PURCHASE AND SALE AGREEMENT

WAIKOLOA HIGHLANDS, INC.

AND

WAIKOLOA LAND HOLDINGS, LLC

TMK No. (3) 6-8-002:016

Waikoloa, Hawaii

THIS PURCHASE AND SALE AGREEMENT (this "Agreement") dated October 30, 2019, for reference purposes but effective on the date the last party signs this Agreement as evidenced by the dates appearing next to the signatures below (the "Acceptance Date"), by and between WAIKOLOA HIGHLANDS, INC., a Colorado corporation ("Seller"), whose mailing address is 1200 S. Brand Blvd., 202, Glendale, California 91204, and WAIKOLOA LAND HOLDINGS, LLC, a Delaware limited liability company ("Buyer"), whose mailing address is 100 California Street, Suite 400, San Francisco, California 94111.

WITNESSETH THAT:

WHEREAS, Seller is the owner of certain real property comprising of approximately 716.63 acres of vacant land located in Waikoloa, Hawaii and designated as TMK No. (3) 6-8-002:016, as more particularly described in <u>Exhibit A</u> attached hereto and incorporated herein by this reference (the "**Land**");

WHEREAS, prior to Closing, Seller will subdivide the Land into two lots consisting of approximately 706.63 acres to be sold to Buyer pursuant to the terms of this Agreement (the "**Property**"), and the Seller Retained Land (as defined below);

WHEREAS, Buyer plans to submit a proposal ("**Proposal**") to construct a photovoltaic system paired with battery storage on the Property ("**Solar Project**") in response to Hawaii Electric Light Company, Inc.'s ("**HELCO**") Request for Proposals for Variable Renewable Dispatchable Generation and Energy Storage for the Island of Hawaii, dated August 22, 2019 (Docket No. 2017-0352) ("**RFP**");

WHEREAS, Buyer may be selected by HELCO to the short list of proposals ("**Short List**"), which is scheduled to be announced on or about January 2020;

WHEREAS, following the Short List, Buyer may be selected by HELCO to the final award group for the RFP ("Final Award Group"), which is scheduled to be announced on or about May 2020; and

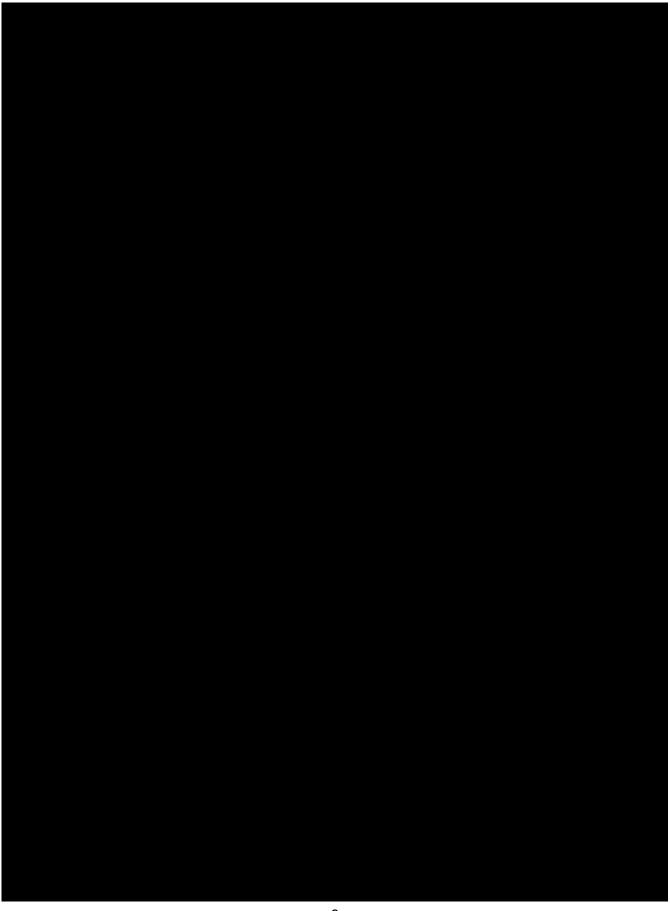
WHEREAS, Buyer wishes to acquire the Property from Seller to develop the Solar Project on the Property, and Seller is willing to sell the Property to Buyer upon the terms, covenants and conditions set forth below.

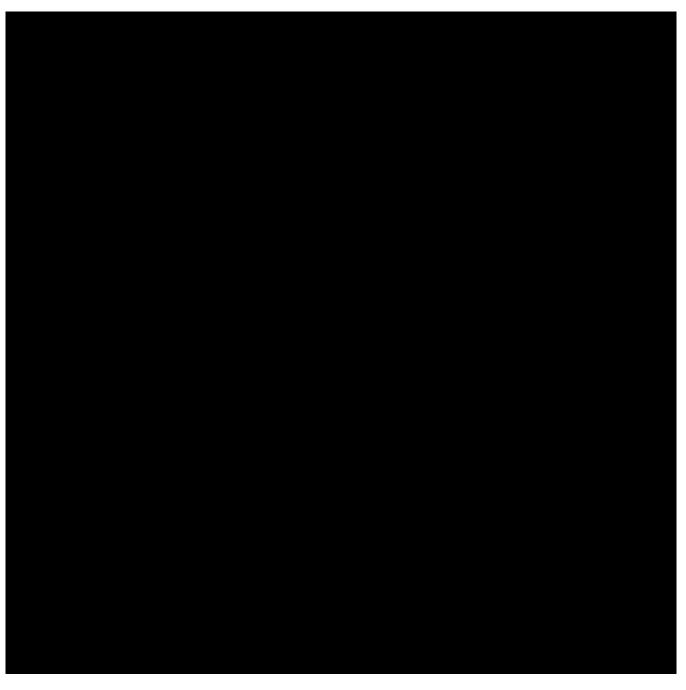
NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereto agree as follows:

A. PROPERTY

1. **Agreement to Sell and Purchase**. Upon and subject to the contingencies set forth in this Agreement, Seller agrees to sell and Buyer agrees to purchase the Property described above on the terms and conditions hereinafter set forth.

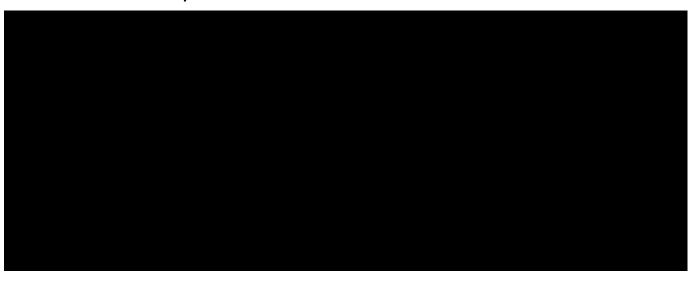
3. Deposits.	2.	Purchase Price.	
5. Deposits:	3	Donosits	
	J.	Deposits.	





4. Opening of Escrow: Escrow Fees.

5. Title Report.



d. If Seller elects not to remove or modify all of Buyer's Disapproved Exceptions, Buyer shall notify Seller within ten (10) business days after receipt of Seller's Title Notice of Buyer's election either (i) to unconditionally accept those exceptions and proceed with the purchase, taking title to the Property subject to those exceptions, or (ii) to terminate this Agreement and neither Buyer nor Seller shall have any other or further obligations or liability hereunder, except for those obligations which expressly survive termination.



6. **Warranty Deed**. At Closing, Seller shall deliver to Buyer through escrow a warranty deed covering the Property in a form substantially the same as that attached hereto as Exhibit B and incorporated herein by this reference ("**Seller's Deed**"). The Property will be conveyed subject to the Permitted Exceptions.

7. Title Insurance.

8. Closing.

a. Closing of the transaction contemplated by this Agreement shall occur on such date as mutually agreed to between Seller and Buyer which is within thirty (30) days of the date on which the Non-appealable PUC Approval Order is issued; *provided, however*, that Seller and Buyer may mutually agree to postpone Closing to a later date.

9. Time Is Of The Essence.

10. Closing Costs.

11. Seller Retained Land; Easement for Diversion Channel.

a. Seller Retained Land.

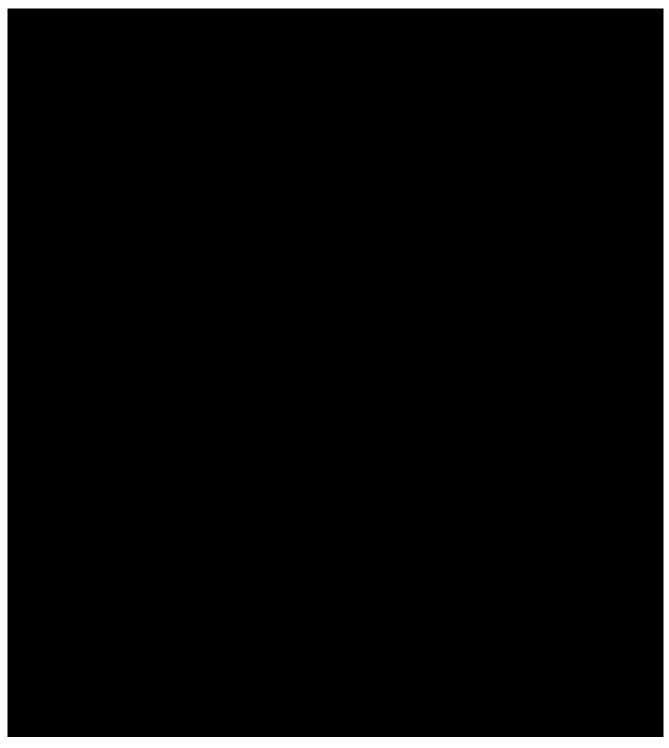
(i) It shall be a precondition of Closing that Seller, at Seller's expense, shall cause the Land to be legally subdivided (the "**Subdivision**") into two lots consisting of (x) the Property and (y) an area which shall be no greater than 10 acres in all, including all buffer and contingency areas for Seller's use and improvement

7



b. <u>Easement for Diversion Channel</u>.

(i) It shall be a precondition of Closing that as part of the Subdivision to create the Seller's Retained Land, Seller, at Seller's expense, shall cause the Land to be encumbered by an easement covering a portion of the Property (the "Easement Area"), for diversion of Flood Route 1 benefitting the Seller Retained Land.



12. Real Property Taxes.

13. Assessments.

14.	Disclosure Materials.
15.	Buyer's Due Diligence Period.
16.	Due Diligence Investigation.



(vi) Notwithstanding the foregoing it is understood and agreed that Buyer shall have the right and option to cancel and terminate this Agreement after delivery to Seller of the results of any Phase II environmental site assessment, performed by Buyer pursuant to this <u>Paragraph 16</u> either within the Due Diligence Period, or no later than the date Buyer makes the Fourth Deposit.



c. <u>Survey</u>.

	d. Governmental Authority.
17.	Buyer's Acceptance of the Condition of Property; Deemed Termination.
whatsoever in therefor), the	If disapproves any Due Diligence Condition of the Property for any reason n Buyer's sole and absolute discretion (not being obligated to give any reason n this Agreement shall terminate without liability to either party (other than any expressly survives termination,
18.	Inspection Indemnity.

19. "AS IS" Condition of Property.

	d. Governmental Authority.
17.	Buyer's Acceptance of the Condition of Property; Deemed Termination.
18.	Inspection Indemnity.

19. "AS IS" Condition of Property.

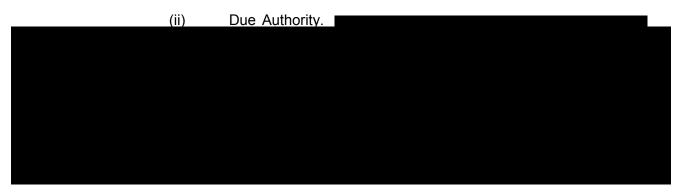


20. Disclaimer.

21. Brokers.

22. Seller's Covenants, Warranties and Representations.

- a. Seller makes the following covenants, representations and warranties to Buyer, which covenants, representations and warranties, to Seller's actual knowledge, are true and correct as of the date hereof and except as shall otherwise be disclosed in writing to Buyer, will be true and correct as of the Closing Date:
- (i) <u>Organization</u>. Seller is a corporation duly organized, validly existing and in good standing under the laws of the State of Colorado. Seller has all requisite power and authority to enter into this Agreement and to consummate the transactions contemplated hereby. Seller is not a "Foreign Person" as that term is defined in Section 1445 of the Internal Revenue Code of 1986, as amended.

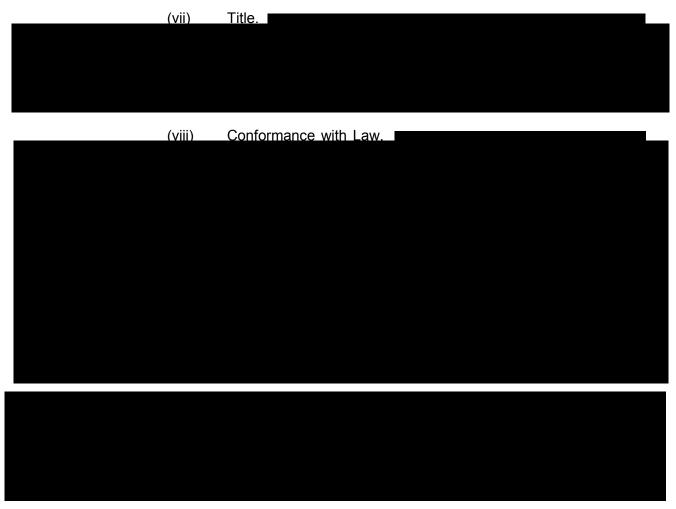


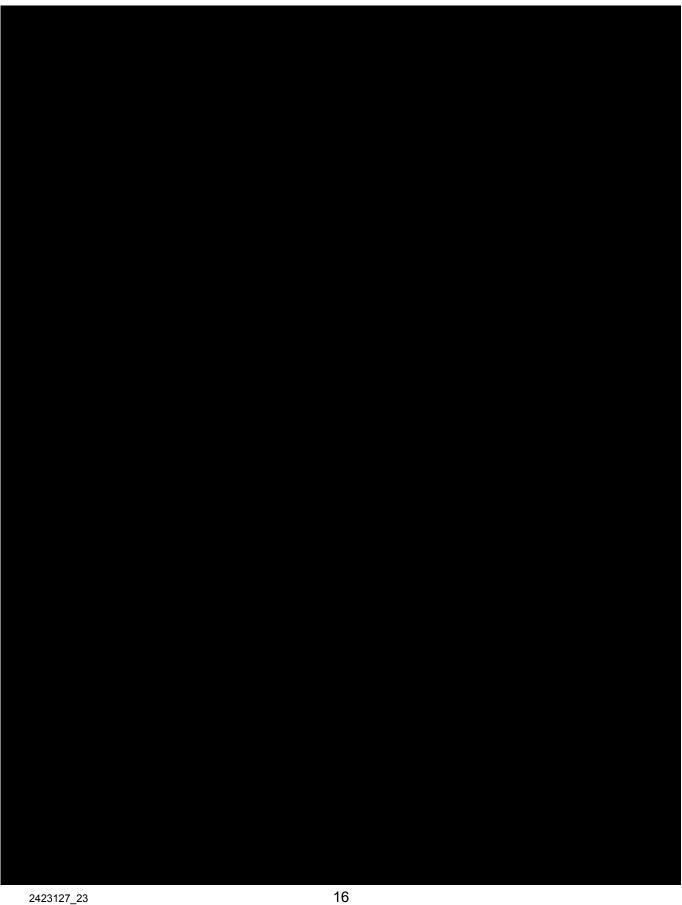
- (iii) <u>FIRPTA</u>. Under the Internal Revenue Code, if Seller is a foreign person or entity (non-resident alien, corporation, partnership, trust, or estate), Buyer must generally withhold a specified percentage of the "amount realized" by Seller on the sale of the Property and forward this amount to the Internal Revenue Service ("IRS"). Such withholding may not be required if Seller obtains and provides Buyer with an authorized exemption or waiver from withholding. If Seller does not provide Buyer with a certificate of exemption or wavier from FIRPTA not later than two (2) business days prior to Closing, Escrow Holder is hereby authorized and instructed to withhold/collect from Seller the required amount at Closing and forward it to the IRS.
- (iv) <u>HARPTA</u>. Under Hawaii law, if Seller is a non-resident person or entity (corporation, partnership, trust, or estate) of the State of Hawaii, Buyer must withhold a specified percentage of the "amount realized" by Seller on the sale of the Property and forward the amount with the appropriate form the State Department of Taxation. Such withholding may not be required if Seller obtains and provides Buyer with an authorized exemption or waiver form withholding. If Seller does not provide Buyer with a certificate of exemption or waiver from HARPTA not later than two (2) business days prior to Closing, Escrow Holder is hereby

authorized and instructed to withhold/collect from Seller the required amount at Closing and forward it to the State Department of Taxation.

(v) OFAC. Neither Seller, nor to Seller's actual knowledge, any of its affiliates, nor any of their respective members, partners or shareholders is, nor prior to Closing, or the earlier termination of this Agreement, will become, a person or entity with whom U.S. persons or entities are restricted from doing business under the regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury (including those named on OFAC's Specially Designated Blocked Persons List) or under any U.S. statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit or Support Terrorism), or other governmental action.

(vi) <u>Litigation</u>. No litigation, action, suit, arbitration, mechanics' or material persons' claim, injunction, government investigation, proceedings, or notice of violation of law or ordinance is pending against the Land, the Property or Seller, and to Seller's actual knowledge, no such litigation, action, suit, arbitration, mechanics' or material persons' claim, injunction, government investigation, proceedings, or notice of violation of law or ordinance is threatened. Seller is not a party to or subject to the provision of any judgment, order, writ, injunction, decree or award of any governmental authority (foreign or otherwise) which would adversely affect the ability of Seller to perform its obligations hereunder.



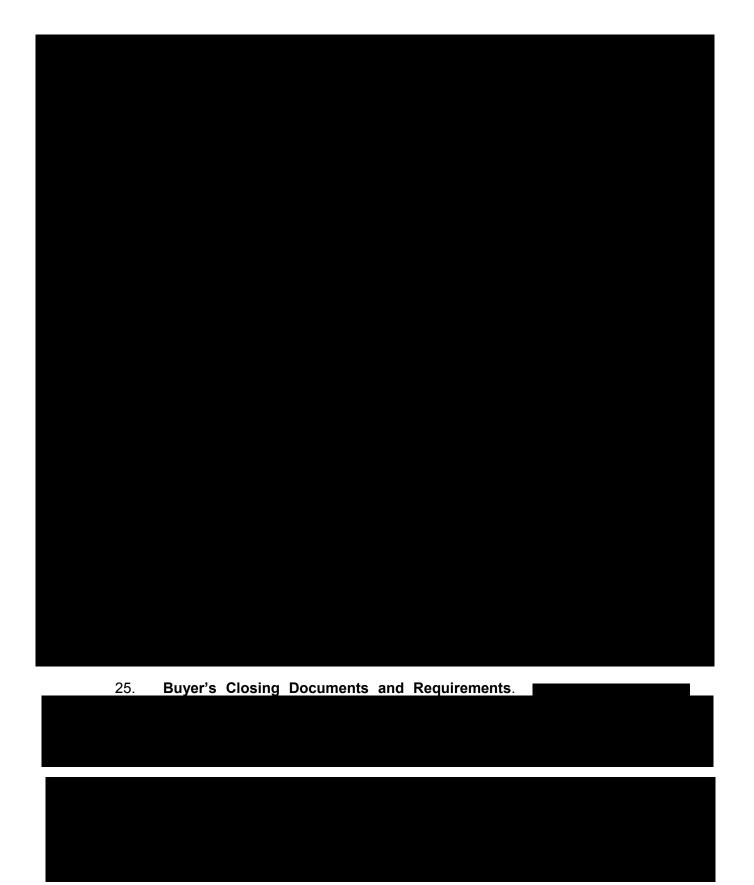




- 23. **Buyer's Covenants, Warranties and Representations**. Buyer makes the following covenants, representations and warranties to Seller, which covenants, representations and warranties are true and correct as of the date hereof and will be true and correct as of the Closing Date:
- a. <u>Organization</u>. Buyer is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware. Buyer has all requisite power and authority to enter into this Agreement and to consummate the transactions contemplated hereby.



- c. <u>OFAC</u>. Neither Buyer, nor to Buyer's actual knowledge, any of its affiliates, nor any of their respective members, partners or shareholders is, nor prior to Closing, or the earlier termination of this Agreement, will become, a person or entity with whom U.S. persons or entities are restricted from doing business under the regulations of the Office of Foreign Asset Control ("**OFAC**") of the Department of the Treasury (including those named on OFAC's Specially Designated Blocked Persons List) or under any U.S. statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit or Support Terrorism), or other governmental action.
- 24. Seller's Closing Documents and Requirements.





26. **Conditions to Closing**. The following shall be conditions precedent to Closing hereunder:



- 27. Possession.
- 28. Risk of Loss.
- 29. **Taking**. If, prior to Closing, the Land or the Property is taken or made subject to condemnation, eminent domain or other governmental acquisition proceedings (a "**Taking**"), then Buyer, at its sole option, may elect either to (i) terminate this Agreement by written notice to Seller given within thirty (30) calendar days after Buyer receives notice of the proposed Taking

neither Buyer nor Seller shall have any other or further obligations or liability hereunder (except as set forth in <u>Paragraph 17 above</u>); or (ii) be paid all awards actually paid to Seller prior to Closing and, to the extent such awards have not been paid prior to Closing, accept an assignment of all awards payable to Seller on account of the Taking and proceed to close.

30. Hazardous Waste and Toxic Substances Disclosure.

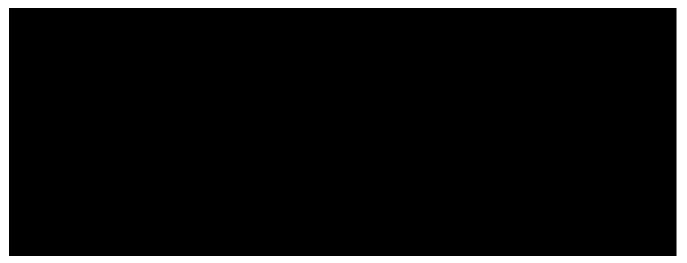
- 31. **Contingencies**. Buyer's obligation to purchase the Property pursuant to this Agreement is contingent on satisfaction of one or more of the following conditions (each a "**Contingency**"):
- a. Prior to the date that HELCO selects the Final Award Group, Buyer has confirmed with state and local governmental authorities that no adverse zoning or land use requirements causing delay or substantial additional costs to develop the Solar Project shall be imposed on the Property;
- b. Prior to the date that HELCO selects the Final Award Group, Buyer has confirmed with state and local governmental authorities the major discretionary and non-discretionary permits that are required to develop the Solar Project on the Property; or
- c. Prior to the Closing Date, Buyer is notified by HELCO that there is adequate interconnection capacity available on the 69kV circuit that runs through the property.
- If a Contingency is not satisfied within the time period for meeting such Contingency, Buyer may: (i) elect to terminate this Agreement and Paragraph 37 [Termination]

shall apply,		
32.	Defau	ult; Remedies.
	a.	Seller's Remedies.
nerform its	b. obligation	Buyer's Remedies. In the event that Buyer is ready, willing and able to ons under this Agreement on the Closing Date and the sale is not
		result of Seller's material default or the failure of any condition Buyer shall have the right, as Buyer's sole and exclusive remedies, to
either:		Buyer shall have the right, as Buyer's sole and exclusive remedies, to
		(i) Enforce specific performance of this Agreement against Seller terms of this Agreement, in which case Buyer shall waive any claim for medy against Seller; or
3		(ii) Terminate this Agreement
remedies set	forth in	The this Paragraph 32.b shall be Buyer's only remedies arising from a default,
		perform by Seller,
	C.	Survival.
	J .	

GENERAL CONDITIONS OF THIS AGREEMENT

33. **Construction Of Agreement**. Nothing herein contained shall be deemed to create a relationship between Seller and Buyer as other than seller and buyer or to create a fiduciary duty on the part of either party to the other.

- 34. **No Waiver**. No release, discharge or waiver of any provision hereof shall be enforceable against or binding upon a party unless in writing and executed by such party. The waiver by a party of the performance of any covenant, condition or promise shall not be considered a waiver by such party of any other covenant, condition or promise hereunder. The waiver by either or both parties of the time for performing any act shall not constitute a waiver of the time for performing any other act or identical act required to be performed at a later time.
- 35. **Instruments of Further Assurance**. Buyer and Seller each agrees, at its own expense, to execute and deliver to the other at or after Closing any and all further instruments and documents as either may reasonably request in order to carry out any of the provisions of this Agreement.
- 36. **Notices**. Any notice required or permitted hereunder shall be in writing and shall be deemed delivered (a) when delivered, if personally delivered; (b) three (3) business days after being sent by United States first class certified mail, postage prepaid; or (c) if sent by telecopier or email, at the time of confirmed receipt by the addressee, as determined by facsimile confirmation by the transmitting fax machine or by electronic confirmation of receipt by the recipient's email system, with hard copy to be forwarded promptly by United States mail or express courier service. Receipt of hard copy shall not be a condition of delivery, however. Notices to Seller or Buyer shall be delivered at the addresses, fax numbers or emails specified below:



Buyer and Seller shall each notify the other in writing when such party's address, fax number, email address or addressee for the purpose of receiving notice hereunder is changed.

37. **Termination**. If either party intends to terminate this Agreement because a condition or contingency for that party's benefit has not been satisfied, that party shall deliver to Escrow Holder and the other party a written notice terminating this Agreement prior to the expiration of the applicable notice or contingency period set forth in this Agreement. If such notice is not timely delivered, that condition or contingency shall be deemed waived. All conditions and contingencies of this Agreement shall be deemed satisfied or waived upon Closing.

38. **Assignment**.



39. No Third Party Benefits.

- 40. **Good Faith Dealing**. Seller and Buyer expressly agree to act in good faith in the observance and performance of their respective duties and obligations under this Agreement and the transaction contemplated hereby. Seller and Buyer mutually covenant and agree to execute and deliver such escrow agreements and other instruments as reasonably may be necessary or appropriate to effectuate the purposes of this Agreement and enable Closing in accordance with its terms and conditions.
- 41. **Titles and Headings**. Titles and headings herein are for the purpose of convenience only and shall in no way limit, define or otherwise affect the provisions thereof.
- 42. **Severability**. If any provision of this Agreement or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provisions shall not be affected thereby.
- 43. **No Party Deemed Drafter**. The parties agree that neither party shall be deemed to be the drafter of this Agreement and further that no provision of this Agreement shall be construed against any party as the drafter.
- 44. **Governing Law; Jurisdiction and Venue**. This Agreement and any dispute or claim arising out of or related to the Agreement, its subject matter, its formation, or the Property (in each case, including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of the State of Hawaii. Any legal suit, action, or proceeding arising out of or related to this Agreement or the Property shall be instituted exclusively in the Circuit Court of the First Circuit, Honolulu, State of Hawaii. Seller agrees, on behalf of itself and its principals, to waive any and all objections to the exercise of jurisdiction over Seller or its principals by such courts and to venue in such courts. This provision shall survive Closing.
 - 45. **Jury Waiver**.



46. Attornevs' Fees.

- 47. **Entire Agreement**. This Agreement constitutes and contains the entire agreement between Seller and Buyer and supersedes any and all prior negotiations, correspondence, understandings and agreements between the parties regarding the subject matter hereof.
- 48. **Amendment**. This Agreement may be amended or modified only by a writing signed by both parties hereto. All amendments and modifications of this Agreement must identify this <u>Paragraph 48</u>.
- Confidentiality and Return of Documents. Prior to Closing, Buyer and Seller will each maintain as confidential any and all material obtained about the other, the Property, the reports obtained by Buyer in its due diligence reports, in the case of Buyer, about the Property, this Agreement or the transactions contemplated hereby, and will not disclose such information to any third party except as set forth herein. Buyer will have the right to disclose information with respect to the Property to the extent required by law and to Buyer's officers, directors, employees, attorneys, accountants, environmental auditors, engineers, potential lenders, and permitted assignees under this Agreement, HELCO, Hawaiian Telcom Inc., and other consultants to the extent necessary for Buyer to evaluate its acquisition of the Property provided that all such persons are told that such information is confidential and agree to keep such information confidential, and provided, further Buyer will have the right to disclose the transactions contemplated hereby to state and local governmental officials in connection with its Due Diligence Investigation and the PUC's review of the PPA, but only to the extent necessary to determine the state and county land use or zoning designations or conditions that may be placed on the Property and permitting that may be required to develop the Solar Project, or the PUC's approval of the PPA. No notices, releases, statements or communications to the general

public or the press relating to the transaction contemplated hereby, including the termination of this Agreement, shall be made at any time except at such times and in such manner as may be mutually agreed upon by the parties in advance and in writing. Absent such written agreement, there shall be no public announcements or disclosures at any time. If Closing occurs, each of Seller and Buyer will have the right, subsequent to Closing, to publicize the transaction, provided that neither Buyer nor Seller will use the name of the other or disclose the economic terms in any press release without the express written consent of the other unless required by law. The provisions of this <u>Paragraph 49</u> will survive Closing or any termination of this Agreement.

- 50. **No Recording**. This Agreement, any memorandum of this Agreement or any other document referring to this Agreement that would constitute an exception to Seller's title shall not be recorded and the provisions hereof shall not constitute a lien on the Property, except in connection with a specific performance action commenced to enforce this Agreement. Any violation of this <u>Paragraph 50</u> by Buyer shall, at the option of Seller, to be exercised by written notice from Seller to Buyer, cause this Agreement to be null and void except those obligations which expressly survive termination.
- 51. **Facsimile Signatures and Counterparts**. Facsimile or electronic copies of this Agreement and any related documents (other than Seller's Deed and any documents required by governmental authorities to be originals) shall be fully binding and effective for all purposes. Hard copy shall be forwarded promptly by United States mail or express courier service. Facsimile or electronic copies shall be binding whether or not originally executed documents are transmitted. Facsimile or electronic signatures on documents will be treated the same as original signatures. This Agreement and any related documents may be executed in any number of counterparts, each of which when signed shall be deemed to be an original, and all of which taken together shall constitute one and the same document, binding upon all of the parties, notwithstanding that the parties do not sign the same original counterparts.
- 52. **Number and Gender**. In this Agreement, the use of the singular shall include the plural and vice versa. The use of any gender shall include all genders.
- 53. **Weekends and Holidays**. The phrase "business day" shall mean any day other than a Saturday, Sunday or federal holiday or State of Hawaii holiday. If the date for performance of any act or the occurrence of any event under this Agreement falls on a Saturday, Sunday, federal holiday or State of Hawaii holiday, the time for the performance of such act or occurrence of such event shall automatically be extended to the next business day. Unless otherwise specified, all reference to "days," other than "business days" shall be calendar days.
- 54. **Mutual Agreement**. Seller and Buyer agree to all of the terms set forth above. By signing below, Seller and Buyer represent that they have read and understand all of these provisions and agree to be bound by them.

55. Seller's Obligation

IN WITNESS WHEREOF, Seller and Buyer have entered into this Purchase and Sale Agreement as of the date first above written.

DATED: October <u>3/</u> , 2019	WAIKOLOA HIGHLANDS, INC., a Colorado corporation By Name: Natalia Batichtcheva Title: President		
		"Seller"	
DATED:	WAIKOLOA LAND HOLDINGS, LLC, a Delaware limited liability company		
October, 2019	By Name: <u>Patrick Sullivan</u>		
	Title: Vice President	"Buyer"	
		,	

IN WITNESS WHEREOF, Seller and Buyer have entered into this Purchase and Sale Agreement as of the date first above written.

DATED:	WAIKOLOA HIGHLANDS, INC., a Colorado corporation	
October, 2019	By Name: <u>Natalia Batichtcheva</u> Title: <u>President</u>	
	"Se	eller"
DATED: October, 2019	WAIKOLOA LAND HOLDINGS, LLC, a Delaware limited liability company By Name: Patrick Sulivan Title: Vice President	
	"Ві	uyer"

ACKNOWLEDGMENT

A notary public or other officer completing this Certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)

COUNTY OF LOS ANGELES) ss.

On OCTOBER 31, 2019 before me, DEBRA I BARON NOTAY PUBLIC, (insert name and title of the officer)

personally appeared **Natalia Batichtcheva**, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Selval Paum (Seal)

ACKNOWLEDGMENT

A notary public or other officer completing this Certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)	
COUNTY OF SAN FRANCISCO)	SS

On OCTOBER 31, 2019 before me, Melissa Steinmy, (insert name and title of the officer)

personally appeared **Patrick Sullivan**, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature (Seal)

EXHIBIT A

PROPERTY DESCRIPTION

EXHIBIT "A"

Tax Office Map Key Parcel No. 3rd/ 6-8-002:016

All of that certain parcel of land (being portion(s) of the land described in and covered by Royal Patent Number 5671, Land Commission Award Number 8521-B, Apana 1 to G. D. Hueu) situate, lying and being on the southwesterly side of Waikoloa Road at Waikoloa, District of South Kohala, Island and County of Hawaii, State of Hawaii, being LOT 2-B-2-C, and thus bounded and described as per survey dated May 19, 2017, to wit:

Beginning at the northeasterly corner of this parcel land, being also the northwesterly corner of Lot 2-B-3 and being a point on the southerly side of Waikoloa Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU HINAI" being 1,933.35 feet north and 2,611.02 feet east and running by azimuths measured clockwise from true South:

Thence, for the next nine (9) courses following along Lot 2-B-3 and along the remainder of Royal Patent 5671, Land Commission Award 8521-B, Apana 1 to G. D. Hueu:

1.	27°	56'		1,777.88	feet	to	a	point;
2.	98°	52'	20"	408.28	feet	to	a	point;
3.	135°	05'	56"	2,023.07	feet	to	a	point;
4.	87°	40'		27.80	feet	to	a	point;
5.	3°	20'		24.45	feet	to	a	point;

Thence, from a tangent azimuth of 3° 20' following on a curve to the right with a radius of 1,200.00 feet, the chord azimuth and distance being:

6.	30°	35'	1,098.90	feet	to	a.	point;
7.	57°	50'	440.00	feet	to	a	point;

EXHIBIT A CONTINUED

Thence, following on a curve to the left with a radius of 720.00 feet.

the chord azimuth and distance being:

- 8. 38° 46' 470.40 feet to a point;
- 9. 19° 42' 1,301.88 feet to a point;

Thence, for the next four (4) courses following along Lot 3-A and along the remainder of Royal Patent 5671,

Land Commission Award 8521-B, Apana 1 to G.

D. Hueu:

- 10. 160° 02' 36" 95.45 feet to a point;
- 11. 124° 52' 31" 2,011.22 feet to a point;
- 12. 196° 43' 02" 3,059.30 feet to a point;
- 13. 150° 55' 16" 3,143.20 feet to a point;
- 14. 198° 03' 09" 2,055.15 feet along Lot 5-A, Lot 2 and Lot 1 of
 Waikoloa RM 1.5-Unit 1 (File Plan
 1378) and along the remainder of
 Royal Patent 5671, Land Commission
 Award 8521-B, Apana 1 to G. D. Hueu
 to a point;

Thence, from a tangent azimuth of 223° 15' 46" following along the
easterly side of Pua Melia Street on
a curve to the left with a radius of
630.00 feet, the chord azimuth and
distance being:

- 15. 210° 39' 27.5" 274.97 feet to a point;
- 16. 259° 46' 339.49 feet along Lot 2-B-1 and along the remainder of Royal Patent 5671, Land Commission Award 8521-B, Apana 1 to G. D. Hueu to a point;

EXHIBIT A CONTINUED

- 17. 291° 44' 07" 1,605.29 feet along Lot 2-B-2-B of this subdivision and along the remainders of Lot 2-B-2 and Royal Patent 5671, Land Commission Award 8521-B, Apana 1 to G. D. Hueu to a point;
- 18. 201° 44' 07" 565.00 feet along Lot 2-B-2-B of this subdivision and along the remainders of Lot 2-B-2 and Royal Patent 5671, Land Commission Award 8521-B, Apana 1 to G. D. Hueu to a point;

Thence, for the next ten (10) courses following along the southwesterly side of Waikoloa Road:

19. 291° 44' 07" 861.80 feet to a point;

Thence, following on a curve to the right with a radius of 910.00 feet, the chord azimuth and distance being:

- 20. 336° 31' 44.5" 1,282.29 feet to a point;
- 21. 21° 19' 22" 982.30 feet to a point;

Thence, following on a curve to the left with a radius of 840.00 feet,

the chord azimuth and distance being:

- 22. 338° 36' 23" 1,139.66 feet to a point;
- 23. 295° 53' 24" 250.22 feet to a point;

Thence, following on a curve to the right with a radius of 910.00 feet, the chord azimuth and distance being:

- 24. 316° 58' 38.5" 654.82 feet to a point;
- 25. 338° 03' 53" 399.34 feet to a point;

Thence, following on a curve to the left with a radius of 2,090.00 feet, the chord azimuth and distance being:

EXHIBIT A CONTINUED

- 26. 326° 34' 54.5" 832.14 feet to a point;
- 27. 315° 05' 56" 1,029.38 feet to a point;

Thence, following on a curve to the left with a radius of 2,090.00

feet, the chord azimuth and distance being:

28. 306° 30' 58" 623.82 feet to the point of beginning and containing a gross area of 717.319 acres less exclusion (Boise Station) (aka TMK: 3/6-8-002: 025) of 0.689 acre thereby leaving a net area of 716.630 acres, more or less.

BEING THE PREMISES ACQUIRED BY QUITCLAIM DEED

GRANTOR : WAIKOLOA MAUKA, LLC, a Delaware limited liability

company

GRANTEE: WAIKOLOA HIGHLANDS, INC., a Colorado corporation

DATED : October 16, 2014

RECORDED : Document No. A-54080020

[END EXHIBIT A]

EXHIBIT B

SELLER'S DEED

	1
LAND COURT SYSTEM	REGULAR SYSTEM
	REGULAR STSTEM
Return By: Mail () Pickup () To:	
STEVEN S.C. LIM	
Carlsmith Ball LLP	
ASB Tower, Suite 2100	Total Pages:
1001 Bishop Street	
Honolulu, HI 96813	
Tel.: (808) 523-2500	
	Tax Map Key Nos.: (3) 6-8-002: 016 (portion).

THIS LIMITED WARRANTY DEED (the "<u>Deed</u>") is entered into as of _______20[x], by and between WAIKOLOA HIGHLANDS, INC., a Colorado corporation, whose mailing address is 1200 S. Brand Blvd., 202, Glendale, California 91204 ("<u>Grantor</u>"), and WAIKOLOA LAND HOLDINGS, LLC, a Delaware limited liability company, whose mailing address is 100 California Street, Suite 400, San Francisco, California 94111 ("<u>Grantee</u>").

LIMITED WARRANTY DEED

WITNESSETH:

IN CONSIDERATION of the sum of Ten Dollars (\$10.00) and other valuable consideration paid to Grantor, Grantor does hereby grant, bargain, sell and convey unto the Grantee, as tenant in severalty, and its successors and assigns, in fee simple, all of the property described in **Exhibit A** attached hereto and made a part hereof (the "**Property**") subject to the encumbrances and other matters noted therein;

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EXHIBIT B Page 1 **AND** the reversions, remainders, rents, issues and profits thereof, together with all 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 Grantor both at law and in equity therein and thereto;

TO HAVE AND TO HOLD the same, together with all buildings, structures, fixtures, improvements, rights, easements, appurtenances, privileges, covenants, restrictions, reservations, licenses, and other rights and interests appurtenant to or running with the land, including without limitation, all rights, title and interests of Grantor in and to all water and mineral rights, and all rights-of-way and access routes (collectively, the "**Property**"), unto Grantee according to the tenancy herein set forth, absolutely and forever.

AND THE SAID GRANTOR does hereby covenant with the Grantee that the Grantor is lawfully seised in fee simple of said Property and that the said premises are free and clear of all encumbrances made or suffered by said Grantor, except for the encumbrances mentioned in Exhibit A, and for assessments for real property taxes not yet required by law to be paid. And the said Grantor further covenants and agrees that the Grantor has good right to sell and convey the said premises in the manner aforesaid; that the Grantor will WARRANT AND DEFEND the same unto the Grantee against the lawful claims and demands of all persons claiming, by, through or under said Grantor, except as mentioned aforesaid

AND, by the acceptance of this Deed, the Grantee acknowledges and agrees that the granted premises, are granted, sold, transferred and delivered by the Grantor to the Grantee in their existing "AS IS" and "WHERE IS" condition, WITHOUT WARRANTY OR REPRESENTATIONS, EXPRESSED OR IMPLIED, except for the warranties of title set forth above.

This instrument may be executed in counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one and the same agreement, binding all of the parties hereto, notwithstanding all of the parties are not signatory to the original or the same counterparts. For all purposes, including without limitation, recordation, filing and delivery of this instrument, duplicate unexecuted and unacknowledged pages of the counterparts may be discarded and the remaining pages assembled as one document.

IT IS MUTUALLY AGREED that the terms "Grantor" and "Grantee", as and when used hereinabove or hereinbelow shall mean and include the masculine or feminine, the singular or plural number, individuals, associations, trustees, corporations or partnerships, and their and each of their respective successors in interest, heirs, executors, personal representatives, administrators and permitted assigns, according to the context thereof, and that if these presents shall be signed by two or more grantors, all covenants of such parties shall be and for all purposes deed to be their joint and several covenants.

[Remainder of the page was left blank intentionally; signature page to follow]

IN WITNESS WHEREOF, Grantor and Grantee have executed this Deed effective as of the date first above written.

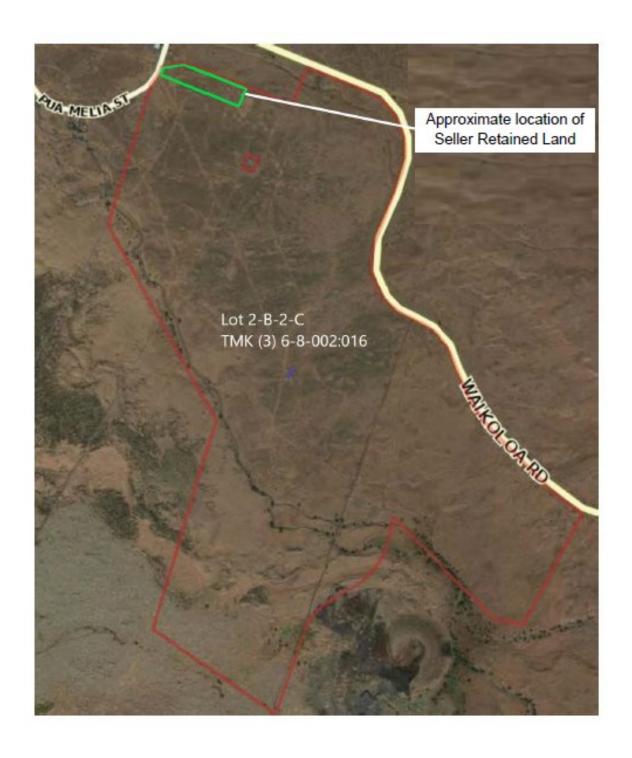
By:	
	Natalia Batichtcheva
	Its: President
~-	
<u>GR</u>	ANTEE:
WA	ANTEE: IKOLOA LAND HOLDINGS, LLC, laware limited liability company

Signature page to Limited Warranty Deed

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EXHIBIT C

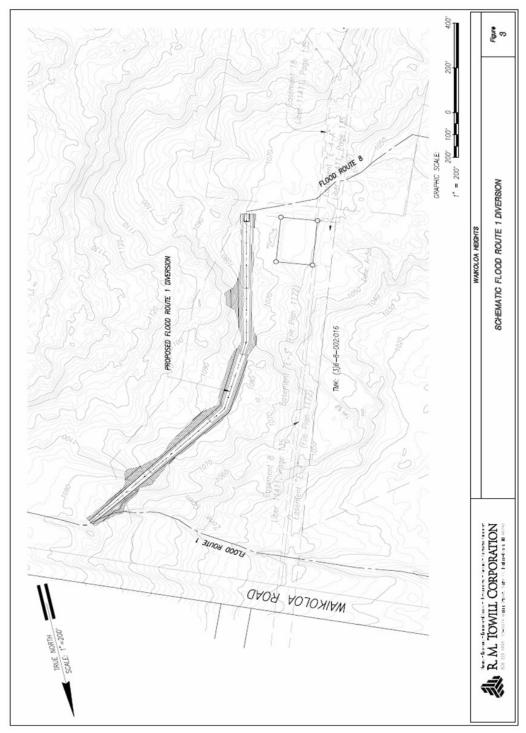
LOCATION OF SELLER RETAINED LAND



4840-8111-8632.11.069590-00003

EXHIBIT D

MAP OF EASEMENT AREA FOR DIVERSION CHANNEL



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Exhibit D Page 1

EXHIBIT E

PRELIMINARY DRAINAGE REPORT

73-5574 Maisu Street Suite 11 Kailue-Kona, Hawaii 96740 Telephone 808 329 4494 Fax 808 329 4495 eMail mtbwill@mtbwill.com



Planning
Engineering
Environmental Services
Photogrammetry
Surveying
Construction Management

LETTER REPORT

Date: January 2, 2019

Location: Waikoloa Highlands Prepared By: Jason Tateishi, P.E.

Background

Waikoloa Highlands, Inc. has requested a schematic plan for diverting Flood Route 1 as identified in the *Preliminary Drainage Report for Waikoloa Highlands Subdivision Increment 1 & 2* prepared by R.M. Towill Corporation, dated June 22, 2007. The diversion was planned to converge with Flood Route 8 which eventually connects to Flood Route 5 (Awaikeakua Gulch).

Preliminary Findings

The approximate 6-foot depth and 20-foot bottom width of the 1,630-foot long diversion with 3(horizontal):1(vertical) side slopes is based on the approximate runoff quantity of 590 cubic feet per second. Approximately 13,500 cubic yards of excavation (cut) and 1,500 cubic yards of embankment (fill) will be required to construct this diversion. Attached Figure 3 shows the approximate alignment and grading of the diversion.

Work Required to Finalize Plan

- Re-analyze runoff quantities using current methodology and rainfall quantities that have changed since the 2007 preliminary drainage report was completed.
- Prepare detailed hydraulic analysis of the diversion including recommendations for scour protection if needed.
- Prepare updated drainage study for the affected flood routes.
- Prepare construction documents including construction plans and specifications for approval by the required government agencies.
- Prepare environmental entitlements including National Pollutant Discharge Elimination System (NPDES) Individual Construction Storm Water Permit Application and Army Corps of Engineers (ACOE) Determination of Permit Applicability.

Page 1 of 2

Assumptions

- Runoff quantities used for this schematic plan are from Preliminary Drainage Report for Waikoloa Highlands Subdivision Increment 1 & 2 prepared by R.M. Towill Corporation, dated June 22, 2007.
- There will be no residential development adjacent to or in close proximity to the diversion channel.
- The diversion is to be located above Lot 2-B-2B as identified in the subdivision number SUB-17-001716.
- The diversion was located outside of the HELCO easement to prevent access conflicts.
- Side slopes of 3:1 were determined based on maintenance considerations, side slopes may be increased to 2:1 based on geotechnical recommendations.
- A consistent channel cross-section was used for this schematic plan, varying channel cross-sections may be acceptable for differing slope conditions.
- Work identified in the Work Required to Finalize Plan section civil engineering work only. Archaeological reports, environmental assessments, and other work outside the scope of civil engineering may be required.

References

Preliminary Drainage Report for Waikoloa Highlands Subdivision Increment 1 & 2, R.M. Towill Corporation, dated June 22, 2007

List of Figures

Figure 1 - Vicinity Map

Figure 2 - Location Map

Figure 3 - Schematic Flood Route 1 Diversion

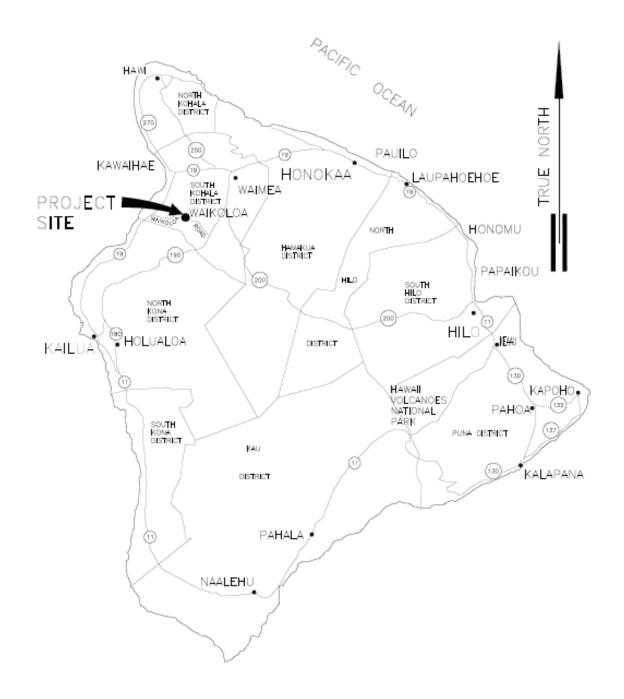


FIGURE 1 - VICINITY MAP

NOT TO SCALE

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Exhibit E Page 3

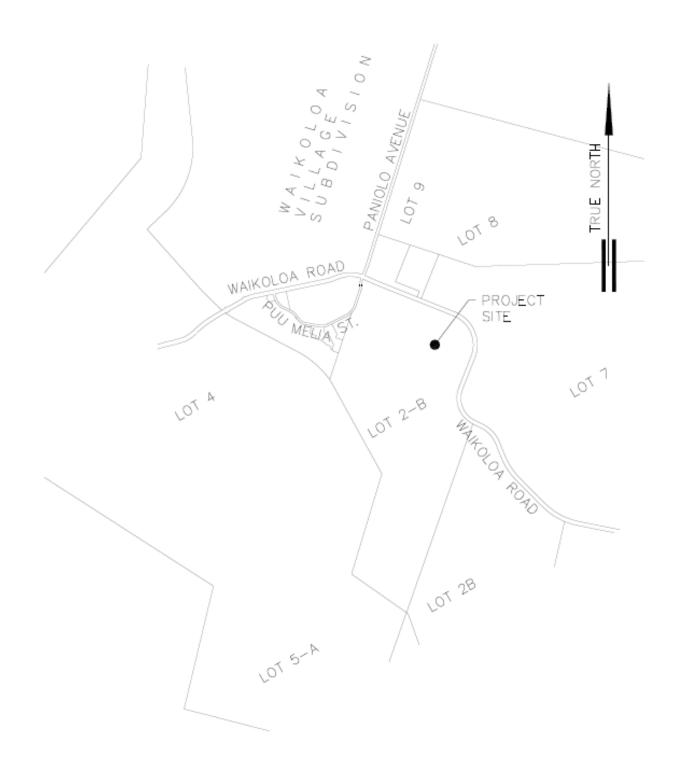


FIGURE 2 - LOCATION MAP

NOT TO SCALE

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Exhibit E Page 4

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