

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

December 17, 2021 8:01 AM
Doc No(s) A - 80210118

Doc 1 of 6
Pkg 11926319 SKC

/s/ LESLIE T KOBATA
REGISTRAR

Return by Mail (X) Pickup () To:
BBCP Kukui'ula Infrastructure, LLC
2700 Ke Ala'ula Street, Suite B
Koloa, HI 96756

TG: 202121035-S

TGE: 21021181457
Jeremy Trueblood

This document contains 17 pages. **RS-1**

TMK No.: (4) 2-6-019-029 (portion) (Burdened Property, being a portion of Lot 29, File Plan No. 2483)

DECLARATION OF EXCLUSIVE EASEMENT
(Common Area)

THIS DECLARATION OF EXCLUSIVE EASEMENT (Common Area) (this "Declaration") is made as of DEC 15 2021, by BBCP KUKUI'ULA PARCEL HH, LLC, a Delaware limited liability company, with post office address at 2700 Ke Ala'ula Street, Suite B, Koloa, Hawaii 96756 ("Fee Owner").

A. RECITALS

1. **Burdened Property.** Fee Owner is the owner of Lot 29 of Kukui'ula Residential Subdivision, Phase III-A at Koloa, Island and County of Kauai, State of Hawaii, as shown on File Plan No. 2483, being approximately 1,273,231 square feet, and currently identified as Tax Map Key No. (4) 2-6-019-029 (the "Burdened Property").

2. **Benefited Property.** BBCP Kukui'ula Infrastructure, LLC, a Delaware limited liability company (the "Grantee") is the owner of Lot 31, as shown on File Plan No. 2483, being approximately 664,900 square feet, and currently identified as Tax Map Key No. (4) 2-6-019-031 (the "Benefited Property").

3. **Association Easement.** Fee Owner has agreed to grant to Grantee, as the owner of the Benefited Property, a perpetual exclusive easement appurtenant to the Benefited Property, on, over, across, under and through the easement area more particularly described on **Exhibit A-1** attached hereto and made a part hereof and the area cross-hatched on the map attached hereto as **Exhibit A-2** and made a part hereof (collectively, the "Easement Area"), which affects a portion of the Burdened Property, for use as "Common Area" as defined in that certain Second Amended and Restated Community Charter for Kukui'ula dated August 5, 2015, recorded in the Bureau as Document No. A-56951009, as may be further amended, amended and restated, and/or supplemented from time to time (the "Charter").

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, Fee Owner, for itself and its successors and assigns, declares that the Burdened Property shall be held, sold, conveyed, mortgaged, encumbered, developed, leased, subleased, rented, operated, used, occupied, improved, and maintained subject to the declarations, grants, restrictions, reservations, covenants and conditions set forth in this Declaration, all which shall run with the land and the Burdened Property and will be binding upon and for the benefit of the Grantee, its successors and assigns, and all subsequent owners, lessees, sublessees of all or any part of the Benefited Property and their respective heirs, personal representatives, successors, successors in trust and assigns:

B. AGREEMENT

1. **Declaration of Easement.** Fee Owner does hereby grant, bargain, sell and convey unto Grantee, its successors and assigns, for the benefit of and as an appurtenance to the Benefited Property, a perpetual and exclusive easement (the "Easement") over, under and across the Easement Area affecting a portion of the Burdened Property, upon and in accordance with the terms and conditions set forth in this Declaration; SUBJECT, HOWEVER, to all liens and encumbrances affecting the Easement Area as of the date this Declaration is recorded in the Bureau.

2. **Permitted Use.** Grantee and its assigns, tenants, licensees, invitees and permittees (collectively, "Permittees") may use the Easement Area as a common area lot (including without limitation, for utility, landscaping, and other similar purposes), and for other purposes consistent with the applicable terms and conditions of the Charter.

3. **Maintenance; Discharge of Liens.** Grantee shall bear all costs and expenses related to the construction, maintenance and repair from time to time of Easement Area and any improvements, equipment and appurtenances constructed by Grantee within the Easement Area (collectively, the "Improvements").

4. **Real Property Taxes.** Grantee shall pay to Fee Owner, within thirty (30) days of receipt of a written invoice therefore, Grantee's pro rata share of all real property taxes and assessments which shall become due with respect to the Easement Area and any Improvements located in the Easement Area.

5. **Responsibility.** Grantee will observe and perform all laws, ordinances, rules and regulations now or hereafter imposed by any governmental authority which are applicable to Grantee's use of the Easement Area and the Improvements.

6. **No Use of Easement Area by Fee Owner.** Given that the Easement is exclusive, neither Fee Owner, nor any other person or party claiming by or through Fee Owner, shall have any right to use, occupy, develop, improve, mortgage, transfer or otherwise deal with the Easement Area, or record any document that would bind or affect the Easement Area. Fee Owner shall take no action with respect to the Easement Area that would adversely affect the rights of Grantee or the Permittees. Without limiting the foregoing, Fee Owner shall not subdivide the Burdened Property unless Grantee has approved the proposed plan of subdivision, which shall also create the Easement Area as a separate lot or lots to be conveyed to Grantee in accordance with Section 8 below.

7. **Due Care and Diligence.** Grantee shall use due care and diligence in the construction, installation, alteration, replacement, maintenance, repair, and removal of the Improvements and in the exercise of its rights hereunder.

8. **Reserved Right Regarding Subdivision and Conveyance of Easement Area.** Grantee shall have the right to subdivide the Burdened Property whereby the Easement Area is divided from the

remainder of the Burdened Property as one or more separate lots, at Grantee's sole discretion and cost, without the consent or joinder of Fee Owner (the "Subdivision"). If Grantee decides to proceed with the Subdivision, Fee Owner shall reasonably cooperate with Grantee in connection with such Subdivision, at no cost to Fee Owner. Without limiting the foregoing, Grantee shall have the right in its sole discretion, but not the obligation, to apply for and obtain final approval of the Subdivision from the County of Kauai for the Easement Area as a separate legal lot (and do all things necessary in connection therewith to effect such Subdivision, including without limitation filing and recording any necessary subdivision map). Upon the completion of such the Subdivision or any other subdivision of the Burdened Property initiated by Fee Owner, Fee Owner shall, within ten (10) business days of Grantee's written request and without the necessity of obtaining any consent or approval of any other party (including, without limitation, any mortgagee or lienholder), execute and deliver to Grantee a limited warranty deed, for no additional consideration, conveying Fee Owner's fee simple interest in the subdivided lot comprising the Easement Area in the form attached hereto as Exhibit B (and subject only to the title encumbrances set forth on such form unless otherwise agreed to in writing by the Grantee) to Grantee or, in Grantee's sole discretion, to the Kukui'ula Community Association, and upon the recording of such deed, this Declaration shall automatically terminate. Notwithstanding the foregoing, in the event Fee Owner fails to execute such limited warranty deed for no additional consideration within such ten (10) business day period, Fee Owner hereby authorizes Grantee and appoints Grantee as Fee Owner's attorney-in-fact to act on Fee Owner's behalf and to execute any documentation as necessary or convenient to convey the subdivided lot(s) comprising the Easement Area to the Grantee or Grantee's designee and confirm the termination of this Declaration pursuant to this paragraph, provided no new monetary obligations are imposed on Fee Owner. This power-of-attorney is coupled with interest and is irrevocable. Grantee shall be responsible for all costs and expenses incurred by Fee Owner to execute, deliver and record such deed, including any conveyance tax due upon such recordation.

9. **Indemnity.** Grantee, and its successors and assigns, will indemnify, defend, hold harmless Fee Owner for any and all losses, damages, claims, demands, injury or liabilities suffered by Fee Owner, caused by or resulting from (a) the use of the Easement Area and/or the Improvements by Grantee or its Permittees, and (b) the Grantee's breach of its obligations in this Declaration. Fee Owner, and its successors and assigns, will indemnify, defend, hold harmless Grantee for any and all losses, damages, claims, demands, injury or liabilities suffered by Grantee caused by or resulting from (a) the acts or omissions of Fee Owner or its Representatives on the Burdened Property, and (b) Fee Owner's breach of its obligations in this Declaration. This paragraph shall survive any conveyance of the fee simple interest in the Easement Area to Grantee or its successors and permitted assigns, and any termination of this Declaration.

10. **Insurance.** Grantee shall at all times maintain in full force and effect a comprehensive liability and property damage insurance policy covering its interest in the Easement Area and the Improvements, with such reasonable limits as determined by Grantee in its reasonable discretion. Such policy shall be written by an insurance company duly licensed to do business in the State of Hawai'i (or approved in writing by Fee Owner). Grantee shall, promptly upon Fee Owner's request, provide satisfactory evidence that such insurance policy is in full force and effect.

11. **Notices.** All notices, demands and requests that may or are required to be given hereunder by any party hereto shall be in writing and shall be (a) personally delivered, or (b) sent by registered or certified mail, return receipt requested, postage prepaid, addressed as set forth below, (c) transmitted by an internationally recognized courier service, or (d) sent by electronic mail transmission. Notices, demands, and requests shall be deemed served or given for all purposes hereunder at the time such notice, demand or request is delivered if accomplished by personal delivery, registered or certified mail, or courier service. Any refusal to accept delivery of a written notice delivered or mailed to the addresses set forth below shall be deemed to be delivery and receipt of such notice for the purposes of this section. Any party may change its address for notice by delivering written notice thereof to the other parties in the manner set forth

hereinbefore, and thereafter such party's notice address shall be the new address. The address of the parties for notices shall be as follows:

Fee Owner: Kukui'ula Development Company (Hawaii), LLC
2700 Ke Alaula Street, Suite B
Koloa, Hawaii 96756
Attention: President

Grantee: Kukui'ula Development Company (Hawaii), LLC
2700 Ke Alaula Street, Suite B
Koloa, Hawaii 96756
Attention: President

12. **Assignment.** Fee Owner hereby agrees and consents that Grantee may assign its rights and obligations hereunder to the Kukui'ula Community Association, without the need for any additional consent or approval. Following such assignment, all references to "Grantee" hereunder shall mean the Kukui'ula Community Association.

13. **Binding Effect.** All the terms and conditions of this Declaration shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. This Declaration shall be appurtenant to and for the benefit of the Benefited Property and shall run with the land. The terms "Fee Owner" and "Grantee" herein shall include their respective successors in interest.

14. **No Dedication.** Nothing in this Declaration shall be construed to grant any rights in the Easement to the general public or to any governmental agency or authority.

15. **Severability.** If any provision of this Declaration, or any section, sentence, clause, phrase or word or the application thereof in any circumstances, shall be held invalid, the validity of the remainder of this Declaration and of the application of such provision, sentence, clause, phrase or word under any other circumstances shall not be affected.

16. **No Warranty.** Grantee hereby agrees and acknowledges that Fee Owner has not made and will not make, any representation or warranty with respect to the condition of the Easement Area, including but not limited to, any express or implied warranty of merchantability or fitness for a particular purpose. Grantee accepts the Easement Area in completely "as is" condition, with full assumption of the risks and consequences of such conditions.

17. **No Waiver.** No failure by any party to insist upon the strict performance by the other party of any of the terms or provisions of this Declaration shall be deemed to be a waiver of any such terms or provisions or of the other party's obligation to comply with such terms and provisions, and notwithstanding such failure each party shall have the right thereafter to insist upon the other party's strict performance of such terms and provisions, and any waiver of the terms and provisions of this Declaration shall not be effective unless given in writing.

18. **Enforcement.** Each party hereto may enforce its rights by an action for specific performance in the courts of the State of Hawaii in addition to any other remedies available at law or in equity. In the event of any litigation between the parties arising out of or concerning this Declaration or the enforcement thereof, the prevailing party in such litigation shall be entitled to recover from the non-prevailing party all costs, expenses and reasonable attorneys' fees incurred by the prevailing party.

19. **Applicable Law; Jurisdiction.** This Declaration shall be governed by and construed under the laws of the State of Hawaii. Any legal action under this Declaration shall be filed in the Hawaii judicial system only, and the parties hereby unconditionally submit themselves to the jurisdiction of the courts of the State of Hawaii and the United States District Court for the District of Hawaii, and waive the right to assert that such courts are in an inconvenient forum.

20. **Amendments; Interpretation.** Any modifications of this Declaration must be in writing and signed by the parties hereto. The headings of sections in this Declaration are inserted only for convenience and shall in no way define, describe or limit the scope or intent of any provision of this Declaration. As used herein, the singular shall include the plural and the masculine shall include the feminine and neuter.

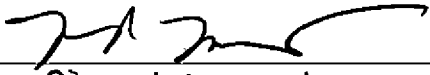
21. **Condemnation.** In the event the Easement Area shall be taken or condemned in whole or in part by any authority having the power of eminent domain, all compensation and damages awarded on account of the condemnation or taking with respect to the Easement Area shall be payable to Grantee, without any apportionment to Fee Owner.

22. **Counterparts.** This Declaration may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same instrument. Duplicate unexecuted and unacknowledged pages of the counterparts may be discarded and the remaining pages assembled as one document.

[Remainder of page left blank intentionally]


IN WITNESS WHEREOF, Fee Owner and Grantee have executed this Declaration on the day and year above first written.

BBCP KUKUI'ULA PARCEL HH, LLC,
a Delaware limited liability company

By: 
Name: *Richard Albrecht*
Title: *Authorized Signatory*

Fee Owner

BBCP KUKUI'ULA INFRASTRUCTURE, LLC,
a Delaware limited liability company

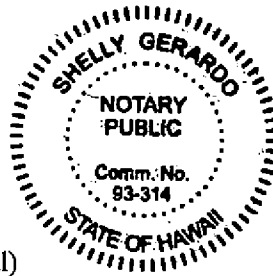
By: 
Name: *Richard Albrecht*
Title: *Authorized Signatory*

Grantee

[Fee Owner]

STATE OF HAWAII)
) SS.
COUNTY OF KAUAI)

On this 14th day of December, 2021, before me personally appeared Richard Albrecht, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as such person's free act and deed in the capacity shown, having been duly authorized to execute such instrument in such capacity.



Signature: Shelly Gerardo
Name: Shelly Gerardo
Notary Public, State of Hawaii
My commission expires: 12/25/23

(Official Stamp or Seal)

NOTARY CERTIFICATION STATEMENT

Document Identification or Description: Declaration of Exclusive Easement (Common Area)

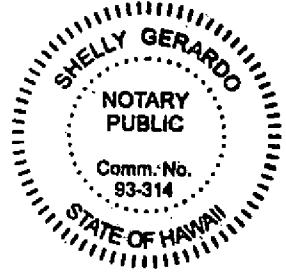
Doc. Date: _____ or Undated at time of notarization

No. of Pages: 17 Jurisdiction: Fifth Circuit (in which notarial act is performed)

Signature of Notary: Shelly Gerardo Date of Notarization and Certification Statement: 12/14/21

Printed Name of Notary: Shelly Gerardo

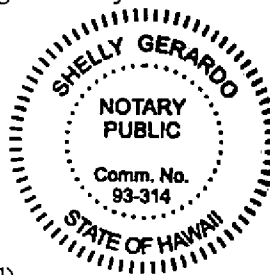
Date of notary commission expiration: 12/25/23



(Official Stamp or Seal)

[Grantee]
STATE OF HAWAII)
) SS.
COUNTY OF KAUAI)

On this 14th day of December, 2021, before me personally appeared Richard Albrecht, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as such person's free act and deed in the capacity shown, having been duly authorized to execute such instrument in such capacity.



Signature: Shelly Gerardo
Name: Shelly Gerardo
Notary Public, State of Hawaii
My commission expires: 12/25/23

(Official Stamp or Seal)

<u>NOTARY CERTIFICATION STATEMENT</u>	
Document Identification or Description: Declaration of Exclusive Easement (Common Area)	
Doc. Date: _____	or <input checked="" type="checkbox"/> Undated at time of notarization
No. of Pages: <u>17</u>	Jurisdiction: Fifth Circuit (in which notarial act is performed)
<u>Shelly Gerardo</u> Signature of Notary	<u>12/14/21</u> Date of Notarization and Certification Statement
<u>Shelly Gerardo</u> Printed Name of Notary	(Official Stamp or Seal)
Date of notary commission expiration: <u>12/25/23</u>	

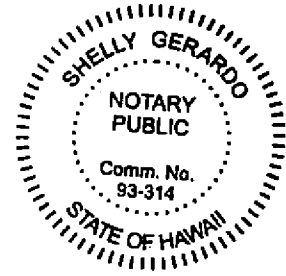


EXHIBIT A-1

Description of Portion of Easement Area
(in addition to Easement Area described on Exhibit A-2)

Parcel HH
LAND SITUATED AT KOLOA, KAUAI, HAWAII

Being all of proposed Lot 50
Being also portion of R.P. 6714, L.C. Aw 7714-B, Ap. 2 to M. Kekuaiwa no M. Kekuanaoa

Beginning at the southwest corner of this parcel of land, on the north side of Lawai Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "WAHIAWA" being 9,500.28 feet South and 14,357.55 feet East, thence running by azimuths measured clockwise from true South:

1.	203° 10'	331.14	feet along the remainder of Lot 14;
2.	261° 34'	531.91	feet along the remainder of Lot 14;
3.	239° 41' 30"	189.24	feet along the remainder of Lot 14;
4.	330° 56'	83.98	feet along Lot 32;
5.	60° 56'	149.79	feet along proposed Lot 49;
6.	112° 44'	32.20	feet along proposed Lot 49;
7.	79° 32'	247.20	feet along proposed Lot 49;
8.	56° 27'	132.50	feet along proposed Lot 49;
9.	21° 37'	140.50	feet along proposed Lot 49;
10.	332° 31' 30"	200.45	feet along proposed Lot 49;
11.	297° 33'	379.97	feet along proposed Lot 49;
12.	300° 38'	27.23	feet along proposed Lot 49;
13.	31° 30'	7.32	feet along proposed Lot 49;
14.	297° 35'	190.36	feet along proposed Lot 49;
15.	303° 20'	219.27	feet along Lots 33-36;

16.	306° 01'	249.97	feet along Lots 31-33 & Lot 47;
17.	303° 41'	228.49	feet along Lots 28-30 & Lot 47;
18.	277° 00'	124.50	feet along Lots 27 & 28;
19.	270° 50'	109.42	feet along Lots 25-27;
20.	272° 45'	206.96	feet along Lots 22-25;
21.	267° 52'	209.79	feet along Lots 20-22;
22.	236° 49'	239.15	feet along Lots 19 & 20;
23.	163° 29'	156.04	feet along Lots 18 & 19;
24.	280° 25'	218.77	feet along Lot 51;
25.	295° 10'	430.30	feet along Lot 51;
26.	37° 08'	83.99	feet along Lot 27;
27.	307° 08'	23.84	feet along Lot 27;
28.	37° 08'	47.79	feet along Lot 28;
			thence along Lot 28 on a curve to the right with a radius of 40.50 feet, the chord azimuth and distance being:
29.	55° 57' 30"	26.14	feet;
30.	74° 47'	25.24	feet along Lot 28;
31.	37° 08'	86.20	feet along Lot 28;
			thence along the north side of Lawai Road on a curve to the left with a radius of 543.00 feet, the chord azimuth and distance being:
32.	99° 31' 45"	11.29	feet;
33.	98° 56'	168.39	feet along the north side of Lawai Road;

- | | | | |
|-----|----------|--------|---|
| 34. | 100° 36' | 129.44 | feet along the north side of Lawai Road;

thence along the north side of Lawai Road on a curve to the left with a radius of 828.00 feet, the chord azimuth distance being: |
| 35. | 93° 38' | 200.86 | feet; |
| 36. | 86° 40' | 644.80 | feet along the north side of Lawai Road;

thence along the north side of Lawai Road on a curve to the right with a radius of 242.00 feet, the chord azimuth distance being: |
| 37. | 105° 28' | 155.98 | feet; |
| 38. | 124° 16' | 806.50 | feet along the north side of Lawai Road;

thence along the north side of Lawai Road on a curve to the left with a radius of 1028.00 feet, the chord azimuth distance being: |
| 39. | 120° 48' | 124.32 | feet; |
| 40. | 117° 20' | 750.41 | feet along the north side of Lawai Road to the point of beginning and containing an area of 12.848 Acres. |



Lihue, Hawaii
November 2021

DESCRIPTION PREPARED BY:
ESAKI SURVEYING AND MAPPING, INC.

A handwritten signature in black ink, appearing to read "Dennis M. Esaki".

Dennis M. Esaki
Licensed Professional Land Surveyor
Certificate Number 4383

EXHIBIT A-2
 Description of Portion of Easement Area
 (in addition to Easement Area described on Exhibit A-1)

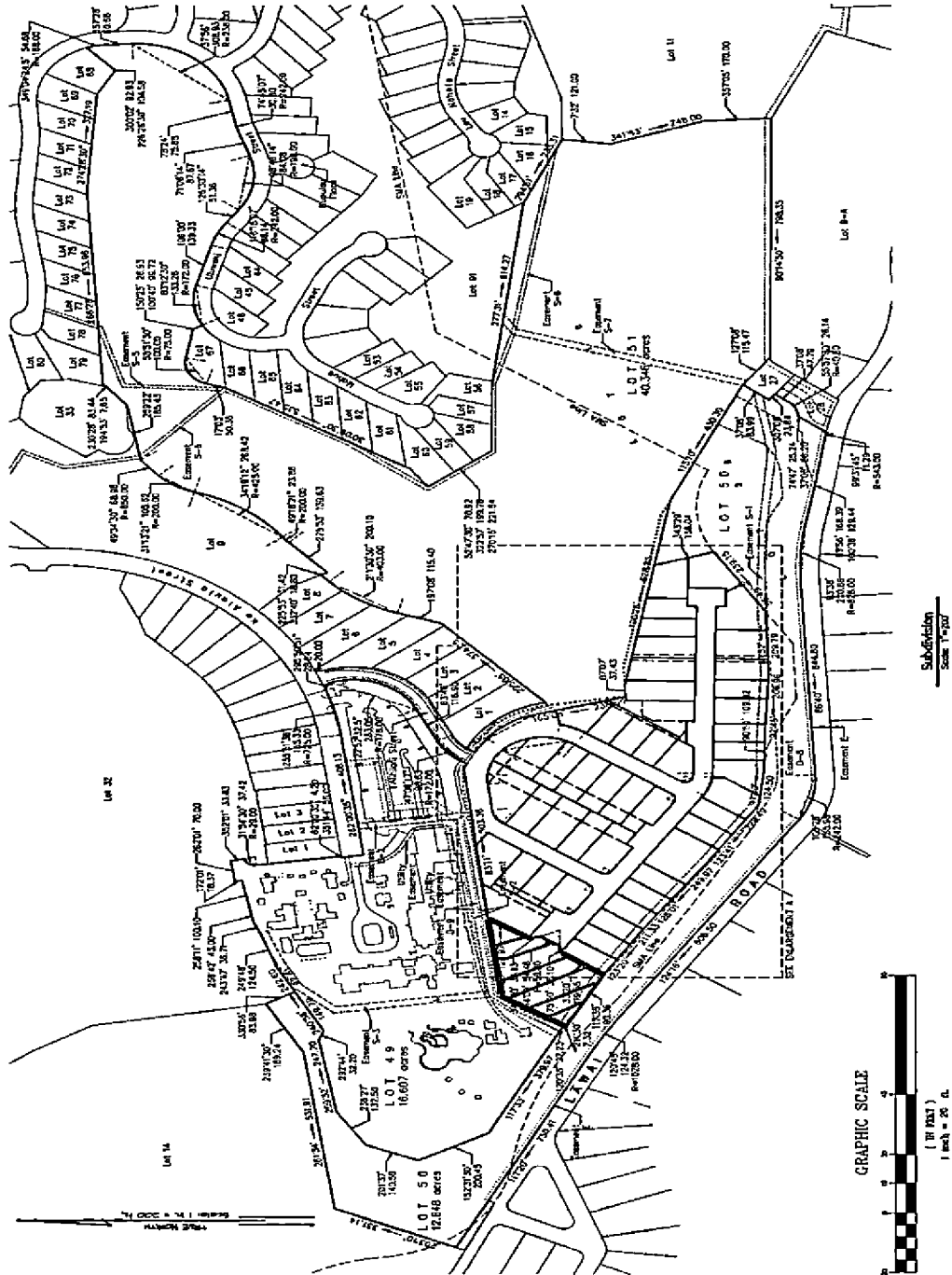


EXHIBIT B
Form of Limited Warranty Deed

Return by Mail Pickup To:

Kukui'ula Development Company (Hawaii), LLC
2700 Ke Ala'ula Street, Suite B
Koloa, Hawaii 96756

Total Pages: _____

Tax Map Key No. (4) _____

LIMITED WARRANTY DEED

THIS LIMITED WARRANTY DEED is made on _____, ____ by _____, of Koloa, Hawaii, hereinafter collectively called the "Grantor", in consideration of the sum of Ten Dollars (\$10.00) and other valuable consideration to the Grantor paid by _____, the address of which is _____, hereinafter called the "Grantee", the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey unto the Grantee and the Grantee's successors and assigns:

ALL of the land and premises more fully described in Exhibit "A" attached hereto and made a part hereof (the "**Property**"), subject, however, to the encumbrance(s), if any, mentioned in said Exhibit "A";

AND the reversions, remainders, rents, issues and profits thereof, together with all improvements, tenements, rights, easements, privileges and appurtenances to the same belonging or appertaining or held and enjoyed therewith, 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 unto the Grantee as aforesaid, forever, subject, however, to the encumbrance(s), if any, mentioned in said Exhibit "A";

AND the Grantor hereby covenants with the Grantee: THAT the Grantor has good right to sell and convey the Property unto the Grantee; that the same are free and clear of and from all encumbrances made or suffered by Grantor, except as mentioned in said Exhibit "A" and except for the lien of real property taxes and assessments not yet required by law to be paid; and that Grantor will WARRANT AND DEFEND the same unto Grantee against the lawful claims and demands of all persons claiming by, through and under Grantor, except as aforesaid.

The term "Grantor" as and when used herein shall mean and include the Grantor named above and the Grantor's heirs, personal representatives, successors and successors in trust, and the term "Grantee" as and when used herein shall mean and include the Grantee named above and the Grantee's heirs, personal representatives, successors, successors in trust and assigns; where there is more than one Grantor or Grantee, the use of the singular herein shall be construed to include the plural wherever the context shall so require; and the use of any gender shall include all genders.

This document may be executed in as many counterparts as may be deemed necessary or convenient, and by the parties on separate counterparts, each of which, when so executed, shall be deemed an original, but all such counterparts shall constitute one and the same instrument. The parties agree that the person or company recording or arranging for the recordation of this document is authorized to complete any blanks contained in this document with the applicable number of pages, dates, and recordation information, whether before or after this document has been notarized by a notary public, and in no event shall completion of any such blanks be deemed an alteration of this document by means of the insertion of new content.

[The remainder of this page is intentionally left blank. Signature page(s) follow(s).]

The Grantor and the Grantee have executed this Deed as of the date first referenced above.

[_____]

“Grantor”

[_____]

“Grantee”

[notarial acknowledgements to be added]

Exhibit A

[legal description of subdivided lot to be inserted]

Being a portion of the premises acquired by Grantor by instrument dated _____, recorded in the Bureau as Document No. A-_____.

TOGETHER WITH THE FOLLOWING:

1. The easements, rights, privileges and appurtenances in favor of the Lot as set forth in the Community Charter subject, however, to the terms and conditions of the Community Charter, including, without limitation, easements for ingress, egress, and access purposes (including vehicular and pedestrian access) and for underground utility purposes on, over, under, and across the following premises: Lots 15 and 16 of Kukui'ula Large Lot Subdivision III (known as Ala Kukui'ula) and Lots 18 and 19 of Kukui'ula Residential Subdivision, Phase III-A, as shown on File Plan No. 2483 (known as 'Alihilani Street and Ke Alaula Street, respectively).
2. Such designated easements as are required to serve the access, utility and drainage needs of the Lot, including, without limitation, those applicable easements referenced generally and specifically in the Community Charter, to be used in common with others entitled thereto, subject, however, to the terms and conditions of the Community Charter.

Note: Lots 18 and 19 of Kukui'ula Large Lot Subdivision, III (also known as Ala Kalanikaumaka and as Western Bypass Road) were dedicated to the County of Kauai pursuant to Dedication Deed recorded in the Bureau on November 25, 2013, as Document No. A-50770705.

SUBJECT, HOWEVER, TO the following:

1. Mineral and water rights of any nature.
2. Reservation in favor of Grantor (and its predecessors in interest) of all water rights.
3. Limited Warranty Deed dated March 31, 2003, recorded in the Bureau as Document No. 2003-058405.
4. Declaration of Conditions dated November 4, 2003, recorded in the Bureau as Document No. 2003-244116.
5. The terms and provisions contained in that certain Limited Warranty Deed dated March 31, 2005, recorded in the Bureau as Document No. 2005-062345.
6. Agreement dated November 9, 2004, recorded in the Bureau as Document No. 2005-080268.
7. Kukui'ula Trail System Declaration dated February 28, 2008, recorded in the Bureau as Document No. 2008-034082.
8. Indemnity Agreement Regarding Subdivision Approval (S-2013-07) dated January 16, 2014, recorded in the Bureau as Document No. A-51560714.
9. The terms and provisions contained in the Second Amended and Restated Community Charter for Kukui'ula dated August 5, 2015, and recorded in the Bureau as Document No. A-56951009, as amended by that certain instrument recorded February 8, 2019 as Document No. A-69780391, as may be further amended and supplemented from time to time (collectively, the "Community Charter").
10. The terms and provisions contained in the Second Amended and Restated Covenant for The Club at Kukui'ula dated August 5, 2015, and recorded in the Bureau as Document No. A-56951010, as amended by that certain instrument dated February 14, 2021, recorded in the Bureau as Document No.

A-77190782, as may be further amended and supplemented from time to time (collectively, the “Covenant”).

11. Declaration acknowledged September 8, 2006, recorded in the Bureau as Document No. 2006-170244.
12. Certificate of Formation of County of Kaua'i Community Facilities District No. 2008-1 (Kukui'ula Development Project) dated September 22, 2010, recorded in the Bureau as Document No. 2010-143092 (the “CFD Assessment”).