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STATE OF HAWAII  
BUREAU OF CONVEYANCES  
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OCT 31, 2006 08:01 AM

Doc No(s) 2006-198468



/s/ CARL T. WATANABE  
REGISTRAR OF CONVEYANCES

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LAND COURT SYSTEM

REGULAR SYSTEM

Return by  Mail  Pickup  To:

RS

Maui Land & Pineapple Company, Inc.  
c/o Kiefer & Merchant LLC  
444 Hana Highway Suite 204  
Kahului, Hawaii 96732  
Attn: Rick Kiefer (808) 871-6016

TG ACCOM 072880D

TITLE OF DOCUMENT:

TRAFFIC IMPACT FEE AGREEMENT  
(West Maui Project District No. 2 - Kapalua Mauka)

PARTIES TO DOCUMENT:

MAUI LAND & PINEAPPLE COMPANY, INC., a Hawaii corporation

COUNTY OF MAUI, a body politic and corporate, and a political subdivision of the State of Hawaii  
200 South High Street  
Wailuku, Hawaii 96793

TAX MAP (2) 4-2-001:042, (2) 4-3-001:006 (por.), &  
KEY(S): (2) 4-3-001:008 (por.)

(This document consists of 21 pages.)

TRAFFIC IMPACT FEE AGREEMENT  
(West Maui Project District No. 2 - Kapalua Mauka)

THIS AGREEMENT is made and entered into this 25<sup>th</sup> day of October, 2006, by and between MAUI LAND & PINEAPPLE COMPANY, INC., a Hawaii corporation, whose principal place of business is 120 Kane Street, Kahului, Hawaii 96732 and whose mailing address is P.O. Box 187, Kahului, Hawaii 96733, ("Owner"), and the COUNTY OF MAUI, a body politic and corporate, and a political subdivision of the State of Hawaii, having its principal place of business and mailing address at 200 South High Street, Wailuku, Maui, Hawaii 96793 ("County" or "County of Maui").

WHEREAS, Owner is the owner of those certain lands located at Kapalua, Maui, Hawai'i, comprised of approximately 924.8 acres, identified for real property tax purposes by Tax Map Key No(s). (2) 4-2-001:042, (2) 4-3-001:006 (por.), and (2) 4-3-001:008 (por.), and more particularly described in Exhibit A attached hereto and incorporated herein (hereinafter referred to as the "Property");

Whereas, pursuant to the provisions regarding conditional zoning contained in Section 19.510.050, Maui County Code, the County Council of the County enacted Maui County Ordinance No. 3358 (2006) ("Ordinance No. 3358"), whereby the Property was designated and zoned "West Maui Project District No. 2 (Kapalua Mauka)" subject to the following condition no. 10 ("Condition No. 10"),

among other conditions:

That, as represented by Maui Land & Pineapple Company, Inc., a voluntary contribution for road and traffic improvements in the West Maui Community Plan region shall be provided by Maui Land & Pineapple Company, Inc. to the County of Maui in the amount of \$3,500.00 or the prevailing rate in effect at the time of final subdivision approval, whichever is greater, per dwelling unit in the West Maui Project District 2 (Kapalua Mauka). This contribution shall be made prior to issuance of a building permit. An agreement between Maui Land & Pineapple Company, Inc. and the County of Maui shall be executed and recorded setting forth the terms and conditions of the voluntary contribution prior to Phase II Project District approval.

Whereas, Condition No. 10 is also set forth in Exhibit 2 (Conditions of Zoning), paragraph 10, of that certain Unilateral Agreement and Declaration for Conditional Zoning (Amended and Restated) made by Owner, dated February 6, 2006, and recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2006-028545 (the "Unilateral Agreement").

Whereas, pursuant to Condition No. 10 and the Unilateral Agreement, Owner and the County are entering into this Agreement to set the terms and conditions of Owner's contribution for road and traffic improvements in the West Maui Community Plan region.

NOW, THEREFORE, for and in consideration of the terms, covenants and conditions hereinafter contained, the parties hereby mutually agree as follows:

1. That this Agreement is made pursuant to Condition No. 10 of Ordinance No. 3358 and Exhibit 2, paragraph 10, of the Unilateral Agreement.

2. That until written release by the County, the Property, and all parts thereof, is and shall be held subject to the following covenants, conditions and restrictions, and that all of such covenants, conditions and restrictions shall be effective as to the Property from and after the recording of this Agreement with the Bureau of Conveyances of the State of Hawaii, without the execution, delivery or recordation of any further deed, instrument, document, agreement, declaration, covenant or the like with respect thereto by the Owner, the County, or any successor, personal representative, heir or assign, as the case may be of any of them; that the acquisition of any right, title or interest in or with respect to the Property by any person or persons, entity or entities, whomsoever, shall be deemed to constitute the acceptance of all of the covenants, conditions and restrictions of this Agreement by such person or persons, entity or entities, and that upon any transfer of any right, title or interest in or with respect to the Property, the same shall be subject to, and the transferee shall assume and be bound and obligated to observe and perform, all of the covenants, conditions and restrictions of this Agreement.

3. That this Agreement shall be a covenant running with the land and be binding on all present and future owners, lessees and occupants of the Property and anyone claiming under said owners, their heirs, personal representatives, successors and assigns, as owners or occupants thereof or otherwise.

4. That as a condition for issuance of a building permit for each dwelling unit constructed at the Property, Owner shall make a voluntary contribution to the County of Maui for road and traffic improvements in the West Maui Community Plan region. For each dwelling unit, such contribution shall be in an amount equal to the greater of (a) \$3,500.00, or (b) the County's standard, per-dwelling-unit traffic impact fee for the West Maui Community Plan region, if any, at the time at which the County grants final subdivision approval for the lot on which a dwelling unit is to be constructed. This contribution shall be made prior to issuance of a building permit for a dwelling unit on the lot.

5. That as set forth in Condition No. 10 all contributions received pursuant to this Agreement shall be used by the County of Maui for road and traffic improvements in the West Maui Community Plan region.

6. That this Agreement shall be recorded by the Owner with the State of Hawaii Bureau of Conveyances prior to the County's issuance of Phase II Project District approval for Owner's development of the Property.

7. That unless sooner released and cancelled by the County of Maui, this Agreement shall remain in effect until the contributions required pursuant to Condition No. 10 and Section 4, above, have been made for all six hundred ninety (690)

dwelling units permitted on the Property under Section 19.92.080(A), Maui County Code.


8. That the term "Owner" wherever used herein, and any pronoun used in place thereof, shall mean and include the singular and the plural, and the use of any general term shall mean and include all genders.


9. That the parties hereto agree that this Agreement 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 the parties hereto, notwithstanding all the parties are not signatory to the original or the same counterparts.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.


OWNER:

MAUI LAND & PINEAPPLE COMPANY, INC.

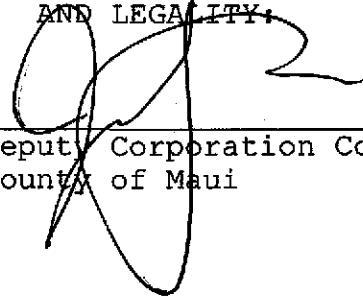
By   
Name: Robert M. McNatt  
Its President  
Community Development

By   
Name: Ryan Churchill  
Its Vice President  
Community Development

COUNTY OF MAUI:

By   
ALAN M. ARAKAWA  
Its Mayor

APPROVED AS TO FORM  
AND LEGALITY:

  
Deputy Corporation Counsel  
County of Maui

STATE OF HAWAII )  
 ) SS.  
COUNTY OF MAUI )

On this 22nd day of May, 2006, before me personally appeared Robert McNatt, to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable in the capacities shown, having been duly authorized to execute such instrument in such capacities.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Rhonda M. Pang  
Name: Rhonda M. Pang  
Notary Public, State of Hawaii

My commission expires: 5/25/07

C.S.

STATE OF HAWAII )  
 ) SS.  
COUNTY OF MAUI )

On this 22nd day of May, 2006, before me personally appeared Ryan Churchill, to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable in the capacities shown, having been duly authorized to execute such instrument in such capacities.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Rhonda M. Pang  
Name: Rhonda M. Pang  
Notary Public, State of Hawaii

My commission expires: 5/25/07

C.S.



STATE OF HAWAII                    )  
  )  
COUNTY OF MAUI                    )    SS.

On this 25<sup>th</sup> day of October, 2006, before me personally appeared ALAN M. ARAKAWA, to me personally known, who being by me duly sworn, did say that he is the Mayor of the County of Maui, a political subdivision of the State of Hawaii, and that the seal affixed to the foregoing instrument is the lawful seal of the said County of Maui, and that the said instrument was signed and sealed on behalf of said County of Maui by authority of its Charter, and the said ALAN M. ARAKAWA acknowledged the said instrument to be the free act and deed of the said County of Maui.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Kelii P. Nahooikaika  
Name: **Kelii P. Nahooikaika**  
Notary Public, State of Hawaii

My commission expires: 4/30/10

L.S.

EXHIBIT A

West Maui Project District No. 2 (Kapalua Mauka)  
Description of Perimeter Boundary

Land situated on the southeasterly side of Honoapiilani Highway, (F.A.P. No. RF-030-1(3)), at Honokahua, Napili 2 and 3, Napili 4 and 5, Lahaina, Maui, Hawaii

Being portions of Royal Patent 2236, Land Commission Award 8522-B, Apana 1 to Kale Davis (Certificate of Boundaries No. 21), Royal Patent 1663, Land Commission Award 5524, Apana 1 to L. Konia

Beginning at a point at the southwesterly corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HAWEA" being 5,756.60 feet South and 2,710.69 feet East and running by azimuths measured clockwise from True South:

1. 220° 37' 19"      222.56 feet along the southeasterly side of Honoapiilani Highway (F.A.P. No. RF-030-1(3)) to a point;
2. 310° 37' 19"      20.00 feet along same to a point;
3. 220° 37' 19"      356.68 feet along same to a point;
4. 130° 37' 19"      20.00 feet along same to a point;
5. Thence along same on a curve to the right with the point of curvature azimuth from the radial point being: 130° 37' 19", and the point of tangency azimuth from the radial point being: 134° 02' 45", having a radius of 6,850.23 feet, the chord azimuth and distance being: 222° 20' 02" 409.30 feet to a point;

6. 239° 43' 01" 114.35 feet along same to a point;
7. Thence along same on a curve to the right with the point of curvature azimuth from the radial point being: 134° 58' 15", and the point of tangency azimuth from the radial point being: 136° 15' 50", having a radius of 6,820.23 feet, the chord azimuth and distance being: 225° 37' 02.5" 153.92 feet to a point;
8. 178° 22' 04" 107.32 feet along same to a point;
9. Thence along same on a curve to the right with the point of curvature azimuth from the radial point being: 136° 51' 41", and the point of tangency azimuth from the radial point being: 140° 35' 19", having a radius of 6,900.23 feet, the chord azimuth and distance being: 228° 43' 30" 448.80 feet to a point;
10. 320° 35' 19" 50.00 feet along same to a point;
11. 230° 35' 19" 630.62 feet along same to a point;
12. 213° 14' 05" 167.63 feet along same to a point;
13. 230° 35' 19" 223.80 feet along same to a point;
14. Thence along same on a curve to the left with the point of curvature azimuth from the radial point being: 320° 35' 19", and the

point of tangency azimuth  
from the radial point  
being:

318° 56' 28", having a  
radius of 2,750.09 feet,  
the chord azimuth and  
distance being:

229° 45' 53.5" 79.07 feet  
to a point;

15. 318° 56' 28" 20.00 feet along same to a point;

16. Thence along same on a curve to the left with the  
point of curvature  
azimuth from the  
radial point being:  
318° 56' 28", and the  
point of tangency azimuth  
from the radial point  
being:

317° 51' 36", having a  
radius of 2,770.09 feet,  
the chord azimuth and  
distance being:  
228° 24' 02" 52.27 feet to  
a point;

17. 317° 51' 36" 30.00 feet along same to a point;

18. Thence along same on a curve to the left with the  
point of curvature  
azimuth from the  
radial point being:  
317° 51' 36", and the  
point of tangency azimuth  
from the radial point  
being:

312° 27' 18", having a  
radius of 2,800.09 feet,  
the chord azimuth and  
distance being:  
225° 09' 27" 264.05 feet  
to a point;

19. 132° 27' 18" 30.00 feet along same to a point;

20. Thence along same on a curve to the left with the  
point of curvature

azimuth from the  
radial point being:  
312° 27' 18", and the  
point of tangency azimuth  
from the radial point  
being:  
309° 12' 43", having a  
radius of 2,770.09 feet,  
the chord azimuth and  
distance being:  
220° 50' 0.5" 156.77 feet  
to a point;

21. 129° 12' 43" 30.00 feet along same to a point;

22. Thence along same on a curve to the left with the  
point of curvature  
azimuth from the  
radial point being:  
309° 12' 43", and the  
point of tangency azimuth  
from the radial point  
being:  
291° 54' 57", having a  
radius of 2,740.09 feet,  
the chord azimuth and  
distance being:  
210° 33' 50" 824.03 feet  
to a point;

23. 217° 43' 38" 70.35 feet along same to a point;

24. Thence along same on a curve to the left with the  
point of curvature  
azimuth from the  
radial point being:  
290° 30' 38", and the  
point of tangency azimuth  
from the radial point  
being:  
277° 05' 19", having a  
radius of 2,760.09 feet,  
the chord azimuth and  
distance being:  
193° 47' 58.5" 645.09 feet  
to a point;

25. 187° 05' 19" 1,114.20 feet along same to a point;
26. 277° 05' 19" 10.00 feet along same to a point;
27. 185° 39' 23" 400.13 feet along same to a point;
28. 175° 46' 38" 101.98 feet along same to a point;
29. 187° 05' 19" 518.19 feet along same to a point;
30. 284° 00' 307.46 feet along Lot 49 of The  
Plantation at Kapalua  
(File Plan No. 2006) to a  
point;
31. 328° 38' 787.92 feet along same to a point;
32. 320° 11' 342.84 feet along same to a point;
33. 299° 45' 473.25 feet along same to a point;
34. 294° 02' 414.26 feet along same to a point;
35. 22° 18' 545.98 feet along same to a point;
36. 6° 29' 302.12 feet along same to a point;
37. 342° 52' 171.59 feet along same to a point;
38. 313° 48' 23.52 feet along same to a point;
39. Thence along same on curve to the right, having a  
radius of  
597.00 feet, the chord  
azimuth and distance  
being:  
322° 58' 30" 190.38 feet  
to a point;
40. 332° 09' 147.95 feet along same to a point;
41. 286° 50' 160.00 feet along same to a point;
42. 246° 40' 198.00 feet along same to a point;
43. 326° 00' 559.72 feet along the remainder of

Royal Patent 2236, Land  
Commission Award 8522-B  
Apana 1 to Kale Davis  
(Certificate of Boundaries  
No. 21), being also along  
Lot 4 of Kapalua Mauka  
Large-Lot Subdivision to a  
point;

44.	315°	00'	212.40 feet	along same to a point;
45.	342°	00'	98.17 feet	along same to a point;
46.	59°	30'	228.90 feet	along same to a point;
47.	8°	00'	87.96 feet	along same to a point;
48.	308°	20'	125.73 feet	along same to a point;
49.	240°	00'	48.91 feet	along same to a point;
50.	330°	00'	90.84 feet	along same to a point;
51.	240°	00'	128.41 feet	along same to a point;
52.	342°	00'	70.47 feet	along same to a point;
53.	290°	00'	250.66 feet	along same to a point;
54.	335°	30'	1,577.46 feet	along same to a point;
55.	344°	00'	310.62 feet	along same to a point;
56.	324°	00'	182.30 feet	along same to a point;
57.	357°	00'	319.88 feet	along same to a point;
58.	319°	00'	348.47 feet	along same to a point;
59.	342°	00'	223.65 feet	along same to a point;
60.	336°	00'	498.25 feet	along same to a point;
61.	54°	00'	1,119.38 feet	along same to a point;
62.	322°	55'	74.42 feet	along same to a point;

63.	275°	40'	248.91 feet	along same to a point;
64.	345°	00'	500.17 feet	along same to a point;
65.	351°	00'	289.47 feet	along same to a point;
66.	65°	59' 38"	55.00 feet	along the remainder of Royal Patent 2236, Land Commission Award 8522-B Apana 1 to Kale Davis (Certificate of Boundaries No. 21), being also along Lot 3 of Honokahua Wells Subdivision to a point;
67.	335°	59' 38"	75.00 feet	along same to a point;
68.	245°	59' 38"	110.72 feet	along same to a point;
69.	324°	00'	622.16 feet	along the remainder of Royal Patent 2236, Land Commission Award 8522-B Apana 1 to Kale Davis (Certificate of Boundaries No. 21), being also along Lot 4 of Kapalua Mauka Large-Lot Subdivision to a point;
70.	0°	00'	201.70 feet	along same to a point;
71.	320°	00'	913.05 feet	along same to a point;
72.	0°	00'	353.54 feet	along same to a point;
73.	326°	56'	1,314.13 feet	along same to a point;
74.	31°	44' 38"	417.99 feet	along the remainder of Royal Patent 2236, Land Commission Award 8522-B Apana 1 to Kale Davis (Certificate of Boundaries No. 21), being also along Lot 4 of Kapalua Mauka Large-Lot Subdivision and along Royal Patent 1663,



Apana 1, Land Commission  
Award 5524 Part 1 to L.  
Konia to a point;

75.	112°	03'	592.18 feet	along the remainder of Government (Crown) Land of Napili 4 and 5 to a point;
76.	124°	33'	719.66 feet	along same to a point;
77.	109°	42'	490.74 feet	along same to a point;
78.	120°	31'	730.42 feet	along same to a point;
79.	163°	42'	153.49 feet	along same to a point;
80.	111°	15'	194.60 feet	along Government (Crown) Land of Napili 4 and 5 to a point;
81.	77°	29'	118.47 feet	along the remainder of Government (Crown) Land of Napili 4 and 5 to a point;
82.	72°	43'	366.22 feet	along same to a point;
83.	208°	00'	291.16 feet	along same to a point;
84.	110°	45'	201.65 feet	along Government (Crown) Land of Napili 4 and 5 to a point;
85.	28°	00'	300.40 feet	along the remainder of Government (Crown) Land of Napili 4 and 5 to a point;
86.	113°	05'	819.15 feet	along same to a point;
87.	139°	00'	498.66 feet	along same to a point;
88.	187°	24'	413.29 feet	along same to a point;
89.	123°	17'	398.65 feet	along same to a point;

90.	123°	00'	19"	179.10 feet	along same to a point;
91.	120°	37'		615.99 feet	along same to a point;
92.	124°	03'		211.54 feet	along same to a point;
93.	124°	18'		183.61 feet	along same to a point;
94.	104°	00'		223.83 feet	along same to a point;
95.	131°	00'		366.75 feet	along same to a point;
96.	154°	40'		304.42 feet	along same to a point;
97.	138°	52'		299.20 feet	along same to a point;
98.	138°	58'		89.48 feet	along same to a point;
99.	164°	53'		465.29 feet	along same to a point;
100.	123°	34'		482.89 feet	along same to a point;
101.	126°	07'		419.09 feet	along same to a point;
102.	116°	02'		417.86 feet	along same to a point;
103.	121°	21'		158.74 feet	along same to a point;
104.	119°	01'		285.93 feet	along same to a point;
105.	106°	32'		224.46 feet	along same to a point;
106.	125°	00'		454.04 feet	along same to the point of beginning and containing a Gross Area of 925.271 Acres, excepting and excluding therefrom Lot 1 (Napili Well "C") (0.342 Acre) and Lot 2 (Honokahua Well "A") (0.129 Acre) as described below, for a Net Area of 924.800 Acres.

Lot 1 (Napili Well "C")

Land situated on the southeasterly side of Honoapiilani Highway (F.A.P No. RF-030-1(3)), at Napili 2 & 3, Lahaina, Maui, Hawaii

Being a portion of Royal Patent 1663, Land Commission Award 5524 Apana 1 to L. Konia

Beginning at a point at the southwesterly corner of this lot, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HAWEA" being 9,590.79 feet South and 8,749.90 feet East and running by azimuths measured clockwise from True South:

1. 205° 29' 38" 95.00 feet along the remainder of the Royal Patent 1663 Apana 1, Land Commission Award 5524 Apana 1 to L. Konia, being also along Lot 4 of Kapalua Mauka Large-Lot Subdivision to a point;
2. 226° 51' 38" 74.51 feet along same to a point;
3. 295° 29' 38" 56.50 feet along same to a point;
4. 340° 54' 38" 35.94 feet along same to a point;
5. 25° 29' 38" 30.78 feet along same to a point;
6. 45° 59' 38" 59.90 feet along same to a point;
7. 25° 29' 38" 42.00 feet along same to a point;
8. 70° 29' 38" 14.00 feet along same to a point;
9. 115° 29' 38" 78.00 feet along same to the point of beginning and containing an Area of 14,907 Square Feet or 0.342 Acre.

Lot 2 (Honokahua Well "A")

Land situated on the southeasterly side of Honoapiilani Highway (F.A.P. No. RF-030-1(3)), at Honokahua, Lahaina, Maui, Hawaii

Being a portion of Royal Patent 2236, Land Commission Award 8522-B, Apana 1 to Kale Davis (Certificate of Boundaries No. 21)

Beginning at a point at the southwesterly corner of this lot, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HAWEA", being 8,851.72 feet South and 8,775.18 feet East and running by azimuths measured clockwise from True South:

1. 209° 29' 38" 70.00 feet along the remainder of Royal Patent 2236, Land Commission Award 8522-B Apana 1 to Kale Davis (Certificate of Boundaries No. 21), being also along Lot 4 of Kapalua Mauka Large-Lot Subdivision to a point;
2. 299° 29' 38" 80.00 feet along same to a point;
3. 29° 29' 38" 70.00 feet along same to a point;
4. 119° 29' 38" 80.00 feet along same to the point of beginning and containing an Area of 5,600 Square Feet or 0.129 Acre.

TOGETHER WITH, the following:

1. Existing Waterline Easements, affecting portions of Honoapiilani Highway (F.A.P. RF-030-1 (3)), in favor of Kapalua Water Company, Ltd. and Maui Land & Pineapple Company, Inc.
2. Existing Golf Course Easements "A" to "D", inclusive, affecting portions of Honoapiilani Highway (F.A.P. RF-030-1 (3)), in favor of Maui Land & Pineapple Company, Inc.

SUBJECT, HOWEVER, to the following:

1. A Restriction of the Vehicular Access Right along Honoapiilani Highway (F.A.P. RF-030-1(3)).
2. Existing Electrical and Telephone Easements E-14 to E-17 in favor of Maui Electric Company, Ltd. and Verizon Hawaii Inc.

3. Existing Slope Easements "S-2" and "S-4", in favor of the State of Hawaii.
4. An existing Electrical and Telephone Easement (20 ft. wide) in favor of Maui Electric Company, Ltd. and Verizon Hawaii, Inc.
5. Existing Electrical and Telephone Easements "B" and "C", in favor of Maui Electric Company, Ltd. and Verizon Hawaii, Inc.
6. Existing Waterline Easements "A", "B" and "C" (20 ft. wide), in favor of the Board of Water Supply, County of Maui.
7. An existing Access Easement 4 in favor of Lot 51 of the Plantation at Kapalua (File Plan 2006).
8. A portion of existing Waterline Easement 12 in favor of Kapalua Water Company, Ltd.
9. Existing Electrical Easements E-9 and E-10 in favor of Maui Electric Company, Ltd. and Verizon Hawaii, Inc.
10. A Perpetual Non-Exclusive Appurtenant Existing Underground Tunnel Deed: Territory of Hawaii to Baldwin Packers, Ltd.

NOTE: This description has been prepared solely for use by the Owners and shall not be construed as a description of a parcel of land separate from Government (Crown) Land of Napili 4 and 5. Only after required approvals from governmental agencies have been granted, can it be considered as a parcel of land separate from Government (Crown) Land of Napili 4 and 5.