

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT ("Agreement") is made and entered into by and between JAN R. HERRON-WHITEHEAD and LAVERNE TILL, by and through their attorney, and in her individual capacity, MARGARET WILLE, hereinafter collectively referred to as "Appellants", Intervenor PARKER LAND TRUST, PARKER RANCH, INC., and KAOMALO LLC, hereinafter collectively referred to as "Intervenor", and the Planning Director of the County of Hawaii CHRISTOPHER J. YUEN, hereinafter referred to as "Planning Director". Appellants, Intervenor, and the Planning Director are hereinafter referred to collectively as the "Parties".

WHEREAS, Condition M(1) of Change of Zone Ordinance No. 02-25 requires Parker Land Trust and/or Parker Ranch, Inc. to design and construct the Connector Road in phases as defined therein (the "Connector Road");

WHEREAS, the Planning Director issued Tentative Subdivision Approval (Sub No. 04-000221) to Parker Land Trust/Kaomalo LLC regarding "Luala'i at Parker Ranch - Phase 3" on March 22, 2005;

WHEREAS, issuance of Final Subdivision Approval in Sub No. 2004-000221 was made contingent upon Parker Land Trust entering into the Agreement dated April 19, 2007 between the Parker Land Trust and the County of Hawaii whereby the Parker Land Trust agreed to complete the Connector Road - Phase 3 Roadway Improvements from the Kaomoloa Road Extension, west to Mamalahoa Highway ("Phase 3 Agreement");

WHEREAS, the Phase 3 Agreement provides that the Connector Road - Phase 3 Improvements will be completed on or before two (2) years from issuance of the Final Subdivision Approval or May 8, 2009, or within such time extension as may be mutually agreed upon by the County of Hawaii and the Parker Land Trust;

WHEREAS, Under the Phase 3 Agreement, the Parker Land Trust also agreed to provide a surety bond to assure completion of the Connector Road - Phase 3 Roadway Improvements, in satisfaction of the requirements of Condition (5)(d) of the March 22, 2005 Luala'i at Parker Ranch - Phase 3 Tentative Subdivision Approval letter (Sub. No. 04-000221), the Connector Road - Phase 3 requirements of Luala'i at Parker Ranch - Phase 4, Condition 5(d) of Tentative Subdivision Approval (Sub. No. 06-000279), and the Connector Road preconditions to the issuance of building permits and occupancy of the residential units in Sub No. 04-000221 and Sub No. 06-000279 within the first development increment as required by Condition M(1) of Zoning Ordinance No. 02-25 (collectively the "Subdivision Approvals");

WHEREAS, the Planning Director issued Final Subdivision Approval (Sub No. 04-000221) to Parker Land Trust/Kaomalo LLC regarding "Luala'i at Parker Ranch - Phase 3" on May 8, 2007;

WHEREAS, the Planning Director issued Tentative Subdivision Approval (Sub No. 06-000279) to Parker Land Trust/Kaomalo LLC regarding "Luala'i at Parker Ranch - Phase 4" on February 20, 2007;

WHEREAS, on or about June 6, 2007, Appellants Jan R. Herron and Laverne Till, represented by Ms. Margaret Wille, Esq. filed a Petition for Appeal (BOA No. DR 07-000048) regarding the subdivision of TMK lots (3) 6-7-002:057, 058 and 060 in the Planning Director's issuance of the Final Subdivision Approval letter dated May 8, 2007 and in related agreements concerning the Connector Road for Luala'i at Parker Ranch - Phase 3 (the "Appeal");

WHEREAS, the Parties desire to settle and compromise all outstanding disputes, claims and disagreements whatsoever arising out of the Subdivision Approvals and Appeal; and

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth and for good and valuable consideration, the receipt and sufficiency of which the Parties hereby covenant, the Parties agree as follows:

1. BOA No. DR 07-000048. The Parties hereby agree that the Appeal filed by the Appellants with the Board of Appeals in BOA No. DR 07-000048 shall be dismissed with prejudice, with all parties to bear their own fees and costs in the Appeal.

2. Construction of Connector Road - Phase 1 and Pukalani Road Extension. Parker Land Trust and/or Parker Ranch, Inc. shall cause and complete construction of the Connector Road - Phase 1 and the Pukalani Road Extension in the alignment and location approximately between the Pukalani Road Extension and the intersection of Connector Road - Phase 1 and Kaomoloa Road, as depicted on the attached **Exhibit A**, no later than May 8, 2010.

- a. Bond and Agreement. Pursuant to Condition M(1)(b) of Zoning Ordinance No. 02-25, Parker Land Trust and/or Parker Ranch, Inc. shall, "[i]n lieu of actual construction of the connector road, enter into an agreement with the Planning Director and the Chief Engineer to assure the County that the applicable portion(s) of the connector road will be constructed by way of a surety bond, certified check or other security deemed acceptable to the Corporation Counsel and the Planning Director. . . ". Parker Land Trust and/or Parker Ranch, Inc. shall post said Bond and Agreement for construction of the Connector Road - Phase 1 and the Pukalani Road Extension within sixty (60) days of the effective date of this Agreement.
- b. The amount of the surety Bond and Agreement for construction of the Connector Road - Phase 1 and the Pukalani Road Extension shall be the amount approved by the Department of Public Works and the Planning Department.
- c. The design elements of the Connector Road - Phase 1 and the Pukalani Road Extension shall be determined by the Planning Director in consultation with the Department of Public Works, provided however, that the design and construction of the Pukalani Road Extension as required by this Agreement shall consist of a minimum of two (2) travel lanes within a 60-foot right-of-way.

3. Bar and Waiver. This Agreement shall act as a complete Bar and Waiver of all rights by Appellants and their representatives, successors and/or assigns, to contest or appeal with the County of Hawaii Board of Appeals and any administrative agency, board or commission and/or any court of competent jurisdiction, the timing of construction or conditions under which any of the phases of the Connector Road are constructed. This Agreement finally comprises, settles and terminates all of Appellants' current, future or potential claims or disputes, causes of action, or claims for relief of any nature relating to the above referenced Subdivision Approvals for Lualai Phase 3 and Lualai Phase 4 and the completion and construction of any phase of the Connector Road, except for any available remedies for breach of this Settlement Agreement as provided herein.

4. Conflict. In the event of any conflict between the terms and requirements of this Agreement and the terms and requirements of Change of Zone Ordinance No. 02-25, the terms of Ordinance No. 02-25, as amended from time to time, shall control.

5. Attorneys' Fees and Costs. The Parties in this matter shall each bear their own attorneys' fees and costs.

6. Breach. The Parties agree that if any party shall breach this Agreement, the non-breaching party may pursue legal proceedings with the Third Circuit Court to enforce the terms of this Agreement. In this event, the prevailing party shall be awarded its reasonable expenses sustained on account of such action, including reasonable attorneys' fees and costs.

7. Instruments of Further Assurance. The Parties agree to execute and deliver any and all further instruments and documents and to take such action as may be reasonably required to effectuate the terms and conditions of this Agreement.

8. Entire Agreement and Modification. This Agreement constitutes the entire agreement between the Parties and there are no understandings or agreements other than those incorporated in this Agreement. This Agreement shall not be amended, modified, or supplemented at any time unless in writing and executed by the parties hereto.

9. Construction and Paragraph Headings. The use of any pronoun herein shall include any and all pronouns and the singular shall include the plural and vice versa, as the context may require. As used in this Agreement, the masculine, feminine, or neuter gender, and the singular or plural number, shall each include the other whenever the text so indicates. Paragraph headings are inserted only for convenience in reference.

10. No Party Deemed Drafter. No party shall be deemed the drafter of this Agreement. If this Agreement is ever construed by a court of law, such court shall not construe this Agreement or any provision hereof against any party as drafter.

11. Waiver. The failure of any party to enforce at any time any of the provisions of this Agreement shall not be construed to be a waiver of any right of such party thereafter to enforce such provisions and each and every other provision hereof.

12. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. The parties agree

to execute whatever other documents and take any actions that are necessary to effectuate and carry out the intent of this Agreement.

13. Governing Law and Venue. The validity of this Agreement and of any and all terms and provisions thereof, as well as the rights and duties of the parties to this Agreement, shall be interpreted and construed pursuant to and in accordance with the laws of the State of Hawai'i and any action brought to enforce any provision of this Agreement or under this Agreement shall be brought in any court of competent jurisdiction in the State of Hawai'i.

14. Severability. If any provision of this Agreement or the application thereto to any person or circumstances shall, for any reason and to any extent to be invalid or unenforceable, the remainder of this Agreement and the application of such provision to the other persons or circumstances shall not be affected thereby, but rather shall be enforced to the greatest extent permitted by law.

15. Counterpart Execution. This Agreement may be executed in counterparts, each of which so executed shall, irrespective of the date of its execution and delivery, be deemed an original, and said counterparts together shall constitute one and the same instrument. This Agreement may also be executed by way of facsimile signature and such signature shall be sufficient to bind the party so executing this Agreement. Such party shall thereafter promptly forward a confirming copy of such facsimile signature to the other party.

[REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties each declare that he or she has carefully read and fully understands this Agreement and thereby executes this Agreement.

JAN R. HERRON-WHITEHEAD

LAVERNE TILL

MARGARET WILLE, ATTORNEY
FOR APPELLANTS

MARGARET WILLE

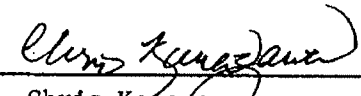
TRUSTEES UNDER THAT CERTAIN
UNRECORDED LAND TRUST
AGREEMENT FOR THE PARKER LAND
TRUST dated September 13, 2002, as
AMENDED, acting in their fiduciary and not
in their individual capacities

KAOMALO LLC

By: _____
Its: _____



JOHN B. RAY

PARKER RANCH, INC.


By: Chris Kanazawa
Its: CEO/ President

WARREN H. HARUKI

TIMOTHY E. JOHNS

APPROVED AS TO FORM AND CONTENT:
OFFICE OF CORPORATION COUNSEL

COUNTY OF HAWAII
PLANNING DEPARTMENT

By: Amy Self
Its: Deputy Corporation Counsel

By: Christopher Yuen
Its: Planning Director

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Warren H Haruki

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Its: _____

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Timothy E. Johns

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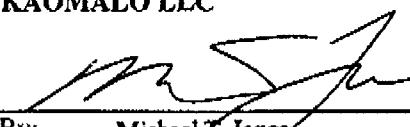
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KAOMALO LLC

By: Michael T. Jones
Its: Division President

JOHN B. RAY

PARKER RANCH, INC.

By: _____
Its: _____

WARREN H. HARUKI

TIMOTHY E. JOHNS

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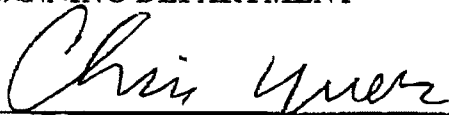
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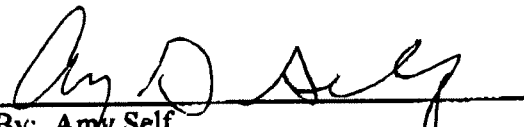
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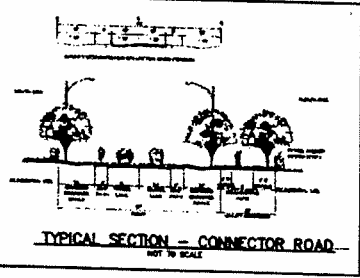
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**COUNTY OF HAWAII
PLANNING DEPARTMENT**

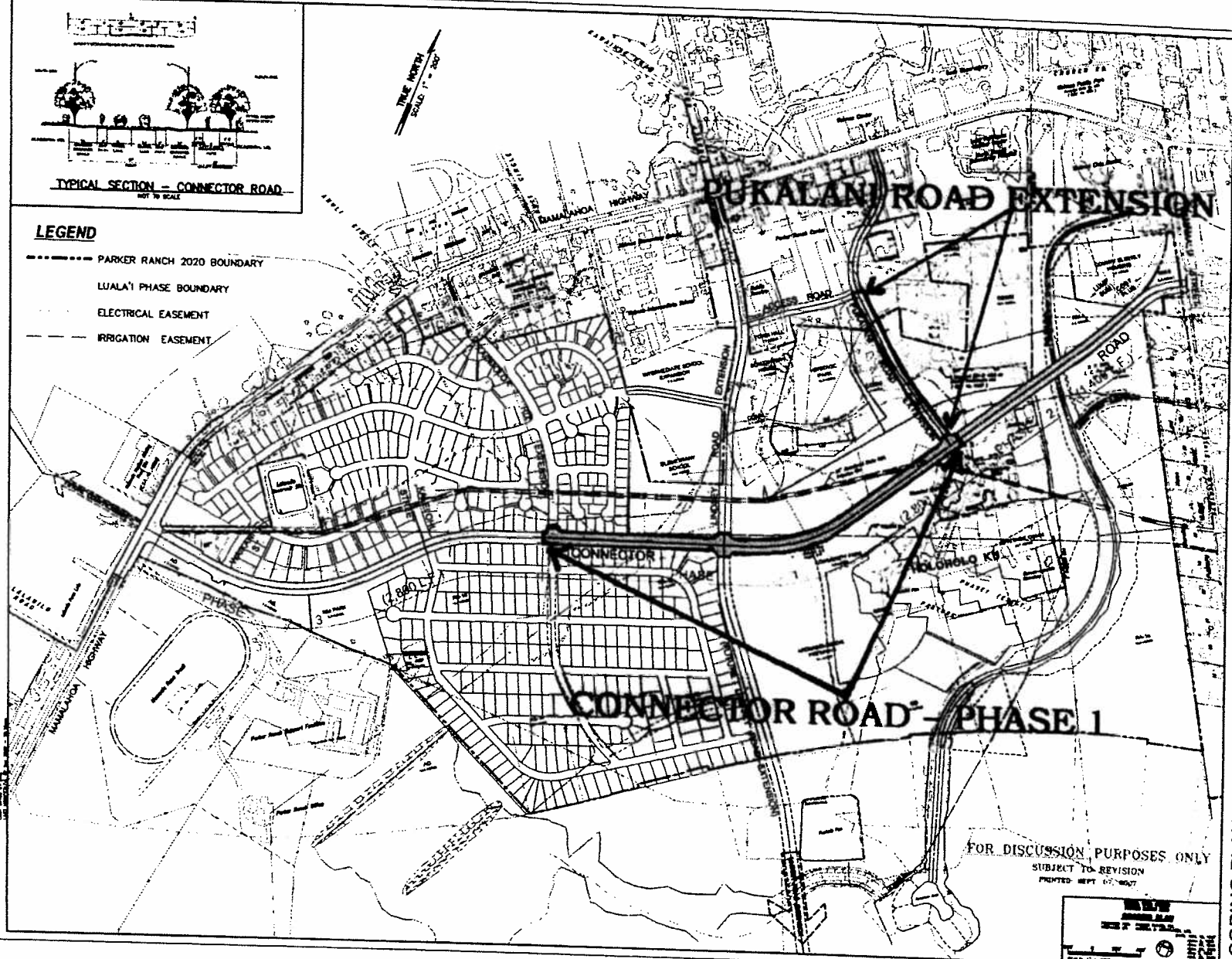


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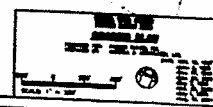
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- LEGEND**
- PARKER RANCH 2020 BOUNDARY
 - LUALA'I PHASE BOUNDARY
 - ELECTRICAL EASEMENT
 - IRRIGATION EASEMENT



FOR DISCUSSION PURPOSES ONLY
SUBJECT TO REVISION
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SCOPING PLAN

EXHIBIT A