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FEB 20 2007
STATE OF HAWAII
LAND USE COMMISSION

Attorneys for Halekua Development Corporation

BEFORE THE LAND USE COMMISSION

STATE OF HAWAII

In the Matter of the Petition)	DOCKET NO. A76-418
)	
of)	2007 INTERIM STATUS REPORT OF
)	HALEKUA DEVELOPMENT
HALEKUA DEVELOPMENT)	CORPORATION ON CONDITIONS TO
CORPORATION, a Hawaii corporation)	DECISION AND ORDER OF LAND USE
)	COMMISSION; EXHIBITS A, B AND C
To Amend the Agricultural Land Use District)	
Boundary into the Urban Land Use District)	
for Approximately 503.886 Acres of Land)	
Situated at Waikele and Hoaeae, Ewa, Island)	
of Oahu, City and County of Honolulu, State)	
of Hawaii, TMK: 9-4-02: por of 1 and portion)	
of 52)	

2007 INTERIM STATUS REPORT OF
HALEKUA DEVELOPMENT CORPORATION
ON CONDITIONS TO DECISION AND ORDER OF LAND USE COMMISSION

INTERIM STATUS REPORT

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Please consider the following as the interim 2007 status report of HALEKUA DEVELOPMENT CORPORATION, a Hawaii corporation ("**HDC**") covering the period from June 25, 2001 through February 20, 2007 with respect to HDC's compliance with the conditions imposed the Land Use Commission of the State of Hawaii (the "**Commission**") pursuant to the Findings of Fact, Conclusions of Law, and Decision and Order dated December 9, 1993, TMK 9-4-002: por of 1 and 52, Docket No. A92-683 of the Land Use Commission of the State of Hawaii (the "**Original Decision and Order**"). as amended and restated by Amended Findings of Fact, Conclusions of Law and Decision and Order dated October 1, 1996, Docket No. A92-683 of the Land Use Commission of the State of Hawaii (the Original Decision and Order as amended by this document is herein called the "**Amended Decision and Order**"), in connection with the reclassification from Agricultural to Urban of approximately 503.886 acres located at Waikele and Hoaeae, Ewa, Island of Oahu, City and County of Honolulu, State of Hawaii (the "**Royal Kunia Phase 2 Property**").

I. GENERAL PROGRESS OF THE PROJECT

On October 15, 2002, the Office of Planning, State of Hawaii, filed a Motion for an Order to Show Cause to Rescind the Decision and Order dated October 1, 1996, and on February 26, 2003 the Commission entered an Order Granting the Office of Planning's Motion for an Order to Show Cause to Rescind the Decision and Order on October 1, 1996 (the "**Order to Show Cause**"). The hearing before the Commission on the Order to Show Cause was scheduled for April 25, 2003, but just prior to the commencement of the hearing HDC filed a bankruptcy petition with U.S. Bankruptcy Court of the District of Hawaii and pursuant to the automatic stay under federal bankruptcy laws the hearing on the Order to Show Cause was suspended indefinitely.

The subject reclassification from Agricultural to Urban applies to a 503.886 acre area. At the time of the reclassification all of the Royal Kunia Phase 2 Property was to be developed by HDC. However, HDC only retains title and the accompanying property rights to approximately 161 acres encompassed by Parcels 2, 3 and 4 (the "**HDC Property**"). Part of the remaining Royal Kunia Phase 2 Property has been acquired by HRT Realty, LLC, formerly HRT, Ltd. ("**HRT**"). By Order Granting the Office of Planning's Amended Motion to Exempt HRT, Ltd's Property from the Order to Show Cause Granted on February 26, 2003, Pursuant to the Stipulation Filed on December 30, 2003, the HRT lands within the Petition Area were excluded from the Order to Show Cause.

The HDC Property has remained within the jurisdiction of the federal bankruptcy court since that time. However, pursuant to the Bankruptcy Court Order re Sale of Real Property Free and Clear of Liens filed in the Bankruptcy Case (as hereinafter defined) on October 2, 2006 and the Purchase and Sale Agreement entered into pursuant thereto, HDC will be redeeming (reacquiring) the HDC Property from the Chapter 7 trustee appointed in the bankruptcy case ("**Trustee**") pending in the United States Bankruptcy Court for the District of Hawaii entitled In re HDC Development Corporation, Case No. 03-01279 (the "**Bankruptcy Case**"). Closing of the reacquisition of the HDC Property is scheduled for February 28, 2007 with no extension of the closing date being feasible as it is under auspices of the U.S. Bankruptcy Court.

The redemption of the HDC Property so that it can be removed from the Bankruptcy Case is being financed by CMR Mortgage Fund LLC, and its affiliated and participating lenders (the "**Lending Group**"), under that certain Amended and Restated Commitment Letter and Related Loan Documents dated as of February 15, 2007. Pursuant to the Amended and Restated Commitment Letter and Related

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Loan Documents it is incumbent upon HDC to obtain a dismissal of the Order to Show Cause prior to the scheduled closing on February 28, 2007. Pursuant to the Amended and Restated Commitment Letter and Related Loan Documents, a loan in the principal amount of \$100.0 million will be made to HDC to fund the payment of all amounts to be paid pursuant to the terms of the Purchase and Sale Agreement approved in the Bankruptcy Case which payments, among others, will enable HDC to complete the transfer of the School Site as contemplated in the Amended Decision and Order, to proceed with the planning and design of the off-site infrastructure for the state agricultural park, and to move forward with planning and design work for the Royal Kunia Phase II residential subdivision which will lead to the future satisfaction of other outstanding conditions as set forth in the Amended Decision and Order. In this regard, please be advised that the Lender providing the financing to HDC to redeem the HDC Property from the Trustee and take the HDC Property out of bankruptcy has established a predevelopment reserve in the amount of \$3.6 million under the Loan for the purpose of funding certain planning, design and associated work intended to address and move forward the satisfaction of the conditions under the Amended Decision and Order and the Rezoning Ordinances with the City and County of Honolulu to the point of being able to apply for initial building permits. HDC reasonably believes that this predevelopment reserve within the loan account is sufficient for these purposes.

II. STATUS OF COMPLIANCE WITH CONDITIONS

HDC hereby reaffirms its commitment and obligation to comply with and satisfy each of the outstanding conditions set forth in the Amended Decision and Order and will recommence the necessary steps and actions to do the same upon the closing of the reacquisition of the HDC Property from the Trustee. The current status of the twenty-five (25) conditions set forth in the Amended Decision and Order and HDC's intentions with respect to satisfaction of the same upon the closing of the reacquisition of the HDC Property from the Trustee are set forth below.

(1) **Affordable Housing**

Petitioner shall provide affordable housing opportunities for low to moderate income residents of the State of Hawai'i to the satisfaction of the City and County of Honolulu. The location and distribution of the affordable housing and other provisions for affordable housing shall be under such terms as are mutually agreeable to the Petitioner and the City and County of Honolulu.

Current Status: Future Compliance

HDC is required by the Amended Decision and Order to comply with requirements established by the City and County of Honolulu (the "**City**") for the provision of affordable housing opportunities for low to moderate income residents. The City has required HDC to enter into a binding agreement to participate in an affordable housing program whereby (a) 10% of the overall Project unit count will be affordable to households with incomes not exceeding 80% of the City's median income, and (b) an additional 20% of the Project's housing units will be affordable to families with incomes between 81% and 120% of the City's median income.

Steps toward meeting this requirement were in progress but were discontinued when HDC went into bankruptcy. HDC will renew this process with the City as to the HDC Property upon the closing of the purchase of the HDC Property from the Trustee. Agreement on the number, location, and cost, etc. of the affordable housing units to be provided is required prior to the submittal of any applications to the City

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for building permits for the HDC Property.

(2) Transportation Improvements

Petitioner shall fund, design, and construct the local and regional transportation improvements necessitated by the proposed development, on a pro rata basis, and as determined and approved by the State Department of Transportation and the City and County of Honolulu, Department of Transportation Services, including without limitation the dedication of any rights-of-way to the State or County. Petitioner shall also be required to provide the following:

- A. All of the other improvements needed (which will not be provided by the Village Park and Royal Kunia, Phase I projects) to make Kunia Road a 4-lane highway with auxiliary lanes for both left and right turning movements (between Kunia Interchange and the northernmost boundary of Royal Kunia, Phase II) and a third northbound lane between Kunia Interchange and the north Kupuna Loop intersection.*
- B. A report that analyzes the impact of the proposed Phase II project's traffic on the Kunia Interchange and evaluate alternatives that will mitigate the impacts.*
- C. Plans for construction work within the State highway right-of-way must be submitted to DOT, Highways Division for review and approval.*

Agreement by the State Department of Transportation on the level of funding and participation shall be obtained prior to the Petitioner applying for county zoning.

Current Status: Partial Completion and Future Compliance

HDC will comply with Commission requirements to contribute its pro-rata share of local and regional transportation and roadway improvements that are required by remaining undeveloped portions of the Royal Kunia Phase 2 Property, as determined and approved by the State Department of Transportation (“**DOT**”) and City Department of Transportation Services (“**DTS**”).

Some of these requirements - notably, the construction of a third northbound lane on Kunia Road between Kunia Interchange and the north Kupuna Loop intersection - have already been met.

Steps toward meeting other portions of this requirement were in progress but were discontinued when HDC went into bankruptcy. HDC, together with the other Royal Kunia Phase 2 Property owners, will re-initiate this process with DOT and DTS upon the redemption of the HDC Property from the Trustee and will mutually determine and agree on the remaining improvements that need to be completed and the schedule for their construction prior to the submittal of any applications to the City for subdivision of building lots.

(3) Participation in a Regional Program for Transportation Management

Petitioner, at no cost to the State, shall appoint a permanent transportation manager whose function is the formulation, use, and continuation of alternative transportation opportunities that would optimize the use of existing and proposed transportation systems. In the alternative, Petitioner may participate in a regional program for transportation management with other developers and/or landowners. This program shall address the transportation opportunities that would optimize the use of existing and proposed transportation systems. Either option will continue to be in effect unless otherwise directed by the State Department of Transportation. The program for either option shall be reviewed and approved by the State Department of Transportation prior to implementation. The transportation manager or Petitioner shall conduct a yearly evaluation of the program's effectiveness and shall make a written report of its evaluation available to the State Department of Transportation for program review and modification, if necessary.

Current Status: Prior and Ongoing Compliance.

HDC was an active participant in the Ewa Region Highway Transportation Master Plan Working Group and an active member of the Leeward Oahu Transportation Management Association (“*LOTMA*”) prior to its filing in bankruptcy. Participation in both programs will be re-established upon HDC’s redemption of the HDC Property from the Trustee.

(4) Traffic Monitoring

Petitioner shall monitor the traffic attributable to the proposed Project at on-site and off-site locations and shall undertake subsequent mitigative measures that may be deemed to be required by Petitioner, the State Department of Transportation, or the City and County of Honolulu. The mitigative measures shall be coordinated with and approved by the State Department of Transportation and the City and County of Honolulu.

Current Status: Future Compliance.

During and upon completion of construction on the HDC Property, HDC will monitor the traffic that is attributable to the dwellings constructed on the HDC Property at designated on-site and off-site locations, and will undertake any subsequent mitigative measures that may be deemed to be required by DOT, DTS and/or HDC.

(5) Integrated Solid Waste Management Act (Chapter 342G, HRS)

Petitioner shall cooperate with the State Department of Health and the City and County of Honolulu Department of Public Works to conform to the program goals and objectives of the Integrated Solid Waste Management Act, Chapter 342G, Hawai'i Revised Statutes, in accordance with a schedule satisfactory to the Department of Health and the City and County of Honolulu.

Current Status: Ongoing Compliance.

Upon the redemption of the HDC Property from the Trustee, HDC will meet with and work with the State

Department of Health (“**DOH**”) and City Department of Environmental Services (“**DES**”) to ensure compliance with the program goals and objectives of this Act.

(6) School Facilities

Petitioner shall contribute to the development, funding, and/or construction of school facilities on a pro rata basis as a result of the development on the Property, as determined by and to the satisfaction of the Department of Education (DOE). Agreement by DOE on the level of funding and participation shall be obtained prior to Petitioner applying for county zoning.

Current Status: Partial Completion and Future Compliance

HDC and the State Department of Education (“**DOE**”) previously entered into a letter agreement dated September 26, 1996 that outlined the terms of HDC’s contribution to the development of school facilities in satisfaction of this condition. These terms provided for the dedication of 12 acres of land to DOE for a school site (the “**land component**”) to DOE, and a schedule of incremental contributions to DOE totaling \$500,000 (the “**monetary component**”). (See “Exhibit 1 to the School Site Agreement”) HDC obtained final subdivision approval for the subject 12 acre school site (TMK 1-9-4-002: Parcel 79) but was unable at the time to transfer the school site to DOE because DOE would not accept title to the school site due to it being the subject of several liens and encumbrances. Per its letters dated June 21, 2002 and December 19, 2002 (See “Exhibit 2” and “Exhibit 3 to the School Site Agreement”), DOE advised HDC that as an alternative, the school site could be conveyed to RKES, LLC, a Hawaii limited liability company, and that upon the conveyance of the school site to RKES, the land component of the DOE’s requirements would be deemed satisfied. On January 7, 2003, an undivided 75.721% interest in the school site was conveyed to RKES by HDC in partial satisfaction of the land component. The remaining undivided 24.279% interest in the school site is held by HRT Realty, LLC, formerly HRT, Ltd. (“**HRT**”). RKES and DOE intend to enter into a separate design build agreement under the terms of which RKES will construct an elementary school on the subject property and upon completion of construction convey the same free and clear to DOE.

Pursuant to the Bankruptcy Court Order re Sale of Real Property Free and Clear of Liens filed in the Bankruptcy Case, and the Purchase and Sale Agreement dated October 2, 2006 entered into by HDC pursuant thereto, HRT will be transferring its 24.279% interest in the school site to RKES. Therefore, concurrently with the redemption of the HDC Property from the Trustee, the remaining 24.279% undivided interest in the school site will be conveyed to RKES which will satisfy the land component condition of HDC’s agreements with DOE.

Upon the redemption of the HDC Property from the Trustee, HDC will also reconfirm the monetary component of the agreements with DOE and reconfirm its commitment to pay the agreed upon cash contribution of \$500,000 in increments as set forth in the September 26, 1996 letter agreement with DOE.

HDC has prepared and submitted to DOE a proposed School Site Agreement by and among HDC, RKES and DOE (the “**School Site Agreement**”), a true and correct copy of which is attached hereto as Exhibit A and made a part hereof, in order to reaffirm HDC’s obligations and to reconfirm the agreements contained in the various letter agreements between HDC and DOE. The School Site Agreement has been reviewed and approved by RKES and the staff of DOE. It has been submitted to the Attorney General’s Office for review and approval as to legality and content, prior to submission to the Superintendent for execution.

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(7) Water Requirements

Petitioner shall coordinate with the Honolulu Board of Water Supply and the Department of Land and Natural Resources to obtain the required water for the project. In the event that water is not available from existing sources due to insufficient supply, Petitioner shall find and develop the necessary water source, storage, and transmission systems and facilities.

Current Status: Partial Completion and Future Compliance.

Upon the closing of the purchase of the HDC Property from the Trustee, HDC will continue to coordinate with and meet all requirements of the Honolulu Board of Water Supply (“**BWS**”) and the State Department of Land and Natural Resources (“**DLNR**”) related to obtaining the required water for the Project. If water is not available from existing sources because of insufficient supply, HDC will fund and develop the necessary water source, storage and transmission systems and facilities.

(8) Civil Defense Measures

Petitioner shall participate, on a pro rata basis, in the funding for construction and installation of appropriate civil defense measures as determined by State and City civil defense agencies.

Current Status: Partial Compliance and Future Compliance.

HDC and the State and City civil defense agencies have agreed on what civil defense measures are needed for the subject HDC Property. HDC will fully fund and install the necessary facilities and equipment in connection with the construction of its project on the HDC Property.

(9) Chain Link Fence

Petitioner shall erect a chain link fence along the eastern boundary of the Property that is common with the Waikele Branch of Naval Magazine, Lualualei.

Current Status: Future Compliance by Others.

The Amended Decision and Order requires the construction of a chain link fence on the eastern boundary of the Royal Kunia Phase 2 Property. Title to the land on which this fence would be located is still held by the Robinson Owners, and it is still zoned for agricultural use. While HDC will monitor compliance with this condition, actual construction will be the responsibility of the future developer of this portion of the Royal Kunia Phase 2 Property.

(10) Clearance and Maintenance of Land

Petitioner shall clear and maintain the land situated within 20 feet of the eastern boundary of the Property, free of trees and vegetation taller than eight inches high.

Current Status: Future Compliance by Others.

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The Amended Decision and Order requires the clearance and maintenance of a 20-foot wide land area along the eastern boundary of the Royal Kunia Phase 2 Property. As noted in Condition #9 above, title to this land area is still held by the Robinson Owners, and it is still zoned for agricultural use. While HDC will monitor compliance with this condition, actual clearance and maintenance will be the responsibility of the future developer of this portion of the Royal Kunia Phase 2 Property.

(11) Pollutants

Petitioner shall coordinate with the State Department of Health and the City and County of Honolulu to establish appropriate systems to contain spills and prevent materials, such as petroleum products, chemicals, solvents or other pollutants from leaching into the storm drainage system and adversely affecting the groundwater and coastal waters.

Current Status: Future Compliance.

HDC will work closely and coordinate with the DOH and DES on the establishment of appropriate systems to contain spills and prevent certain materials and pollutants from leaching in the storm drainage system and adversely affecting the groundwater and coastal waters.

(12) Wastewater Treatment

Petitioner shall participate in the funding and construction of adequate wastewater treatment, transmission and disposal facilities, on a pro rata basis, as determined by the State Department of Health and the City and County Department of Public Works.

Current Status: Future Compliance.

HDC will participate on a pro rata basis in the funding and construction of adequate wastewater treatment, transmission and disposal facilities, as determined by the DOT and DES.

(13) Soil Erosion and Dust Control

Petitioner shall implement effective soil erosion and dust control measures both during and after construction to the satisfaction of the State Department of Health.

Current Status: Future Compliance.

HDC will closely coordinate with the DOH and implement effective soil erosion and dust control measures both during and after construction.

(14) Air Quality Monitoring

Petitioner shall participate in an air quality monitoring program as specified by the State Department of Health.

Current Status: Future Compliance.

HDC will participate in an appropriate DOH-specified air quality monitoring program for the area where the HDC Property is located.

(15) Agricultural District Pollution

Petitioner shall provide notification to all owners and occupants of the Property of the potential odor, noise, and dust pollution resulting from surrounding Agricultural District lands, and that the Hawai'i Right-to-Farm Act, Chapter 165, Hawai'i Revised Statutes, limits the circumstances under which pre-existing farming activities may be deemed a nuisance.

Status: Future Compliance.

HDC will notify all future owners of the HDC Property of the potential odor, noise and dust pollution resulting from use of the surrounding Agricultural District lands, and that the Hawaii Right-to-Farm Act (HRS Chapter 165) limits the circumstances under which pre-existing farming activities may be deemed a nuisance.

(16) Drainage Improvements

Petitioner shall provide drainage improvements for the subject project and shall coordinate off-site improvements with adjoining landowners and developers, and/or other Federal, State, and City agencies.

Current Status: Partial Completion and Future Compliance.

HDC has completed the majority of required off-site drainage improvements for the Royal Kunia Phase 2 Property in connection with the infrastructure construction for Village Park and Royal Kunia Phase 1. Upon the redemption of the HDC Property from the Trustee, HDC will work with adjoining landowners and developers, and with the appropriate Federal, State and City agencies, to coordinate and agree on the type and completion schedule for any future required off-site drainage improvements.

(17) Archaeological Resources

Should any archaeological resources such as artifacts, shell, bone or charcoal deposits, human burials, or rock or coral alignments, paving or walls of historic or prehistoric significance be encountered during the development of the Property, Petitioner shall immediately stop work on the impacted area and contact the Historic Preservation Division of the State of Hawai'i Department of Land and Natural Resources.

Current Status: Partial Completion and Future Compliance.

Archaeological research and reconnaissance surveys of the Royal Kunia Phase 2 Property indicate the absence of any above-ground archaeological features and no evidence of past use that would have generated potentially significant archaeological or historic sites. HDC will work closely with the DLNR Historic Preservation Division and comply with all established procedures to protect any archaeological resources that might be encountered during future development and construction on the HDC Property.

(18) Development Plan Approvals

Petitioner shall obtain Development Plan approvals from the City and County of Honolulu within five (5) years from the date of this Order.

Current Status: Fully Met.

All required Development Plan approvals have been obtained, and the Royal Kunia Phase 2 Project is in full compliance with the current Central Oahu Sustainable Communities Plan (“*COSCP*”).

(19) Agricultural Park

Petitioner shall convey the agricultural park to the State of Hawai'i and provide off-site infrastructure to the agricultural park, pursuant to the terms of the Memorandum of Understanding dated March 30, 1993 entered into by Petitioner and the Department of Agriculture.

Current Status: Partial Completion and Future Compliance.

Title to the 150 acre Agricultural Park site was transferred by HDC to the State of Hawaii, by and through its Board of Land and Natural Resources for the use of the State Department of Agriculture (“*DOA*”) by Warranty Deed with Reservations dated February 23, 2004, and recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2004-040601, a true copy of which is attached hereto as Exhibit B and made a part hereof. Upon the redemption of the HDC Property from the Trustee, HDC will enter into an Amended and Restated Memorandum of Understanding with DOA which will amend and restate the original Memorandum of Understanding dated March 3, 1993 (the “*Original MOU*”), with updated and modified obligations and agreements relating to (1) acknowledge the conveyance of the 150 acre agricultural park site to the DOA and the acceptance thereof by the DOA in partial satisfaction of the agreements in the Original MOU notwithstanding the delay in actual conveyance of the subject land, (2) modify the agreements between Halekua and the DOA with respect to the timing for design and construction of the off-site infrastructure to the state agricultural park, (3) deletion of the provisions within the Original MOU providing for the DOA to initiate and complete its development and commence active use of the state agricultural park within a period of time measured from the date of initial conveyance of the 150 acre parcel comprising the state agricultural park to the DOA, and (4) deletion of the right of reverter if the state agricultural park was not developed and utilized for those agricultural purposes within 10-years from the date of the initial conveyance of the 150 acre parcel to the DOA, and replacing it with a restrictive use covenant and reversion if the use covenant is breached.

A proposed Amended and Restated Memorandum of Understanding has been discussed with staff of DOA and prepared based on such discussions. A true and correct copy of the proposed Amended and Restated Memorandum of Understanding is attached hereto as Exhibit C and made a part hereof. The proposed Amended and Restated Memorandum has been submitted to the Attorney General’s Office for review and approval as to legality and content prior to submission to the Chairperson of the DOA for execution.

(20) Compliance with Representations

Petitioner shall develop the Property in substantial compliance with the representations made to the Commission. Petitioner's or its successor's failure to so develop the Property may result in reversion of the Property to its former classification, or change to a more appropriate classification.

Current Status: Partial Completion and Future Compliance.

HDC will continue to fulfill the requirement to develop the HDC Property in substantial compliance with its representations to the Commission. HDC understands that failure on its part (or on the part of the other owners of property within the reclassification area) to develop the reclassified lands in substantial compliance with such representations could result in a reversion of the subject land to its former land use classification, or in a change to a more appropriate land classification.

Pursuant to its discussions with the Office of Planning of the State of Hawaii, HDC has further agreed that if HDC fails to achieve substantial completion of construction of not less than five hundred (500) single-family residential homesites and/or multi-family residential units on the HDC Property by June 30, 2013 as evidenced by the filing of the appropriate Affidavits of Publication of the Notice of Completion for such residential homesites or units in accordance with Section 507-43 of the Hawaii Revised Statutes, that HDC shall be required to report back to the Commission as to the reasons for such failure and to provide justification as to why the Commission should not consider modifications to the conditions imposed under the Amended Decision and Order to adjust and account for any substantial change in the potential community impacts resulting from the delay in achieving substantial progress towards completion of the Project as represented to the Commission.

(21) Transfer of HDC's Interest in the Project

In reliance upon Petitioner's representation that it will develop the Project on his own and in its entirety, the Petitioner shall obtain the prior approval from the Land Use Commission before it can sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interest in the Property or Project covered by the approved Petition.

Petitioner shall request the prior approval from the Land Use Commission to alter the ownership interest in the Property or Project by filing a motion to request approval to alter ownership interest and supporting affidavits that will provide relevant information, including without limitation (1) the name(s) and address(es) of the prospective owner(s) or real party(ies) in interest; (2) the reason for the alteration of ownership interest; (3) any information related to any proposed change in the representations made by Petitioner to the Commission and in its Petition filed pursuant to section 15-15-50, Hawai'i Administrative Rules, including without limitation any information pertaining to the financial capabilities of the prospective owner(s) to proceed with the Project as set forth in section 15-15-50(8); and, (4) a written acknowledgement and affirmation of the prospective owner(s) that the prospective owner(s) shall comply with all of the conditions in this Order.

Current Status: Partial Completion and Future Compliance.

HDC has and will continue to comply with all requirements established in this condition with respect to obtaining prior Commission approval of any subsequent sale, lease, assignment, placement in trust, or

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other voluntary alteration of its ownership interest in the HDC Property.

The Lending Group providing the financing to HDC to close its redemption of the HDC Property from the Trustee and to fund certain predevelopment expenses as set forth above have a requirement that HDC transfer the HDC Property to a special purpose, bankruptcy remote entity which will be owned 100% by HDC. In conformity with Condition #21 HDC has filed a written request for the approval of the Commission to the transfer of the HDC Property to this special purpose, bankruptcy remote entity to be called HALEKUA-KUNIA, LLC, a Delaware limited liability company, authorized to do business in the State of Hawaii.

(22) Annual Reports

Petitioner shall promptly provide without any prior notice, annual reports to the Land Use Commission, the Office of Planning, and the City and County of Honolulu Planning Department in connection with the status of the Project and Petitioner's progress in complying with the conditions imposed. The annual reports shall summarize: (1) Petitioner's progress in complying with the conditions imposed; and (2) changes to the Project as represented to the Land Use Commission. The annual report shall also include a written statement from each state and county agency affected by these conditions that Petitioner's representations in the annual report related to the respective state or county agency being affected is true and accurate.

Current Status: Partial Completion and Future Compliance.

This condition requires HDC to prepare and submit annual reports to the Commission, State Office of Planning (“**OSP**”), and City Department of Planning and Permitting (“**DPP**”) on the Project’s status and HDC’s progress in complying with the conditions of the Amended Decision and Order. Such reports were submitted annually up through June 25, 2001. HDC is submitting this interim report to update the Commission as to what has occurred between June 25, 2001 and the date of this interim report. HDC will further resume its submittal of the required annual reports as of June 30, 2007, with the initial report as of June 30, 2007 to further update the Commission on the status of matters following actual closing of the redemption of the HDC Property from the Trustee, and will continue on an annual basis thereafter with the assistance and cooperation of the owners of the other lands within the Royal Kunia Phase 2 Property.

(23) Release of Conditions

The Land Commission may fully or partially release these conditions as to all or any portions of the Property upon timely motion and upon the provision of adequate assurance of satisfaction of these conditions by Petitioner.

Adequate assurance of satisfaction may be evidenced by execution of a certificate of satisfaction in recordable form stating that such condition has been satisfied, in whole or in part. The Office of Planning will certify for itself and all state departments and agencies, and the City and County of Honolulu Planning Department will certify for itself and all county departments and agencies. Any other party to the boundary amendment proceeding may be asked to indicate whether they concur in the certification of satisfaction.

Current Status: Future Compliance.

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As development of the HDC Property progresses, HDC intends to apply for a full or partial release of conditions imposed upon the HDC Property by submitting a motion together with appropriate supporting evidence of satisfaction of the condition or conditions for which release or confirmation of satisfaction is being sought. No such motions have been filed to date. Other parties to the Amended Decision and Order may as part of this release of condition process be requested to comment and/or indicate whether they concur in the certification of satisfaction.

(24) Recording of Statement Re Property Subject to Conditions

Within 7 days of the issuance of the Commission's Decision and Order for the subject reclassification, Petitioner shall (1) record with the Bureau of Conveyances a statement to the effect that the Property is subject to conditions imposed by the Land Use Commission in the reclassification of the Property; and (2) shall file a copy of such recorded statement with the Commission.

Current Status: Fully Met.

HDC has recorded a statement with the Bureau of Conveyances of the State of Hawaii indicating that the reclassified lands are subject to the conditions imposed by the Commission in the reclassification of the Royal Kunia Phase 2 Property, and has previously filed a copy of this recorded statement with the Commission.

(25) Recording of Conditions

Petitioner shall record the conditions imposed by the Commission with the Bureau of Conveyances pursuant to Section 15-15-92, Hawai'i Administrative Rules.

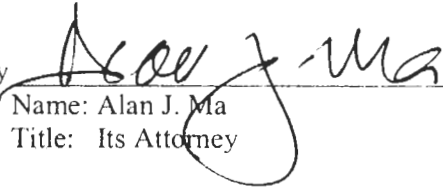
Current Status: Fully Met.

HDC has recorded the conditions contained in both the Original and Amended Decision and Order in the Bureau of Conveyances of the State of Hawaii, as evidenced by Declaration of Conditions and Consent recorded on April 14, 1994, in the Bureau of Conveyances of the State of Hawaii as Document No. 94-065022.

Dated: February 20, 2007.

Respectfully submitted,

HDC DEVELOPMENT CORPORATION
a Hawaii corporation

By 
Name: Alan J. Ma
Title: Its Attorney

cc: Department of Planning & Permitting
of the City and County of Honolulu
Office of Planning
Department of Agriculture
Department of Education

EXHIBIT A

SCHOOL SITE AGREEMENT

THIS SCHOOL SITE AGREEMENT (the "*Agreement*") is made as of this ___ day of _____, 2007, by and among the STATE OF HAWAII, by and through its Department of Education ("*DOE*"), HALEKUA DEVELOPMENT CORPORATION, a Hawaii corporation ("*HDC*"), and RKES, LLC, a Hawaii limited liability company ("*RKES*").

RECITALS:

A. Pursuant to Findings of Fact, Conclusions of Law, and Decision and Order dated December 9, 1993, TMK 9-4-002: por of 1 and 52, Docket No. A92-683 of the Land Use Commission of the State of Hawaii (the "*Original Decision and Order*"), and Amended Finding of Fact, Conclusions of Law and Decision and Order dated October 1, 1996, Docket No. 92-683 of the Land Use Commission of the State of Hawaii (the Original Decision and Order as amended by this documents is herein called the "*Amended Decision and Order*"), the Land Use Commission of the State of Hawaii ("*LUC*") upon the petition of HDC reclassified from Agricultural to Urban approximately 504 acres located at Kunia, City and County of Honolulu, State of Hawaii (the "*Royal Kunia Phase 2 Lands*").

B. Pursuant to Ordinance No. 95-08 (1995) ("A Bill for an Ordinance to Rezone Land Situated at Waipio, Ewa, Oahu, Hawaii Amending Portion of Zoning Map No. 9, Waipio (Crestview), Ordinance No. 86-111"), the City and County of Honolulu (the "*City*") approved the rezoning of Increment 1 of the Royal Kunia Phase 2 Lands (the "*1995 Rezoning Ordinance*") and required the recordation of that certain Unilateral Agreement and Declaration of Conditional Zoning, dated March 6, 1995, recorded in the Bureau as Document No. 95-030454, which imposes certain development conditions on Increment 1 of the Royal Kunia Phase 2 Lands (the "*1995 Unilateral Agreement*").

C. Pursuant to Ordinance No. 97-12 (1997) ("A Bill for an Ordinance to Rezone Land Situated at Waipio, Ewa, Oahu, Hawaii Amending Portion of Zoning Map No. 9, Ordinance No. 86-111"), the City approved the rezoning of Increment 2 of the Royal Kunia Phase 2 Lands (the "*1997 Rezoning Ordinance*"), and required the recordation of that certain Unilateral Agreement and Declaration of Conditional Zoning, dated April 9, 1997, recorded in the Bureau as Document No. 97-047601, which imposes certain development conditions on Increment 1 of the Royal Kunia Phase 2 Lands (the "*1997 Unilateral Agreement*").

D. At the time of the reclassification and the rezoning all of the Royal Kunia Phase 2 Lands were to be developed by HDC. However, since entry of the Amended Decision and Order, the 1995 Rezoning Ordinance and the 1997 Rezoning Ordinance, HDC only holds title and the accompanying development rights to 161 acres of the reclassified lands identified by Tax Map Key No. (1) 9-4-002: 071 (the "*HDC Property*").

E. Pursuant to Condition No. 6 of the Amended Decision and Order, Condition No. 3 of the 1995 Rezoning Ordinance, and Condition No. 4 of the 1997 Rezoning Ordinance, HDC agreed to contribute to the development, funding, and/or construction of school facilities on a pro rata basis as a result of the development on the Royal Kunia Phase 2 Lands, as determined by and to the satisfaction of the Department of Education. As a result of these conditions, HDC and DOE negotiated a letter agreement dated September 26, 1996, a true and correct copy of which is attached hereto as Exhibit 1, which set forth the agreement between the parties as to the land and monetary contributions which would satisfy DOE requirements for the entirety of the Royal Kunia Phase 2 Lands which included, among other matters, (1) the dedication of approximately 12 acres of real property to DOE for a school site (the “*land dedication component*”) and (2) the agreement to make an incremental cash contribution in the total amount of \$500,000 in five (5) installments (the “*cash contribution component*”).

D. In 2002 HDC completed the subdivision necessary to create the 12-acre school site, being Lot 3 of the “Royal Kunia Apartment Subdivision”), being a portion of Lot 3 of the Royal Kunia Phase II, Increment I subdivision (File Plan 2171), identified by Tax Map Key No. (1) 9-4-002: 079 (the “*School Site*”) but DOE was unable to accept title to the School Site at that time due to the fact that the School Site was encumbered by several liens. Pursuant to the letter agreement date June 21, 2002, a true and correct copy of which is attached hereto as Exhibit 2, DOE agreed that the land dedication component of HDC’s fair-share contribution for school facilities could be satisfied by HDC transferring the School Site to RKES on behalf of DOE and that RKES would then assist in clearing in clearing title to, and constructing a school facility on, the School Site. This modified agreement was reconfirmed by DOE in a letter agreement dated December 19, 2002, a true and correct copy of which is attached hereto as Exhibit 3.

E. Pursuant to the letter agreements dated June 21, 2002 and December 19, 2002, HDC did transfer and convey an undivided 75.721% interest in the School Site to RKES by Deed dated January 7, 2003, recorded as Document No. 2003-002585. The remaining undivided 24.279% is held by HRT Ltd., a Hawaii corporation.

F. Pursuant to the agreements reached between HDC and HRT in that certain Bankruptcy Court Order re Sale of Real Property Free and Clear of Liens (the “*Order*”) filed in the Bankruptcy Case (as hereinafter defined) and the Purchase and Sale Agreement dated October __, 2006 (the “*Purchase and Sale Agreement*”) entered into by HDC pursuant to which HDC will be purchasing the HDC Property from the Chapter 7 trustee appointed in the bankruptcy case (“*Trustee*”) pending in the United States Bankruptcy Court for the District of Hawaii entitled In re Halekua Development Corporation, Case No. 03-01279 (the “*Bankruptcy Case*”), HRT will transfer and convey to HDC the undivided 24.279% held by HRT in and to the School Site.

G. The parties hereto now wish to affirm and reconfirm that (1) the transfer of the remaining undivided 24.279% of the School Site currently held by HRT to RKES will satisfy the land dedication component of DOE’s fair share requirement under the Amended Decision and Order, (2) RKES shall use the School Site solely for purposes of an elementary school, and (3) the manner and method of payment by HDC of the cash contribution component of DOE’s fair share requirement in compliance with the terms set forth in the letter agreements, and (4) if

RKES fails to construct an elementary school on the School Site pursuant to its separate agreement with DOE, that the cash contribution component of DOE's fair share requirement shall be increased to compensate DOE for the cost of purchasing the School Site from RKES at a price equal to the costs incurred by RKES to clear title to the School Site, plus any other costs DOE may incur to clear title to the School Site.

NOW, THEREFORE, in consideration of the Recitals set forth above and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged the parties hereto covenant and agree as follows:

1. Transfer of Balance of Ownership Interest in School Site to RKES. Upon the closing of the acquisition of the HDC Property from the Trustee pursuant to the Order and Purchase and Sale Agreement, HDC will transfer and convey the remaining undivided 24.279% interest in to the School Site which is acquired from HRT to RKES. DOE hereby confirms that the transfer of the remaining undivided 24.279% of the School Site to RKES by HDC will satisfy the land dedication component of DOE's fair share requirement under the Amended Decision and Order. Upon confirmation of recordation of the deed transferring the remaining 24.279% interest in the School Site to RKES, DOE will provide HDC with a letter confirming satisfaction of the land dedication portion of the fair-share contribution condition set forth in Condition No. 6 of the Amended Decision and Order, Condition #3 of the 1995 Rezoning Ordinance, and Condition No. 4 of the 1997 Rezoning Ordinance.

2. School Site Free and Clear of Unacceptable Liens and Encumbrances. Pursuant to the closing of the acquisition of the HDC Property from the Trustee pursuant to the Order and Purchase and Sale Agreement, the unacceptable liens and encumbrances affecting the School Site will be removed and upon recordation of the deed from HDC of the remaining 24.279% interest in and to the School pursuant to paragraph 1 above, RKES shall own 100% of the School Site, free and clear of any liens or encumbrances unacceptable to DOE.

3. Schools Site Restricted to Use for Elementary School and Related Facilities. The parties hereto confirm that the transfer of the School Site to RKES shall be subject to the express and continuing restriction that the School Site may be occupied and used solely for purposes of an elementary school and related facilities to be operated by DOE and for no other purpose.

4. Construction of School and Related Facilities by RKES. DOE and RKES have or intend to enter into a separate agreement under the terms of which RKES shall design, develop and construct an elementary school and related facilities on the School Site in accordance with plans approved by DOE and in accordance with the terms of the separate agreement between DOE and RKES.

5. Dedication of School Site to DOE. Upon completion of construction of the elementary school and related facilities by DOE, RKES shall dedicate and convey to DOE the School Site and all related facilities, improvements and equipment situated thereon, free and clear of monetary liens and encumbrances, at no cost to DOE as to the value of the land comprising the School Site, but subject to the payment by DOE to RKES of the agreed upon

amounts as set forth in the separate agreement between DOE and RKES for the design, permitting and construction of the elementary school and related facilities.

6. Cash Contribution Component of Fair-Share Contribution. HDC and DOE reconfirm that HDC shall make an incremental cash contribution to DOE in the total sum of FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$500,000.00) payable in five (5) installments of ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000.00) each and which installments shall be due and payable upon the closing of (i) the 1,000th unit, (ii) the 1,250th unit, (iii) the 1,500th unit, (iv) the 1,750th unit, and (v) the last unit, constructed on the Royal Kunia Phase 2 Lands. An escalation factor will be applied to the unpaid balance of the cash contribution component that remains after the 1,400th unit is closed, based on the change in the Consumer Price Index for Honolulu beginning with the 1,401st unit. Notwithstanding anything to the contrary in this paragraph 6, should any developer within the Royal Kunia Phase 2 Lands (other than HDC) construct and close on any number of units having the effect of causing the total number of closed units within the Royal Kunia Phase 2 Lands exceeding the number of residential units triggering the obligation to pay and remit a cash contribution installment hereunder, HDC shall not be in default for failing to make such installment payment then due, until and unless DOE has provided not less than sixty (60) days prior written notice to HDC that: (a) the applicable unit threshold has been exceeded, and (b) the installment is now due and payable to DOE.

7. Failure of RKES to Construct School Facilities; Failure of DOE and RKES to Enter into Agreement. If RKES fails to construct an elementary school and related facilities on the School Site pursuant to its separate agreement with DOE, or due to RKES and DOE failing to reach agreement on the terms of separate agreement for the design and construction of the school, then, and in either such event, the cash contribution component of DOE's fair share requirement applicable to the Royal Kunia Phase 2 Lands shall be increased to compensate DOE for the cost (if any) of purchasing the School Site from RKES at a price equal to the costs incurred by RKES to clear title to the School Site, plus any other costs DOE may incur to clear title to the School Site.

8. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns.

9. Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Hawaii.

10. Counterparts. This Agreement may be executed in two or more counterparts, and shall be deemed to have become effective when and only when one or more of such counterparts shall have been signed by or on behalf of DOE, HDC and RKES, although it shall not be necessary that any single counterpart is signed by or on behalf of all parties. All such counterparts shall be deemed to constitute but one and the same instrument. Duplicate unexecuted pages of the counterparts may be discarded and the remaining pages assembled as one document.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and year first above written.

DOE:

STATE OF HAWAII, by and through its
Department of Education

Approved as to Form and Content:

By _____
Deputy Attorney General

By _____
Name: Patricia Hamamoto
Title: Superintendent

HDC:

HALEKUA DEVELOPMENT CORPORATION
a Hawaii corporation

By _____
Name: Herbert K. Horita
Title: President

RKES:

RKES, LLC
a Hawaii limited liability company

By _____
Name: Patrick K. Kobayashi
Title: Manager



Halekua Development Corporation

2024 N. KING ST. • HONOLULU, HAWAII 96819 • Telephone (808) 536-7241 • Facsimile (808) 536-7244

September 26, 1996

Mr. Lester Chuck
Facilities and Support Service Branch
Department of Education
State of Hawaii
809 8th Avenue
Honolulu, Hawaii 96815

Re: Agreement with Department of Education

Dear Lester:

This letter is being sent to acknowledge our mutual agreement on the contributions that will be required to satisfy all of the Department of Education's requirements for the entire Royal Kunia Phase II project.

We are in agreement on the following terms:

- Halekua will dedicate 17 acres of land within the Royal Kunia Phase II project to the DOE;
- Halekua will make an incremental cash contribution in the total sum of \$500,000, payable in five equal installments and due at the closing of the 1,000th unit, the 1,250th unit, the 1,500th unit, the 1,750th unit, and the last unit of the project.
- An escalation factor will be applied to the balance of the cash contribution that remains to be paid after the 1,400th unit is closed, based on the change in the Consumer Price Index for Honolulu beginning with the 1,401st unit.
- The above terms will satisfy the DOE requirements for the Royal Kunia Phase II project, and DOE will notify the City that the developer and the DOE have agreed upon terms.

Our attorney, Jan Sullivan, is in the process of drafting a formal agreement that will be forwarded to your office for review and approval by the Attorney General's office.

Please counter-sign this letter to acknowledge acceptance of the above mentioned terms and conditions as agreed to between the DOE and Halekua.

Halekua Development Corporation

Mr. Lester Chuck
September 26, 1996
Page 2

Thank you for your time and attention to this matter.

If you have any questions please call me at 848-2272.

Very truly yours,

Jon Uehayama
Jon Uehayama

ACKNOWLEDGED AND AGREED:

STATE OF HAWAII
Department of Education

By *Robert H. Clench*
Sds Facilities Director

J-961031

BENJAMIN J. CAYLOR
GOVERNOR



PATRICIA HAMAMOTO
DEPUTY SUPERINTENDENT

STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2340
HONOLULU, HAWAII 96819

OFFICE OF THE SUPERINTENDENT

June 21, 2002

Mr. Herbert K. Horita
Halekua Development Corporation
2024 North King Street
Honolulu, Hawaii 96819

Dear Mr. Horita:

Subject: Royal Kunia Elementary School - Transfer of Land

The Department of Education (DOE) understands that final subdivision approval has been granted for the Royal Kunia Apartment Subdivision, TMK No. (1) 9-4-002-071, located at Hooaae and Waikole, District of Ewa, City and County of Honolulu, State of Hawaii. We further understand that Halekua Development Corporation (Halekua) is prepared to transfer the 12-acre parcel designated as Lot 3 of the subdivision, to DOE pursuant to the fair-share condition set forth in the Unilateral Agreement and Declaration for Conditional Zoning dated March 6, 1995 and the Unilateral Agreement and Declaration for Conditional Zoning dated April 9, 1997 (collectively, the "Declaration"), and the September 26, 1996 letter of agreement between DOE and Halekua (see enclosure). The agreement specifies that Halekua will dedicate 12 acres plus make incremental cash contributions totaling \$500,000.

DOE is unable to accept title to the site due to the fact that it is subject to several liens and encumbrances.

As an alternative, Royal Kunia School, LLC (RKS), a Hawaii limited liability company, has agreed to accept title to the 12-acre site on behalf of DOE and to assist in clearing title and constructing a school on the site. RKS has agreed that the site will be used solely for the purpose of constructing the school.

This letter will confirm that if the site is transferred to RKS and title to the site is cleared of the existing liens and encumbrances, the land dedication component of DOE's fair-share requirement will be deemed satisfied. At that point, DOE will issue a letter to Halekua confirming satisfaction of the condition.

Mr. Herbert K. Horita
Page 2
June 21, 2002

Note that the cash contribution component of DOE's fair-share requirement will still need to be satisfied per the terms set forth in the September 26, 1996 letter of agreement.

If RKS does not develop a school on the site, DOE intends to purchase the site from RKS at a cost equal to the costs incurred by RKS to clear title. In this event, the cash portion of your fair-share contribution will be increased to compensate DOE for the cost of purchasing the site and any other costs incurred to clear title to the site. Note that the cash contribution is not an upfront payment, but rather a per-unit or incremental payment paid out of esorow as units in Royal Kunia Phase II close.

We request your concurrence on the provisions set forth above. Should you concur, please indicate by signing below and returning this letter to our office.

We further request that the 12-acre site be transferred to RKS as quickly as possible so that we may commence with the development of this much needed elementary school.

If you have any questions, please call Mr. Sanford Beppu of the Facilities and Support Services Branch at 733-4862.

Thank you.

Very truly yours,



Patricia Hamamoto
Superintendent

PH:hy

Enclosure

cc: A. Suga, OBS

I, Herbert K. Horita, concur with the provisions set forth in this letter

Concur/Do Not Concur (Circle One)

 Date: 11/

Cinda Lingle
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2200
HONOLULU, HAWAII 96804

PATRICIA HAMAMOTO
SUPERINTENDENT

RECEIVED
DEC 28 11 00 AM '02

OFFICE OF THE SUPERINTENDENT

December 19, 2002

Mr. Herbert K. Horita
Halekua Development Corporation
2024 North King Street
Honolulu, Hawaii 96819

Dear Mr. Horita:

Subject: Royal Kunia Elementary School - Transfer of Land

The Department of Education (DOE) understands that Halekua Development Corporation (Halekua) is prepared to transfer the 12-acre Royal Kunia Elementary School site pursuant to the fair-share condition set forth in the Unilateral Agreement and Declaration for Conditional Zoning dated March 6, 1995 and the Unilateral Agreement and Declaration for Conditional Zoning dated April 9, 1997.

The transfer is also pursuant to the September 26, 1996 letter of agreement between DOE and Halekua (see enclosure). The agreement specifies that Halekua will dedicate 12 acres plus make incremental cash contributions totaling \$500,000.

The DOE is unable to accept title to the site due to the fact that it is subject to several liens and encumbrances. As an alternative, RKES, LLC has agreed to accept title to the 12-acre site on behalf of the DOE and to assist in clearing title and constructing a school on the site. RKES, LLC has agreed that the site will be used solely for the purpose of constructing the school.

This letter will confirm that if the site is transferred to RKES, LLC and title to the site is cleared of the existing liens and encumbrances, the land dedication component of DOE's fair-share requirement will be deemed satisfied. At that point, DOE will issue a letter to Halekua confirming satisfaction of the land portion of the condition.

Note that the cash contribution component of DOE's fair-share requirement will still need to be satisfied per the terms set forth in the September 26, 1996 letter of agreement.

Mr. Herbert K. Horita
Page 2
December 19, 2002

If RKES, LLC does not develop a school on the site, Halekua's land dedication requirement will remain unsatisfied until the property is dedicated at no cost to the State of Hawai'i.

We request your concurrence on the provisions set forth above. Should you concur, please indicate by signing below.

This letter of concurrence may be executed in one or more counterparts, each of which shall be deemed an original, but all of which when taken together will constitute but one and the same document.

If you have any questions, please call Mr. Sanford Beppu of the Facilities and Support Services Branch at 733-4862.

Thank you.

Very truly yours,



Patricia Hamamoto
Superintendent

PH:hy

Enclosure

cc: A. Suga, OBS

I, Herbert K. Horita, concur with the provisions set forth in this letter.

Concur Do Not Concur (Circle One)



Date: 12/20/02

EXHIBIT B

NE



R-1073 STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED
FEB 27, 2004 09:30 AM
Doc No(s) 2004-040601



20 414 22

/s/ CARL T. WATANABE
REGISTRAR OF CONVEYANCES
CONVEYANCE TAX: \$1.00

LAND COURT

REGULAR SYSTEM

AFTER RECORDATION, RETURN BY MAIL () PICK-UP (x)

MR REUBEN S. F. WONG
LAW OFFICES OF REUBEN S. F. WONG
220 S KING ST, STE 2288
HONOLULU, HI 96813

TG: 200324574-5
TGE: A3-101-2163
GLEN Y AJIMINE

ASL

Total No. of Pages: 12

LOD No.
7099

Tax Map Key No. ()

WARRANTY DEED WITH REVERSION

KNOW ALL MEN BY THESE PRESENTS:

THAT, effective as of the 23rd day of February, 2004,
HALEKUA DEVELOPMENT CORPORATION, a Hawaii corporation, whose address is 2024
North King Street, Suite 209, Honolulu, Hawaii 96819, hereinafter referred to as the "Grantor,"
for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00), paid by the
STATE OF HAWAII, by its Board of Land and Natural Resources, whose address is 1151
Punchbowl Street, Honolulu, Hawaii 96813, hereinafter referred to as the "Grantee," the receipt
whereof is hereby acknowledged, does hereby grant, bargain, sell and convey unto the Grantee,
the Grantee's successors and assigns, that certain parcel of land situate at Kunia, Ewa, City and

County of Honolulu, State of Hawaii, designated as "Lot A ," containing an area of 150.00 acres, more particularly described in Exhibit "A" attached hereto and made a part hereof.

AND the reversions, remainders, rents, income and profits thereof, and all of the estate, right, title, and interest of the Grantor, both at law and in equity, therein and thereto.

TO HAVE AND TO HOLD the same, together with all improvements, rights, easements, privileges and appurtenances thereunto belonging or in any ways appertaining or held and enjoyed therewith in fee simple unto said Grantee, the Grantee's successors and assigns, forever, free and clear of all liens and encumbrances except as noted in said Exhibit "A".

The Grantor, for itself, its successors and assigns, does hereby covenant with the Grantee, its successors and assigns, that the Grantor is lawfully seised in fee simple and possessed of the above-described land and premises, that it has a good and lawful right to convey the same as aforesaid, that the same is free and clear of all liens and encumbrances, except as noted in said Exhibit "A", and that it will and its successors and assigns, shall WARRANT AND DEFEND the same unto the Grantee, its successors and assigns, forever, against the claims and demands of all persons whomsoever.

AND, the Grantee covenants that this purchase/gift of real property has had prior approval by the Attorney General pursuant to section 26-7 and section 107-10, Hawaii Revised Statutes as to legality and form, exceptions, and reservations.

The Property is hereby conveyed subject to the restriction that said Property shall only be used as an agricultural park or for the current or similar agricultural purposes, including diversified agriculture. In the event such Property is no longer used as an agricultural park or for the current or similar agricultural purposes, including diversified agriculture, said Property shall revert to the "Robinson Owners" in accordance with the respective interests as shown in Exhibit

"B" attached hereto and made a part hereof, provided, however, the restriction contained in this paragraph is not intended to apply and shall not apply because the Property, or any portion thereof, lies vacant or fallow. This restriction may only be removed by the "Robinson Owners" holding not less than 75% interest in the Property prior to this Conveyance consenting in writing to the removal of this restriction. For the purposes of this paragraph, the "Robinson Owners" and their respective interests in the Property are shown in Exhibit "B" attached hereto and made a part hereof. Such consent by the "Robinson Owners" may be withheld in the absolute discretion of the "Robinson Owners" and they may require the payment of monies for such consent.

The parties hereto agree that this instrument may be executed in counterparts and the separate signature pages taken together shall have the same effect as if all parties had executed this instrument at the same time and place.

IN WITNESS WHEREOF, HALEKUA DEVELOPMENT CORPORATION, the Grantor herein, has caused these presents to be executed this 19th day of FEBRUARY, 2004 and the STATE OF HAWAII, by its Board of Land and Natural Resources, the Grantee herein, has caused the seal of the Department of Land and Natural Resources to be hereunto affixed and these presents to be executed this 20th day of February, 2004, both effective as of the day, month, and year first above written.

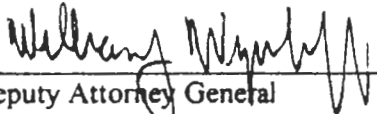
HALEKUA DEVELOPMENT CORPORATION,
a Hawaii corporation

Approved by the Board of
Land and Natural Resources
at its meeting(s) held on
8/22/03, Item D-22.

By [Signature]
Its President

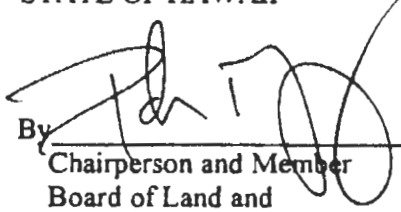
GRANTOR

APPROVED AS TO LEGALITY
AND FORM:


Deputy Attorney General

Dated: 2/19/04

STATE OF HAWAII


By _____
Chairperson and Member
Board of Land and
Natural Resources

eu

GRANTEE

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

On this 19th day of February, 2004, before me appeared Herbert K. Horita, to me personally known, who, being by me duly sworn, did say that he is the President of HALEKUA DEVELOPMENT CORPORATION, a Hawaii corporation, and that the instrument was signed in behalf of the corporation by authority of its Board of Directors, and Herbert K. Horita acknowledged said instrument to be the free act and deed of the corporation.

W.S.

Joy K. Ithori
Notary Public, State of Hawaii

Joy K. Ithori
Print or type name of Notary

My commission expires: 7-8-05

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

On this 29th day of February, 2004, before me personally appeared Peter T. Yang, to me personally known, who, being by me duly sworn, did say that he is the Director of the Department of Land & Natural Resources of the State of Hawaii, that the seal affixed to the foregoing instrument is the seal of the Department of Land & Natural Resources, and that the instrument was signed and sealed in behalf of the State of Hawaii and said Peter T. Yang, acknowledged said instrument to be the free act and deed of the State of Hawaii.

L.S.

Jade K. Kamai
Notary Public, State of Hawaii

Jade K. Kamai
Print or type Name of Notary

My commission expires: 3/10/07

Exhibit "A"

LOT A

Being portions of Royal Patent 4490,
Land Commission Award 10474,
Apana 9 to N. Namauu and Royal Patent 4486,
Apana 1, Mahele Award 4 to Luluhiwalani

Situated at Hoaeae and Waikele, Ewa, Oahu, Oahu, Hawaii

Beginning at the Southwest corner of this parcel of land, on the easterly side of Kunia Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "EWA CHURCH" being 6,396.95 feet North and 21,616.60 feet West, thence running by azimuths measured clockwise from True South.

1. 156° 16' 30" 1,528.99 feet along the easterly side of Kunia Road;
2. 235° 58' 37" 3,512.17 feet along the remainder of R. P. 4490, L. C. Aw. 10474, Apana 9 to N. Namauu;
3. 324° 44' 1,374.79 feet along the remainders of R. P. 4490, L. C. Aw. 10474, Apana 9 to N. Namauu and R. P. 4486, Apana 1, M. Aw. 4 to Luluhiwalani;
4. 54° 44' 19.35 feet along the remainder of R. P. 4486, Apana 1, M. Aw. 4 to Luluhiwalani;
5. 7° 16' 780.37 feet along the remainders of R. P. 4486, Apana 1, M. Aw. 4 to Luluhiwalani and R. P. 4490, L. C. Aw. 10474, Apana 9 to N. Namauu;
6. 52° 16' 566.11 feet along the remainder of R. P. 4490, L. C. Aw. 10474, Apana 9 to N. Namauu;

7. 66' 16' 30" 2,760.61 feet along the remainder of R. P. 4490, L. C. Aw. 10474, Apana 9 to N. Nanaulu to the point of beginning and containing an area of 150.000 acres, more or less.

BEING THE PREMISES CONVEYED BY WARRANTY DEED WITH REVERSION

GRANTOR : HRT, LTD., a Maryland corporation
GRANTEE : HALEKUA DEVELOPMENT CORPORATION, a Hawaii corporation
DATED : February 24, 2004
RECORDED : Document No. 2004-040600

SUBJECT HOWEVER, TO THE FOLLOWING:

1. Possible rollback or retroactive property taxes.
2. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
3. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

INSTRUMENT : DECLARATION

DATED : August 19, 1985
RECORDED : Liber 20142 Page 338

4. -AS TO THE PORTION HATCHED ON THE MAP ATTACHED HERETO:-

(A) GRANT

TO : HAWAIIAN ELECTRIC COMPANY, INC.

DATED : September 10, 1956
RECORDED : Liber 3381 Page 336
GRANTING : a right-of-way (25 feet wide) for powerline purposes

(B) Perpetual easements for electric transmission purposes in favor of HAWAIIAN ELECTRIC COMPANY, INC. acquired by Final Order of Condemnation dated August 9, 1979, filed in the Circuit Court of the First Circuit, Civil No. 50192, on September 4, 1979, recorded in Liber 13973 at Page 297, described as follows:

PART "A" - Portions of R. P. 4490, L. C. Aw. 10474, Ap. 9 to N. Nanauu and R. P. 4486, Ap. 1, Mahele Award 4 to Luluhiwalani, the easement area described as follows:

Beginning at the southwest end of this easement on the northeast side of Kunia Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "WAIPIO-UKA" being 12,623.35 feet south and 12,267.44 feet west and thence running by azimuths measured clockwise from true South:

1. 156° 15' 53" 101.64 feet along the northeast side of Kunia Road;
2. 235° 58' 6,612.43 feet along the remainder of R. P. 4490, L. C. Aw. 10474, Ap. 9 to N. Nanauu and R. P. 4486, Ap. 1, Mahele Award 4 to Luluhiwalani;
 Thence along the remainder of R. P. 4486, Ap. 1, Mahele Award 4 to Luluhiwalani on a curve to the right with a radius of 100.00 feet (on an azimuth of 85° 57' 56" from the radius point), the chord azimuth and distance being
3. 239° 01' 55" 178.31 feet;
4. 242° 05' 50" 344.53 feet along the remainder of R. P. 4486, Ap. 1, Mahele Award 4 to Luluhiwalani;
5. 249° 09' 177.48 feet along same to the south side of Old Railroad Right of Way;
 Thence along the south side of Old Railroad Right of Way on a curve to the right with a radius of 1,501.40 feet, the chord azimuth and distance being
6. 313° 5' 59" 69.90 feet;
 Thence along the south side of Old Railroad Right of Way on a curve to the right with a radius of 1,366.49 feet, the chord azimuth and distance being
7. 315° 31' 27.5" 12.29 feet;
8. 62° 05' 50" 545.96 feet along the remainder of R. P. 4486, Ap. 1, Mahele Award 4 to Luluhiwalani;

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Thence along same on a curve to the right with a radius of 100.00 feet (on an azimuth of 272° 05' 56" from the radius of point), the chord azimuth and distance being

9. 59' 01' 55" 167.61 feet;
10. 55' 58' 6,630.60 feet along the remainder of R. P. 4486, Ap. 1, Mahele Award 4 to Luluhiwalani and R. P. 4490, L. C. Aw. 10474, Ap. 9 to N. Namaau to the point of beginning and containing an area of 742,870 square feet, more or less.

(C) Basement "14" (60 feet wide) for road and utility purposes as shown on survey map prepared by Roy T. Yama, dated June 21, 1985.

(D) Ditch as shown on Tax Map.

(E) DESIGNATION OF EASEMENT "11" (60 feet wide)

PURPOSE : road
SHOWN : on File Plan No. 2154

(F) DESIGNATION OF EASEMENT "14" (60 feet wide)

PURPOSE : road and utility
SHOWN : on File Plan No. 2154

5. -AS TO THE PORTION CROSS-HATCHED ON THE MAP ATTACHED HERETO:-

A 22 foot roadway setback line along Kunia Road, as shown on File Plan No. 2154.

6. Claims arising out of rights customarily and traditionally exercised for subsistence, cultural, religious, access or gathering purposes as provided for in the Hawaii Constitution or the Hawaii Revised Statutes.
7. Discrepancies, conflicts in boundary lines, shortage in area, encroachments or any other matters which a correct survey or archaeological study would disclose.
8. Unrecorded license agreement in favor of Waikele Farms, Inc. dated May 20, 2003 and matters arising from or affecting the same.

9. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

INSTRUMENT : WARRANTY DEED WITH REVERSION

DATED : _____, 2004

RECORDED : Document No. 2004-_____

The foregoing includes, but is not limited to, matters relating to right of reversion and agricultural park.

EXHIBIT "B"

The undivided interests of the respective Grantors are as follows:

CAROLINE J. ROBINSON LLC, a Hawaii limited liability company -- an undivided .375261133 interest;

J. L. P. ROBINSON LLC, a Hawaii limited liability company -- an undivided .276563067 interest;

ALLAN ZAWTOCKI, WILLIAM RHETT TABER and WILLIAM W. PATY, Trustees under the Will and of the Estate of Mark Alexander Robinson, Deceased -- an undivided .292404933 interest;

ALLAN ZAWTOCKI, WILLIAM RHETT TABER and WILLIAM W. PATY, Trustees under that certain Deed of Trust executed by Mark Alexander Robinson and Mary Kapuahaulani Hart Robinson dated July 30, 1953 -- an undivided .035176867 interest;

WENDY BRANDT JOHNSON, as Trustee of that certain unrecorded Wendy Brandt Johnson Declaration of Trust dated December 16, 1987, a short form of which having been recorded in the Bureau of Conveyances of the State of Hawaii in Liber 21484 at Page 769 -- an undivided .000119333 interest;

SUSAN BRANDT, as Trustee of that certain unrecorded Susan Brandt Declaration of Trust dated December 16, 1987, a short form of which having been recorded in said Bureau in Liber 21484 at Page 741 -- an undivided .000119333 interest;

REX BRANDT, as Trustee of that certain unrecorded Rex Brandt Declaration of Trust dated December 16, 1987, a short form of which having been recorded in said Bureau in Liber 21484 at Page 756 -- an undivided .000119333 interest;

DAVID NEVILLE ROBINSON, unmarried -- an undivided .000119333 interest;

NANCY ANN ROBINSON, unmarried -- an undivided .000119333 interest;

MICHAEL ANDREW ROBINSON, unmarried -- an undivided .000119333 interest; and

BANK OF HAWAII, a Hawaii corporation, as Trustee under that certain unrecorded Trust Agreement No. 90-01892 -- an undivided .019878002 interest.

EXHIBIT C

**AMENDMENT AND RESTATEMENT
OF
MEMORANDUM OF UNDERSTANDING**

THIS AMENDMENT AND RESTATEMENT OF MEMORANDUM OF UNDERSTANDING (the "*Amended and Restated MOU*") is made this ___ day of February, 2007, by and between HALEKUA DEVELOPMENT CORPORATION, a Hawaii corporation ("*Halekua*") and the DEPARTMENT OF AGRICULTURE, STATE OF HAWAII ("*DOA*").

RECITALS:

1. Halekua and DOA entered into that certain Memorandum of Understanding (the "*Original MOU*") dated as of March 30, 1993, for the purpose of setting forth the agreements and understanding by and between Halekua and DOA with respect to establishment and integration into the master plan for the Royal Kunia Phase II development by Halekua of a state agricultural park.
2. Under the terms of the Original MOU, Halekua was to arrange for the conveyance of approximately 150 acres of land within Royal Kunia Phase II to DOA for its development of a state agricultural park and to accomplish such conveyance by no later than December 31, 1997.
3. Under the Original MOU, Halekua was to also design and construct off-site infrastructure improvements for the state agricultural park, including roadway, potable and irrigation water lines (exclusive of water commitment), and sewer lines and utility connections up to the boundary of the agricultural park at no cost to DOA. These off-site infrastructure improvements were to be initiated within one (1) year of the conveyance of the agricultural park to DOA and were to be completed within thirty (30) months thereafter.
4. Under the Original MOU the DOA was to assume responsibility for the development of and all other costs associated with the state agricultural park. DOA was to initiate development of the on-site improvements within five (5) years of the conveyance date and to achieve utilization of the conveyed lands for its intended purpose as a state agricultural park within ten (10) years of the conveyance date.
5. Pursuant to the Original MOU if the state agricultural park is not developed and utilized for its intended purpose within such 10-year time frame then and in such event ownership of the subject lands for the agricultural park are to revert to Halekua or its successors in interest, subject to any extension in time which may be mutually agreed to by the parties.
6. As a result of a variety of factors (economic and otherwise) the time frames set forth in the Original MOU for transfer of the agricultural park site to DOA, design and construction of the off-site infrastructure were not met.
7. However, by Warranty Deed with Reversion dated February 23, 2004, recorded on February 27, 2004, in the Bureau of Conveyances of the State of Hawaii as Document No.

2004-040601 the 150 acre parcel within Royal Kunia Phase II on which the state agricultural park is to be developed was conveyed by Halekua to the DOA.

8. Halekua and DOA now desire to amend and restate the Original MOU to (a) acknowledge the conveyance of the 150 acre agricultural park site to the DOA and the acceptance thereof by the DOA in partial satisfaction of the agreements in the MOU notwithstanding the delay in actual conveyance of the subject land, (b) to restate and modify the agreements between Halekua and the DOA with respect to the timing for design and construction of the off-site infrastructure to the state agricultural park, (c) to delete the provisions within the MOU providing for the DOA to initiate and complete its development and commence active use of the state agricultural park within a period of time measured from the date of initial conveyance of the 150 acre parcel comprising the state agricultural park to the DOA, and (d) to delete the right of reverter if the state agricultural park is not developed and utilized for those purposes within 10-years from the date of the initial conveyance of the 150 acre parcel to the DOA, and replace with a restrictive use covenant and reversion if the use covenant is breached.

NOW, THEREFORE, in consideration of the Recitals set forth above and other consideration the receipt and sufficiency of which is hereby acknowledged, Halekua and DOA do hereby amend and restate Paragraphs A through N of the original MOU in their entirety as follows:

A. Confirmation of Conveyance of 150-Acre Parcel. DOA does hereby acknowledge and confirm that by Warranty Deed with Reversion dated February 23, 2004, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2004-040601 (the "**State Ag Park Deed**"), the agreed upon 150 acres of land within the Royal Kunia Phase II development was conveyed by Halekua to the State of Hawaii, by and through its Board of Land and Natural Resources, for the DOA's use as and to establish a state agriculture park thereon (herein the "**state agricultural park**"). The DOA further confirms that it has accepted the conveyance of the lands comprising the state agricultural park by the State Ag Park Deed as being in full and complete satisfaction of the land conveyance component of its agreements with Halekua notwithstanding the fact that the actual conveyance occurred beyond the original December 31, 1997 deadline date.

B. Use of State Agricultural Park. The state agricultural park is intended to benefit the small diversified farmer and use of the state agricultural park shall be intended for diversified agricultural production, including, without limitation, floriculture, foliage and orchard production. In addition, the DOA shall have right and option (but is not required) to develop and construct up to a maximum of fifty (50) related agricultural farm dwellings or farm employee housing units with the state agricultural park. If any of these agricultural farm dwellings or farm employee housing units are developed by the DOA on the state agricultural park the same shall not at any time be offered for sale by the DOA.

C. Certain Use Prohibitions within State Agricultural Park. Since the state agricultural park will be located adjacent to an urban residential community, commercial livestock and aquaculture production or other activities associated with or related thereto shall be prohibited within the state agricultural park.

D. Halekua to Include State Agricultural Park in Land Plan. Halekua shall incorporate the state agricultural park into its land plan for the Royal Kunia Phase II subdivision and jointly with the DOA shall prepare a preliminary site plan for the state agricultural park reflecting the locations of the roadway and infrastructure connections to be provided to the boundary of the state agricultural park parcel. Halekua and the DOA will diligently and in good faith work together to conclude the planning work necessary to prepare and reach agreement on a preliminary site plan for the state agricultural park no later than December 31, 2007 (or such later date to which Halekua and the DOA shall mutually agree). The DOA shall determine the final layout of the state agricultural park's interior configuration, subject to review and concurrence by Halekua, and shall arrange for and provide funding for construction of the improvements within the interior of the state agricultural park.

E. Halekua to Design and Construct Certain Off-Site Infrastructure to the State Agricultural Park. Halekua shall design and construct off-site infrastructure improvements for the state agricultural park including roadway, potable and irrigation water lines (exclusive of water commitment), and sewer lines and utility connections, up to the property boundary of the state agricultural park at no cost to the DOA. These off-site infrastructure improvements shall be sufficient to service the agricultural uses contemplated by the DOA for the state agricultural park and shall be sufficient to service the maximum of fifty (50) agricultural farm dwellings or farm employee housing units (if the DOA determines that the same shall be a part of the state agricultural park). In connection therewith Halekua and the DOA agree as follows:

a. Following approval of the preliminary site plan in accordance with Paragraph D above, Halekua shall arrange for and cause the preparation of design plans for the off-site infrastructure necessary to provide the agreed upon roadway access, water, sewer and other appropriate utility connections to the boundary of the state agriculture park to service the contemplated improvements on the state agricultural park in accord with the preliminary site plan and submit the same to the DOA for approval no later than December 31, 2008 (or such later date to which Halekua and the DOA shall mutually agree), which approval by the DOA shall not be unreasonably withheld or delayed. It is understood and accepted that HDC shall be entitled to make such changes and modifications to the approved design plans as may be required to address and satisfy any comments made or issues raised by appropriate governmental agencies of the State of Hawaii and/or City and County of Hawaii, without the further consent or approval of DOA, so long as such changes or modifications do not materially alter or change the designed load or line capacity for the off-site infrastructure improvement to service the state agricultural park as shown in such approved offsite infrastructure plans.

b. After the DOA approves the offsite infrastructure plans, HDC shall, at its sole cost and expense, (i) obtain all necessary governmental permits and approvals for construction of such off-site infrastructure, and (ii) arrange for and substantially complete the construction and installation of the off-site infrastructure to service the state agricultural park no later than January 1, 2011 (or such later date to which Halekua and the DOA shall mutually agree), subject to extension in such substantial completion date for construction industry recognized force majeure events.

F. DOA Responsible for All Other Costs of State Agricultural Park. The DOA shall assume responsibility for the development of and payment of all costs (other than those set forth in this Agreement as being assumed by Halekua) associated with the state agricultural park and the agricultural farm dwellings and/or farm employee housing units to be developed thereon.

G. Coordinate Developments. Halekua and the DOA shall use their best efforts to work jointly to coordinate the development of their respective portions of the Royal Kunia Phase II project.

H. Hawaii Farm Bureau Federation. The DOA, to the extent permitted by law or regulation, shall involve the Hawaii Farm Bureau Federation in the utilization, operation and management of the state agricultural park with the intent of maximizing the efficiency and success of the diversified farming efforts at the state agricultural park.

I. DOA Support of Land Use Approvals. The DOA shall assist and support Halekua in its efforts to obtain and maintain the necessary land use approvals for the Royal Kunia Phase II project, as well as in Halekua's efforts to obtain the necessary off-site infrastructure permit approvals. Any assistance and support by the DOA shall be limited to the extent permitted by the applicable statutes and rules.

J. Restrictive Use Covenant on State Agricultural Park. The time periods for initiation of development of on-site improvements for the state agricultural park and for the DOA to achieve active utilization of the state agricultural park set forth in Paragraph K of the Original MOU are hereby deleted in their entirety. Instead the state agricultural park shall be subject to a restrictive use covenant providing that the state agricultural park shall only be used as an agricultural park or for the current or similar agricultural purposes, including diversified agriculture. If at any time in the future the DOA ceases to use or abandons the use of the state agricultural park as an agricultural park or for the current or similar agricultural purposes, including diversified agricultural, then, and in such event, the 150 acre parcel comprising the state agricultural park shall be subject to a reversion in favor of certain "Robinson Owners" as more particularly defined in the State Ag Park Deed. It is understood that the fact that any portion of the state agricultural park may lie vacant or fallow shall not constitute the cessation or abandonment of the agricultural use.

K. No Adverse Impact on Lands Adjoining State Agricultural Park. The DOA agrees to use its best efforts to minimize the impact of the state agricultural park on the adjacent lands being developed for residential, industrial and other urban uses.

L. Assistance with Non-Potable Water System. The DOA shall assist Halekua, to the extent allowable by law and subject to the availability of funds, in obtaining and developing a non-potable water system to service irrigation and other non-potable water needs of the Royal Kunia Phase I and Phase II projects, including the state agricultural park.

M. Purpose of Amended and Restated MOU. The parties hereto agree that this Amended and Restated MOU is being executed to evidence their mutual understandings and agreements regarding the conveyance of the 150-acre parcel comprising the state agricultural

park to the DOA, the design and development by Halekua of certain off-site infrastructure to service the state agricultural park, and certain use restrictions and limitations applicable to the DOA's use of the state agricultural park. This Amended and Restated MOU replaces the Original MOU in its entirety.

N. Amendment. This Amended and Restated MOU may be amended from time to time by an instrument in writing signed by both HDC and the DOA.

IN WITNESS WHEREOF, this Amendment and Restatement of Memorandum of Understanding is made and executed by Halekua and the DOA as of the day and year first above written.

**DEPARTMENT OF AGRICULTURE,
STATE OF HAWAII**

Approved as to Legality and Form:

Deputy Attorney General
Dated: _____, 2007

Name: _____
Title: Chairperson

HALEKUA DEVELOPMENT CORPORATION

By _____
Name: Herbert K. Horita
Title: President