

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

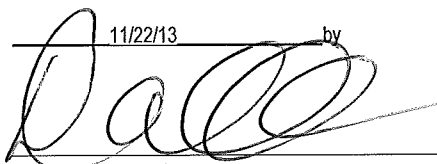
In The Matter Of The Petition Of	)	DOCKET NO. A10-787
	)	
MAUI R&T PARTNERS, LLC	)	FINDINGS OF FACT, CONCLUSIONS
	)	OF LAW, AND DECISION AND
To Amend The Agricultural Land Use	)	ORDER; CERTIFICATE OF SERVICE
District Boundary Into The Urban Land	)	
Use District For Approximately 253.05	)	
Acres Of Land At Kihei, Island Of	)	
Maui, State Of Hawai'i, Tax Map Keys:	)	
2-2-24: 16 And 17 And 2-2-02: Por. 84	)	
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FINDINGS OF FACT, CONCLUSIONS OF LAW,  
AND DECISION AND ORDER

AND

CERTIFICATE OF SERVICE

This is to certify that this is a true and correct  
copy of the document on file in the office of the  
State Land Use Commission, Honolulu, Hawai'i

11/22/13 by  
  
Executive Officer



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LAND USE COMMISSION  
STATE OF HAWAII

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

MAUI R&T PARTNERS, LLC, a Delaware limited liability company  
("Petitioner"), filed a Petition for District Boundary Amendment ("Petition") on June 23,  
2010, and a First Amendment to Petition for District Boundary Amendment ("First  
Amendment") on May 8, 2013,<sup>1</sup> pursuant to Hawai'i Revised Statutes ("HRS") section  
205-4 and Hawai'i Administrative Rules ("HAR") chapter 15-15 to amend the land use  
district boundary to reclassify approximately 253.05 acres of land at Kihei, Island of  
Maui, State of Hawai'i, identified as Tax Map Keys ("TMKs"): 2-2-24: 16 and 17 and 2-2-

<sup>1</sup> The Petition and First Amendment will be collectively referred to as Petition unless the latter is specifically referenced individually.

02: por. 84 ("Petition Area"), from the State Land Use Agricultural District to the State Land Use Urban District. The reclassification is necessary to allow for the development of the Maui Research & Technology Park ("MRTP") Master Plan Update ("Project").<sup>2</sup>

The State of Hawai'i Land Use Commission ("Commission"), having heard and examined the testimony, evidence, and argument of Petitioner, the State of Hawai'i Office of Planning ("OP"), and the County of Maui Department of Planning ("DP") presented during the hearings, along with their respective pleadings filed herein, hereby makes the following findings of fact, conclusions of law, and decision and order:

## FINDINGS OF FACT

### PROCEDURAL MATTERS

1. On June 23, 2010, Petitioner filed the Petition and Exhibits "1" through "9," including an Environmental Impact Statement Preparation Notice identified as Exhibit "6."
2. On June 29, 2010, Petitioner filed a Notarized Affidavit of Mailing and Exhibits "A" and "B."

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<sup>2</sup> The proposed uses within the Petition Area constitute a portion of the Project. Therefore, for purposes of this document, references to the Project are inclusive of the proposed uses within the Petition Area.

3. On July 15, 2010, the Commission held its meeting to determine whether it would be the accepting authority under HRS chapter 343 and whether the proposed action may have a significant impact on the environment.

4. On July 27, 2010, the Commission issued its order (1) agreeing to be the accepting authority pursuant to chapter 343, Hawai'i Revised Statutes; and (2) determining that the proposed action may have a significant effect upon the environment to warrant the preparation of an environmental impact statement.

5. On March 5, 2013, Petitioner filed the proposed final environmental impact statement ("FEIS") for the Project.

6. On April 4, 2013, the Commission accepted the FEIS at its meeting in Kahului, Maui, Hawai'i.

7. On April 19, 2013, the Commission issued its Findings of Fact, Conclusions of Law, and Decision and Order Accepting a Final Environmental Impact Statement for the Project.

8. On May 8, 2013, Petitioner filed the First Amendment, Verification, and Exhibits "10" through "16."

9. On May 8, 2013, Petitioner filed a Second Affidavit of Service of Petition for District Boundary Amendment filed June 23, 2010.

10. On May 16, 2013, Petitioner filed an Errata to the First Amendment to Petition for District Boundary Amendment filed on May 8, 2013 ("Errata"). The

Errata corrected the TMK designation of that part of the Petition Area identified in the Petition and First Amendment as TMK: 2-2-02: por. 54 to TMK: 2-2-02: por. 84.<sup>3</sup>

11. On May 20, 2013, Petitioner filed an Affidavit of Service.

12. On May 20, 2013, the Executive Officer of the Commission deemed the Petition a proper filing and accepted it for processing as of May 20, 2013.

13. On June 17, 2013, the DP filed its Position Statement.

14. On June 19, 2013, Petitioner filed a Motion for Order Amending the Amended Findings of Fact, Conclusions of Law and Decision and Order ("Motion to Amend") filed February 25, 1986, in Commission Docket No. A84-585/Maui Economic Development Board, Inc.<sup>4</sup>

15. On June 19, 2013, Petitioner filed a Motion to Consolidate Hearing in Commission Docket No. A84-585, which requested that the hearing and evidentiary record for both Commission Docket Nos. A10-787 and A84-585 be consolidated.

16. On June 21, 2013, the Notice of Hearing was filed, mailed, and published in the Honolulu Star-Advertiser, Hawai'i Tribune-Herald, West Maui Today,

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<sup>3</sup> Up until April 2013, parcel 84 consisted of approximately 2,301 acres. Approximately 123.843 acres of the parcel were included in the Petition Area. On April 26, 2013, the County of Maui granted final subdivision approval of the Anawio Subdivision, which subdivided the 123.843-acre area into a separate parcel. As such, the 123.843 acres no longer constitute a portion of parcel 84; however, the County of Maui has not yet assigned a TMK number to this parcel. Therefore, for purposes of this document, parcel 84 will continue to be referenced (as a portion) in the TMK description of the Petition Area.

<sup>4</sup> This docket originally established the existing MRTP. The Motion to Amend was filed to reflect the current changes to the MRTP as identified in the Project.

The Maui News, and Kaua'i Publishing Company dba The Garden Island in compliance with HAR section 15-15-51.

17. On June 26, 2013, OP filed its Statement of Position.

18. On July 1, 2013, Petitioner filed an Affidavit of Service Regarding Notice of Hearing and Exhibits "A" through "D."

19. On July 8, 2013, Petitioner filed its List of Witnesses, List of Exhibits, and Exhibits" 23" through "29."

20. On July 8, 2013, OP filed its List of Witnesses, List of Exhibits, and Exhibits 1, 3, 4, 7, and 8.

21. On July 12, 2013, the DP filed its List of Witnesses, List of Exhibits, and Exhibits 1 through 6.

22. On July 16, 2013, OP filed its Testimony in Support of Petition with Conditions.

23. On July 17, 2013, Petitioner filed its First Amended List of Witnesses, First Amended List of Exhibits, and Exhibits "30" through "48."

24. On July 17, 2013, OP filed a First Amended List of Exhibits, Amended List of Witnesses, and Exhibit 5.

25. On July 18, 2013, the DP filed its List of Witnesses - Amendment #1, List of Exhibits - Amendment #1, and Exhibits 7, 8, 9, and 10.

26. On July 25, 2013, the DP filed its List of Witnesses – Amendment #2, List of Exhibits – Amendment #2, and Exhibit 11.

27. On July 25, 2013, the Commission conducted its site visit of the Petition Area.

28. On July 25, 2013, the Commission heard arguments on Petitioner's Motion to Consolidate Hearing and approved the motion by a vote tally of 7 ayes, 0 nays, and 2 excused.<sup>5</sup>

29. The Commission opened the evidentiary hearing in both Commission dockets on July 25, 2013,<sup>6</sup> and continued the matter on July 26, 2013, in Kīhei, Maui, Hawai'i.

30. On August 2, 2013, Petitioner filed its Second Amended List of Witnesses, Second Amended List of Exhibits, and Exhibit "49."

31. The Commission resumed the evidentiary hearing in both Commission dockets on August 8, 2013, in Kahului, Maui, Hawai'i.

32. On August 8, 2013, the Commission closed the evidentiary portion of the proceedings.

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<sup>5</sup> On July 31, 2013, the Commission issued its Order Granting Motion to Consolidate Hearing.

<sup>6</sup> Prior to the commencement of the hearing, Chair Heller disclosed that he represents various Maui taxpayers in ongoing real property tax cases where the County of Maui is the adverse party. There were no objections to Chair Heller's participation in the hearing by the parties. At the hearing, the Commission heard public testimony from Mike Moran, Barbara Longo, Jeanne Skog, Gene Zarro, and Bruce U'u.

33. On October 17, 2013, the Commission met in Kahului, Maui, Hawai'i, to consider the Petition filed in Commission Docket No. A10-787.<sup>7</sup> Following oral argument of the parties, a motion was made and seconded to grant the Petition in its entirety. Upon further discussion, an amendment was made and seconded to the motion to subject the approval of the Petition to incremental districting pursuant to HAR section 15-15-78. There being a vote tally of 4 ayes, 3 nays, and 1 excused,<sup>8</sup> the amendment failed. A motion was then made and seconded to clarify the findings of fact and conditions of approval supporting the original motion to grant the Petition in its entirety to include the proposed findings of fact and conditions agreed to by the parties in their respective post-hearing pleadings and Petitioner's proposed Condition No. 4 relating to highway and roadway improvements as well as the findings of fact proposed by OP to the extent that they were not inconsistent with said condition. Following discussion, there was a vote taken on this motion. There being a vote tally of 7 ayes, 0 nays, and 1 excused, the motion carried. Thereafter, a vote was taken on the original motion to grant the Petition in its entirety, subject to the findings of fact and conditions voted upon herein. There being a vote tally of 6 ayes, 1 aye with reservations, 0 nays, and 1 excused, the motion carried.

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<sup>7</sup> At the meeting, the Commission heard public testimony from Councilmember Donald Couch, Jr.; Randy Piltz; Jeanne Skog; Dick Mayer; Caleb Wilsted; Gene Zarro; and Connor Jones.

<sup>8</sup> Due to the resignation of Commissioner Nakasone in September 2013, there are currently eight Commission members.



## DESCRIPTION OF THE PETITION AREA

34. The Petition Area consists of approximately 253.05 acres of land in the State Land Use Agricultural District, and is located at Kīhei, Island of Maui, State of Hawaiʻi.

35. The Petition Area is located in central Kīhei, South Maui, and is situated mauka of Piʻilani Highway. It is accessed by Līpoa Parkway.

36. The Petition Area is surrounded by undeveloped agricultural lands of the Haleakalā and Kaʻonoʻulu Ranches to the north, east, and south. Further to the south of the Petition Area is the Monsanto farm facility and the Kīhei Wastewater Treatment Facility (“KWWTF”). The Elleair Golf Course and gated community are located to the west of the Petition Area and mauka of Piʻilani Highway.

37. Seaward, across Piʻilani Highway, is Kīhei Town, which includes single and multi-family subdivisions, the Kīhei Community Center, Piʻilani Shopping Village, South Maui Community Park, and industrial and public and quasi-public developments.

38. Elevations across the Petition Area range from approximately 270 feet above Mean Sea Level (“MSL”) along the easterly boundary to approximately 160 feet MSL along the westerly boundary and approximately 73 feet MSL at the Līpoa Parkway and Piʻilani Highway intersection. The average slope is 3.2 percent.

39. The Petition Area consists of TMK: 2-2-24: 16 and 17 and 2-2-02: por. 84. TMK: 2-2-24: 16 and 17 are owned by Petitioner. TMK: 2-2-02: por. 84 is owned by Haleakalā Ranch. Haleakalā Ranch has provided its written authorization to reclassify the Petition Area from the State Land Use Agricultural District to the State Land Use Urban District for the development of the Project.

40. The Petition Area consists of three lots. At the center of the three lots is approximately 150.032 acres of State Land Use Urban District lands, which contain the existing MRTP. The remaining borders of the three lots are adjacent to lands in the State Land Use Agricultural District.

41. The Petition Area is currently undeveloped and fallow. The Petition Area was previously and is currently used for passive agricultural purposes, specifically grazing for cattle ranching.

42. According to the Natural Resources Conservation Service, the Petition Area includes soil type WID2: Waiakoa extremely stony silty clay loam, which is characterized by 3 to 25 percent slopes. For this soil type, runoff is medium, erosion hazard is severe, with approximately 50 percent of the surface layer having been removed by erosion in most areas, and stones cover 3 to 15 percent of the surface. WID2 is used for pasture and wildlife habitat.

43. WID2 has a soil rating of VIIs, which indicates that the soils have very severe limitations that make them unsuitable for cultivation and restrict their use

largely to pasture or range, woodland, or wildlife habitat. The sub-classification "s" indicates that the soils have an unfavorable texture, or are extremely rocky or stony.

44. The University of Hawai'i, Land Study Bureau ("LSB"), developed the Overall Productivity Rating, which classified soils according to five levels, with "A" representing the class of highest productivity soils and "E" representing the lowest. These letters are followed by numbers which further classify the soil types by conveying such information as texture, drainage, and stoniness. All of the soils in the Petition Area are rated "E," or very poor by the LSB.

45. In 1977, the State of Hawai'i Department of Agriculture developed a classification system to identify Agricultural Lands of Importance to the State of Hawai'i ("ALISH"). The classification system is based primarily, though not exclusively, upon the soil characteristics of the lands. The three classes of ALISH lands are: "Prime," "Unique," and "Other," with all remaining lands termed "Unclassified." When utilized with modern farming methods, "Prime" agricultural lands have a soil quality, growing season, and moisture supply necessary to produce sustained crop yields economically. "Unique" agricultural lands possess a combination of soil quality, growing season, and moisture supply to produce sustained high yields of a specific crop. "Other" agricultural lands (of "importance to the State of Hawai'i") include those that have not been rated as "Prime" or "Unique." The Petition Area has been classified

as "Unclassified" by the ALISH classification system, indicating that the area has poor soils for growing crops.

46. According to the Flood Insurance Rate Map prepared by the Federal Emergency Management Agency, the Petition Area is designated Zone X, which denotes areas outside of the floodplains.

47. The Petition Area is not located within the County of Maui's Special Management Area.

#### PROPOSAL FOR RECLASSIFICATION

##### The Existing MRTP

48. The existing MRTP was originally established by the reclassification of approximately 150 acres of land ("First Increment") and the incremental districting of approximately 150 acres ("Second Increment") from the State Land Use Agricultural District to the State Land Use Urban District in Commission Docket No. A84-585.

49. On February 25, 1986, the Commission issued an Amended Findings of Fact, Conclusions of Law, and Decision and Order ("Amended D&O") to reflect changes in the boundaries between the First and Second Increments (now identified as the *new* First Increment and the *new* Second Increment, respectively.<sup>9</sup>

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<sup>9</sup> Based on the subsequent preparation of a metes and bounds survey, the new First Increment and new Second Increment were determined to consist of approximately 150.032 acres and 150.143 acres, respectively. An approximately 20.936-acre parcel, identified as TMK: 2-2-24: 30, that was part of the new

50. Petitioner currently manages the MRTP and is responsible for developing the Project. Petitioner intends to pursue the reclassification of the Petition Area, which consists of lands that constitute the majority of the new Second Increment as well as an additional approximately 123.843-acre area currently in the State Land Use Agricultural District, rather than to defer the reclassification pending the substantial completion of offsite and onsite improvements within the new First Increment as ordered by the Amended D&O.

51. Under the Project, the MRTP will encompass approximately 403.082 acres and will include the current MRTP.

52. The existing MRTP obtained full entitlement in the 1980s and the first building opened in the early 1990s. Today the park consists of five buildings comprised by approximately 180,000 square feet of Class A office, laboratory, and data center space that generates an estimated \$100-\$150 million a year in revenue. The total cost of the park, including the buildings and associated infrastructure, represents an estimated \$60 million investment.

53. Approximately 400 people currently work in the MRTP at over 20 companies in a variety of sectors including optics, directed energy, data fusion, space surveillance/situational awareness, software development, and professional services. Approximately 25 percent of the MRTP's workforce was born in Hawai'i.

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Second Increment was subsequently sold to a third party and is no longer part of the MRTP property or the Project. However, it remains subject to the conditions of Commission Docket No. A84-585.

54. Approximately 10 percent of the existing MRTP's 150.032 acres of land has been developed.

55. The limitations of the existing MRTP which have limited its growth include the current 2-acre minimum lot size and the inability to accommodate mixed-use development.

### The Project

#### a. Mission and Strategies

56. The Project will address the MRTP's limitations by (1) creating a location which people are drawn to by having a diversification of land uses and creating an attractive and welcoming public realm; and (2) diversifying the offering of employment opportunities by pursuing three strategies to achieve a mixed-use community focused around a regional knowledge-based industry employment base.

57. Research into the growth of businesses in other tech centers has shown the value of a mixture of uses and activities. The addition of housing, retail, civic, and open spaces to the Project will add amenities for business attraction and retention.

58. The three strategies to diversify the offering of employment opportunity include having a variety of business spaces, a variety of lot sizes, and to be more inclusive in attracting high quality jobs.

59. The first strategy is to provide a wide variety of spaces, especially small, inexpensive, flexible spaces, which will allow entrepreneurs to begin and grow businesses.

60. The second strategy is to provide a variety of parcel sizes. The flexible lot sizes are intended to continue to attract already established businesses, and to also attract small startup business needing smaller lots and large campus type users needing larger lots.

61. The third strategy is to be more inclusive to attract high skill, high paying jobs by moving from "high technology" to a broader category of "knowledge industries" to gain more flexibility in attracting many different knowledge-based businesses.

b. Permitted Uses and Prohibitions

62. The Project is described in detail in the draft chapter 19.33A, which will be proposed as an amendment to the Maui County Code ("MCC") to serve as the governing zoning ordinance for the Project, and the Development Code, which will be proposed as the Design Guidelines mandated in chapter 19.33A. The proposed permitted uses within the Project are described in the draft chapter 19.33A.

63. The draft chapter 19.33A, through the Development Code, contains development caps that limit the amount of retail businesses and dwelling units.

64. The maximum total retail general merchandising for the entire Project is limited to 100,000 square feet. This development cap does not include hotels, eating and drinking establishments, and home-based businesses.

65. The maximum total dwelling units for the entire Project is limited to 1,250 dwelling units.

66. The draft chapter 19.33A contains six districts: Employment, Campus, Mixed-Use, Residential, Civic, and Open Space/Park.

67. The location of the six districts is shown in the Controlling Plan within the draft chapter 19.33A.

68. The purpose of the Employment district is to allow for a broad mix of knowledge industry uses and incidental supportive uses and provide for a range of lot and building sizes. "Knowledge industry" means industries characterized by highly-skilled workers in professional, scientific, and technical services. Examples of "knowledge industry" include areas such as accounting, advertising, architecture, engineering, biotechnology, computer science, consulting services, disaster mitigation, education, electro-optic research, electronics, energy research and development, environmental assessment, information technology data center, manufacturing, multimedia and art, law, pharmaceutical science, biological science, photography, technological product marketing, telecommunications, and veterinary services.



69. Permitted uses in the Employment district are identified in the draft chapter 19.33A, and include knowledge industry employment and incidental supportive retail, service, and civic uses, such as recreational facilities, day care centers, and police and fire stations. Live/work businesses on flex space lots and housing associated with educational institutions constitute the only residential uses.

70. "Flex space" is defined as unfinished flexible building space suitable for combined residential, commercial, and light industrial uses.

71. General merchandising in the Employment district is limited to maximum store sizes of 10,000 square feet.

72. The purpose of the Campus district is to accommodate users requiring large contiguous parcels of developable land. The Campus district allows for the same uses and lot types as allowed in the Employment district. The permitted uses in the Campus district are identified in the draft chapter 19.33A.

73. The Mixed-Use district is a flexible area containing space for incubating new businesses as well as supporting retail, civic uses, schools, open space, and residential uses. Neighborhood serving retail uses, flex space, live/work, multi-family buildings with ground floor retail, and a range of multi-family and single-family residences provide for a mix of activity and 24-hour usage of the Project. The Mixed-Use district is characterized by small blocks, buildings built on front property lines, and

ample pedestrian amenities and open space. The district is within walking distance of the surrounding Residential and Employment districts.

74. The permitted uses within the Mixed-Use district are identified in the draft chapter 19.33A and include uses similar to the Employment district as well as gasoline retailing, housing for low and moderate income families operated by governmental or non-profit organizations, and housing for the aged operated by governmental or non-profit organizations.

75. General merchandising in the Mixed-Use district is limited to maximum store sizes of 20,000 square feet.

76. The Residential district accommodates the largest concentration of residential uses in the Project and provides for a mix of housing types. While the Residential district is primarily residential in character, a mix of small neighborhood-serving retail uses, live/work establishments, and institutional/civic uses, such as churches, libraries, recreational facilities, and day care centers, are permitted.

77. The permitted uses within the Residential district are identified in the draft chapter 19.33A and include single-family, two-family, duplex, and multi-family dwellings, eating and drinking establishments (but excluding fast food restaurants and nightclubs), green houses, home occupations, general merchandising, and recreation.

78. General merchandising in the Residential district is limited to maximum store sizes of 5,000 square feet.

79. The Civic district is intended to allow for a concentration of institutional and civic uses within the Project.

80. The permitted uses within the Civic district are identified in the draft chapter 19.33A and include assembly areas, community gardens, fire and police stations, medical center, government buildings, offices for non-profit charitable organizations, private or public parking lots, and recreation.

81. The Open Space/Park district is intended to provide areas for active and passive recreation, site drainage and water retention, and natural vegetation.

82. The permitted uses within the Open Space/Park district are identified in the draft chapter 19.33A and include accessory buildings, including pavilions, restrooms, play and outdoor exercise equipment, and utility buildings; agriculture, including community gardens, orchards, and nurseries; drainageways and retention basins; public parking lots; recreation; natural vegetation; and open land.

c. Housing

83. Projected dwelling units and pricing includes, in conceptual terms, approximately 250 multi-family units (20 percent of the total 1,250 units) with current market prices ranging from \$280,000 to \$400,000; approximately 250 townhouse units (20 percent of the total) with current market prices ranging from \$400,000 to \$650,000;

approximately 175 houselot parcels (14 percent of the total) with current market prices ranging from \$225,000 to \$450,000; and approximately 575 finished houses (46 percent of total) with current market prices ranging from \$640,000 to \$1,000,000.

d. Proposal for the Petition Area

84. Under the Project, the Petition Area will be able to accommodate development of up to 982,000 square feet of large and small-scale knowledge-based businesses and 33,000 square feet of accessory commercial/retail uses.

85. The Petition Area is projected to include 200 multi-family and 650 single-family residential units.

86. The Project will comply with Maui County affordable housing requirements.

e. Development Timetable

87. The Project, including the development of the Petition Area, is expected to be substantially completed within 20 years from Commission approval, and the backbone infrastructure for the Project is expected to be completed within 13 years from Commission approval. The Project will be implemented in two phases or increments: Phase 1 is anticipated to be completed in 2024, while Phase 2 is anticipated to be completed in 2034. Phase 1 includes the majority of the Revised Petition Area that was previously urbanized in Commission Docket No. A84-585 and that is identified as the "Mixed-Use Center" and "Employment Core" and a portion of the Petition Area

that is identified as the "Makai Residential" area in the Incremental Development Plan. Phase 2 includes the remaining lands comprised by the Revised Petition Area as well as the remaining portion of the Petition Area that is identified as "Knowledge Industry/Campus" and "Option Land" in the Incremental Development Plan.

PETITIONER'S FINANCIAL CAPABILITY TO UNDERTAKE THE PROJECT

88. The financial statement of Petitioner as of December 31, 2012, reflects total assets of \$32,309,470, total liabilities of \$14,481,288, and total partner's equity of \$17,828,182.

89. Pre-development financing has been identified and secured. Once the necessary entitlements are in place, development of the Project will be financed by a combination of the sales of entitled, master-planned parcels and construction financing.

STATE AND COUNTY PLANS AND PROGRAMS

90. The Petition Area is located within the State Land Use Agricultural District.

91. The Petition Area is designated within the Urban Growth Boundary as identified in the Maui Island Plan.

92. The Petition Area is designated within Project District 6, Public/Quasi-Public, and Agriculture in the Kihei-Mākena Community Plan.

93. The Petition Area is zoned Agricultural.

## NEED FOR THE PROPOSED DEVELOPMENT

94. The Hallstrom Group, Inc., prepared a report entitled *Market Study, Economic Impact Analysis, and Public Fiscal Assessment of the Proposed Maui Research & Technology Park Master Plan Update* dated May 2012 to address the Project's market assessment and economic impacts.

95. The demand for warehouse, manufacturing, office, business park and research, and development floor space on Maui, what is traditionally referred to as "light industrial," will total from 5.3 million to 6.7 million square feet through 2035, an increase of 49 to 63 percent from current levels and equating to 466 to 599 gross acres.

96. The Project is expected to capture from 1.1 million to 1.5 million square feet of the projected demand for light industrial space over the next 20 years.

97. The demand for new residential units in the Kihei-Mākena Corridor will be from 7,760 to 12,009 units over the next 24 years through 2035. The number of existing unsold and planned residential housing units within the regional "Directed Growth Boundary," excluding the Project, totals 6,634 units. This indicates that there will be a shortfall in the sector of 1,126 to 5,375 new residential units, with a mid-point under-supply of 3,251 units. There will be sufficient unmet demand to absorb the 1,250 units of the Project.

98. The proposed 750 single-family homes and lots will require approximately 14 years to be absorbed, and the 500 multi-family units will be absorbed in approximately 13 years.

99. The regional demand for commercial development in Kihei-Mākena is projected to be 907,000 to 1,506,000 square feet by 2035.

100. The Project is expected to generate internal demand for approximately 175,000 square feet of commercial space, and the remaining 350,000 square feet of the Project's commercial space is expected to be absorbed by the regional demand.

#### ECONOMIC IMPACTS

101. The Project is expected to generate approximately \$1.39 billion in capital investment into the Maui economy. The construction of the Project and ongoing operations and maintenance of the residences, onsite commercial and industrial, business, and community facilities will provide an estimated 63,507 worker years of employment and \$2.7 billion in total wages over the approximately 20-year buildout period. After full buildout, the Project will support approximately 5,878 permanent jobs onsite with an annual payroll of approximately \$217 million, and an additional 1,469 workers with \$68.6 million in yearly wages offsite.

102. During the Project's construction and absorption period, a total of \$6.2 billion in taxable revenues are projected, averaging \$324.7 million per year. After

full buildout, approximately \$557 million annually in business activity will be occurring in the Project.

103. The County of Maui is projected to realize real property and transient accommodation taxes and other secondary receipts and impact fees of \$141.3 million during construction of the Project and \$28.5 million annually after full buildout. The net benefit to the County is expected to be in excess of \$25.3 million during construction and \$21.5 million annually after full buildout.

104. The State of Hawai'i is projected to receive gross excise, income, and transient accommodation taxes, secondary revenues, and impact fees of \$752.5 million during construction of the Project and \$80.4 million annually after full buildout. The net benefit to the State is expected to be in excess of \$466.3 million during construction of the Project and \$57.3 million annually after full buildout.

#### SOCIAL IMPACTS

105. At full buildout, the total resident population of the Project is expected to be approximately 2,756 persons. The Project is also expected to support up to 5,878 employees. The increase in resident population represents approximately 26 percent of the projected population growth within Kihei-Mākena from 2010 to 2030. It is not anticipated that these individuals will represent a significant in-migration of people to Maui.



106. The Project will provide additional housing choices to meet the demand in the Kīhei-Mākena Corridor. It is likely that most of the proposed multi-family residential units will have market-based prices at or below affordability thresholds. By incorporating housing in proximity to employment opportunities, many of the negative impacts that often arise with urban sprawl, such as long commuting times and traffic congestion, will be alleviated.

#### IMPACTS UPON RESOURCES OF THE AREA

107. Petitioner represented that this Project will be implementing either the mitigation proposals recommended by Petitioner's consultants or equivalent or better mitigation, as applicable, with respect to the following resources and environmental qualities of the Petition Area and surrounding areas as well as to the public services and facilities thereto.

##### Agricultural Resources

108. Decision Analysts Hawai'i, Inc., prepared a report entitled *Maui Research & Technology Park Master Plan Update: Impacts on Agriculture* dated May 2011 to address the Project's impacts on agriculture.

109. The Petition Area has high solar radiation, but the poor soils, low soil ratings, and lack of irrigation water indicate that it is poorly suited for growing commercial field crops.

110. The Project would eliminate approximately 102 acres of grazing land from Haleakalā Ranch's cattle operations, or approximately 0.44 percent of the 23,000 acres that constitute its total grazing land. This reduction will not have a significant impact on its cattle operations.

#### Fauna and Flora

111. Robert W. Hobdy prepared a report entitled *Botanical and Fauna Surveys for the Maui Research and Technology Park Proposed Urban Zoning Expansion Project* dated October 2008 to address the Project's impacts on fauna and flora.

112. The Petition Area was originally populated with dry native forests and scrubland species. These have diminished over the past 150 years as the area has been used for cattle grazing, introduced Axis deer, and fires.

113. A walk-through botanical survey was conducted on the Project site, including the Petition Area. The site is now dominated by two non-native species: kiawe trees and buffelgrass. A total of fourteen species were noted during the site surveys, of which two were native to the Hawaiian Islands: 'ilima and 'uhaloa. Both of these species were rarely seen on the Petition Area, and are widespread and common in Hawai'i in general.

114. No Federally listed endangered or threatened native plants (USFWS, 1999) were encountered during the course of the survey nor were any species that are candidate for such status observed. No special habitats or rare plant

communities were seen on the Petition Area. There is little of botanical concern and the Project is not expected to have a significant negative impact on the botanical resources in this part of Maui.

115. A faunal walk-through survey was conducted in conjunction with the botanical survey. Three mammalian species were noted in the survey: cattle, Axis deer, and feral cats. Fourteen non-native bird species were recorded as well. The survey found no evidence of the Hawaiian hoary bat (*Lasiurus cinereus emotus*) or the Blackburn's sphinx moth (*Manduca blackburn*), both of which are on the Federal List of Endangered Species. No Federally listed endangered or threatened species were encountered during the course of the survey and no special habitats were identified. The Project should have no significant impact on the faunal resources in this part of Maui.

116. SWCA performed an additional botanical survey of the Project site, including the Petition Area, in 2011. An additional nine plant species, all non-native, were identified. The Obscure Morning Glory (*Ipomoea obscura*), a possible host plant for the adult Blackburn's sphinx moth, was found to be rare; however, no species confirmed as larval host plants for the Blackburn's sphinx moth were found within the Petition Area.

117. SWCA performed an additional faunal survey of the Project site, including the Petition Area, in 2011. No additional species of wildlife were observed.

No listed or candidate endangered species of animals were observed within the Petition Area.

#### Archaeological and Historical Resources

118. Scientific Consultant Services, Inc., prepared a report entitled *An Archaeological Inventory Survey of Multiple Land Parcels Located within the Maui Research and Technology Park* amended September 2008 to provide an archaeological investigation of the Project site, including the Petition Area.

119. The Petition Area is in an area of Kīhei described as the "Barren Zone." The Barren Zone is an intermediary zone that provides access between beach areas and upland forests. Based on general archaeological and historical research, the Barren Zone was not subject to permanent or extensive population due to the lack of productive natural resources. As such, architectural structures associated with permanent habitation sites or ceremonial sites are not often present in the area, while temporary habitation and temporary use sites may be present in the Barren Zone.

120. A total of five historic sites were found on the Petition Area, three on parcel 17 and two on the portion of parcel 84: (1) Site 50-50-10-6239, an historic modified outcropping; (2) Site 50-50-10-6240, an historic modified outcropping; (3) Site 50-50-10-6241, a traditional or historic boundary wall; (4) Site 50-50-10-6587, an L-shaped military training feature; and (5) Site 50-50-10-6588, three mounds which are traditional location markers.

121. Significance Criteria established for the State and National Register of Historic Places are used to evaluate historic sites.

122. A site fits into "Criterion A" if the site is associated with events that make a significant contribution to the broad patterns of Hawai'i's history.

123. A site fits into "Criterion B" if the site is associated with the lives of persons significant to Hawai'i's past.

124. A site fits into "Criterion C" if the site embodies the distinctive characteristics of a type, period, or method of construction; or represents the work of a master; or possesses high artistic value; or represents a significant and distinguishable entity whose components may lack individual construction.

125. A site fits into "Criterion D" if the site has yielded or has the potential to yield information important in prehistory or history.

126. A site fits into "Criterion E" if the site is of important traditional cultural value to the Native Hawaiian people or to another ethnic group of the State of Hawai'i due to associations with traditional cultural practices once carried out, or still carried out, at the property due to associations with traditional beliefs, events, or oral accounts. Criterion E applies only to the State of Hawai'i.

127. All five sites found on the Petition Area have been assessed as significant under only Criterion D. An archaeological site is significant under Criterion

D, but should sufficient information be collected from the site during archaeological investigations, the site does not require any further mitigation.

128. Petitioner will informally preserve Site -6241 if given the opportunity and provide an orange protective fence to be placed along side the Site -6241 wall on the northern ridgeline boundary of Parcel 17 to protect two undocumented rock shelters occurring off the Petition Area below in Waipu'ilani Gulch.

#### Cultural Resources

129. Hana Pono, LLC, prepared a report entitled *Cultural Impact Assessment for the Proposed Maui Research and Technology Park Master Plan Update* dated December 2006 and revised December 2011 to assess the cultural impacts of the Project.

130. The Petition Area is located in the Kula Moku and the Waiohuli and Kēōkea Ahupua'a, Wailuku (Kula) District. This area is located in the Barren Zone. The existing gulches did not start from the top of Haleakalā, and therefore the drainageway was shallow compared to other gulches, indicating limited water flow through the Waiohuli and Wailuku/Kula District. Since the lack of water did not attract large groups of residents to build communities like those found in other areas of Maui, pre-contact activity was limited. The Petition Area has been used for cattle grazing for the last 150 years.

131. There are no visible cultural resources on the Petition Area. From a cultural practices perspective, the Petition Area bears no apparent signs of cultural

practices or gatherings currently taking place. The oral history interviews did not reveal any known gathering places on the Petition Area or any access concerns as a result of the Project. The development of the Project will not impact cultural resources on the Petition Area or within its immediate vicinity.

132. To assure the cultural integrity of the Project, a qualified cultural specialist will participate in various culturally-related activities, including the development and implementation of cultural orientation for construction personnel, advice concerning inadvertent finds and related protocol, and any other cultural concerns during the length of Project construction.

#### Groundwater Resources

133. Tom Nance Water Resource Engineering prepared a report entitled *Assessment of the Potential Impact on Groundwater Resources of the Proposed Expansion of the Maui Research and Technology Park* dated March 2012.

134. Groundwater beneath the Petition Area occurs as a brackish basal lens overlying saline groundwater at depth. For regulatory purposes, this groundwater body has been named the Kama'ole Aquifer by the State of Hawai'i Commission on Water Resource Management ("CWRM"), which has set its sustainable yield at 11 million gallons per day ("MGD"). In a 2007 report, the United States ("U. S.") Geological Survey estimated that the aquifer's total recharge is 37 MGD, equivalent to

an average of approximately 3.4 MGD per coastline mile of the aquifer. Present pumpage in the aquifer is approximately 5 MGD.

135. To produce the required drinking water supply for the Project using the brackish groundwater of the Kama'ole Aquifer, the water would need to be desalinized by high pressure filtration, a process called reverse osmosis ("RO"). The RO process removes dissolved solids from the product water stream and puts these solids into the portion of the raw water supply referred to as the concentrate. This concentrate would be returned to groundwater via disposal wells. The delivery would be to a depth below the basal lens where the receiving groundwater would be of equal or greater salinity.

136. Two alternatives for the raw water supply wells were evaluated: five wells at the 580-foot elevation inland of the Petition Area and five wells located within the Petition Area.

137. The development of well fields either onsite or offsite will result in a change in the groundwater flow beneath the MRTP.

138. Computed decreases to the groundwater flowrate are 13.6 percent for the 580-foot elevation wells and 17.3 percent for the onsite wells alternative. Discounting the return of the RO concentrate to a depth below the usable portion of the basal lens, the net drafts of groundwater from the usable portion of the basal lens would



be 20 to 28 percent, respectively. Salinity of downgradient wells would likely increase on the order of 10 percent.

139. The estimated increase in nitrogen for both RO supply alternatives is from 0.8 to 0.9 percent. For phosphorous, the estimated increase is .03 to .04 percent. None of these increases would be significant.

### Visual Resources

140. The Project is located on the southern slope of Haleakalā above Kīhei Town. The Project is screened by the existing golf course when viewed from Pi'ilani Highway, and by two gulches when viewed from either north or south. Open space is integrated throughout the Project and, together with the proposed street layout, creates and frames view corridors throughout the Project to the Pacific Ocean and to Haleakalā. Visual resources should not be significantly impacted by the Project.

### Parks and Recreational Facilities

141. There are approximately 10.51 acres of sub-regional park land per 1,000 residents in the Kīhei-Mākena area. County public parks and community centers in the region include South Maui Community Park, Phase I; Charley Young Park; Cove Park; Hale Pi'ilani Park; Haycraft Park; Kalama Park; Kalepolepo Park; Kama'ole Beach Park (I, II, III); Kenolio Recreation Complex; Keonekai Park; Kīhei Aquatic Center; Kīhei Beach Reserve/Waipu'ilani Park; Kīhei Community Center; Kilohana Park; Mai Poina Park/Maipoina OE IAU Beach Park; Pi'ikea Park; and Po'olenalena Park/Chang's Beach.

142. The Project's onsite parks will include mini and neighborhood parks and open space, totaling 88.7 acres.

143. Petitioner will comply with the County's Code requirements for parks and playgrounds. The Project is not expected to significantly impact recreational facilities.

#### Coastal Resources

144. The estimated increases in both nitrogen and phosphorus as a result of the drinking water supply alternatives using the brackish groundwater of the Kama'ole Aquifer are not expected to be significant or to adversely affect the marine environment.

#### ENVIRONMENTAL QUALITY

##### Noise

145. Y. Ebisu & Associates prepared a report entitled *Acoustic Study for the Maui Research and Technology Park* dated April 2012 to assess the noise levels in the area of the Project and the Project's noise impacts.

146. The existing background ambient noise levels within the Petition Area are relatively low at the mauka (east) end and moderate on the makai (west) end. Traffic along Pi'ilani Highway controls the background noise levels at the makai end of the Petition Area, and diminishes to inaudible levels at the mauka end of the Petition Area.

147. Significant increases in traffic noise levels at noise sensitive properties are not expected to occur as a result of the traffic following buildout of the Project by 2024 and 2034. The Petition Area is planned such that noise sensitive residential uses of the Project are situated at very large setback distances from Pi'ilani Highway, where existing and future traffic noise levels are predicted to be less than 61 Day-Night Sound Level. State and Federal noise standards are not anticipated to be exceeded. The large buffer distances to the highway will allow for the use of naturally ventilated buildings on the Petition Area.

148. Unavoidable, but temporary, noise impacts may occur during construction of the Project, particularly during the excavation and earth moving activities on the Petition Area. Mitigation measures to reduce construction noise include the use of quiet equipment and compliance with State of Hawai'i Department of Health ("DOH") construction noise regulations.

149. The revised Traffic Impact Analysis Report ("TIAR") dated February 2013 for the Project does include additional roadway intersections and additional future scenarios, but the expected future traffic volumes with or without the Project have not changed significantly and it is unlikely that the acoustic quality results and conclusions would change significantly.

## Air Quality

150. B. D. Neal & Associates prepared a report entitled *Air Quality Study for the Maui Research and Technology Park Master Plan Update* dated May 2012 to assess the air quality in the area of the Project and to assess the Project's impact on air quality.

151. The present air quality of the Petition Area is relatively good. Air quality monitoring data from the DOH for the Petition Area suggest that concentrations of carbon monoxide are generally well within State and national air quality standards.

152. Short-term impacts from fugitive dust and exhaust emissions construction equipment may affect air quality during the period of construction. Mitigation measures, including a dust control plan, will be implemented to ensure compliance with State regulations. Exhaust emissions can be mitigated by moving construction equipment and workers to and from the Petition Area during off-peak traffic hours.

153. With or without the Project, carbon monoxide concentrations within the Petition Area during the next 20 years will likely decrease (improve) somewhat compared to existing concentrations. Implementing mitigation measures for traffic-related air quality impacts is probably unnecessary and unwarranted.

154. The revised TIAR dated February 2013 for the Project includes additional roadway intersections and additional future scenarios; however, the expected future traffic volumes with or without the Project have not changed

significantly. The carbon monoxide concentrations along roadways within the Petition Area will remain well within State and Federal ambient air quality standards with or without the Project at least through 2034.

### Water Quality

155. The MRTTP stormwater management plan emphasizes the use of vegetated surface drainage facilities to treat and infiltrate stormwater to control water pollution, reduce peak flows and runoff volumes, and promote groundwater recharge. With respect to the production of the drinking water supply for the Project, the RO process would remove dissolved solids from the groundwater and put these solids into the portion of the raw water supply referred to as the concentrate. This concentrate would be returned to the groundwater via disposal wells to a depth below the basal lens where the receiving groundwater would be of equal or greater salinity. As a result of changes in the groundwater flowrate from the two well development alternatives being considered, wells downgradient of the Petition Area that are in use may experience a slight increase in the salinity of the water on the order of 10 percent.

### ADEQUACY OF PUBLIC SERVICES AND FACILITIES

#### Highway and Roadway Facilities

156. Parsons Brinckerhoff, Inc., prepared a TIAR entitled *Traffic Impact Analysis* dated February 2012 and revised February 2013 for the Project to assess the adequacy of highway and roadway facilities and assess the Project's traffic impacts.

157. The existing roadway system in the area of the Project includes Pi'ilani Highway which provides primary regional and sub-regional access to the TIAR study area. Within the study area, Lipoa Parkway/Lipoa Street provides east-west traffic circulation, and Pi'ilani Highway, South Kihei Road, and Liloa Drive provide north-south traffic circulation. Between Mokulele Highway to the north and Kilohana Drive to the south, Pi'ilani Highway is a four-lane major principal arterial roadway. Lipoa Parkway provides access to the Project. In addition, there are two other points along Pi'ilani Highway where access from the Project is permitted, but a roadway connection has not yet been made. The first permitted-access point is located near the northern end of the Petition Area, roughly opposite the East Waipu'ilani Road/Pi'ilani Highway intersection, and the second permitted-access is located at the southerly end of the Project in the vicinity of the old Welakahao Road intersection with Pi'ilani Highway.

158. Overall the study area intersections operate well under existing conditions with two exceptions: (1) Pi'ilani Highway/Pi'ikea Avenue during the AM peak hour where the northbound Pi'ilani left turn is projected to operate at Level of Service ("LOS") E and during the PM peak hour where the eastbound Pi'ikea left turn is projected to operate at LOS E; and (2) Pi'ilani Highway unsignalized intersections where eastbound left turns to Pi'ilani Highway at unsignalized intersections are

projected to operate at LOS E-F during the AM and PM peak hours, although refuge lanes are provided to reduce the delay.

159. The TIAR analyzed the Project in two phases through 2034. Phase 1 was analyzed through 2024 and Phase 2 was analyzed through 2034. For each phase, four scenarios were analyzed at the request of the State of Hawai'i Department of Transportation ("DOT").

160. The first of the four scenarios include: Scenario 1 – No Build. The No Build scenario represents the background conditions without the Project development scenario. Only existing roadways and those roadways committed by other developments, the State, and the County are included. Scenario 2 – Build adds the Project development generated trips to the No Build scenario. The assumed roadway network is the same as in the No Build scenario. Scenario 3 – Build with the Project's Roadway Improvements represents the Build scenario with additional transportation improvements committed by Petitioner. Scenario 4 – Build with the Project and Regional Roadway Improvements represents the Build with the Project with the transportation improvements committed by Petitioner and with other needed regional transportation improvements in the respective analysis years of 2024 and 2034.

161. Scenario 1 in 2024 includes the background traffic volumes without the Project and were derived using existing traffic along with trip generation obtained from the Maui Travel Demand Forecasting Model and the traffic impact analysis

reports from other future developments, including Kīhei High School, Piʻilani Promenade, Downtown Kīhei, Maui Lu Resort, Kenolio 6, Kaiwahine Village, A&B N. Kīhei Residential, Honuaʻula, Wailea Resort, and Mākena Resort. The roadway impacts and roadway improvements committed to by the other developments are included in Scenario 1 in 2024.

162. Scenario 2 in 2024 includes Scenario 1 in 2024 with the Project but with no roadway improvements. The internal capture rate of 15 percent was applied to residential and office land uses, and the internal capture rate of 32 percent was applied to local school, community, shopping, and business hotel land uses for Scenario 2 in 2024.

163. Scenario 3 in 2024 includes Scenario 2 in 2024 with additional transportation improvements committed by Petitioner, including improvements at the intersections of Piʻilani Highway/Hoʻokena Street, Piʻilani Highway/Piʻikea Avenue, and Piʻilani Highway/Līpoa Parkway.

164. Scenario 4 in 2024 includes Scenario 3 in 2024 with regional roadway improvements. This scenario includes the Liloa Drive extension between Kaʻonoʻulu Street and Kanani Road, also known as the North-South Collector Road or the Makai Collector Road.

165. Liloa Drive from Waipuʻilani Road to Lokelani School is already built. To complete the Makai Collector Road, additional segments from Kaʻonoʻulu



Street to Waipu'ilani Road and from Lokelani School to Kanani Road will need to be completed to Liloa Drive.

166. The County of Maui anticipates approval of approximately \$1.8 million in 2016 for design of the Makai Collector Road, and approval of \$12 million to \$15 million in 2018 for the construction of the Makai Collector Road.

167. Construction of the Makai Collector Road would require approximately two years to complete.

168. The Makai Collector Road is identified in the Maui Island Plan and is referred to as the Kihei North-South Collector Road.

169. The Makai Collector Road is not included in the DOT's current Statewide Transportation Improvement Program ("STIP") because the STIP is a three-year program. The current STIP encompasses FY 2014 to 2016. The Makai Collector Road's timeframe is beyond the current STIP.

170. The construction of the Makai Collector Road will relieve congestion on Pi'ilani Highway. The Makai Collector Road is projected to improve the traffic operation on Pi'ilani Highway to an acceptable LOS except at Ka'ono'ulu Street during the PM peak hour. Without the Makai Collector Road, traffic operation on Pi'ilani Highway would fail with or without the Project. Along with the Makai Collector Road, the roadway improvements committed to by Petitioner are also

essential to overall traffic operations on Pi'ilani Highway, especially at the intersections with Pi'ikea Avenue and Lipoa Parkway.

171. The Mauka Collector Road is not included in the current STIP, as it is not anticipated to be necessary for many years.

172. The Mauka Collector Road is within the Maui Island Plan. The Maui Island Plan contemplates a future north-south roadway in several sections with potential alignments of the roadway. The directed growth chapter description of the MRTTP states "the build-out of MRTTP should be coordinated with the development of the neighboring Kihei Mauka planned growth area to ensure efficient intra- and inter-regional transportation connectivity for both motorized and non-motorized transportation." Similar directions are included in the descriptions of Kihei Mauka and the North Kihei residential planned growth areas to the north of the Project. Petitioner has initiated discussions with other landowners about providing a continuous in-tract Mauka Collector roadway as directed by the Maui Island Plan.

173. The Mauka Collector Road would diverge from Pi'ilani Highway at a point south of the Project. It would proceed through the Project and continue north, eventually providing direct access to Mokulele Highway. The TIAR analyzed the Mauka Collector as a two-lane facility with an additional two-lane roadway in-tract and assumed that the Mauka Collector would not be used exclusively by the Project, but would divert regional background traffic from Pi'ilani Highway.

174. Scenario 1 in 2034 is without the Project and includes background traffic volumes derived using existing traffic along with trip generation obtained from the Maui Travel Demand Forecasting Model. The 2034 background traffic assumes the presence of the developments described in the 2024 background conditions. Only existing roads and regional roadways identified in the STIP are included. The roadway network assumptions are the same as the 2024 Scenario 4.

175. Scenario 2 in 2034 includes Scenario 1 in 2034 with the Project at full buildout including the Project's generated trips. The assumed roadway network is the same as in Scenario 1 in 2034. An internal trip capture analysis based on consultation with the DOT suggested the internal capture rates of 24 percent to 30 percent for 2034.

176. Scenario 3 in 2034 includes Scenario 2 in 2034 with additional transportation improvements committed to by Petitioner. Additional improvements included and assumed to be the responsibility of Petitioner include improvements at Pi'ilani Highway/Old Welakahao Road, or at an alternative connection point to Pi'ilani Highway south of the Project.

177. Scenario 4 in 2034 includes Scenario 3 in 2034 with regional roadway improvements in Maui's Long-Range Transportation Plan and Maui Island Plan, including the (1) Makai Collector Road extending Liloa Drive as a two-lane roadway between Ka'ono'ulu Street and Kanani Road; (2) Kihei Upcountry Road as a

four-lane roadway connecting Upcountry Maui to Kīhei at Ka'ono'ulu Street; and (3) the Mauka Collector Road as a two-lane roadway between Mokulele Highway and Pi'ilani Highway at a point somewhere south of the Project.

178. The Kīhei Upcountry Road must be included in Scenario 4 in 2034 because it is included in Maui's Long-Range Transportation Plan and the Maui Island Plan, but the Kīhei Upcountry Road does not affect the Project and is not required to mitigate the impacts of the Project.

179. The County of Maui will be conducting a study of south Maui in general to identify areas of concern like the South Kīhei Road, the north-south collector, and north-south regional traffic circulation to identify what is needed within the town.

180. The study may require two to three years to complete.

181. The study will set a better idea for the alignment of the Mauka Collector and consider having one four-lane road or two two-lane roads.

182. An in-tract Mauka Collector road utilizing the future Ninau Street within the Project, with roundabouts and curves, can perform as a collector road and can be designed that way.

183. A curvy collector road attenuates speed and can still function as a collector road.

184. Regional roadway improvements go beyond the Project and are subject to fair-share contributions and usually involve the participation of the State,

County, and the various landowners over whom the highway passes and who benefits from the regional improvement.

185. Petitioner will be required to submit revised TIARs to the DOT and the County of Maui Department of Public Works ("DPW") in the future. The DOT's acceptance of the revised TIAR and the execution of a Memorandum of Agreement ("MOA") outlining the agreement between the DOT and the MRTP should occur no sooner than final subdivision approval of lots intended for above ground construction, excluding roads, utilities, and infrastructure. This will allow the Project to mature to the point of having the requisite details and specifications needed to provide the DOT with an acceptable revised TIAR.

186. The TIAR will need sufficient details to be acceptable and form the base for the MOA.

187. The timing of the future revised TIAR's should be based upon the DOT's need for updated traffic information and analysis.

188. Concerns have been raised about the transportation impacts the Project will have on the State's Pi'ilani Highway.

189. The internal capture rates and reductions applied to the trip generation appear high and should be further justified. The estimated trip generation volumes for the future committed developments in the Kihei area should be indicated in the traffic forecast analysis and acceptable to the DOT.

190. Petitioner has been requested to provide transportation mitigation improvements (a) to the existing access from Līpoa Parkway at its intersection with Pi'ilani Highway for Phase 1; (b) for a second access to the Project from a new right-turn-in and right-turn-out ("RIRO") access at the proposed Ho'okena Street/Pi'ilani Highway intersection, across the existing East Waipu'ilani Road RIRO intersection for Phase 1; and (c) at the Old Welakahao Road/Pi'ilani Highway intersection to accommodate the third access to the Project from Old Welakahao Road for Phase 2, all as recommended in the TIAR, dated February 2012, revised February 2013, and subject to additional recommendations in the revised TIAR.

191. The Build scenario with the recommended transportation mitigation improvements should maintain the No Build scenario operating LOS and delay levels for the horizon years in the revised TIAR. In addition, where the LOS for the No Build scenario is worse than the DOT guideline threshold of LOS "D," Petitioner has been requested to provide mitigation improvements to improve the through movements on and turning movements from Pi'ilani Highway to a desirable LOS "D" or better for the Build scenario.

192. The projected operating LOS for many of the traffic movements in Phase 1 and Phase 2 under Scenario 3 with the recommended local and direct transportation mitigation improvements for the Project, but without the planned regional roadway improvements, is not acceptable to the DOT, as the LOS is worse than

for the No Build scenario. Furthermore, many of the through and turning movements from Pi'ilani Highway at the intersections within the study area are projected to operate at an unacceptable LOS "E" and "F."

193. With regard to Phase 1 (2024) under Scenario 4 with the recommended local and direct transportation mitigation improvements for the Project and with the planned regional roadway improvements, there are concerns that the planned regional Liloa Drive Extension may not be completed prior to Phase 1. Pi'ilani Highway and South Kihei Road (2-lane collector road) are the only existing north-south roads that traverse through the Kihei area. The planned regional Liloa Drive Extension will provide the additional required roadway capacity in the Kihei area to support Phase 1 of the Project. It has been recommended that the Liloa Drive Extension be completed and operational prior to final subdivision approval being granted for Phase 1. Under Scenario 4, there are also concerns that at the intersection with Ka'ono'ulu Street, the Pi'ilani Highway northbound ("NB") through traffic, NB left-turn and southbound ("SB") left-turn movements are projected to operate at LOS "F" during the PM peak hour, and several turning movements from Pi'ilani Highway at other intersections within the study area are projected to operate at LOS "E" and "F."

194. With regard to Phase 2 (2034) under Scenario 4 with the recommended local and direct transportation mitigation improvements for the Project and with the planned regional roadway improvements, there are concerns that the

regional Liloa Drive Extension and the regional Mauka Collector (2 lanes) from south of the Project to Mokulele Highway may not be completed prior to Phase 2. It has been recommended that the Liloa Drive Extension, the Mauka Collector with direct access to Mokulele Highway, and the Kihei Upcountry Highway be completed and operational prior to final subdivision approval being granted for Phase 2. There are also concerns that at the intersection with Ka'ono'ulu Street, the Pi'ilani Highway NB left-turn and SB left-turn movements are projected to operate at LOS "F," and several turning movements from Pi'ilani Highway at other intersections within the study area are projected to operate at LOS "E."

195. The DOT used federal money to obtain the access rights to Pi'ilani Highway, and the federal government expects the DOT to recoup the fair market value of those access rights when access is given to third parties.

#### Water Service

196. The Project is located within the County of Maui Department of Water Supply's ("DWS") Central Maui Water System service area. Drinking water for the 18 existing lots within the Project currently comes from existing wells located in upper Waiehu and North Waihe'e which draw groundwater from the 'Iao and Waihe'e Aquifers. The existing irrigation systems for the landscaped common areas and developed parcels in the Project now utilize R-1 quality effluent from the KWWRF by



drawing it from the existing County 10-inch R-1 waterline which runs along the easterly (mauka) boundary of the Project.

197. Drinking and non-drinking water demand projections were based on land area and unit estimates using consumption rates adopted from the DWS's *Water System Standards*. A 60 percent drinking/40 percent non-drinking water demand ratio -- the ratio recommended by the Honolulu Board of Water Supply for dual systems -- was also selectively applied in certain instances to break total demand down into drinking and non-drinking water demand components. Total average daily water demand for the Project expansion not supplied by the DWS is 1.17 MGD. Average daily demand for both phases for drinking water and non-drinking water is 798,065 gallons per day ("GPD") and 373,329 GPD, respectively.

198. Based on the DWS's water use rate design criteria, the Project would require a supply of approximately 0.80 MGD of drinking water and a supply of approximately 0.37 MGD of non-drinking water for landscape irrigation.

199. Although County water service is the preferred source, the DWS can only commit to supplying a portion of the Project. As an alternative to the drinking water supply by the DWS, Petitioner has proposed a privately-owned and operated system. The Project's required non-drinking water supply would be provided by R-1 treated wastewater supplemented by brackish groundwater.

200. In order to utilize the groundwater from the Kama'ole Aquifer for drinking water use, Petitioner would need to desalinate the water using an RO process. Two alternatives for brackish well development to feed the RO treatment plant are being considered. One alternative is an array of five wells at the 580-foot elevation on land owned by Haleakalā Ranch, and the other is an array of five wells within the Petition Area.

201. The RO process has been in use in Hawai'i for over the past ten years at the Kona Village, Hualālai Resort, and Kukui Mall.

202. The first alternative, brackish wells at the 580-foot elevation, will have chloride levels on the order of 350 to 400 milligrams per liter ("mg/l").

203. Seawater has chloride levels of 18,000 to 19,000 mg/l.

204. The 580-foot elevation wells are expected to produce RO product recovery at approximately two-thirds of the brackish supply. The remaining third would be the RO concentrate which would not be hypersaline or even seawater salinity, but it would be too salty for irrigation use and would be disposed of in downgradient disposal wells where the receiving groundwater was of the same salinity or greater as the concentrate being disposed.

205. The second alternative, onsite brackish wells, have chloride levels of 500 to 600 mg/l, resulting in a lower 60 percent RO product recovery rate.

206. The electrical energy required to push the feed water through the RO filters is proportional to the salinity of the feed water source and to some extent the temperature of that source. In comparison to the saltier feed water in the current Lānaʻi development, the electrical requirement for the Project's RO treatment plant is not at the magnitude that a much saltier feed water source would require.

207. Current available technology also includes a pressure recovery system that utilizes the pressure of the concentrate. The concentrate retains approximately 90 percent of the pressure that was pushed on the feed water source. The pressure recovery system takes the pressure out of the concentrate's stream and assists in pressurizing the feed water source. That has brought the operating costs down .

208. The operating cost for the RO treatment plant is estimated to be approximately \$5 per thousand gallons.

209. County water rates range between \$2 and \$5 per thousand gallons.

210. The estimated cost to design and construct the RO treatment plant is \$7.2 million.

211. Petitioner is committed to constructing and operating the RO treatment plant if County water is not available.

212. New water storage tanks, pumps, and delivery systems will be required for both drinking water and non-drinking water sources.

#### Wastewater Disposal

213. The existing lots in the MRTP are served by a privately-owned and maintained wastewater system which collects and conveys their wastewater to the KWWRF for processing. Wastewater flow projections for the Project were developed using land use, land area, and unit count data multiplied by corresponding demand rates adopted from the Maui County Wastewater Reclamation Division. The Project is estimated to generate a peak wastewater flow of 2.31 MGD. Wastewater improvements needed for the Project will consist of new gravity sewer mains located primarily within planned roadways to collect wastewater from the developed lots and convey it to a new or existing sewer pump station that will then convey the wastewater by force main to the KWWRF for treatment. The expanded wastewater system will be connected to the existing MRTP system and continue to be privately-owned and maintained.

214. Improvements to increase the capacity of the existing MRTP wastewater pumping system will be required to accommodate the larger design peak wastewater flows generated by the Project. Capacity improvements and modifications to the existing force main connection at the headworks of the KWWRF may also be required by the County of Maui to accommodate the increased wastewater flow into the

facility. Treatment capacity at the KWWRF is expected to remain sufficient to accommodate development of the MRTTP over time.

### Drainage

215. The Petition Area is flanked by two major drainageways: Waipu'ilani Gulch to the north, and Kēōkea Gulch to the south. Storm runoff from the undeveloped lands mauka (east) of the Petition Area flows across the MRTTP in an east-to-west direction. Runoff leaving the Petition Area continues westward, flowing across the Elleair Golf Course to Pi'ilani Highway, where existing culverts pass the runoff under the highway. Surface runoff from the undeveloped Petition Area drains in a westward direction, flowing into one of the minor drainageways crossing the site and commingling with the offsite-generated storm runoff before exiting the Petition Area toward the Elleair Golf Course. Total peak pre-development onsite runoff from the Project site, based on a 50-year recurrence interval, 1-hour duration storm, is 379 cubic feet per second ("cfs").

216. Offsite runoff will be allowed to pass through the Petition Area and continue to drain across the Elleair Golf Course and toward the existing culvert crossings at Pi'ilani Highway without further mitigation as permitted under Maui County Drainage Rules. Development is expected to increase the peak flow rate of runoff generated by the Petition Area. Peak post-development onsite runoff from the

Project site, based on a 50-year recurrence interval, 1-hour duration storm, is estimated to be 904 cfs, an increase of 525 cfs from pre-development onsite runoff.

217. Storm runoff generated within the Project will typically be intercepted by drain inlets located along roadways and in building site parking lots, then conveyed by underground drainline to a stormwater detention facility, which will reduce the peak discharge rate to pre-development levels before the runoff is allowed to continue downstream. Drainage detention basins designed to mitigate the peak runoff from roadways and residential areas will be distributed among the internal drainage areas within the Project; these basins will be sized to a 50-year recurrence interval, 1-hour duration storm, in conformance with Maui County Drainage Rules. Each commercial and institutional lot will be required to mitigate its own increase in peak runoff due to development and limited to a downstream stormwater discharge whose peak rate is no greater than its pre-development level. Drainage Reserve Areas have been incorporated into the Project to accommodate the safe passage of offsite storm runoff through the Petition Area. The alignment of drainage channels which convey storm runoff through these Reserve Areas will generally follow the natural flow path of the existing drainageways as they cross the Petition Area. The MRTTP stormwater management plan emphasizes the use of vegetated surface drainage facilities to treat and infiltrate stormwater in order to control water pollution, reduce peak flows and runoff volumes, and promote groundwater recharge. Roadway and parking lot

drainage systems will be designed to infiltrate pavement-generated stormwater onsite to the maximum extent feasible before discharging flows into the underground storm drain system. Pavement runoff will be passed through vegetated drainage facilities located in medians, bulb-outs, curb extensions, tree planters, and landscape strips to the greatest practical extent before entering the underground storm drain system.

#### Solid Waste Disposal

218. Weekly, residential solid-waste collection in the area is provided by the County of Maui Department of Environmental Management (“DEM”), Solid Waste Division.

219. The Central Maui Landfill, which is located in the Wailuku-Kahului Community Plan region, receives residential solid waste from the area. Green waste is collected by Eko Compost, which is located at the Central Maui Landfill. Construction and demolition (“C&D”) waste is accepted at the privately operated C&D Landfill in Mā`alaea.

220. Plastic, glass, metal, cardboard, and newspaper can be recycled when left at various drop-boxes throughout the County. Green waste recycling is provided by several private organizations. Since 2000, approximately 30 percent of the solid waste generated annually in Maui County is diverted by means of recycling, reuse, and composting. The County is targeting a 50 percent waste diversion rate by 2030.

221. In the Public Facilities Assessment Update County of Maui (2007), the Central Maui Landfill is projected to have adequate capacity to accommodate residential and commercial waste through the 2025. It is anticipated that additional phases of the Central Maui Landfill will be developed as needed to accommodate future waste.

222. Residential households on Maui generate approximately 2.3 tons of solid waste per household per year. Commercial units on Maui generate approximately 1.58 tons of solid waste per employee per year. Solid waste generation includes all the waste produced in a residence or business, including that which is reused or recycled as well as that which is disposed of in landfills. Using the above rates, after full buildout and occupancy of all residential units and commercial units at the Project, total waste generated is estimated to be approximately 11,653 tons per year. Using the County's waste diversion rate of 30 percent, total waste from the Project is estimated to be approximately 8,157 tons per year. Achieving the County's waste diversion rate of 50 percent by 2030 would reduce the Project's waste to 5,827 tons per year.

223. The Project will support the County's recycling, reuse, and composting activities. The County of Maui Integrated Solid Waste Management Plan (2009) provides strategies for diverting solid waste from landfills to reduce landfill dependency, save landfill capacity, and improve operational efficiency. The Project will implement these strategies by providing options for recycling, such as collection



systems and bin space, within the MRTP, and by promoting sound recycling practices among residents and businesses.

### Schools

224. The Project is located within the State of Hawai'i Department of Education's ("DOE") Maui Complex, which is composed of the following schools: Kahului Elementary, Kīhei Elementary, Lihikai Elementary, Kamali'i Elementary, Pomaikai Elementary, Lokelani Intermediate, Maui Waena Intermediate, and Maui High.

225. In 2007, the Hawai'i Legislature enacted Act 245, Session Laws of Hawai'i 2007, which was codified as part of VI B of chapter 302A, HRS, "School Impact Fees." Based upon this legislation, the DOE enacted impact fees for residential developments that occur within identified school impact districts. The Project is within the boundaries of the Central Maui Impact District and is within the Makawao Cost Area of that district. Developments within the district and cost area pay a construction fee and either a fee-in-lieu of land or a land donation, at the DOE's discretion. Petitioner will contact the DOE to enter into an impact fee agreement.

226. The Project is being designed to accommodate a public and/or private elementary or intermediate school within the Village Center planned in the Revised Petition Area in Commission Docket No. A84-585(a). The site will include sufficient land area for buildings, playgrounds, and playfields. Petitioner is aware that

providing a school campus would not automatically meet the land requirements of the DOE's Central Maui Impact District.

#### Police and Fire Protection

227. The County of Maui Police Department ("MPD") is headquartered at the Wailuku Police Station on Mahalani Street. The Project falls within the MPD's Kihei Patrol District 6 (Mā`alaea, Kihei, Wailea, Mākena). This police district is served by the Kihei Station, located approximately 2.5 miles from the Petition Area at the Kihei Town Center. Two small offices are also located at Wailea Point between Kama`ole Beach Parks II and III and at the old Kihei Community Center.

228. According to the MPD, the Kihei Police District is currently commanded by one Police Captain, who is assisted by one Police Lieutenant and one Civilian Clerk. Staffing for the Kihei District Station includes seven Police Sergeants who supervise 30 Police Officer positions, three Community Police Officer positions, two Visitor Oriented Police Officer positions, and one School Resource Officer position. There are also six Public Safety Aides (civilian employees). Planned for the near future is the new Kihei District Police Station at the intersection of Pi`ilani Highway and Ke Ali`i Alanui Road, approximately 1.5 miles south of the Petition Area. This full service police station will replace the current station at Kihei Town Center.

229. There are two fire stations servicing South Maui: Wailea Fire Station and Kihei Fire Station. The Kihei Fire Station is located near Kalama Park on

South Kīhei Road, approximately 1.5 miles from the Petition Area, sufficiently proximate to provide adequate fire service to it.

230. The Project will contribute to the population of the area, and is expected to generate a marginal increase in the demand for police and fire protection services. Increased tax revenues from the development of the Project are expected to provide additional funding for police and fire capital facility improvements and service upgrades. In addition, Petitioner intends to comply with any adopted impact fee ordinances for such services.

#### Emergency/Medical Services

231. Maui Memorial Medical Center, located in Wailuku, is the only major medical facility on the island of Maui. Acute, general, and emergency care services are provided by the 240-bed facility. Non-emergency health care is provided by clinics and offices throughout Wailuku-Kahului, such as Kaiser Permanente, which operates facilities in Wailuku and Maui Lani.

232. The increase population anticipated with the development of the Project is not expected to substantially increase the demand for medical services and facilities. There will be an opportunity for medical services to locate within the Project's commercial areas to serve the community and neighboring areas.

#### Civil Defense

233. The majority of the MRTTP is served by a new emergency siren at

the Kīhei Community Center. Petitioner will consider incorporating hardening measures for safe rooms within the residential units and community facilities to withstand high-wind and seismic events. Petitioner will also install one Omni 121 db(c) directional siren on the northeast section of the MRTTP as requested by the State of Hawai'i Civil Defense ("SCD") agency.

#### Electricity and Utilities

234. Maui Electric Company's ("MECO") Mā'alaea Power Plant serves the Kīhei-Wailea region from the Kīhei and Wailea Substations. The Kīhei Substation serves the Petition Area. When fully builtout, the electrical demand for the Project is forecast to be 23,750 kilowatts. Based on the anticipated demand, MECO anticipates a new substation will be required in the first phase of the Project—along with associated electrical infrastructure, equipment, and related easements.

235. Current plans for the Project include adequate land for locating a new substation. Additionally, the Project will include placing underground existing overhead power lines that run north-south along the mauka boundary of the southern portion of the Project. These lines will be placed underground as the Project is builtout from the existing employment core towards the south.

236. Currently, Hawaiian Telcom, Time Warner Telecommunications, and Wavecom Solutions have underground systems in place at the MRTTP, but additional underground infrastructure may need to be installed to accommodate the

proposed residential and commercial addition. Sandwich Isles Communications is currently sharing conduit and other infrastructure with another provider, but it is planning to have a separate dedicated system in the MRTP in the future. Oceanic Time Warner Cable has one node servicing all of the residential lots in the area and another node servicing all the commercial lots. Current nodes will be able to adequately serve the Project. However, in the event that additional nodes are needed, Oceanic Time Warner Cable will initiate their installations.

### Sustainability

237. Calthorpe Associates prepared a Sustainability Plan dated November 3, 2012, for the Project.

238. The Sustainability Plan groups the major concerns of urban design for the Project into four categories: conservation and restoration of the environment; economic and social diversity and balance; human and pedestrian scale in the public and private realms; and connections and interdependence between the neighborhood, town, and region.

239. Conservation and restoration seeks to design the Project based on the existing topography and other natural features, and is therefore less damaging to construct and preserves natural systems. The Project will incorporate a compact designed roadway network with bicycle and pedestrian pathways to reduce automobile use. The Project will use recycled water when applicable including fire control,

landscaping, and toilets. It is estimated that 170 million gallons of water per year could be diverted away from injection wells. Approximately 300 kilowatts of photovoltaic power is used at the MRTP, with another 200 kilowatts planned. Petitioner will encourage the use of as much renewable energy and distribution generation as the utility will allow. The use of drought tolerant native plants will also be encouraged.

240. Diversity and balance seeks to provide a diversity of uses. The Project will provide residential opportunities within walking distance of commercial development to reduce commuting distances and make walking and bicycling more convenient. Residential neighborhoods will offer a diversity of housing types within a short walk of the mixed use center, and the Project's increased balance of employment opportunities and residential uses will help alleviate problems of commuting to work.

241. Human and pedestrian scale seek to provide a variety of activities and land uses available within a reasonable walking and bicycling distance and creates an area scaled to people, not automobiles. The plan proposes streets with bike lanes and sidewalks to encourage slow automobile traffic that will co-exist with nearby buildings, creating an outdoor room which will be comfortable, safe, and inviting for pedestrians. Pedestrian safety measures include street parking, narrow streets, traffic calming measures, and sidewalks throughout the Project to promote less reliance on the automobile.

242. Connections and interdependence seek accessibility and connectivity. The Project will be accessible from Pi'ilani Highway via the existing Lipoa Parkway. The Project includes an internal roadway network that will connect the Project to Pi'ilani Highway and to surrounding developments as necessary. The Project will also include sidewalks and bicycle pathways to improve the efficiency and effectiveness of any future transit system. As the Project gains employment and population, transit service will become more viable as well as more essential.

#### COMMITMENT OF STATE FUNDS AND RESOURCES

243. State funds and resources are not needed for the Project. Petitioner will contribute its fair share to public school and regional transportation facilities that may be required as a result of the Project.

#### CONFORMANCE TO THE STATE LAND USE URBAN DISTRICT STANDARDS

244. The proposed reclassification of the Petition Area is in general conformance to HAR section 15-15-18, standards for determining the "U" Urban District Boundaries as follows:

§ 15-15-18(1): The Project includes "city-like" concentrations of people, structures, urban services, and related land uses. At buildout, the Project will have 1,250 residential units, school(s), mixed uses in a higher-density core area, commercial, light industrial, neighborhood retail, community centers, and a network of parks and trails.

§ 15-15-18(2)(A): The Petition Area is adjacent to an existing center of trading and employment, specifically the MRTP, which is home to such prominent employers as Akimeka, Boeing, The Pacific Disaster Center, and the U. S. Air Force who currently employ approximately 400 people in a variety of high technology and supporting industries. The Petition Area is also located in relatively close proximity to three commercial nodes located in central Kīhei. The Pi'ilani Shopping Center, Azeka Shopping Center, and Lokelani Intermediate School, along with numerous professional and business services, are all located a short distance from the Petition Area and generate substantial employment.

§ 15-15-18(2)(B): Basic public services and facilities, such as transportation systems, sewer, water, drainage, public utility hook-ups, parks, schools, police, and fire are or will be available to serve the Project. Petitioner will finance or construct off-site wastewater and drainage improvements required for the Project and participate in fair-share contributions for public school and regional transportation facilities.

§ 15-15-18(2)(C): The Project addresses a total of approximately 403.082 acres. With the reclassification of the Petition Area, the Project will have sufficient urban lands to accommodate the land uses contemplated in the Project. Having sufficient land area is necessary to reduce costs and



delays associated with land use redistricting that would otherwise be borne by prospective investors.

§ 15-15-18(3): The Petition Area is readily developable, with satisfactory topography and drainage, and is not subject to tsunami, unstable soil conditions, or other adverse environmental effects which would render it unsuitable or inappropriate for the Project.

§ 15-15-18(4): The Petition Area is immediately adjacent to lands designated "Urban," including land that is already part of the MRTP. The Petition Area is within the Maui Island Plan's Urban Growth Boundary and is also designated by the Kīhei-Mākena Community Plan for urban use. In addition, the future Kīhei High School is proposed on lands adjacent to the Petition Area's northwestern boundary. Just west of the Petition Area, across Pi'ilani Highway, are commercial, civic, and residential developments within central Kīhei.

§ 15-15-18(5): Given the "Project District 6" designation of the MRTP by the Kīhei-Mākena Community Plan and the placement of the Petition Area within the Urban Growth Boundary by the Maui Island Plan, the Petition Area is in an appropriate location for new urban concentration and growth. Both of these plans envision the Project as a large

employment center, and with existing infrastructure and public facilities in close proximity, balancing employment with housing and services.

§ 15-15-18(6): The Petition Area conforms to or will conform to the standards in sections 15-15-18(1) through 15-15-18(5).

§ 15-15-18(7): The Project will not contribute to scattered spot urban development. The Project includes the existing urban uses in the MRTTP that are in the Revised Petition Area in Commission Docket No. A84-585(a) and is adjacent to other residential and commercial subdivisions in the area. The Project will not necessitate unreasonable public investment in infrastructure facilities or public services. Petitioner will be engaging in infrastructure improvements to mitigate any potential impacts of the Project.

§ 15-15-18(8): The Petition Area is characterized by an average slope of 3.2 percent.

#### CONFORMANCE TO THE GOALS, OBJECTIVES, AND POLICIES OF THE HAWAII STATE PLAN

245. Chapter 226, HRS, also known as the Hawai'i State Plan, is a long-range comprehensive plan which serves as a guide for the future long-term development of the State by identifying goals, objectives, policies, and priorities, as well as implementation mechanisms. State objectives and policies relevant to the Project are as follows:

HRS § 226-5, Objectives and Policies for Population: The Project is expected to create high paying jobs for residents, which will in turn have a positive impact on the rest of the Maui economy. The result will be an increase in economic activities and employment opportunities on the neighbor islands consistent with community needs and desires, which will promote increased opportunities for Hawai'i.

HRS § 226-6, Objectives and Policies for the Economy in General: The Project is anticipated to generate approximately \$1.36 billion of direct capital investment into the Maui economy and will provide an estimated 63,507 "worker years" of employment and \$2.7 billion in total wages over a 20-year period. This will result in expenditures that will have a positive direct, indirect, and induced impact on the County of Maui economy. During the operations phase, the Project will significantly increase the level of capital investment in the region which will create employment opportunities and create an economic stimulus for the region. The Project will provide direct employment opportunities for Maui residents and contribute to the diversification and growth of the island's and State's economies. After "stabilization," it is estimated that the Project will support approximately 5,556 jobs with an annual payroll of about \$203.6 million.

#### HRS § 226-9, Objectives and Policies for the Economy - Federal

Expenditures: The MRTP is currently home to the U. S. Air Force and has several defense related businesses that pursue research and development and provide various high-tech related services to the Department of Defense. The implementation of the Project will promote further government uses. These uses will not only promote Hawai'i's support of national defense, but will also encourage additional Federal expenditures in the State.

#### HRS § 226-10, Objectives and Policies for the Economy - Potential Growth

Activities: The Project will continue to attract new businesses and industries including, but not limited to, renewable energy-related industries, research and development, telecommunications, and information industries and government programs.

#### HRS § 226-10.5, Objectives and Policies for the Economy - Information

Industry: Information technology would complement the existing and desired future use of the MRTP and the Petition Area.

#### HRS § 226-11, Objectives and Policies for the Physical Environment - Land

Based, Shore Line, and Marine Resources: During buildout and during the operation phase, best management practices will be implemented to mitigate non-point source pollution to Maui's coastal resources as well as

to mitigate fugitive dust impacts. From a site planning perspective, the Project design layout carefully considered the natural topography of the Petition Area and incorporated unique natural areas into parks and open spaces throughout the Project. Proposed buildings were incorporated into the natural topography of the Petition Area and building layout is oriented to preserve view planes towards the Pacific Ocean and Haleakalā.

HRS § 226-12, Objectives and Policies for the Physical Environment - Scenic, Natural Beauty, and Historic Resources: The Project will not impact cultural resources on the Petition Area or within its immediate vicinity. The Project will not impinge upon any significant public view corridors and the Project will not have significant impacts on views toward the ocean or Haleakalā.

HRS § 226-13, Objectives and Policies for the Physical Environment - Land, Air, and Water Quality: During buildout and during the operation phase, best management practices will be implemented to mitigate non-point source pollution to Maui's coastal resources as well as to mitigate fugitive dust impacts. The master plan design layout carefully considered the natural topography of the Petition Area and incorporated unique natural areas into parks and open spaces throughout the Project. It is

anticipated that the Project will not violate Federal or State air quality standards. The Project will be constructed in compliance with County, State, and Federal standards.

HRS § 226-15, Objectives and Policies for Facility Systems - Solid and Liquid Waste: The Project will be connected to the KWWRF, which will provide treated water to the Project for use as irrigation water. The KWWRF was designed to accommodate future population growth in South Maui and has a surplus of treated R-1 effluent that would be used by the Project. The Project will develop strategies for reducing solid waste delivered to the landfill by providing options for recycling and promoting recycling practices among residents and businesses.

HRS § 226-16, Objectives and Policies for Facility Systems - Water: The Project would utilize water supplied by the DWS and reclaimed non-drinking water from the KWWRF. Also, if necessary, Petitioner will develop and treat brackish well water to meet its drinking water demand and any non-drinking water demand that cannot be supplied by the KWWRF. Petitioner is committed to water conservation strategies to reduce consumption, conserve resources and minimize water demands, and it will implement water conservation recommendations of the DWS.

HRS § 226-17, Objectives and Policies for Facility Systems -

Transportation: The Project will establish a settlement pattern that is significantly more compact and mixed-use in character, and is thereby less dependent upon motorized transportation as compared to the existing layout. The Project also makes a considerable investment into a unified system of pedestrian and bicycle infrastructure that will connect the residential, mixed-use, and employment areas together into a unified whole.

HRS § 226-18, Objectives and Policies for Facility Systems - Energy:

Petitioner will encourage the use of energy efficient technology throughout the Project, specifically, in lighting, air-conditioning, and building materials. Solar hot water heaters will be utilized throughout the residential portion of the Project and installation of photovoltaic energy systems will be encouraged in all areas of the Project. Additionally, the MRTTP currently has an ongoing solar energy demonstration project and actively promotes research and development in a variety of technologies.

HRS § 226-19, Objectives and Policies for Socio-Cultural Advancement -

Housing: The Project will offer a mix of single and multi-family housing types to address the diverse housing needs of Maui residents. The Project will include affordable housing units in compliance with chapter 2.96,

MCC, Residential Workforce Housing Policy. Workforce homes will be subject to the requirements of chapter 2.96, MCC, to ensure that affordable homes are available for full-time Maui residents.

#### RELATIONSHIP WITH THE APPLICABLE PRIORITY GUIDELINES AND FUNCTIONAL PLANS

246. The State Priority Guidelines and Functional Plans define priorities and actions for implementation of the Hawai'i State Plan through the identification of needs, problems and issues, and recommendations on policies and priority actions which address the identified areas of concern. The proposed reclassification request is consistent with the following Priority Guidelines and Functional Plans:

HRS § 226-103, Economic Priority Guideline: The Project is expected 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.

HRS § 226-104, Population Growth and Land Resource Priority Guideline: The Project is expected to be consistent with desired population growth and distribution and land use resource utilization.

HRS § 226-106, Affordable Housing Priority Guideline: The Project will comply with the County's workforce housing policy.



State Employment Functional Plan: The Project expects to increase the number of high paying jobs on Maui.

State Energy Functional Plan: The Project's Design Guidelines will encourage the use of energy efficient technology throughout the development.

State Housing Functional Plan: The Project will help to alleviate the public demand for market and affordable housing units on Maui.

State Transportation Functional Plan: The Project will provide a variety of traffic-related improvements that will address the traffic impacts related to the Project and will further support economic development.

#### CONFORMANCE TO THE COASTAL ZONE MANAGEMENT PROGRAM

247. The Project is consistent with the applicable objectives of the Coastal Zone Management Program. In particular, it is consistent with preserving historic/cultural resources, scenic and open space resources, providing improvements important to the State's economy, improving the development process, and stimulating public participation.

#### CONFORMANCE TO THE MAUI COUNTYWIDE POLICY PLAN

248. As stated in the Maui County Charter, as amended in 2002: "The General Plan shall indicate desired population and physical development patterns for each island and region within the county; shall address the unique problems and needs

of each island and region; shall explain the opportunities and the social, economic, and environmental consequences related to potential developments; and shall set forth the desired sequence, patterns, and characteristics of future developments. The general plan shall identify objectives to be achieved, and priorities, policies, and implementing actions to be pursued with respect to population density, land use maps, land use regulations, transportation systems, public and community facility locations, water and sewage systems, visitor destinations, urban design, and other matters related to development."

249. The County of Maui 2030 General Plan Countywide Policy Plan, adopted by the Maui County Council on March 19, 2010, is the first component of the decennial General Plan update. The Countywide Policy Plan replaces the General Plan as adopted in 1990 and amended in 2002. The Countywide Policy Plan acts as an overarching values statement and umbrella policy document for the Maui Island Plan and the nine Community Plans that provides broad goals, objectives, policies, and implementing actions that portray the desired direction of the County's future. The plan includes:

1. A vision statement and core values for the County to the year 2030
2. An explanation of the plan-making process
3. A description and background information regarding Maui County today
4. Identification of guiding principles
5. A list of countywide goals, objectives, policies, and implementing actions related to the following core themes:
  - A. Protect the Natural Environment
  - B. Preserve Local Cultures and Traditions

- C. Improve Education
- D. Strengthen Social and Healthcare Services
- E. Expand Housing Opportunities for Residents
- F. Strengthen the Local Economy
- G. Improve Parks and Public Facilities
- H. Diversify Transportation Options
- I. Improve Physical Infrastructure
- J. Promote Sustainable Land Use and Growth Management
- K. Strive for Good Governance

The Project is in keeping with the Countywide Policy Plan goals, objectives, and policies.

250. The Maui Island Plan was adopted by the County Council as Ordinance No. 4004 on December 21, 2012, and became effective with the Mayor's signature on December 28, 2012. The introduction to the Maui Island Plan starts with "The Purpose of the Maui Island Plan," stating that:

The Maui Island Plan accomplishes the following:

- Assesses existing conditions, trends, and issues specific to the island of Maui;
- Provides policy direction for the use and development of land, extension and improvement of transportation services and infrastructure, development of community facilities, expansion of the island's economic base, provision of housing, and protection of natural and cultural resources;
- Establishes policies to manage change and to direct decisions about future land use and development; and
- Provides the foundation to set capital improvement priorities, revise zoning ordinances, and develop other implementation tools.

The Maui Island Plan is guided by the following Vision Statement and Core Values:

## Maui Island Vision

Ua mau ke ea o ka `aina i ka pono  
Maui Island will be environmentally, economically, and culturally sustainable with clean, safe, and livable communities and small towns that will protect and perpetuate a pono lifestyle for the future.

## Core Values

To achieve our island's vision, we will be guided by the following values:

- A. Adopt responsible stewardship principles by applying sound natural resource management practices;
- B. Respect and protect our heritage, traditions, and multi-cultural resources;
- C. Plan and build communities that include a diversity of housing;
- D. Retain and enhance the unique identity and sense of place;
- E. Preserve rural and agricultural lands and encourage sustainable agriculture;
- F. Secure necessary infrastructure concurrently with future development;
- G. Support efforts that contribute to a sustainable and diverse economy for Maui;
- H. Create a political climate that seeks and responds to citizen input;
- I. Respect and acknowledge the dignity of those who live on Maui;
- J. Establish a sustainable transportation system that includes multiple modes, including walking, biking, and mass transit, as well as automobile-based modes; and
- K. Recognize and be sensitive to land ownership issues and work towards resolution.

The Project is in keeping with the goals, objectives, and policies of the Maui Island Plan, and is located within the Urban Growth Boundary in the Kihei-Mākena region and the overall boundaries of the "Kihei- Mākena Planned Growth Areas."

251. The Maui Island Plan describes the Kīhei-Mākena Planned Growth

Area as follows:

"The MRTP was the vision of a core group of community leaders in the early 1980s who sought to diversify the economic and employment base on Maui beyond tourism and agriculture. Today, the MRTP is home to a diverse range of companies and government projects that together employ approximately 400 persons in high-technology and related industries. The MRTP is envisioned to continue to be a major employment generator for Maui. The Park's mission of job creation and diversification of the island's economy remains one of vital importance."

Furthermore, the Maui Island Plan goes on to developing the Planned Growth

Area Rationale for this area as follows:

"Since the opening of the MRTP, experts in the field of economic development have gained a better understanding of innovation clusters and the needs of knowledge workers and businesses. Technology businesses thrive in areas of diversity and activity. A diversity of businesses and workers, and the availability of a variety of commercial and industrial spaces, enhance the viability and success of individual businesses. The intent of the MRTP planned growth area is to create opportunities for a broader range of desirable knowledge-based and emerging industries, which will provide high-skilled and well-paying jobs for Maui residents.

As the MRTP develops, it should utilize the principles of new urbanism, smart growth, and the Association of University Research Park's "Power of Place" study to create a community of innovation. This includes providing diverse housing options within close proximity of the MRTP's employment, and integrating neighborhood-serving retail, civic, and commercial uses in a manner that encourages bicycling, walking, and public transport. The growth area may also include exhibit halls and meeting space to support the development of the research and technology sector, and to serve the broader needs of South and Central Maui. Build-out of the MRTP should be coordinated with the development of

the neighboring Kīhei Mauka planned growth area to ensure efficient intra- and inter-regional transportation connectivity for both motorized and non-motorized transportation. The MRTTP should also develop pedestrian and bicycle linkages between the future Kihel High School and the core commercial and civic uses within Central Kīhei.”

#### CONFORMANCE TO THE KĪHEI-MĀKENA COMMUNITY PLAN

252. According to the Kīhei-Mākena Community Plan, the Petition Area is currently identified as a combination of PD-6 (Project District 6), Public/Quasi Public, and Agriculture land uses. The majority of the existing MRTTP is designated Project District 6 (R&T Park) in the Community Plan adopted by Ordinance No. 2641 on March 6, 1998. A community plan amendment will be sought from the County of Maui to bring the entire MRTTP into the new “Maui Research and Technology Park District” designation.

#### COUNTY ZONING

253. The Project will require a change of zoning from Agricultural to the new district called “Maui Research and Technology Park District.” In addition, changes will be sought to MCC Title 19.33 to allow for a more diversified development that comports with the Project. The proposed change of zoning meets the following guidelines:

- The proposed request meets the intent of the General Plan and the objectives and policies of the newly adopted Maui Island Plan.
- The proposed request meets the intent and purposed of the district being requested.

- The application, if granted, would not adversely affect or interfere with public or private schools, parks, playgrounds, water systems, sewage, and solid waste disposal, drainage, roadway and transportation systems, or other public requirements, conveniences, and improvements.
- The application, if granted, would not adversely impact the social, cultural, economic, environmental and ecological character and quality of the surrounding area.

254. The change of zoning and community plan amendment for the Project are being concurrently processed with the Commission's district boundary amendment. They are subject to approval by the Maui County Council. The County entitlements will be held in abeyance until approval of the district boundary amendment by the Commission.

#### INCREMENTAL DISTRICTING

255. HAR section 15-15-50(c)(19) provides that a petition for district boundary amendment must include an incremental plan if the development cannot be substantially completed within ten years after the date of Commission approval.

256. Petitioner prepared an Incremental Plan pursuant to HAR section 15-15-50(c)(19) due to the Project's 20-year development schedule.

257. Petitioner has requested that the entire Petition Area be reclassified, and that the Project not be incrementally redistricted.

258. The reclassification of the entire Petition Area will (1) allow for the financing and development of onsite and offsite internal infrastructure necessary to support the Project to full buildout; (2) facilitate acceptance of the Project in the marketplace; (3) enable the Project to achieve the critical mass necessary to generate substantial synergies that are possible with a cohesive mixed-use development; and (4) allow the MRTP to accomplish its longstanding mission of providing meaningful economic and social benefits to the Maui community.

#### RULINGS ON PROPOSED FINDINGS OF FACT

Any of the findings of fact submitted by Petitioner or other parties not already ruled upon by the Commission by adoption herein, or rejected by clearly contrary findings of fact herein, are hereby denied and rejected.

Any conclusion of law herein improperly designated as a finding of fact should be deemed or construed as a conclusion of law; any finding of fact herein improperly designated as a conclusion of law should be deemed or construed as a finding of fact.

#### CONCLUSIONS OF LAW

1. 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 section 205-17, the Commission finds upon the clear preponderance of the evidence that the reclassification of the Petition Area, consisting of approximately



253.05 acres of land at Kīhei, Island of Maui, State of Hawai'i, TMKs: 2-2-24: 16 and 17 and 2-2-02: por. 84, 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 section 205-2 and is consistent with the policies and criteria established pursuant to HRS sections 205-16, 205-17, and 205A-2.

2. Article XII, section 7, of the Hawai'i State Constitution requires the Commission to protect Native Hawaiian traditional and customary rights. The State of Hawai'i 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, 903 P.2d 1246, *certiorari denied*, 517 U. S. 1163, 116 S.Ct. 1559, 134 L.Ed.2d 660 (1996).

3. 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).

4. 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.

5. 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.

6. The Petition Area is not designated as Important Agricultural Land under Part III of HRS chapter 205.

7. 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.

8. Article XI, section 1, of the Hawai'i State Constitution states that all public natural resources are held in trust by the State for the public benefit, and the State should make appropriate assessments and require reasonable measures to protect public natural resources, while applying a higher level of scrutiny where public natural resources are used for economic gain. *Kauai Springs v. Planning Comm. of the County of Kaua'i*, ICA No. 29440, April 30, 2013.

9. The Commission concludes that it has observed and complied with its duties arising from Article XI, section 1; Article XI, section 3; Article XI, section 7; and Article XII, section 7, of the Hawai'i State Constitution.

#### DECISION AND ORDER

IT IS HEREBY ORDERED that the Petition Area, consisting of approximately 253.05 acres of land at Kihei, Island of Maui, State of Hawai'i, TMKs: 2-2-24: 16 and 17 and 2-2-02: por. 84, 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 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. **Water Source.** Petitioner shall provide the necessary water source, storage, and transmission facilities and improvements to the satisfaction of the DWS and/or DOH as applicable to service the Petition Area.

2. **Water Conservation.** Petitioner shall implement water conservation and best management practices in the design and construction of the Project in the Petition Area. Petitioner shall implement water conservation measures including water efficient plumbing fixtures, high efficiency or drip irrigation systems, and drought tolerant native landscaping.

3. **Storm Water Management and Drainage.** Petitioner shall construct drainage improvements to accommodate the development of the Petition Area in accordance with the requirements of the DPW. Petitioner shall design, construct, and maintain stormwater and drainage system improvements in compliance with applicable Federal, State, and County laws and rules. To the extent feasible, Petitioner shall implement Best Management Practices and incorporate Low Impact Development practices for onsite stormwater capture and reuse into the Petition Area's site design and landscaping to control water quality and mitigate nonpoint sources of pollution.

4. **Highway and Roadway Improvements.** Petitioner shall fund, construct, and implement roadway improvements to accommodate the development of the petition area in accordance with the requirements of the DPW.

Petitioner shall fund, construct, and implement all transportation improvements and measures required to mitigate impacts to state roadway facilities caused by the Project as set forth in an MOA agreed to and executed by the DOT and Petitioner.

Petitioner shall submit to the DOT an updated TIAR, and Petitioner shall obtain acceptance of the Project's TIAR from the DOT and shall execute the MOA prior to final subdivision approval of lots intended for above ground construction for the Petition Area in Docket A10-787, excluding construction of roads, utilities, and other infrastructure by Petitioner. The MOA shall include, but not be limited to, the following terms and conditions: (i) the accepted TIAR shall be incorporated in the MOA by reference; (ii) Petitioner's responsibilities for funding, construction, and implementation of improvements and mitigation; (iii) a schedule of agreed to improvements and a schedule for future TIAR updates or revisions to be accepted by the DOT; (iv) development of the Project shall be consistent with the executed MOA and TIAR; and (v) any fees or in-kind contribution that is roughly proportional to any indirect or secondary impacts caused by the Project.

Petitioner shall construct the portion of the Mauka Collector within the MRTP boundary either during construction of Phase 2 or prior to 2034 concurrent with the development of the Kīhei Mauka planned growth area as outlined in the Maui Island Plan and shall coordinate these efforts with the DOT.

5.     **Environment and Health.** Petitioner shall comply with the requirements of the DEM and/or the DOH as applicable.

6. **County Parks.** Petitioner shall comply with the Parks Dedication requirements of the County of Maui as approved by the Director of Parks and Recreation.

7. **Housing.** Petitioner shall comply with all housing requirements to the satisfaction of the County of Maui Department of Housing and Human Concerns.

8. **Archaeological and Historic Preservation.** Archaeological features identified in the Waipu'ilani Gulch shall be protected from any construction-related activities. A report of monitoring activities shall be submitted to the State Historic Preservation Division ("SHPD") upon completion of fieldwork.

9. **Previously Unidentified Burials and Archaeological/Historic 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, Maui Island Section, shall be contacted immediately. Without any limitation to any other condition found herein, if any burials or archaeological or historic sites 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 mitigation measures have been implemented to its satisfaction.

10. **Endangered Species.** Petitioner shall develop and implement mitigation measures to address any potential impacts on endangered species in the

Petition Area, if any, and shall as necessary consult with the State of Hawai'i Department of Land and Natural Resources, Division of Forestry and Wildlife, and the U. S. Fish and Wildlife Service to develop such mitigation measures.

11. **Flora and Fauna.** Petitioner shall ensure that all exterior lighting fixtures are down-shielded to minimize the harmful effects of lighting on endangered avifauna.

12. **Adjacent Agricultural Lands.** For all land in the Petition Area or any portion thereof that is adjacent to land 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 principles on adjacent or contiguous lands in the State Agricultural District. For the purpose of these conditions, "farming operations" shall have the same meaning as provided in HRS section 165-2; and
- B. Petitioner shall notify all prospective developers or purchasers of land or interest in land 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 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.

13. **Native Hawaiian Access Rights.** Pursuant to Article XII, 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.

14. **Civil Defense.** Petitioner shall fund and install one (1) civil defense warning siren as specified by and in a location identified by the SCD agency. To the extent feasible, Petitioner shall incorporate hardening measures for safe rooms within planned residential facilities and the hardening of community facilities so as to withstand high wind and seismic events.

15. **Schools.** Petitioner shall enter into an impact fee agreement with the DOE prior to county subdivision approval.

16. **Infrastructure Deadline.** Petitioner shall complete construction of the proposed backbone infrastructure, which consists of the primary roadways and access points, internal roadways, on- and offsite water and electrical system improvements, and stormwater/drainage and other utility system improvements, within fifteen (15) years from the date of the Decision and Order approving the Petition.

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

18. **Order to Show Cause.** If Petitioner fails to complete the proposed backbone infrastructure within fifteen (15) years from the date of the Decision and



Order, the Commission may issue and serve upon Petitioner an Order to Show Cause and Petitioner shall appear before the Commission to explain why the Petition Area should not revert to its previous State Land Use Agricultural District classification, or be changed to a more appropriate classification.

19. **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, at any time prior to completion of development of the Petition Area.

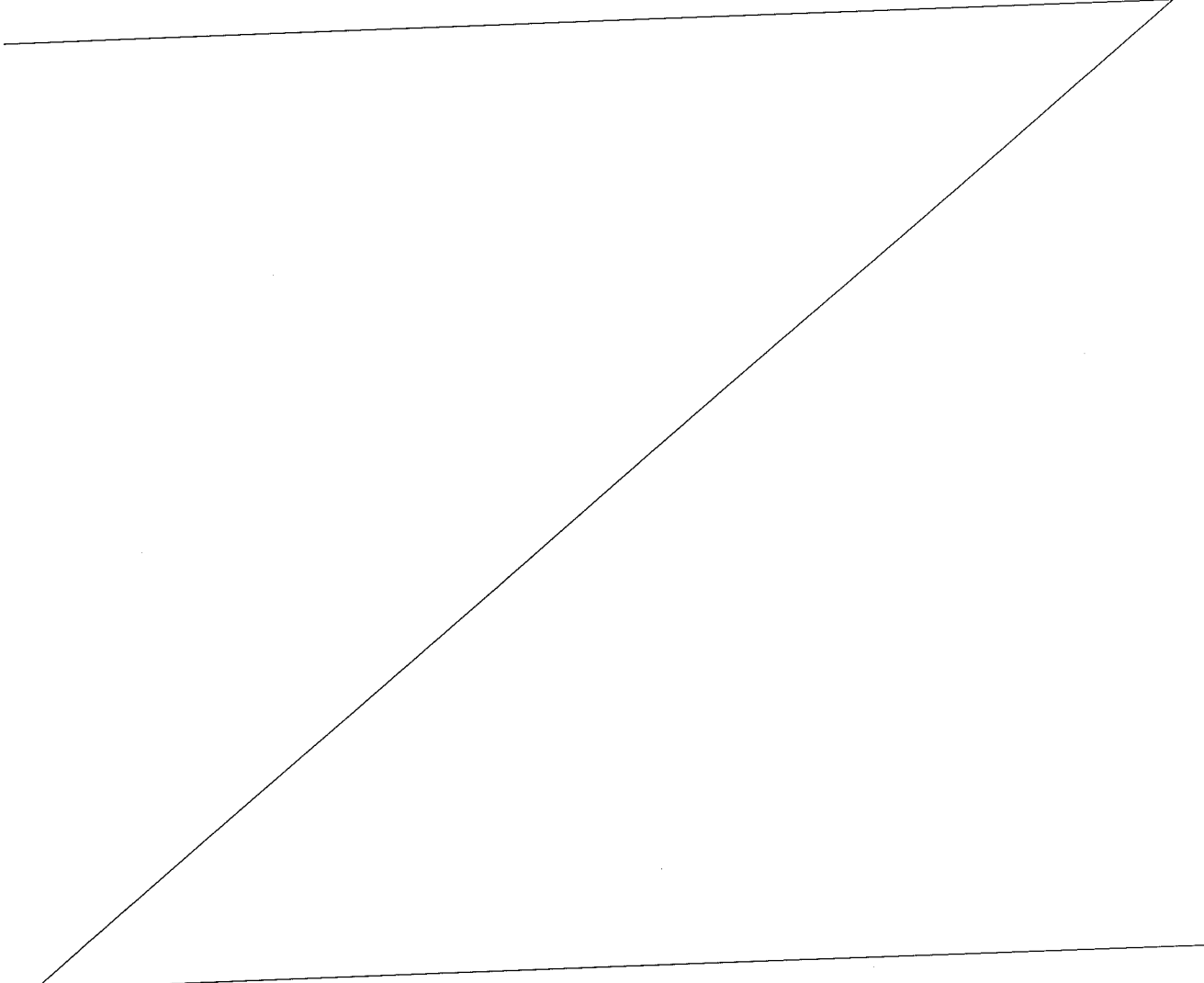
20. **Annual Reports.** Petitioner shall timely provide without any prior notice, annual reports to the Commission, OP, and the County, and their respective successors, in connection with the status of the development of the Petition Area and Petitioner's progress in complying with the conditions imposed herein. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.

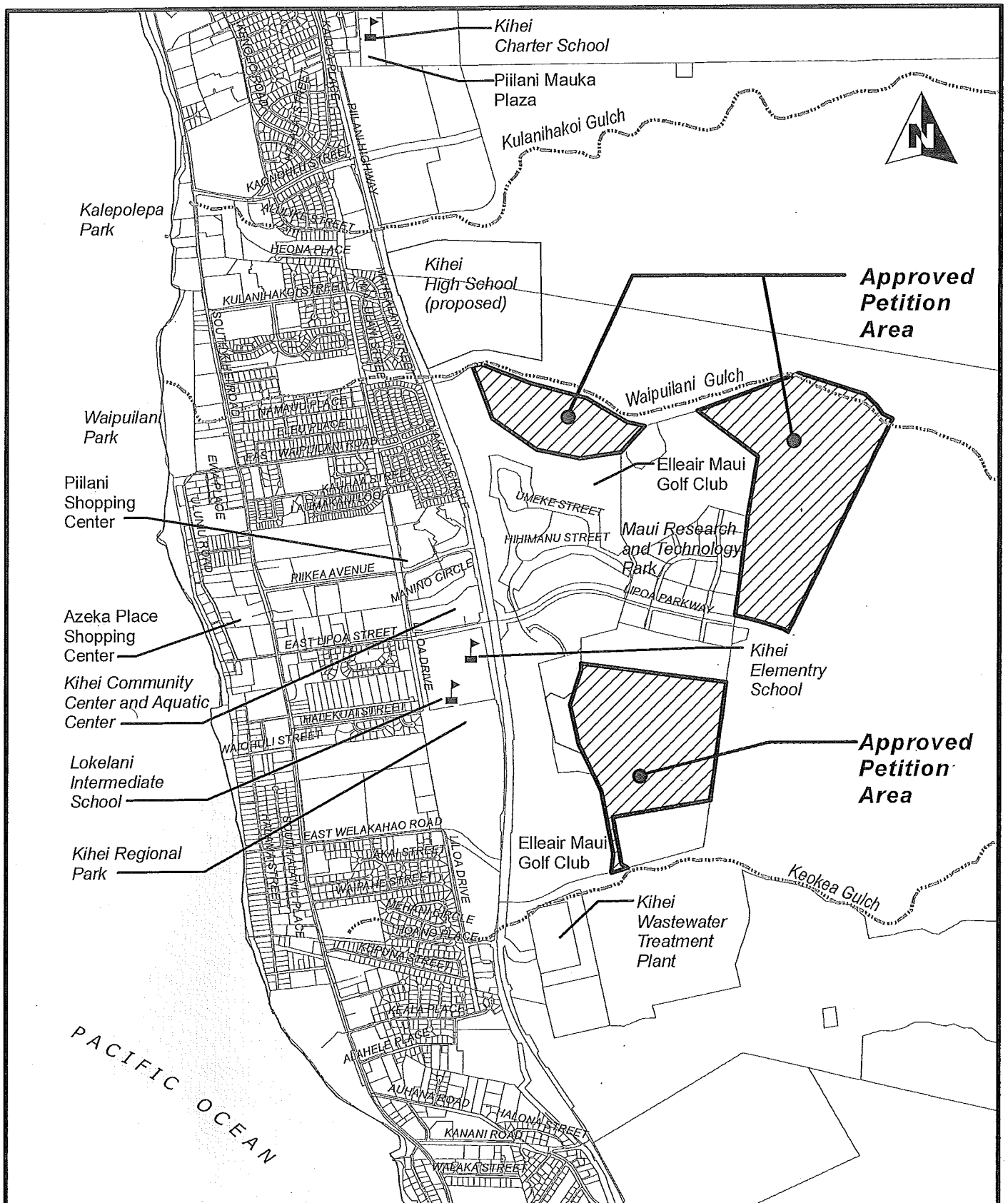
21. **Release of Conditions.** The Commission may fully or partially release the conditions provided herein as to all or any portion of the Petition Area upon timely motion and upon the provision of adequate assurance of satisfaction of these conditions by Petitioner or its successors and assigns.

22. **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 Bureau of Conveyances of the State of Hawai'i a statement that the Petition Area is subject to the 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.

23. **Recordation of Conditions.** Petitioner shall record the conditions imposed herein by the Commission with the Bureau of Conveyances pursuant to HAR section 15-15-92.





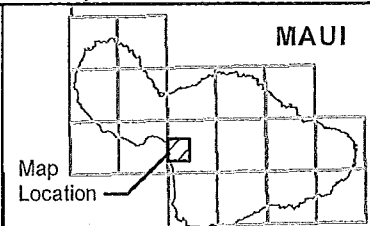
A10-787 MAUI R & T PARTNERS, LLC  
**LOCATION MAP**

Tax Map Keys: 2-2-24: 16 and 17 and 2-2-02: Por. 84

Kihei, Island of Maui, State of Hawai'i

Scale 1: 24,000

**EXHIBIT "A"**



ADOPTION OF ORDER

This ORDER shall take effect upon the date this ORDER is certified  
by this Commission.

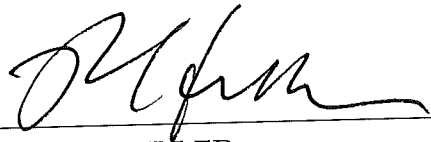
Done at Honolulu, Hawai'i, this 22nd day of November, 2013,  
per motion on October 17, 2013.

LAND USE COMMISSION

APPROVED AS TO FORM

STATE OF HAWAII


Deane Jackson  
Deputy Attorney General

By   
RONALD HELLER  
Chairperson and Commissioner

Filed and effective on:

11/22/13

Certified by:

  
DANIEL ORODENKER  
Executive Officer



BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In The Matter Of The Petition Of ) DOCKET NO. A10-787  
)  
MAUI R&T PARTNERS, LLC ) CERTIFICATE OF SERVICE  
)  
To Amend The Agricultural Land Use )  
District Boundary Into The Urban Land )  
Use District For Approximately 253.05 )  
Acres Of Land At Kihei, Island Of )  
Maui, State Of Hawai'i, Tax Map Keys: )  
2-2-24: 16 And 17 And 2-2-02: Por. 84 )  
\_\_\_\_\_ )

2013 NOV 22 P 1:31  
LAND USE COMMISSION  
STATE OF HAWAII


CERTIFICATE OF SERVICE

I hereby certify that a FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER for DOCKET NO. A10-787 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:

	HAND DELIVERED	REGULAR MAIL	CERTIFIED MAIL
JESSE SOUKI, DIRECTOR Office of Planning 235 S. Beretania Street Rm. 600 Honolulu, Hawai'i 96813	X		
BRYAN YEE, ESQ. Deputy Attorney General Hale 'Auhau, Third Floor 425 Queen Street Honolulu, Hawai'i 96813		X	

	HAND DELIVERED	REGULAR MAIL	CERTIFIED MAIL
CURTIS T. TABATA, Esq. Matsubara-Kotake 888 Mililani Street, 8 <sup>th</sup> Floor Honolulu, Hawaii 96813			X
William Spence, Director Department of Planning County of Maui 250 South High Street Wailuku, Hawaii 96793		X	
JAMES GIROUX, Esq. Corporation Counsel County of Maui 250 South High Street Wailuku, Hawaii 96793			X

Honolulu, Hawai'i, November 22, 2013.



DANIEL ORODENKER

Executive Officer