient on the same grounds stated above, so that Petitioner can cure such defect.

91. On August 10, 2009, Petitioner filed its Memorandum in Opposition to the Friends of Makakilo’s Motion to Deny Petition; or in the Alternative to Declare the Petition

Deficient, Allowing the Petitioner to Cure the Defects, Including Amending the EIS, With the Date of Filing Changed to the Date the Commission Determines That the Defects Are Cured; Declaration of Yuko Funaki; Exhibits “A” – “E”; and Certificate of Service.

92. On August 12, 2009, OP filed its Fourth Amended Witness and Exhibit List and Certificate of Service; and Exhibit 35.

93. On August 20, 2009, the Commission mailed the notice and agenda for its August 27-28, 2009 hearing in Honolulu, Hawai`i to the Parties and the Statewide and O`ahu mailing lists.

94. On August 24, 2009, OP filed its Partial Joinder and Response to FoM’s Deficiency Motion.

95. On August 25, 2009, OP filed its Fifth Amended Witness and Exhibit List, and Certificate of Service, and Exhibit 27a.

96. On August 28, 2009, the Commission held its continued hearing in Honolulu, Hawai`i. The Commission received oral and/or written public testimony from the following individuals: Victoria Cannon, Robert Harris, Daniel Swenson, Doris Dudley, Nalani Wong, Harmony Bentosino, Nada Magialetti, Richard Valasek, Maeda Timson, John Luan, Laura Horigan, Jackie Ralya, Melelani Uanis, Robin Doak, Ann Freed, Sen. Clayton Hee, Rep. Rida Cabanilla Arakawa, Rep. Jon Riki Karamatsu, Matt Johnson, Jeffrey Pederson, Kamuela Enos, Buzz Hong, Lucia Owens, Steven Lee Montgomery, Coby Lynn, Shannon Wood, Vernon Ta`a, Clyde Hayashi, Al Lardizabal, Lydi Morgan, Meleana Judd, Patricia Beckman, Rep. Maile Shimabukuro, John Carroll, Raul Bernal, and Kapua Keli`ikoa Kamai.

97. On August 28, 2009, and by a written Order dated September 30, 2009, the Commission granted in part and denied in part FoM's Deficiency Motion, determining that the First Amended Petition was defective or deficient, as follows:

...Petition is defective or deficient, in that it failed to either (1) represent that development of the Petition Area will be accomplished before ten years after the date of Commission approval or (2) even though full urban development cannot substantially be completed within such ten-year period, the Petition does not include a schedule for development of the total of the project in increments together with a map identifying the location of each increment, each such increment to be completed within no more than a ten-year period[.]

Order Granting in Part and Denying in Part Intervenor Friends of Makakilo's Motion to Deny the Petition; or In the Alternative to Declare the Petition Deficient, Allowing The Petitioner To Cure The Defects, Including Amending the EIS, With With (sic) The Date of Filing Changed to the Date the Commission Determines That the Defects Are Cured; Certificate of Service ("**Deficiency Order**") at 4.

98. On May 18, 2011, Petitioner filed the following in the following order: (1) Motion for Leave to File Its Second Amended Petition to Cure the Deficiency of Its First Amended Petition; Memorandum in Support of Motion; and Certificate of Service ("**Petitioner's Motion for Leave to File Its Second Amended Petition**"); (2) Second Amended Petition for Land Use District Boundary Amendment; Verification; Petition Exhibits "16A", "17A", "18A", "19A", "20" – "24"; and Certificate of Service ("**Second Amended Petition**"); and (3) Motion for Determination That Its Second Amended Petition Cures the Deficiency of Its First Amended Petition and Is Ready for Processing; Memorandum in Support of Motion; and Certificate of Service ("**Petitioner's Motion for Cure Determination**"). Petition Exhibit "20" (Ho'opili Phased Development Plan) is a schedule for development of the total of the Project in two increments: Phase 1 which is from 2013 to 2020, and Phase 2 which extends from 2020 to 2030. Petition Exhibit "21" (Development Phasing Map, Ho'opili) is a map identifying the location and approximate acreages of the Project's Phases 1 and 2.

99. On May 25, 2011, DPP submitted a letter to the Commission stating that it had no objection to Petitioner's Motion for Leave to File Its Second Amended Petition and Motion for Cure Determination.

100. On June 1, 2011, five days after the deadline to file oppositions to Petitioner's Motion for Leave to File Its Second Amended Petition and Petitioner's Motion for Cure Determination had passed, FoM filed its Motion to Close the Case of the Petition of D.R. Horton Schuler Homes LLC Without Further Consideration; or in the Alternative to Reject Their Second Amended Petition as a Cure for the Deficiencies in Their First Petition; and That the Petition Property be Removed from Redistricting Availability Until 2061; Memorandum in Support of the Motion; Declaration of Dr. Kioni Dudley; Exhibits "C"- "Q"; and Certificate of Service ("**FoM's Motion to Close the Case**"). The motion requested that the Commission either: (1) "close the case of the Peitition [Petition]...without further consideration" because it will "open this case to future appeal," or (2) reject the Second Amended Petition as a cure for deficiencies of the First Amended Petition, because (a) the Ho'opili Phased Development Plan and Development Phasing Plan do not reflect major changes in the Project that was reported in the press; (b) the City's Honolulu High-Capacity Transit Corridor Project ("**Honolulu Rail Transit**"), which may change the entire thrust of the Project, is still in flux; and (c) it is not clear if "there is an underlying dimension of reality with additional players and goals driving these events." The motion also requested that the Commission "remove the Petition property from re-districting availability until 2061."

101. On June 7, 2011, OP filed its Statement of No Objections to Petitioner's Motion for Leave to File Its Second Amended Petition and Statement of No Objections to Petitioner's Motion for Cure Determination.

102. On June 9, 2011, DPP filed its Opposition to The Friends of Makakilo's Motion to Reject Petitioner's Second Amended Petition; Memorandum in Opposition; Certificate of Service.

103. On June 13, 2011, Petitioner filed its Memorandum in Opposition to The Friends of Makakilo's Motion to Close the Case of the Petition of D.R. Horton – Schuler Homes, LLC; or, in the Alternative, to Reject Its Second Amended Petition as a Cure for Deficiencies in Their First Petition; and that the Petition Property be Removed from Redistricting Availability Until 2061; Declaration of Yuko Funaki; Exhibit "A"; and Certificate of Service ("**Petitioner's Memorandum in Opposition to FoM's Motion to Close the Case**").

104. On June 13, 2011, Petitioner also filed a Motion to Consolidate for Hearing Purposes: (1) D.R. Horton – Schuler Homes, LLC's Motion for Leave to File Its Second Amended Petition to Cure the Deficiency of Its First Amended Petition; (2) D.R. Horton – Schuler Homes, LLC's Motion for Determination That Its Second Amended Petition Cures the Deficiency of Its First Amended Petition and Is Ready for Processing; and (3) The Friends of Makakilo's Motion to Close the Case of the Petition for D.R. Horton – Schuler Homes, LLC; or, in the Alternative, to Reject Their Second Amended Petition as a Cure for Deficiencies in Their First Amended Petition; and that the Petition Property be Removed from Redistricting Availability Until 2061; Memorandum in Support of Motion; and Certificate of Service ("**Petitioner's Motion to Consolidate for Hearing Purposes**").

105. On June 16, 2011, OP filed its Statement of No Position to the Friends of Makakilo's Motion to Close the Case of the Petition of D.R. Horton Schuler Homes LLC Without Further Consideration; or In the Alternative to Reject Their Second Amended Petition

as a Cure for the Deficiencies in Their First Petition; and That the Petition Property be Removed from Redistricting Availability Unitl (sic) 2061; Certificate of Service.

106. On June 20, 2011, the Commission received written correspondence from the following individuals: Sandra Lee, Jim Haley (Iliahi Foundation), Martha Peterson, Lisa Asagi (Asagi Hatchery Inc.), Dan Nakasone, Brenda Cloutier, Roseanne Goo, Meredith Brooks, Stanford Chang, Fern Gavelek, and Matt Johnson (President, Sustain Pro Management).

107. On June 20, 2011, the Sierra Club (“**Sierra Club**”) filed its Notice of Intent to File Petition to Intervene; Certificate of Service.

108. On June 21, 2011, the Commission received written correspondence from the following individuals: Alex Kwon, Aaron Wallen, Afsheen Siddiai, Nicholas Dreher, Cheri Jones, Steven Lee, David Bills, and Amy Doff.

109. On June 21, 2011, DPP filed its Statement of No Position to Petitioner’s Motion to Consolidate for Hearing Purposes: (1) D.R. Horton – Schuler Homes, LLC’s Motion for Leave to File Its Second Amended Petition to Cure the Deficiency of Its First Amended Petition; (2) D.R. Horton – Schuler Homes, LLC’s Motion for Determination That Its Second Amended Petition Cures the Deficiency of Its First Amended Petition and Is Ready for Processing; and (3) The Friends of Makakilo’s Motion to Close the Case of the Petition for D.R. Horton – Schuler Homes, LLC; or, In the Alternative, to Reject Their Second Amended Petition as a Cure for Deficiencies in Their First Amended Petition; and that the Petition Property be Removed from Redistricting Availability Until 2061, Certificate of Service.

110. On June 22, 2011, the Commission mailed the notice and agenda for its June 30-31, 2011 hearing in Honolulu, Hawai’i to the Parties and the Statewide and O’ahu mailing lists.

111. On June 22, 2011, the Commission received written correspondence from the following individuals: Felicia Brazil, Robert Gerell, and David Nakamura (Executive Director, Mutual Housing Association of Hawa`i).

112. On June 22, 2011, FoM filed its Reply Memorandum by the Friends of Makakilo Responsive to D.R. Horton - Schuler Homes' Memorandum in Opposition to the Friends of Makakilo's Motion to Close the Case of D.R. Horton or in the Alternative to Reject Their Second Amended Petition as a Cure for the Deficiencies in their First Petition; and that the Petition Property be Removed from Redistricting Availability Until 2061; Declaration by Dr. Kioni Dudley; Exhibits R and S; Amended Exhibit "P" and Certificate of Service.

113. On June 23, 2011 the Commission received written correspondence from the following individuals: Joni Tayama, Joaquin Almanza, Dr. Thien Myaing (Executive Director, Pacific Gateway Center), Jim Lyons (President, Lyon Associates Inc.), Alan Gottlieb, Greg Blakemore, Robert Flores, Terence Arashiro, Tara Rojas, Loreto Raguindin, Cheryl Nekota, Harold Pascua, Kenneth Brazile, Dennis Lombardi, Leonard K.P. Leong, Travis Watanabe, Keith Kamiyama, Karen Chun, Glenn Garcia, Brandon Grant, Georgette Silva, Erik Kaneshiro, Ryan Watanabe, Beverly Dube, Carmelo Diaz-Rotger, and David Sherman.

114. On June 23, 2011, the Commission received OP's Statement of No Objection to Petitioner's Motion to Consolidate for Hearing Purposes: (1) D.R. Horton – Schuler Homes, LLC's Motion for Leave to File Its Second Amended Petition to Cure the Deficiency of Its First Amended Petition; (2) D.R. Horton – Schuler Homes, LLC's Motion for Determination That Its Second Amended Petition Cures the Deficiency of Its First Amended Petition and Is Ready for Processing; and (3) The Friends of Makakilo's Motion to Close the Case of the Petition for D.R. Horton – Schuler Homes, LLC; or, In the Alternative, to Reject Their Second Amended Petition

as a Cure for Deficiencies in Their First Amended Petition; and that the Petition Property be Removed from Redistricting Availability Until 2061.

115. On June 27, 2011, the Commission received written correspondence from the following individuals: Orson Moon, Grantco Pacific Inc, Alan Mattson, Mark Matsumoto, Carol Davis, Lionel Toro, Vincent Miyoi, Lauren Sharkey, Bryce Calpito, Matthew Liew, Myles Murakami, Verinus Ignacia, Theona Poggi, Kurt Sibayan, Malia Day, Laura Elicker, Steven Sofos, Angelina Arevalo, Nel Rubio, John Zalewski, Kimo Steinwascher, Faith Lozano, James Smith, Stanley Watanabe, Megan Kau, Allison Madiam, Lisa Johnson, Jennifer Endo, Thelma Marie Dreyer, Bryan Jaco Gallarde, Herbert Endo (President, Jack Endo Electric Inc.), Dustine Aiu, Deborah Agles, M.D., Solomon Maka Chong, Terence Go, Monaliza Guillermo, Brandon Sinclair, Charlotte Roscor, Benny Quema, Beatrice Hussey, Frank Machado, Judith Sinclair, Samuel Aguirre, Samuel Aguirre, Jr., Karl Sinclair, Daniel Paaaina III, Deana Halverson, Duffy Uyehara, Rodney Iwamoto, Arnold Villafuerte, M.D., Donald Okashige, Colleen Okashige, Tracey Imper, James Kaneshiro, Maurice Morita, Peter Lee, Benjamin Dalpos, Elbert Saito, Joshua Kalua, Stephen Leis (President, Dorvin D. Leis Co, Ltd.), and Kyle Kamakura.

116. On June 27, 2011, OP filed its Statement of No Objection to D.R. Horton – Schuler Homes, LLC’s Petitioner’s Motion to Consolidate for Hearing Purposes: (1) D.R. Horton – Schuler Homes, LLC’s Motion for Leave to File its Second Amended Petition to Cure the Deficiency of its First Amended Petition; (2) D.R. Horton – Schuler Homes, LLC’s Motion for Determination That Its Second Amended Petition Cures the Deficiency of Its First Amended Petition and Is Ready for Processing; and (3) The Friends of Makakilo’s Motion to Close the Case of the Petition of D.R. Horton – Schuler Homes, LLC; or, In the Alternative, to Reject

Their Second Amended Petition as a Cure for Deficiencies in Their First Petition; and that the Petition Property be Removed from Redistricting Availability Until 2061; Certificate of Service.

117. On June 28, 2011, the Commission received written correspondence from the following individuals: Victoria Cannon, Harry Kawamura, Mike McGuire, Pastor Mike Lwin (New Hope Leeward), Mike Golojuch, Matthew Chapman, Mark Tiburcio, Allen Narciso, George Narciso, Dennis Kaloi, Richard Brownlie, Larry Jefts , Frances Rivero, Carmel Patterson, Jared Chang, Millicent Villalon, Wayne “Linc” Lincoln, Xena Takahashi, Cynthia Franklin, waialael001@hawaii.rr.com, Anthony Gamboa, Peter Ganaban (Hawaii Laborers’ Union), Aline Cone, Phil and Geri Yasuhara, James Walker, Stanley Fernandez, Ryden Valmoja, Aaron Ho, Lorna Woo, and Sherman.

118. On June 29, 2011, the Commission received written and/or electronic correspondence from the following individuals: Bryant Prevo, Mark Phillipson, Charles Zahn, Jackie Zahn, Lee Takushi, Trisha Sugita, Bob Loy-Director of (Environmental Programs, The Outdoor Circle), Jorie Hancock, Robin McKinney, Sean Yi, Deborah Courtney, (KY International, Inc.), Martin Miller (Delta Construction Corporation), Benedict Lee (ASLA), Robert Yoneoka, Henry Kwok (AIA), Steve Heidorn (Central Air Systems), Bernard Bays, Ryan Lopine Ancheta, Peter Iriarte, John Vaielua, James Hampp Jr., Arnold Pascua, Jostin Iriarte, Niko Laumafia, Robin Fujiwaki, Jonovan Iriarte, Esther Keanio-Ah-Kiong, Miah Nahina, Roland Paulino, Jack, Romel Bonilla, Alan Megia, Daniel and Rachel Arakaki, Julian Ling, Lance Hayashi, Frederick Ishikawa, Wesley Hamasaki, Garrison Castro, Jason Nakamoto, Shane Hanohano, Eric Siner, Ricky Abarca, Melvin Silva Jr., Sam Kalikane Jr., Raymon Hengio, Elpidio (Al) Tivera, Brian Miyashiro, Rommel Bilo, Tony Pada, Chad Tsuneyoshi, Russell Ho, Dennis Rometico, Junior Maieo, Ricky Tamashiro, Randy Felipe, Jay Yanuaria, Ferdinand Bayudan, Kevin Fujimori, Michael Thomas, Jerrean Kaikaina, Mataaevoe Tiave, Xena Keamo-AhKioug, Jose Diaz, Floro Tagumasi, Edmund Puana, Natalie Castanarea, Kaimana Place,

Remigio Guillermo Jr., Michael Tojio, Robert Dicion, Jonah Chung, Reginald Castanares, Jason Fukuda, Larry Stone, Ruben Cabaneiro, Jeremy Nakayama, Watson Hoohuli, Jordan Ceria, Hector Ariola, Benjamin Garcia, Ikaika Kupukaa, Russell Ancheta, German Lomboy, Raul Lomboy, Pat Takenishi, Renee McClung, Christopher Fowler, K. Timson, Kirk Stensgaard, Garrett Jr., Marshall Romento, Esau Maugatai, Chavez Corpuz, Leo Duropan, Dana Rolitt, Carolyn Golojuch, Jordan Dawson, Sheldon Sojet, Michael Golojuch Jr., Cerelia Bustamante, Marie Hampp, Marc Miyasato, Kurt Fevella, Elton Johnson, Sharon Har, Vincent Todd, Ranson Ho, Gary Watanabe, Manny Tagata, Nelson Akina Jr., Valentino Ceria, Michele Golojuch, Mike Ryckman, Edward Fujioka, Todd Saito, Braxton Maluenda, Jaysha Hampp-Iriarte, Veronda Ho, Leyton Torda, Jolynne Kapihe, Travis Theila, Eugene Soquena, Leimomi Simer, Lolita Takeda, Anthony Scimone, Dean Okimoto, Alfanso Legaspi, Marcus Gillespie, Wayne Batt, Gavin Goo, Joyce Taoka, Harris Habu, Maynard Pang, Sean Yoshida, William McCoskey, Bessie Tran, Jared Kim, Chari Badua-Robinson, Eric Condemilicor, Ionatona Vawaa, Leanne Kunihisa, Kenneth Kobatake, K. Costa, Garrett Kuehu, Russ Goodwal, Mark Spencer, Aaron Takeshiro, Keith Taketa, Fausto Salvidio, Kekoa Kamauoha Jr., Dickie Naehu, Michelle Koester, Cruz Urquidi, Laurence Smith, Tranquino Aquino, Roland Ganitano, Perneil Morgan, Adam Pili, Donald Omoto, John Cavaco, Jessie Visconde, Edwin Josue, Zelka Harvest, Tom Fee, Tony Beebe, Mary Flood, David Eagar, Vanessa Yanagawa, David Gonzalez, Aaron Pule, Antonio Aquino, Ronald Yagyagan, John Oury, Allan Duhaylonsod, Lawrence Naea, Romel Sanchez, Don Smith Jr., Alexandrus Legaspi, Carlene Maria, Eriko Okada, Victoria Filoteo, Jacqueline Acio, Marilyn Wright, Katrina Puzon, Erika Vargas, Irma Pante, Rudy Pablo, Venissa AhSam, Marc Udoff, Terrence Cheng, Mary Jane Ologani, Mike Hartbey, Bruce Howe, Paulene Gomez, Ted Walkey, Albert Pattison, Beverly Febenito, Transito Iles, Eli Asuncion, Charla Trevenen,

Phylis Okada Kacher, Bernadett Briones, Chantal Villamor, Josie Cagaran, Candace Tawara, Renee Caseres, Ryan Tawara, Dana Newberry, Naomi Sukihara, Carlito Rubonal, Josette Agbayani, Russell Kamiya, Davis Higa, Edwin Saito, Alvin Kobayashi, Lynne Mitani, Larry Carmack, Ryan Uyeunten, Jesus Cariz, Arturo Tiburcio, Isiah Christian, Alfredo Esteban Jr., Allen Freitas, Candace Ching, Anthony Belmodis, Danilo Vilorio, Fermin Bayudan, Kika Bukoski, Steven D'Amelio, Carmelo Diaz-Rotger, Shannon Dick, Russell Yanagawa, Rodolfo Ramos, Damien Kim, Mike Ward, Josh Frost, Councilman Tom Berg, and the State Office of Environmental Quality Control.

119. On June 30, 2011, the Commission received written and/or electronic correspondence from the following individuals: Senator Clayton Hee, Nancy Schildt, Pater Ganaban (Hawai'i Laborer's Union), Bob Loy (Outdoor Circle), Steve Heidorn, and Dean Spagnoli.

120. On June 30, 2011, the Commission held its continued hearing in Honolulu, Hawai'i. The Commission received written public testimony from the following individuals: Gil Gabriel, Judy Aquino, Marlene Onea, Jenai Quero, Michael Nacan, Heather Vincent, Joe Kahai, Romel Mancelino, Frank Parcartem, Amelia Ruth Balanay, Mamerto Melchor, Edwin Guillermo, Dennis Corpuz, Thomas Delos Santos, Jose Reyes, Francisco Ponce, Gene Lagmay, Emimano Isidro, Felipe Santos, Elmirante Bangaran, Sery Buquing, Agustino Agcaoili, Demetrio dela Cruz, Debra Montoya, Rodolfo Romano, Victoria Avena, Epifanio Ramiro, Mario Ramiro, Maria Jenet Alawgele, Quentin Lucas, Norma Mejia, Juanita Lucas, Madonna Taner, Shannon Balatico, Eufrago Ramiro, Marissa Basanes, Jemwel Butay, Florencio Ramiro, Karen Tam, Reginald Dayuan, Sam Spencer, Norman Todoki, Alec Iglesia, Sean Newcomp, Tyrone Trim, Jay Ray, Bob Koko, Stuart Crawford, Ryan Higaki, Gary Kuakini Jr., Michael Rivera,

Tracy Tanouye, Kevin Fujimoto, Lance Allen, Manny Tagata, Kermit Acasio, Rebecca Tubania, Ashen Gray, Justin Szadforski, David Kamaka, Erica Aloisio, Betysilda Cielo, Wilson Cielo, Char Lee, Warren Beaulieu, Rizal Salum, Ada, DeRego, Mitchell Shimabukuro, Karen Loui, Jennifer Wong, Cory Nojima, Michael Nojima, Sanford Nojima, Sheryl Nojima, Rusty Bungcayao, Meleana Judd, Rich Hargrave, Alicia Maluafiti, Mary Bowers, Donna Wong (Hawaii's Thousand Friends), Candace Fujikane (submitted testimony for Pearl Johnson-League of Women Voters), Joby North (Hawai'i Laborer's Union), Elizabeth Martinez (Olomana Gardens), Glenn Martinez, Ursula Retherford-(submitted for testimony Kioni Dudley), Harmony Bentosino, Neil Sheehan, Glenn Ida (Plumbers & Fitters, Local 675), Heidi Vanderheiden, Alcelia Domingo, and Gary Hooser (State Office of Environmental Quality Control). The Commission received oral testimony from the following individuals: Senator Clayton Hee, Victoria Cannon, Stuart Scott, Pearl Johnson, Candace Fujikane, Kika Bokoski, Tara Hands, Donna Wong, Joshua Scott, Glenn Shigefuna, Rosie Goo, Choon James, Anthony Aalto, Denise Snyder, Harmony Bentosina, Rick Stanley, Roger Wickenden, Alii Tasi Ponder, Charles Carole, Ursula Retherford, Thad Spreg, Phyllis Katcher, Kent Fonoimoana, and Ben Schafer.

121. On June 30, 2011, and by written Order dated July 7, 2011, the Commission Chair granted Petitioner's Motion to Consolidate for Hearing Purposes, as no objections or comments were raised by the parties or the Commissioners.

122. On June 30, 2011, and by written Order dated July 7, 2011, the Commission granted Petitioner's Motion for Leave to File Its Second Amended Petition on a 9-0 vote. During the motion hearing, Petitioner, in response to inquiry by the Commission Chair stated that the filing was done simultaneously for efficiency reasons, and in the event the Commission denied Petitioner's Motion for Leave to File Its Second Amended Petition, the Second Amended

Petition would be terminated or withdrawn by Petitioner. The Commission granted Petitioner's Motion for Leave to File Its Second Amended Petition based on its finding of good cause, in that Petitioner had no control over the timing to file its cured petition.

123. On June 30, 2011, and by a written Order dated July 7, 2011, the Commission granted Petitioner's Motion for Cure Determination on a 9-0 vote.

124. On June 30, 2011, FoM withdrew its FoM's Motion to Close the Case.

125. On July 5, 2011, Petitioner, pursuant to HAR §§ 15-15-48(b) and 15-15-52(b), duly served Sierra Club with the following: (1) Original Petition, consisting of the Petition for Land Use District Boundary Amendment; Verification; Petition Exhibits "1" to "19"; Certificate of Service; (2) First Amended Petition, consisting of the Amended Petition for Land Use District Boundary Amendment; Verification; Petition Exhibits "1A", "2C", "3A", "5A", "12A", "13A", "14A", and "15A"; Certificate of Service; and (3) Second Amended Petition, consisting of the Second Amended Petition for Land Use District Boundary Amendment; Verification; Petition Exhibits "16A", "17A", "18A", "19A", "20" – "24"; Certificate of Service.

126. On July 6, 2011, the Commission received written and/or electronic correspondence from Guy Taylor (President, Z Contractors).

127. On July 11, 2011, the Commission received written and/or electronic correspondence from the following individuals: Kevin Dick and Ladd Tsuda.

128. On July 11, 2011, a Notice of Hearing was published in *the Honolulu Star-Advertiser*, *Hawaii Tribune-Herald*, *West Hawaii Today*, *The Maui News*, and *The Garden Island*.

129. On July 12, 2011, Haseko filed its Notice of Withdrawal from Case; Affidavit of Raymond Kanna; and Certificate of Service.

130. On July 13, 2011, the Commission received written correspondence from Jim Quimby.

131. On July 20, 2011, the Commission received written correspondence from the following individuals: Brent Matson, Russell Bemiller, Charles Dickey, Jaime Doctolero, Grant Umeda, Monique Taylor, Guy Taylor, Wayne Miyasato, Sina Tranetzki, Elisabeth Kitagawa, Al Cruz, Jaime Dominquez, Dean Spagnoli, Ginni Snodgrass, and David Deiner.

132. On July 25, 2011, Petitioner filed with the Commission the following: (1) Third Amended Petition for Land Use District Boundary Amendment; Verification; Petition Exhibits “1B”, “2D”, “3B”, “5B”, “8A”, “12B”, “13B”, “14B”, “15B”, “17B”, “18B”, “19B”, “20A”, “21A”, “22A”, “23A”, and “25” – “30”; and Certificate of Service (“**Third Amended Petition**”); and (2) a letter requesting the Commission to deem the Petition ready for processing. The Third Amended Petition reflected the reduction in the Petition Area, which was caused by dedication of land to the State Department of Transportation (“**DOT**”) for the construction of Kualaka`i Parkway.

133. On July 25, 2011, Clayton Hee (“**Hee**”) filed his Petition to Intervene; Verification; Certificate of Service.

134. On July 25, 2011, Sierra Club filed its Petition to Intervene; Certificate of Service.

135. On July 26, 2011, the Executive Officer of the Commission advised Petitioner and the other parties and also those that filed to intervene in this docket that the “deemed a proper filing” date for this docket has been changed from July 7, 2011 to July 26, 2011.

136. On July 29, 2011, an Amended Notice of Hearing was published in the *Honolulu Star-Advertiser*, *Hawai`i Tribune-Herald*, *West Hawai`i Today*, *The Maui News*, and *The Garden Island*.

137. On August 1, 2011, Petitioner filed its Response to Senator Clayton Hee's Petition to Intervene; Declaration of Yuko Funaki; Exhibits "A" - "C"; and Certificate of Service. In the response, Petitioner requested that the Commission, should it decide to grant intervenor status to Hee, align his participation with FoM whose interests and position concerning the proposed reclassification are substantially the same, or limit it to issues that are not already represented by other intervenors to this proceeding, and that such issues be specifically identified by Hee.

138. On August 2, 2011, OP filed its (1) Statement of No Objection to Sierra Club's Petition to Intervene; Certificate of Service and (2) Statement of No Objection to Senator Clayton Hee's Petition to Intervene; Certificate of Service.

139. On August 2, 2011, DPP submitted a letter to the Commission indicating that it had no objection to Petitioner's Third Amended Petition.

140. On August 2, 2011, DPP also filed its Statement of No Position to the Sierra Club's Petition to Intervene; Certificate of Service.

141. On August 2, 2011, DPP also filed its Opposition to Senator Clayton Hee's Petition for Leave to Intervene; Memorandum in Opposition; Certificate of Service.

142. On August 3, 2011, Petitioner filed its Response to The Sierra Club's Petition to Intervene; Declaration of Yuko Funaki; Exhibits "A"- "G"; and Certificate of Service.

143. On August 5, 2011, the Commission received written correspondence from the following individuals: Jerrie Abasial, Olivia Ragasa, Crystal Balicoco, Eugene Kia, F. Michael Brandt, James Arthur, Trevor Hugo, Eugene Soquena, Chris Ngyuen, Sam Spencer, Donald Gentzler, Fabian Kalili, Calvin Dole, Ana Tuiasosopo, Albert Aukele III, Dennis Batalona,

Jonathan Ching, Lord Elsin Flores, Aaron Fujinaga, Grant Zen Hamada, Rodney Higashi, Kekoa Kalanokala, Chris Keda, Ryan Nakachi, and Preston Nakata.

144. On August 8, 2011, Hee filed his Reply to Petitioner D.R. Horton – Schuler Homes, LLC’s Response to Senator Clayton Hee’s Petition to Intervene; Certificate of Service.

145. On August 9, 2011, Hee filed his Reply to Department of Planning and Permitting, City and County of Honolulu’s Opposition to Senator Clayton Hee’s Petition for Leave to Intervene; Declaration of Sherrie T. Seki; Exhibit “A”; Certificate of Service.

146. On August 15, 2011, OP filed its Statement of Position of the Office of Planning; Certificate of Service.

147. On August 18, 2011, Petitioner filed (1) Affidavits of Publication of Notice of Hearing and Certificate of Service; (2) Affidavit of Yuko Funaki Attesting to Mailing of the Notice of Hearing; (3) Affidavits of Publication of Amended Notice of Hearing and Certificate of Service; and (4) Affidavit of Yuko Funaki Attesting to Mailing of the Amended Notice of Hearing.

148. On August 23, 2011, the Commission received a copy of a letter from the State Department of Education (“DOE”) to the State Department of Land and Natural Resources (“DLNR”) providing comments on the Petition.

149. On August 24, 2011, the Commission received written correspondence from Mark Sappington.

150. On August 25, 2011, the Commission received written correspondence from Mary Bowers.

151. On August 29, 2011, the Commission received written correspondence from the following individuals: Maxine Brown, Charito Panlaqui, Delores June Muse, Coreen Nishimura, and Claudia Nakachi.

152. On August 31, 2011, the Commission mailed the notice and agenda for its September 8-9, 2011 hearing in Honolulu, Hawai'i to the Parties and the Statewide and O'ahu mailing lists.

153. On September 2, 2011, the Commission mailed the notice of a September 13, 2011 pre-hearing conference to the Parties.

154. On September 6, 2011, the Commission received written correspondence from the following individuals: Ty S. Ohara, Justin Nakasone, Russell Ogawa, Peter Rabanel, Ransen Sato, Brandon Suga, Ryan Takahashi, Lane Tsujiguchi, Guy Waterhouse, Vanero Wicklund, Vincent Young, Relda Nunes, Naohiro Takahashi, Grace Takahashi, Krysten Takahashi, Adrian Agard, Brandon Goeas, Jon Cui, Vernessa Kaahu, Kenneth Wolsieffer, Whalenn Kahala, David Hake, Jayson Vergara, Kalani Ellis, Jayson Falmed, Michael Duarte, Ioane Emosi, Boyd Vasquez, Marvin Merritt, Joerey Palpallatoc, Bryson Alpiche-Kanae, Tracy Felicilda, Gerald Cadiz, Travis Chan, George Villanueva, June Pascua, Thomas Crighton, Melvic Tugaoen, Garrison Castro-Fiori, Andres Diza, Mitchell Granite, Eseneiaso Emosi, Henry Tolentino, Joseph Kimmey, Brent Yoneskai, Justin Keahilihau, Yamado Sigrah, Christopher Bergantinos, Del-Ulysses Esteban, Robert Pinacate, Damian Akana, Leevye Paparello, Mefflin Ondayog, Kawika Gasper, Kristi Young, Abel Andrade, Joselito Santos, and Roger Teodoro.

155. On September 7, 2011, the Commission received written correspondence from Senator Wil Espero.

156. On September 8, 2011, the Commission received written correspondence from Kika Bukoski of the Hawai'i Building & Construction Trades Council.

157. On September 9, 2011, the Commission held its continued hearing in Honolulu, Hawai'i. The Commission received oral and/or written public testimony from the following individuals: Peter Ganaban, Senator Wil Espero, Lance Yoshimura, Donovan Lewis, Peter Lee, Maurice Morita, Pane Meatoga, Georgette Stevens, Al Lardizabal, Alicia Maluafiti, Maeda Timson, Alfonso Oliver, Kika Bukoski, Pearl Johnson, and Sidney Higa. In addition, the Commission received via electronic mail, correspondence from Representative Kymberly Pine and Peter Lee.

158. On September 9, 2011, and by a written Order dated September 20, 2011, the Commission granted Sierra Club's Petition to Intervene. The Commission granted Sierra Club's intervention without consolidating the intervenors' cases or limiting the issues in which Sierra Club can participate.

159. On September 9, 2011, the intervention hearing for Hee was held. The Commission, by a written Order dated September 20, 2011, granted Hee's Petition to Intervene solely in his individual capacity.

160. On September 12, 2011, Hannah Miyamoto ("**Miyamoto**") filed her Petition for Leave to Intervene.

161. On September 13, 2011, a second Prehearing Conference was held at the Commission's Conference Room No. 405 in Honolulu, Hawai'i, to identify and clarify issues, arrange for timely submission of exhibits and other documents, and to set schedules. Representatives of Petitioner, OP, DPP, FoM, Sierra Club and Hee were present. At the conference, the parties discussed the issue of how the new intervenors would acknowledge and

address the exhibits, testimonies, etc. already in evidence for this docket from 2009, and determined that filing of a joint stipulation setting forth the parties' understandings and agreed-upon procedure for the matter would be most appropriate.

162. On September 13, 2011, DPP filed its Third Amended Exhibit List and Certificate of Service.

163. On September 14, 2011, the Commission received written correspondence from Damien Kim (Business Manager, International Brotherhood of Electrical Workers) and the Hawai'i Building & Construction Trades Council (AFL-CIO).

164. On September 15, 2011, the Commission received a copy of a letter from DLNR to DOE regarding transfer of property adjacent to Petition Area.

165. On September 16, 2011, Eric Seitz, Esq. filed a Notice of Appearance and Substitution of Counsel; Certificate of Service, as counsel for Hee.

166. On September 16, 2011, the Executive Officer of the Commission sent an electronic mail to all parties, informing them that the deadline for all motions for this docket is extended to September 21, 2011.

167. On September 19, 2011, the Commission issued a Prehearing Order ("**2011 Prehearing Order**").

168. On September 20, 2011, DPP submitted via electronic mail to the Commission stating that it had no objection to Miyamoto's petition to intervene.

169. On September 20, 2011, Petitioner filed its Statement of No Objection to Hannah S. Miyamoto's Petition for Leave to Intervene and Certificate of Service.

170. On September 20, 2011, Petitioner, on behalf of all parties to this proceeding, filed a Joint Stipulation on Evidence and Witnesses and Certificate of Service (“**Joint Stipulation on 2009 Evidence**”).

171. On September 20, 2011, Sierra Club filed its Response to Hannah Miyamoto’s Petition to Intervene; Certificate of Service.

172. On September 20, 2011, FoM filed Objection by the Friends of Makakilo to Acceptance of Hannah Miyamoto as an Intervenor; Certificate of Service.

173. On September 20, 2011, OP filed its Statement of No Position to Hannah S. Miyamoto’s Petition for Leave to Intervene, Certificate of Service.

174. On September 21, 2011, Hee filed his Motion for Reconsideration; Memorandum in Support; Affidavit of Sherrie T. Seki; Exhibits A – C; Certificate of Service (“**Hee’s Motion for Reconsideration**”).

175. On September 21, 2011, the DPP submitted a letter to the Commission with its Notice of Withdrawal of all previous exhibits, List of Witnesses for the Third Amended Petition, List of Exhibits for the Third Amended Petition, Exhibits 1B, 2B, 3B, 4B, 5B, 6B, 7B, 8B, 9B, 10B, and Certificate of Service. DPP’s Statement of Position was submitted as its Exhibit 1B, entitled “Statement of Position of the Department of Planning and Permitting in Support of Petition.”

176. On September 26, 2011, Petitioner filed the following: Second Amended List of Witnesses and Certificate of Service; Second Amended List of Exhibits and Certificate of Service, and Hearing Exhibits “6B”, “7B”, “8B”, “11B”, “12B”, “13B”, “14B”, “26B”, “31B”, “33.1B”, “43B”, “74B”, “86B”, “87B”, “88B”, “89B”, “90B”, “91B”, “93B”, “94B”, “95B”, “96B”, “97B”, “98B”, and “99B”.

177. On September 26, 2011, Petitioner duly served Sierra Club and Hee with Petitioner's Hearing Exhibits "1" – "45", "45a" – "73", and "73a"- "85".

178. On September 26, 2011, pursuant to requests from Sierra Club and OP, Petitioner provided Sierra Club and OP copies of the Traffic Impact Analysis Report dated April 2011 ("**2020 TIAR**"), Appendices A-G, and Draft H-1 Freeway Project Assessment Report dated July 23, 2010 ("**Appendix G Replacement**") for information purposes only and not for the record.

179. On September 26, 2011, OP filed its List of Witnesses; List of Exhibits; Exhibits 5-7, 20, 25, 1B-3B, and 5B-11B, Certificate of Service.

180. On September 26, 2011, Sierra Club filed its Statement of Position of Sierra Club; List of Witnesses; List of Exhibits; and Exhibits 40B, 41B, 42B, 43B, 44B, 46B, 47B, 49B, 50B, 51B, 52B (resumes only); Certificate of Service.

181. On September 26, 2011, Hee filed his Proposed Witness List; Exhibit A; Certificate of Service; his Position Statement; Certificate of Service; and his Proposed Exhibit; Exhibit 61-B; Certificate of Service.

182. On September 26, 2011, FoM filed the following: Exhibits B-1 through B-34; Friends of Makakilo 2011 Amended Witness List and Exhibit List and Exhibits and Certificate of Service.

183. On September 26, 2011, all parties except FoM filed their lists of witnesses identifying all witnesses that will be providing testimony in support of their positions, lists of exhibits identifying all exhibits that have been or will be submitted in support of their positions, and all exhibits identified in the aforementioned exhibit list (except expert written direct testimonies).

184. On September 28, 2011, OP filed its Response to Intervenor Senator Clayton Hee's Motion for Reconsideration; Certificate of Service.

185. On September 28, 2011, Petitioner filed its Statement of No Position on Intervenor Senator Clayton Hee's Motion for Reconsideration and Certificate of Service.

186. On September 28, 2011, DPP filed its Opposition to Intervenor Clayton Hee's Motion for Reconsideration; Memorandum in Opposition; Certificate of Service.

187. On September 28, 2011 the Commission mailed the notice and agenda for its October 7, 2011 meeting in Honolulu, Hawai'i to the Parties and the Statewide and O'ahu mailing lists.

188. On September 29, 2011, the Commission received electronic mail correspondence from Angela (no last name) and Terry Sue Akana.

189. On September 30, 2011, Miyamoto filed her Memorandum in Support of Petition to Intervene.

190. On September 30, 2011, Petitioner submitted a letter to the Commission notifying it of its change in order of witnesses.

191. On September 30, 2011, the Commission received electronic mail correspondence from Bruce Nakamura.

192. On October 3, 2011, FoM sent electronic mails to the other parties and the Commission's Executive Director its revised list of witnesses and list of exhibits. On October 3, 2011, Hee filed his Motion for Issuance of Subpoenas; Memorandum of Law; Certificate of Service ("**Hee's Subpoena Motion**"), requesting that the Commission issue subpoenas to: Governor Linda Lingle; Russell Kokubun; Brennon Morioka; Gary Gill; William Tam; and George Kuo.

193. On September 6, 2011, the Commission received electronic mail correspondence from Wanda Anae-Onishi.

194. On October 6, 2011, Petitioner filed the following: Second Amended List of Rebuttal Witnesses and Certificate of Service; Second Amended List of Rebuttal Exhibits and Certificate of Service; and Hearing Exhibits “79.1B”, “81.1B”, “82.1B”, and “92B”.

195. On October 6, 2011, OP filed its Exhibit 4B, Certificate of Service.

196. On October 6, 2011, FoM filed its Expert Witness Testimony and Resume for the Friends of Makakilo Exhibits B-3, B-11, B-35, B-36 and Certificate of Service.

197. On October 6, 2011, Sierra Club filed its Exhibits 40B, 41B, 42B, 43B, 44B, 46B, and Certificate of Service.

198. On October 7, 2011, Miyamoto filed her List of Exhibits 1B-22B (for the Third Amended Petition).

199. On October 7, 2011, the Commission continued its hearing in Honolulu, Hawai`i. There was no public testimony. On October 7, 2011, and by written Order dated October 24, 2011, the Commission denied Miyamoto’s Petition for Leave to Intervene.

200. On October 7, 2011, and by written Order dated October 24, 2011, the Commission denied Hee’s Motion for Reconsideration.

201. On October 7, 2011, the Commission conducted a second site visit of the Petition Area, pursuant to the publication of Notice of Land Use Commission Meeting, Date, Time and Place, for October 7, 2011, with Commissioners Normand R. Lezy, Kyle J.K. Chock, Thomas Contrades, Jaye Napua Makua, Ronald I. Heller, and Chad MacDonald in attendance.

202. On October 10, 2011, DPP filed a letter to the Commission’s Executive Officer stating that it had no objection to Clayton Hee’s Motion for Issuance of Subpoenas.

203. On October 10, 2011, OP filed its Opposition to Intervenor Senator Clayton Hee's Motion for Issuance of Subpoenas; Certificate of Service.

204. On October 11, 2011, FoM and Hee notified Petitioner that they did not wish to recall any of Petitioner's mainland witnesses.

205. On October 11, 2011, DPP filed an Amended Certificate of Service (Re: Department of the Corporation Counsel's October 10, 2011 Letter to Mr. Orlando Davidson, Executive Director, Land Use Commission, filed October 10, 2011); regarding its statement of no objection to Clayton Hee's Motion for Issuance of Subpoenas.

206. On October 12, 2011, the Commission mailed the notice and agenda for its October 20-21, 2011 meeting in Honolulu, Hawai'i to the Parties and the Statewide and O'ahu mailing lists.

207. On October 12, 2011, the Commission received electronic mail from Dustin Carpenter and Jonathan Lott.

208. On October 13, 2011, OP filed its Seventh Amended List of Exhibits, Exhibit 3B, and Certificate of Service.

209. On October 17, 2011, the Commission received one hundred copies of a generated form letter regarding the Petition.

210. On October 17, 2011, Sierra Club, on behalf of Intervenors Sierra Club, FoM, and Hee, filed a Motion for Second Site Visit; Memorandum of Law; Affidavits of Tatyana E. Cerullo and Dr. Kioni Dudley; Certificate of Service ("**Intervenors' Motion for Second [Third] Site Visit**").

211. On October 18, 2011, Petitioner filed its Third Amended List of Witnesses, Third Amended List of Exhibits, Third Amended List of Rebuttal Witnesses, Third Amended List of Rebuttal Exhibits, and Hearing Exhibits “96.1B” and “100B” and Certificate of Service.

212. On October 18, 2011, the Commission received electronic mail correspondence from Mary Bowers.

213. On October 19, 2011, the Commission received written and electronic mail correspondence from the following individuals: Gene Awakuni (University of Hawai`i- West O`ahu), Damien Kim (International Brotherhood of Electrical Workers), Cindy Matsumoto, Stuart Novick, Major Phil Lum (Salvation Army Corps and Joan Kroc Community Center), Senator Mike Gabbard, Peter Emerson, and Donovan Lewis (Plumbers and Fitters Local 675).

214. On October 19, 2011, the Commission received electronic mail correspondence from the following individuals: Patricia Ann Likos, Judith Wilhoite, Becky Kam-Locascio, Les Oshiro, and Beatrice Metzger.

215. On October 20 and 21, 2011, the Commission continued the evidentiary hearing for this docket in Honolulu, Hawai`i, pursuant to the Notice of Hearing published in the *Honolulu Star-Advertiser*, *Hawai`i Tribune-Herald*, *West Hawai`i Today*, *The Maui News*, and *The Garden Island* on July 29, 2011. The Commission received oral and/or written public testimony from the following individuals: Philmund Lee, Jim Haley, Eileen Helmstetter, Councilman Tom Berg, Sam Kalilikane, Jerren Kaikaina, Gene Awakuni, Richard Hargrave, Mitchell Shimabukuro, Stuart Scott, Brian Lee, Donovan Lewis, Victoria Cannon, Tesha Malama, Lolita Takeda, Shannon Wood, Phil Lum, Sidney Higa, Pono Kealoha, Hannah Miyamoto, Alice Fisher, Joby North, Kent Fonoimoana, Ali`itasi Ponder, Candace Fujikane, Kapua Ruiz, Alfonso Oliver for Peter Ganaban, Rep. Rida Cabanilla, Adam Bensley, Nathan

Ortiz, Antony Alto, Rep. Kymberley Pine, Kahu Manu Mook, Juanita Brown, Vernon Ta'a, Pearl Johnson, and Kika Bukoski. The following witnesses presented their testimonies on behalf of the Petitioner: Cameron Nekota (Petitioner's Representative); Tim Van Meter (witness on TOD); Keith Niiya (expert witness on Traffic Engineering); and James Charlier (expert witness on Transportation Planning).

216. On October 20, 2011, the Commission admitted into the record: Petitioner's Hearing Exhibits "6B", "7B", "8B", "11B", "12B", "13B", "14B", "26B", "31B", "33.1B", "43B", "74B", "79.1B", "81.1B", "82.1B", "86B", "87B", "88B", "89B", "90B", "91B", "92B", "93B", "94B", "95B", "96B", "96.1B", "97B", "98B", "99B", and "100B"; DPP's Exhibits 1B through 10B; and Hee's Exhibit 61-B.

217. On October 20, 2011, OP withdrew its prior exhibits except for Exhibits 5, 6, 7, 20, and 25. The Commission admitted into the record OP's new exhibits 1B through 11B.

218. On October 20, 2011, Petitioner objected to the admission of or expressed concern as to the admission of FoM's Exhibits B-15, B-16, B-17, B-20 through B-23, B-28 through B-33; FoM's Exhibits B-7, B-8, B-9, B-24 through B-27; FoM's Exhibit B-10; FoM's Exhibit B-34; FoM's Exhibits B-1, B-2, and B-18. The Commission deferred admission of FoM's and Sierra Club's exhibits.

219. On October 24, 2011, Petitioner provided the Commission with copies of Petitioner's 2020 TIAR, Appendices A-G, and the Appendix G Replacement for information purposes only and not for the record.

220. On October 26, 2011, OP filed its Statement of No Position to the Motion for Second Site Visit; Certificate of Service.

221. On October 28, 2011, the Commission received written correspondence from Stuart Scott.

222. On October 31, 2011, DPP submitted a letter to the Commission's Executive Officer stating that it had no objection to the Motion for Second Site Visit.

223. On October 31, 2011, Petitioner, provided FoM and Hee with copies of the 2020 TIAR, Appendices A-G, and the Appendix G Replacement for information purposes only and not for the record. Petitioner, also provided OP and Sierra Club with their second copies of the TIAR, Appendices A-G, and the Appendix G Replacement, for information purposes only and not for the record.

224. On November 7, 2011, the Commission received DPP's letter to the Commission's Executive Officer stating that it had no objection to the Motion for Second Site Visit.

225. On November 8, 2011, the Commission received written correspondence from the following individuals: Jim McKown, Dan Boucon and family, and Terry Akana.

226. On November 9, 2011, the Commission received electronic mail correspondence from Angela (no last name) and Pamela Menchacha.

227. On November 9, 2011, DPP filed the following: Joint Stipulation on the Addition of Two Witnesses to Department of Planning and Permitting, City and County of Honolulu's List of Witnesses for the Third Amended Petition; and its First Amended List of Witnesses for the Third Amended Petition; Certificate of Service.

228. On November 10, 2011, the Commission mailed a notice and agenda for its meeting on November 17-18, 2011 in Honolulu, Hawai'i to the Parties and the Statewide and O'ahu mailing lists.

229. On November 10, 2011, FoM filed its Motion for Leave to File Amended Witness List and Amended Exhibit (Lists); Memorandum in Support; Certificate of Service.

230. On November 15, 2011, the Commission received written and electronic mail correspondence from the following individuals: Randy Ching, Ariko Moriya, Jeanine Johnson, John Rooney, Margaret Kennedy, Christopher Pate, Angela (no last name), Terry Akana, and Patrick Missud.

231. November 16, 2011, the Commission received written and electronic mail correspondence from the following individuals: Bob Loy (The Outdoor Circle), Senator Wil Espero, and Halina Zaleski.)

232. On November 16, 2011, FoM submitted a letter to the Commission proposing to submit its lists of witnesses and exhibits by close of business on November 21, 2011, without awaiting the Commission's determination on its Motion for Leave to File Amended Witness List and Amended Exhibit (Lists) filed on November 10, 2011.

233. On November 16, 2011, Sierra Club submitted a letter to the Commission informing it of its plan to submit an amended Exhibit List on November 21, 2011.

234. On November 16, 2011, Hee filed his Amended Amended (sic) Exhibit List; Exhibit 61-B, 62, 63, 64; Certificate of Service.

235. On November 17, 2011, the Commission received, prior to its scheduled hearing, written correspondence from the following individuals: Marian Heidel, Collin Miyamoto (Christine Camp), Micah Kane, Than Spreg, and Sean Tiwanak.

236. On November 17, 2011, the Commission granted Sierra Club's and FoM's requests to file their final witness and exhibit lists on November 21, 2011, instructed that any

objections thereto be filed by November 28, 2011, and announced that any objections thereafter will be addressed at the Commission meeting on December 1, 2011.

237. On November 17 and 18, 2011, the Commission continued its hearing on the Petition in Honolulu, Hawai'i. The Commission received oral and/or written public testimony from the following individuals: Harmony Bentosino, Senator Wil Espero, Stuart Scott for Richard Heinberg, Christine Camp, Rodolfo Ramos, Fred Lau, Maile Kanimaru, Stephen Pearson, Mike Golojuch, Garrett Apuzen-Ito, Sean Tiwanak, Roger Rivera, Pastor Mik Lwin, Victoria Cannon, Reggie Casteneras, Sidney Higa, Harmony Bentosino, David Arakawa, Alice Fisher, Cynthia Frith, Thad Sprague, Derek Tsutomi, Glenn Oamilda, Pearl Johnson, Matt LoPresti, Antony Aalto, Kahu Ka'ahumanu Mook, and Mitchell Tynanus. The following witnesses presented their testimonies on behalf of Petitioner: Ann Bouslog (expert witness on Market Analysis and Economics); Bruce Plasch (expert witness on Agricultural Economics); Tom Nance (expert witness on Hydrology); David Bills (expert witness on Wastewater Treatment and Drainage Systems); and Michael Jones (Petitioner's Representative).

238. On November 17, 2011, the Commission received, after its scheduled meeting, written correspondence from the following individuals: Rich Richardson, Pam (no last name), Elise Davis, Janet Obrien, Lily Bender, Sean Tiwanak, and Gayle Chan.

239. On November 21, 2011, the Commission received copies of written testimony from its November 17, 2011 hearing from the following individuals: Michael Golojuch, Sr., Pastor Mike Lwin, Rodolpho Ramos, Roger Rivera, and Maile Kanemaru.

240. On November 21, 2011, Sierra Club filed its First Amended Exhibit List and Certificate of Service.

241. On November 21, 2011, FoM filed its Second Amended List of Witnesses and Second Amended List of Exhibits for the Third Amended Petition; Certificate of Service.

242. On November 23, 2011, FoM filed its Second Amended Exhibits and Certificate of Service; Exhibits 2, 3, 4 (revised), 5 (revised), 6, 7, 11a – 11c, 12, 13 (revised), 14, 15 (revised), 18, 19a – 19k, 20, 24, 28, 29, 33, 37, 38, 39, 40, R-2, R-3, R-5, R-9, N, O, P Amended, Q, R, S, B-1, B-2, B-3, B-5, B-6, B-7, B-9, B-10, B-11, B-12, B-13, B-14, B-15, B-16, B-19, B-20, B-20A, B-21, B-22, B-23, B-24, B-25, B-26, B-27, B-28, B-29, B-30, B-31, B-32, B-33, B-34, B-35, and B-36.

243. On November 23, 2011, the Commission mailed a notice and agenda for its December 1, 2011 meeting in Honolulu, Hawai'i to the Parties and the Statewide and O'ahu mailing lists.

244. On November 25, 2011, the Commission received written correspondence from the following individuals: Stuart Scott, Bea Coffee, Kalina Chang, and La'amea Lunn.

245. On November 25, 2011, Petitioner filed its Response to Friends of Makakilo's Second Amended List of Witnesses and Second Amended List of Exhibits for the Third Amended Petition; Memorandum in Support; Declaration of Yuko Funaki; Exhibits "A"- "F"; and Certificate of Service.

246. On November 25, 2011, Petitioner filed its Response to The Sierra Club's First Amended Exhibit List; Memorandum in Support; Declaration of Yuko Funaki; Exhibits "A" – "F"; and Certificate of Service.

247. On November 28, 2011, the Commission received written correspondence from Angela (no last name).

248. On November 29, 2011, FoM filed its Reply to D.R. Horton – Schuler Homes, LLC’s Response to Friends of Makakilo’s Second Amended List of Witnesses and Second Amended List of Exhibits for the Third Amended Petition; Memorandum in Support; Certificate of Service.

249. On November 30, 2011, the Commission received written correspondence from the State Democratic Party regarding recent testimony from the Democratic Caucus.

250. On December 1, 2011, the Commission received oral public testimony from Virginia Cannon at its hearing in Honolulu, Hawai`i. On December 1, 2011, and by written Order dated December 2, 2011, the Commission denied Intervenors’ Motion for Second Site Visit.

251. On December 1, 2011, Sierra Club’s Exhibits 40B, 41B, 42B, 43B, 44B, and 46B were admitted into evidence without objection. Sierra Club’s Exhibits 47B, 48B, 51B, and 52B were admitted over Petitioner’s objections. Sierra Club’s Exhibits 49B and 50B were withdrawn. Sierra Club’s Exhibit 45B was never submitted and was withdrawn from its list of exhibits.

252. On December 1, 2011, FoM’s Exhibits 20, S, B-3, B-19, and B-35 were admitted into the record without objection. FoM’s Exhibits 28, 29, R-2, R-3, N, B-1, B-2, B-5, B-6, B-15, B-20, B-23, B-28, B-29, B-30, B-31, B-32, and B-33 were admitted into the record over Petitioner’s objections. FoM’s Exhibits 24, 33, 37, 38, 39, 40, B-7, B-10, B-11, B-12, B-13, B-14, B-16, and B-36 were admitted into the record over Petitioner’s objections. FoM’s Exhibit R-5 was admitted into the record over Petitioner’s objection. FoM’s Exhibits R-9 and P (Amended), Q, R, B-9, B-20a, and B-21, were admitted into the record over Petitioner’s objections. FoM’s Exhibit O was admitted into the record over Petitioner’s objection. FoM’s

Exhibits B-24, B-25, B-26, and B-27, were admitted into the record over Petitioner's objections. FoM's Exhibit B-34 was admitted into the record over Petitioner's objection. FoM withdrew its Exhibits B-4, B-17, B-18, and B-22.

253. On December 6, 2011, the Commission received a copy of an electronic mail correspondence to Benjamin A. Kudo, Esq., attorney for Petitioner, from FOM with the second page of FoM's Exhibit R-5 attached.

254. On December 26, 2011, the Commission mailed the notice and agenda for its January 5-6, 2012 meeting in Honolulu, Hawai'i to the Parties and the Statewide and O'ahu mailing lists.

255. On December 28, 2011, the Commission received electronic mail correspondence from the following individuals: Jane Yamashiro, Jennifer Homcy, Matthew Sherman, and E. Godfrey.

256. On January 3, 2012, the Commission received electronic mail correspondence from Dennis Egge.

257. On January 5, 2012, the Commission continued its hearing in Honolulu, Hawai'i. The Commission received oral and/or written public testimony from the following individuals: Pearl Johnson, Jarrean Kaikaina, Mitchell Shimabukuro, Donovan Lewis, Georgette Stevens, Victoria Cannon, and Thad Sprague. The following witnesses presented their testimonies on behalf of DPP: Robert Stanfield; Kathy Sokugawa; and, Barry Usagawa. The following witnesses presented their testimonies on behalf of OP: Heidi Meeker and Russell Kokubun.

258. On January 12, 2012, the Commission mailed the notice and agenda for its January 19-20 meeting in Honolulu, Hawai'i to the Parties and the Statewide and O'ahu mailing lists.

259. On January 12, 2012, OP filed its Eighth Amended List of Exhibits; Exhibits 12B-14B; and Certificate of Service.

260. On January 13, 2012, OP filed a Joint Stipulation to Allow the Amendment of Office of Planning's Exhibit List; Certificate of Service.

261. On January 17, 2012, the Commission received electronic mail correspondence from the following individuals: Matthew Stuckey, Lorrain Burgess, Terry Sue Akana, Harmony Bentosino, Hartson Doak, Pamela Boyar, Jean Aoki, and Phyllis Fong.

262. January 18, 2012, the Commission received electronic mail correspondence from Shaunagh Robbins.

263. On January 18, 2012, OP filed the following: Withdrawal of Its Opposition to Issuance of Subpoena Upon Deputy Director William Tam; Certificate of Service; and its Ninth Amended List of Exhibits; Exhibit 15B; and Certificate of Service.

264. On January 19, 2012, the Commission received electronic mail correspondence, prior to its scheduled meeting, from the following individuals: John Bond, Zachary Parlee, and Laura Thompson. )

265. On January 19, 2012, the Commission continued its hearing in Honolulu, Hawai'i. The Commission received oral and/or written public testimony from the following individuals: Kapua Ruiz, Noah Unabia (Hoamoa Farms), Andre Anixt, Tamara Li, Kyle Kajihiro, Ryan Gomes, Peter Lee, Alan Gottlieb, Alicia Maluafiti, Sean Newcamp, Ana Tuiasosopo, Glenn Ida, Al Lardizabal, Pele Lui-Yuen, Jim Schuler, Ron Sexton, Thad Sprague, Victoria Cannon, Alice Fisher, Annie Suite, Pamela Boyar, Pearl Johnson, Shanaugh Robbins, Judith Flanders, Tom Berg, Candace Fujikane, Choon James, Kahu Manu Mook, Elaine Tam, De'Angelo McIntyre, Nicole Ferguson, Kaunaoa Friola, Buzz Hong, Evern Williams, and

Natalie Katz. The following witnesses presented their testimonies: Alvin Takeshita; Mary Lou Kobayashi; and Gary Maunakea-Forth (Sierra Club). In addition, the Commission received written testimony, submitted after the hearing, from the following individuals: Kauaoa Fraiola, Zena Grecni, Elaine Kam, Candace Fujikane, Alicia Maluafiti, Pearl Johnson, Glenn Ida, and Alan Gottlieb.

266. On January 19, 2012, the Commission admitted into the record OP's Exhibits 12B, 13B, 14B, and 15B.

267. On January 19, 2012, Petitioner renewed its objections to the admission of Michael Lee as Sierra Club's witness on Cultural Impacts, based on the fact that the parties had not been provided with his written testimony and thus, had no knowledge of the scope and substance of his testimony. The Commission deferred Mr. Lee's testimony, and ordered Sierra Club to provide the Commission and all of other parties with Mr. Lee's written direct testimony as an expert, CV, and copies of any demonstrative evidence he intends to use during his testimony by January 25, 2012.

268. On January 20, 2012, the Commission received written and electronic mail correspondence from the following individuals: Aloun Farms, State Department of Agriculture ("DOA"), Travis Idol, Amy Kimura, and Policy Ninja.

269. On January 23, 2012, the Commission received written correspondence from Judith Flanders.

270. On January 25, 2012, the Commission received electronic mail correspondence from the following individuals: Doug Fetterly, Toni Auld Yardley, Dave Shaw, Pam Princenthal, Amy Kimura, and Larry McElheny.

271. On January 25, 2012, Sierra Club filed Exhibits 53B (Affidavit of Michael Kumukauoha Lee) and 54B (Written Direct Testimony of Michael Kumukauoha Lee).

272. On February 13, 2012, the Commission received electronic mail correspondence from Theresa Moorleghen.

273. On February 14, 2012, by written Order, the Commission granted in part Hee's Motion for Issuance of Subpoenas with respect to issuance of a subpoena to William Tam, and denied the balance thereof without prejudice. A subpoena was issued for William Tam that same day, which was served on February 28, 2012.

274. On February 21, 2012, the Commission mailed notice of a third Prehearing Conference on February 28, 2012 in Honolulu, Hawai'i to the Parties.

275. On February 22, 2012, the Commission mailed the notice and agenda for its March 1-2, 2012 meeting in Honolulu, Hawai'i to the Parties and the Statewide and O'ahu mailing lists.

276. On February 22, 2012, the Commission received written correspondence from the following individuals: Dennis Egge, Carolyn Knoll, J. S. Yoshina, Ida Aspinall, Claudia Kamiyama, David Inciong II, Lmarina, Rob Barreca, Frances Kaneshiro, Kenneth Matsumoto, Robin Crone, Lono Koholua, Chesare Texidor, Jeff Gere Gere, David Michael Kaipolaua'eokekuahiwi Inciong II, Lai Lui, Andrea Anixt, Laura Horigan, Dana Anderson, MichaeldeYcaza, Jane Yamashiro, Shane Daniel, David Billups, James McKown, Bill Sager, Policy Ninja, and Roger Gumerman.

277. On February 24, 2012, the Commission received forty-six (46) letters in support of the Petition submitted by Petitioner's attorney.

278. On February 27, 2012, the Commission received written correspondence from the following individuals: Americans for Democratic Action, Jacquely Chappel, Bryan Higa, Darrell Large, Dennis Egge, Helen Pell Baker, Mark Torreano, Linda Henning, Ralph Kaspari, Wendy Arbeit Arbeit, Robert Gonzales, and Roger Gumerman.

279. On February 28, 2012, the Commission received written correspondence from the following individuals: Patricia Chung, Tim LaVerne, and David Rae.

280. On February 28, 2012, a third Prehearing Conference was held in Honolulu, Hawai'i, with representatives of Petitioner, OP, DPP, FoM, Sierra Club and Hee present, to discuss the remaining witnesses to be called in this docket, and the related time requirements.

281. On February 29, 2012, the Commission received written correspondence from the following individuals: Roberta Kauwenaole, Nancy Nagamine, Sabrina O'Neil, Al Keali'i Chock, Dana Anderson, and Roger Kanak.

282. On February 29, 2012, the Commission received the subpoena for William Tam signed by the LUC Chair.

283. On March 1 and 2, 2012, the Commission continued its hearing in Honolulu, Hawai'i. The Commission received oral and/or written public testimony from the following individuals: Dales Evans, Jane Yamashiro, Choon James, Charles Zahn, Jim Quimby, Wendell Cox, Adrian Moore, John Charles, Randall O'Toole, Councilman Tom Berg, Dana Anderson, Cyrus Cariaga, Dennis Lombardi, Miki Nojima, Henry Kwok, Wynn Hee, Rep. Gil Riviere, Jason Espero, Kevin Killeen, Cynthia Frith, Thad Sprague, Guy Archer, James McKagen, Jeff Brun, Kika Bukoski, Elaine Kam, Jade Spallina, and Joanna Hukipala. The following witnesses presented their testimonies: Gary Maunakea-Forth (Sierra Club; Michael Lee (Sierra Club); Thomas Giambelluca (Sierra Club; Linda Cox (Sierra Club; Hector Valenzuela (Sierra Club;

Glenn Martinez (Sierra Club; Leon Stollenberger (FoM; Peter Apo (FoM; William Tam (subpoenaed by Hee); and Panos Prevedouros (FoM).

284. On March 2, 2012, the Commission received written correspondence in the form of fifty-three (53) post cards from the following individuals: Kevin Chang, Xavier Valbuena, Frederick Sulusi, Jonah Dedrick, Jonathan Lott, Ailea Robinson, Leslie Morris, Marie Earle, Shirley & Allan Samuelson, Leslie Poland, James McCay, Lei Chee, Sarah Roberts, Larry Babcock, Erika Teska, Rob Barreca, Sara Swenson, Chip Fletcher, Pat Luau, Diane Texidor, Chin Nygan Lee, Hayley Ceistt, Chelsea Oder, Olga Richardson, Pilipio Souza, David Mulinix, Danielle Ann Guion-Swenson, Amanda Lowrey, Laarni Gedo, Christopher Smith, Alyssa & Kara Knight, Chakina Koione, Hau`oli Wilkinson, Ken Richarson, Candace Fujikane, Lucas Wheeler, Brilana Silva, Jennifer Leng, Jacqueline Lum, Nicole Lowen, Christopher Keliwaihookeone Camarillo, Audrey Kamealoha, Diamaica Taaca, Mirna Stoll, Ray Earle, Harmony Bentosino, Shelley Muneoka, Michel Swenson, Sheryl Pollack, Steven Troublefield, Rita Barrientos, Blake Ortiz, and Mariah Kaho`opi`i.

285. On March, 2, 2012, the Petitioner's 2020 TIAR was admitted into evidence as FoM's Exhibit B-37.

286. On March 5, 2012, the Commission received written correspondence from the following individuals: Aileen Panee, Vanessa Kennison, David Gilley, Teresa Oh Happy, Christina Chang, Donald Brown, Elaine Dunbar, William Rudich, Esther Han Roberts, and David Archeson.

287. On March 6, 2012, the Commission received written correspondence from Harriet Kapolohu.

288. On March 7, 2012, the Commission mailed the notice and agenda for its March 15-16, 2012 meeting in Honolulu, Hawai'i to the Parties and the Statewide and O'ahu mailing lists.

289. On March 8, 2012, the Commission received a copy of a March 7, 2012 letter sent by Hee to Don S. Kitaoka, Esq., attorney for DPP, requesting that the City produce witnesses who can testify as to the possible effects of City Resolution No. 12-23 on testimonies and opinions offered by individuals and officials, whose support for this docket was based on the premise that the Petition Area could not and would not be classified as IALs. (“**Hee’s Letter.**”)

290. On March 8, 2012, the Commission received written correspondence from the following individuals: Ed Chung, Don Tishman, Eileen Helmstetter, Janis Garcia, Rev. Teresa Bowden, Rob Kinslow, Tom Horton, Fritz Fritschel, Emi Fukuda, William Harris, M.D., Jamie Oshiro, Katherine Orr, Cindy Snow, L. Gary Bautista, Shirley Thompson, Gretchen Seasonre Botha, Emily Kanagawa, Ana Murray, Kim Flinski, Evan James, Jackie Rayla, Ed Hampton, Mary Wilkowski, Esq., Stuart Novick, Rubin Riggins, Donald Brown, Kathleen Kane, Carolyn Knoll, Amanda Corby, January Serda, Alison Orr-Andrawes, Andrew Pilarski, Clinton Clausen, Cheryl Prince, Laura Horigan, Patrick Block, and Alan Rowland.

291. Between March 12 - 14, 2012, the Commission received one hundred-sixty-five (165) form letters, thirty-five (35) electronic mail, and one written correspondence.

292. On March 13, 2012, DPP’s attorney Donald Kitaoka filed a letter with the Commission in response to Hee’s Letter, stating DPP’s position that production of additional witnesses regarding the effect of City Resolution No.12-23 on the current Commission proceeding is unnecessary, but would provide one in the event the Commission requested such.

293. On March 15, 2012, the Commission received eighteen written form letters from individuals.

294. On March 15 and 16, 2012, the Commission continued the hearing on the Petition in Honolulu, Hawai'i. The Commission received oral and/or written public testimony from the following individuals: Senator Wil Espero, Pearl Johnson, Victoria Cannon, Gene Iwana, Charlie Reppun, Arlene Webb, David Hulihe'e, Fred Lau, Robert Yoneoka, Alice Fisher, Glenn Yamasaka, Mark Daranciang, Leatrice Grantham, Clyde Hayashi, Adam Bensley, Thomas Ramos, Janine Clifford, Georgette Stevens, Matthew Stuckey, Phyllis Kacher, Maeda Timson, and Jeanne Vana. The following witnesses presented their testimonies, as scheduled beforehand: Jonathan Deenik (Sierra Club); Tom Coffman (FoM); John Waihe'e (Hee); Benjamin Cayetano (Hee); and Clayton Hee. In addition to these scheduled witnesses, the Commission recalled Kathy Sokugawa as the Commission's witness to testify on City's Resolution No.12-23.

295. The Commission held evidentiary hearings for this docket on March 19 and 20, 2009; May 15, 2009; June 25 and 26, 2009; October 20 and 21, 2011; November 17 and 18, 2011; January 5, 2012; January 19, 2012; March 1 and 2, 2012; and March 15 and 16, 2012, in Honolulu, Hawai'i. During the hearings, the Commission received and entered into the record numerous oral and/or written public testimonies in support of and in opposition to the Project.

296. On March 16, 2012, the Commission closed the evidentiary portion of the proceedings.

297. On March 19, 2012, the Commission received postcards from Marie Scott and Theresa Moorleghen, written correspondence from Lono Koholua, and fifteen form letters.

298. On March 20, 2012, the Commission received written correspondence from Barbara Donios and Cherrelle Hala.

299. On March 21, 2012, the Commission received written correspondence from Kathy Reeves.

300. On March 22, 2012, the Commission received written correspondence from Phillip and Diana Saylor.

301. On March 23, 2012, the Commission received written correspondence from Dawna Gomes.

302. On April 13, 2012, the Commission received the following: Petitioner's Proposed Findings of Fact, Conclusions of Law, and Decision and Order; FOM's Proposed Findings of Fact, Conclusions of Law, and Decision and Order; Sierra Club's Proposed Findings of Fact, Conclusions of Law, and Decision and Order and Notice of Firm Change Address; and, Senator Hee's Proposed Findings of Fact, Conclusions of Law, and Decision and Order.

303. On April 27, 2012, the Commission received the following: Petitioner's Partial Stipulation on Petitioner's Proposed Findings of Fact, Conclusions of Law, Decision and Order filed on April 13, 2012 between D.R. Horton-Schuler Homes, LLC and State of Hawaii Office of Planning; Petitioner's Partial Stipulation on Petitioner's Proposed Findings of Fact, Conclusions of Law, Decision and Order filed on April 13, 2012 between D.R. Horton-Schuler Homes, LLC and the City and County of Honolulu Department of Planning and Permitting; Petitioner's Objections to the Sierra Club's Proposed Findings of Fact, Conclusions of Law, Decision and Order; Petitioner's Objections to the Friends of Makakilo's Proposed Findings of Fact, Conclusions of Law, Decision and Order; Petitioner's Objections to Intervenor Senator Hee's Proposed Findings of Fact, Conclusions of Law, Decision and Order; OP Comments and Objections to Petitioner's Proposed Findings of Fact, Conclusions of Law, Decision and Order; OP Comments and Objections to Intervenors' Proposed Findings of Fact, Conclusions of Law,

Decision and Order; FOM's Responses and Objections to Petitioner's Proposed Findings of Fact, Conclusions of Law, Decision and Order; The Sierra Club's Responses and Objections to Petitioner's Proposed Findings of Fact, Conclusions of Law, Decision and Order; and, Senator Hee's Responses and Objections to Petitioner's Proposed Findings of Fact, Conclusions of Law, Decision and Order.

304. On May 7, 2012, the Commission received the following: Petitioner's Response to OP's Comments and Objections to Petitioner's Proposed Findings of Fact, Conclusions of Law, Decision and Order; Petitioner's Responses to the Sierra Club's Responses and Objections to Petitioner's Findings of Fact, Conclusions of Law, Decision and Order; Petitioner's Responses to Intervenor Senator Hee's Responses and Objections to Petitioner's Findings of Fact, Conclusions of Law, Decision and Order; Petitioner's Responses to Intervenor Friends of Makakilo's Responses and Objections to Petitioner's Findings of Fact, Conclusions of Law, Decision and Order; FOM's Reply to OP's Comments and Objections to Intervenor's Proposed Findings of Fact, Conclusions of Law, Decision and Order; FOM's Reply to Petitioner's Objections to Intervenor's Proposed Findings of Fact, Conclusions of Law, Decision and Order; The Sierra Club's Reply to OP's Comments and Objections to Intervenor's Proposed Findings of Fact, Conclusions of Law, Decision and Order; and, The Sierra Club's Reply to Petitioner's Objections to The Sierra Club's Proposed Findings of Fact, Conclusions of Law, Decision and Order. In addition, the Commission received written correspondence from Intervenor Senator Hee stating that no responses to Petitioner's Objections or OP's Objections to Senator Hee's Proposed Findings of Fact, Conclusions of Law, Decision and Order would be submitted.

305. On May 9, 2012, the Commission received written correspondence from Judith Flores.

306. On May 11, 2012, the Commission received written correspondence from: Paul Kimsel, William Harris, GM, Eugene Kawaguchi, Nara Sihavong, Terry Mulvaney, Jaclyn McCaffrey, Nikki Kiminski, Liana Murillo, and Mollie Foti.

307. On May 14, 2012, the Commission mailed the agenda and notice for the May 21-22, 2012 meeting to the Parties and the Statewide and O`ahu mailing lists.

308. On May 18, 2012, the Commission received written correspondence from Denise Snyder.

309. On May 18, 2012, the Commission received Petitioner's Motion for Leave for the Parties to Submit Written Legal Briefs and for Hearing, Memorandum in support of motion.

310. On May 21, 2012, the Commission received OP's Statement of No Objection to Petitioner's Motion for Leave for the Parties to Submit Written Legal Briefs and for Hearing, Memorandum in support of motion.

311. On May 22, 2012, the Commission received oral and/or written public testimony from the following individuals: William Harris, M.D., Kim Compoc, Jan Pappas, Mary Bowers, Ricky Cassiday, Jessica De Vera, Willis Moore, Pearl Johnson, Charles Zahn, Glenn Oamilda, Stuart Scott, Lynne Kobayashi, Sadie Green, Donovan Lewis, Chris Camarillo, Sidney Higa, Victoria Cannon, Alfonso Oliver, Phyllis Kacher, Madori Rampungworn, Georgette Stevens, Vern Ta'a, D'Angelo McIntyre, Scott Cuney, Pat Patterson, Jesse Ponce de Leon, Alice Fisher, Cynthia Frith, Lucas Miller, Elaine Kam, Antony Alto, Dennis Egge, Esther Roberts, Kahu Manu Mook, and Rickey Tye.

312. On May 22, 2012, the Commission received at its meeting FOM's Memorandum in Opposition to Petitioner's Motion for Leave for the Parties to Submit Written Legal Briefs and

for Hearing; and a written submittal from Pat Patterson for a program for an elementary school annual farm open house.

313. On May 24, 2012, the Commission received written correspondence from Walter Ritte. In addition, the Commission received a request by Petitioner for a rescheduling of meeting dates.

314. On May 24, 2012, the Commission mailed the Order Granting Motion for Leave for the Parties to Submit Written Legal Briefs and for Hearing.

315. On May 25, 2012, the Commission received Petitioner's Legal Brief Discussing Points and Authorities Regarding the Issue of the Applicability of Hawai'i State Constitution Article XI, Section 3 on the Jurisdiction and Authority of the State Land Use Commission, Appendices 1-7.

316. On May 30, 2012, the Commission mailed the agenda and notice for the June 6-8 LUC hearings to Parties and the Statewide, Maui, and O`ahu mailing lists.

317. On June 4, 2012, the Commission received: OP's Response to Petitioner's Legal Brief; Intervener Senator Hee's Legal Brief Regarding the Applicability of Hawai'i's State Constitution, Article XI, Section 3 on the Jurisdiction and authority of the State LUC; and Intervener The Sierra Club's Legal Brief Regarding the Applicability of Hawai'i's State Constitution, Article XI, Section 3 on the Jurisdiction and authority of the State LUC.

318. On June 6, 2012, the Commission received written correspondence from Margot Schrire.

319. On June 7, 2012, the Commission received written correspondence from Amy Kimura, Tristan Walker, Gladys Marrone, and Karen Nakamura.

320. On June 8, 2012, the Commission held an action meeting in Honolulu, Hawai'i, to consider the Petition. At the meeting, the Commission received oral and/or written public testimony from the following individuals: Dave Nakamura, Gary Kai, Karen Nakamura, Glenn Oamilda, De'Angelo McIntyre, Rona Pakoda, Cheryl Johnson, Pearl Johnson, Ricky Cassiday, Henry Kwok, Jason Espero, Pele Yuen, Pat Kuniyoshi, Thomas Shirai, Madori Rampungworn, Thad Spreg, Phillip Dang, Dennis Egge, Linda Young, Choon James, Dana Patria, Patricia Patterson, Kika Bukoski, and Burke Dunlap . Thereafter a motion was made and seconded to grant the Petition subject to conditions. There being a vote tally of 8 ayes and 1 nay, the motion carried.

**B. DESCRIPTION OF THE PETITION AREA**

321. The Petition Area consists of approximately 1,525.516 acres of land located in the `Ewa District, Island of O`ahu, identified by the following five Tax Map Key Numbers or a portion thereof: (1) 9-1-017:004 (por.), 059 and 072; and (1) 9-1-018:001 and 004.

322. The Petition Area consists of three distinct parcels of land. For the purpose of this Petition, the three parcels have been labeled as follows: “**Parcel A**” for the parcel identified by TMK No. (1) 9-1-018: 004; “**Parcel B**” for the parcel identified by TMK No. (1) 9-1-018:001; and “**Parcel C**” for the parcels identified by TMK Nos. (1) 9-1-017:004 (por.), 059 and 072, as depicted on Petitioner’s Hearing Exhibit 8B.

323. Parcel A, consisting of 52.289 acres, is located to the west of Parcels B and C, and north of the proposed University of Hawai'i West O`ahu (“**UHWO**”) campus. It is bordered by State land to the west, Farrington Highway to the south, Kualaka`i Parkway (formerly known as the North-South Road) to the east, and the H-1 Freeway to the north.

324. Parcel B, consisting of 447.592 acres, is located north (mauka) of Parcel C and Farrington Highway, bordered to the west by land proposed for multi-family residential use by

the Hawai'i Public Housing Authority (“**HPHA**”) (formerly known as the Housing and Community Development Corporation of Hawai'i), to the south by Farrington Highway, to the east by Kunia Road, and to the north by the H-1 Freeway. An outparcel along Farrington Highway used by the Hawaiian Electric Company (“**HECO**”) is not included in the Petition Area.

325. Parcel C, consisting of 1,025.635 acres, is located south (makai) of Farrington Highway. It is the largest of the three parcels, and is bordered by Kualaka'i Parkway to the west; State Department of Hawaiian Home Lands (“**DHHL**”) landholdings, 'Ewa Villages, and the 'Ewa Villages Golf Course to the south; Old Fort Weaver Road and Fort Weaver Road to the east; and Farrington Highway to the north. There are two outparcels excluded from the Petition Area along Farrington Highway: one near the UHWO campus and Kualaka'i Parkway, which is proposed for multi-family residential use by the HPHA; and the other being used by the BWS. There is also another triangular 1.301-acre outparcel along the southern portion of Parcel C, which is within the Project site boundary, but excluded from Petition Area.

326. The Petition Area is owned in fee simple by Petitioner.

327. The Petition Area is currently located within the State Agricultural Land Use District. The majority of lands that surround the Petition Area are within the State Urban Land Use District. The existing surrounding residential developments include: Waipahu Town to the northeast; Honouliuli and West Loch Estates to the east; and 'Ewa Villages and 'Ewa Villages Golf Course to the south. The vacant lands west of the Petition Area are currently being developed by UHWO and DHHL. The lands to the north of the Petition Area above the H-1 Freeway are within the State Agricultural Land Use District, however, fall outside of the City's 'Ewa DP Urban Growth Boundary.

328. The Petition Area has been used primarily for agricultural purposes, and was previously leased to the `Ewa Plantation Company/Ewa Sugar Company and the O`ahu Sugar Company for sugarcane cultivation. A majority of the Petition Area is currently leased for agricultural purposes. These existing land uses include, but are not limited to: diversified agriculture; pasturage; grazing for livestock; cultivation of seed corn and other agricultural crops; and agricultural research.

329. The Petition Area is gently sloped, with most of the slope occurring along the portion of the site along Old Fort Weaver Road or in Honouliuli Gulch. The slope of Parcel A is 3 percent; the slope of Parcel B is between 1.9 percent and 3.2 percent; and the slope of Parcel C is 1.4 percent.

330. Average annual daily minimum and maximum temperatures in the Petition Area are 65 and 84 degrees Fahrenheit, respectively. The annual prevailing wind direction for this area of O`ahu is east northeast about 40 percent of the time at approximately 10 knots (12 miles per hour). The `Ewa Plain experiences light rainfall with a mean annual precipitation of about 20 inches per year, most of which occurs between the months of November and April.

331. The Flood Insurance Rate Map designates the majority of lands within the Petition Area as Zone "D" (areas of undetermined, but possible, flood hazards). A very small portion of Parcel C near Honouliuli Stream is located in Zone AE (areas inundated by 1 percent annual chance flooding, for which base flood elevations have been determined) and Zone X (areas outside of the 0.2 percent annual chance floodplain). A portion of Parcel B around Honouliuli Stream is located in Zone A (areas inundated by 1 percent annual chance flooding, for which no base flood elevations have been determined) and Zone X. The Petition Area is outside of the tsunami inundation zone.

**C. PROPOSAL FOR RECLASSIFICATION**

**1. PROJECT PROFILE**

332. The Petitioner proposes the development of a mixed-use, transit-ready community, including residential, business, and commercial areas; and transit stations, schools, parks, farms, open space, and roads.

333. The Project is planned to have two transit stops; the UHWO Station and the Ho`opili Station, and is being designed as a mixed-use community ready to provide high-capacity transit stops to encourage walking/bicycling and the use of public transportation to supplement Ho`opili's traditional neighborhood design.

334. The Project proposes a total of approximately 11,750 residential units featuring a variety of housing options, including: low-density single-family homes; medium-density, including "live-work" townhouses and semi-attached homes; higher-density residential condominiums, senior housing, and rental homes.

335. The approximate breakdown of the Project's residential units are as follows:

- (1) 5,100 low to medium-density live-work residential homes on approximately 535 acres of land,
- (2) 5,200 medium density mixed-use homes on approximately 340 acres of land, and
- (3) 1,450 high density mixed-use homes on approximately 50 acres of land.

336. The Project will deliver affordable housing pursuant to the City's guidelines for affordable housing.

337. The Project also proposes 2.96 million square feet of business/commercial space, 0.8 million square feet of industrial space, and approximately 400 acres of public facilities, roads, and open space.

338. The Project will have approximately 15-20 neighborhood parks, each about an acre in size. The Project is also planned to have a 20-acre District Park sited on the eastern side of the Petition Area.

339. Petitioner entered into an Education Contribution Agreement with the DOE in November 2009, to provide five public school sites (three elementary schools, one middle school, one high school) within the Project, totaling 94 acres, which is over 30 acres in excess of what is required as its land fair-share. The 30 additional acres are provided in lieu of the cash fair share contribution for construction. Land and construction amounts are calculated on a per eligible unit basis, so depending on the number of eligible residential units actually built, DOE could have to pay D.R. Horton for some of this land. The exact location, size, and shape of the schools will be subject to the approval of the DOE.

340. Petitioner's direct investment for the Project is estimated to be approximately \$4.6 billion in Year 2007 dollars.

## **2. DEVELOPMENT TIMETABLE, PHASED DEVELOPMENT PLAN**

341. Project development and implementation is scheduled to begin following approval of the necessary land use entitlements, reclassification, rezoning, subdivision, and permits, with an anticipated Project build-out in or around 2030.

342. Development of the Project is anticipated to take more than ten years. The Project is proposed to be developed gradually in two phases, as described and depicted in the "Ho`opili Development Summary" (Petitioner's Hearing Exhibit "2"), the Ho`opili Phased Development Plan, and "Development Phasing Map for Ho`opili" (Petitioner's Hearing Exhibit 87B, "**Ho`opili Phasing Map**").

343. Phase 1 of the Project is proposed to consist of approximately 940 gross acres including roadways, schools, parks and open areas, with the net developable acreage at approximately 700± acres. Phase 1 is planned to encompass approximately 5,800 residential units, over two million square feet of retail/commercial/office space, and approximately 0.8 million square feet of light industrial development within a proposed business/research and development park. Phase 1 is broken down into three sub-phases: Phases 1A (385 acres); 1B (366 acres); and 1C (189 acres), as depicted in the Ho`opili Phasing Map.

(1) Phase 1A, which is proposed to be constructed during years 1-7 of the development process, is planned to include approximately 1,500 residential units and approximately 1.3 million square feet of commercial space.

(2) Phase 1B, which is proposed to be constructed during years 5-10 of the development process, is envisioned as a primary employment generating area within the Project along Farrington Highway, which is appropriate for higher density housing. Phase 1B is planned to include approximately 1,800 residential units and approximately 1,235 ksf of commercial space. Much of the Project's commercial and industrial jobs will be generated by Phase 1B.

(3) Phase 1C, which is proposed to be constructed during years 4-10 of the Project development process, is planned to include approximately 2,500 residential units and approximately 500 ksf of commercial space. The Honolulu Rail Transit's UHWO Station and its TOD zone are located within the Phase 1C property, and the majority of development will focus on higher density residential, and TOD-oriented commercial uses complementary to UHWO.

344. Phase 2 of the Project, which is proposed for years 11-20 of the development process, consists of approximately 586 gross acres and encompasses the remaining approximately 5,950 residential units and approximately 0.7 million square feet of

retail/commercial/office space. Phase 2 will include the Honolulu Rail Transit's Ho`opili Station and the adjoining TOD zone, the Ho`opili town center, and the District Park.

### 3. BACKBONE INFRASTRUCTURE

345. Initial development of the Project is proposed to start with the construction of its major backbone infrastructure, as depicted in Petitioner's Hearing Exhibit 1 entitled "Ho`opili Development Plan, Backbone Infrastructure." ("**Backbone Infrastructure Map**"). The backbone infrastructure will provide transportation access and water, sewer, drainage, and electric/cable/telephone utilities to and throughout the Petition Area and will include of offsite water and sewer utility systems within secured easement areas and transmission corridors.

346. Specifically, the "Backbone Infrastructure" for the Project will include:

- (1) "**Spine Road**" - Approximately 6,500 linear-foot road running mauka-makai from Farrington Highway to East-West Road, including the stub of the East-West Road from the Project boundary with DHHL. The Spine Road will contain much of the infrastructure that will be used to provide utilities to the Project, such as water, sewer, drainage, cable and electrical;
- (2) "**Campus Drive**" - Approximately 2,000 linear-foot portion of the collector road between the Spine Road to Kualaka`i Parkway, which will extend into UHWO's main entrance;
- (3) Major water transmission line from water storage located mauka of the Petition Area; and
- (4) Major wastewater collection lines extending to the makai side of the Petition Area.

347. The Ho`opili Phased Development Plan does not constitute a "change" to the Project that would warrant a supplemental EIS under HRS Chapter 343 and HAR § 11-200.

348. The Ho`opili Phased Development Plan (and the accompanying Development Phasing Map) explain the development process in more detail by setting forth what will occur in the two phases, and thus, does not change the Project or its impacts in any way.

349. The Office of Environmental Quality Control (“OEQC”) determined that a supplemental EIS was not warranted for the Project based on the Ho`opili Phased Development Plan and the 2020 TIAR/H-1 Freeway Analysis.

**4. HO`OPILI URBAN AGRICULTURE INITIATIVE**

350. The Petitioner proposes permanent inclusion of continued agricultural opportunities into its residents’ everyday lives.

351. The Petitioner, through the Ho`opili Urban Agriculture Initiative, proposes to provide the opportunity to farm over 15% of the developable acreage at full build-out in the following three components. The Ho`opili Urban Agriculture Association (“HUAA”), a non-profit association will be formed to control the Civic Farms and Community Farms.

(1) Civic Farms: Approximately 159 acres of low-slope land will be held in perpetuity for agricultural uses for commercial agricultural production. Petitioner will provide the utility infrastructure, such as water and electrical conduit to the Civic Farm areas. The DOA will inspect the parcels to ensure that the lands can be practicably used for an economically successful commercial farming operation. If the land does not meet the DOA’s approval, Petitioner will provide alternate suitable land within the Project to ensure that there are 159 total acres of civic farming.

(2) Community Farms (also referred to as Community Gardens): A total of approximately 8 acres of land will be provided throughout the Project as Community Farms, on which residents can practice sustainable farming methods and reap the benefits of homegrown fruits and vegetables. Each Community Farm will be approximately 0.5 to 1 acre in size and will be located within walking distance from residential neighborhoods throughout the Project.

(3) Steward Farms: An additional 84 acres will be available for residential agriculture cultivation, mainly in the single-family and duplex homes, lower-density areas of the Project. Steward lots are private farming areas within single-family lots that could be aided and supported by professionally managed farm services, at the option of the owner. The irrigation systems for single-family homes in the Project will be built and designed to accommodate steward farming if the owner chooses, and all single-family homeowners will have the opportunity to choose to implement such use.

352. The Ho`opili Urban Agriculture Initiative does not change the Project substantively in size, scope, intensity, use, location, or timing, to the extent it becomes an essentially different action. The Civic Farms will be located in areas slated in the Original Conceptual Land Use Plan (Petitioner's Hearing Exhibit 11B) as "Open Space or buffer zone," and the Community Gardens and Steward Farms are planned to be included in areas slated as "parks" or "residential" in the Original Conceptual Land Use Plan. Moreover, the Petition Area is currently being cultivated by four agricultural enterprises. Accordingly, the existing base condition for the Ho`opili EIS already contemplates agricultural use of the Petition Area.

**5. HO`OPILI SUSTAINABILITY PLAN**

353. The proposed Project is being planned as a sustainable community. The residents will be able to produce their own energy, grow their own food, walk or bike anywhere – to work, to school, or to shop, and utilize the Honolulu Rail Transit.

354. Petitioner has agreed to perform either the mitigation measures in the Ho`opili Sustainability Plan, or an equivalent or better mitigation.

**D. PETITIONER'S FINANCIAL CAPABILITY TO UNDERTAKE THE PROPOSED PROJECT**

355. Petitioner has the necessary financial ability to carry out the representations and commitments relating to the development of the Project. Petitioner will use cash, internally generated cash flow, and capital from its parent company, D.R. Horton, Inc.'s various financing sources to fund the Project. D.R. Horton, Inc.'s Form 10-K Annual Report reflect total assets of \$5.94 billion, total liabilities of \$3.32 billion, and total stockholders' equity of \$2.61 billion as of September 30, 2010.

**E. NEED FOR THE PROPOSED DEVELOPMENT**

356. Mikiko Corporation prepared reports entitled "Market Assessment for Ho`opili, Island of Oahu" (dated March 2007), "Market Assessment Update for Ho`opili" (dated February 2009), and a letter entitled "Re: Ho`opili market absorption under phased development (dated December 2, 2010).

357. O`ahu has an acute shortage of housing suitable for primary residents, and this shortfall is projected to increase by 2030 based on growth projections. Even with complete buildout of all identified planned and entitled units as of 2010, the shortfall will be approximately 29,000 units by 2030.

358. DPP's most recent long-range projections are that an average of 1,800 units a year will be needed in Central O`ahu and `Ewa to successfully divert growth away from the country areas and from Windward and the East Honolulu Sustainable Community areas.

359. The City recently completed its evaluation of implementation of the `Ewa DP adopted in 1997. As part of that review, DPP estimated that as of July 2010, projects in the `Ewa DP area ("Ewa DPA") had a capacity to build approximately 34,000 units. However, not all of that capacity is immediately available or even likely, due to a number of factors. The 34,000

number counts all types of potential housing units, not just the units available as primary housing. The number includes secondary homes, timeshares, and resort units.

360. The Project's proposed 11,750 units will be a significant contribution towards addressing this unmet need. The Project can help meet these needs, as it is located near the emerging Second City of Kapolei and along the major transportation corridor between Kapolei and the existing urbanized areas of O'ahu. Moreover, the compact development style and primary resident-orientation of the Project suggest that it would appeal to a broad range of potential future buyers and renters, including affordable and workforce housing.

361. The Project is estimated to close an average of 650 residential units per year, and complete absorption of the Project's 11,750 residential units is projected to occur between 2013 and 2030. Broken down into two phases, the projected absorption is 725 units per year for Phase 1, and 595 units per year for Phase 2, reflecting the rapid absorption in the first phase and slower absorption in the second.

362. There exists sufficient demand of 3.4 million square feet to absorb the Project's proposed 2.96 million square feet of business/commercial use and 0.8 million square feet of light industrial/business uses. It is anticipated that lands for the proposed 2.235 million square feet of commercial space in Phase 1, and essentially all of the industrial-commercial mixed use ("IMX") area could be sold by 2020. The remaining 725 ksf of commercial retail and office space is expected to be absorbed during Phase 2, with portions developed as live-work or mixed-use spaces in conjunction with residential development.

363. Without the development of the Project, there could be negative impacts such as constraint on the Island's population and economic growth, which may cause: (1) displacement of development activity away from the planned Kapolei region and back into other areas of

O`ahu or the neighbor islands less suited to accommodate significant growth; (2) worsening shortage of primary housing on O`ahu; (3) accelerated price pressures on housing especially in `Ewa and Kapolei; (4) higher prices associated with commercial and industrial properties, and (5) a less efficient and cost effective transit system. There will also be a (6) significant loss of potential jobs creation in the East Kapolei area, along with the economic and fiscal impacts those would support.

**F. ECONOMIC IMPACTS**

364. Mikiko Corporation prepared a report entitled “Economic and Fiscal Impact Assessment for Ho`opili, Island of O`ahu” (dated August 2007).

365. The Project will generate significant, positive economic and fiscal benefits for the City and the State.

366. The Project will provide a variety of employment opportunities and contribute to the economic development of the `Ewa region and the island of O`ahu.

367. During buildout, the Project could generate an estimated 2,300 to 3,300 full-time equivalent (“FTE”) jobs per year, with \$131 to \$178 million in personal earnings per year.

368. At full buildout, the Project could be expected to accommodate 7,050 FTE direct operations-related jobs, of which 6,800 will be within the Project. Of the 7,050 FTE jobs at full buildout, 1,550 will be “net new” FTE employment opportunities, which represent opportunities that would not have existed if the Project were not developed. These net new positions could be expected to generate \$109 million per year in payroll.

369. The Project is estimated to generate 2,170 in-migrants to the City, of which 1,020 may also be new to the State, including previous island residents who may choose to return because of new career or other opportunities generated by the Project.

370. The Project is expected to generate 650 FTE part-time residents from neighbor islands and outside the State.

371. The Project may require some commitment of State funds and resources, such as construction, repair and maintenance of roads and schools. However, the cost of these public services will be offset by the revenues to the State and City that will be generated by the Project.

372. At full buildout, the Project is expected to generate \$27.5 million net additional operating revenues per year to the City, and \$19.9 million in net additional operating revenues per year to the State. Even when considering additional operating expenses to support the Project, the revenue-to-expenditure ratio is expected to be 8.5 through 10 to 1 at the City level, and 3.8 through 4.9 to 1 at the State level.

373. The economic impact and fiscal analysis did not include additional contributions by Petitioner to public infrastructure and facilities, such as school sites, public parks, and offsite infrastructure improvements, and would have increased the net public benefits of the Project had they been considered.

**G. SOCIAL IMPACTS**

374. Belt Collins Hawaii Ltd. prepared a report entitled “Social Impact Assessment, Ho’opili, ‘Ewa, O’ahu, Hawai’i” (dated November 2007). The report reviewed the historical background of the communities and social change found on the ‘Ewa plain, an account of the concerns that have been voiced by community stakeholders in dealing with social change in considering the Project, and an account of potential social impacts of the Project.

375. The Project’s major social impact will be the development of new housing units. It will hence address an island-wide social need.

376. The Project will contribute facilities, such as schools, shopping areas, offices, a town center, and parks that will serve the larger region, as well as the Project's residents. This will contribute to the development of a complete urban community in `Ewa.

377. As a mixed-use community, the Project will include a wide range of jobs near the `Ewa residents' homes. With jobs near homes, commute times are shortened and the quality of life of all family members is improved.

378. Based on review of a wide variety of issues relating to the development, such as job creation, transit orientation and pedestrian access within the Project, bicycle friendly and bus friendly organization in the Project, new retail and community civic areas, and parks in the Project, the Project will not have a significant negative socio-economic impact on the region.

379. There are some localized impacts, such as traffic congestion and construction dust. These will be managed and mitigated in the Project.

380. As a transit-oriented and pedestrian-oriented development, the Project will have smaller impacts on traffic congestion than would a conventional subdivision. Traffic congestion will also be lessened through improved connectivity and new roadways. State and City regulations limit noise and dust from construction activities, and the Project's builders will conform to those regulations and work with government agencies to coordinate work on or next to major roads, limiting the time in which drivers will be slowed down by construction zones.

#### **H. IMPACTS UPON RESOURCES OF THE AREA**

381. Petitioner has agreed to perform either the mitigation measures recommended in the EIS or an equivalent or better mitigation in consultation with the appropriate State and City agency.

##### **1. FLORA**

382. LeGrande Biological Surveys Inc. prepared a study entitled “Botanical Resources Assessment for the Ho`opili Project, Honouliuli, Oahu” (dated August 2006).

383. Most of the Petition Area is currently plowed and devoid of trees and brush. Other lands within the Petition Area are uncultivated brushland and/or pastureland. The vegetation is typical of agriculturally cultivated cropland and/or highly disturbed weedy scrub. Little of the original native vegetation remains after over a century of intensive sugarcane agriculture and periodic burning. Native species have been replaced by aggressive non-native plant species and agricultural crops. Areas within the Petition Area that were observed to have habitat suitable for native species were surveyed on a finer scale and revisited periodically after rains to survey for rare native Hawaiian species, such as the *Abutilon menziesii* known to occur in the `Ewa plains area both historically and at present.

384. No federally or state listed endangered or threatened native plant species, or candidate endangered species were encountered on the Petition Area. As a result, the reclassification and development of the Petition Area will not have an adverse impact on botanical resources.

## 2. FAUNA

385. Rana Production, Ltd. prepared two studies for the Project, entitled “A Survey of Avian and Mammalian Resources of the Ho`opili Development Project, `Ewa District, O`ahu, Hawaii – Main Parcels” (dated February 11, 2008) and “A Survey of Avian and Mammalian Resources for the Ho`opili Development Project, `Ewa District, O`ahu, Hawaii – Makai Detention Site” (dated February 11, 2008). There were no avian or mammalian species designated as a threatened or endangered species by either the State of Hawaii or the federal government within the Petition Area.

386. It is possible that one or more of the four endangered waterbird species, Hawaiian Duck/Mallard Duck hybrids, Common Moorhen, Hawaiian Coot, and Black-necked Stilt (which currently breed in the Honouliuli Unit of the Pearl Harbor National Wildlife Refuge, located less than a sixth of a mile north of the Makai Detention Site) may utilize the proposed detention basin if sufficient water collects to allow ponding. There may be periodic temporary disturbance to the waterbird species if construction occurs within the proposed detention basin (to enlarge it) or if an outlet is allowed. However, while the proposed detention basin is located near the Refuge, there will be no suitable habitat for these waterbirds in the Makai Detention Site, as the proposed makai drainage will rarely contain standing water. Therefore, the Makai Detention Site is unlikely to become a suitable habitat for the waterbirds.

387. The Project will not have an adverse impact on native avian or mammalian species. Any disturbance will be of a temporary nature, and no mitigative measures are required.

### **3. ARTHROPODS**

388. Pacific Analytics, L.L.C. prepared a report entitled “Arthropod Survey and Assessment, Ho`opili Project, `Ewa District, O`ahu, Hawai`i” (dated May 2008).

389. No arthropod species listed as endangered, threatened, or currently proposed for listing by either the State of Hawaii or the federal government were found within the Petition Area. As such, the reclassification and development of the Petition Area will not have an adverse impact on arthropod resources.

### **4. ARCHAEOLOGICAL AND HISTORICAL RESOURCES**

390. Cultural Surveys Hawai`i, Inc. (“CSH”) prepared “An Archaeological Inventory Survey for the East Kapolei Project, Honouliuli Ahupua`a, `Ewa District, Island of O`ahu, TMK: (1) 9-1-010:002, 9-1-017:004, 059, 072; 9-1-018:001, 004; 9-2-001:001” (dated February 2006) and “An Archaeological Inventory Survey for the Ho`opili Project, Project, Honouliuli

Ahupua`a, `Ewa District, Island of O`ahu, TMK: (1) 9-1-010:002, 9-1-017:004, 059, 072; 9-1-018:001, 004; 9-2-002:004, 005” (dated July 2006) (“**July 2006 AIS**”).

391. The July 2006 AIS documented five historic properties identified as SIHP Nos. 50-80-12-4344 features A-G (three iron pipe features and four sugarcane cultivation/irrigation features), 50-80-12-4345 (Ewa Plantation Railroad Berm), 50-80-12-4346 (Northern Pumping Station), 50-80-12-4347 (Central Pumping Station), and 50-80-12-4348 (Southern Pumping Station). All five sites are located near Old Fort Weaver Road, and well away (and below the bluff) from the main Petition Area. All five sites were assessed as eligible for the State Register of Historic Places under Criteria C and D.

392. Sites Nos. 50-80-12-4345, -4346, -4347, and -4348 were recommended for preservation as historic properties for their exemplary masonry work. Site No. 50-80-12-4344 was not recommended for preservation, as its features were either destroyed or already adequately recorded.

393. The State Historic Preservation Division (“**SHPD**”) concurred with CSH’s significance assessment of the historic properties and preservation recommendations.

394. CSH subsequently prepared the “Preservation Plan for SIHP #s 50-80-12-4345, -4346, -4347 & -4348 within the Ho`opili Project, Honouliuli Ahupua`a, `Ewa District, Island of O`ahu, TMK: (1) 9-1-010:002, 9-1-017:004, 059, 072; 9-1-018:001, 004; 9-2-002:004, 005” (dated June 2007) (“**Ho`opili Historic Properties Preservation Plan**”), which ensures the proper protection and care of the four historic properties. The reclassification and development of the Petition Area will have no adverse impact on the preservation and maintenance of the identified sites; but rather, the Project will have a positive effect on historic resources, as it

involves specific commitments to implement preservation measures protecting the four historic resources.

395. The July 2006 AIS also identified four historic habitation areas that remain of interest within the Petition Area: Honouliuli Taro Lands; Kapalani Roman Catholic Church; Pipeline Village; and Drivers/Stable Villages. These areas were not recommended for preservation, as no subsurface remains were identified. However, a “Final Archaeological Monitoring Plan for Ho`opili Project Parcels, Including Four Habitation Areas, Honouliuli Ahupua`a, `Ewa District, Island of O`ahu, TMK: 9-1-017: 004, 059, 072; 9-1-018: 001, 004” (dated July 2007) (“**Ho`opili Archaeological Monitoring Plan**”) was prepared, which recommends a combination of on-site and on-call archaeological monitoring with the results to be reported in a monitoring report for the review and approval of the SHPD.

396. SHPD concurred with the Ho`opili Archeological Monitoring Plan. The reclassification and development of the Petition Area will have no adverse impact on the four areas of historic habitation that remain of interest, as impacts will be appropriately mitigated through the Archaeological Monitoring Plan.

397. In summary, SHPD concurs with CSH’s mitigation recommendations, which include: (1) no further archaeological work at Site No. 50-80-12-4344, (2) preservation of Site Nos. 50-80-4345, -4346, -4347, and -4348, and (3) archaeological monitoring in the vicinity of the four areas of historic habitation (Honouliuli taro lands, Kapalani Catholic Church, Pipeline Village, and Drivers/Stable Village).

## **5. CULTURAL RESOURCES**

398. CSH also prepared a report entitled “Cultural Impact Assessment for the Ho`opili Project, Honouliuli Ahupua`a, `Ewa District, Island of O`ahu, TMK: [1] 9-1-010:002; 9-1-017:004 & 059; 9-1-018:001, 004 & 072; and 9-2-001:001 (por)” (dated December 2006) and a

Revised “Cultural Impact Assessment for the Ho`opili Project, Honouliuli Ahupua`a, `Ewa District, Island of O`ahu, TMK: [1] 9-1-010:002; 9-1-017:004 & 059; 9-1-018:001, 004 & 072; and 9-2-001:001 (por.)” (dated December 2006) (“**Ho`opili CIA**”). No contemporary or continuing cultural practices currently occur within the Petition Area.

399. The Ho`opili CIA was prepared pursuant to the Guidelines for Cultural Impact Assessments of the Office of Environmental Quality Control, as well as guidelines in the National Register Bulletins of the U.S. Department of the Interior.

400. The accessibility of Honouliuli lands, including the Petition Area, to the Hawaiians for gathering or other cultural purposes was radically curtailed during the second half of the nineteenth century. By the 1870s, herds of cattle grazing across the `Ewa Plain likely denuded the landscape of much of the native vegetation. Subsequently, during the last decade of the nineteenth century, the traditional Hawaiian landscape was further distorted by the introduction and rapid development of commercial sugarcane cultivation. Throughout the twentieth century, sugarcane cultivation was the dominating land use activity within the Petition Area. Cane cultivation – and the sense that the Petition Area was private property – restricted access inside the Petition Area to employees of the plantations.

401. In the process of identifying cultural concerns and potential impacts of the Project, CSH consulted with the SHPD, the Office of Hawaiian Affairs, members of the O`ahu Island Burial Council and *kama`āina and kūpuna* of the area including some 22 parties. They were not aware of any ongoing cultural practices, archaeological sites, trails, or burials within the Petition Area. Most of the people contacted mentioned that the Petition Area was heavily altered by plantation activities and that there were no cultural properties or practices there.

402. No burials have ever been identified within the Petition Area to CSH's knowledge. It is possible that a portion of the former Kapalani Roman Catholic Church (dating from the 1840s to 1880s) was within the central portion of the east edge of the Petition Area, and it is possible there was an associated cemetery. A small portion of the Honouliuli Taro Lands Land Court Awards ("LCAs") lie within the central portion of the east edge of the Petition Area and these LCA lands are understood to have a heightened probability of burials. However, none of the interviewees knew of any burials in the Petition Area or in the vicinity.

403. The Project will not have any adverse effect on the exercise of native Hawaiian traditional and customary rights that would require protection under Article XII, Section 7, of the Hawai'i State Constitution. However, as a precautionary measure, the Ho'opili Archaeological Monitoring Plan addresses the possibility of any burials that should be found during construction, recommending that personnel involved in future development should be informed of the possibility of inadvertent cultural finds, and should be made aware of the appropriate notification measures to follow.

*(a) Karst Systems*

404. Michael Lee (Sierra Club's expert witness) testified that there are "culturally significant sites within the Petition Area, namely the extensive underground and interconnected 'karst' or cave system, which is part of a burial complex of my Hawaiian family."

405. The burials referred to by Mr. Lee and his limu gathering practice occur at One'ula Beach, Ewa, which is not located within the Petition Area.

406. Mr. Lee testified that part of the karst system "goes up to the mountains and it continues in a cave system called Pohukaina," to the windward side of the island. He also testified that the depth of the karst system can be 60-70 feet.

407. Mr. Lee submitted a map overlay which depicts the location of where he believes the karst systems exist as Attachment 10 to Sierra Club's Exhibit 53B ("**Lee Karst Alignment Overlay**").

408. The Lee Karst Alignment Overlay indicated that two of the alleged karst alignments transect gulches within the Petition Area that are 55 to 65 feet deep, with the bottom being approximately 70 feet deep. Mr. Lee confirmed that there is no evidence that indicates the existence of karst caves in these gulches.

409. According to Petitioner's hydrology expert who has drilled or supervised the drilling of more than 60 wells in the 'Ewa region since the early 1980s, it is unlikely that a karst system exists beneath the Petition Area. During the drilling of more than 60 wells in the 'Ewa region, no karsts or karst cave systems were ever encountered in the bore holes, nor were there underground aqueducts.

410. Karsts are vertical or near-vertical cavities formed when slightly acidic rainfall ponds on limestone surfaces and dissolves it. Some of the karsts are deep enough to reach the underlying brackish groundwater, however, acidic rainfall loses its ability to dissolve limestone when it hits the groundwater table because the groundwater neutralizes its acidity. As such, extensive lateral solution cavities do not exist in the 'Ewa area.

411. The permeability factor of the 'Ewa south shoreline and land several thousand feet inland is about 40,000 feet per day. However, as you move more inland, the character of the limestone changes into less permeable deposits. As such, most of the karsts seen in 'Ewa are located approximately 3- or 4,000 feet into the shoreline. Since the Petition Area lies upon tens of feet of alluvium sitting on the top of coral, it is unlikely that karsts would exist underneath. In

the unlikely situation where one actually existed, alluvium would have filled it, thereby eliminating the possibility for it to become a conduit for water.

412. The Ko`olau Mountains were created by intrusive volcanic features referred to as dikes. These dikes are essentially impermeable, and thereby create an absolute hydrologic boundary that separates the groundwater between the windward and leeward side. Thus, there is no natural way for the water to flow from the windward side of the Ko`olau Mountains to the leeward side. There is a hydrologic disconnect between groundwater in the flank lava flows in Central O`ahu and the limestone which comprises the `Ewa Caprock in the Petition Area. Recent data demonstrates that groundwater from the volcanics is not discharging into the inland margin of the limestone beneath the Petition Area.

*(b) Limu Practice*

413. Mr. Lee also testified that the “fresh water running through the cavern system exits into the sea through water holes at the shoreline at One`ula in Ewa[,]” and that “any disturbance in the fresh water source or water conditions at the seashore at One`ula will adversely affect and could destroy the limu and thereby disturb my cultural practice or make such cultural practices impossible.”

414. Drainage from the Project will not alter the marine environment along `Ewa`s south shore, including One`ula Beach. With regard to surface water, the stormwater retention/detention mandate imposed by the City for all projects draining into Kaloi Gulch makes it impossible for runoff from the Petition Area to reach the `Ewa shoreline. For example, during the November 1996 50-year flood which occurred when only a few of the aforementioned retention/detention basins were in place, the runoff from the mauka areas never surpassed Geiger Road. As a practical consequence, runoff from the Petition Area will simply never reach `Ewa`s

south shoreline, and therefore, development of the Petition Area will not alter the `Ewa south shoreline, including One`ula Park, in any way.

415. The Project will not affect the groundwater recharge to the `Ewa Caprock, and thus will not alter or decrease the discharges thereof into `Ewa's south shore. Creation of impermeable surfaces by development does increase surface runoff. However, the increased runoff will be directed into retention/detention basins throughout and beyond the Project. Seepage of collected runoff in these basins will recharge the `Ewa Caprock just as effectively as the present ongoing recharge. As such, the Project will not alter the amount of groundwater that ultimately migrates to the shoreline on the `Ewa shore.

## **6. AGRICULTURAL RESOURCES**

416. Decision Analysts Hawai'i, Inc., prepared a study entitled "Ho`opili: Impact on Agriculture" (dated February 2008) ("**Plasch Study**") and "Ho`opili: Updated Information on Agricultural Impacts" (dated January 2009) ("**Plasch Study Update**").

417. The Petition Area consists of 19 soil types plus former reservoir sites: (EaB) `Ewa silty clay loam, 3-6% slopes; (FL) Fill land, mixed; (HLMG) Helemano silty clay, 30-90% slopes; (HxA) Honouliuli clay, 0-2% slopes; (HxB) Honouliuli clay, 2-6% slopes; (Kfb) Kaloko clay, noncalcareous variant; (K1aB) Kawaihāpai stony clay loam, 2-6% slopes; (K1A) Kawaihāpai clay loam, 0-2% Slopes; (K1bC) Kawaihāpai very stony clay loam, 0-15% slopes; (KmaB) Keaau stony clay, 2-6% slopes; (KyA) Kunia silty clay, 0-3% slopes; (KyB) Kunia silty clay, 3-8% slopes; (KyC) Kunia silty clay, 8-15% slopes; (MuB) Moloka`i silty clay loam, 3-7% slopes; (MuC) Moloka`i silty clay loam, 7-15% slopes; (WkA) Waialua silty clay, 0-3% slopes; (W) Water (former reservoir); (WzA) Waipahu silty clay, 0-2% slopes; (WzB) Waipahu silty clay, 2-6% Slopes; and (WzC) Waipahu silty clay, 6-12% slopes.

418. The soils of the Petition Area are rated as follows under the 1972 Land Capability Grouping by the U.S. Department of Agriculture Natural Resources Conservation Service (“**NRCS Rating System**”), the Agricultural Lands of Importance to the State of Hawai‘i System (“**ALISH Rating System**”), and the University of Hawai‘i Land Study Bureau’s Overall (Master) Productivity Rating System (“**LSB Rating System**”):

(1) NRCS Rating System. Approximately 1,045.6 acres (67.3%) of the Petition Area have soils that are rated I; approximately 226.9 acres (14.6%) have soils that are rated IIe, approximately 166.3 acres (10.7%) have soils rated IIIe, approximately 18.6 acres (1.2%) have soils rated IIIw; approximately 4.7 acres (0.3%) have soils rated VI; approximately 68.4 acres (4.4%) have soils rated VIIe; and about 23.3 acres (1.5%) have soils that are not rated because it is fill land or land associated with former reservoirs.

(2) ALISH Rating System. Approximately 1,317.1 acres (84.8%) of the Petition Area have soils that are rated Prime; about 155.4 acres (10%) rated Other; and about 80.8 acres (5.2%) are Unclassified.

(3) LSB Rating System. Approximately 517.4 acres (33.3%) of the Petition Area have soils rated A, approximately 890.3 acres (57.3%) are rated B, approximately 7.8 acres (0.5%) are rated C, approximately 17.1 acres (1.1%) are rated D, approximately 87.0 acres (5.6%) are rated E, and approximately 34.2 acres (2.2%) are unrated.

419. Overall, approximately 1,340 ± 65 acres of the Petition Area are comprised of higher-quality soils, i.e., I and II under the NRCS Rating System; Prime under the ALISH System, and A and B under the LSB Rating System. This constitutes approximately 2.5% of the 53,039 acres of lands rated A and B under the LSB Rating System that O‘ahu had in 1972, and approximately 2.4 % of the 55,563 acres of Prime Agricultural lands that O‘ahu had in 1977.

420. In 1972, when the soils were rated by ALISH, O`ahu had 53,039 acres of A and B rated lands in the State Land Use Agricultural, Urban, and Conservation Districts. Currently, there are approximately 41,400 acres of A and B rated lands in the Agricultural District. As such, the amount of A and B rated lands that has been urbanized during the past four decades is less than 11,640 acres, or less than 22% of the 1972 figure.

421. Of the 1,525,516-acres in the Petition Area, approximately 1,027 acres were harvested for vegetables, melons and fruits in 2010, with an estimated yield of 15.3 million pounds. This represents approximately 6% of Hawai`i's production of these crops.

422. During the past four decades, the contraction and closure of sugarcane and pineapple have released farmland that can now be used for other crops. Despite the large release of land from plantation agriculture, diversified agriculture has exhibited modest growth in crop acreage. For the island of O`ahu, plantation agriculture released about 73,500 acres of farmland since 1960, while acreage in diversified crops increased only by about 2,300 acres (about 3% of the land released from plantation agriculture).

423. As of 2011, approximately 177,000 acres  $\pm$  5,000 acres of good farm land are not being used for diversified farming.

424. For the island of O`ahu, a total of approximately 42,600 acres of high-quality farmland (classified as Prime or Unique under the ALISH Rating System, or A or B under the LSB Rating System) exists outside the City's Urban and Community Growth Boundaries ("**Growth Boundaries**"), after excluding land that is under military control that is not available for farming, and land that will be used to expand the wildlife refuge near Kahuku.

425. The 2010 estimate for the total amount of land farmed on O`ahu is about 12,000 acres, consisting of approximately 9,600 acres outside the Growth Boundaries and approximately 2,400 acres within the Growth Boundaries.

426. Assuming that the farms located within the Growth Boundaries (2,400 acres) will eventually relocate to land outside the Growth Boundaries, approximately 30,000 acres (42,600 acres - 9,600 acres - 2,400 acres) of good farmland on O`ahu are currently unfarmed.

427. Currently, water from the Wahiawa Reservoir can be used to irrigate orchards and some other crops, but not vegetable and melon crops due to its R-2 water quality rating. However, upgrade to the Wahiawa Wastewater Treatment Plant (“WWTP”) is under construction by the City, and is slated for completion in October 2012. [Plash Supp. WDT, 3:17-18]. The upgrade will allow farmers to use R-1 water from the Wahiawa Reservoir to irrigate any type of crop using any type of irrigation system, and will open up the mid-level and high-level fields on the North Shore for growing vegetable crops. In the meantime, landowners and some farmers on the North Shore have reactivated and improved groundwater wells so that more fields can be irrigated with groundwater only. This has allowed some farmers to move some of their operations to the North Shore.

428. The DOA, is working to make good agricultural land available as part of its strategy to expand our agricultural industry in the State, including land for the possible relocation of the tenants of the Petition Area. Such lands include the proposed 150-acre agricultural park on Kunia Road, a 400-acre parcel off of Kunia Road held by the DLNR, and the 1,700-acre Galbraith Trust Lands currently in the process of being purchased by the DOA. The DOA is working to provide the infrastructure necessary to provide water to these lands.

429. The reclassification of the Petition Area is not inconsistent with the constitutional provision in Article XI, section 3, in that there are other lands available to address the goals in the constitutional provisions including promoting diversified agriculture and increasing food self-sufficiency. While this Project does take land out of the Agricultural District, it does provide other benefits, including jobs and housing.

430. An increasing number of farmers in Hawaii are implementing intensive farming methods, such as farming two or more crops per year; using trellises, cages or sticks to support plants; and growing plants using hydroponic farming in greenhouses, which have resulted in increasing production without requiring more land. In particular, many of the tomatoes, cucumbers, peppers, and lettuces sold in our supermarkets are grown hydroponically in greenhouses by Hawaii and mainland farmers.

431. There are disputing opinions as to whether good farm lands are or are not necessary because of hydroponics. According to some experts, hydroponics is highly capital intensive and its feasibility and profitability is unproven in Hawai'i.

432. Estimates of the amount of acreage needed to increase food self-sufficiency vary widely. The Petitioner estimates that approximately an additional 23,000 acres on O'ahu would be required for 100% self-sufficiency in fresh produce. Faculty researchers from the University of Hawai'i calculated that "near self-sufficiency" for a range of vegetables, grains, fruits, other crops, meat, and dairy would require an estimated 260,800 acres statewide.

433. Currently, approximately 15,000 acres of land is farmed statewide to produce approximately 33% of the State's fresh vegetables, melons and fruits. Therefore, achieving 100% self-sufficiency in these crops would require about 30,000 additional acres of farmland statewide. The additional land required is small compared to the estimated 177,000 acres ±

5,000 acres of good farmland that is available statewide. In addition, another 70,000+ acres could become available if shipping is interrupted to such an extent that exporting crops becomes unfeasible.

434. For the Island of O`ahu, approximately 23,000 additional acres would be required for 100% self-sufficiency in fresh produce. This estimate is high, given inter-island shipping and reduced land requirements from intensive farming.

435. The Petition Area is currently leased to: Aloun Farm, Inc. (“**Aloun Farms**”), Sugarland Farms, Inc., and Syngenta Seeds, Inc. Aloun Farms leases approximately 1,100 acres of land from Petitioner for \$213 per acre per year, and subleases a portion thereof to Fat Law’s Farm, Inc. at \$690 per acre per year. All of the lessees have, to a certain extent, replacement lands.

436. The Project is intended to be developed through 2030. As such, the Petitioner will only withdraw land from the leases on an as-needed basis for construction and as provided for in agreements with the individual lessees. The Project will gradually be developed, and Petitioner will keep agricultural activities ongoing throughout the buildout of the Project.

437. The Project will have little or no adverse impact on Hawai`i’s agricultural production, as other farmland is available on the island of O`ahu to accommodate the relocation of the existing `Ewa farms, as well as to accommodate the future growth of diversified crop farming. Land is available because of the contraction of statewide agriculture.

## 7. GROUNDWATER RESOURCES

438. Tom Nance Water Resource Engineering prepared the “Conceptual Water Master Plan for the Ho`opili Project in `Ewa, O`ahu” (dated November 2007) for the Project. (“**Ho`opili Conceptual Water Master Plan**”).

439. The Project will utilize a dual water system of potable and non-potable water. Both the potable and non-potable demand for the Project will be supplied from the Waipahu-Waiawa Aquifer System, as established by the State of Hawaii Commission on Water Resource Management (“CWRM”).

440. The sustainable yield (the amount of water that can be withdrawn from a source without impacting its quality and quantity) for the Waipahu-Waiawa Aquifer System is 104 million gallons per day (“MGD”). Current total allocations (the amount of water that the CWRM grants a user to pump on a 12-month moving average) from the aquifer is approximately 84-85 MGD. However, due to conservation measures, only 50-55 MGD of the 85 MGD is actually being pumped. As such, there is a approximately 50+ MGD of unused sustainable yield in the Waipahu-Waiawa Aquifer System.

441. Of the 85 MGD of water allocated under the Waipahu-Waiawa Aquifer, approximately 8 MGD belongs to Petitioner under Water Use Permit (“WUP”) No. 805, for agricultural water use within the Petition Area.

442. Potable Water for the Project. For potable water, the Project will require an average well supply of approximately 3.9 MGD at full build-out.

(1) The BWS will supply the Project’s potable demand from its existing sources, such as the `Ewa Shaft (EP 15 & 16), which was acquired from Campbell Estates and is currently in the process of being completed. As a condition of acquiring the `Ewa Shaft from Campbell Estate, the BWS agreed to make available approximately 12-15 MGD of potable water exclusively for development projects within the `Ewa DP area on a first-come first-serve basis. Should there not be a sufficient amount of potable water to supply all of Ho`opili’s and/or other

developments projects in the area, other sources would need to be brought online, such as additional wells in Waipahu or a desalting plant.

(2) According to the BWS, the City's construction of its desalination plants is not anticipated to occur any time soon. Desalination will depend on the timing of various development projects and the extent of when feasible groundwater is fully tapped or developed to its sustainable yield. Although the City currently hold two locations slated for its desalination plants (the Kalaeloa seawater and the BWS' Kapolei brackish water plant), it has not built them, largely because of successful conservation programs and strategies to diversify water supplies to reduce the demands in Ewa, as well as other places around the island. The more successful the City's diversification strategies are, the longer it can defer desalination into the future.

(3) Petitioner will need to modify its existing water use permit with approval from the State Commission on Water Resource Management ("CWRM") to transfer its allocation to the BWS or otherwise enable urban and non-agricultural uses of the water allocation, including use for landscape irrigation.

443. Non-Potable Water for the Project. For non-potable water, the Project will require an average well supply of approximately 1.75 MGD at full build-out. Supply will be provided from a battery of wells owned by Petitioner under WUP No. 805, commonly known as EP 5 and 6. Petitioner will apply for a change of use for the non-potable allocation under WUP No. 805 from agriculture to domestic or industrial.

444. Based on the total unused BWS allocation (approximately 50+ MGD) in the Waipahu-Waiawa Aquifer System and the projected amount of water needed to support the Project (6 MGD), there should be enough water supply for the entire development at full build-

out with incorporation of potable water, brackish non-potable and recycled water for irrigation, and advanced conservation measures.

445. The Project will have no impact on hydraulics around the Petition Area for its non-potable water system. With regard to the potable system, the Project will improve the hydraulics of the BWS system, if it is built as laid out in the Conceptual Water Master Plan.

446. Development of the Petition Area will not significantly affect the recharge of the Waipahu-Waiawa Aquifer, since a majority of the Petition Area lies above the impermeable 'Ewa Caprock. A small portion of the Petition Area along the makai side of the H-1 Freeway may contribute to the recharge of the 'Ewa Caprock; however, since it is located within a low rainfall – high evapotranspiration area with little actual recharge occurring, the effect of development will be insignificant to the recharge of the aquifer as a whole.

447. The studies indicate approximately a 10% reduction in rainfall in Hawai'i, when comparing the 30-year average ending in 1984 and 2007. The data for rain gauges in the Waipahu-Waiawa Aquifer and the adjacent Wahiawa High Level Aquifer which drains into the Waipahu-Waiawa Aquifer demonstrated a smaller reduction, in the range of 2.8% to 5.0%.

448. Studies on the effect of rainfall reduction on the sustainable yield of aquifers are still in progress. However, even if it is assumed that the Waipahu-Waiawa Aquifer's sustainable yield will be reduced to 90 MGD (a 13.6% reduction), the actual pumpage of 55 MGD would still be 35 MGD less than the aquifer's adjusted sustainable yield. Moreover, with the Petitioner's current allocation (8 MGD) under WUP No. 805 exceeding the Project's total water demand (6 MGD) by 2 MGD, the development of the Project will actually return such excess allocation to the Waipahu-Waiawa Aquifer over time. As such, even with the possible

reductions in sustainable yield caused by declining rainfall, there will still be an adequate supply of water for the Project in the Waipahu-Waiawa Aquifer.

449. With regard to hydrology, the Project is unique in that the following four factors exist: (1) there is and will be an adequate supply of water in the Waipahu-Waiawa Aquifer for the Project's potable and non-potable demand regardless of possible reduction in sustainable yield; (2) the Project will not require additional allocation from the Waipahu-Waiawa Aquifer; rather, since Petitioner's 8 MGD allocation exceeds the Project's ultimate estimated demand of 6 MGD, 2 MGD of its allocation will actually be returned to the aquifer; (3) due to its location being above the impermeable 'Ewa Caprock, the Project's impact on recharge to the Waipahu-Waiawa Aquifer will be insignificant; and (4) the Project will not impact the Pu'uloa Sector of the 'Ewa Caprock, and will not contribute surface runoff to 'Ewa's south shore and the marine environment.

## **8. SCENIC RESOURCES**

450. The Petition Area is mostly open since it is presently undergoing various forms of diversified agriculture. The visual appearance of the Petition Area will change from vacant scrub and cultivated vegetation to a landscaped mixed-use community with parks and open space. The elevated Honolulu Rail Transit, TOD, Project landscaping, and the Project's architectural design will set the visual character of the Petition Area and surrounding proposed projects.

451. Field visits were conducted from various points along the H-1 Freeway and Fort Weaver Road where "panoramic views" have been identified in the 'Ewa DP Open Space Map.

452. West Loch Golf Course presents a large stretch of open space on the western side of Fort Weaver Road and views of Project, although 2,000 feet away, will be available along this

portion of Fort Weaver Road. Planting trees along the eastern edge of the Petition Area will serve to mitigate visual impacts along Fort Weaver Road.

453. Currently, when traveling from the Wai`anae direction of the H-1 Freeway near Exit 5 (East) Kunia Road/`Ewa/Waipahu, drivers have an unobstructed panoramic view towards the Ko`olau Mountains, Pearl City, Pearl Harbor, `Ewa and the Pacific Ocean. The Petition Area will be visible from the freeway; and thus, the visual character will change from open space to a planned development community. However, drivers' views towards the Ko`olau Mountains, Pearl City, Pearl Harbor, `Ewa and the Pacific Ocean will likely remain unobstructed.

454. When traveling from further west along the H-1 Freeway, views towards the Petition Area vary as certain segments of the H-1 Freeway contain berms and dense vegetation that obstruct views. While nearly all of the Petition Area is lower in elevation than the H-1 Freeway, views makai from the H-1 Freeway are infrequent along the stretch of the H-1 Freeway between where Kunia Road and Palehua Road cross the H-1 Freeway. One unobstructed view will be the stretch of the H-1 Freeway crossing Honouliuli Gulch. Since the Petition Area will be located at a slightly lower elevation than the H-1 Freeway, this portion of the Project will be highly visible. Careful attention to the architectural character and landscape architectural design of this portion (and the remainder) of the Petition Area will mitigate the impacts to existing views.

455. The Project will not have an adverse impact to the region in regard to its visual appearances after implementing the aforementioned mitigation or precautionary measures.

## **I. ENVIRONMENTAL QUALITY**

### **1. NOISE**

456. D.L. Adams Associates, Ltd., prepared an acoustical study for the Petition Area entitled “Environmental Noise Assessment Report, Ho`opili, Ewa, Oahu, Hawaii” (dated February 2008). Terry A. Hayes Associates LLC prepared a report entitled “Noise Mitigation Report for the Hoopili Project” (dated February 11, 2009) (“**TAHA Report**”).

457. Noise will be generated by construction and earth-moving equipment during the Project’s development. However, over the life of the Project, depending where development will occur, construction noise will be relatively short-term, occur only during daytime hours, and in compliance with HAR Chapter 11-46, Community Noise Control. If construction noise is expected to exceed the maximum permissible property line noise levels set by the State of Hawaii Department of Health (“**DOH**”), a permit will be obtained from the DOH to allow the operation of vehicles, construction equipment, power tools, etc. Construction equipment, vehicles or devices will be equipped with mufflers, as necessary.

458. Over the long-term operation of the Project, several new noise generating activities which are not currently present, such as new land use and additional traffic, will be introduced. Existing properties located along Old Fort Weaver Road would experience a significant noise increase due to increased daily traffic generated by the proposed Project. This impact was acknowledged in the Ho`opili FEIS, and there are no feasible mitigation measures to reduce this offsite noise impact.

459. Ambient noise levels at the District Park located adjacent to Fort Weaver Road would exceed the U.S. Federal Highway Administration (“**FHWA**”) maximum exterior noise limit for parks of 67dBA  $L_{eq}$ . A noise barrier (e.g., an approximately 7-foot earthen berm or solid wall) constructed between the District Park and Fort Weaver Road will mitigate the impact

by reducing mobile source noise levels by at least 6 dBA. The berm may be developed with native vegetation such that it is not intrusive and it appears a part of the natural landscape

460. Ambient noise levels at residences located along Farrington Highway, H-1 Freeway, Old Fort Weaver Road and minor roadways within the Project will exceed the U.S. Housing and Urban Development (“**HUD**”) noise limit of 45 dBA  $L_{dn}$  (interior) and 65 dBA  $L_{dn}$  (exterior) noise limit for residential uses. Potential residents of units with exterior useable space within 25 feet of minor internal roadways, 125 feet of the Farrington Highway, or 350 feet of the H-1 Freeway shall be given notice of possible incompatible exterior noise levels.

461. Measures to meet the 45 dBA  $L_{dn}$  standard, such as using construction techniques/materials with a sound transmission class rating of 40 in habitable rooms/areas, the use of perimeter walls, or sound-rated interior walls between uses, or other site planning and building placement that could reduce or eliminate the light-of-sight between the noise source and residential units will be implemented to minimize interior noise levels and maintain noise levels at less than an  $L_{dn}$  of 45 dBA. If additional mitigation measures are necessary, construction of a 10-foot solid barrier (e.g., concrete) along the perimeter of the Project boundary between residential land uses and the H-1 Freeway will reduce mobile noise associated with the freeway by approximately 8 dBA.

462. According to the Hawaii State Board of Education (“**BOE**”), schools should not be located at sites where exterior noise levels exceed 65 dBA  $L_{10}$ . (In the event the exterior noise levels exceed 65 dBA  $L_{10}$ , classrooms and administration area should have air conditioning.) Schools located along Farrington Highway and the H-1 Freeway would exceed the FHWA and BOE standards. In addition, the Project would need to comply with the DOE’s Educational Specification (“**EDSPECS**”) for Elementary Schools, which states that interior

noise levels in general school spaces should not exceed 50 dBA  $L_{eq}$  and the noise level in libraries and reading rooms should not exceed 45 dBA  $L_{eq}$ .

463. Exterior learning space for schools located along the H-1 Freeway and the Farrington Highway will be located behind buildings and away from the roadways to promote a learning compatible noise environment. If necessary, an approximate 10-foot solid barrier (e.g., concrete) constructed along the perimeter of the Project boundary between educational land uses and the H-1 Freeway will reduce mobile noise associated with the freeway by approximately 8 dBA.

464. Aircraft noise due to operations at nearby Kalaeloa Airport and the Honolulu International Airport may be audible at the Petition Area. However, flights directly above the Petition Area are infrequent and the Petition Area is outside of the  $L_{dn}$  55 dBA noise contour for both airports. Therefore, a significant noise impact due to aircraft noise is not expected.

465. The proposed mitigation measures will ensure that noise-sensitive land uses associated with the Project would not be exposed to incompatible ambient noise levels. The only impact that would not be mitigated will be the off-site noise impact along Old Fort Weaver Road.

## 2. AIR QUALITY

466. B.D. Neal & Associates prepared an air quality study for the Petition Area entitled “Air Quality Study for the Proposed Ho`opili Project, `Ewa, O`ahu, Hawai`i” (dated February 2008).

467. The present air quality of the Petition Area appears to be reasonably good, based on nearby air quality monitoring data.

468. The potential short-term air quality impact of the development of the Petition Area will occur from fugitive dust during construction, and to a lesser extent, exhaust emissions from stationary and mobile construction equipment, from the disruption of traffic, and from workers' vehicles may also affect air quality during the period of construction. State air pollution control regulations require that there be no visible fugitive dust emissions at the property line.

469. Fugitive dust emissions will be controlled to a large extent by watering of active work areas, using wind screens, keeping adjacent paved roads clean, and by covering of open-bodied trucks. Other dust control measures could include limiting the area that can be disturbed at any given time and/or mulching or chemically stabilizing inactive areas that have been worked. Dust emission can also be reduced by paving and landscaping of Project areas early in the construction schedule. Monitoring dust at the Petition Area boundary during the period of construction will be considered as a means to evaluate the effectiveness of the Project dust control program. Moving construction equipment and workers to and from the Petition Area during off-peak traffic hours can mitigate exhaust emissions.

470. After construction, motor vehicles coming to and from the Petition Area could potentially result in a long-term increase in air pollution emissions in the Petition Area. However, due to factors such as replacement of older motor vehicles by newer, cleaner cars with improved emission controls, carbon monoxide concentrations in the Petition Area are predicted to actually decrease (improve) in the future. The Honolulu Rail Transit that will provide an alternative to driving motor vehicles will further help in decreasing carbon monoxide emissions. Accordingly, in 2030, even with the Project and the increase in traffic volumes, worst-case carbon monoxide concentrations in the Petition Area are predicted to decrease (improve),

compared to the present levels and should be well within both national and state standards. As such, implementing mitigation measures for traffic-related air quality impacts is unnecessary and unwarranted. Any long-term impacts on air quality in the Petition Area should be minimal.

**J. ADEQUACY OF PUBLIC SERVICES AND FACILITIES**

**1. HIGHWAY AND ROADWAY FACILITIES**

471. Wilbur Smith Associates prepared a traffic impact assessment report for the Project, entitled “Traffic Impact Analysis Report (TIAR), Ho`opili, O`ahu, Hawai`i” (dated February 2008) (“**Ho`opili TIAR**”). [Ho`opili FEIS Appendix L/Petitioner’s Hearing Exhibit 42.] DOT has requested that the Petitioner prepare a revised and updated TIAR and Petitioner has agreed to submit a revised TIAR which will meet DOT requirements.

472. The Project has been designed to reduce future residents’ reliance on private motorized vehicles.

473. The Ho`opili TIAR examined the following four traffic scenarios:

- (1) **Existing Conditions (“Scenario 1”)**, which includes the analysis of existing traffic volumes obtained from traffic counts in 2006;
- (2) **2030 Baseline Conditions (“Scenario 2”)**, which includes future transportation improvements including freeway, intersection, transit, and bicycle/pedestrian improvements that will be in place without the Project by the year 2030. Year 2030 has been selected as the future year analysis, as it represents the full buildout year of the Project. The future traffic volumes have been obtained from the Year 2030 Oahu Metropolitan Planning Organization (“**OMPO**”) Transportation Model;
- (3) **2030 Baseline Plus Project Conditions With the Honolulu Rail Transit (Scenario 3)**, which includes Project condition volumes plus traffic associated with the proposed Project under the assumption that the Honolulu Rail Transit would pass through the Petition Area; and
- (4) **2030 Baseline Plus Project Conditions Without the Honolulu Rail Transit (Scenario 4)**, which includes Project condition volumes plus traffic associated with the proposed Project under the assumption that the Honolulu Rail Transit would not pass through the Petition Area.

474. The existing roads within the vicinity of the Petition Area include the following:

(1) **H-1 Freeway:** Extends along the mauka boundary of the Petition Area, and connects the Petition Area and the `Ewa District to the central areas of Honolulu to the east and to the Wai`anae Coast to the west. The freeway provides three travel lanes in each direction through the vicinity of the Petition Area and widens to four lanes in each direction at the Kunia Interchange. The H-1 Freeway ends west of the City of Kapolei and Farrington Highway serves as the major regional roadway west of the City of Kapolei. Access to the H-1 Freeway is currently provided at the Kunia Interchange east of the Petition Area and the Makakilo Interchange in the City of Kapolei.

(2) **Farrington Highway:** Extends east-west through the Petition Area and connects the Petition Area to the Fort Weaver Road-Kunia Road corridor and Waipahu to the east, and to the City of Kapolei area to the west. It is a two-lane roadway through the Petition Area and widens to a four-lane roadway a short distance to the east and west of the Petition Area.

(3) **Kualaka`i Parkway:** A newly constructed roadway between the H-1 Freeway and the Kapolei Parkway that was completed after the publication of the Ho`opili TIAR. A diamond-type interchange was also constructed at the H-1 Freeway as part of the construction. Kualaka`i Parkway is planned for extension into the Kalaeloa Redevelopment Area to access those development areas, as well as provide additional connections to the communities along the makai sections of the Fort Weaver Road corridor.

(4) **Fort Weaver Road/Kunia Road:** Major mauka-makai roadway connecting the eastern portion of the `Ewa District to Farrington Highway and the H-1 Freeway. The portion makai of Farrington Highway is named Fort Weaver Road, and the portion mauka of Farrington Highway is called Kunia Road. At the time of the TIAR, Fort Weaver Road was a

four-lane roadway with median divider for most of its length, before narrowing to two lanes at the makai end. Since then, the section between Farrington Highway and Geiger Road was widened from four lanes to six lanes. The Kunia Road portion of the roadway continues mauka from the Farrington Highway Interchange to the H-1 Freeway as a six-lane divided roadway. Mauka of the freeway, it narrows to four lanes and then to a two-lane roadway.

(5) **Fort Barrette Road/Makakilo Drive:** Principal mauka-makai roadway serving the City of Kapolei and Makakilo. Makai of Farrington Highway, the Fort Barrette Road segment is a two-lane roadway, while the Makakilo Drive segment mauka of Farrington Highway is a four-lane roadway connecting to the H-1 Freeway and providing access to the Makakilo community.

(6) **Old Fort Weaver Road:** A two-lane collector roadway that provides access to the portion of the Honouliuli community west of Fort Weaver Road, with connections to both Farrington Highway and to Fort Weaver Road. It borders a portion of the eastern boundary of the Petition Area.

(7) **Laulaunui Street:** A four-lane east-west minor arterial roadway extending between Kaihuopaka`ai Street and Laulaunui Lane. Laulaunui Street also intersects with Fort Weaver Road.

(8) **Leoku Street:** A two- to four-lane north-south minor roadway that extends from Waipahu Street to Leokane Street and is parallel to Fort Weaver Road.

(9) **Renton Road:** A two- to four-lane east-west minor arterial roadway through the Renton Village area that connects Fort Weaver Road to the Kapolei Parkway and to Roosevelt Avenue.

475. Level of Service (“LOS”) is the standardized method for describing the quality of service and traffic flow along a roadway. Six levels of service are identified ranging from LOS A through F. LOS A is defined as little or no delay while each subsequent letter indicates worsening traffic conditions. LOS F indicates traffic conditions that may experience substantial delays and may exceed the capacity of the roadway. LOS D is usually considered acceptable for peak hour conditions and LOS E and F are undesirable.

476. Under Scenario 3 (2030 Baseline Plus Project Conditions With the Honolulu Rail Transit) of the Ho`opili TIAR, the Project is expected to introduce LOS E or F conditions at the following intersections: Farrington Highway/Fort Weaver Road North Bound Ramps (PM - LOS A to F); Farrington Highway/Leoku Street (PM – LOS D to E); Fort Weaver Road/Old Fort Weaver Road (AM - LOS B to F, PM – LOS D to F); Fort Weaver Road/Renton Road (AM/PM – LOS E to F); Kualaka`i Parkway/H-1 East Bound Ramps (PM – LOS B to F); Kualaka`i Parkway/Farrington Highway (AM – LOS D to E, PM – LOS D to F); Kualaka`i Parkway/Kapolei Parkway (PM – LOS D to E); and East-West Road/Old Fort Weaver Road (PM – LOS C to E).

477. Under Scenario 4 (2030 Baseline Plus Project Conditions Without the Honolulu Rail Transit) of the Ho`opili TIAR, the Project is expected to introduce LOS E or F conditions at the following intersections: Farrington Highway/Fort Weaver Road NB Ramps (PM – LOS A to F); Farrington Highway/Leoku Street (PM – LOS D to E); Fort Weaver Road/Laulaunui Street (PM – LOS C to E); Fort Weaver Road/Old Fort Weaver Road (AM – LOS B to F, PM – D to F); Fort Weaver Road/Renton Road (AM/PM – LOS E to F); Kualaka`i Parkway/H-1 West Bound Ramp (AM – LOS C to F); Kualaka`i Parkway/H-1 East Bound Ramp (PM – LOS B to

F); Kualaka'i Parkway/Farrington Highway (AM/PM – LOS D to F); Kualaka'i Parkway/Kapolei Parkway (AM – LOS C to E, PM – D to E).

478. The Ho'opili TIAR indicated that the Farrington Highway/Leoku Street intersection and the Fort Weaver Road/Old Fort Weaver Road intersection would be significantly impacted by the Project traffic, in combination with the forecast traffic from other new development in the area.

479. Since the completion of the Ho'opili TIAR, Petitioner and the DOT have been working closely, discussing the Project's impact on traffic.

480. Petitioner, at the request of the DOT, prepared the 2020 TIAR utilizing traffic counts taken in 2006 and an H-1 Freeway Project Assessment Report. The purpose of the 2020 TIAR was to provide the DOT with an idea of what is going to happen after the first ten years.

481. Upon review of the 2020 TIAR, the DOT requested that Petitioner prepare a revised/updated TIAR that studies the Project at full buildout, that will: (1) evaluate and analyze traffic impacts utilizing more updated data reflecting present traffic conditions; and (2) set forth traffic mitigation measures in accordance with the Ho'opili Phased Development Plan.

482. Petitioner agreed to submit an updated/revised TIAR reflecting the DOT's instructions. The revised/updated TIAR will study the Project's traffic impact at full buildout, and not just for Phase 1.

483. Petitioner and the DOT will continue to work to finalize and formalize conditions and agreements for the Project, and the updated/revised TIAR will provide a basis to determine the proper and timely implementation of traffic mitigation measures for the Project.

484. Petitioner and the DOT are expected to finalize a Memorandum of Agreement (“MOA”) that will set forth the nature and timing of traffic improvements and establish an

orderly, fair and predictable schedule to ensure that roadway infrastructure is properly addressed. The MOA will be reached at the end of the DOT approval process for the revised/updated TIAR, prior to Petitioner's submittal of change in zone application.

485. Petitioner has agreed with DOT that, in addition to the standard required fair-share contributions to regional traffic improvements, Petitioner will bear the cost for constructing an additional lane in each direction for the H-1 Freeway between the Kunia Interchange and Waiawa Interchange. The DOT anticipates the cost to plan, design, and construct the additional lane to be approximately 9-10 million dollars, which will be solely paid for by the Petitioner.

486. Petitioner's past and future cash and transportation contribution package will total **\$136 million**, excluding the cost for the H-1 Freeway improvements between the Kunia Interchange and Waiawa Interchange or any additional contributions that will be requested by the DOT upon its review of revised/updated TIAR as follows:

- (1) **Ewa Traffic Impact Fee (\$30M)** - Petitioner is required to comply with Revised Ordinances of Honolulu ("ROH") Chapter 33A, related to a traffic impact fee program for `Ewa. Petitioner will contribute its "fair-share" to future roadway improvements in the `Ewa region as provided in ROH Chapter 33A. Based on the number of residential units proposed, the Project's fair-share will amount to approximately \$30 million;
- (2) **Farrington Highway (\$58M)** - Petitioner will spend an estimate of \$50 million and contribute 20 acres of land (\$8 million) for the widening of Farrington Highway;
- (3) **East-West Road (\$22M)** - Petitioner will spend approximately \$22 million on the construction of East-West Road;
- (4) **Honolulu Rail Transit (\$6M)** - Petitioner will contribute 10 acres of land (\$4 million) for the Honolulu Rail Transit alignment and 5 acres of land (\$2 million) for the Park & Ride Facility;
- (5) **H-1 Freeway/Kunia Road (\$4M)** - Petitioner will contribute 10 acres of land (\$4 million) to the DOT for the H-1 Freeway Kunia Road southbound on-ramp;

- (6) **Kualaka`i Parkway (\$16M)** – Petitioner contributed 40 acres of land (\$16 million) to the DOT for Kualaka`i Parkway. This does not include the traffic improvements that will be required by the DOT.

487. The DOT continues its role in providing transportation infrastructure for current and long-range needs within the State. The DOT's improvements, along with Petitioner's highway improvements work hand-in-hand to provide traffic relief in the Petition Area, and along the H-1 corridor, from downtown Honolulu to West O`ahu.

488. The DOT currently has over \$760 million in highway improvement projects for the H-1 corridor, in the planning, design and construction phases. The DOT's traffic improvement projects include, but are not limited to: improvements to the Pearl City and Waimalu viaducts of H-1; H-1 PM Contraflow Lane, H-1 Waipahu Off-ramp improvements, and H-1 additional lane from Ola Lane to Vineyard Boulevard.

489. The H-1 PM Contraflow Lane improvement is a design/build project which the DOT gave Notice to Proceed to begin the design process on December 5, 2011, and anticipates construction to being sometime in early 2013. The DOT has also been tasked to complete the H-1 additional lane from Ola Lane to Vineyard Boulevard by 2014.

490. The Honolulu Rail Transit will be one component of a multi-modal alternative that will provide a balanced transportation system in the Petition Area. However, the Project's success will not depend on that of the Honolulu Rail Transit.

491. Even if the Honolulu Rail Transit is not built, or is not built until later, the neighborhoods within the Project would still function better than existing suburban neighborhoods by reducing driving for short trips, by providing a healthier living environment, by being serviceable by local and regional bus transit, and by having safer streets.

## 2. PARKS AND RECREATIONAL FACILITIES

492. The Project will contain an open space network with a number of recreational areas and community gathering places for residents and the greater `Ewa community. The open space network includes a hierarchy of natural open spaces and athletic fields, neighborhood parks, village, and community gardens that are all distributed within the neighborhoods.

493. The Project will have approximately 15-20 neighborhood parks, each about an acre in size. The Project will also have a 20-acre District Park sited on the eastern side of the Petition Area.

### **3. WATER SERVICE**

494. The Project's potable water will be served by a 228-foot water system and a 440-foot water system owned by the BWS. The elevation cutoff line dividing the water service zones is approximately 128 feet, splitting Parcel C of the Petition Area. Parcel A of the Petition Area will be served by a separate 440-foot water system serving the UHWO campus.

495. The Project's potable water system will be comprised of new water storage tanks and transmission lines designed and built to BWS standards, with the intention of dedicating all of the improvements to the BWS.

496. Phases 1 and 2 of the Project will be served by both the 228-foot and 440-foot water systems, requiring both to be operational during Phase 1.

497. The BWS is planning to construct a new 6 million-gallon ("MG") storage tank for its 228-foot water system when its current tank nears capacity and planned developments in the region come on line. The Project's 228-foot water system located on land directly mauka of the H-1 Freeway, will have a 1.5 MG water storage requirement that will tie into the BWS' new 6 MG tank. The Project's 440-foot water system will have its own 5.5 MG storage tank.

498. 18-inch transmission lines from the 228-foot tank will extend 1,200 linear feet to the Petition Area's boundary; and 24-inch transmission lines from the 440-foot tank will extend

5,300 linear feet to the Petition Area boundary. These lines will require the tunneling of a new utility corridor under H-1 Freeway, which has been approved in concept by the BWS and the DOT. A Use and Occupancy Agreement (an easement agreement) between the Petitioner and the DOT will record the tunneling right and is being drafted.

499. At present, the BWS' regional non-potable system does not serve the Petition Area. However, irrigation water for agricultural lands in the area comes from a battery of wells commonly referred to EP 5 & 6 located within Parcel C of the Petition Area.

500. The Project's non-potable system could be initially designed, owned, and operated as a private water system. However, to make future dedication to the BWS possible if and when its regional non-potable water system is expanded, the Project's system will use a compatible service zone delineation that is identical to its potable system: a lower 228-foot and an upper 440-foot zone.

501. The Project will be maximizing the use of non-potable water for irrigation to minimize the impact on the source component of the BWS system.

#### **4. WASTEWATER DISPOSAL**

502. Bills Engineering Inc. prepared a report entitled "Preliminary Wastewater Collection System Master Plan for Ho'opili, Honouliuli, 'Ewa, O'ahu, Hawai'i, TMK: (1)9-1-017: POR. 004, 059, 072; (1)9-1-018:001, 004" (dated November 2007).

503. Wastewater from the entire 'Ewa DP area is processed at the Honouliuli Wastewater Treatment Plant ("WWTP"), which is located north of Geiger Road between the Petition Area and old 'Ewa Beach.

504. Major offsite sewer transmission servicing the Project will be sized at an initial capacity to accommodate both Phase 1 and Phase 2 of the Project. All offsite sewer transmission systems described above will be dedicated to the City and County.

505. The transmission system serving Parcels B and C of the Petition Area will extend a total of over two miles starting at the point where the East-West Road enters the Petition Area from the west. From there, this transmission system will reach the WWTP in the following network:

- Segment 1 - A 36-inch transmission line runs for approximately 3,200 linear feet within the East-West Road on property owned by DHHL. Construction of Segment 1 has commenced and is expected to be complete around mid-2011;
- Segment 2 - Segment 1 will tie into another 36-inch line that will run through the Mango Tree Road utility corridor (which is in DHHL property adjacent to the `Ewa Villages Golf Course) for 3,200 linear feet to Kualaka`i Parkway. Construction of Segment 2 has commenced and is expected to be complete around mid-2011;
- Segment 3 - Segment 2 will tie into a 42-inch line extending 1,500 linear feet in Kualaka`i Parkway until it ties into a manifold at the Kualaka`i Parkway intersection with Kapolei Parkway that leads to Segment 4. Segment 3 is already constructed and was partially funded by the Petitioner; and
- Segment 4 - Flowage is directed for approximately 4,500 linear feet generally west within two large interceptors – the “Kapolei Interceptor” and the “Makakilo Interceptor” – within an easement that is parallel to Kapolei Parkway until heading generally southeast to its connection with the WWTP. The Makakilo Interceptor will be upgraded to accommodate increased regional capacity needs, and these construction plans are in design. Final design will show the 42-inch Kapolei Interceptor sewer remaining as is, and the Makakilo Interceptor increased from 30 inches to 48 inches.

506. A separate transmission system will provide sewer to Parcel A of the Petition Area. This parcel will share in the UHWO internal sewer transmission network to eventually connect a 42-inch transmission line to Segment 3 described above and continue to the WWTP.

**5. DRAINAGE**

507. Bills Engineering Inc. prepared a report entitled “Drainage Master Plan for Ho`opili, Honouliuli, `Ewa, O`ahu, Hawai`i, TMK: (1) 9-1-017: POR. 004, 059, 072; 9-1-018:001, 004” (dated November 2007).

508. The Petition Area lies within three drainage basins: Honouliuli Drainage Basin; Kaloi Drainage Basin; and the West Loch Drainage Basin.

a. The Honouliuli Drainage Basin drains approximately 8,000 acres of land on the `Ewa and Kunia plains. The Petition Area occupies 632 acres of the Honouliuli Drainage basin. This represents less than 8 percent of the watershed area. The Honouliuli Drainage Basin is un-urbanized and is currently fallow as a result of the demise of sugar and pineapple operations on the land areas above the H-1 Freeway corridor. For design purposes, the peak flow that can be generated from the drainage basin is approximately 12,200 cubic feet per second (“cfs”) at ocean terminus at West Loch.

b. The Kalo`i Drainage Basin drains approximately 4,200 acres of land (through the Petition Area) and is immediately west of the Honouliuli Drainage Basin. The Petition Area occupies 102 acres of the drainage basin. This represents slightly less than 2.5 percent of the watershed area. Generally below Farrington Highway, the Kalo`i drainage basin crosses numerous urbanized projects and all projects have had to or are in the process of channelizing and creating reasonably large retention/detention facilities on their properties. The Kalo`i Gulch Drainage Basin will ultimately terminate at the Pacific Ocean when future downstream Kalo`i Gulch downstream improvements are completed. For design purposes, the peak flow of Kalo`i Gulch in the Petition Area is 8,500 cfs.

c. The West Loch Drainage Basin is the smallest drainage basin affecting the Petition Area. The existing basin is approximately 2,500 acres and the basin’s upper limit is the

H-1 Freeway boundary. The basin limits are almost completely within the Petition Area as the basin crosses the site. The basin extends into `Ewa Villages below the site and flow is discharged under and across Fort Weaver Road before generally entering the West Loch of Pearl Harbor. The relatively undefined discharge over and across Fort Weaver Road has led to flooding occurrences in the road right-of-way.

509. All of the drainage basins have relatively well defined drainage areas, and are subject to flooding potential. The Honouliuli Drainage Basin contains Flood Insurance Rate Map (“**FIRM**”) floodway. The West Loch Drainage Basin experiences flooding along the Fort Weaver Road corridor during higher rainfall intensities. The Kalo`i Gulch Drainage basin has flow limitations until the downstream terminus issue is resolved.

510. Urbanization will increase the peak flow generated in each drainage basin as follows: Honouliuli (600 cfs); Kalo`i (120 cfs); and West Loch (906 cfs).

511. Increased stormwater runoff is proposed to be mitigated by use of retention/detention basins, as described below:

a. For the Honouliuli Drainage Basin, the flow which can pass through the existing drainage basin below the Petition Area boundary is defined by Soil Conservation Service methodology for a 10-Year recurrence interval. Detention basin(s) will be placed in and along the Honouliuli Drainage Basin within the Petition Area limits to capture stormwater runoff and effectively “meter” into the stream corridor at a rate that does not exceed the 10-year recurrence interval.

b. The Kalo`i Gulch corridor is covered by the guidelines of the DPP Drainage Section, which generally require that all projects discharging to the Kalo`i Drainage Basin retain and detain all of the increased flow from their developed properties. Petitioner will

adhere to such guidelines. There are two 50-acre commercial properties within the Petition Area that will be affected. Each parcel will be implementing a detention basin facility to capture stormwater runoff and effectively “meter” into the stream corridor at a rate that does not exceed the pre-development flow.

c. For West Loch Drainage Basin, a water quality detention basin is proposed to collect all stormwater runoff from the West Loch Drainage Basin within the Petition Area. It is also proposed to re-direct stormwater from areas currently subject to flooding such as the Fort Weaver Road corridor and parts of `Ewa Villages and re-route this stormwater through the West Loch detention basin. The outlet from the detention is proposed to connect directly to West Loch. Therefore, no downstream flooding can occur. This will allow basin sizing to be for water quality rather than reduction in peak flow.

512. New infrastructure would be required in all cases and it would all be constructed on the Petition Area at Petitioner’s expense, with the exception of the West Loch water quality basin. The outlet structure from that basin would cross Navy property and the outlet structure would be dedicated to the City for maintenance.

513. If Petitioner is not able to successfully complete negotiations to cross Navy land, the alternative plan would be to retain all increased runoff from the West Loch drainage basin on-site. The West Loch Basin improvements will not be required until the build-out of Phase 2.

514. The Project will not have an adverse impact on adjacent property owners, surrounding drainage facilities, or the south shorelines of Ewa.

## **6. SOLID WASTE DISPOSAL**

515. On O`ahu, the majority of residential and commercial trash is disposed of at the Honolulu Program of Waste Energy Recovery (H-POWER) facility, the City’s waste-to-energy plant located nearby at the Campbell Industrial Park. Approximately 600,000 tons of solid waste

is converted into electricity at the H-POWER, therefore, reducing the volume of solid waste going into landfills by 90 percent. Expansion plans for the H-POWER are underway to increase the plant's capacity by an additional 300,000 tons per year, diverting 33% from landfill.

516. Based on the numbers set forth by the Environmental Protection Agency in 2006, and assuming an average household size of 3.0 persons, the solid waste generated by the Project at full build-out is estimated to average approximately 109,000 pounds per day.

517. As the Project's mitigation efforts in reducing the amount of solid waste, recycling will be encouraged within the Project, including the reuse and recycling of waste generated during construction, clearing and grubbing activities, the use of recycled construction and demolition wastes and the use of materials made from recycled products, the use of locally produced compost as available for landscaping, and the provision of space for recycling bins in the detailed design of the community.

518. Typically, a Solid Waste Management Plan is a requirement of the change of zone process. Project construction will conform to the guidelines and objectives of HRS Chapter 342G, the Integrated Solid Waste Management Act. Construction will also comply with the City's approved integrated solid waste management plans in a schedule and time frame satisfactory to the DOH. The goal for waste management is to appropriately reduce, reuse and recycle materials, to minimize generation of solid waste and achieve diversion from landfills. As such, in conformance with Section 344-4(2), HRS, the Project will promote the optimal use of solid wastes through programs of waste prevention, energy resource recovery, and recycling.

## **7. SCHOOLS**

519. The Petition Area is currently surrounded by three of the fastest growing and more crowded school complexes in the state: Waipahu, Campbell and Kapolei. The capacity needs are the most pronounced at the high school level and to a slightly lesser degree, at the

elementary school level. The DOE projects that in the next five years, enrollment at Campbell High School will continue to increase, while enrollment at Kapolei High School will remain stable or slightly decline.

520. The Project, at full build-out, is expected to have approximately 3,600 public school students. In November 2009, Petitioner and the DOE entered into an Education Contribution Agreement, which covers how Petitioner will fulfill the DOE's educational school requirements. Pursuant to the terms thereof, Petitioner will provide five public school sites within the Project: three elementary schools ranging from approximately 10 to 12 acres each; one intermediate school of approximately 15 acres, and one high school of approximately 45 acres. In total, Petitioner will provide 94 acres of property for public schools, which is over 30 acres more than the Project's fair-share land requirement. The additional 30 acres is provided in lieu of a cash fair-share contribution for construction. Land and construction amounts are calculated on a per eligible unit basis, so depending on the number of eligible residential units actually built, DOE could have to pay D.R. Horton for some of this land.

521. The school sites will include roadway access, infrastructure systems and allocations, and soils testing. The exact location, size, and shape of the schools will be subject to the approval of the DOE.

522. Before the first schools open in the Petition Area, the DOE will send its earliest students to neighboring schools. The DOE will employ a number of strategies at those schools such as the temporary classrooms, reuse of buildings, redistricting, and rescheduling to accommodate the increased enrollment.

## **8. POLICE AND FIRE PROTECTION**

523. The Petition Area is located within Honolulu Police Department (“**HPD**”) District 8, which encompasses the leeward coast and the `Ewa Plain. There are approximately 100 field officers assigned to this district, and response time for the entire district fluctuates between five and seven minutes. In order to meet the growing needs of the `Ewa Plain communities, the City opened the Regional Kapolei Police Station at 1100 Kamokila Boulevard in 2000.

524. According to the `Ewa DP, the `Ewa Villages Substation is planned to service the East `Ewa region, which includes the Petition Area. The service date for this substation has yet to be determined.

525. The Project will increase the population of Kapolei and the demand for police service. Petitioner is proposing a public facility site immediately mauka of Farrington Highway near the western portion of Parcel B for a use such as a police substation, fire station and/or emergency medical service (“**EMS**”) site.

526. Fire protection in the `Ewa DPA is provided by the Honolulu Fire Department (“**HFD**”) `Ewa Beach Fire Station (an engine company), Makakilo Fire Station (an engine company), and Kapolei Fire Station (an engine and ladder company, and the Battalion 4 Headquarters). The Kapolei Fire Station located in Kapolei Business Park was completed in 1995 to serve the expanding development on the `Ewa Plain.

527. The Project will increase the population of `Ewa and the demand for fire service. According to the `Ewa DP, to meet the projected population and economic growth in `Ewa by 2020, three fire stations at `Ewa Villages, Ko `Olina, and Makaiwa Hills are planned, however service dates have yet to be determined. A new fire station is being planned on the DHHL East Kapolei Development Parcel 1 site near the intersection of Kapolei Parkway and Kualaka'i Parkway.

528. The Petitioner is proposing a public facility site immediately mauka of Farrington Highway near the western portion of Parcel B for a use such as a fire station, EMS site and/or police substation.

529. Within the Petition Area, access for fire apparatus, water supply, and building construction will be in conformance with existing codes and standards. As such, fire apparatus road shall be designed and constructed in accordance with the Uniform Fire Code, Section 902.2.1, as amended.

530. Water infrastructure shall be designed and installed in accordance with the Uniform Fire Code, Section 903.2, as amended. In addition, civil drawings will be submitted to HFD for its review and approval.

**9. EMERGENCY/MEDICAL SERVICES**

531. Health care services in the `Ewa region are provided by Pali Momi Medical Center, Wahiawā General Hospital, Kaiser Permanente Waipi`o Clinic, and Kapolei Medical Park located across the Kapolei Shopping Center at the corner of Farrington Highway and Fort Barrette Road.

532. Other routine medical services can be obtained at major hospital facilities in urban Honolulu, about a 30-minute drive from the Petition Area. The City has 18 emergency medical services Advanced Life Support Ambulance units and two Rapid Response Paramedic units on O`ahu. Two of the Advanced Life Support Ambulance units are located nearby, one at the Kapolei Fire Station, the other at the Waipahu Fire Station.

533. The Project will increase the population of `Ewa, and as such, there will be an occasional and unavoidable demand for EMS. However, existing medical and healthcare facilities in the `Ewa region and surrounding areas should be able to accommodate the anticipated increase in demand.

534. The Petitioner is proposing a public facility site immediately mauka of Farrington Highway near the western portion of Parcel B for a use such as a police substation and/or EMS site.

**10. ELECTRICITY AND TELEPHONE SERVICES**

535. MK Engineers, Ltd. prepared a report entitled “Preliminary Electrical and Communications Master Plan for Ho`opili, Ewa, Oahu, Hawaii” (dated February 2008).

***(a) Electrical Facilities***

536. Electrical service for the area is currently provided by HECO. HECO owns and maintains a pole line along Farrington Highway that supports two 138 kilovolt (“kV”) lines and one 12.47-kV line (with provisions for a 46-kV line in the future). The pole line runs along Farrington Highway from HECO’s `Ewa Nui Substation to Palehua Road. From the `Ewa Nui Substation, the 12.47-kV line and a 46-kV line runs along Farrington Highway to the Waipahu Interchange and up Fort Weaver Road. The line also runs along Old Fort Weaver Road to the intersection with Fort Weaver Road.

537. A 12.47-kV line serving the West Loch area traverses the Petition Area makai toward the Old Fort Weaver Road. Both of the 138-kV lines turn south at Palehua Road and follow the alignment of Kualaka`i Parkway to the OR&L right-of-way. Two other 138-kV pole lines from the Kahe Power Plant pass to the north of Parcel A, mauka of the H-1 Freeway.

538. An existing 46-kV circuit that is supported by wood poles follows the alignment of the H-1 Freeway. On the Honolulu-side of Pu`u Makakilo, a spur continues across the H-1 Freeway to the Pacific Concrete and Rock Substation, while the main branch of the pole line continues to parallel the H-1 Freeway alignment and heads toward the `Ewa Nui Substation.

539. The Project is initially expected to generate an electrical demand of approximately 42 megavolt amperes (“MVA”) for conventional development. At full build-out,

the electrical demand is estimated to be approximately 98 MVA, assuming a diversity factor of 70%.

540. HECO has determined that to serve the ultimate load for the proposed Project, three distribution substations, including power lines to and from them, will be needed. The first distribution substation is proposed to be located mauka of Farrington Highway, between the `Ewa Nui Transmission Substation and Fort Weaver Road. The second distribution substation is proposed to be located adjacent to the Project's Campus Drive. The third distribution substation is proposed to be located between Kualaka'i Parkway and the `Ewa Nui Transmission Substation.

541. The three substations may be relocated from the locations described above based on how development proceeds. Each distribution substation will require at least two 46-kV feeders and one or two transformers, with a third 46-kV feeder and up to four transformers total required for full-build-out of the substation. The new substation sites, each approximately 20,000 square feet in size, will be likely kept at a low profile. HECO will own/maintain the land sited for the distribution substations.

542. Petitioner will actively seek opportunities to use Hawaii's renewable energy resources for the Project.

543. Based on preliminary analysis of available clean renewable energy resources such as photovoltaic ("PV"), solar thermal and wind, PV arrays offered a particularly compelling case of potential success at the Project, in light of West O`ahu's excellent solar resource (nine inches of annual rainfall) combined with the scalability, cost structure, and low visual impact of PV systems.

544. The focus for residential units in the Project will be on energy efficiency, water conservation, durability, comfort, and health.

545. Major goals for single family residences will be: to provide 10% of the single family homes with rooftop PV systems; to build the remaining 90% as PV-ready homes; to design the homes to be 43-59% more energy efficient; to design the homes to save 20-43% water; and to provide owner education programs on how to make their homes more energy efficient.

546. Major goals for multi-family homes will be: to design homes to be 27-37% more energy efficient; to design homes to save 20-43% water; to utilize energy efficient materials/resource and land conservation measures; and to provide owner education on how to live in an energy efficient and water conserving home for maximum benefit.

*(b) Telephone/Communication Facilities*

547. Telephone service to the area is currently provided by Hawaiian Telcom, Inc. (“**Hawaiian Telcom**”). Hawaiian Telcom owns and maintains a pole line along Farrington Highway, Old Fort Weaver Road and Kunia Road. Although this pole line itself is substandard, Oceanic Time Warner Cable and Pacific Lightnet Inc. have an agreement with Hawaiian Telcom for use of its poles, and have attached cables to extend their facilities to Kapolei. AT&T has a fiber cable buried within the southern shoulder of the existing Farrington Highway right-of-way. In addition, the Federal government owns a buried joint tactical support cable within the Farrington Highway right-of-way.

548. The Project will increase the demand for telephone/communication service in the Ewa region. If Hawaiian Telcom and Oceanic Time Warner Cable are the selected providers, they will need to extend their trunking facilities from Farrington Highway to serve the Project. It is possible that one or more micro-utility companies may be providing a portion of or all telephone/communication services to the Petition Area. These telephone and communication lines, which are to be installed by Hawaiian Telcom, Oceanic Time Warner Cable and/or a

micro-utility company, will require easements within and the use of State and County road right-of-ways.

549. Electrical drawings of the Project will be submitted to Hawaiian Telcom for its review and approval before the start of construction. There are no significant impacts to existing telephone or cable service that are anticipated, and as such, no mitigation measures are proposed for the expansion of existing service.

550. All new telephone and communication lines serving the Petition Area will be placed underground to reduce visual impacts.

**K. IMPORTANT AGRICULTURAL LANDS (“IALS”)**

551. Petition Area is currently not designated as IAL.

552. In 2005, the Hawai'i State Legislature passed Act 183 (“Act 183”), which provided for the designation of IALs that (i) are capable of producing sustained high agricultural yields when treated and managed according to accepted farming methods and technology; (ii) contribute to the State’s economic base and produce agricultural commodities for export or local consumption; or (iii) are needed to promote the expansion of agricultural activities and income for the future, even if currently not in production. The objective for the identification of IAL is to identify and plan for the maintenance of a strategic agricultural land resource base that can support a diversity of agricultural activities and opportunities that expand agricultural income and job opportunities and increase agricultural self-sufficiency for current and future generations.

553. The IAL designation procedures and criteria were codified as HRS § 205-41 et seq. HRS § 205-44 sets forth the standards and criteria for the identification of IAL.

554. There are two methods in which land may be designated as an IAL on O`ahu: (1) for a private landowner or the farmer to voluntarily file a petition with the Commission (during July 1, 2008 to July 1, 2011); or (2) for the DPP to make recommendations to the City Council

for it to act upon (starting July 1, 2011), which will then be transmitted to the Commission for further action (“**City IAL Process**”).

555. The City IAL Process is set forth in HRS § 205-47.

556. DPP is currently in the process of hiring a consultant to provide assistance in making its IAL designation recommendations to the City Council. The DPP is expected to start the recommendation process later in 2012. In doing so, DPP will work with the City Agricultural Liaison; however, the process is ultimately a DPP initiative.

557. The Petition Area is currently not designated as IAL, and the DPP stated that it will not be recommending the Petition Area as a potential.

558. On February 15, 2012, the City Council passed Resolution No. 12-23, entitled “Urging the City’s Agricultural Liaison to Expedite the Identifying and Mapping of Important Agricultural Lands and Ensure that the City Works to Preserve the Availability of Agricultural Lands for Farming.”

559. Resolution No. 12-23 would not change DPP’s position on not including the Petition Area as a potential IAL area.

560. HRS §§ 205-44(c)(6) and 205-47(a) and (d), requires DPP to consider consistency with the Ewa DP and with the Urban Boundary contained therein, in identifying IALs. HRS §§ 205-44, 205-47.

561. The City Council Committee Report No. 74, which was adopted by the Committee on Planning and Zoning in conjunction with Resolution No. 12-23, specifically states that the resolution “is not intended to influence the state Land Use Commission decision-making process on any case pending before the Commission.”

**L. STATE AND COUNTY PLANS AND PROGRAMS**

562. The Petition Area is currently designated in the State Land Use Agricultural District, as reflected on the Commission's official Land Use District Boundaries Map O-8 ('Ewa).

**1. HAWAI`I STATE PLAN**

563. HRS Chapter 226, also known as the Hawai`i State Plan, serves as a guide for the long-range growth and development of the State, and that establishes a set of goals, objectives, policies, and priorities for the State. Most of the objectives and policies of the State Plan are not relevant to the Project because they are directed to guide State agencies. The Hawai`i State Plan can be divided into three parts: Part I (Overall Theme, Goals, Objectives and Policies); Part II (Planning, Coordination and Implementation); and Part III (Priority Guidelines).

564. Part I of the Hawai`i State Plan consists of three overall themes: (1) Individual and family self-sufficiency; (2) Social and economic mobility; and (3) Community or social well-being. These themes are considered basic functions of society and goals toward which the government must strive. The Project will provide various housing and employment opportunities for the rapidly growing 'Ewa region, which in turn will relieve development pressures on other areas of O'ahu. As such, it supports the State's goal to ensure economic stability, diversity, and growth for present and future generations.

565. Part II of the Hawai`i State Plan primarily addresses internal governmental policies to help streamline, coordinate, and implement various plans and processes between governmental agencies. Part II is not directly relevant to the Project since the Petitioner is not a government agency and is not in a position to address or influence internal government operations.

566. Part III establishes overall priority guidelines to address areas of statewide concern. The overall direction and focus are on improving the quality of life for Hawaii's present

and future population through the pursuit of desirable courses of action. The Project is supportive of the priority guidelines expressed in Part III because it provides various housing and employment opportunities for the 'Ewa region, thereby alleviating development pressures on other areas of O'ahu, such as Waianae and the North Shore.

567. The proposed reclassification of the Petition Area is in general conformance with the goals, objectives, policies, and priority guidelines of the Hawai'i State Plan. The objectives and policies relevant to the Project are as follows:

**(a) *HRS § 226-4 State Goals. In order to guarantee, for the present and future generations, those elements of choice and mobility that insure that individuals and groups may approach their desired levels of self-reliance and self-determination, it shall be the goal of the State to achieve:***

- (1) A strong, viable economy, characterized by stability, diversity, and growth, that enables the fulfillment of the needs and expectations of Hawai'i's present and future generations.
- (2) A desired physical environment, characterized by beauty, cleanliness, quiet, stable natural systems, and uniqueness, that enhances the mental and physical well-being of the people.
- (3) Physical, social, and economic well-being, for individuals and families in Hawaii, that nourishes a sense of community responsibility, of caring, and of participation in community life.

568. The proposed Project is consistent with the State's goal to ensure economic stability, diversity, and growth for present and future generations. The Project will provide various housing and employment opportunities for the rapidly growing 'Ewa region, which will in turn, relieve development pressures from other areas of O'ahu, particularly the Primary Urban Center, and rural areas such as Wai'anāe, North Shore, Ko'olau Loa and Ko'olau Poko.

**(b) *HRS § 226-5 Objective and policies for population.***

- (1) Manage population growth statewide in a manner that provides increased opportunities for Hawai'i's people to

pursue their physical, social, and economic aspirations while recognizing the unique needs of each County

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- (3) Promote increased opportunities for Hawai'i's people to pursue their socio-economic aspirations throughout the islands.

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- (7) Plan the development and availability of land and water resources in a coordinated manner so as to provide for the desired levels of growth in each geographic area.

569. According to DPP, the year 2006 population of the `Ewa DPA was 86,000. This represented an increase of 25.1 percent from its 2000 population of 68,718. The DPP expects the population of the `Ewa DPA to increase to 180,200 by the year 2030. In comparison, the population for the City as a whole increased only 3.8 percent from 876,156 to 909,863 between 2000 and 2006. The City is expected to experience a population growth of 27.5 percent (241,144 persons) from 876,156 to 1,117,300 total residents during the same 30-year period (2000 to 2030). Besides providing substantial housing opportunities for the `Ewa region, the Project also supports the State's population distribution policies.

(c) ***HRS § 226-6: Objectives and policies for the economy--in general.***

- (a) Planning for the State's economy in general shall be directed toward achievement of the following objectives:
  - (1) Increased and diversified employment opportunities to achieve full employment, increased income and job choice, and improved living standards for Hawai'i's people, while at the same time stimulating the development and expansion of economic activities capitalizing on defense, dual-use, and science and technology assets, particularly on the neighbor islands where employment opportunities may be limited.
  - (2) A steadily growing and diversified economic base that is not overly dependent on a few industries, and includes the development and expansion of industries on the neighbor islands.

(b) To achieve the general economic objectives, it shall be the policy of this State to:

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(6) Strive to achieve a level of construction activity responsive to, and consistent with, state growth objectives.

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(9) Foster greater cooperation and coordination between the government and private sectors in developing Hawai'i's employment and economic growth opportunities.

(10) Stimulate the development and expansion of economic activities which will benefit areas with substantial or expected employment problems.

(11) Maintain acceptable working conditions and standards for Hawai'i's workers.

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(14) Encourage businesses that have favorable financial multiplier effects within Hawai'i's economy, particularly with respect to emerging industries in science and technology.

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570. The Project will provide for a diverse range of direct and indirect employment and economic opportunities for Hawai'i residents, both during and after Project construction. Short-term construction-related jobs as well as permanent long-term operational jobs will be offered, increasing employment throughout the `Ewa region and State. With greater employment and economic opportunities, the overall living standards and lifestyles will be enhanced for area residents, who will be able to live, work, learn, play, and shop within the Second City.

***(d) HRS § 226-7: Objectives and policies for the economy - agriculture.***

571. The agricultural policies are predominantly not applicable to the Project.

572. There are lands that are going to be reclassified and used for the development of houses and will not be available for agriculture. However, various policies in the State Plan need

to be weighed. The reclassification supports Hawai'i State Plan policies to provide increased job opportunities, to effectively provide housing opportunities and addresses sustainability through energy and water conservation measures.

573. The Project lies within the State Agricultural District. The proposed State Land Use District Boundary Amendment is consistent with the standards for determining boundaries of the Urban District as the majority of adjacent lands that surround the Petition Area are within the Urban District. The Petition Area lies within the City's `Ewa DP Urban Growth Boundary, and as such, reclassification of the Petition Area to the Urban District and subsequent City change of zone application would permit the Petition Area to conform to the surrounding land uses and would permit the low- to medium-density residential uses.

(e) ***HRS § 226-11: Objectives and policies for the physical environment--land-based, shoreline, and marine resources.***

(a) Planning for the State's physical environment with regard to land-based, shoreline, and marine resources shall be directed towards achievement of the following objectives:

(1) Prudent use of Hawai'i's land-based, shoreline, and marine resources.

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(b) To achieve the land-based, shoreline, and marine resources objectives, it shall be the policy of this State to:

(3) Take into account the physical attributes of areas when planning and designing activities and facilities.

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(8) Pursue compatible relationships among activities, facilities, and natural resources.

(9) Promote increased accessibility and prudent use of inland and shoreline areas for public recreational, educational, and scientific purposes.

574. The physical, environmental, and cultural attributes of the Petition Area are compatible with the land uses proposed. The Ho`opili EIS identifies existing natural and physical

site conditions (i.e., slope, soils, drainage characteristics, archaeological sites, flora and fauna, public services and infrastructure) and potential impacts resulting from the Project, and proposes measures to mitigate potential impacts.

*(f) HRS § 226-12: Objective and policies for the physical environment--scenic, natural beauty, and historic resources.*

- (a) Planning for the State's physical environment shall be directed towards achievement of the objective of enhancement of Hawai'i's scenic assets, natural beauty, and multi-cultural/historical resources.
- (b) To achieve the scenic, natural beauty, and historic resources objectives, it shall be the policy of this State to:
  - (1) Promote the preservation and restoration of significant natural and historic resources.  
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  - (4) Protect those special areas, structures, and elements that are an integral and functional part of Hawaii's ethnic and cultural heritage.
  - (5) Encourage the design of developments and activities that complement the natural beauty of the islands.

575. The Ho'opili AIS and Archaeological Monitoring Plan has been accepted by SHPD in fulfillment of HAR §§ 13-284 and 13-276. The Ho'opili Historic Properties Preservation Plan was also prepared and submitted to SHPD for its review and approval. Should any archaeologically significant artifacts, bones, or other indicators of previous on-site activity be uncovered during the construction phases of development, construction will halt and archaeological resources will be treated in strict compliance with the requirements of the DLNR.

576. Due to the flat topography of the Petition Area and adjacent lands, existing views across the site are possible only from surrounding elevated areas such as breaks along the H-1 Freeway. The Project will alter the character of the existing landscape from open, cultivated

fields to urban development bisected by elevated rail transit. Similar plans are being proposed by both UHWO and DHHL on surrounding lands.

(g) ***HRS § 226-13: Objectives and policies for the physical environment--land, air, and water quality.***

(a) Planning for the State's physical environment with regard to land, air, and water quality shall be directed towards achievement of the following objectives:

- (1) Maintenance and pursuit of improved quality in Hawai'i's land, air, and water resources.
- (2) Greater public awareness and appreciation of Hawai'i's environmental resources.

(b) To achieve the land, air, and water quality objectives, it shall be the policy of this State to:

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- (2) Promote the proper management of Hawai'i's land and water resources.
- (3) Promote effective measures to achieve desired quality in Hawai'i's surface, ground, and coastal waters.
- (4) Encourage actions to maintain or improve aural and air quality levels to enhance the health and well-being of Hawai'i's people.
- (5) Reduce the threat to life and property from erosion, flooding, tsunamis, hurricanes, earthquakes, volcanic eruptions, and other natural or man-induced hazards and disasters.
- (6) Encourage design and construction practices that enhance the physical qualities of Hawai'i's communities.
- (7) Encourage urban developments in close proximity to existing services and facilities.

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577. The Project is not anticipated to have direct long-term impacts on the quality of land, air, and water resources. Drainage systems, in compliance with applicable State and County rules and regulations, will mitigate the existing flood hazard potential. The potential flood hazard

on the Petition Area will be mitigated by the development of a system of detention facilities that comply with County drainage regulations. The occurrence of natural hazards such as hurricane, earthquake, and volcanic eruption exist, but are no more likely to affect the Petition Area than any other location in the `Ewa region.

578. The Petition Area is surrounded by or in close proximity to existing and planned developments, services and facilities. It is situated between H-1 Freeway (north) and Mango Tree Road (south), and between the Kualaka`i Parkway (west) and Old Fort Weaver Road (east). Existing urban uses occur to the south (`Ewa Villages) and east (Honouliuli). New development is planned and/or being constructed to the west (UHWO and DHHL). All new infrastructure and infrastructure improvements will be sized and engineered to accommodate the entire proposed Project.

**(h) HRS § 226-14: Objective and policies for facility systems--in general.**

- (a) Planning for the State's facility systems in general shall be directed towards achievement of the objective of water, transportation, waste disposal, and energy and telecommunication systems that support statewide social, economic, and physical objectives.
- (b) To achieve the general facility systems objective, it shall be the policy of this State to:
  - (1) Accommodate the needs of Hawai'i's people through coordination of facility systems and capital improvement priorities in consonance with state and county plans.
  - (2) Encourage flexibility in the design and development of facility systems to promote prudent use of resources and accommodate changing public demands and priorities.
  - (3) Ensure that required facility systems can be supported within resource capacities and at reasonable cost to the user.
  - (4) Pursue alternative methods of financing programs and projects and cost-saving techniques in the

planning, construction, and maintenance of facility systems.

579. The Project will comply with State and County rules and regulations regarding facility system objectives.

(i) ***HRS § 226-15: Objectives and policies for facility systems--solid and liquid wastes.***

(a) Planning for the State's facility systems with regard to solid and liquid wastes shall be directed towards the achievement of the following objectives:

(1) Maintenance of basic public health and sanitation standards relating to treatment and disposal of solid and liquid wastes.

(2) Provision of adequate sewerage facilities for physical and economic activities that alleviate problems in housing, employment, mobility, and other areas.

(b) To achieve solid and liquid waste objectives, it shall be the policy of this State to:

(1) Encourage the adequate development of sewerage facilities that complement planned growth.

(2) Promote re-use and recycling to reduce solid and liquid wastes and employ a conservation ethic.

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580. A gravity wastewater collection system will be designed to City standards and ultimately dedicated to the County to serve the Project. The point of connection to off-site collection systems will be at the southern boundary of Parcel C and at the common property line of the Petition Area with DHHL. The wastewater will be conveyed to Honouliuli WWTP. To mitigate the additional burden, the Petitioner will participate in the Water Systems Facilities Charge program and contribute funds to expand the treatment plant.

581. Regarding solid waste, the City is restarting its curbside pick up recycling program. In November 2007, two pilot curbside recycling programs began in Mililani and

Hawai'i Kai. During the six to twelve month evaluation period, the City Department of Environmental Services staff will be coordinating plans for island wide expansion.

*(j) HRS § 226-16: Objective and policies for facility systems--water.*

- (a) Planning for the State's facility systems with regard to water shall be directed towards achievement of the objective of the provision of water to adequately accommodate domestic, agricultural, commercial, industrial, recreational, and other needs within resource capacities.
- (b) To achieve the facility systems water objective, it shall be the policy of this State to:
  - (1) Coordinate development of land use activities with existing and potential water supply.  
\*\*\*
  - (3) Reclaim and encourage the productive use of runoff water and wastewater discharges.
  - (4) Assist in improving the quality, efficiency, service, and storage capabilities of water systems for domestic and agricultural use.  
\*\*\*
  - (6) Promote water conservation programs and practices in government, private industry, and the general public to help ensure adequate water to meet long-term needs.

582. The total average daily source requirement for ultimate build-out of the Project is estimated at 3.9 MGD. The future water demand from the proposed Project is based on standard civil engineering methodologies. It is possible that with the implementation of feasible water conservation practices, future water demand from the Project may be lessened. It is intended that source (well supply) would be provided by the BWS from existing sources. Although the BWS cannot reserve water for future projects, it has indicated that there is water available to meet the estimated water demand for the Project (3.9 MGD). Water Facility Charges paid by the Petitioner will be used by the BWS to assist in the source replenishment caused by the Project's water demands.

583. New water system demands will require that the Petitioner provide system upgrades to the transmission and storage components to ensure that the system operates effectively and meets BWS standards.

584. With respect to non-potable water requirements, the Project will be maximizing non-drinking water usage to minimize the demand on the safe drinking water system. If a suitable supply is made available, street right-of-ways of the Project will have underground non-drinking water distribution systems. It is proposed to upgrade the existing non-drinking water source (EP 5 & 6 located within Parcel C) to a BWS dedicable standard to be used as the source for the non-drinking system. It is also proposed to ultimately allow for future dedication of the non-drinking water system. It is estimated that the ultimate non-drinking water demand for the Project will be approximately 1.75 MGD. The Petitioner will consider the use of drought tolerant/low water use plants and the implementation of xeriscaping principles for landscaping within the Project to the extent practicable. The installation of an efficient irrigation system, possibly using drip irrigation, will be considered in the design of the Project where feasible. Moisture sensors to avoid the operation of the system in the rain and if the ground has adequate moisture would be incorporated into the irrigation system, where feasible.

585. The Project will be maximizing the use of non-potable water for irrigation to minimize the impact on the source component of the BWS system. It is proposed that the Project's greenbelts, parks and roadway medians use non-potable water for irrigation, if a suitable supply will be available.

**(k) HRS § 226-17: Objectives and policies for facility systems--transportation.**

- (b) To achieve the transportation objectives, it shall be the policy of this State to:

- (1) Design, program, and develop a multi-modal system in conformance with desired growth and physical development as stated in this chapter;

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- (6) Encourage transportation systems that serve to accommodate present and future development needs of communities;

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- (9) Encourage the development of transportation systems and programs which would assist statewide economic growth and diversification;

- (10) Encourage the design and development of transportation systems sensitive to the needs of affected communities and the quality of Hawai'i's natural environment;

- (11) Encourage safe and convenient use of low-cost, energy-efficient, non-polluting means of transportation;

\*\*\*

- (13) Encourage diversification of transportation modes and infrastructure to promote alternate fuels and energy efficiency.

586. The Project has been designed to accommodate an integrated multi-modal transportation system, including high capacity (elevated rail) transit, bus, automobile, bicycle and pedestrian modes of travel.

**(l) HRS § 226-18: Objectives and policies for facility systems – energy.**

- (a) Planning for the State's facility systems with regard to energy shall be directed toward the achievement of the following objectives, giving due consideration to all:

- (1) Dependable, efficient, and economical statewide energy systems capable of supporting the needs of the people;

- (2) Increased energy self-sufficiency where the ratio of indigenous to imported energy use is increased;

\*\*\*

- (4) Reduction, avoidance, or sequestration of greenhouse gas emissions from energy supply and use.
- (b) To achieve the energy objectives, it shall be the policy of this State to ensure the short- and long-term provision of adequate, reasonably priced, and dependable energy services to accommodate demand.
- (c) To further achieve the energy objectives, it shall be the policy of this State to:

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- (4) Promote all cost-effective conservation of power and fuel supplies through measures, including:
  - (A) Development of cost-effective demand-side management programs;
  - (B) Education; and
  - (C) Adoption of energy-efficient practices and technologies;

\*\*\*

- (7) Promote alternate fuels and transportation energy efficiency;

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- (8) Support actions that reduce, avoid, or sequester greenhouse gases in utility, transportation, and industrial sector applications;

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587. Sustainability options are being considered for the Project. Project buildings, activities, and grounds are planned to be designed with energy-saving considerations, and the Project will strive to be consistent with the State's objective to promote cost-effective energy conservation through the adoption of energy-efficient practices and technologies. Due to the sunny climate, the Project will be suited for the use of renewable energy technologies including PVs.

*(m) HRS § 226-18.5: Objectives and policies for facility systems--telecommunications.*

- (a) Planning for the State's telecommunications facility systems shall be directed towards the achievement of dependable, efficient, and economical statewide telecommunications systems capable of supporting the needs of the people.
- (b) To achieve the telecommunications objective, it shall be the policy of this State to ensure the provision of adequate, reasonably priced, and dependable telecommunications services to accommodate demand.
- (c) To further achieve the telecommunications objective, it shall be the policy of this State to:
  - \*\*\*
  - (3) Promote efficient management and use of existing telecommunications systems and services.
  - \*\*\*

588. Petitioner will incorporate the latest technologies in telecommunications as an amenity to attract buyers to the Project, and it is likely that competing telecommunications companies will offer updated services in order to attract customers.

**(n) *HRS § 226-19: Objectives and policies for socio-cultural advancement – housing.***

- (a) Planning for the State's socio-cultural advancement with regard to housing shall be directed toward the achievement of the following objectives:
  - (1) Greater opportunities for Hawai'i's people to secure reasonably priced, safe, sanitary, and livable homes, located in suitable environments that satisfactorily accommodate the needs and desires of families and individuals, through collaboration and cooperation between government and nonprofit and for-profit developers to ensure that more affordable housing is made available to very low-, low- and moderate-income segments of Hawai'i's population.
  - (2) The orderly development of residential areas sensitive to community needs and other land uses.
  - (3) The development and provision of affordable rental housing by the State to meet the housing needs of Hawai'i's people.
- (b) To achieve the housing objectives, it shall be the policy of this State to:

- (1) Effectively accommodate the housing needs of Hawai'i's people.
- (2) Stimulate and promote feasible approaches that increase housing choices for low-income, moderate-income, and gap-group households.
- (3) Increase homeownership and rental opportunities and choices in terms of quality, location, cost, densities, style, and size of housing.

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- (5) Promote design and location of housing developments taking into account the physical setting, accessibility to public facilities and services, and other concerns of existing communities and surrounding areas.

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589. The Project will contain up to 11,750 residential units of varying housing product types. The Project will consist of for-sale single-family units and multi-family units, with multi-family rental units also available. In accordance with the City's affordable housing guidelines, up to thirty percent of the total number of units are expected to be developed as affordable housing units. Details of the affordable housing program in the Project will be coordinated with the City prior to development.

590. The Conceptual Land Use Plan (Ho`opili Sustainability Plan) reflects the desire for a community that provides: affordable living options; employment centers; quality schools; shopping, gathering and recreational places; and parks and open space for residents. The Project is envisioned as a new kind of development, one that improves the quality of people's lives by allowing them to live, work, learn, shop and play in their own community.

(o) ***HRS § 226-20: Objectives and policies for socio-cultural advancement—health.***

- (a) Planning for the State's socio-cultural advancement with regard to health shall be directed towards achievement of the following objectives:

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(2) Maintenance of sanitary and environmentally healthful conditions in Hawai'i's communities.

(b) To achieve the health objectives, it shall be the policy of this State to:

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(5) Provide programs, services, and activities that ensure environmentally healthful and sanitary conditions.

(6) Improve the State's capabilities in preventing contamination by pesticides and other potentially hazardous substances through increased coordination, education, monitoring, and enforcement.

591. The Project will provide solid waste and wastewater services to ensure maintenance of public health standards. The Petitioner is coordinating with the DOH to develop a methodology for the testing of the soils of the Petition Area and the surrounding UHWO site to determine the presence or absence of dioxin in the underlying soils from previous sugar cultivation in the area.

(p) ***HRS § 226-21: Objective and policies for socio-cultural advancement--education.***

(b) To achieve the education objectives, it shall be the policy of this State to:

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(2) Ensure the provision of adequate and accessible educational services and facilities that are designed to meet individual and community needs.

592. The Project could include as many as five public school sites, as well as parks, open space and facilities for walking and biking. Approximately 90 acres will be reserved for public schools and facilities to meet the demand for educational facilities in the growing 'Ewa region.

(q) ***HRS § 226-22: Objective and policies for socio-cultural advancement--social services.***

- (a) Planning for the State's socio-cultural advancement with regard to social services shall be directed towards the achievement of the objective of improved public and private social services and activities that enable individuals, families, and groups to become more self-reliant and confident to improve their well-being.
- (b) To achieve the social service objective, it shall be the policy of the State to:

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- (2) Promote coordination and integrative approaches among public and private agencies and programs to jointly address social problems that will enable individuals, families, and groups to deal effectively with social problems and to enhance their participation in society.

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593. The Petitioner supports the State's objectives. Pursuant to the City's affordable housing requirement, thirty percent of the Project's residential units will be affordable.

(r) ***HRS § 226-23: Objective and policies for socio-cultural advancement--leisure.***

- (a) Planning for the State's socio-cultural advancement with regard to leisure shall be directed towards the achievement of the objective of the adequate provision of resources to accommodate diverse cultural, artistic, and recreational needs for present and future generations.
- (b) To achieve the leisure objective, it shall be the policy of this State to:

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- (4) Promote the recreational and educational potential of natural resources having scenic, open space, cultural, historical, geological, or biological values while ensuring that their inherent values are preserved.
- (5) Ensure opportunities for everyone to use and enjoy Hawai'i's recreational resources.
- (6) Assure the availability of sufficient resources to provide for future cultural, artistic, and recreational needs.

594. Petitioner will comply with the City's Park Dedication Ordinance. The Project will have approximately 15-20 neighborhood parks, each about an acre in size. The Project will also have a 20-acre District Park sited on the eastern side of the Petition Area.

(s) ***HRS § 226-103: Economic priority guidelines.***

(a) Priority guidelines to stimulate economic growth and encourage business expansion and development to provide needed jobs for Hawai'i's people and achieve a stable and diversified economy:

(1) Seek a variety of means to increase the availability of investment capital for new and expanding enterprises.

(A) Encourage investments which:

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(v) Are sensitive to community needs and priorities

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(e) Priority guidelines for water use and development:

(1) Maintain and improve water conservation programs to reduce the overall water consumption rate.

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(4) Explore alternative funding sources and approaches to support future water development programs and water system improvements.

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(f) Priority guidelines for energy use and development:

(1) Encourage the development, demonstration, and commercialization of renewable energy sources.

(2) Initiate, maintain, and improve energy conservation programs aimed at reducing energy waste and increasing public awareness of the need to conserve energy.

(3) Provide incentives to encourage the use of energy conserving technology in residential, industrial, and other buildings.

(4) Encourage the development and use of energy conserving and cost efficient transportation systems.

\*\*\*

595. Petitioner supports the State's objectives, and envisions that the Project, along with UHWO and DHHL East Kapolei, will enhance Kapolei as the "Second City" on O'ahu, and relieve the development pressure caused by the Central Business District on traffic, office rents, et cetera.

596. The Project will be maximizing the use of non-potable water (both from brackish water sources, as well as reclaimed water) for irrigation to minimize the impact on the source component of the BWS system. It is proposed that the Project's greenbelts, parks and roadway medians use non-potable water for irrigation, if a suitable supply will be available. The BWS Water Resources Division will be contacted regarding the availability of recycled water and other non-potable water supplies. Low-flow water fixtures and where possible, other water conservation measures will be designed and implemented as part of the Project.

597. Petitioner will review the City's Energy Code early in the Project and will consult with HECO on demand-side management programs that offer rebates for installation of energy-efficient technologies (including solar power and energy efficient appliances).

*(t) HRS § 226-104: Population growth and land resources priority guidelines.*

(a) Priority guidelines to effect desired statewide growth and distribution:

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- (3) Ensure that adequate support services and facilities are provided to accommodate the desired distribution of future growth throughout the State.

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(b) Priority guidelines for regional growth distribution and land resource utilization:

- (6) Seek participation from the private sector for the cost of building infrastructure and utilities, and maintaining open spaces.

\*\*\*

- (9) Direct future urban development away from critical environmental areas or impose mitigating measures so that negative impacts on the environment would be minimized.
- (10) Identify critical environmental areas in Hawai'i to include but not be limited to the following: watershed and recharge areas; wildlife habitats (on land and in the ocean); areas with endangered species of plants and wildlife; natural streams and water bodies; scenic and recreational shoreline resources; open space and natural areas; historic and cultural sites; areas particularly sensitive to reduction in water and air quality; and scenic resources.

\*\*\*

- (12) Utilize Hawai'i's limited land resources wisely, providing adequate land to accommodate projected population and economic growth needs while ensuring the protection of the environment and the availability of the shoreline, conservation lands, and other limited resources for future generations.

598. The Petition Area is currently in the State Agricultural District. The proposed State Land Use District Boundary Amendment is consistent with the standards for determining boundaries of the Urban District pursuant to HAR § 15-15-18. The majority of lands that surround the Petition Area are within the Urban District. Existing residential developments include: Waipahu Town to the northeast; Honouliuli and West Loch Estates to the east; and `Ewa Villages and `Ewa Villages Golf Course to the south. Vacant lands to the west are slated for future development by UHWO and DHHL. The lands to north of the Petition Area are within the Agricultural State Land Use District, but fall outside of the City's `Ewa DP Urban Growth Boundary.

599. The Petition Area lies within the City's `Ewa DP Urban Growth Boundary. Reclassification of the Petition Area to the Urban District and subsequent City change of zoning

would permit the Petition Area to conform to the surrounding land uses, and permit the low-to medium-density residential uses.

600. According to DPP, the year 2006 population of the `Ewa DPA was 86,000 (DPP, 2006). This comprised an increase of 25.1 percent from its 2000 population of 68,718. DPP expects the population of the `Ewa DPA to increase to 180,200 by the year 2030. In comparison, the population for the City and County of Honolulu as a whole increased only 3.8 percent from 876,156 to 909,863 between 2000 and 2006. The City is expected to experience a population growth of 27.5 percent (241,144 persons) from 876,156 to 1,117,300 total residents during the same 30-year period. Besides providing substantial housing opportunities for the `Ewa region, the Project also supports the State's population distribution policies.

(u) ***HRS § 226-106: Affordable housing. Priority guidelines for the provision of affordable housing:***

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- (4) Create incentives for development which would increase home ownership and rental opportunities for Hawai'i's low- and moderate-income households, gap-group households, and residents with special needs.

\*\*\*

- (6) Encourage public and private sector cooperation in the development of rental housing alternatives.
- (7) Encourage improved coordination between various agencies and levels of government to deal with housing policies and regulations.
- (8) Give higher priority to the provision of quality housing that is affordable for Hawai'i's residents and less priority to development of housing intended primarily for individuals outside of Hawai'i.

601. The Petitioner plans to implement the City's existing affordable housing requirements in the construction of affordable housing units. As such, up to thirty percent of the

total number of units are expected to be developed as affordable housing units. Details of the affordable housing program in the Project will be coordinated with the City prior to development.

**2. HAWAII STATE FUNCTIONAL PLAN**

602. The State Functional Plans are prepared by various state agencies to serve as the primary implementing vehicle for the goals, objectives, and policies of the Hawai'i State Plan. In general, many of the objectives and policies of the Functional Plans are not relevant to the Project because they appear to be directed to guide State agencies.

603. The proposed reclassification of the Petition Area is in general conformance with the goals, objectives, policies, and priority guidelines of the Hawai'i State Plan. State Functional Plans relevant to the Project are as follows:

**(a) *Education Functional Plan***

Objective A (1): Academic Excellence. Emphasize quality educational programs in Hawai'i's institutions to promote academic excellence.

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Objective A (3): Education Workforce. Initiate efforts to improve the quality of education by improving the capabilities of the education workforce.

Objective A (4): Services and Facilities. Ensure the provision of adequate and accessible educational services and facilities that are designed to meet individual and community needs.

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Objective B (4): Personal Development. Support education programs and activities that enhance personal development, physical fitness, recreation, and cultural pursuits of all groups.

Objective B (5): Students with Special Needs. Provide appropriate educational opportunities for groups with special needs.

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604. The Petitioner will provide as many as five public school sites (including elementary, middle and high school sites). Approximately 90 acres will be reserved for public schools and facilities to meet the demand for educational facilities in the growing `Ewa region. In addition, there is a possibility that one or two private schools may be included in the Project. Approximately seven acres have been set aside on the conceptual land use plan for one private school.

**(b) *Employment Functional Plan***

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Objective B: Develop and deliver education, training and related services to ensure and maintain a quality and competitive workforce.

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Objective D: Improve the quality of life for workers and families.

Objective E: Improve planning of economic development, employment and training activities.

605. The Project will provide for a diverse range of direct and indirect employment and economic opportunities for Hawai`i residents, both during and after Project construction. Short-term construction-related jobs as well as permanent long-term operational jobs will be offered, increasing employment throughout the `Ewa region and State. With greater employment and economic opportunities, the overall living standards and lifestyles will be enhanced for area residents, who will be able to live, work, learn, play, and shop within the Second City. For entry-level workers, availability of workforce housing and affordable transportation are key factors in achieving a desired lifestyle. The Project is designed to be transit-ready, with higher-density housing, and employment and shopping opportunities proposed around the transit

station(s). The entire Project is mixed-use with live-work housing, allowing residents to rely less on automobile ownership and long commutes to achieve a desired lifestyle.

(c) *Energy Functional Plan*

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Objective A: Moderate the growth in energy demand through conservation and energy efficiency.

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606. The Project will provide various housing and employment opportunities for the rapidly growing `Ewa region, which will in turn, reduce the number of energy-consuming commuter trips in other areas of O`ahu, particularly downtown Honolulu. Where feasible, Project buildings, activities, and Project grounds will be designed with energy-saving considerations. Given the natural climate, the Project may be suited for the use of renewable energy technologies including PVs.

(d) *Historic Preservation Functional Plan*

Objective A: Identification of historic properties.

Objective B: Protection of historic properties.

Objective C: Management and treatment of historic properties.

Objective D: Provision of adequate facilities to preserve historic resources.

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607. The Ho`opili AIS and the Archaeological Monitoring Plan has been accepted by SHPD, and the Ho`opili Historic Properties Preservation Plan, submitted to SHPD for its review and approval, ensures that there will be no adverse impact to these sites. Should any archaeologically significant artifacts, bones, or other indicators of previous on-site activity be uncovered during construction, work will stop immediately and SHPD will be notified in accordance with applicable regulations.

(e) ***Housing Functional Plan***

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Objective B: Sufficient amount of affordable rental housing units by the year 2000 so as to increase the State's rental vacancy rate to at least 3%.

Objective C: Increased development of rental housing units for the elderly and other special need groups to afford them an equal access to housing.

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Objective E: Acquire and designate land suitable for housing development in sufficient amount to locate the deficit in housing units by the year 2000.

\*\*\*

608. The Project will contain up to 11,750 residential units of varying housing product types. The Project will consist of for-sale single-family units and multi-family units, with multi-family rental units also available. In accordance with the City's affordable housing guidelines, up to thirty percent of the total number of units are expected to be developed as affordable housing units. Details of the affordable housing program in the Project will be coordinated with the County prior to development.

(f) ***Recreation Functional Plan***

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Objective II.A: Plan, develop, and promote recreational activities and facilities in mauka and other areas to provide a wide range of alternatives.

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Objective II.C: Improve and expand the provision of recreation facilities in urban areas and local communities.

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Objective V.B: Promote interagency coordination and cooperation to facilitate sharing of resources, joint development efforts, clarification of responsibilities and jurisdictions, and improvements in enforcement capabilities.

Objective V.C: Assure adequate support for priority outdoor recreation programs and facilities.

\*\*\*

609. The Project will have approximately 15-20 neighborhood parks, each about an acre in size. The Project is also planned to have a 20-acre District Park sited on the eastern side of the Petition Area.

610. Petitioner consults with UHWO and DHHL on at least a monthly basis and is aware of DPP's requirements for street sections and planting strips (linear greenbelts) for the adjoining landowners and what precedents may have been established for the Project. The Project will be designed to facilitate bicycle and pedestrian connectivity between it and UHWO and DHHL. Ho`opili FEIS Figure 2.8: Proposed Circulation Plan shows the approximate alignment of bikeways being proposed by DHHL, UHWO and the Petitioner and how they may connect to bikeways proposed by others (such as the Hawaii Community Development Authority ["HCDA"]), the bike path shown on the `Ewa DP Public Facilities Map, the bikeways shown on the State Bicycle Plan 2003, and park sites proposed by HCDA, DHHL, UHWO and the Petitioner, and possible transit stops (locations being finalized as of this writing).

**(g) *Transportation Functional Plan***

Objective I.A: Expansion of the transportation system.

Objective I.B: Reduction of travel demand through zoning and decentralization initiatives.

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Objective I.D: Identification and reservation of lands and rights-of-way required for future transportation improvements.

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Objective I.H: Ensure that transportation facilities are accessible to people with disabilities.

Objective II.A: Development of a transportation infrastructure that supports economic development initiatives.

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Objective III.B: Expansion of revenue bases for transportation improvements.

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611. The Project will generate traffic on local, collector, and regional roads. However, continued development of Kapolei as the Second City and construction of the UHWO campus will help alleviate traffic from leeward and central areas of O`ahu to Honolulu. The Petition Area will be designed to include residential, commercial, recreational, educational, and walking/biking facilities, enabling residents to live, work, play, shop, and learn within the community, thus helping to reduce traffic towards the Central Business District in Honolulu.

612. There are several major transportation projects that have been long-planned for `Ewa. The Project has been planned assuming that certain planned transportation projects will be constructed including a portion of Kualaka`i Parkway between Farrington Highway and Kapolei Parkway; a portion of the Kualaka`i Parkway and a new H-1 Freeway interchange; a portion of the intersection of Kualaka`i Parkway and Farrington Highway; the long-planned widening of Farrington Highway fronting the Petition Area; the proposed East-West Connector Road through the Petition Area; and the segment of the proposed Honolulu Rail Transit through the Petition Area.

**(h) *Water Resources Development Functional Plan***

Objective A: Enunciate State water policy and improve management framework.

Objective B: Maintain the long-term availability of freshwater supplies, giving consideration to the accommodation of important environmental values.

Objective C: Improve management of floodplains.

Objective D: Assure adequate municipal water supplies for planned urban growth.

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Objective G: Provide for the protection and enhancement of Hawai'i's freshwater and estuarine environment.

613. Any runoff or wastewater disposal required for the Project will be managed in full compliance with DOH regulations.

614. The Project will be maximizing non-potable water usage (via non-potable wells and reclaimed water) to minimize the demand on the potable (i.e., drinking water) system. If a suitable supply is made available, street rights-of-way of the Project will have underground non-potable water distribution systems. In addition, it is proposed that the Project's greenbelts, parks and roadway medians use non-potable water for irrigation, if a suitable supply will be available. The BWS Water Resources Division will be contacted regarding the availability of recycled water and other non-potable water supplies. It is estimated that the ultimate non-potable water demand for the Project will be approximately 1.75 MGD.

615. Although the BWS cannot reserve water for future projects, it has indicated that there is water available to meet the estimated water demand for the Project (3.9 MGD). Water facility charges paid by Petitioner will be used by the BWS to assist in the source replenishment caused by the Project's water demands.

*(i) Agricultural Functional Plan*

616. The State Agricultural Functional Plan recognizes that in certain circumstances the redesignation of lands from Agriculture to Urban should be allowed.

617. Reclassification of the Petition Area from Agricultural to Urban will provide benefits to the general public that will include approximately 11,750 homes and 7,050 FTE jobs at full development compared to about 85 jobs in agriculture on site.

**3. GENERAL PLAN FOR THE CITY AND COUNTY OF HONOLULU**

618. The Petition Area is currently zoned by the City as Ag-1 Restricted Agricultural District.

619. DPP supports the reclassification of the Petition Area because it is consistent with all relevant city plans.

620. As required by the City Charter, the General Plan establishes long-range objectives focusing on the social, economic, environmental, and design objectives for the general welfare and prosperity of the residents of O`ahu.

621. The City's General Plan and the eight Development Plans and Sustainable Community Plans, which implement the General Plan are consistent with HRS Chapter 226, the Hawai'i State Plan.

622. Since the City's adoption of its General Plan in 1970s, the Petition Area has been part of the `Ewa urban fringe area identified in the General Plan for eventual low and moderate density residential development.

623. The Project is one of the last components of the growth management policy established in the General Plan whose purpose was to keep the country country by fully developing: (1) the Primary Urban Center from Kahala to Pearl City, (2) a Second City around Kapolei and `Ewa, and (3) low and moderate density master planned residential communities in urban fringe areas in `Ewa and Central O`ahu.

624. As a result of this policy's implementation almost 80 percent of the growth since the 1980s has gone into the three designated growth areas.

625. The Project is consistent with the General Plan growth management policies for O`ahu and for `Ewa, and satisfies all relevant objectives and policies of the General Plan.

626. In regards to “Population,” the population increase that the Project would bring to `Ewa is consistent with the County’s policy to direct future growth to the region.

627. Concerning “Economic Activity,” the Project will generate direct, indirect, and induced jobs, which will generate more revenues to the State and the County than it will require in services.

628. With regard to “Natural Environment,” the majority of the Petition Area was heavily modified by cultivation of sugarcane. There are no developments proposed in the confines of Honouliuli stream or on the steep slopes/cliffs along the Old Fort Weaver Road-side of Petition Area. Moreover, the development of the Petition Area will not likely obstruct views of the Waianae and Ko`olau mountain ranges.

629. The Petitioner is also supportive of the City’s objectives and policies on “Housing.” The Project is proposed to contain a total of approximately 11,750 residential units featuring a variety of housing options, including: low-density single-family homes; medium-density, including “live-work” townhouses and semi-attached homes; higher-density residential condominiums, senior housing, rental homes, etc. Thirty percent of the residential units in the Project will be delivered at affordable rates pursuant to the City’s guidelines for affordable housing.

630. With regard to “Transportation and Utilities,” the Project has been designed to reduce future residents’ reliance on private vehicles, as it is the first TOD in the State. All utility lines will be underground to minimize visual impacts, except those that have already been installed by HECO, the BWS and other public or private utility companies.

631. Concerning “Energy,” although this policy is directed to public or private agencies, and is not directly applicable to the Petition Area, Petitioner is supportive of these policies and will incorporate energy-saving design features throughout the Project.

632. Regarding “Physical Development and Urban Design,” the Petition Area is located within the Secondary Urban Center, and Petitioner has been coordinating with other `Ewa developers in the joint development of infrastructure. As UHWO and DHHL will be developed before the Project, much of the jointly developed off-site infrastructure will be in place before the Petitioner will be able to secure the necessary major land use approvals. The Project’s compact and intensive land development would be in keeping with the concepts of TOD and would support ridership of the Honolulu Rail Transit.

633. The Petitioner is also supportive of the City’s objectives and policies for “Public Safety,” and “Health and Education.” The Project includes one site of approximately 10 acres that might be suited for either a fire station and/or a police sub-station.

634. With regard to “Culture and Recreation,” the Ho`opili AIS and Archaeological Monitoring Plan have been accepted by the SHPD as fulfilling the relevant regulations. The Ho`opili Historic Properties Preservation Plan has also been submitted to SHPD. With regards to recreation, the Project will have approximately 15-20 neighborhood parks, each about an acre in size. The Project is also planned to have a 20-acre District Park sited on the eastern side of the Petition Area.

635. Ho`opili will contribute to the “Government Operations and Fiscal Management” of the City, as it is projected to generate an additional \$29.1 million in real property tax on an annual basis upon the Project’s completion in 2030. These real property tax collections will continue after 2030.

#### 4. EWA DEVELOPMENT PLAN

636. The Petition Area is located within the `Ewa region, which the General Plan identifies as the Secondary Urban Center and its Urban-Fringe area for future development.

637. The decision to direct the City's population growth to the `Ewa Plain, by developing the Second City was made in 1976-77. One of the driving forces of that decision was weighing a balance of the need for affordable housing with the protection of plantation acreages with well-drained soil and good climate. Directing the City's population growth to the `Ewa region was deliberately done, understanding the balances and tradeoffs between agriculture, affordable housing and other competing public policies.

638. The current version of the City's `Ewa DP was officially adopted by the City Council in August 1997, and is presently being updated. The plan presents a vision for `Ewa's future development and provides conceptual land use plans that will serve as a policy guide for more detailed zoning maps and regulations, and public and private sector investment decisions.

639. The Secondary Urban Center was to be the focus of major economic activity, housing development, and a center for government services while preserving areas such as Waianae and the North Shore for rural uses. Based on this decision to direct growth towards `Ewa, there has been significant state and county investment in the region including Barbers Point Deep Draft Harbor, Villages of Kapolei, `Ewa Villages, West Loch, the state office buildings including the new DHHL headquarters, the County's Kapolei Hale and the Honouliuli Wastewater Treatment Facility and Water Reclamation Facility.

640. The Petition Area has always been slated for residential development in the `Ewa DP.

641. The Project is consistent with the adopted `Ewa DP vision and policies, including creation of master planned communities, transit-ready development along the Honolulu Rail

Transit corridor, restriction of urban development to areas inside the growth boundary, protection of sufficient land for diversified agriculture and phasing development. Some points have changed since 2009 regarding implementing the vision for transit-ready development along the Honolulu Rail Transit corridor: In April 2010, DPP circulated for review and comments a Public Review Draft of East Kapolei neighborhood TOD Plan. The final version of that TOD plan, when approved, will be the basis for TOD zoning for all of East Kapolei including Ho'opili.

642. The Project is also consistent with the findings from the recently completed `Ewa DP Review and the vision and policy changes DPP is proposing for the revised plan.

643. The Petition Area is located within the City's `Ewa DP's Urban Growth Boundary and is designated for Low and Medium Density Residential, High Density Residential, Agricultural Land Preservation, Parks, Transit Node (High Density Residential and Commercial) and Future Intermediate School land use in the `Ewa DP Land Use Map.

644. The Project will satisfy all relevant objectives and policies of the `Ewa DP. The `Ewa DP establishes six key elements to ensure that the vision statement for the `Ewa region is achieved. The proposed Project conforms to all six.

- (1) **Urban Growth Boundary.** The Urban Growth Boundary, which was adopted as part of the `Ewa DP is intended to give long-range protection from urbanization for over 3,000 acres of prime agricultural land in `Ewa and for preservation of open space while still providing adequate land for urban development in `Ewa for the foreseeable future. The `Ewa DP specifically states on Page 2-11 that "No proposals for urban uses will be considered outside the Urban Growth Boundary. Approximately 3,000 acres of prime agricultural land are protected by the Urban Growth

Boundary in Ewa, however, as shown in Petitioner's Hearing Exhibits 90B (and 93B), the Community Growth Boundary for Central O'ahu Sustainable Communities Plan protects another 10,000 acres. In addition, the North Shore Sustainable Communities Plan Growth Boundary protects 30,000 acres. There are also other agricultural areas protected in other development plan areas. Although the Petition Area is within the Agricultural District, it has been within the Urban Growth Boundary of the 'Ewa DP Urban Land Use Map since 1997, and has been designated for urban uses such as Residential and TOD.

- (2) **Network of Open Space and Greenways.** With its 15-20 neighborhood parks and its District Park, the Project would be consistent with the 'Ewa DP's objectives and policies to protect and preserve open space.
- (3) **The Secondary Urban Center.** The Secondary Urban Center would function as the primary employment generator for the 'Ewa DP area by the year 2020. The Project will enhance this effort by providing significant business and commercial areas that will provide employment opportunities.
- (4) **Communities Designed to Support Non-automotive Travel.** According to the 'Ewa DP, master-planned residential communities will be designed to support pedestrian, bicycle, and public transit uses. When fully built-out, rail transit will link the City of Kapolei, UHWO campus, and the Petition Area with the Primary Urban Center. The Project will be designed, with large areas of the Project site either within walking distance

of transit stations or accessible by feeder buses. As a mixed use, TOD, the Project will allow residents to walk/bicycle to work, schools, parks, and shopping within the community, and use public transportation to commute to areas outside of the community.

(5) **Preservation and Enhancement of Cultural Resources.** Views of the Waianae Mountain Range and the Ko`olau Mountain Range will continue to be available from the Project.

(6) **Phased Development.** Petitioner is regularly meeting with UHWO, DHHL, and HCDA to coordinate the development of infrastructure in `Ewa. In addition, the Petitioner meets frequently with other State and City agencies, including the DPP, the City Department of Transportation Services and the DOE.

**M. STATE LAND USE URBAN DISTRICT BOUNDARY**

645. The proposed reclassification of the Petition Area is in general conformance to HAR § 15-15-18, standards for determining “U” Urban District boundaries.

646. Reclassification of the Petition Area to the Urban District would allow the Petition Area to: (1) accommodate the projected population growth of the island of O`ahu; (2) support the current State land use urban classification on three sides of the Petition Area; and (3) support the objectives and policies of the County’s General Plan and `Ewa DP.

***HAR § 15-15-18(1): It shall include lands characterized by “city-like” concentrations of people, structures, streets, urban level of services and other related land uses.***

647. The Petition Area is located in an area surrounded on three sides by existing residential subdivisions and undeveloped property that has already been reclassified to the Urban District.

648. Examples of recent and planned State and City developments that have reinforced Kapolei-`Ewa as the Secondary Urban Center include the Honolulu Rail Transit, which has been on the `Ewa DP since 1997, UHWO, the State judiciary complex, the DHHL headquarters, the DHHL East Kapolei 1 and 2 residential development projects, the Kroc Center, and roadway improvements including North-South Road, and a new H-1 interchange and Kapolei Parkway.

649. The Project complements and supports state projects at UHWO and the DHHL projects. The DHHL, Petitioner and other agencies have worked to coordinate regional, sewer, water storage and drainage improvements. This coordination has resulted in investigating and funding infrastructure development projects, as well as planning for TOD around three Honolulu Rail Transit stations planned in East Kapolei.

***HAR § 15-15-18(2): It shall take into consideration the following specific factors.***

- (A) *Proximity of centers of trading and employment except where development would generate new centers of trading and employment;*
- (B) *Availability of basic services such as schools, parks, wastewater systems, solid waste disposal, drainage, water, transportation systems, public utilities, and police and fire protection; and*
- (C) *Sufficient reserve areas for foreseeable urban growth;*

650. The Petition Area is situated in close proximity to the City of Kapolei, which is envisioned as the County's Second City where new development has been directed. The Petition Area has been designated by the City for urban growth, and transportation systems, schools, parks, wastewater systems, solid waste disposal, drainage, water, public facilities and emergency systems including police and fire protection are all available to the site.

***HAR § 15-15-18(3): It shall include lands with satisfactory topography, drainage, and reasonably free from the danger of any flood, tsunami, unstable soil condition, and other adverse environmental effects.***

651. The topography of the Petition Area is consistent with urban design standards. The Petition Area will have sufficient drainage system, and is generally free of potentially adverse environmental conditions such as floods, tsunami or unstable soil conditions.

***HAR § 15-15-18(4): Land contiguous with existing urban areas shall be given more consideration than non-contiguous land, and particularly when indicated for future urban use on state or county general plans***

652. The Petition Area is contiguous to and abuts property classified as Urban on the south, east and west sides. The Petition Area is located within the Urban Growth Boundary of the `Ewa Development Plan.

***HAR § 15-15-18(5): It shall include lands in appropriate locations for new urban concentrations and shall give consideration to areas of urban growth as shown on the state and county general plans.***

653. The Petition Area is planned for urban uses, including residential and TOD by the `Ewa DP. The Petition Area is located within the Urban Growth Boundary of the `Ewa DP.

***HAR § 15-15-18(6): It may include lands which do not conform to the standards in paragraphs (1) to (5): (A) When surrounded by or adjacent to existing urban development; and (B) Only when those lands represent a minor portion of this district;***

654. The Petition Area is the last remaining parcel of land in the region makai of the H-1 Freeway that is not within the Urban District. Surrounding residential developments include: Waipahu Town to the northeast; Honouliuli and West Loch Estates to the east; and `Ewa Villages and `Ewa Villages Golf Course to the south. Vacant lands to the west are slated for future urban development by UHWO and DHHL.

***HAR § 15-15-18(7): It shall not include lands the urbanization of, which will contribute towards scattered spot urban development, necessitating unreasonable investment in public infrastructure or support services;***

655. The Project will not be a “scattered spot urban development.” The majority of adjacent lands that surround the Petition Area are within the State Urban Land Use District. The existing surrounding residential developments include: Waipahu Town to the northeast; Honouliuli and West Loch Estates to the east; and `Ewa Villages and `Ewa Villages Golf Course to the south. The vacant lands west of the Petition Area are currently being developed by UHWO and DHHL. The lands to the north of the Petition Area above the H-1 Freeway are within the State Agricultural Land Use District, however, fall outside of the City’s `Ewa DP Urban Growth Boundary.

656. The Petition Area is defined on three sides by existing or on-going urban development and on one side by a highway.

*HAR § 15-15-18(8): It may include lands with a general slope of twenty per cent or more if the commission finds that those lands are desirable and suitable for urban purposes and that the design and construction controls, as adopted by any federal, state, or county agency, are adequate to protect the public health, welfare and safety, and the public’s interests in the aesthetic quality of the landscape.*

657. The Petition Area is gently sloping and highly accessible, and thus is desirable and suitable for urban purposes, and walking and bicycling.

658. The Project conforms to the applicable goals, objectives, policies, and priority guidelines of the State Plan and the adopted Functional Plans.

#### **N. COASTAL ZONE MANAGEMENT PROGRAM**

659. HRS 205A-2, the “Coastal Zone Management Act” (“CZMA”) is a comprehensive state regulatory scheme to protect environment and resources of shoreline areas. The purpose of the Hawaii Coastal Zone Management Program (“HCZMP”) is to establish guidelines for the use, protection and development of resources within the coastal zone. Development activities in the coastal zone must conform to the HCZMP objectives and policies, as outlined in HRS Chapter 205A-2. The HCZMP is supplemented by the City’s Special

Management Area (“SMA”) that controls development along the shoreline and generally requires a permit from the County for activities in the SMA.

660. All lands of the State of Hawai‘i are included within the CZM Area as defined in HRS Chapter 205A. HRS § 205A-1. As such, the Petition Area is within the CZM Area. However, it is not located along a shoreline and is not located within the City’s Special Management Area.

661. Since the Petition Area is located away from the shoreline, nine out of the ten objectives of the CZM Program are not applicable. The objective relevant to the proposed Project pertains to the preservation of natural and historic resources. SHPD has approved the Ho‘opili AIS and Archaeological Monitoring Plan. Petitioner also submitted to SHPD the Ho‘opili Historic Properties Preservation Plan.

662. Drainage facilities within the Petition Area will be adequately planned and constructed in accordance with applicable City ordinances and drainage standards. Wastewater generated from the Petition Area will be appropriately treated at the municipal WWTP.

**O. INCREMENTAL DISTRICTING**

663. Under HAR § 15-15-78, if it appears to the Commission that full development of the Petition Area cannot substantially be completed within ten years after the date of the Commission’s approval and that the incremental development plan submitted by the Petitioner can be substantially completed, and if the Commission is satisfied that all other pertinent criteria for redistricting the premises or part thereof are present, then the Commission may: (1) Grant the petitioner’s request to reclassify the entire property; or (2) Redistrict only that portion of the premises which the petitioner plans to develop first and upon which it appears that substantial development can be completed within ten years after the date of the Commission’s approval.

664. Full urban development of the entire Petition Area cannot substantially be completed within ten years after the date of Commission approval, and Petitioner has stated its intent to accomplish the development of the Petition Area in the following two phases:

<u>Phases</u>	<u>Years</u>	<u>Acres</u>	<u>Units</u>	<u>Commercial Space</u>	<u>Industrial Mix</u>
Phase 1	1-10	940	5,800	2.235 million sf	0.8 million sf
Phase 2	11-20	586	5,950	0.725 million sf	-
Total	20	1,526	11,750	2.960 million sf	0.8 million sf

665. However, the infrastructure requirements for Phases 1 and 2 are integrally related, and are required to be planned and constructed as a unit in the first ten years. Major commitments regarding financing and construction of infrastructure for the entire Project will be required during the initial ten year period.

666. In light of Petitioner’s commitment to complete the Project’s backbone infrastructure that serves the entire Project within ten years after the date of Commission approval, the Commission, pursuant to HAR § 15-15-78(a)(1), finds that Petitioner’s request to reclassify the entire Property to the Urban District is reasonable and appropriate at this time.

**RULINGS ON PROPOSED FINDINGS OF FACT**

Any of the proposed findings of fact submitted by Petitioner or any other party not already ruled upon by the Commission by adoption, or rejected by clearly contrary findings of fact, are hereby denied and rejected.

Any conclusion of law herein improperly designated as a finding of fact should be deemed and construed as a conclusion of law; any finding of fact herein improperly designated as a conclusion of law should be deemed and construed as a finding of fact.

**CONCLUSIONS OF LAW**

**A. A SUPPLEMENTAL EIS IS NOT REQUIRED FOR HO’OPI LI**

1. A supplemental EIS is warranted when (1) a project “change[s] substantively in size, scope, intensity, use, location[,] or timing,” to the extent it becomes “an essentially different action,” *and* (2) such changes “could likely have a significant impact,” which was “not considered at the time the [original] EIS was prepared[.]” HAR §§ 11-200-26, 11-200-27, Unite Here! Local 5 v. City and County of Honolulu, 123 Hawai‘i 150, 179, 231 P.3d 423, 452 (2010) (“Unite Here! Local 5”).

2. A supplemental EIS is warranted even if the Project itself has not changed, when the Project become “essentially a different action” due to other circumstances such as: passage of time after approval of the original EIS (e.g. 20 years); when environmental impacts were examined only up until a certain point (e.g. 10 years ago); the project is nonetheless incomplete; and changes occurred in the surrounding environment that were not considered in the original.

3. There is no supplemental EIS warranted for the Project, since it has not changed substantively in size, scope, intensity, use, location, or timing, to the extent that it has become an essentially different action. The Ho`opili Phased Development Plan and the Ho`opili Urban Agriculture Initiative do not change the Project substantively. It has only been four years from the acceptance of the Ho`opili FEIS in 2008, the Ho`opili FEIS examines the Project’s impacts up until 2030, the Project schedule is still well within the timeline set forth in the Ho`opili FEIS, and there have been no substantive changes in the surrounding circumstances that would likely have a significant environmental effect that was not considered in the Ho`opili FEIS.

**B. THE STATUTORY DEADLINE FOR THE COMMISSION TO ACT ON THIS PETITION IS JULY 25, 2012**

4. The Commission has 365 days after the proper filing of a petition to act to approve the petition, deny the petition, or modify the petition by imposing conditions necessary to uphold the intent and spirit of HRS chapter 205, unless otherwise ordered by a court, or unless a time

extension, not to exceed ninety days, is established by a two-thirds vote of the members of the commission. HRS § 205-4(g), HAR § 15-15-74(b).

5. When a petition is found to be defective, HAR § 15-15-41, the Commission Rule that governs defective filings, allows the petitioner to cure the defective filing. HAR § 15-15-41 also provides that “the date of filing [of the Petition] shall be as of the date the commission determines that the defects are cured.”

6. The original date of filing for this docket, September 19, 2008, was nullified by the Commission on September 30, 2009, when it determined that the First Amended Petition was deficient. Pursuant to HAR § 15-15-41 and the Deficiency Order, the new date of filing was set on July 7, 2011, upon the Commission’s determination that the Second Amended Petition cured the deficiency of the First Amended Petition. Subsequently, pursuant to Petitioner’s filing of the Third Amended Petition, the proper filing date for this docket was extended to July 26, 2011. As such, the current statutory deadline for the Commission to act on the Petition is July 25, 2012.

**C. PETITION AREA IS NOT CURRENTLY DESIGNATED AS IAL**

7. The Commission, notwithstanding the agricultural use or agricultural classification of the Petition Area, has authority to entertain this Petition and render a decision thereon without consideration of the standards and criteria for the reclassification or rezoning of IAL set forth in HRS § 205-50, because the Petition Area is not currently designated as IAL under Act 183 (2005) and HRS Chapter 205.

**D. GRANTING OF THIS PETITION WILL NOT IMPEDE NATIVE HAWAIIAN TRADITIONAL AND CUSTOMARY RIGHTS**

8. Article XII, Section 7 of the Hawai’i State Constitution requires the Commission to protect native Hawaiian traditional and customary rights. The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural, and religious purposes

and possessed by ahupua`a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights. The State and its agencies are obligated to protect the reasonable exercise of customarily and traditionally exercised native Hawaiian rights to the extent feasible. Public Access Shoreline Hawai`i v. Hawai`i County Planning Commission, 79 Hawai`i 425, 450, n.43, 903 P.2d 1246, 1271, n.43, certiorari denied, 517 U.S. 1163, 1165. Ct. 1559, 134 L.Ed.2d 660 (1996).

9. The Commission is empowered to preserve and protect customary and traditional rights of native Hawaiians. Ka Pa`akai O Ka `Aina v. Land Use Commission, 94 Hawai`i 31, 7 P.3d 1068 (2000).

10. The Petition Area lies back from the coast on the extensive `Ewa limestone plain. Historical documentation and archaeological studies indicate that this area was probably never permanently inhabited during traditional Hawaiian times. There is no evidence to suggest that any native Hawaiian traditional and customary rights are being exercised within the Petition Area.

11. Due to the hydrology of the Petition Area and the City's strict detention/retention requirements for development projects affecting the Kalo`i Basin, the Project will not cause any disturbance in the underground or surface water flow conditions or negatively impact the near-shore waters at One`ula Beach. As such, limu practice at One`ula Beach would not be affected by the Project.

**E. COMMISSION'S DECISION-MAKING CRITERIA FOR DISTRICT BOUNDARY AMENDMENTS**

12. Pursuant to HRS Chapter 205 and the Commission Rules under HAR Chapter 15-15, and upon consideration of the Commission decision-making criteria under HRS § 205-17 and HAR § 15-15-77, the Commission finds upon the clear preponderance of the evidence that the

reclassification of the Petition Area, consisting of approximately 1,525.516 acres of land, situate in the `Ewa District, Island of O`ahu, identified by Tax Map Key Nos. (1) 9-1-017:004 (por.), 059 and 072; (1) 9-1-018:001 and 004, from the in the State Land Use Agricultural District to the State Land Use Urban District, and subject to the conditions stated in the Order below, conforms to the standards for establishing the boundaries of the State Land Use Urban District, is reasonable, not violative of HRS § 205-2, and is consistent with the policies and criteria established pursuant to HRS §§ 205-16, 205-17, and 205A-2.

1. **HRS § 205-17 “LAND USE COMMISSION DECISION-MAKING CRITERIA”**

*HRS § 205-17(1): The extent to which the proposed reclassification conforms to the applicable goals, objectives, and policies of the Hawai`i state plan and relates to the applicable priority guidelines of the Hawai`i state plan and the adopted functional plans.*

13. The proposed reclassification of the Petition Area is in general conformance with the goals, objectives, policies, and priority guidelines of HRS Chapter 226, the Hawai`i State Plan and the adopted function plans.

*HRS § 205-17(2): The extent to which the proposed reclassification conforms to the applicable district standards.*

14. The proposed reclassification of the Petition Area is in general conformance to HAR § 15-15-18, standards for determining “U” Urban District boundaries.

*HRS § 205-17(3): The impact of the proposed reclassification on the following areas of state concern.*

*(A) Preservation or maintenance of important natural systems or habitats.*

15. Article XI, Section 1, of the Hawai`i State Constitution requires the State to conserve and protect Hawai`i’s natural beauty and all natural resources, including land, water, air, minerals, and energy sources, and to promote the development and utilization of these

resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State.

16. No federally or state listed endangered or threatened native floral, faunal or arthropod species, or candidate endangered species or species of concern were found in the Petition Area.

***(B) Maintenance of valued cultural, historical, or natural resources.***

17. The Ho`opili AIS identified four sites as having historical significance, and recommended preservation thereof. The Ho`opili AIS and the Archaeological Monitoring Plan has been accepted by SHPD, and the Ho`opili Historic Properties Preservation Plan, submitted to SHPD for its review, ensures that there will be no adverse impact to these sites. In the event any previously unidentified archaeological sites are found, Petitioner will comply with all applicable statutes and rules of the SHPD.

***(C) Maintenance of other natural resources relevant to Hawai`i's economy, including agricultural resources.***

18. Article XI, Section 3, of the Hawai`i State Constitution requires the State to conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency, and assure the availability of agriculturally suitable lands, pursuant to the standards and criteria provided by the legislature to accomplish such.

19. The Petition Area is within the Urban Growth Boundary of the `Ewa Development Plan. The Urban Growth Boundary for `Ewa was drawn to give long-range protection from urbanization for 3,000 acres of prime agricultural land and for preservation of open space while providing adequate land for urban development in `Ewa. In addition, the Growth Boundaries for the Central O`ahu and North Shore Sustainable Communities Plans protect another 40,000 acres.

20. Article XI, Section 7, of the Hawai'i State Constitution states that the State has an obligation to protect, control, and regulate the use of Hawai'i's water resources for the benefit of its people.

***(D) Commitment of state funds and resources.***

21. The Project may require some commitment of State funds and resources, such as construction, repair and maintenance of roads and schools.

22. Petitioner will execute a MOA with the DOT, which will satisfy the Petitioner's fair share contribution obligation regarding mitigation of the Project's traffic impacts.

***(E) Provision for employment opportunities and economic development.***

23. The Project will provide a variety of employment opportunities and contribute to the economic development of the 'Ewa region and the island of O'ahu.

***(F) Provision for housing opportunities for all income groups, particularly the low, low-moderate, and gap groups.***

24. The Petitioner will deliver affordable housing pursuant to the City's guidelines for affordable housing.

***HRS § 205-17(4): The standards and criteria for the reclassification or rezoning of important agricultural lands in section 205-50.***

25. Petition Area is currently not designated as IAL under Act 183 and HRS Chapter 205. As such, the standards and criteria under HRS § 205-50 do not apply to the Project.

***HRS § 205-17(5) The county general plan and all community, development, or community development plans adopted pursuant to the county general plan, as they relate to the land that is the subject of the reclassification petition.***

26. The Project conforms to the City's General Plan and 'Ewa DP. Under the General Plan and the 'Ewa DP, the Petition Area is slated for development in a region necessary to accommodate the urban growth of O'ahu.

***HRS § 205-17(6): The representations and commitments made by the petitioner in securing a boundary change.***

27. Commission will require that Petitioner abide by the representation and comments made to the Commission during this district boundary amendment proceeding.

2. **HAR § 15-15-77 “DECISION-MAKING CRITERIA FOR BOUNDARY AMENDMENTS”**

***HAR § 15-15-77(a): The commission shall not approve an amendment of a land use district boundary unless the commission finds upon the clear preponderance of the evidence that the proposed boundary amendment is reasonable, not violative of section 205-2, HRS, and consistent with the policies and criteria established pursuant to sections 205-16, 205-17, and 205A-2, HRS.***

28. HRS § 205-2 sets forth the activities and uses permitted in each of the four State Land Use Districts. HRS § 205-2(b) requires that the Urban District include activities or uses as provided by ordinances or regulations of the county within which it is situated. DPP supports the Petition as it is consistent with all City plans, and has not raised any concerns with regard to the Project’s land use being violative of the City’s ordinances or regulations.

29. HRS § 205A-2 sets forth the objectives and policies of the HCZMP. The Project is in general conformance with the HCZMP.

***HAR § 15-15-77 (b): In its review of any petition for reclassification of district boundaries pursuant to this chapter, the commission shall specifically consider the following:***

***(1) The extent to which the proposed reclassification conforms to the applicable goals, objectives, and policies of the Hawai`i state plan and relates to the applicable priority guidelines of the Hawai`i state plan and the adopted functional plans.***

***(2) The extent to which the proposed reclassification conforms to the applicable district standards.***

***(3) The impact of the proposed reclassification on the following areas of state concern.***

***(A) Preservation or maintenance of important natural systems or habitats.***

- (B) *Maintenance of valued cultural, historical, or natural resources.*
  - (C) *Maintenance of other natural resources relevant to Hawai'i's economy including, agricultural resources.*
  - (D) *Commitment of state funds and resources.*
  - (E) *Provision for employment opportunities and economic development.*
  - (F) *Provision for housing opportunities for all income groups, particularly the low, low-moderate, and gap groups.*
- (4) *In establishing the boundaries of the districts in each county, the commission shall give consideration to the general plan of the county in which the land is located.*
  - (5) *The representations and commitments made by the petitioner in securing a boundary change, including a finding that the petitioner has the necessary economic ability to carry out the representations and commitments relating to the proposed use or development.*
  - (6) *Lands in intensive agricultural use for two years prior to date of filing of a petition or lands with a high capacity for intensive agricultural use shall not be taken out of the agricultural district unless the commission finds either that the action.*
    - (A) *Will not substantially impair actual or potential agricultural production in the vicinity of the subject property or in the county or State;*

30. The Petition is within the Urban Growth Boundary of the `Ewa Development Plan. The Urban Growth Boundary for `Ewa was drawn to give long-range protection from urbanization for 3,000 acres of prime agricultural land and for preservation of open space while providing adequate land for urban development in `Ewa. In addition the Growth Boundaries for the Central O`ahu and North Shore Sustainable Communities Plans protect another 40,000 acres. Therefore, the reclassification will not adversely impair the potential growth of agriculture on O`ahu or in the State.

- (B) *Is reasonably necessary for urban growth.*

31. The Project is necessary for urban growth, as it plays a key role in the City's growth management policy established in the General Plan. The General Plan directs growth for the island to the Primary Urban Center, `Ewa, and Central O`ahu, so that development pressures can be alleviated for other areas of O`ahu, to keep the country country. The Petition Area has been designated for eventual low- and moderate-density residential development since the adoption of the General Plan.

32. The Commission further concludes that although full urban development of the entire Petition Area cannot substantially be completed within ten years after the date of Commission approval, reclassification of the entire Petition Area is reasonable, not violative of HRS § 205-2, and is consistent with the policies and criteria established pursuant to HRS § 205-16, 205-17, and 205A-2, based on its finding that the infrastructure requirements for Phases 1 and 2 are integrally related, and are required to be planned and constructed as a unit in the first ten years.

### **DECISION AND ORDER**

IT IS HEREBY ORDERED that the Petition Area, consisting of approximately 1,525.516 acres of land in the State Land Use Agricultural District in `Ewa District, Island of O`ahu, identified by Tax Map Key Nos. (1) 9-1-017:004 (por.), 059 and 072; (1) 9-1-018:001 and 004, and shown approximately on Exhibit "A" attached hereto and incorporated by reference herein, shall be and is hereby reclassified to the State Land Use Urban District, and the State Land Use District boundaries shall be amended accordingly.

Based upon the findings of fact and conclusions of law stated herein, it is hereby determined that the reclassification of the Petition Area will not significantly affect or impair the

preservation or maintenance of natural systems and habitats or the valued cultural, historical, agricultural, and natural resources of the area.

IT IS HEREBY FURTHER ORDERED that the reclassification of the Petition Area from the State Land Use Agricultural District to the State Land Use Urban District shall be subject to the following conditions:

**1. Agriculture and Phasing of Development.** Petitioner shall hold or cause the phasing of development of the petitioned lands in a manner that will allow farmers unimpeded access to and use of agricultural lands not yet needed for development and continue the supply of sufficient irrigation water to meet crop production requirements. Petitioner shall inform the affected farmers that the phasing of development and the subsequent incremental termination of farming activities may be accelerated or decelerated, depending on market demand. Petitioner's annual report shall include an updated development timetable with maps of the phasing plan as relevant to the incremental termination of farming activities, copies of any notification sent to farmers regarding the phasing of development, and information on acreage farmed and the names of farms.

**2. Ho`opili Urban Agriculture Initiative.** Petitioner shall cause the full and complete development of no less than 251 acres of Urban Agriculture and establish the management entity responsible for compliance with the Ho`opili Sustainability Plan for the areas identified as Urban Agriculture prior to Ho`opili's full build-out. The distribution of acreage for the Urban Agriculture component shall not be less than 159 acres of Civic (commercial) Farms, 8 acres of Community Gardens, and 84 acres of Steward Farms (home gardens). The uses and activities of the Civic Farms shall be restricted to agricultural production and uses and activities directly accessory to agricultural production. This restriction shall run with the land. With

respect to the 84 acres of Steward Farms, the Petitioner shall offer homeowners a professionally designed edible landscape plan to be installed in their respective lots upon the purchase of their home from the Petitioner that includes adequate irrigation. In addition, the Petitioner shall include explicit reference to the purpose and intent of Steward Farms in all promotional and sales material. Petitioner shall obtain the approval from the State Department of Agriculture (“DOA”) for the location of the Civic Farms prior to the submittal of a subdivision application. Petitioner’s annual report shall include a status of the progress in establishing the Civic Farms; a copy of the DOA approved map of the location of the Civic Farms; a copy of the paperwork establishing the management entity for the Civic Farms; and a copy of the draft edible landscaping package for the Steward Farms (home gardens).

a. **Civic Farms.** Petitioner will ensure that 159 acres of Civic Farms will meet the DOA’s standard that it “can be practicably used for an economically successful commercial farming operation.” If it is determined that the certain areas identified are not feasible, the Petitioner shall locate other lands to replace those lands determined to not meet the DOA’s criteria set forth above and ensure that no less than 159 acres are set aside for Civic Farms.

b. **Steward Farms.** Petitioner shall establish the Steward Lot program, design the gardens, and set up agriculture friendly covenants; but consistent with current practice, the individual homeowners shall be responsible for the cost of installation and ongoing care.

3. **Compliance with HRS § 205-3.5, Relating to Agricultural Uses on Adjacent Agricultural Land.** For all land in the Petition Area or any portion thereof that is adjacent to land in the State Land Use Agricultural District, Petitioner shall comply with the following:

- a. Petitioner and its successors and assigns shall not take any action that would interfere with or restrain farming operations conducted in a manner consistent with generally accepted agricultural and management practices on adjacent or contiguous lands in the State Land Use Agricultural District. For the purpose of these conditions, “farming operations” shall have the same meaning as provided in HRS § 165-2; and
- b. Petitioner shall notify all prospective developers or purchasers of land or interest in the Petition Area, and provide or require subsequent notice to lessees or tenants of the land, that farming operations and practices on adjacent or contiguous land in the State Land Use Agricultural District are protected under HRS Chapter 165, the Hawai‘i Right to Farm Act. The notice shall disclose to all prospective buyers, tenants, or lessees of the Petition Area that potential nuisances from noise, odors, dust, fumes, spray, smoke, or vibration may result from agricultural uses on adjacent lands. The notice shall be included in any disclosure required for the sale or transfer of real property or any interest in real property.

**4. Affordable Housing.** Petitioner shall provide affordable housing opportunities for residents in the State of Hawai‘i in accordance with applicable affordable housing requirements of the City and County of Honolulu (“City”). The location and distribution of the affordable housing or other provisions for affordable housing shall be under such terms as may be mutually agreeable between the Petitioner and the City.

**5. Public School Facilities.** Petitioner shall contribute to the development, funding for and construction of school facilities, on a fair-share basis, as determined by, and to the

satisfaction of, the State of Hawai'i Department of Education ("DOE"). Terms of any contribution shall be agreed upon in writing by the Petitioner and the education agency.

**6. Water Resources.** Petitioner shall provide potable and non-potable water source, storage, and transmission facilities and improvements to accommodate development of the Petition Area, to the satisfaction of the City Board of Water Supply ("BWS") and other appropriate State and County agencies. The Project shall use non-potable water for irrigation of the Project's greenbelts, parks and roadway medians if a suitable supply is available.

**7. Water Conservation Measures.** Petitioner shall implement water conservation measures and Best Management Practices, such as use of endemic, indigenous and drought-tolerant plants and turf, and incorporate such measures into the Petition Area's site design and landscaping.

**8. Wastewater.** Petitioner shall develop a wastewater collection and transmission system and other sewer improvements in the Petition Area and offsite, as required by the State Department of Health ("DOH") and the City and County of Honolulu.

**9. Notification of Potential Nuisances.**

a. Petitioner shall properly disclose to all prospective purchasers, residents and/or occupants in the Petition Area of the potential adverse impacts of aircraft activity at and from Kalaeloa Airport such as, but not limited to, noise, right of flight, emissions, vibrations and other incidences of aircraft operations.

b. Petitioner shall provide as part of any grant or transfer of interest in the Petition Area the notification of potential aircraft and airport activity by including it in any disclosure required for the sale or transfer to buyers and lessees and to other future owners, lessees or occupants.

**10. Transportation**

a. Petitioner shall fulfill its commitment to making substantial contributions in land and cash toward traffic and roadway improvements, to include but not limited to:

- i. \$30 million dollars to the City's `Ewa Impact Ordinance Fee Program;
- ii. participation in improvements to Farrington Highway estimated to cost \$50 million dollars;
- iii. contribute 20 acres of land along Farrington Highway for widening of that highway;
- iv. contribute land to the State of Hawai'i Department of Transportation ("DOT") for the East-West Road connector;
- v. contribute lands in the Petition Area necessary for the city's rail transit system;
- vi. contribute land for park and ride areas;
- vii. contribute additional lands for the Kunia Interchange as requested by the DOT; and,
- viii. work with the DOT to create additional capacity on the H-1 Freeway from Kunia to Wahiawa.

Petitioner recognizes that there will be additional future contributions and requirements by the DOT that are yet to be determined.

b. Petitioner shall submit an updated Traffic Impact Analysis Report ("TIAR") for review and acceptance by the DOT, the City and County of Honolulu Department of Planning and Permitting ("DPP"), and the City and County of Honolulu Department of

Transportation Services (“DTS”). The updated TIAR shall include the most current updated traffic data, and shall provide and validate all recommended mitigations measure for potential project-related traffic impacts on State and City facilities to the satisfaction of the DOT, the DPP and the DTS. The updated TIAR shall include the construction status and timeline for the City’s rail transit project, and shall specifically address the potential effects on traffic if the rail project does not proceed as anticipated. Petitioner shall obtain acceptance of the updated TIAR from the DOT, the DPP, and the DTS, prior to submittal of a change in zoning application with the City and County of Honolulu.

c. Any significant changes in Project phasing and development shall require the TIAR to be further updated to include any adjustments in the sequencing and timing for when the traffic improvements are to be built and/or scheduled to correspond to the adjusted phasing and development. Any updates to the TIAR shall include an update with respect to the construction status and projected timeline for the City’s rail transit project. Any additional mitigation required as a result of these changes shall be provided within the updated TIAR. Based on the foregoing, all changes to the updated TIAR shall be provided to the DOT, the DPP, and the DTS for review and acceptance.

d. Petitioner shall fund the planning, design and construction of all traffic improvements required to mitigate local or direct project-generated and/or related traffic impacts, in accordance with the updated TIAR, as accepted by the DOT, the DPP, and the DTS. Petitioner shall fund its fair share of the planning, design and construction of all traffic improvements required to mitigate regional Project generated and/or traffic improvements in accordance with the updated TIAR, as accepted by the DOT, the DPP, and the DTS, or as set forth in a formal Memorandum of Agreement described in Condition No. 10(e) below. All

required traffic improvements for each phase of the Project shall be constructed in accordance with the timing and schedule as recommended in the updated/revised TIAR.

e. A formal Memorandum of Agreement shall be established between Petitioner and the DOT, documenting all aspects of the agreed-upon improvements required to mitigate Project generated and/or related transportation impacts to State transportation facilities.

f. Petitioner shall continue to coordinate with the DOT, the DPP, and the DTS to ensure that all traffic impacts are adequately addressed and properly mitigated.

**11. Stormwater.** Petitioner shall construct stormwater and drainage system improvements as designed in compliance with applicable federal, State and County laws and rules.

a. Prior to any subdivision approval, for lands that may drain onto adjacent Navy lands, the Petitioner shall provide a master drainage plan for review by the State Department of Health (“DOH”), the State Office of Planning (“OP”), and DPP, that either includes a letter of consent from the Navy allowing drainage onto its properties or a specific explanation of strategies to be employed so that drainage onto Navy lands is not necessary.

b. To the extent feasible, Petitioner shall mitigate non-point source pollution by incorporating low impact development practices for onsite stormwater capture and reuse into the Petition Area’s site design and landscaping, provided that such low impact development practices do not prevent dedication of drainage facilities to the counties, to prevent runoff onto affected State highway facilities, downstream properties and receiving gulches, streams, and estuaries that connect with coastal waters.

**12. Archaeological Survey.** Petitioner shall comply with the conditions recommended and approved by the State Department of Land and Natural Resources, State

Historic Preservation Division (“SHPD”), prior to issuance of a permit for grubbing and grading. Petitioner shall confirm in writing to the State of Hawai‘i Land Use Commission (“Commission”) that the SHPD has found Petitioner’s preservation mitigation commitments, if any, to be acceptable and has determined that any required historic preservation measures have been successfully implemented.

**13. Previously Unidentified Burials and Archaeological/Historical sites.** In the event that historic resources, including human skeletal remains, are identified during construction activities, all work shall cease in the immediate vicinity of the find, the find shall be protected from additional disturbance, and the SHPD, O‘ahu Island Section, shall be contacted immediately. Without any limitation to any other condition found herein, if any burials or archaeological or historic sites, such as artifacts, marine shell concentrations, charcoal deposits, stone platforms, paving, and walls not previously identified in studies referred to herein, are discovered during the course of construction of the Project, 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.

**14. Established Access Rights Protected.** Pursuant to Article XI, Section 7 of the Hawai‘i State Constitution, Petitioner shall preserve any established access rights of native Hawaiians who have customarily and traditionally used the Petition Area to exercise subsistence, cultural, and religious practices or for access to other areas.

**15. Civil Defense.** Petitioner shall fund and construct adequate solar-powered civil defense measures serving the Petition Area as determined by the State of Hawai‘i Department of Defense, State Civil Defense (“SCD”) and they shall be operational before occupancy of any

homes or businesses. The location of such measures shall be determined in consultation with the SCD.

**16. Integrated Solid Waste Management Plan.** Petitioner shall cooperate with the DOH and the City and County of Honolulu to conform to the program goals and objectives of HRS Chapter 342G and the City and County of Honolulu's approved integrated solid waste management plan 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.

**17. Best Management Practices.** Petitioner shall implement all appropriate Best Management Practices applicable to each proposed land use in order to minimize runoff from construction and vehicle operations, reduce or eliminate soil erosion and ground water pollution, and formulate dust control measures to be implemented during and after the development process in accordance with the DOH guidelines.

**18. Infrastructure Deadline - Within 10 Years.** Petitioner shall complete construction of (a) offsite backbone sewer and water infrastructure; and (b) all onsite backbone roadway infrastructure, such as the North-South Spine Road ("Spine Road") and the University of Hawai'i West O'ahu Connector Road ("Campus Drive"), and major utility infrastructure within said roads within ten (10) years from the date of the decision and order.

**19. Infrastructure Deadline - Within 20 Years.** Petitioner shall complete all backbone infrastructure, associated subdivision roadway and utility systems for the proposed residential, mixed-use/live-work commercial space, and commercial office and retail space within twenty (20) years from the date of the decision and order.

**20. Ho`opili Sustainability Plan.** Petitioner shall substantially comply with the Ho`opili Sustainability Plan, Petitioner's Hearing Exhibit 89B, including the implementation of the mitigation technologies, strategies and measures listed therein or the implementation of equivalent or better mitigation technologies, strategies, or measures. Petitioner's annual report shall detail the progress made in implementing the Ho`opili Sustainability Plan.

**21. 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 the reclassified area may result in reversion of the reclassified area to its former classification, or change to a more appropriate classification.

**22. Notice of Change of Ownership.** Petitioner shall give 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, any time prior to completion of the development of the Petition Area.

**23. Annual Reports.** Petitioner shall timely provide without any prior notice, annual reports to the Commission, the OP, and the DPP, and their respective successors, in connection with the status of the development of the Petition Area and Petitioner's progress in complying with the conditions imposed herein. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.

**24. 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 Petitioner or its successors and assigns.

**25. Notice of Imposition of Conditions.** Within seven days of issuance of the Commission's Decision and Order for the subject reclassification, Petitioner shall: (a) record with the State of Hawai'i Bureau of Conveyances ("Bureau of Conveyances") a statement that the Petition Area is subject to conditions imposed herein by the Commission in the reclassification of the Petition Area; and (b) file a copy of such recorded statement with the Commission.

**26. Recordation of Conditions.** Petitioner shall record the conditions imposed herein by the Commission with the Bureau of Conveyances pursuant to HRS § 15-15-92.

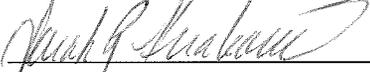
ADOPTION OF ORDER

The undersigned Commissioners, being familiar with the record and proceedings, hereby adopt and approve the foregoing ORDER this 21st day of June, 2012. This ORDER may be executed in counterparts. This ORDER shall take effect upon the date this ORDER is certified by this Commission.

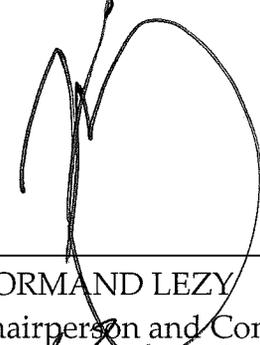
Done at Honolulu, Hawai'i, this 21st, day of June, 2012, per motion on June 8, 2012.

LAND USE COMMISSION

APPROVED AS TO FORM

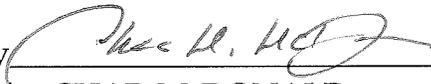
  
Deputy Attorney General

STATE OF HAWAI'I

  
By \_\_\_\_\_  
NORMAND LEZY  
Chairperson and Commissioner

  
By \_\_\_\_\_  
KYLE CHOCK  
Vice- Chairperson and Commissioner

  
By \_\_\_\_\_  
NICHOLAS W. TEVES JR.  
Vice- Chairperson and Commissioner

By   
CHAD McDONALD  
Commissioner

By   
RONALD HELLER  
Commissioner

By (voted no) \_\_\_\_\_  
JAYE NAPUA MAKUA  
Commissioner

By   
ERNEST MATSUMURA  
Commissioner

Filed and effective on:

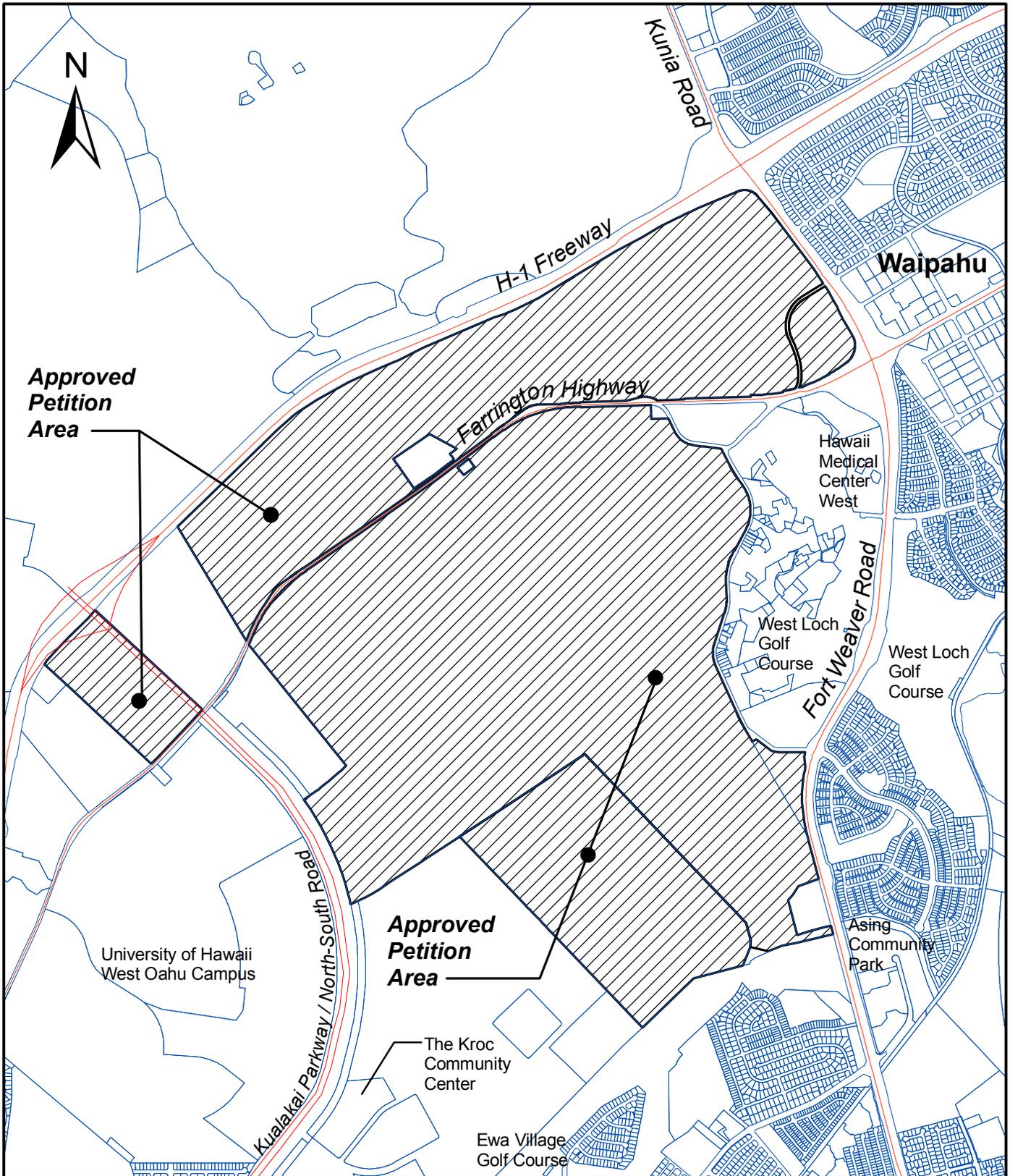
6/21/12

By   
LISA JUDGE  
Commissioner

Certified by:

  
DANIEL ORODENKER  
Executive Officer

By   
THOMAS CONTRADES  
Commissioner

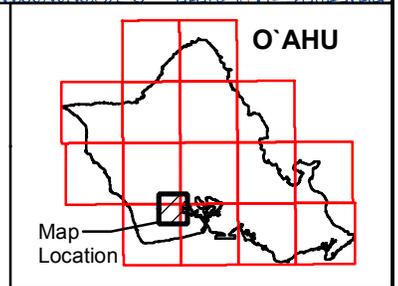


**A06-771 D.R. Horton – Schuler Homes, LLC,**  
**a Delaware limited liability company,**  
**d.b.a. D.R. HORTON - SCHULER DIVISION**  
**LOCATION MAP**

Tax Map Key Nos.: 9-1-17: 004, 059 and 072 (por.); 9-1-18: 001 and 004 (por.)  
 Honouliuli, 'Ewa District, Island of O'ahu, State of Hawai'i,

Scale: 1: 24,000

**EXHIBIT "A"**





BEFORE THE LAND USE COMMISSION

STATE OF HAWAII

In The Matter Of The Petition Of

DOCKET NO. A06-771

D.R. Horton – Schuler Homes, LLC, a  
Delaware limited liability company, d.b.a.  
D.R. HORTON - SCHULER DIVISION

CERTIFICATE OF SERVICE

To Amend The Agricultural Land Use  
District Boundaries Into The Urban  
Land Use District For Approximately  
1,525.516 Acres Of Land at Honouliuli,  
Ewa District, O`ahu, Hawai`i, Tax Map  
Key Nos.: 9-1-17:4, 059 and 072 (por);  
9-1-18: 1 and 4 (por.)

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the **FINDINGS OF FACT, CONCLUSIONS  
OF LAW AND DECISION AND ORDER** was served upon the following by  
either hand delivery or depositing the same in the U. S. Postal Service by regular  
or certified mail as noted:

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REGULAR DAVID TANOUE, Director  
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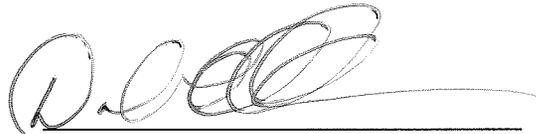
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ATTORNEY FOR INTERVENOR, CLAYTON HEE

Dated: Honolulu, Hawai'i, June 21, 2012.

A handwritten signature in black ink, appearing to read 'D. Orodenger', written over a horizontal line.

DANIEL ORODENKER  
Executive Officer