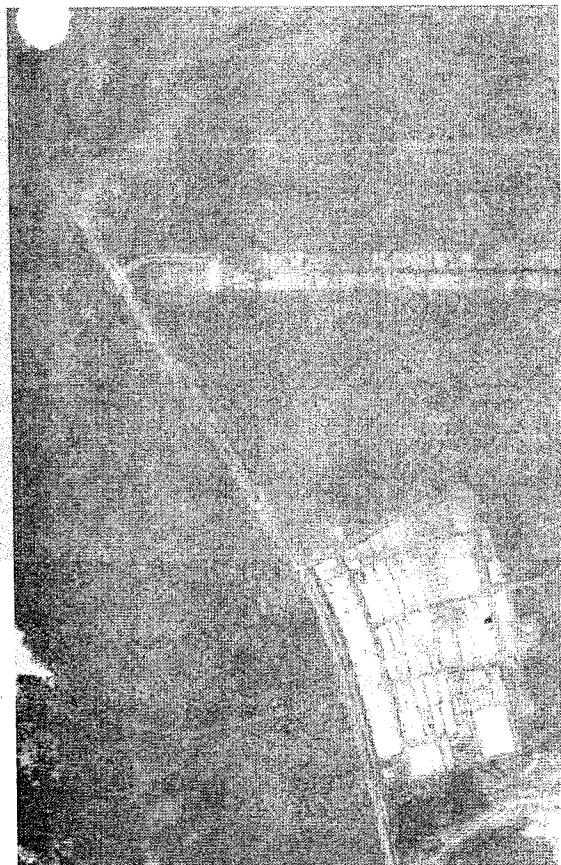


NORTH KONA IMPROVEMENT DISTRICT PROJECT

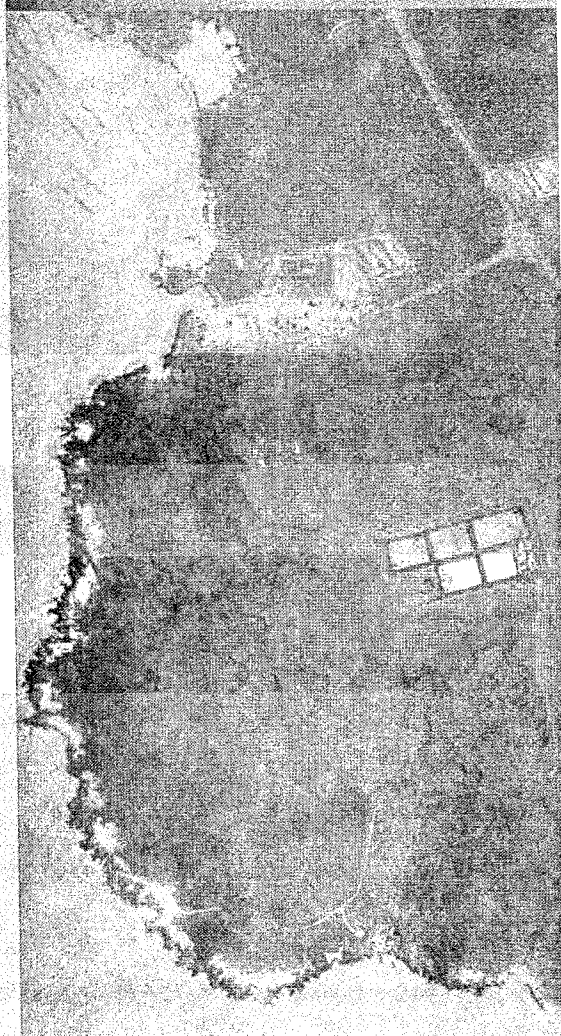
IMPLEMENTATION REPORT

PREPARED FOR
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
COUNTY OF HAWAII

PREPARED BY



APRIL 2008



DRAFT IMPLEMENTATION REPORT

FOR

NORTH KONA IMPROVEMENT DISTRICT

PROJECT

KONA, HAWAI'I

April 2008

PREPARED FOR:
County of Hawai'i
Department of Environmental Management
Technical Services Section

PREPARED BY:



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TABLE OF CONTENTS

CHAPTER	PAGE
CHAPTER 1 INTRODUCTION	1
1.1 BACKGROUND	1
1.2 STUDY AREA	2
1.3 COUNTY RESOLUTION 129-03	2
1.4 HAWAII COUNTY CODE – CHAPTER 12	5
CHAPTER 2 IMPLEMENTATION PLAN	6
2.1 IMPLEMENTATION PLAN COMPONENTS	6
2.1.1 Gravity Collection Lines and Sewer Manholes	6
2.1.2 Sewage Pump Stations (Lift Stations) and Force Mains	8
2.1.3 Reclaimed Water Distribution	8
2.1.4 Wastewater Treatment Plan	9
2.2 IMPLEMENTATION COSTS	10
2.2.1 Land Acquisition	10
2.2.2 Collection System Materials and Construction	10
2.2.3 Treatment Systems	11
2.2.4 Reuse Systems	11
2.3 IMPROVEMENT DISTRICT BOUNDARIES	14
2.4 PROPOSED METHOD OF ASSESSMENT	16
2.4.1 Assessment by Equivalent Dwelling Unit (Recommended)	16
2.4.2 Other Assessment Methods Not Recommended	17
2.5 PROPOSED METHOD OF FINANCING	20
2.5.1 Council – Initiated Improvement District	20
2.5.2 Tax Increment District	20
2.5.3 Community Facilities District	21
2.5.4 Clean Water State Revolving Fund Program	21
CHAPTER 3 CONCLUSION	22
3.1 SUMMARY RESULTS	22
3.2 IMPLEMENTATION SCHEDULE	22
3.3 PREFERRED METHOD OF FINANCING	22

LISTING OF FIGURES

EXHIBIT		PAGE
Figure 1	Project Location and Existing Uses	3
Figure 2	North Kona Improvement District Boundary Map	15

LISTING OF APPENDICES

APPENDIX

Appendix A	County Resolution 129-03
Appendix B	Preferred Alternative – Kamanu Gravity
Appendix C	Average Daily Flow Schedule
Appendix D	Assessment Roll EDU Method
Appendix E	Method 1 – Assessment by Owner Area
Appendix F	Method 2 – Assessment by Zone
Appendix G	Implementation Schedule – Flowchart

CHAPTER 1 INTRODUCTION

A *North Kona Implementation Report* was developed for the County of Hawai'i (County), Department of Environmental Management (DEM) to address and program the implementation of future sewer improvements necessary to serve projected development in the North Kona region of the island of Hawai'i. Information from this implementation report would be used as one component in the later development of a preliminary engineering report to support the establishment of an "Improvement District" for North Kona by the County Council. This project is collectively referred to as the North Kona Improvement District (NKID) Project.

The first phase of this project involved the preparation of a *North Kona Sewer Master Plan Summary Report* to project future estimated flows and identify improvements needed for collection and transmission of sewage to the Kealakehe Wastewater Treatment Plant (KWWTP), and disposal of treated effluent. Thus, this *North Kona Implementation Report* is based upon the results of the sewer master plan summary report.

1.1 BACKGROUND

A rapid confluence of both private and public developments on several large tracts of land extending from Kealakehe and Honokōhau Harbor northbound to Kohanaiki is occurring or being planned. This coastline north of Kona contains valuable unique marine resources and pristine shoreline park properties that the County wishes to maintain in their natural state. As a result, an updated regional sewerage master plan for this North Kona region was warranted because existing sewer studies for this region were over 20 years old and did not reflect current development plans.

In light of this pending growth, the County anticipated the need to implement improvements to their municipal sewer system and recycled water system serving this region. Such improvements would include assessing their gravity sewers, force mains, manholes, and pump stations situated north of the Kealakehe Wastewater Treatment Plant. Therefore, the mix of private and public development planned in the region necessitated the preparation of a more comprehensive regional plan of wastewater treatment needs and sewer improvements for this region. In addition, a number of options were considered for selection in determining the allocation of sewer system improvement costs.

This implementation report addresses the necessity, feasibility, boundaries, estimated construction costs, and recommended assessment method to finance the necessary sewer system improvements serving this North Kona district.

1.2 STUDY AREA

This section provides a profile overview of the region included in the sewer master plan study area which was utilized in this implementation report. The master plan summary report provided further discussion on the existing land use and settlement pattern of the region along with existing infrastructure facilities pertinent to the County's municipal sewer system.

General Characteristics

The study area in this North Kona district encompasses a large area from the shoreline inland up to Mamalahoa Highway and totaling approximately 5,600 acres. This region is for the most part still undeveloped. There are pockets of commercial and industrial developments concentrated along Queen Ka'ahumanu Highway. Areas inland along Mamalahoa Highway generally consist of a few older residential subdivisions. Figure 1 includes an aerial photograph showing the study area boundary and existing land uses as of 2004, as well as major roadway facilities within the study area.

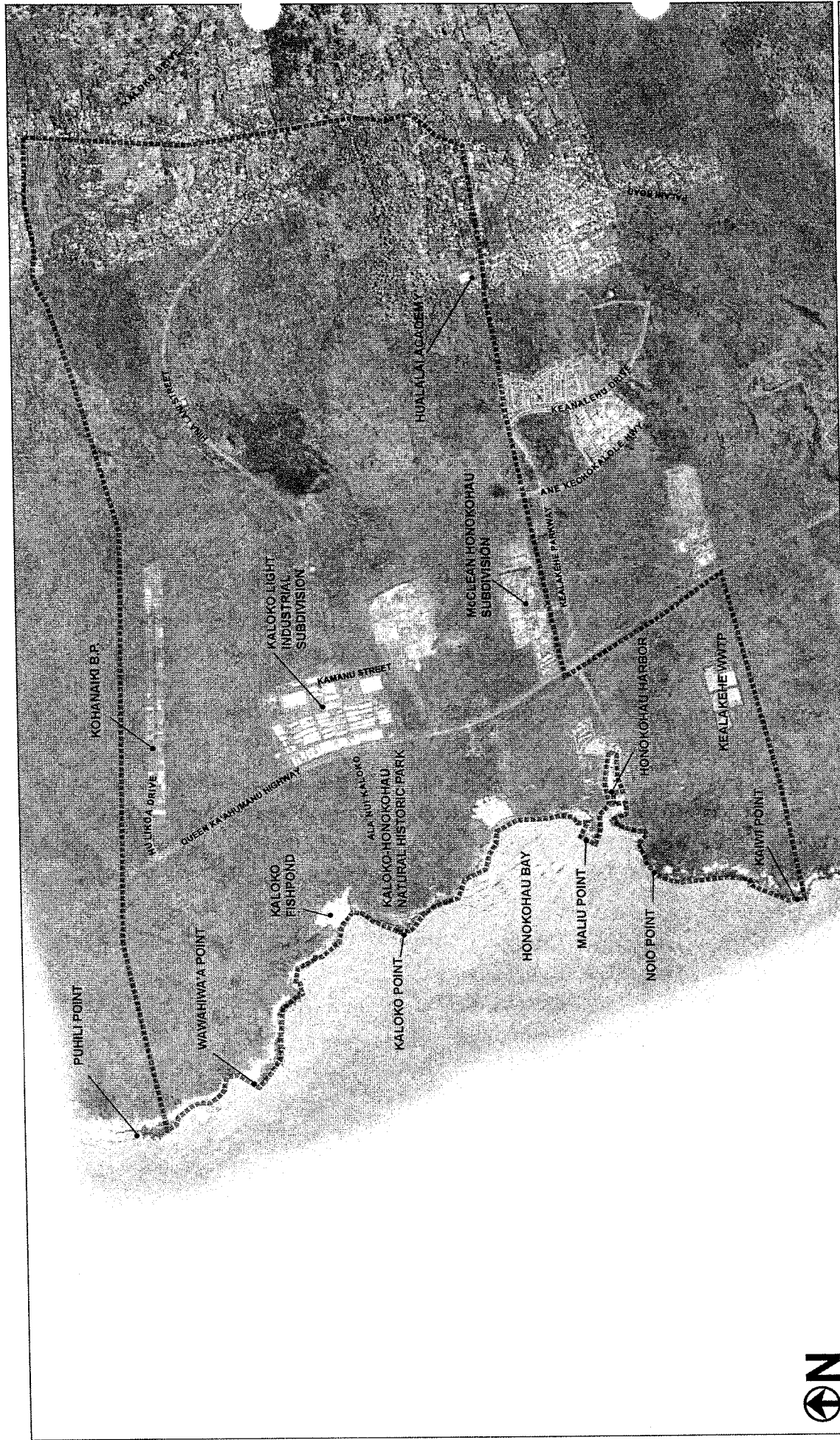
As shown on this figure, the boundary along the shoreline starts from Kaiwi Point and extends northbound about 3.75 miles past the Honokohau Small Boat Harbor and Kaloko Point up to Puhili Point. The boundary from this coastline generally extends mauka (inland) about 3 to 4 miles up to Palani Road and along Mamalahoa Highway.

1.3 COUNTY RESOLUTION 129-03

In December 2003, the Council of the County of Hawai'i adopted Resolution No. 129-03 directing the County DEM to develop an implementation plan for the Council's action and establishment of an improvement district. It guides the Director of the Department of Environmental Management to prepare a report containing the following for submission to the Council:

1. A broad regional sewerage master plan for the region north of Kealakehe; and
2. A specific and detailed implementation plan for an improvement district to include the necessity, feasibility, proposed boundaries, proposed real properties subject to assessment, estimated total cost, and method financing desirable for the aforementioned sewer system improvements at Kealakehe, Honokohau, Kaloko and Kohanaiki, District of North Kona, County and State of Hawai'i.

This *North Kona Implementation Report* would be used by the County DEM to provide the Council with various technical assessments and information needed for their action pursuant to Resolution 129-03. However, assessments of financing analysis and methods of financing for the Improvement District are being undertaken by County DEM separate from this report. A copy of Resolution 129-03 is included as Appendix A.



PROJECT LOCATION AND EXISTING USES

Figure 1

Source:
Aerial Digital Globe



Benefits of Establishing an Improvement District

There are numerous public benefits associated with the establishment of an Improvement District. The significant benefits are listed below.

- Reduces the contamination of groundwater by directing all sewage effluent to the Kealakehe Wastewater Treatment Plant for proper treatment and disposal.
- Decreases costs to landowners and developers to complete independent planning, designing and construction of sewer collection, treatment, and reuse and disposal systems.
- Possesses the likelihood to increase the values of properly sewered properties.
- Connection to a County wastewater treatment facility would be a preferred and superior alternative to septic systems which have limited life spans.

Although individual property owners and residents are currently using septic systems or cesspools, the establishment of an Improvement District provides the opportunity for an advanced sewer collection and treatment system. It is plausible that landowners and developers may be required to connect to KWWTP in the future, so these improvements could ultimately serve the interests over a very broad community.

The focus of this implementation report will be identifying sewer improvements and determining how the distribution of costs should be established among the landowners and developers. The major tasks associated with this report consisted of:

1. Assessing and evaluating the program components necessary for the implementation plan.
2. Consulting with major landowners and developers in the study area regarding program components and requirements.
3. Identifying the preferred implementation plan.

1.4 HAWAII COUNTY CODE – CHAPTER 12

This North Kona Implementation Report provides supporting information needed for the County DEM to prepare an engineering report to submit to the County Council under Resolution 129-03 (appendix A). The details associated with this report have been organized to address most of the applicable portions of the informational requirements specified under Hawaii County Code – Chapter 12 – Improvements by Assessments, Article 2, Section 12-10. Other remaining components are being developed separately by the County DEM. The components of the County Council report are to include:

1. Preliminary data concerning the sewer improvements proposed to be constructed;
2. The general character and extent of improvements proposed;
3. Proposed method of assessment whether on a frontage, area or other basis;
4. Whether any new land will be necessary for acquisition, the estimated cost for acquisition, and the proportion of the cost that should be borne by the County
5. Materials recommended to meet the conditions of the improvements implemented;
6. Boundaries of the proposed improvement district and any subdistricts or zones therein as to which different portions of the cost of improvements should be charged;
7. Estimated cost of the improvement, and the portions of the cost to be assessed against the lands benefited with the maximum unit of assessment to be made against each lot to be assessed; and
8. Other plans and data, details, and specifications for the improvements.

CHAPTER 2 IMPLEMENTATION PLAN

2.1 IMPLEMENTATION PLAN COMPONENTS

Based upon the assessment provided by the master plan summary report, establishment of the North Kona Improvement District would tentatively result in the implementation of the following proposed sewer system improvements.

- Gravity sewer collection lines and sewer manholes;
- Sewage lift stations and associated force mains; and
- Reclaimed water distribution lines and reclaimed water storage.

Other improvements recommended for the Improvement District would consist of an upgrade of the Kealakehe Wastewater Treatment Plant (KWWTP) to handle anticipated increases in treatment capacity and the increased treatment of recycled water effluent. These plant improvements and associated costs will be determined by outside resources and included in the final version of this report. These treatment costs should be borne by the Improvement District and assessed to participants in accordance with the recommendations contained herein.

2.1.1 Gravity Collection Lines and Sewer Manholes

The sewer collection system improvements identified and considered for inclusion in the Improvement District are discussed in greater detail in the *North Kona Sewer Master Plan Summary Report* (October 2006) which is available for review on the County of Hawai'i, Department of Environmental Management's website. It identified and evaluated in detail the study area's existing land uses, current entitlements, future development plans, and projected sewage flows to a study year of 2025, and beyond to full build-out.

Based upon this analysis, three alternative alignments were developed and presented to the public for review and comments at a public informational meeting held on June 6, 2006. After incorporating comments received from the public, Alternative 2 was identified as being most feasible and practical, and improvements associated with that plan were further refined. Consequently, a Preferred Alternative - Kamanu Gravity was developed and is recommended for implementation.

Appendix B includes a plan graphically depicting this preferred conceptual design which serves as a basis to approximate budgetary costs for the Improvement District. Information on the construction components estimated for the Preferred Alternative along with the conceptual construction cost estimates are also included in Appendix B.

This Preferred Alternative - Kamanu Gravity sewer collection system alignment was chosen because it maximized the use of gravity sewers, had the least amount of County-owned lift stations, and required an easement through State-owned lands rather than an easement through Federal government owned lands. Alternative 1 was not selected because that option would require the most proposed County-owned lift stations. Alternative 3 was not selected because of the proposed easement crossing lands owned by the federal government.

Preferred Alternative – Kamanu Gravity

The Preferred Alternative utilizes the existing and future Kamanu Street, the future Ane Keohokalole Highway, and the future Kealakaa Street for new collection sewer mains which gravity flow in a southerly direction to KWWTP. As shown in Appendix B, the proposed mauka-to-makai (inland to seaward, respectively) sewer mains connect into one of these north-to-south sewer mains and are conveyed to the southern study area limit.

The sewer is conveyed in new collection sewer mains under Kealakahe Parkway which will gravity flow in a westerly direction and then follow a 90-degree turn toward the south into a new sewer collection sewer main. This new sewer collection main will then convey wastewater via gravity flow across the makai end of the Villages of Laiopua Development. The sewer alignment then follows a 90-degree turn toward the west and crosses Queen Kaahumanu Highway and continues along the existing KWWTP road. The existing sewer mains in Kealakahe Parkway will remain in use to collect and convey the sewer generated from the Villages of Laiopua Development.

The wastewater from the areas between the ocean and Kamanu Street and north of the Honokohau Harbor will be conveyed via gravity flow into the sewer system along Queen Kaahumanu Highway. This proposed system is being privately developed by the Kohanaiki/Rutter Development. The gravity sewer in Queen Kaahumanu Highway then travels along this roadway and terminates approximately where the Queen Kaahumanu Highway and Honokohau Boat Harbor Road intersect. From there, the wastewater will be pumped to the KWWTP along a proposed road through the Department of Hawaiian Home Lands (DHHL) property and proposed Kona Kai Ola development.

A gravity main will also be provided along the Honokohau Boat Harbor Road. At the makai end of that road, a pump station will transmit the wastewater collected from the surrounding parcels into the treatment facility via force main. Sewer manholes are anticipated to be installed in the collection system at an interval of approximately every 300 feet in accordance with City and County of Honolulu Wastewater Design Standards, the applicable standards for this project.

2.1.2 Sewage Pump Stations (Lift Stations) and Force Mains

Sewage collection by gravity flow is the preferred method as it afforded the best advantages for economy of operation and ease of maintenance. Due to the topography of the Study Area, however, the collection system must utilize two (2) Sewage Pump Stations (SPS) or Lift Stations to raise wastewater from lower to higher elevations to accommodate this gravity collection to KWWTP.

The first is referred to as the Kohanaiki Business Park sewage pump station (Kohanaiki SPS) located at Queen Kaahumanu Highway near the southern end of this existing industrial park. Effluent collected there will be pumped through a proposed force main to the start of the Queen Kaahumanu Highway gravity sewer line which begins north of where Hina Lani Street and Queen Kaahumanu Highway intersect.

From there, the effluent flows by gravity towards the second proposed pump station referred to as the Kaloko SPS. This pump station would be situated south of the existing Kaloko Industrial Park located near the Kealakehe Parkway and Queen Kaahumanu Highway intersection. This station would lift the effluent through a force main across the proposed Kona Kai Ola development, and convey effluent the remainder of the distance to the KWWTP.

2.1.3 Reclaimed Water Distribution

Currently, treated wastewater effluent is pumped into a seepage pit on the mauka side of Queen Kaahumanu Highway for disposal within the study area since there currently isn't a large demand for this reclaimed water. This is not considered an acceptable long-term solution for effluent disposal by the Environmental Protection Agency (EPA). The options of injection or ocean outfall as methods of disposal within the coastal waters in the vicinity of this study area are also not desired, and would be difficult to implement due to the State Department of Health's classification of these waters.

The Master Plan thus included a system of distributing reclaimed wastewater back into the Improvement District for landscape irrigation use. This provides significant additional benefit as a means of easing this demand from an already strained potable water system in the area. The NKID Sewer Master plan identifies at least three property owners which have expressed interest in receiving the reclaimed water. It is anticipated that additional property owners will request reclaimed water as the region becomes developed.

One (1) reclaimed water reservoir has been included in this implementation report to address this. It is proposed to be located on 1.22 acres of vacant land along Hina Lani Street within property identified as Tax Map Key 7-3-009: 025. The parcel will need to be acquired from the current landowner, MID Corporation.

This re-use reservoir will function to provide flow equalization, water storage, and pressurization for the re-use system (reclaimed water). The reservoir site should be located at a minimum elevation of 400-feet above sea level. It is assumed that the reservoir's spillway elevation will then be approximately 418-feet above sea level. Therefore, adequate pressure can be supplied to parcels situated at the 318-foot elevation or lower. This would cover a majority of the MID Corporation's property (TMK 7-3-009: 025), and they have expressed interest in reclaimed water for irrigation of a proposed golf course. For parcels situated at elevations of 318-feet and higher, the recycled water will need to be pumped. Thus, a booster pump and backup generator will be necessary at the reservoir site.

R-1 water is defined by the State as recycled water that has been oxidized, filtered, and disinfected to meet the corresponding standards set in Chapter 11-62, Hawai'i Administrative Rules. Additional disposal beyond the current R-1 demand is recommended to be addressed by the separate Kealahou Wastewater Treatment Plant upgrade study. An alternative method of R-1 disposal could be landscape irrigation along County or State rights-of-way.

2.1.4 Wastewater Treatment Plant

The KWWTP currently processes approximately 1.2 MGD with an aerated lagoon treatment system before disposal as described above. While this treatment method is not the best or most efficient use of the wastewater treatment plant's property, it's extremely cost-efficient operation will continue to serve the community and DEM's needs into the future.

The 5 MGD design maximum treatment capacity of the plant will be exceeded by projected growth of the area at a point in the future. However, a facility plan shall be initiated when the actual wastewater flow reaches 75 percent of the design capacity of the wastewater treatment works. Implementation of the recommendation of the facility plan shall be initiated when the actual wastewater flow reaches 90 percent of the design capacity of the wastewater treatment works. The treatment of effluent to its current level will be upgraded R-1 prior to distribution in the new reclaimed water system for irrigation use by participating Improvement District land owners and developers.

The design and costing for the upgrades to the KWWTP including the R-1 effluent treatment systems will be prepared under a future contract. Estimated costs provided by County have also been included in the report's Assessment Methods section.

2.2 IMPLEMENTATION COSTS

2.2.1 Land Acquisition

All lands for the sewer collection system and reclaimed water distribution lines are planned to be routed within existing or future public roadway rights-of-way. Therefore, no new land acquisition is anticipated for the future sewer collection system or reclaimed water distribution lines.

There are two (2) Sewage Pump Stations required under the preferred plan that will require an area estimated to be about 1.14 acres for each station site. Their proposed locations would be along Queen Kaahumanu Highway on vacant land identified as Tax Map Key (TMK) 7-3-009: 013 for the Kohanaiki SPS and TMK 7-4-008: 003 for the Kaloko SPS. The area requirements for these pump stations were based on area requirements for several pump stations previously constructed within the Kona region.

As previously mentioned, one (1) reclaimed water reservoir has been identified, and will be located on 1.22 acres of vacant land along Hina Lani Street within TMK 7-3-009: 028 and located at a minimum elevation of 400' above sea level.

The County's current assessed values of these lots are provided. However, the actual costs for the acquisition of these properties would likely be higher and based upon market appraisals. The acquisition costs for these parcels would be subject to County negotiation for acquisition with the owners.

- Konanaiki Business Park SPS - TMK 7-3-009: 013; Dean Lee, et. al.: \$14,592
- Kaloko Business Park SPS - TMK 7-4-008: 003, State of Hawai'i: \$14,250
- Hina Lani Reuse Reservoir - TMK 7-3-009: 025, portion of, Mid Corp Owners: \$23,424

2.2.2 Collection System Materials and Construction

The construction materials recommended and their associated cost estimates have been presented in this section as Tables 2.1 and 2.2. The estimated cost for the recommended improvements is \$127,100,000 and includes a 25% contingency. Table 2.2 also includes an estimate of \$42,000,000 for upgrades to the wastewater treatment plant and was provided to SSFM by the County as it was not within this scope of work.

The wastewater system improvements required for the Improvement District will be in conformance with, but not limited to the following standards and any subsequent revisions, new County of Hawai'i design standards, and updates to these standards:

1. City and County of Honolulu, Design Standards of the Department of Wastewater Management, Volume 1, July 1993.
2. City and County of Honolulu, Design Standards of the Department of Wastewater Management, Volume 2, July 1993.
3. Department of Public Works Standard Details, September 1984.
4. Department of Public Works Standard Specifications, September 1986.
5. Pavement restoration shall be performed in accordance with the standards of the either the County of Hawai'i – Department of Public Works or the State of Hawai'i Department of Transportation Highways Division, dependent upon the respective road owner.

2.2.3 Treatment Systems

Treatment Systems are outside the scope of this report. The County has estimated the cost for treatment for purposes of this report to be \$42 million.

2.2.4 Reuse System

As part of this project a treated effluent re-use system was proposed. The system would not be utilized until the waste water treatment plant has been upgraded to produce "R-1" water. The components of the system would include; a new reservoir at 400' ASL, land acquisition, booster pump and gen set, a lift station at the WWTP, a pipeline to the reservoir and a pipeline to the users. It is expected that NKID would be able to recover a portion of cost for this program through user rates. The re-use system improvements required for the Improvement District will be in conformance with, but not limited to the following references and any subsequent revisions, new County of Hawai'i design standards, and updates to these standards:

1. USEPA "Guidelines for Water Reuse" (EPA/625/R-92/004). 1992
2. Hawaii Department of Health "Guidelines for the Treatment and Use of Reclaimed Water". 2002.
3. Hawaii Administrative Rules, Title 11, Chapter 62 (in regards to subsurface disposal and effluent irrigation using treated wastewater)

TABLE 2.1 - CONCEPTUAL CONSTRUCTION COMPONENTS PREFERRED ALTERNATIVE - KAMANU GRAVITY			
	DESCRIPTION	APPROX. QUANTITY	UNIT
	SITE		
1	Land Acquisition: 2 SPS @ 1.14 ac. Ea; 1 1.0 MG reuse tank @ 1.2 ac	3.5	Acre
2	Sewer Easements	0	Acre
	REPLACE EXISTING SEWER ON KEALAKEHE PARKWAY		
3	24" C900 sewer pipe (incl excav, backfill, pavement repair)	11,250	LF
	SEWER		
4	8" PVC sewer pipe (incl excav, backfill, pavement repair)	32,300	LF
5	10" PVC sewer pipe (incl excav, backfill, pavement repair)	11,500	LF
6	12" PVC sewer pipe (incl excav, backfill, pavement repair)	15,000	LF
7	18" C900 sewer pipe (incl excav, backfill, pavement repair)	21,000	LF
8	24" C900 sewer pipe (incl excav, backfill, pavement repair)	2,050	LF
9	30" C900 sewer pipe (incl excav, backfill, pavement repair)	3,200	LF
10	Sewer Manhole	500	EA
	SEWER FORCE MAIN		
11	8" DI forcemain	3,250	LF
	KOHANA'IKI BUSINESS PARK LIFT STATION		
12	Kohanaiki BP - Sewer Lift Station (incl sitework, pump station, controls, etc)	1	EA
	QUEEN KAAHUMANU SEWER TRUNK LINE & SEWER LIFT STATION		
13	24" C900 sewer pipe (incl excav, backfill, pavement repair)	7,500	LF
14	12" DI forcemain	7,100	LF
15	Kaloko - Sewer Pump Station	1	EA
	REUSE		
16	12" D.I. Forcemain to reservoir	19,500	LF
17	12" D.I. Pressurized Distribution pipe with epoxy lining at 8' depth	22,000	LF
18	Reservoir (incl sitework, controls, etc)	1	EA
19	Booster Pump and Emergency Generator	1	EA
Note 1	Assumed that no temporary bypass sewerlines will be required to upsize existing sewerlines along Kealakehe Parkway. Existing sewerlines along Kealakehe Parkway will remain in use and in-place until a new parallel sewer line can be constructed.		
Note 2	The Jacoby Sewage Pumping Station is not included		

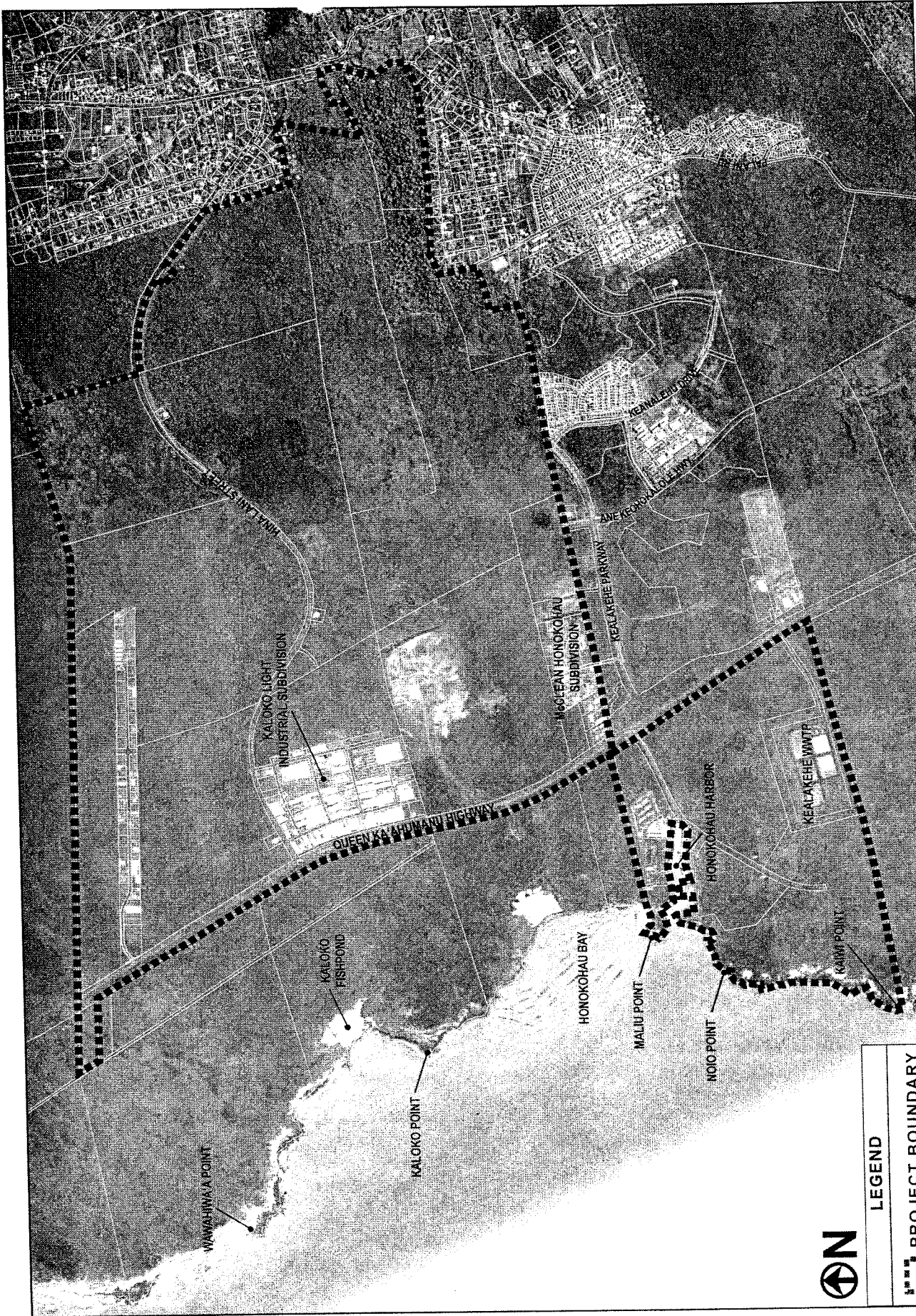
TABLE 2.2 - CONCEPTUAL CONSTRUCTION COST (CIVIL WORK) - PREFERRED ALT, KAMANU GRAVITY					
ITEM NO.	DESCRIPTION	APPROX. QUANTITY	UNIT	UNIT PRICE	COST
1	SITE Land Acquisition	1	Lump Sum	\$60,963	\$60,963
2	REPLACE EXISTING SEWER ON KEALAKEHE PARKWAY 24" C900 sewer pipe (Incl excav, backfill, pavement repair)	11250	LF	\$449	\$5,054,400
3	SEWER 8" PVC sewer pipe (Incl excav, backfill, pavement repair)	32300	LF	\$227	\$7,325,640
4	10" PVC sewer pipe (Incl excav, backfill, pavement repair)	11500	LF	\$227	\$2,608,200
5	12" PVC sewer pipe (Incl excav, backfill, pavement repair)	15000	LF	\$232	\$3,483,000
6	18" C900 sewer pipe (Incl excav, backfill, pavement repair)	21000	LF	\$438	\$9,208,080
7	24" C900 sewer pipe (Incl excav, backfill, pavement repair)	2050	LF	\$449	\$921,024
8	30" C900 sewer pipe (Incl excav, backfill, pavement repair)	3200	LF	\$545	\$1,745,280
9	Sewer Manhole	500	EA	\$20,000	\$10,000,000
10	SEWER FORCE MAIN 8" DI forcemain	3250	LF	\$292	\$947,700
11	OTHERS Kohalaiki BP - Sewer Lift Station (Incl sitework, pump station, controls, etc) In 2007 dollars. Escalated from 2001 dollars	1	EA	\$2,201,286	\$2,201,286
12	QUEEN KAAHUMANU SEWER TRUNK LINE & SEWER LIFT STATION 24" C900 sewer pipe (Incl excav, backfill, pavement repair)	7500	LF	\$449	\$3,369,600
13	12" DI forcemain	7100	LF	\$319	\$2,262,060
14	Sewer Lift Station (Incl sitework, pump station, controls, etc) in 2007 dollars	1	EA	\$4,402,571	\$4,402,571
15	REUSE 12" D.I. Forcemain to reservoir	19500	LF	\$319	\$6,212,700
16	12" D.I. Pressurized Distribution pipe with epoxy lining at 6' depth	22000	LF	\$232	\$5,108,400
17	Reservoir (Incl sitework, controls, etc)	1	EA	\$2,721,600	\$2,721,600
18	Booster Pump and Emergency Generator	1	EA	\$432,000	\$432,000
19	CONTINGENCY		25%	Contingency	\$17,016,126
	CONCEPTUAL CONSTRUCTION COST (CIVIL WORK)			Say	\$85,080,630
20	TREATMENT AND DISPOSAL - ESTIMATED				\$42,800,000
Total w/Treatment					\$127,100,000
Notes/Assumptions:					
Note 1	Assumed that no temporary bypass sewerlines will be required to upsize existing sewerlines along Kealahou Parkway. Existing sewerlines along Kealahou Parkway will remain in use and in-place until a new parallel sewer line can be constructed.				
Note 2	Per GCG, the estimated unit costs for construction are in 2007 dollars.				
Note 3	Unit cost for SPS incl sitework, pump station, odor control system, emergency generator, controls, and control building, etc.				

2.3 IMPROVEMENT DISTRICT BOUNDARIES


This section addresses the proposed boundaries for the Improvement District. This defines the participants that are to be assessed for the improvements. The study area for the Sewer Master Plan was used as a starting point for the improvement district and was modified in accordance with conditions and considerations encountered through the investigations and landowner interviews conducted.

Some landowners are required to participate in the improvement district due to existing entitlement conditions for their developments. Among these are Mid Corp/TSA and the Kaloko Industrial Park. In other cases where approvals were grand-fathered with existing entitlements or where other exemptions exist, landowners may opt to decline participation in the improvement district. For these cases, the improvement district boundary has been modified to reflect those exclusions known at this time, and this boundary is shown on Figure 2. Those presently identified for exclusion include:

- The smaller lots along the eastern part of the project along Palani Road were excluded from consideration because their existing cesspools or septic systems currently preclude the immediate necessity or economic feasibility for connection to a new collection system.
- The 327 Kona LCC development has approximately 30 one-acre lots that have been excluded due to opportunities for cesspool or septic system use.
- A portion of the Stanford Carr Kaloko Heights development (the area north of Hina Lani Street) was excluded in consideration of their development schedule that would precede construction of the improvement district collection system.
- The Shores at Kohanaiki was excluded from consideration for reasons similar to the Kaloko Heights development, and because of their plans to build an independent waste water treatment and reuse system.
- The federal government's National Park Service property is exempt from participation in improvement districts. These National Park Service parcels are situated makai (seaward) of Queen Kaahumanu Highway are not within the improvement district's boundaries.



LEGEND

 PROJECT BOUNDARY

NORTH KONA IMPROVEMENT DISTRICT BOUNDARY MAP

North Kona Improvement District Project
 County of Hawaii, Department of Environmental Management

Figure 2

Source:
 (Aerial) Digital Globe



2.4 PROPOSED METHOD OF ASSESSMENT

There are numerous methods of assessing and apportioning the costs of improvements that have been established throughout the country. Shared cost allocation for shared use and shared benefit is an equitable and logical solution to the common problem of infrastructure funding. The favored and recommended method of assessment, Assessment by Equivalent Dwelling Unit (EDU), follows directly with subsequent discussion on three (3) other assessment methods which were investigated. The North Kona Improvement District area encompasses many unique features that require special consideration to develop an assessment method which is fair to both the participants and the County while maintaining the flexibility required for adapting to future development plans and schedules. As mentioned earlier, the area is mostly undeveloped, with infrastructural challenges exacerbated by volatile development opportunities.

In light of these conditions, four assessment alternatives were developed with the following considerations and assumptions in common:

- Landowners will be responsible for the interior collections systems at their own expense and effort.
- All participants will be assessed the cost of treatment in proportion to the amount of effluent they produce. For example, if a development increases the demand on the KWWTP by 5 percent, they are assessed 5 percent of the cost of expansion or improvement.
- All participants will be assessed a portion the cost of wastewater disposal in the same fashion and for the same reason. This would be inclusive of the R-1 treatment facility, reclaimed water distribution, and reclaimed water reservoir as they are all integral portions of the water disposal system.
- All users of reclaimed water will be assessed a portion of the cost of R-1 treatment and transmission improvements in proportion to the volume of their demand.
- Participants will be assessed a proportional cost of the collection system calculated by one of the assessment methods investigated.

2.4.1 Assessment by Equivalent Dwelling Unit

Equivalent Dwelling Unit (EDU) is a calculation wherein one unit is equivalent to the average wastewater effluent from one average household per day. Based on the 1993 City and County of Honolulu Design Standards of the Department of Wastewater Management, new sewer systems shall be designed on the basis of an average per capita flow of wastewater of 80 gallons per day. Residential occupancy shall be assumed to be 4 persons per home. Therefore, one (1) EDU should be 320 gallons per day per average home. Wastewater flows from other than residential are based on land use and shown in EDU units. Each of the lots within the

proposed North Kona Improvement District was allocated an EDU value based on projected land uses (where available) in the 2025 study year.

In some cases, the future land uses were undetermined. For purposes of this implementation report, however, values needed to be assigned as calculations based upon “no future demand” would result in unacceptably skewed projections. In such cases, assumptions were made based upon likely land uses given surrounding land entitlements and EDU values. Assessments were then based upon the proportional number of EDU each landowner applies to the system.

A generalized schedule of the EDU values and Average Daily Flows (ADF) that were used in the calculations is attached as Appendix C. An Assessment Roll is included as Appendix D which shows assessment amounts that each Tax Map Key (TMK) parcel owner in the district would be expected to pay as their share of the improvements funded through the improvement district.

This is a straightforward calculation wherein landowners are assessed in accordance to their contribution to demand. In addition to offering simplicity of application, it provides some incentive for broader participation. Unlike the alternative Owner Area and Zonal methods considered and discussed later, this approach does not penalize properties for their distance from the KWWTP. With evenly spread collection costs, it offers incentive to those who might otherwise protest improvement district participation. In this respect, the assessment is more like a water system assessment wherein it does not matter where a user connects to the system with respect to the well or reservoir or pump station. Everyone is assessed purely on usage and development costs.

The EDU calculation is a well-established and accepted method of projecting flow. It is already an integral part of this Implementation Plan as it serves as the basis for calculating the future demand on the KWWTP and the Reclaimed Water Distribution System. This approach, which is the preferred and recommended alternative, adds EDU apportionment of the collection system so that the entire NKID is calculated with a single, straightforward and logical methodology offering best advantage to the overall Implementation Plan.

2.4.2 Other Assessment Methods Not Recommended

Assessment by Owner Area

One of the greatest impacts on a wastewater collection system is distance. Distance from the KWWTP dictates the length of trenching, sewer pipe, number of sewer manholes, and other associated costs. The amount of sewage effluent generated by the owners determines the sizing of the components of the collection system as well as the Plant improvements required.

With distance as the major parameter relating to cost of the development of the collection system, landowners further away will have greater expenses due to length of their connection and a cost advantage is given to those landowner areas in closer proximity to the KWWTP.

The Owner Area approach as investigated, builds a theoretical collection system for a single landowner area from the boundary of the subject parcel to the KWWTP. A conceptual alignment is selected, from which a conceptual construction cost is determined that each Owner Area would need to fund if it were to independently connect to the plant.

The 11 major “Owner Areas” were analyzed within the implementation plan proposed boundary area. A figure showing these areas is included in this report as Appendix E. A theoretical 12-inch PVC pipe collection alignment with sewer manholes every 300 lineal feet was located along the various public rights-of-way terminating at the KWWTP. Where sewer lift stations and force mains were required, they were added to the theoretical collection system.

After computing the total for all landowners, a percentage share was calculated for each serving as the basis for apportionment of the estimated costs for construction for each landowner. The investigation showed the Owner Area method to be burdensome with the following pitfalls:

- This method favored proximity to the wastewater treatment plant and penalized landowners further away.
- It was not realistic to build an independent collection line for each major landowner.
- Grouping of large areas was done by land ownership. Combining large TMK parcels may not be appropriate.
- Routing and alignment of the collection line was subjective with many possible alternatives.
- Lift stations were problematic because of the variation in landowner flows, sizing and pricing of sewer pumping stations.
- The assessment roll was extensive utilizing collection system and force main pipe lengths, sewer manhole counts, unit prices, lift stations, design year effluent flows etc. Changes to the district boundaries or participants in the improvement district will require alteration to the assessment roll spreadsheet.
- This method was not a standard method of assessment.

Assessment by Zone

The Assessment by Zone, or referred to as the Zonal Method, also assesses in large part by distance from the KWWTP. It also hypothesizes a theoretical sewerage system. But rather than a 12-inch collector, it uses system components progressively increasing in size as it shares capacity with other landowners down stream along the system’s length. This method creates five Zones and estimates the costs for collection, treatment and reuse for each Zone’s effluent

contribution. A figure showing the five zones used in this assessment method was included in this report as Appendix F.

West or lower elevation boundaries of Zones 1, 2, 3 and 4 were located on existing or planned major roadway locations where future backbone collection infrastructure was planned. As Zones would not utilize any collector pipelines uphill of their locations, such costs associated with such development were not attributed within the respective assessments.

Landowners' inter-zonal shares of assessment were then computed in proportion to their zonal effluent contribution. Landowner's costs were summed for all Zones and this total landowner cost was divided by the total project costs to determine a percentage for apportionment.

Evaluation of this method determined that this Owner Area method would be troublesome due to the following factors:

- This method favors proximity to the wastewater treatment plant and penalizes zones further away.
- It is not realistic to build an independent collection line for each major zone.
- Zones are determined by major north-south connector roads and do not follow Tax Map Key or landowner areas. This creates complexity in the assessment roll.
- Many other potential zone boundaries are possible.
- Routing and alignment of the collection line is subjective with many possible alternatives.
- The assessment roll is extensive utilizing collection system and force main pipe lengths, sewer manhole counts, unit prices, lift stations, design year effluent flows, etc. Changes to the district boundaries or participants in the improvement district will require alteration to the assessment roll spreadsheet.
- This method is not a standard method of assessment.

Assessment by Square Footage

The Assessment by Square Footage, or referred to as the "Square Footage", method was utilized by the County of Hawai'i in the Hina Lani Improvement District. This method utilized the square footage of the Tax Map Key parcels in computing assessments. The City and County of Honolulu also utilized a square foot method for sewer improvement districts but included various rates depending on land use.

For the North Kona Improvement District, this method was investigated and the square footage of each TMK lot was utilized to compute a percentage share of the district's total acreage. This allowed for the determination of an assessment roll showing each participant's share of the improvement district's expenses.

This method was simple and straightforward, and easily altered to accommodate final district boundaries and improvement district participants. There was one major drawback with utilizing this method for funding sewer improvements:

- Fails to account for wastewater generation differences in land uses.. This method would utilize the same costs per square foot for different land uses. Thus, penalizing landowners of open spaces and other less intensive land uses.

2.5 METHOD OF FINANCING

Through the establishment of an Improvement District the County can provide funding for planning, designing and construction of improvements related to the sanitary sewer and reuse systems. The funding generally comes in the form of “floating bonds” which are paid off over twenty years. Revenue is generated through assessments of each parcel owner. Privately owned improvements are also possible if the County determines a benefit to the public.

Sewer related improvements and the assessment of costs to each property owner can be achieved a number of ways and include:

- Council-initiated improvement districts;
- Tax increment district;
- Community facilities district financing (CFD); and
- The Clean Water State Revolving Fund program.

2.5.1 Council – Initiated Improvement District

The council may issue improvement bonds, general obligation bonds or use the general fund to pay for the improvements. Replenishment of the general fund and bond payments would come from the special assessment revolving fund. This fund receives from the homeowners their special assessments. The council must reconsider the improvement district if a there is a protest of at least 50% of the residents within the improvement district.

2.5.2 Tax Increment District

Financing can also be completed through tax increment financing. This alternative collects the assessed amount when real property taxes are collected and these tax payments would be used to fund the tax increment bonds that would pay project costs. The council may terminate the tax increment financing process if it finds that the owners of property in the proposed district do not support the proposed improvements or are not willing to pay for the improvements.

2.5.3 Community Facilities District (CFD)

Funding for a Community Facilities District (CFD) could be done by community facilities district bonds, general obligation bonds or by using the County's capital projects fund. The special taxes levied under this model would repay the capital projects fund or finance the bond payments. A protest of at least 55% of the residents within the improvement district would delay the formation of the CFD.

2.5.4 Clean Water State Revolving Fund Program

The Clean Water State Revolving Fund Program is a low interest loan program administered by the State of Hawaii Department of Health, Environmental Management Division, Wastewater Branch, for the construction, modification or rehabilitation of point source and non-point source water pollution control projects. The minimum loan amount is \$1,000,000. Depending on availability due to fund levels, this funding source could be used to augment the bond proceeds to finance the improvements. The State or the County is required to provide a 20% funding match to the loan amount.

CHAPTER 3 CONCLUSION

3.1 RECOMMENDED METHOD OF ASSESSMENT

The recommendations included in this Implementation Plan consist of a compilation of many different assessment considerations. The largely undeveloped nature of the Study Area and the volatility of the development market make changes to some of the data included herein a virtual certainty, but the approach and conclusions will have applicability regardless of the eventual development transformation of North Kona.

The preferred Equivalent Dwelling Unit Assessment method would provide the most flexibility and could easily be adjusted to accommodate future changes in land uses through the following processes:

- By adding or revising County shares in consideration of universal public benefit
- By revising improvement district boundaries reflecting changes in landowner participation
- By including grants or alternate sources of funding

3.2 PRELIMINARY IMPLEMENTATION SCHEDULE

An example of an implementation schedule utilizing Hawaii County Code Chapter 12 – Improvements by Assessments is provided in Appendix G. It consists of a flowchart showing the various steps toward the implementation of the North Kona Improvement District from the County Council Resolution for the construction of the improvements.

The actions of the County Council, landowners and lessees, and County staff are denoted by different geometric shapes within the schedule. Two columns to the left of the flowchart are “Estimated Timeline/Discussion” and “Target Dates” and are used to explain the various steps in the schedule and give estimated dates for the various actions.

It should be noted that this is a simplified schedule, subject to change due to the many possible influences an improvement district process experiences, and should be used as a rough guide if Chapter 12 is selected as the framework for implementation. As the project proceeds and the preferred financing method determined, the schedule can be modified to accommodate the enabling legislation and situation at that time.

3.3 PREFERRED METHOD OF FINANCING

County staff underwrote the February 8, 2008 North Kona Wastewater Facilities Financing Analysis Administrative Draft by Goodwin Consulting Group. This Draft Report available

separately provides an in-depth analysis of various methods of financing infrastructural development. The Implementation Plan defers to their recommendation for the use of a Community Facilities District (CFD) to fund the planned wastewater improvements in the North Kona area.

APPENDIX A

COUNCIL RESOLUTION 129-03

RESOLUTION NO. 129 03
Draft 2

A RESOLUTION RELATING TO THE PREPARATION OF (1) A NORTH KONA REGIONAL SEWERAGE MASTER PLAN; AND (2) A COUNCIL INITIATED IMPROVEMENT DISTRICT IMPLEMENTATION STUDY FOR THE CONSTRUCTION OF CERTAIN WASTEWATER AND RECYCLED WATER SYSTEM IMPROVEMENTS FOR KEALAKEHE, HONOKOHAU, KALOKO AND KOHANAIFI, DISTRICT OF NORTH KONA, HAWAI'I

WHEREAS, the Council of the County of Hawai'i wishes to initiate proposed improvements on certain real property located at Kealakehe, Honokohau, Kaloko and Kohanaifi, District of North Kona, County and State of Hawai'i for improvements consisting of extension to the municipal sewer system and recycled water system, pursuant to the provisions of Section 12-10, Hawai'i County Code, as amended; and

WHEREAS, the Council of the County of Hawai'i acknowledges that the Kona Coast north of Kailua contains valuable, unique marine resources and pristine shoreline park properties including Honokohau Harbor, Kaloko Honokahau National Historic Park, a new Kohanaifi shoreline park, and the Natural Energy Laboratory of Hawai'i Authority at Keahole Point; and

WHEREAS, the Council finds that the rapid confluence of private and public developments within the North Kona region extending from Kealakehe and Kaloko to Honokohau Harbor and north to the Lands of Kau calls for an updated regional sewerage master plan for this area; and

WHEREAS, the operative "sewer policies" referenced in Ordinance 89-142, An Ordinance Adopting the County of Hawai'i General Plan and Repealing Ordinance No. 439, As Amended ("the General Plan") for the general planning of sewerage disposal systems are decades old, to wit: the "Sewerage Study for All Urban and Urbanizing Areas of the County of Hawai'i, State of Hawai'i," December 1970, the "Water Quality Management Plan for the County of Hawai'i," December 1980, and the "Facility Plan for the Kailua-Kona Sewerage System, Phase IV (Northern Zone)," April, 1981; and

WHEREAS, in its assessment of the projected sewage flow capacity of the Kealakehe Sewage Treatment Plant, the "Keahole to Kailua Development Plan" adopted by the County Council in Resolution 296-91 on April 3, 1991 called for "further planning and design"; and

WHEREAS, the General Plan states that industrial development in North Kona's "redeveloping or newly developing areas shall be developed in concert with programmed public and privately funded infrastructure to meet the expected needs"; and

WHEREAS, expanded visitor use of the Kaloko Honokahau National Historic Park administered by the National Park Service, coupled with shoreline park development of Kohanaifi and its planned, low density intentional community, merit thoughtful wastewater treatment and sewerage planning to assure environmental protection of these pristine shoreline areas; and

WHEREAS, the “Sewer Policies” outlined in the General Plan states, in part:

- “Private systems shall be installed by land developers for major resort and other developments along shorelines and sensitive higher inland areas, except where connection to nearby treatment facilities is feasible and compatible with the County's long-range plans, and in conformance with state and county requirements.
- The County shall take immediate steps to designate treatment plant sites, sewerage pump station sites, and sewer easements according to the facility plans to facilitate their acquisition.
- The County shall seek State and Federal funds to assist in financing the construction of proposed sewer systems”; and

WHEREAS, the Council of the County of Hawai‘i acknowledges the need to implement improvements consisting of extension to the municipal sewer system and recycled water system on certain real property located at Kealakehe, Honokohau, Kaloko and Kohanaiki, District of North Kona, County and State of Hawai‘i; and

WHEREAS, extension of said improvements from the existing Kealakehe Wastewater Treatment Plant north along the alignment of the Queen Kaahumanu Highway to Kohanaiki will include, but not be limited to, necessary recycled water mains, gravity sewers, manholes, pump station(s) and force mains, and sewer laterals with cleanouts to be installed to each property serviced by the proposed improvements; and

WHEREAS, the Council acknowledges that there are a number of public and private developments planned or completed in this region including, but not limited to, Lanihau Properties, McClean Honokohau Properties, Gentry Properties, Taylor Family Ltd. Partnership, Mid Corporation, Rutter/KW Kohanaiki LLC, TSA Corporation, Y-O Properties, and various public landowners including the State of Hawai‘i, the State of Hawai‘i Department of Hawaiian Homelands, the United States of America (General Services Administration and National Park Service), as well as a newly proposed West Hawai‘i campus of the University of Hawai‘i; and

WHEREAS, the Council acknowledges that the mix of private and public development of properties within the region requires the preparation of a more comprehensive regional plan of wastewater treatment needs and sewer improvements than that contemplated in Resolution No. 70-01 (deferred), which proposed a Council-initiated improvement district from the Kealakehe Wastewater Treatment Plant to the Kaloko Industrial Area; and

WHEREAS, the Council finds that a number of options may be chosen for the allocation of costs of sewer system improvements, including, but not limited to: distribution of sewer improvement district costs by parcel, allocation by zoning or permissible number of units assigned to each parcel, potential usage, required sewer capacity, square footage of buildings, benefits conferred upon the land, or a combination thereof; and

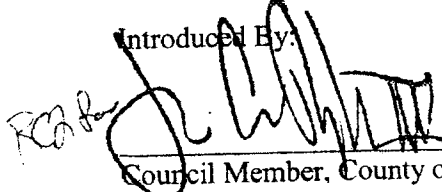
WHEREAS, the allocation of costs associated with said improvements and the preferred financing thereof may best be determined after the scope and timetable(s) of intended development, including incremental development, of all affected landowners are surveyed, and all landowners are consulted within a regional planning process.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF HAWAI'I that:

- (1) in consultation with the landowners referenced above, the Director of the Environmental Management is directed to prepare for submission to the Council (a) a broad regional sewerage master plan for the region north of Kealakehe, and (b) a specific and detailed implementation plan for an improvement district to include the necessity, feasibility, proposed boundaries, proposed real properties subject to assessment, estimated total cost, and method of financing desirable for the aforementioned sewer system improvements at Kealakehe, Honokohau, Kaloko and Kohanaiki, District of North Kona, County and State of Hawai'i; and
- (2) include in the specific and detailed implementation plan all such data, survey, maps, plans, drawings, details and specifications for the improvements and any other matters or details intended to apply thereto in accordance with the provisions of Section 12-10, Hawai'i County Code, as amended; and
- (3) advise the Council as to the preferred method of financing said improvements, whether by Council-initiated improvement district, owner-initiated improvement district, tax increment district, community facilities district, or private financing.

BE IT FURTHER RESOLVED that the Clerk of the County of Hawai'i transmit copies of this resolution to the directors of the Departments of Finance and Environmental Management, and the Environmental Management Commission.

Dated at Hilo, Hawai'i, this 17th day of December, 2003.

Introduced By: 
 Council Member, County of Hawai'i

COUNTY COUNCIL
 County of Hawai'i
 Hilo, Hawai'i

I hereby certify that the foregoing RESOLUTION was by
 The vote indicated to the right hereof adopted by the COUNCIL of the
 County of Hawai'i on December 17, 2003.

ATTEST:

 COUNTY CLERK
 CHAIRMAN & PRESIDING OFFICER

ROLL CALL VOTE

	AYES	NOES	ABS	EX
ARAKAKI	X			
CHUNG	X			
ELARIONOFF	X			
HOLSCHUH	X			
JACOBSON	X			
REYNOLDS	X			
SAFARIK	X			
TULANG	X			
TYLER	X			
	9	0	0	0

Reference: C-417.4

RESOLUTION NO. **129 03** (Draft 2)

APPENDIX B

*PREFERRED ALTERNATIVE
KAMANU GRAVITY*

APPENDIX C

AVERAGE DAILY FLOW SCHEDULE

EQUIVALENT DWELLING UNITS - AVG DAILY FLOW- DEVELOPER AREA

	OWNER/DEVELOPER	EDUs	AVG. DAILY FLOW -GALS
1	S.CARR DEV/KOLOKO HGTS	710	227,200
2	327 KONA, LLC	1,050	336,000
3	LANIHAU PROP./PALANI RNCH	6,371	2,038,720
4	MID CORP	4,532	1,450,098
5	McCLEAN SUBDIV AREA	521	166,685
6	WEST HAWAII BP	3,917	1,253,532
7	TSA- KALOKO BUSINESS PARK	3,067	981,319
8	KOHANAIKI BUS. PARK	466	149,166
9	DEAN ETAL	389	124,332
10	JACOBY/DLNR/STATE	20,000	6,400,000
11	HONOKOHAU HARBOR/STATE	193	61,878
	TOTAL	41,215	13,188,929

APPENDIX D

ASSESSMENT ROLL EDU METHOD

ASSESSMENT ROLL - EQUIVALENT DWELLING UNIT

TMK	Owner	DEVELOPMENT AREA	2025 Or B.O. AVG. DAILY FLOW (GPD)	EDU Value	Assessment
373009013	LEE,DEAN K /etal	Multiple Owners	109,900	343.4	1,059,087
373009014	LEE,DEAN K /etal	Multiple Owners	14,432	45.1	139,083
373009016	KOHANA'IKI SHORES LLC	Rutter Development	0	0.0	0
373009017	MID CORP.	MID: (3) 7-3-009: 017	294,210	919.4	2,835,260
373009018	KALOKO LAND CO /etal	Kaloko Land Co.	0	0.0	0
373009019	KOLOKO HEIGHTS ASSOCIATES LLC	Koloko Heights: (3) 7-3-009: 019	227,200	710.0	2,189,497
373009020	KOLOKO HEIGHTS ASSOCIATES LLC /etal	Koloko Heights: (3) 7-3-009: 032 & 020	0	0.0	0
373009021	U.S.A.	National Park	0	0.0	0
373009025	MID CORP.	MID: (3) 7-3-009: 025	470,723	1,471.0	4,536,298
373009026	MID CORP.	MID: (3) 7-3-009: 026	238,448	745.1	2,297,890
373009027	COUNTY OF HAWAII, WATER COMMISSION	DWS Water Tank	0	0.0	0
373009028	MID CORP.	MID: (3) 7-3-009: 028	446,717	1,396.0	4,304,956
373009032	KOLOKO HEIGHTS ASSOCIATES LLC	Koloko Heights: (3) 7-3-009: 032 & 020	out		0
373051001	COSTCO WHOLESALE CORP	Kaloko Light Industrial	44,415	138.8	428,017
373051002	T HARA & COMPANY LTD	Kaloko Light Industrial	3,486	10.9	33,596
373051003	FITZGIBBONS FAM LTD PRTRNSP	Kaloko Light Industrial	3,458	10.8	33,321
373051004	J C FARMS FAMILY LIMITED	Kaloko Light Industrial	2,634	8.2	25,386
373051005	KIDDS DEV CORP	Kaloko Light Industrial	2,531	7.9	24,386
373051006	RNI-NV LTD PARTNERSHIP	Kaloko Light Industrial	5,271	16.5	50,793
373051008	DUTCH TWO FAMILY LTD PARTNR	Kaloko Light Industrial	2,622	8.2	25,270
373051010	OLINDA COUNTRY ESTATES INC	Kaloko Light Industrial	5,115	16.0	49,289
373051011	MATSUNO ENTERPRISES LTD	Kaloko Light Industrial	2,619	8.2	25,236
373051012	KALOKO BUSINESS PARTNERS	Kaloko Light Industrial	2,607	8.1	25,120
373051013	HILO SODA WORKS INC	Kaloko Light Industrial	2,651	8.3	25,550
373051014	BETTER BRANDS LTD	Kaloko Light Industrial	2,592	8.1	24,975
373051016	KNAGGS KALOKO STORAGE LLC	Kaloko Light Industrial	5,323	16.6	51,299
373051017	TIME WARNER ENTERTAINMENT CO LP	Kaloko Light Industrial	2,720	8.5	26,215
373051018	JOHN H. PACE JR.	Kaloko Light Industrial	5,171	16.2	49,829
373051019	RKB ENTERPRISES LLC	Kaloko Light Industrial	2,474	7.7	23,838
373051020	KIRIHARA,GEORGE Y TRUST /etal	Kaloko Light Industrial	2,537	7.9	24,445
373051021	PACIFIC RIM INTEGRATED DEV GROUP INC	Kaloko Light Industrial	2,633	8.2	25,377
373051022	DUESENBERG INVESTMENT COMPANY	Kaloko Light Industrial	5,015	15.7	48,330
373051023	KALOKO AINA LLC	Kaloko Light Industrial	2,586	8.1	24,923
373051024	KALOKO AINA LLC	Kaloko Light Industrial	2,580	8.1	24,863
373051025	COSCO PROPERTIES LLC	Kaloko Light Industrial	2,585	8.1	24,913
373051026	BLAKE,RICHARD C /etal	Kaloko Light Industrial	2,564	8.0	24,704
373051027	WAREHOUSE DIRECT LLC	Kaloko Light Industrial	2,549	8.0	24,563
373051028	ANHEUSER-BUSCH SALES OF HI	Kaloko Light Industrial	2,636	8.2	25,401
373051029	FELIX,FRANK JR TR /etal	Kaloko Light Industrial	2,638	8.2	25,420
373051030	L & L BLDG PARTNERS	Kaloko Light Industrial	2,567	8.0	24,736
373051031	CAL-CAM II /etal	Kaloko Light Industrial	2,606	8.1	25,114
373051032	HONSADOR LUMBER CORPORATION	Kaloko Light Industrial	5,072	15.8	48,874
373051033	CAL-CAM BUILDERS /etal	Kaloko Light Industrial	2,586	8.1	24,918
373051034	MUSSELLS,JAMES /etal	Kaloko Light Industrial	2,563	8.0	24,700
373051035	WAREHOUSE DIRECT,LLC	Kaloko Light Industrial	2,598	8.1	25,038
373051036	NIU PIA LAND COMPANY,LTd	Kaloko Light Industrial	2,610	8.2	25,149
373051037	KALOKO 36 LLC	Kaloko Light Industrial	2,632	8.2	25,362
373051038	GRANGER,SANFORD S TR	Kaloko Light Industrial	2,591	8.1	24,968
373051039	GRANGER,SANFORD S TR	Kaloko Light Industrial	2,570	8.0	24,767
373051040	NAGAMINE,TAKEO TR	Kaloko Light Industrial	2,593	8.1	24,991
373051041	ROSS,MARGARET D TR /etal	Kaloko Light Industrial	2,563	8.0	24,899
373051042	KALOKO BUSINESS PARTNERS	Kaloko Light Industrial	2,568	8.0	24,745
373051043	KALEPA KONA PARTNERS /etal	Kaloko Light Industrial	2,683	8.4	25,851
373051044	CAL-CAM CENTRE III /etal	Kaloko Light Industrial	2,585	8.1	24,914
373051045	PERRY,NORMAN B TR	Kaloko Light Industrial	2,657	8.3	25,601
373051046	BEHPOUR,ARMAND INC	Kaloko Light Industrial	2,608	8.1	25,130
373051047	KALOKOHANA BUSINESS CENTER /etal	Kaloko Light Industrial	2,597	8.1	25,029
373051048	LEIS,FAMILY LTD PARTNERSHIP	Kaloko Light Industrial	2,692	8.4	25,938
373051049	C.R. FENNER BUILDING /etal	Kaloko Light Industrial	2,591	8.1	24,968
373051050	FAGET,G G/C Z TRUST	Kaloko Light Industrial	2,582	8.1	24,880
373051051	SUISAN PROPERTIES LTD	Kaloko Light Industrial	6,442	20.1	62,083
373051053	BIG ISLE MOVING & DRAYING INC	Kaloko Light Industrial	3,340	10.4	32,184
373051054	S Y YAMANAKA LTD	Kaloko Light Industrial	3,411	10.7	32,869
373051055	KONA STORAGE PARTNERS LLC /etal	Kaloko Light Industrial	6,866	21.5	66,171
373051057	HAWAII ELECTRIC	Kaloko Light Industrial	868	2.7	8,365
373051058	KALOKO COMMUNITY ASSN	Kaloko Light Industrial	0	0.0	0
373051060	TSA CORPORATION	Kaloko Light Industrial	673,126	2,103.5	6,486,826
373051061	BATA LLC	Kaloko Light Industrial	5,073	15.9	48,892
373051065	MINSON,WILLIAM L /etal	Kaloko Light Industrial	3,518	11.0	33,907
373051067	HAWAII COMMUNITY FCU	Kaloko Light Industrial	15,094	47.2	145,455
373051068	LEJAND ENTERPRISES LLC	Kaloko Light Industrial	6,631	20.7	63,905
373051069	LEJAND ENTERPRISES LLC	Kaloko Light Industrial	2,759	8.6	26,587
373051071	HOME DEPOT USA INC	Kaloko Light Industrial	31,318	97.9	301,804
373051082	PEDOS CONDO /etal	Kaloko Light Industrial	2,435	7.6	23,462

ASSESSMENT ROLL - EQUIVALENT DWELLING UNIT

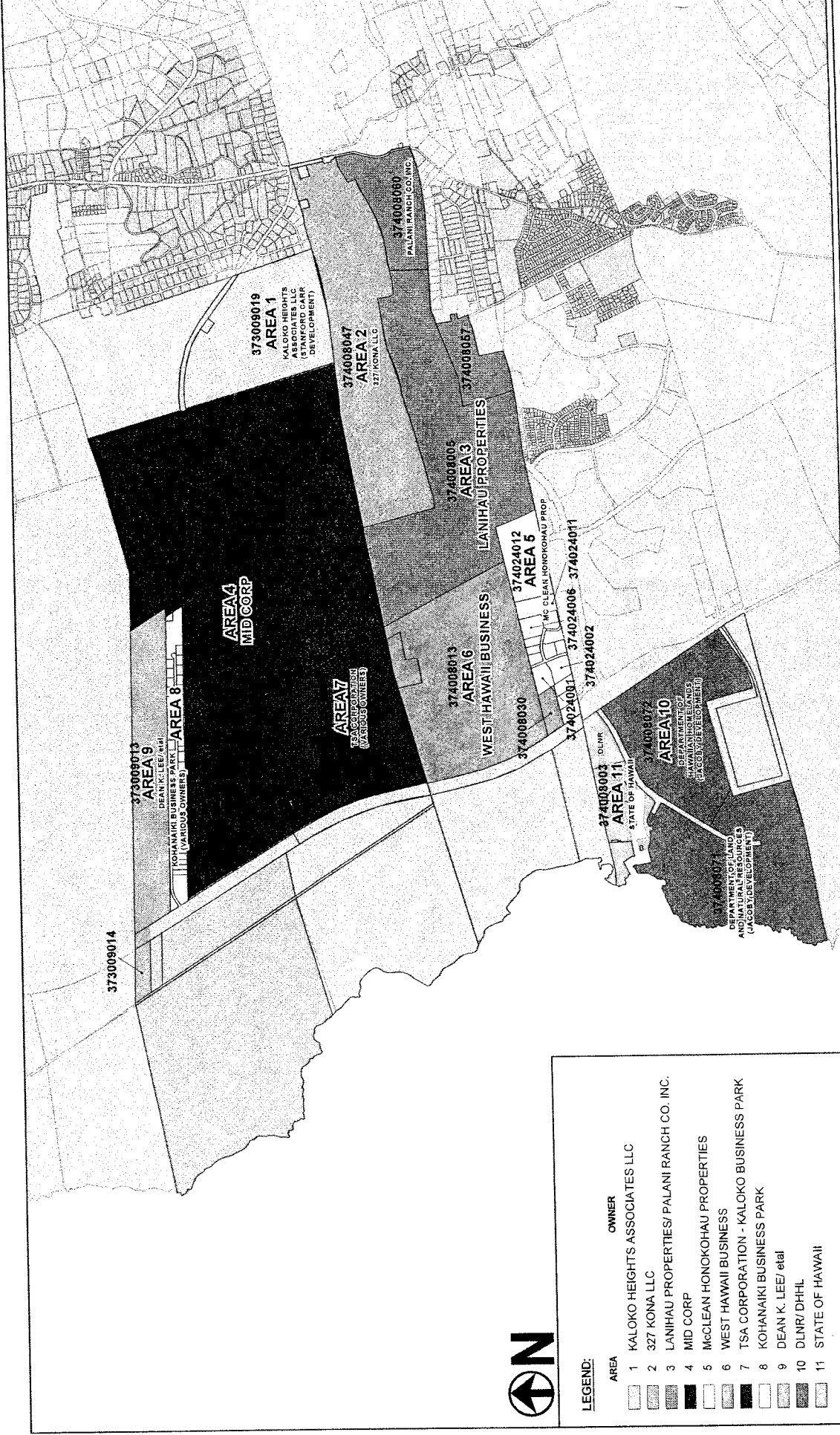
TMK	Owner	DEVELOPMENT AREA	2025 Or B.O. AVG. DAILY FLOW (GPD)	EDU Value	Assessment
373051084	LARWYN,TR	Kaloko Light Industrial	3,290	10.3	31,703
373051085	BERZANSKI,JOHN F	Kaloko Light Industrial	2,993	9.4	28,842
373051086	KAUHOLA INDUSTRIAL BUILDING /etal	Kaloko Light Industrial	3,088	9.6	29,757
373051087	KAMANU PLAZA /etal	Kaloko Light Industrial	2,600	8.1	25,052
373051088	HUTCHISON-MILLER,STACY N	Kaloko Light Industrial	2,718	8.5	26,197
373051089	TAYLOR FAMILY LIMITED PARTNERSHIP	Kaloko Light Industrial	5,470	17.1	52,715
373051091	NIU PIA LAND COMPANY LTD	Kaloko Light Industrial	2,974	9.3	28,661
373051092	CAPRI,GARY L /etal	Kaloko Light Industrial	2,725	8.5	26,257
373051093	CAPRI,GARY L /etal	Kaloko Light Industrial	2,741	8.6	26,411
373051094	KALOKO BUSINESS CENTER IV /etal	Kaloko Light Industrial	2,705	8.5	26,064
373051095	KALOKO BUSINESS CENTER V /etal	Kaloko Light Industrial	2,708	8.5	26,099
373051096	RINKENBACH,WILLIAM H /etal	Kaloko Light Industrial	2,644	8.3	25,484
373051097	KRIS KISER/KIMBERLY KISER LLC	Kaloko Light Industrial	2,662	8.3	25,658
373058001	KALANIKU LLC	Kohanaiki Business Park	3,237	10.1	31,196
373058002	MATSUYAMA DEVELOPMENT CO	Kohanaiki Business Park	13,095	40.9	126,196
373058007	TRI-J HOLDINGS LLC	Kohanaiki Business Park	2,577	8.1	24,836
373058008	TRI-J HOLDINGS LLC	Kohanaiki Business Park	2,577	8.1	24,836
373058009	TILE WAREHOUSE INC	Kohanaiki Business Park	2,586	8.1	24,919
373058010	EXCHANGE ACCOMMODATORS INC	Kohanaiki Business Park	2,586	8.1	24,920
373058011	HAWAII MODULAR SPACE INC	Kohanaiki Business Park	2,586	8.1	24,920
373058012	PIHALIMA PROPERTIES LLC	Kohanaiki Business Park	2,586	8.1	24,919
373058013	ALLIED MACHINERY CORP	Kohanaiki Business Park	2,586	8.1	24,919
373058014	WASA ELECTRICAL SERVICES	Kohanaiki Business Park	2,586	8.1	24,919
373058015	NAGAMINE,TAKEO TR	Kohanaiki Business Park	2,596	8.1	25,016
373058016	NAGAMINE,TAKEO CREDIT TR	Kohanaiki Business Park	2,586	8.1	24,919
373058017	MATSUYAMA BROTHERS TRUCKING INC	Kohanaiki Business Park	2,586	8.1	24,919
373058018	MATSUYAMA BROTHERS TRUCKING INC	Kohanaiki Business Park	2,586	8.1	24,919
373058019	GEO INVESTMENT CO INC	Kohanaiki Business Park	4,163	13.0	40,122
373058020	TOSHITAKA FAM LTD PRTNRSH	Kohanaiki Business Park	2,713	8.5	26,141
373058021	TOSHITAKA FAM LTD PRTNRSH	Kohanaiki Business Park	2,713	8.5	26,141
373058022	KURASAKI,KAZUKO /etal	Kohanaiki Business Park	2,723	8.5	26,243
373058023	KURASAKI,KAZUKO /etal	Kohanaiki Business Park	2,713	8.5	26,141
373058024	EMBERNATE,LEILANI P /etal	Kohanaiki Business Park	2,713	8.5	26,141
373058025	DOWNING,JAMES CHRISTOPHER III /etal	Kohanaiki Business Park	2,583	8.1	24,889
373058026	MIZUKAMI,SIDNEY T TR	Kohanaiki Business Park	2,581	8.1	24,877
373058027	MIZUKAMI,SIDNEY T TR	Kohanaiki Business Park	2,572	8.0	24,784
373058028	KRIEG,ALEX TR	Kohanaiki Business Park	2,565	8.0	24,717
373058029	NAKATA,MASASHI	Kohanaiki Business Park	2,574	8.0	24,808
373058030	PARADISE SAFARIS,INC	Kohanaiki Business Park	2,535	7.9	24,431
373058031	PIERSON,JACK	Kohanaiki Business Park	2,535	7.9	24,426
373058032	OKA & OKA HAWAII LLC	Kohanaiki Business Park	2,534	7.9	24,421
373058033	OKA & OKA HAWAII LLC	Kohanaiki Business Park	2,458	7.7	23,690
373058034	OKA & OKA HAWAII LLC	Kohanaiki Business Park	2,468	7.7	23,781
373058035	INDUSTRIAL GROUP	Kohanaiki Business Park	2,468	7.7	23,788
373058036	TKO LLC	Kohanaiki Business Park	2,445	7.6	23,561
373058037	M&A HOLDINGS LLC	Kohanaiki Business Park	2,452	7.7	23,628
373058038	MALIA OHANA II PARTNERSHIP	Kohanaiki Business Park	2,621	8.2	25,254
373058039	MALIA OHANA II PARTNERSHIP	Kohanaiki Business Park	2,515	7.9	24,237
373058040	SANTOSHA ESTATE LLC	Kohanaiki Business Park	3,541	11.1	34,119
373058041	JT KONA LAND HOLDINGS LLC	Kohanaiki Business Park	2,205	6.9	21,247
373058042	R R S INC	Kohanaiki Business Park	2,227	7.0	21,460
373058043	L A ANUENUE LLC	Kohanaiki Business Park	2,199	6.9	21,194
373058044	PACIFIC SOURCE PROPERTIES HAWAII,LLC	Kohanaiki Business Park	2,213	6.9	21,329
373058045	PEDEFERRI,JOSEPH H TR	Kohanaiki Business Park	2,210	6.9	21,297
373058046	DAXYN,TR	Kohanaiki Business Park	2,251	7.0	21,688
373058047	NAKAMURA,BOBBY S /etal	Kohanaiki Business Park	2,263	7.1	21,806
373058048	KONA BUSINESS PARK PHASE II LLC	Kohanaiki Business Park	2,296	7.2	22,128
373058049	KONA BUSINESS PARK PHASE II LLC	Kohanaiki Business Park	1,738	5.4	16,751
373058050	KONA BUSINESS PARK PHASE II LLC	Kohanaiki Business Park	1,248	3.9	12,026
373058052	KONA BUSINESS PARK PHASE II LLC	Kohanaiki Business Park	21,778	68.1	209,870
374008003	STATE OF HAWAII	Honokohau Harbor	26,747	83.6	257,760
374008005	LANIHAU PROPERTIES	Lanihau Properties Development	2,036,800	6,365.0	19,628,377
374008010	U.S.A.	National Park - OUT	0	0.0	0
374008013	WEST HAWAII BUSINESS PARK LLC	West Hawaii Business Park	1,152,260	3,600.8	11,104,185
374008025	U.S.A.	National Park	0	0.0	0
374008030	WEST HAWAII BUSINESS PARK LLC	West Hawaii Business Park	25,509	79.7	245,829
374008033	ISEMOTO CONTRACTING CO	McCLean Subdivision	8,949	28.0	86,239
374008040	STATE OF HAWAII	Honokohau Harbor	465	1.5	4,481
374008041	STATE OF HAWAII	Honokohau Harbor	23,956	74.9	230,857
374008042	STATE OF HAWAII	Honokohau Harbor	10,601	33.1	102,163
374008046	STATE OF HAWAII	Jacoby Development	0	0.0	0
374008047	327 KONA,LLC	327 Kona, LLC	336,000	1,050.0	3,237,988
374008048	RAPOZA,JOHN TRUST /etal	327 Kona, LLC	OUT		0
374008050	STATE OF HAWAII	Honokohau Harbor	109	0.3	1,047

ASSESSMENT ROLL - EQUIVALENT DWELLING UNIT

TMK	Owner	DEVELOPMENT AREA	2025 Or B.O. AVG. DAILY FLOW (GPD)	EDU Value	Assessment
374008054	S J A PARTNERSHIP	McClean Subdivision	9,161	28.6	88,282
374008055	TAYLOR FAMILY LTD PTNRSHIP	McClean Subdivision	10,152	31.7	97,831
374008057	PALANI RANCH CO. INC.	Lanikai Properties Development	0	0.0	0
374008058	STATE OF HAWAII	KWWTP	OUT		
374008060	PALANI RANCH CO. INC.	Lanikai Properties Development	1,920	6.0	18,503
374008064	PALANI RANCH CO. INC.	Hualalai Academy	0	0.0	0
374008067	COUNTY OF HAWAII, WATER COMMISSION	DWS Water Tank	0	0.0	0
374008071	STATE OF HAWAII	Jacoby Development	6,400,000	20,000.0	61,675,970
374008072	STATE DEPT. OF HAWAIIAN HOME LANDS	Jacoby Development	0	0.0	0
374008073	STATE OF HAWAII	KWWTP	0	0.0	0
374008074	WEST HAWAII BUSINESS PARK LLC	West Hawaii Business Park (Heavy Ind.)	75,762	236.8	730,110
374024001	MC CLEAN HONOKOHAU PROP	McClean Subdivision	16,870	52.7	162,576
374024002	MC CLEAN HONOKOHAU PROP	McClean Subdivision	15,934	49.8	153,558
374024003	WILTON, WILLIAM H /etal	McClean Subdivision	4,774	14.9	46,005
374024004	MC CLEAN HONOKOHAU PROP	McClean Subdivision	3,797	11.9	36,591
374024005	G.J.L.L.	McClean Subdivision	4,900	15.3	47,223
374024006	MC CLEAN HONOKOHAU PROP	McClean Subdivision	15,446	48.3	148,847
374024007	MC CLEAN HONOKOHAU PROP	McClean Subdivision	9,197	28.7	88,626
374024008	MC CLEAN HONOKOHAU PROP	McClean Subdivision	7,648	23.9	73,699
374024009	MC CLEAN HONOKOHAU PROP	McClean Subdivision	6,541	20.4	63,032
374024010	MC CLEAN HONOKOHAU PROP	McClean Subdivision	4,631	14.5	44,628
374024011	MC CLEAN HONOKOHAU PROP	McClean Subdivision	26,287	82.1	253,324
374024012	MC CLEAN HONOKOHAU PROP	McClean Subdivision	22,400	70.0	215,866
TOTALS			13,188,929	41,215	\$ 127,100,000

APPENDIX E

METHOD 1 *ASSESSMENT BY OWNER AREA*



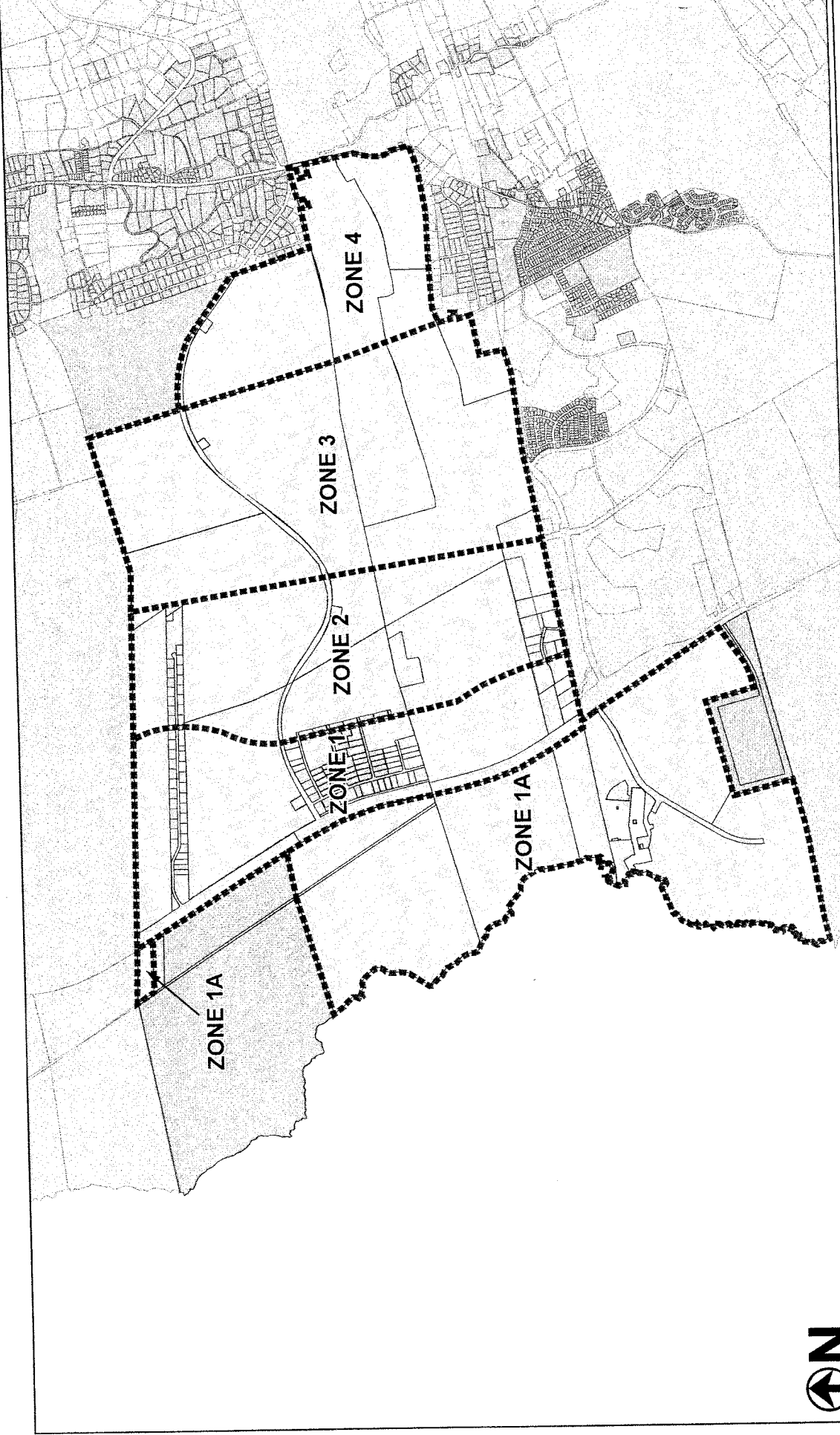
LEGEND:

AREA	OWNER
1	KALO KO HEIGHTS ASSOCIATES LLC
2	327 KONA LLC
3	LANIHAU PROPERTIES/PALANI RANCH CO. INC.
4	MID CORP
5	McCLEAN HONOKOHAU PROPERTIES
6	WEST HAWAII BUSINESS
7	TSA CORPORATION - KALO KO BUSINESS PARK
8	KOHANA'IKI BUSINESS PARK
9	DEAN K. LEE/ et al
10	DLNR/ DHHL
11	STATE OF HAWAII

METHOD 1 - ASSESSMENT BY OWNER AREA

APPENDIX F

METHOD 2 *ASSESSMENT BY ZONE*



METHOD 2 - ASSESSMENT BY ZONE

Sources:
SSFM International, Inc.



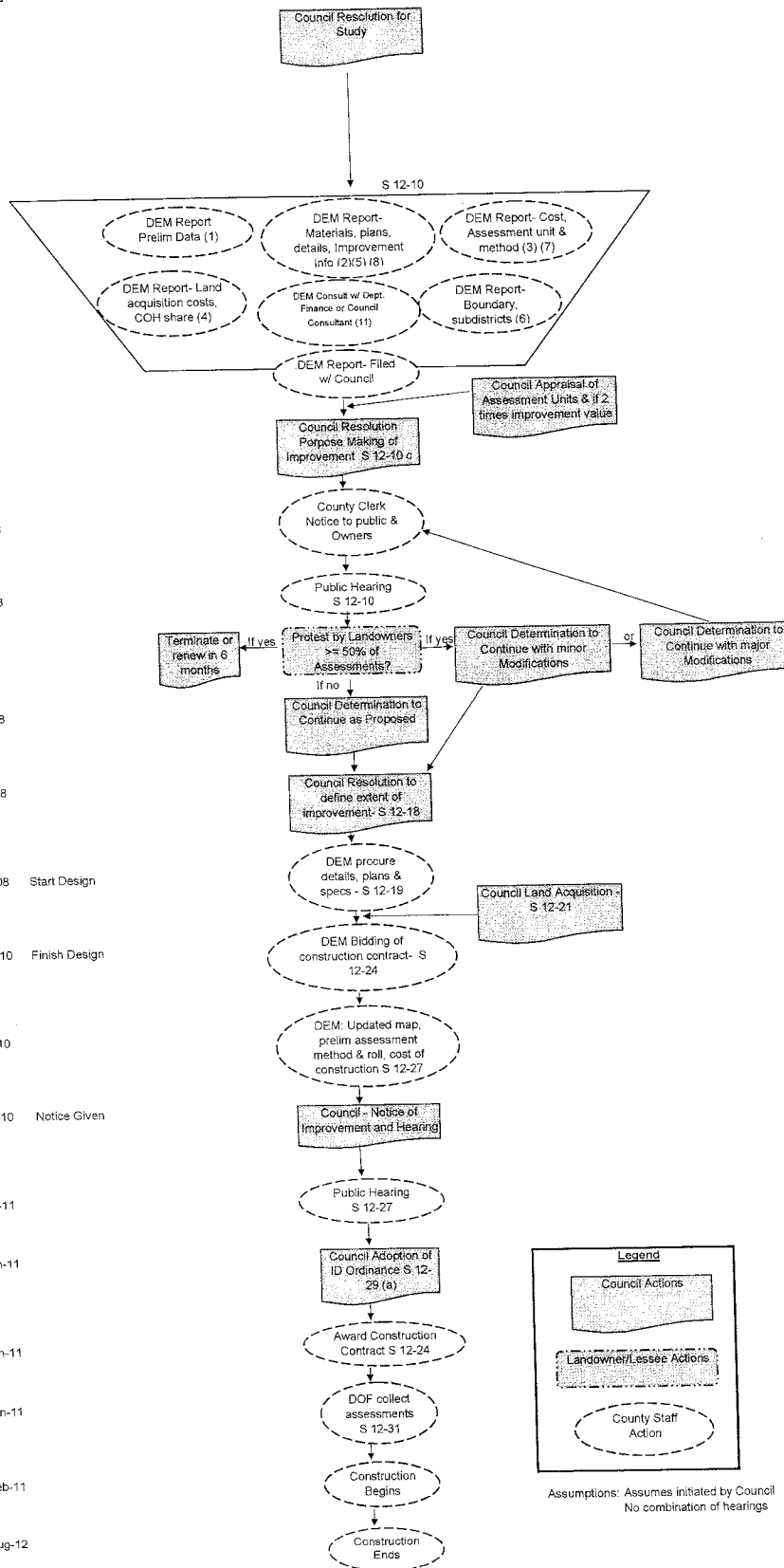
APPENDIX G

IMPLEMENTATION SCHEDULE FLOWCHART

IMPLEMENTATION SCHEDULE

Improvements by Assessments - HCC Chapter 12

Estimated Timeline/Discussion	Target Dates
Start	Completed
Underway	
Financial Consultant Complete-	15-Jul-08
1 Week Minimum between filing report and resolution	15-Jul-08
2 Months for Reso	1-Aug-08
After adopt. of rezo, notice for 2 successive weeks to owners	15-Aug-08
Public Hearing- minimum 15 days after publication of notice	15-Sep-08
Extra	
One Month after Hearing	15-Oct-08
2 Weeks	15-Oct-08
23 months for design	15-Oct-08 Start Design
Land Acquisition process starts earlier	15-Sep-10 Finish Design
2 Weeks	1-Oct-10
1 month	1-Nov-10 Notice Given
No more than 3 weeks after published	1-Jan-11
2 Weeks	15-Jan-11
After Ord Adoption	15-Jan-11
Can start Imme. After reso	15-Jan-11
1 Month after NTP	15-Feb-11
18 months after start	15-Aug-12





July

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
TECHNICAL SERVICES SECTION

COUNTY OF HAWAII – 25 AUPUNI ST., ROOM 210 – HILO, HI 96720-4252
HILO (808) 961-8083 FAX (808) 961-8086

MEMORANDUM

July 17, 2006

Memo C.000304-071706

To: Barbara Bell, Director

Via: Dora Beck, P.E., Technical Services Chief *Dora Beck*

From: Lyle Hirota, P.E., Project Engineer *Lyle Hirota*

Subject: NORTH KONA IMPROVEMENT DISTRICT, Contract No. C.000304
Request for Contract Re-Negotiation

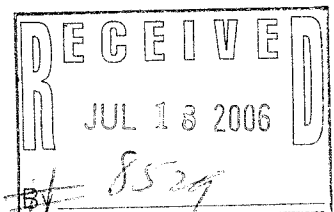
- References: (a) SSFM Letter 2004_115.000 dated June 30, 2006; Justification for Contract Re-Negotiation
(b) Wastewater Division Memorandum 05LH-017 dated February 16, 2005; Consultant Contracts for Wastewater Division

The Technical Services Section (TSS) has reviewed the June 30, 2006 letter from SSFM International, Inc. (SSFM) regarding a request for a re-negotiation of the existing contract and mediation as a means of resolving the issue. Subsequent to issuance of their letter, SSFM has indicated that they do not desire use of mediation as a first step of resolving the issue and requests further discussions to resolve the matter. Despite this, TSS feels that a response to the letter should still be provided to the Department in order to provide background information.

A. Statement of Problem:

1. SSFM indicates that the contract was executed by their firm in good faith. It should be noted that the County also executed the contract in good faith since the issues brought up in their letter were never raised prior to execution of the Contract by the County.
2. Prior to finalization of the contract, several changes were made to the contract at the request of the consultant, including the addition of contract working days to the project in order to ensure that a good product was delivered. Refer reference (b).
3. At no time during the negotiation of the original contract did SSFM indicate that they were unable to perform the work as specified in the existing contract and at no time did SSFM indicate that informal clarifications had been obtained from Mr. Boucher prior to execution of the contract.
4. SSFM indicates that it was their intent to "deliver a product to exceed expectations", however Item B.4 of their letter also indicates that their public meetings were intended to be "minimal" and to "basically meet the intent" which conflicts with their statement. In the professional arena, "minimal" work is usually not interpreted as work that exceeds expectations.

Hawai'i County is an equal opportunity provider and employer.



B. Factors Bearing on the Problem:

1. Work to date is approximately 40%-50% complete and costs have exceeded contract amount.
 - a. It appears that SSFM lost focus on the project management aspect in terms of cost-accounting since Attachment (1) indicates that their current expenditure is 287% over the contract amount with only 40-50% of the work completed. Assuming 50% completion, total expected cost for the project is \$574,831.34 which is 574% above the original contract amount.
 - b. SSFM never advised us until recently of the extent of their cost overrun on the project.
 - c. SSFM has indicated that 2465 man-hours have been currently expended at 50% of project completion which seems excessive. Of particular concern are the man-hours expended by the Senior Project Engineer, Project Manager, Engineer II, and Planner.
2. Original contract was negotiated with Mr. Peter Boucher and he was firm in his position that work would be limited to preliminary work to address County Council Resolution for Improvement District.
 - a. County Council Resolution 129 03 clearly directs the Director of Environmental Management to prepare a "specific and detailed implementation plan" including "data, survey, maps, plans, drawings, details and specification for the improvements and any other matters or details intended to apply thereto in accordance with the provisions of Section 12-10, Hawai'i County Code, as amended;". As such, the requirements are set by County Council and the "preliminary work" as described by SSFM in reference (a) does not meet the County Council directive.
 - b. The Scope of Work included in Contract C.000304 clearly states that a "specific and detailed implementation plan" was to be provided. County Council Resolution 129-03 and Hawai'i County Code, Section 12-10 states specific requirements.
 - c. There were no instances between the time of SSFM's discussions with Mr. Boucher and the time of execution of the contract during which the issue of "preliminary work" was raised.
 - d. SSFM had ample opportunity to raise any issues regarding the "agreed upon" scope of work with Mr. Boucher with TSS staff prior to execution of the contract in its present form. However, they did not. The only modifications TSS made prior to contract execution were in regards to time periods for completing the work and wording in the contract, all in response to concerns raised by SSFM.
3. The \$100,000 ceiling for the fee was set by Mr. Boucher and the proposed scope was established in consideration of that limitation.
 - a. TSS has no knowledge of the basis for the \$100,000 ceiling fee.

- b. The actual scope of work is established by Exhibit A – Scope of Work under executed Contract C.000304. Therefore, the proposed initial scope of work does not have any relevance. Had SSFM believed that they could not provide the work as established within the contract, they had the options of not executing the contract, or request that revisions to the contract be made prior to its execution.
 4. During contract negotiations, SSFM questioned the number and details of public meeting and extent of financial analysis in the County's agreement. Meetings were intended to be minimal and to basically meet the intent of having a required public meeting.
 - a. TSS considers the "intent" of public meetings to offer an opportunity to share information with the public which is expected to take some degree of preparation. Considering the level of sophistication of the major landowners, the expectation that "minimal" preparation for public meetings would be required would not have been appropriate. Mr. Roy Takemoto of the Mayor's Office and Ms. Bobby Jean Leithead-Todd of the Corporation Counsel's Office also attended the meetings on the County's behalf in order to assist SSFM with responding to questions at the public meetings.
 - b. During a meeting between SSFM and TSS on June 15, 2006 with Mr. Roy Takemoto and Mr. Mike Okumoto in attendance, TSS stated that a Supplemental Agreement could be issued to secure the services of an outside financial consultant who had expertise in special tax assessments.
 5. SSFM also questioned the detail of financial analysis and strategies. The Wastewater Division's conclusions as to method of financing indicated no requirement for extensive research.
 - a. Mr. Boucher's previous discussion with SSFM that there was "no requirement for extensive research" regarding financial analysis and strategies was never discussed with TSS prior to execution of the contract.
 - b. These requirements are governed by County Council Resolution 129-03 and Hawai'i County Code, Chapter 12.
 6. The County Project Manager changed and continuity of contract language interpretation was lost. As a consequence the expectation of deliverables has changed significantly.
 - a. While it is true that the project manager has changed, TSS considers the language as it reads in the executed contract to be clear regarding expectation of deliverables.
 - b. Evidently, SSFM initially had concerns with the contract language resulting in a meeting for more clarification on scope of work with Mr. Boucher on November 22, 2004. It does not appear that the results of that meeting were incorporated into the contract language.

- F. Financial Analysis for Improvement District: This is a repeat of B.4, B.5, and C.3.c and was already addressed.
- G. Significant Coordination with Land Developers (misabeled as paragraph "D" in reference (a)): This is a repeat of Item C.3.d and was already addressed.
- H. Conclusion (misabeled as paragraph "E" in reference (a)):
1. TSS disagrees with SSFM's contention that the original intent for this project's scope of work has significantly changed. SSFM repeatedly uses their initial proposal to the Wastewater Division as the reference point which is incorrect. Their initial proposal has no bearing since the Contract establishes the scope of work, not their proposal.
 2. As indicated under Item B.1, SSFM apparently lost control of this project some time ago from a cost-accounting standpoint and it is unrealistic for SSFM to expect the County to bear the consequences at this stage of the project.
 3. It is extremely unrealistic for SSFM to expect an increase in the contract amount to \$574,831.34 which is 574% above the initial contact amount since the scope of work remains essentially the same.

TSS Recommendation:

1. Since SSFM has indicated that they desire to further discuss the problems with this project in lieu of using mediation to resolve the problem as originally indicated in their letter, it is recommended that TSS discuss the issue further with SSFM to determine if the issue can be resolved without involvement of a mediator.
2. In the event that the issue cannot be resolved, it is recommended that the Department consider termination of the contract in accordance with the provisions of Section 8.1, Right of the county to Terminate, of the General Terms & Conditions, January, 2002 of the Contract due to the extreme nature of the cost overruns.

cc: Bobby Jean Leithead-Todd, Deputy Corporation Counsel
Robin Bauman, Accountant IV



SSFM INTERNATIONAL, INC.

101 Aupuni Street, Suite 315

Hilo, Hawaii 96720

Phone: (808) 933-2727

Fax: (866) 887-8885

Project Managers, Planners, & Engineers
American Council of Engineering Companies, Member

June 30, 2006

SSFM 2004_115.000

County of Hawai'i
Department of Environmental Management
Technical Services Section
25 Aupuni Street, Suite 214
Hilo, Hawai'i 96720

Attn: Ms. Dora Beck, P.E., Chief

Subject: Justification for Contract Re-Negotiation

Reference: North Kona Improvement District
SSFM Proposal, August 8, 2004
CoH DEM Wastewater Division Agreement, March 16, 2005
NKID Meeting Memo, January 6, 2005
Meeting Memo, November 22, 2004

As your Consultant for the North Kona Improvement Project, we acknowledge the differences between our office and the DEM over interpretation of our agreed scope of work for this project and, therefore, respectfully submit herewith our recommendations for a fair and prompt resolution of the differences. The following is an outline of the issues that we propose to be considered in resolving our differences in the scope of work and resulting fees for this project:

A. STATEMENT OF THE PROBLEM:

1. The contract was executed in good faith with intent to deliver a product to exceed expectations, but the level and detail of work deliverables have evolved beyond that which was intended during contract negotiations and at the beginning of the project.

B. FACTORS BEARING ON THE PROBLEM:

1. Work to date is approximately 40% – 50 % complete and SSFM costs have already exceeded the contract amount of \$100,000 (See Attachment 1).
2. Original Contract was negotiated with Mr. Peter Boucher. He was firm in his position that this work would be limited to preliminary work necessary to address the County of Hawaii Council Resolution for Improvement District.
3. The \$100,000 ceiling for the fee was set by Peter, and the proposed scope (Attachment 2) was established with consideration of that limitation.
4. During contract negotiations, SSFM questioned the number and details of public meetings and the extent of financial analysis contained in the County's agreement revisions. Meetings were intended to be minimal and to basically meet the intent of having a required public meeting.



SSFM 2004_115.000

5. SSFM also questioned the detail of financial analysis and strategies. The Wastewater Division's conclusions as to method of financing indicated no requirement for extensive research.
6. Since the outset of contract negotiations, the County Project Manager changed and the continuity of contract language interpretation was lost. As a consequence, the expectation for the deliverables has increased significantly.

C. JUSTIFICATION FOR CLAIM:

1. Significant changes appeared in the translation of the SSFM proposal (Attachment 2) into the County agreement (Attachment 3). The November 22 clarification meeting was held to address concerns (Attachment 4).
2. A number of requested changes were accepted by SSFM:
 - a. The inclusion of Kohanaiki into the Study Area
 - b. The change to include distribution of reclaimed water from the WWTP
 - c. The change from two Sewer Alternatives to three Alternatives
 - d. The comparison of the WWTP existing capacity against future demands
3. These other changes are at the center of this issue:
 - a. A change from no public meetings to as many as 4 meetings.
 - b. The impact these meetings would have on a very tight time schedule and fee.
 - c. The change to include addressing financing and the degree of specificity and detail required of the Implementation Plan.
 - d. The challenge of coordination with the many developers in the study area with their very diverse and personal interests in the Improvement District Sewer System Design Details.

D. CHANGE IN NUMBER OF MEETINGS:

1. The SSFM proposal specifically excluded time consuming and costly public meetings. This change was reluctantly accepted based upon Wastewater's indication that Environmental Management Committee meetings could be considered Public Meetings and that the requirement could be as few as two meetings. At the January 6 meeting (See Attachment 5), SSFM offers 3 meetings including an EMC presentation, but DEM extends it to 4 meetings including the EMC meeting. Subsequently, DEM has asked for as many as 4 full-blown public meetings.

E. IMPACT OF MEETINGS ON SCHEDULE:

1. Each meeting requires tremendous effort for preparation including public notifications, presentation materials, handouts, PowerPoint presentations, County coordination, review, multiple iterations and rehearsal. The lack of specificity for the meeting agendas and the County's discretionary expectations can lead to very significant impact to the delivery schedule and related costs.

F. FINANCIAL ANALYSIS FOR IMPROVEMENT DISTRICT:



SSFM 2004_115.000

1. The issue of how to address financing options has also changed from its original intent and is being interpreted with significantly greater detail required.
2. Methods of assessment and preferred methods of financing can be addressed in limitless levels of detail. The challenge is to find a common ground that will be acceptable to us both; one that provides the level of specificity and detail that will be useful to the County and that can be achieved in a manner that is fair to the consulting team.

D. SIGNIFICANT COORDINATION WITH LAND DEVELOPERS:

1. SSFM has exceeded reasonable expectations in dealing with landowners and their consultants, even as the study area and list of landowners has proven to be somewhat of a moving target. There has been a subsequent adjustment to the contract duration to accommodate some of this, but it will continue to be a challenge to coordinate among players with very uneven motivations for participation in this effort.

E. CONCLUSION:


1. Based on all the discussion, factors and assumptions above, we conclude that the original intent for this project's scope of work has significantly changed and that a fee adjustment is justified. Our recommendation is for re-negotiation of the fee to a lump sum that compensates SSFM accordingly and we request an opportunity to discuss this further at your earliest convenience.

Our preference is to address the issues without referring this matter to attorneys in order to circumvent what could be costly, exhaustive and time-consuming. If DEM is amenable to it, we would propose facilitated mediation by an experienced professional entity such as Dispute Prevention and Resolution, Inc. SSFM is willing to share these expenses with the County of Hawaii and to abide by the recommendations stemming from the mediation since we feel it will be fair and in the best interests of everyone involved.

Please contact me with any questions or comment. Mahalo.

Sincerely,

SSFM INTERNATIONAL, INC.


Stephen Yee
Senior Project Manager
email: syee@ssfm.com

- Attachments:
- 1- Cost-To-Date Financial Statement
 - 2- SSFM Proposal, August 18, 2004
 - 3- CoH Contract, March 16, 2005
 - 4- Meeting Memo, November 22, 2004
 - 5- Meeting Memo, January 6, 2005

CURRENT PERSONNEL COST

Consultant - Regional Master Plan & North Kona Improvement District Plan

	<u>Hours Billed</u>	<u>Rate</u>	<u>Total</u>
Director			
Senior Project Manager	142.00	\$164.00	\$23,288.00
Senior Project Engineer	274.50	\$132.00	\$36,234.00
Project Manager	342.25	\$144.00	\$49,284.00
Engineer III	58.75	\$101.00	\$5,933.75
Engineer II	411.00	\$91.00	\$37,401.00
Technical Manager	18.25	\$118.00	\$2,153.50
GIS Specialist	23.25	\$75.00	\$1,743.75
GIS Technician	89.50	\$71.00	\$6,354.50
Senior Project Planner	78.50	\$139.00	\$10,911.50
Planning Technician	123.00	\$69.00	\$8,487.00
Planner	800.00	\$105.00	\$84,000.00
Construction Manager	2.00	\$129.00	\$258.00
CAD IV	10.50	\$75.00	\$787.50
Project Coordinator	50.50	\$67.00	\$3,383.50
Clerical	41.00	\$40.00	\$1,640.00
Subtotal	<u>2465.00</u>		<u>\$271,860.00</u>
		Current Personnel Cost	<u>\$271,860.00</u>
		HI G.E.T. 4.166%	<u>\$11,325.69</u>
		Total billing	<u>\$283,185.69</u>

Project: Consultant - Regional Master Plan & North Kona Improvement District Plan

CURRENT REIMBURSABLE EXPENSE RECAP

<u>Date</u>	<u>Description</u>	<u>Amount</u>
1/31/2006	Merrick Company	\$ 422.50
5/31/2006	Hawaii Tribune Herald/Public notice/5/17	\$ 221.30
5/31/2006	West Hawaii Today/Public notice/5/17	\$ 150.37
1/31/2005	Mileage/PH/70miles/1/19	\$ 28.35
3/31/2006	Mileage/WRD/Mar06/190 miles	\$ 84.55
5/31/2006	Mileage/WRD/May06/50 miles	\$ 22.25
1/31/2006	County Clerk/Copies/Ordinances/1/20/06	\$ 12.60
1/31/2006	Planning Dept Hilo/Copies/1/31/06	\$ 226.95
2/28/2006	COH Pub Wks/Drawing copies/NH/2/9	\$ 8.00
4/30/2006	Office Max/Binder/Paper/4/10	\$ 141.62
4/30/2006	Copies/Kona Sewer Plan/3/2/06	\$ 129.37
5/31/2006	Office max/3 copies/f/draft mstr plan	\$ 173.49
6/30/2006	Honblue/Color Copies/Hand Staple/SO0026027/6/5	\$ 387.63
7/31/2005	Placeways/Community Viz Sftwr	\$ 195.85
7/31/2005	Fish Dock/NKID Public Mtg/6/6	\$ 37.48
1/31/2006	Alamo Rent A Car, inc./Pat O/1/26	\$ 43.33
1/31/2006	Alamo Rent A Car, inc./Pat O/1/23	\$ 39.33
2/28/2006	Aloha Air/Pat O/1/23	\$ 186.20
2/28/2006	Aloha Air/Pat O/1/26	\$ 186.20
6/30/2006	Hawaiian Air/J Chang/6/6	\$ 183.20
6/30/2006	Hawaiian Air/R Sato/6/6	\$ 183.20
6/30/2006	King Kam's Kona Beach Hotel/Ron S/6/6-7	\$ 89.13
6/30/2006	King Kam's Kona Beach Hotel/J Chang/6/6-7	\$ 89.13
6/30/2006	Per Diem/J Chang/Kona/6/6-7	\$ 45.00
3/31/2006	Cingular Wireless/Cell svc/Mar 06/WD	\$ 64.55
3/31/2006	Cingular Wireless/Cell Svc/WD	\$ 14.06
4/30/2006	Cingular Wireless/Cell Svc/Apr 06	\$ 21.48
6/30/2006	Cingular Wireless/Cell Svc/May 06	\$ (16.05)
6/30/2006	Cingular Wireless/Cell Svc/May 06	\$ 57.19
12/31/2005	Copies from COH Planning Dept/12/12, 15	\$ 26.00
12/31/2005	Naniloa Hotel/PH/12/8/05	\$76.88
	Total Reimbursable Expense	\$ 3,531.14
	Administrative Overhead (15%)	\$529.67
	Sub Total	\$4,060.81
	HI State G.E.Tax (4.166%)	\$169.17
	Reimbursable Expense This Invoice	\$4,229.98

**SSFM INTERNATIONAL, INC.**

99 Aupuni Street, Suite 120

Hilo, Hawaii 96720

Phone: (808) 933-2727

Fax: (866) 887-8885

Project Managers, Planners, & Engineers
American Council of Engineering Companies, Member

August 18, 2004

2004_115.000

CLIENT: County of Hawaii
Department of Environmental Management
Wastewater Division
108 Railroad Avenue
Hilo, HI 96720

Attention: Mr. Peter Boucher, PE – Division Chief

SUBJECT: North Kona Improvement District Implementation Plan

REFERENCE: Wastewater Division Letter of Selection – July 12, 2004
County of Hawaii Resolution No. 129 03 – December 17, 2003

AGREEMENT FOR PROFESSIONAL SERVICES

We are pleased to submit the following agreement between **County of Hawaii, Department of Environmental Management, Wastewater Division** (hereinafter referred to as CLIENT) and **SSFM INTERNATIONAL, INC.** (hereinafter referred to as SSFM) to provide **CIVIL ENGINEERING, PLANNING, GEOGRAPHICAL INFORMATION SYSTEMS AND PROJECT MANAGEMENT SERVICES** for this project.

ATTACHMENTS

This AGREEMENT together with the following attachments constitute the entire agreement between the parties herein:

1. EXHIBIT "A": Description of Work
 - a. Physical Limits of Owner's Improvements
 - b. Basic Scope of Work
 - c. Work Not Included.
2. EXHIBIT "B": *Terms and Conditions* (Version 9 January 2004).
3. EXHIBIT "C": North Kona Study Area

SERVICES TO BE PROVIDED

1. **Project Management**
 - a. Overall coordination and management of project from inception through completion, serving as the single point-of-contact for the Client.
 - b. Coordination of all conceptual, design and technical reviews.
 - c. Coordination, preparation and printing of Implementation Plan document.
2. **Civil Engineering**
 - a. Preparation of Sewer Master Plan and Implementation Study for the North Kona Improvement District.
 - b. Provide conceptual master plan and general implementation plan for wastewater collection within the Study Area to the Kealakehe Sewage Treatment Plant.
3. **Planning**
 - a. Landowner consultation to determine future development plans within study area.
 - b. Document research to determine existing land use entitlements



August 18, 2004

CHARGES FOR PROFESSIONAL SERVICES

For the basic scope of work shown hereinbefore, compensation for our services shall be lump sum including 4.166% State General Excise Tax as follows:

LUMP SUM FEE = \$99,500.00

(NOTE: Reimbursable expenses are not included in the lump sum fee. Additional Services are covered in the *Terms and Conditions*.)

SSFM will submit an invoice for services provided under this Agreement on a monthly basis.

If our services covered by this Agreement have not been completed within 6 months of the date hereof, through no fault of SSFM, the remaining fees shall be escalated at the rate of 5% per year.

SCHEDULE OF SERVICES: Excluding CLIENT and OWNER review periods, significant scope changes and/or redesigns by CLIENT, or other delays beyond the control of SSFM, the time schedule for the proposed scope of services should proceed according to the following time estimates:

<u>Phase</u>	<u>Deliverable</u>	<u>Estimated Time</u>
Field Study and Outline Report Phase	Outline Report	4 weeks after Notice To Proceed (NTP)
Agency Review Period	None	1 week
Pre-Final Study Phase	Pre-Final Report, Conceptual Drawings and Opinion of Probable Construction Cost	7 weeks after approval of Field Study and Outline
Agency Review Period	None	1 week
Final Study Phase	Final Implementation Plan Report, Conceptual Drawings and Opinion of Probably Construction Cost	3 weeks after approval of Pre-Final Report and ECC

Should this AGREEMENT meet with your approval, please sign and return one; if not, please call for further discussions and/or clarifications. We will begin services upon receipt of a signed copy of this AGREEMENT.

Thank you very much for this opportunity to provide PROJECT MANAGEMENT, CIVIL ENGINEERING, PLANNING AND GEOGRAPHICAL INFORMATION SYSTEM SERVICES for this PROJECT.

SSFM INTERNATIONAL, INC.

Stephen Yee
Project Manager
Email: syee@ssfm.com

Reviewed and Approved By:

Michael P. Matsumoto, P.E., FACEC
President and CEO
Email: mmatsumoto@ssfm.com



August 18, 2004

- Enclosures: Extra Copy
- Exhibit "A" – Description of Work
- Exhibit "B" - Terms & Conditions (Version 9 January 2004)
- Exhibit "C" – Limits of Study Map

Accepted for Wastewater Division by:

Signature

Date

print name/title

FACSIMILE (FAX) SIGNATURES: Fax executed copies of this Agreement shall be fully binding and effective for all purposes whether or not originally executed documents are transmitted to SSFM International, Inc. Fax signatures on this document will be treated the same as original signatures, however, CLIENT agrees to promptly forward original executed documents to SSFM International, Inc.

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August 18, 2004

EXHIBIT "A" – DESCRIPTION OF WORK

PHYSICAL LIMITS OF OWNER'S IMPROVEMENTS

Our project management, civil engineering, planning and GIS services as outlined under "Basic Scope of Work" below will be limited to the following physical limits:

That area in North Kona roughly bounded by the Kealakehe STP, north to Kohanaiki, east to the Mamalahoa Highway and south back to Kealakehe just north of the Villages of Laiopua subdivision. See Exhibit "C" – Limits of Study.

BASIC SCOPE OF WORK

1. Project Management

- a. Overall coordination and management of project from inception through completion, serving as the single point-of-contact for the Client.
- b. Clarification and accurate documentation of the scope of work, schedule and budget for the Project Team.
- c. Monitor the progress of the project to determine actual work accomplished versus cost to date versus budget; take appropriate actions to maintain project schedule and budget; reviewing/submitting recommendations on requests for payment, claims for additional time or additional cost.
- d. Recording meeting minutes and memoranda of significant events and decisions.
- e. Coordination of all conceptual, design and technical reviews; assisting the Client in assuring delivery of a quality product.
- f. Coordination, preparation and printing of Implementation Plan document.

2. Civil Engineering Work:

- a. Visually observe existing conditions, conduct research of existing utilities and establish civil design criteria.
- b. Prepare layout of existing collection system and conceptual layout of a maximum of two alternatives.
- c. Prepare sewer flow calculations for future population based upon the proposed land uses at the study year.
- d. Prepare sewer hydraulic calculations for recommended alternative based upon sewer flow calculations described above.
- e. Identify potential land acquisition requirements (i.e. TMKs and costs based upon current assessed land values)
- f. Prepare Conceptual Drawings and analysis documentation with opinion of probable construction cost for selected collection alternative.

3. Planning Work:

- a. Consulting with Major Landowners
 1. Identify major landowners within study area and develop consultation listing for Client review and approval.
 2. Implement Landowner Consultation Program to determine their future development plans and financing options for improvements.
- b. Establish Future Land Uses
 1. Conduct literature review of existing studies, references, maps, and data associated land uses within study area.
 2. Conduct field inspection of study area.
 3. Determine existing land uses for parcels within study area.

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August 18, 2004

4. Determine future land uses based upon available development plans and consultation with major landowners.
- c. Prepare report documenting results of work efforts by project team.
 1. Prepare draft report following documentation items identified under Chapter 12, Article 2, Section 12-10(a) of the County Code (Project Improvement Districts).
 2. Prepare Final Implementation Plan Report incorporating Client review comments.
4. **Geographical Information Systems Work:**
 - a. Provide the necessary GIS map layers available including:
 1. Hawaii Island Tax Map Key Base Map
 2. GIS Theme Layers – 50 ft. contour data
 3. GIS Theme Layers – Streets
 4. GIS Theme Layers – State Land Use Districts
 5. GIS Theme Layers – Census Data
 6. GIS Theme Layers – Existing Utility Information provided by County
 - b. Produce necessary Figures for the Draft and Final Implementation Plan Reports for submission to the Client.

WORK NOT INCLUDED

- a. Detailed Financial analysis for the Improvement District or detailed financial evaluation of improvement costs.
- b. Reclaimed Water Distribution Study, design and Construction Cost Estimates
- c. Attendance at public hearings or informational meetings.
- d. Electrical service, telephone service, CATV service.
- e. Treatment plant upgrade requirements, if any.
- f. Hazardous material location , identification or removal.
- g. Environmental assessment.
- h. Market Value Land Acquisition Costs

ASSUMPTIONS

- a. All work will address the criteria described in the Hawaii County Code, Chapter 12, Article 2, Section 12-10, Paragraph (a) regarding project improvement district procedures. The Implementation Plan report will be a document to commence the process with the Council to create this improvement district.
- b. Under separate contract, SSFM will address issues such as financial analyses and further study and design of reclaimed water distribution and other collection system details once the preferred alternative has been identified from the Implementation Plan document.

INFORMATION REQUIRED FROM CLIENT

- a. GIS data or AutoCAD drawings of the existing sewer collection system for the Study Area and surrounding areas.
- b. Identify the Study Year for which the Report will be targeted.
- c. Existing and projected Kealahou Sewage Treatment Plant (STP) capacity data.
- d. Confirmation that Konakaiki will be included into the sewer flow calculations and that flow is to be conveyed to the Kealahou STP.

CONTRACT

THIS IS AN AGREEMENT effective as of March 16, 2004⁵ ("Effective Date")^{vmt}
 between the COUNTY OF HAWAII, a municipal corporation duly organized and existing under
 the laws of the State of Hawaii, by **DIXIE KAETSO** ^{vmt} **Managing Director**
~~HARRY KIM~~, its **Mayor**, hereinafter called the "COUNTY",
 and SSFM INTERNATIONAL INC., a corporation licensed to do business under the laws of the
 State of Hawaii, whose business address is 501 Sumner Street, Suite 620, Honolulu, Hawaii
 96817, hereinafter called the "CONSULTANT".

WITNESSETH:

WHEREAS, the COUNTY wishes to obtain the services of the CONSULTANT to render
 civil engineering services in connection with the North Kona Improvement District
 Implementation Plan, hereinafter called the "PROJECT"; and

WHEREAS, the CONSULTANT is qualified, ready, willing and able to provide such
 services; and

WHEREAS, The COUNTY and the CONSULTANT have detailed the scope of work to
 be performed by the CONSULTANT on the PROJECT in separate attachments entitled
 "EXHIBIT A - SCOPE OF WORK", a copy of which is attached hereto; and

NOW, THEREFORE, the COUNTY and the CONSULTANT, in consideration of the
 mutual promises hereinafter set forth, hereby agree as follows:


1. That the CONSULTANT shall perform all of the services required for the
 PROJECT in accordance with the General Terms and Conditions for Consultant
 Services Contracts dated January 2002, hereinafter called the GENERAL TERMS
 & CONDITIONS; and

2. That the compensation for the work covered under the CONTRACT, subject to the General Terms and Conditions, shall consist of a fee not to exceed ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000.00) except in the case of a contract amendment increasing or decreasing the scope of work; and
3. That the work on this CONTRACT shall be completed within 98 calendar days after the COUNTY has given the official written notice to proceed, exclusive of review time as may be required by the COUNTY and other agencies; and
4. That liquidated damages for failure to perform the work within the time fixed or any extension thereof shall be ONE HUNDRED DOLLARS (\$100.00) per calendar day.
5. That if a disagreement concerning this agreement or CONSULTANT's work on the PROJECT arises which the parties cannot resolve through negotiation or mediation with a mutually acceptable mediator with experience in construction litigation, then the parties agree that no action or proceeding involving this contract shall be commenced by either party except in the Circuit or District Courts of the Third Circuit, County of Hawaii, State of Hawaii; nor shall any action commenced in such court be removed or transferred to any other state or federal court.

IN WITNESS WHEREOF, the parties hereto have executed this agreement, the Effective Date of which being the day and year first above written.

RECOMMEND APPROVAL:


APPROVED AS TO FORM AND LEGALITY:



BARBARA BELL
Director of Environmental Management


Deputy Corporation Counsel
County of Hawaii

COUNTY:

CONSULTANT:


HARRY KIM DIXIE KAETSU *and*
Managing Director *and*
Mayor, County of Hawaii


Michael P. Matsumoto
It's President/CEO

Date Signed: MAR 16 2005

Date Signed: February 9, 2005

DESIGNATED REPRESENTATIVE:

DESIGNATED REPRESENTATIVE:

PETER J. BOUCHER, P.E.
Wastewater Division Chief
Phone Number: (808) 961-8338
Facsimile Number: (808) 961-8644
Email Address: pboucher@co.hawaii.hi.us

Michael P. Matsumoto
Title: President/CEO
Phone Number: (808) 531-1308
Facsimile Number: (808) 521-7348
Email Address: mmatsumoto@ssfm.com

STATE OF HAWAII)
) SS:
COUNTY OF HAWAII)

On this _____ day of _____ 2004, before me personally appeared HARRY KIM, to me personally known, who, being by me duly sworn, did say that he is the Mayor of the County of Hawaii, a municipal corporation of the State of Hawaii; that the seal affixed to the foregoing instrument is the corporate seal of the said County of Hawaii; that the foregoing instrument was signed and sealed in behalf of the County of Hawaii by authority given to said Mayor of the County of Hawaii by Section 5-1.3(g) of the County Charter, County of Hawaii (1991), as amended; and said HARRY KIM acknowledged said instrument to be the free act and deed of said County.

Notary Public, State of Hawaii

My commission expires: _____

vmt

STATE OF HAWAII)
) SS:
COUNTY OF HAWAII)

On this 9th day of February 2005, ^{EC} 2004, before me personally appeared Michael P. Matsumoto, to me known to be the person described in and who executed the foregoing instrument in behalf of SSFM INTERNATIONAL, INC., and acknowledged that he/she executed the same as its authorized representative and that the said President / CEO acknowledged said instrument to be the free act and deed of said corporation.

Elizabeth I. Chikanni

Notary Public, State of Hawaii

Elizabeth I. Chikanni

My commission expires: 6/04/08

STATE OF HAWAII)
) SS.
COUNTY OF HAWAII)

On this 16th day of March, 2005, before me personally appeared DIXIE KAETSU, to me personally known, who, being by me duly sworn, did say that she is the Managing Director of the County of Hawai'i, a municipal corporation of the State of Hawai'i; that the seal affixed to the foregoing instrument is the corporate seal of said County of Hawai'i; that the foregoing instrument was signed and sealed in behalf of the County of Hawai'i by authority given to said Mayor of the County of Hawai'i by Section 5-1.3(g) of the County Charter, County of Hawai'i (2000), as amended, and assigned by the Mayor to the Managing Director pursuant to Section 6-1.3(h) of the County Charter; and said DIXIE KAETSU acknowledged said instrument to be the free act and deed of said County of Hawai'i.

Virginia M. Tolentino
VIRGINIA M. TOLENTINO
Notary Public, State of Hawai'i

My commission expires: 4/22/2005

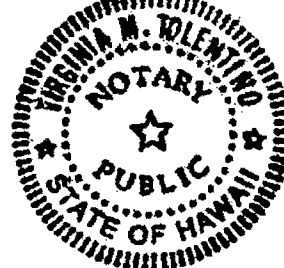


EXHIBIT A - SCOPE OF WORK**I. BROAD REGIONAL SEWERAGE MASTER PLAN:**

- A. The CONSULTANT shall provide civil engineering services for preparation of a regional sewerage master plan (the "Plan") for the region north of the Kealakehe Wastewater Treatment Plant service area as identified in the Facility Plan for the Kailua-Kona Sewerage System, Phase IV (Northern Zone) dated April 1981, and the Keahole to Kailua Development Plan dated April 1991. This shall consist of a detailed Master Plan Letter Report consisting of the following:
1. Identification of landowners within the study area.
 2. Investigation and interviews to determine entitlements and future land use.
 3. Projections of demand based upon this investigation including a breakdown of major areas of significant usage.
 4. Three (3) alternatives for routing of collection and opinion of probable construction costs.
 5. Proposed routing of reuse water and opinion of probable construction costs.
 6. Plan will compare the existing Kealakehe Wastewater Treatment Plant excess capacity with un-sewered Tributary Areas and will comment on the stage at which upgrade of the Wastewater Treatment Plant will be required.
 7. Plan will determine the necessary collection system facilities required to service the un-sewered areas including Sewage Pump Stations that may be required.
- B. Furnish three (3) review copies of the Plan to COUNTY within 75 days of authorization to begin services and review it with COUNTY.
- C. Revise the Plan in response to COUNTY's, and other parties' comments, as appropriate, and furnish three (3) final copies of the revised Report to the COUNTY within 15 days of completion of reviewing it with COUNTY.

II. IMPLEMENTATION PLAN FOR NORTH KONA IMPROVEMENT DISTRICT:

- A. Consult with COUNTY to define and clarify COUNTY's requirements for the Project and available data.
- B. Identify property owners and other parties which would potentially be affected by

- the proposed improvement district. Conduct an initial public meeting to advise the potentially affected parties and the general public of the proposed project and its potential implications. Conduct follow-up meetings (estimated three (3) total) throughout the course of the contract as necessary.
- C. Identify, consult with, and analyze requirements of governmental authorities having jurisdiction to approve the portions of the Project designed or specified by CONSULTANT, including but not limited to the Department of Health, Wastewater Branch.
- D. Identify and evaluate alternate solutions available to COUNTY and, after consultation with COUNTY, recommend to COUNTY those solutions that in CONSULTANT's best judgment meet COUNTY's requirements for the Project.
- E. Prepare a specific and detailed implementation plan (the "Report") which will, as appropriate, contain the following:
1. Necessity and feasibility of the project;
 2. Schematic layouts, sketches and conceptual design criteria with appropriate exhibits to indicate the preferred alternative available to COUNTY that CONSULTANT recommends;
 3. Proposed boundaries and listing of affected real properties which would potentially be subject to assessment;
 4. Estimated costs for the preferred alternative and proposed distribution of costs;
 5. Preferred method of financing said improvements, whether by Council-initiated improvement district, owner-initiated improvement district, tax increment district, community facilities district, or private financing; and
 6. Preliminary implementation schedule.
- F. Furnish three (3) review copies of the Report to COUNTY within 75 days after completion of Sewerage Master Plan letter report phase and review it with COUNTY.
- G. Revise the Report in response to COUNTY's, and other parties' comments, as appropriate, and furnish three (3) final copies of the revised Report to the COUNTY within 15 days of completion of reviewing it with COUNTY.

SSFM INTERNATIONAL, INC.
Meeting Notes

ATTACHMENT "4"

Project: North Kona Improvement District
Project No.: 2004.115

Date: November 22, 2004
Time: 1130
Location: Peter Boucher's Office @ WWD

Present: Peter Boucher - WWD
Steve Yee, Hugh Ono - SSFM

Purpose of Meeting: Review differences in SSFM's and WWD's Scopes of Work

MEETING NOTES:

1. Three differences in Scopes of Work to discuss:
 - a. Public Meetings and impact on delivery schedule
 - b. Definition of Study Area
 - c. Financial analysis and recommendationsSSFM concern is whether the work can be accomplished within the \$100K fee limitation.
2. Meetings: PB envisions need for an informational kick off meeting with public notification to put forward the County's plan to develop the Improvement District. A mailing list of interested parties would be generated from this for future contact. The Environmental Management Committee would need to convene to discuss the report delivered; PB suggests this could be the 2nd (and perhaps final?) public meeting. This still needs to be firmly established.
3. Study Area: Federal EPA grant money was used to develop the Facilities Plan which did NOT include Kohanaiki. This area was slated to be served by a 2nd treatment facility north of the Keahole Airport. Inclusion of Kohanaiki in the ID would therefore violate the intent of the Facilities Plan. PB indicates he would need to examine the implications of this (he may need to notify the EPA and amend the Facilities Plan), but he expects that part of the purpose of our Plan is to determine the best recommendation for sewerage of the Kohanaiki area
4. Financing: PB indicates this is included in the Scope of Work only because it is mentioned in the Resolution. In fact, he already knows the funding will come from the State Revolving Fund (SRF) and our findings and recommendations should likely be confined to cursory address of the different options.
5. PB expects only one report as a deliverable. The Master Plan would "meld" into the Implementation Plan for Improvement District in a single deliverable. The timetable for the report in his Scope of Work was taken from our Proposal; it is actually flexible and can be stretched out as need may dictate.

- indicated that BM has a general (maybe specific) idea of what the property owners' interests are.
4. RF: SSFM should not be limited to financing options listed in the resolution. The intent of the resolution language was to leave the options for financing wide-open. The State Revolving Fund (SRF) and USDA RUS grants could also be an option.
 5. RF suggested SSFM contact the following persons who have helped the County with floating bonds and IDs:
 - a. Brian Hirai, private consultant to County in bonds (RF to email contact info)
 - b. Kathy Garson, County Corporation Counsel (has experience in ID process).
 6. RF suggested report should include property owners adjacent to the study area boundaries, such as Ooma. However, SY responded that this would not be feasible because the report needs to start with a defined study area because of SSFM's limited resources. However, SSFM can entertain the inclusion of adjacent property owners if the County requests it during the report process. Therefore, SY established the study area as shown on the map provided at this meeting.
 7. RF: County Tax Assessors office could help in compiling TMK/Owner information.
 8. SY presented SSFM's project approach with three meetings including the requested Jan. 19th presentation to the EMC and major landowners plus two full-blown public meetings. BB was concerned that this Jan. 19th presentation may not be the best utilization of a meeting and expressed the desire to preserve the "three bullets" (public meetings) to be sure they are well spent.
 9. SY recognized the list of landowners in the resolution as those who would be invited to the EMC meeting but expressed concern for the possible resentment of excluded owners. BB alluded that SSFM did not necessarily have to present to the public at the January 19th EMC meeting but it might be a good forum to brief the EMC on what is happening/going to happen since the EMC only meets once every two months.
 10. RF: From a political standpoint, it is important to keep the councilman (Angel Pilago) and constituents updated and content with the ID process so other districts will see that the ID process is beneficial and works.
 11. SY: During the interview process, SSFM will investigate which landowners have a future demand for recycled water. The report will reflect recycled water lines to only those landowners who indicate a future demand for recycled water. Due to limited resources, SSFM can not indicate recycled water to all properties in the subject area.
 12. NH wants to see acreage of each study area property at the January 19th EMC meeting.
 13. RF suggested that the Report be reader friendly and use layman terms because the report will eventually be attached to a County resolution and will be made available to the public.
 14. RF provided a copy of the Dept. of Water Supply ID report and cost estimate for the Coastview and Wonderview subdivisions.

ATTENTION:

If you disagree with any portion of the contents of this document, please contact SSFM within five (5) working days of the date of this document for discussion(s) and/or revision(s). In the absence of any revision, the contents of this document will serve as the official record for the subject.



WASTEWATER DIVISION

DEPARTMENT OF ENVIRONMENTAL
MANAGEMENT


108 RAILROAD AVENUE - HILO, HAWAII 96720
(808) 961-8338 - FAX (808) 961-8644

MEMORANDUM:

DATE: February 16, 2005

MEMO 05LH-017

TO: Barbara Bell, Director

FROM: Lyle Hirota, P.E., Superintendent 

SUBJECT: **CONSULTANT CONTRACTS FOR WASTEWATER DIVISION**

Attached please find the following:

1. A Consultant Contract for the North Kona Improvement District Implementation Plan
2. A proposal from the Consultant for preparation of a NPDES Construction Permit for the Kealakehe Effluent Reuse – Phase 1 project.

Also attached are copies of the cover letters with comments apparently made by Peter on Monday prior to providing the documents to Dora Monday afternoon.

Due to the fact that the contracts are for critical projects that need to be expedited and since Dora is in Honolulu attending the HWEA Conference and seminars, I was asked to review the contracts and to try to expedite execution of the contracts. My comments and recommendations are as provided below.

North Kona Improvement District Implementation Plan:

The North Kona Improvement District Implementation Plan is broken into two (2) phases of work with Phase I consisting of preparation of a “Regional Sewerage Master Plan” and Phase II consisting of preparation of a “Specific and Detailed Implementation Plan”.

Preparation of the “Specific and Detailed Implementation Plan” is based on the issues identified during preparation of the “Regional Master Plan”. As such, it is unrealistic to expect the consultant to work on the two phases concurrently.

1. SSFM International was asked to add Items No. 6 and 7 to Exhibit A – Scope of Work, Section I.A to clarify the scope of the Master Plan under Part I.
 - Changes to the section were made to clarify the scope of work since the consultant had concerns that the previous wording of the section may be interpreted that they would be required to provide conceptual designs and preliminary cost estimates for upgrading of the Wastewater Treatment Plant, which was not the intention of the contract.

2. It is understood that the Implementation Plan is not a part of the Improvement District and is used for planning purposes. As such, I do not understand the purpose of Peter's comment regarding that issue.
3. Comments on the time allotted for the Consultant to complete Part II of the Scope of Work are as follows:
 - It is unrealistic to expect the consultant to complete Phase II in a shorter time frame than the allotted 75 calendar days of completion of Phase I of the Scope of Work and to expect high quality work. As indicated above, Phase II is the preparation of the "Specific and Detailed Implementation Plan" and a significant work effort is expected to be required.
 - The Implementation Plan (Phases I and II) essentially provides the "road-map" for implementation of the project and as such, is considered to be a key element in ensuring that the implementation proceeds in a logical method. Although it may be "possible" to get some sort of "Specific and Detailed Implementation Plan" done within a shorter time period, I seriously doubt that it will be a thorough plan, and as such, I would have serious questions on its value in really charting a course of action for implementing the project.
 - With regard to Peter's concern that the project be completed "1-2 weeks prior to deadline by EPA", I am assuming that he is referring to the April 5, 2005 deadline concerning Large Capacity Cesspools.
 - Although it is understood that the LCC issue is an important issue, it is pointed out that actual construction for the North Kona ID project is currently budgeted for FY 08-09 since it is unrealistic that all projects involving LCC's could be completed in a shorter time frame considering budget constraints as well as current staffing.
 - To risk receiving a poorly planned Implementation Plan for the simple sake of the April 5, 2005 deadline when construction is not slated until FY 08-09 is in reality, foolish. It is too important of a document.

Kealakehe Wastewater Treatment Plant NPDES Permit for 12" Force Main

1. The NPDES Permit is required to allow construction to continue for the Kealakehe Effluent Reuse Phase 1 Project, which was awarded to JAS W. Glover, Ltd. on October 1, 2003. The project has been delayed due to the requirement for the NPDES Construction Permit.
2. Installation of the Kealakehe Effluent Reuse line is part of the Consent Order issued by the DOH for effluent reuse at the Kealakehe Wastewater Treatment Plant. The County has obtained an extension for completion of the work by August 2005. That being said, it is expected that we would require another extension since it is unrealistic that we would be able to comply with the current extended deadline.

3. The "Other Contract" that Peter alludes to regarding the NPDES Construction Permit is currently with a proposal received from SSFM International, Inc. regarding the preparation of bid documents for the Kealakehe Wetlands Pilot Cell project. That proposal also includes installation of an Effluent Reuse Line to the Honokohau Harbor in compliance with the DOH Consent Order for the Kealakehe Wastewater Treatment Plant.
- The Kealakehe Wetlands Pilot Cell project contract has been reviewed. However, the proposal indicates that the consultant will not be providing drawings stamped by a Licensed Engineer for the project since they are not designing the project and are instead using drawings previously provided to the County from the Bureau of Reclamation.
 - The Honokohau Effluent Reuse Piping to be installed as a part of the Wetlands Pilot Cell Project was a temporary line intended to meet the extended deadline of the Consent Order. I discussed this issue with Marshall Lum of the Department of Health and he indicated that they were not aware of the fact that the line to be installed was a temporary line. I also discussed the possibility of changing the terms of the Consent Order in the event of funding issues since it may be more feasible and beneficial to install effluent reuse piping in the South direction since there were more potential users in that direction. Marshall indicated that he did not see a problem with changing the terms of the Consent Order if it could be shown that it was more beneficial.
 - We are currently in the process of executing a contract with Brown and Caldwell to have them provide assistance with installation of the Honokohau Effluent Reuse Piping as a part of the Queen Kaahumanu Highway Widening Project. The Effluent Reuse Master Plan (February 1999) reflected installation of the piping as a part of the project and the Brown and Caldwell had initially coordinated that effort with the State Department of Transportation, however, the Bid Documents issued by the State DOT did not include provisions for installation of effluent reuse piping as a part of their project.
 - I also have some major concerns as to whether installation of wetlands will truly be effective in obtaining R-1 reuse water, especially in terms of the quantities envisioned under the current Effluent Reuse Master Plan (February 1999) since literature seems to indicate wide variability with effluent parameters from Constructed Wetlands. Of additional concern is that some of the literature indicates that although Louisiana had 60 Constructed Wetlands for Municipal Treatment Facilities, only 4 of them were successful and the remainder had been abandoned.
 - Brown and Caldwell will be providing a Technical Memorandum as part of their contract for the Honokohau Effluent Reuse Piping outlining the pro's and con's of using Constructed Wetlands as part of the Kealakehe Wastewater Treatment Facility's efforts to obtain R-1 Water in order that an informed decision can be made regarding the feasibility of utilizing Constructed Wetlands at the facility.

Recommendations:

1. It is recommended that we proceed with execution of the North Kona Improvement District contract in its present form. In reality, this project has been delayed by more than the additional allotted time in its present form due to Peter's concern that the project be expedited and that the consultant be allowed less time to complete the project.
2. It is recommended that we proceed with execution of a contract for the NPDES Permit preparation in order that we can expedite start of the previously awarded construction contract and in order to meet terms of the extended Consent Order.
 - We are currently in the process of drafting up a Consultant Contract for the work as indicated in the proposal from the Consultant.

Commentary:

Much thought was given by both Dora and myself in trying to establish a realistic Capital Improvement Budget plan from both the funding and personnel resource aspects since we wanted to ensure that we provided a realistic program.

With regard to the allotted time for the North Kona Improvement District Implementation Plan, much thought was also given to that issue especially since Peter had previously expressed his desires to the consultant that they provide the completed Implementation Plan in a shorter time frame. However, as indicated above, it was determined that allowance of additional time to prepare the plan would result in a better end product for the County.

With regard to the NPDES Construction Permit for the Kealakehe Effluent Reuse Phase 1 project, it was originally my recommendation that a separate contract be provided. My recommendation was based on the following:

1. The project has been stalled for some time and including the work in the Wetlands Pilot Cell project would lead to further delays due to concerns expressed above.
2. Completion of the Kealakehe Effluent Reuse Phase 1 project is tied to the Consent Order for the Kealakehe Wastewater Treatment Plant and compliance with the extended Consent Order is coming due.
3. Installation of a temporary effluent reuse line to the Honokohau Harbor for the simple reason of complying with the Consent Order did not seem to be justified, especially in light of my discussions with the DOH and the fact that the State DOT is proceeding with the Queen Kaahumanu Widening Project.

In summary, all of the decisions made on how to proceed with some of the projects were made only after careful thought and much discussion between Dora and myself. We also realized that some of the decisions would not be especially popular with Peter upon his return and as such, no decisions were made frivolously. However, since we were charged with the responsibility of making these types of decisions in his absence, it was decided that we would base the decisions on our own evaluation and understanding of the issues at hand and would make what we felt was the best decision in the interest of the County.

Dora is the Acting Division Chief and as such she bears the ultimate responsibility for the final decisions which were made. She will be undoubtedly be held accountable for those decisions by Peter upon his return since some of the decisions may not have been to his liking. That being said, I personally disagree with the basis for some of his decisions.

I therefore want to make it clear that all of those decisions were in fact, joint decisions by both Dora and myself after much discussion and although the final decision was not mine to make, I share in the responsibility. Indeed, some of the recommendations, especially regarding concerns on the Wetlands Pilot Cell Project, were mine, and I take full responsibility for those recommendations and the decisions made based on my recommendations.

I would also like to make it clear that in the event that Peter objects to some of the decisions that were made at the Departmental (or higher) level upon his return, you are welcome to provide him a copy of this memorandum. I have nothing to hide.

cc: Dora Beck, P.E., Acting Division Chief
Nelson Ho, Deputy Director



SSFM INTERNATIONAL, INC.

501 Sumner Street, Suite 620

Honolulu, Hawaii 96817

Phone: (808) 531-1308

Fax: (808) 521-7348

Project Managers, Planners, & Engineers
American Council of Engineering Companies, Member

February 9, 2005

SSFM 2004_115.000

TO: Wastewater Division
Department of Environmental Management
County of Hawaii
108 Railroad Avenue
Hilo, Hawaii 96720

Attention: Mr. Peter J. Boucher, P.E.

*The revised
Scope is
unacceptable.
Section 1 for
Broad Regional*

SUBJECT: North Kona Improvement District Implementation Plan

we transmit herewith the following:

- (1) certified copy Tax Clearance
- (1) original Corporate Resolution
- (1) copy Certificate of Insurance
- (1) original Consultant Services Contract

*Plan is reg'd
by Council and
is not intended
to be part of
Improvement
District*

remarks:

Per your instructions the consultant agreement has been reviewed, signed, notarized, and returned to you for processing. The original certificate of insurance should have been mailed to you in December.

SSFM INTERNATIONAL, INC.

Elizabeth I. Chikamori

Office Manager

email: echikamori@ssfm.com

*There is too
much time
allotted for
Part 2. Should
be ready 1-2 weeks
prior to deadline
in EPA*



SSFM INTERNATIONAL, INC.

501 Sumner Street, Suite 620

Honolulu, Hawaii 96817

Phone: (808) 531-1308

Fax: (808) 521-7348

Project Managers, Planners, & Engineers
American Council of Engineering Companies, Member

February 9, 2005

Contract 200400020.001

CLIENT: County of Hawaii
Department of Environmental Management, Wastewater Division
108 Railroad Avenue
Hilo, Hawaii 96720

Attention: Mr. Peter Boucher, P.E., Division Chief

SUBJECT: Kealakehe Wastewater Treatment Plant
NPDES Permit for 12" Force Main
District of North Kona

*THIS SCOPE
IS ALREADY
COVERED IN
OTHER CONTRACT*

AGREEMENT FOR PROFESSIONAL SERVICES

We are pleased to submit the following agreement between County of Hawaii, Department of Environmental Management, Wastewater Division (hereinafter referred to as CLIENT) and SSFM INTERNATIONAL, INC. (hereinafter referred to as SSFM) to provide ENGINEERING, PLANNING & PROJECT MANAGEMENT SERVICES for this project.

ATTACHMENTS

This AGREEMENT together with the following attachments constitute the entire agreement between the parties herein:

1. EXHIBIT "A": Description of Work
 - a. Physical Limits of Owner's Improvements
 - b. Basic Scope of Work
 - c. Work Not Included
2. EXHIBIT "B": *Terms and Conditions* (Version 17 November 2004).

GENERAL DESCRIPTION OF THE PROJECT

It is SSFM's understanding that the Client has retained SSFM to provide professional services to obtain an individual NPDES permit for the construction of a 12" Force Main delivering treated effluent from the Kealakehe Wastewater Treatment Plant to a holding pond adjacent to the Kealakehe Transfer Station located mauka of the Queen Kaahumanu Highway.

SERVICES TO BE PROVIDED

1. Description of Project Management Services
 - a. Overall coordination and management of project from inception through completion, serving as the single point-of-contact for the Client.
2. Description of Planning Services
 - a. Perform research and field inspection work as required in preparation of NPDES Permit application.
 - b. Prepare and submit NPDES Permit application incorporating Client review comments as necessary.
 - c. Coordinate with State Department of health in processing/revising Permit as required for approval.

h



February 3, 2005

Contract 200400020.001

CHARGES FOR PROFESSIONAL SERVICES

For the basic scope of work shown hereinbefore, compensation for our services shall be lump sum including 4.166% State General Excise Tax as follows:

LUMP SUM FEE = \$13,700.00

(NOTE: Reimbursable expenses are not included in the lump sum fee. Additional Services are covered in the *Terms and Conditions*.)

SSFM will submit an invoice for services provided under this Agreement on a monthly basis.

If our services covered by this Agreement have not been completed within 12 months of the date hereof, through no fault of SSFM, the remaining fees shall be escalated at the rate of 3% per year.

SCHEDULE OF SERVICES: Excluding CLIENT and OWNER review periods, significant scope changes and/or redesigns by CLIENT, or other delays beyond the control of SSFM, the time schedule for the proposed scope of services should proceed according to the following time estimates:

<u>Phase</u>	<u>Estimated Time</u>
Draft NPDES Application	45 ^{days} weeks after notice to proceed (NTP)
Final NPDES Application for filing with State DOH	21 days exclusive of Client review

Should this AGREEMENT meet with your approval, please sign and return one copy if not, please call for further discussions and/or clarifications. We will begin services upon receipt of a signed copy of this AGREEMENT.

Thank you very much for this opportunity to serve as ENGINEERING, PLANNING & PROJECT MANAGEMENT for this PROJECT.

SSFM INTERNATIONAL, INC.

Stephen Yee, P.E.
Project Manager
Email: syee@ssfm.com

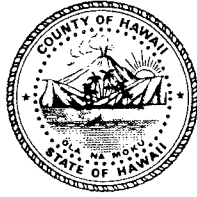
Reviewed and Approved By:

Michael P. Matsumoto, P.E.
President/CEO
Email: mmatsumoto@ssfm.com

sy/mpm:gav

Enclosures: Extra Copy
Exhibit "A" - Description of Work
Exhibit "B" - Terms & Conditions (Version 17 November 2004)

Harry Kim
Mayor



Barbara Bell
Director

Nelson Ho
Deputy Director

County of Hawaii
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
25 Aupuni Street, Room 208 • Hilo, Hawaii 96720-4252
(808) 961-8083 • Fax (808) 961-8086

June 24, 2004

Lisa Munger
Goodsill, Anderson,
Quinn & Stifel
P.O. Box 3196
Honolulu, HI 96801

SUBJECT: STATUS OF PROPOSED NORTH KONA IMPROVEMENT DISTRICT

The following is offered in response to your email inquiry of June 17, 2004. On December 17, 2003 the Hawaii County Council approved a resolution which authorizes the Department of Environmental Management to prepare a regional sewerage master plan for the region north of Kealahou including an implementation plan for an improvement district to service the area. A copy of the resolution is included for your reference.

The Department is currently in the process of negotiating a contract with a consultant to perform the required study. Once the study is completed and consensus is reached with the affected property owners, the issue will again be put before Council to consider whether to proceed with the improvement district. Assuming the project is authorized, environmental planning, engineering design, land acquisition and project financing would proceed with construction to follow. If everything proceeds smoothly, we would expect that individual properties could connect to the sewer in approximately three years.

If you have any further questions, you can reach me at 961-8965.

Nelson Ho
Deputy Director

cc: Peter Boucher
attachment

COUNTY OF HAWAII STATE OF HAWAII



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SWL
✓
WWL

RESOLUTION NO. 129 03
Draft 2

A RESOLUTION RELATING TO THE PREPARATION OF (1) A NORTH KONA REGIONAL SEWERAGE MASTER PLAN; AND (2) A COUNCIL INITIATED IMPROVEMENT DISTRICT IMPLEMENTATION STUDY FOR THE CONSTRUCTION OF CERTAIN WASTEWATER AND RECYCLED WATER SYSTEM IMPROVEMENTS FOR KEALAKEHE, HONOKOHAU, KALOKO AND KOHANAIKI, DISTRICT OF NORTH KONA, HAWAII

WHEREAS, the Council of the County of Hawaii wishes to initiate proposed improvements on certain real property located at Kealakehe, Honokohau, Kaloko and Kohanaiki, District of North Kona, County and State of Hawaii for improvements consisting of extension to the municipal sewer system and recycled water system, pursuant to the provisions of Section 12-10, Hawaii County Code, as amended; and

WHEREAS, the Council of the County of Hawaii acknowledges that the Kona Coast north of Kailua contains valuable, unique marine resources and pristine shoreline park properties including Honokohau Harbor, Kaloko Honokahau National Historic Park, a new Kohanaiki shoreline park, and the Natural Energy Laboratory of Hawaii Authority at Keahole Point; and

WHEREAS, the Council finds that the rapid confluence of private and public developments within the North Kona region extending from Kealakehe and Kaloko to Honokohau Harbor and north to the Lands of Kau calls for an updated regional sewerage master plan for this area; and

WHEREAS, the operative "sewer policies" referenced in Ordinance 89-142, An Ordinance Adopting the County of Hawaii General Plan and Repealing Ordinance No. 439, As Amended ("the General Plan") for the general planning of sewerage disposal systems are decades old, to wit: the "Sewerage Study for All Urban and Urbanizing Areas of the County of Hawaii, State of Hawaii," December 1970, the "Water Quality Management Plan for the County of Hawaii," December 1980, and the "Facility Plan for the Kailua-Kona Sewerage System, Phase IV (Northern Zone)," April, 1981; and

WHEREAS, in its assessment of the projected sewage flow capacity of the Kealakehe Sewage Treatment Plant, the "Keahole to Kailua Development Plan" adopted by the County Council in Resolution 296-91 on April 3, 1991 called for "further planning and design"; and

WHEREAS, the General Plan states that industrial development in North Kona's "redeveloping or newly developing areas shall be developed in concert with programmed public and privately funded infrastructure to meet the expected needs"; and

WHEREAS, expanded visitor use of the Kaloko Honokahau National Historic Park administered by the National Park Service, coupled with shoreline park development of Kohanaiki and its planned, low density intentional community, merit thoughtful wastewater treatment and sewerage planning to assure environmental protection of these pristine shoreline areas; and

WHEREAS, the "Sewer Policies" outlined in the General Plan states, in part:

- "Private systems shall be installed by land developers for major resort and other developments along shorelines and sensitive higher inland areas, except where connection to nearby treatment facilities is feasible and compatible with the County's long-range plans, and in conformance with state and county requirements.
- The County shall take immediate steps to designate treatment plant sites, sewerage pump station sites, and sewer easements according to the facility plans to facilitate their acquisition.
- The County shall seek State and Federal funds to assist in financing the construction of proposed sewer systems"; and

WHEREAS, the Council of the County of Hawai'i acknowledges the need to implement improvements consisting of extension to the municipal sewer system and recycled water system on certain real property located at Kealakehe, Honokohau, Kaloko and Kohanaiki, District of North Kona, County and State of Hawai'i; and

WHEREAS, extension of said improvements from the existing Kealakehe Wastewater Treatment Plant north along the alignment of the Queen Kaahumanu Highway to Kohanaiki will include, but not be limited to, necessary recycled water mains, gravity sewers, manholes, pump station(s) and force mains, and sewer laterals with cleanouts to be installed to each property serviced by the proposed improvements; and

WHEREAS, the Council acknowledges that there are a number of public and private developments planned or completed in this region including, but not limited to, Lanihau Properties, McClean Honokohau Properties, Gentry Properties, Taylor Family Ltd. Partnership, Mid Corporation, Rutter/KW Kohanaiki LLC, TSA Corporation, Y-O Properties, and various public landowners including the State of Hawai'i, the State of Hawai'i Department of Hawaiian Homelands, the United States of America (General Services Administration and National Park Service), as well as a newly proposed West Hawai'i campus of the University of Hawai'i; and

WHEREAS, the Council acknowledges that the mix of private and public development of properties within the region requires the preparation of a more comprehensive regional plan of wastewater treatment needs and sewer improvements than that contemplated in Resolution No. 70-01 (deferred), which proposed a Council-initiated improvement district from the Kealakehe Wastewater Treatment Plant to the Kaloko Industrial Area; and

WHEREAS, the Council finds that a number of options may be chosen for the allocation of costs of sewer system improvements, including, but not limited to: distribution of sewer improvement district costs by parcel, allocation by zoning or permissible number of units assigned to each parcel, potential usage, required sewer capacity, square footage of buildings, benefits conferred upon the land, or a combination thereof; and

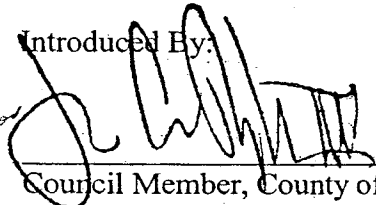
WHEREAS, the allocation of costs associated with said improvements and the preferred financing thereof may best be determined after the scope and timetable(s) of intended development, including incremental development, of all affected landowners are surveyed, and all landowners are consulted within a regional planning process.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF HAWAI'I that:

- (1) in consultation with the landowners referenced above, the Director of the Environmental Management is directed to prepare for submission to the Council (a) a broad regional sewerage master plan for the region north of Kealakehe, and (b) a specific and detailed implementation plan for an improvement district to include the necessity, feasibility, proposed boundaries, proposed real properties subject to assessment, estimated total cost, and method of financing desirable for the aforementioned sewer system improvements at Kealakehe, Honokohau, Kaloko and Kohanaiki, District of North Kona, County and State of Hawai'i; and
- (2) include in the specific and detailed implementation plan all such data, survey, maps, plans, drawings, details and specifications for the improvements and any other matters or details intended to apply thereto in accordance with the provisions of Section 12-10, Hawai'i County Code, as amended; and
- (3) advise the Council as to the preferred method of financing said improvements, whether by Council-initiated improvement district, owner-initiated improvement district, tax increment district, community facilities district, or private financing.

BE IT FURTHER RESOLVED that the Clerk of the County of Hawai'i transmit copies of this resolution to the directors of the Departments of Finance and Environmental Management, and the Environmental Management Commission.

Dated at Hilo, Hawai'i, this 17th day of December, 2003.

Introduced By: 

 Council Member, County of Hawai'i

COUNTY COUNCIL
 County of Hawai'i
 Hilo, Hawai'i

I hereby certify that the foregoing RESOLUTION was by
 The vote indicated to the right hereof adopted by the COUNCIL of the
 County of Hawai'i on December 17, 2003.

ATTEST:

 COUNTY CLERK
 CHAIRMAN & PRESIDING OFFICER

ROLL CALL VOTE

	AYES	NOES	ABS	EX
ARAKAKI	X			
CHUNG	X			
ELARIONOFF	X			
HOLSCHUH	X			
JACOBSON	X			
REYNOLDS	X			
SAFARIK	X			
TULANG	X			
TYLER	X			
	9	0	0	0

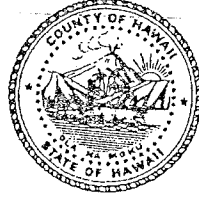
Reference: C-417.4

RESOLUTION NO. 129 03 (Draft 2)

DISTRIBUTION:

~~SWD~~
 WWD

COPY



OFFICE OF THE COUNTY CLERK

HAWAII COUNTY BUILDING
COUNTY OF HAWAII
HILO, HAWAII 96720

March 23, 2004

Refer: Res. 158-04
C-503

To: Finance Director

Re: A Resolution Relating to a Council Initiated Improvement District
Implementation Study for the Construction of Certain Wastewater
and Sewer System Improvements for Holualoa, District of North
Kona, Hawai'i

The following is the action of the Hawai'i County Council adopted at its
meeting held March 5, 2004:

FC-221 was approved and adopted.
(Res. 158-04 was adopted)

COUNTY CLERK

Att.

xc: Mayor
~~Department of Environmental Management~~

5732

RECEIVED
MAR 24 2004

**REPORT OF THE
COMMITTEE ON FINANCE**

DATE: February 18, 2004
PLACE: Council Chambers
TIME: 10:10 a.m.

Re: Comm. No. 503/Res. No. 158-04

Council Chair and Members
Hawai'i County Council
Hilo, Hawai'i 96720

Your Committee on Finance, to which was referred Resolution No. 158-04, reports as follows:

Resolution No. 158-04, transmitted by Director of Finance William Takaba, via Communication No. 503, dated February 5, 2004, authorizes a Council initiated improvement district implementation study for the wastewater and sewer system improvements for Holualoa, District of North Kona, Hawai'i.

The US Environmental Protection Agency (EPA) has promulgated Underground Injection Control regulations on December 7, 1999 which require that large capacity cesspools existing prior to that date must be upgraded or closed by April 5, 2005. The Kilohana Homeowners Association has requested the assistance of the County in its efforts to comply with the EPA regulation and connect to the County sewer system. The subdivision was constructed with eight large capacity cesspools.

Pursuant to Section 12-10, Hawai'i County Code, titled "Initiation by council; study of proposed improvement; adoption of improvement; hearing." it states that "The council shall, by resolution requiring not more than one reading for its adoption, direct the chief engineer, or the manager in the case of a water system improvement district, to prepare and submit to the council a report."

Your Committee heard testimony in favor of the measure from Stanley Suderow of the Kilohana Homeowners Association.

During its discussion, Your Committee learned the preparation of a report is the first step for an Improvement District. The Department of Environmental Management-Wastewater Division is working on a funding source to hire a consultant for an implementation study. Your Committee also learned that Kilohana large capacity cesspools are not part of the County system like the Liliuokalani Subdivision, but will be eventually.

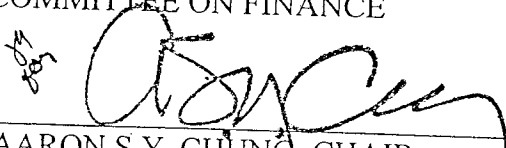
Your Committee on Finance is in accord with the purpose and intent of Resolution No. 158-04 and recommends its adoption.

smc

	AYES	NOES	A&E	ABS
CHUNG	X			
SAFARIK			X	
ARAKAKI	X			
ELARIONOFF	X			
HOLSCHUH			X	
JACOBSON	X			
REYNOLDS	X			
TULANG	X			
TYLER	X			

Respectfully submitted

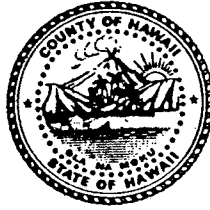
COMMITTEE ON FINANCE


AARON S.Y. CHUNG, CHAIR

FC REPORT NO. 221

ADOPTED: MAR 05 2004

Harry Kim
Mayor



Lincoln S.T. Ashida
Corporation Counsel

Gerald Takase
Assistant Corporation Counsel

County of Hawaii

OFFICE OF THE CORPORATION COUNSEL

101 Aupuni Street, Suite 325 • Hilo, Hawaii 96720-4262 • (808) 961-8251 • FAX (808) 961-8622

March 20, 2002

The Honorable J. Curtis Tyler, III, Councilmember
County Council
25 Aupuni Street, Room 209
Hilo, Hawai'i 96720

Dear Councilmember Tyler:

RE: Resolution 70-01
Proposed Sewer Improvement District, North Kona
Our Entry No. 1626

Thank you for your request of January 30, 2002, regarding the above-referenced matter. The following are our responses to your inquiries:

1. **Do the property owners in the existing Phases I and II of the Kaloko Light Industrial Subdivision have any legal obligations, as a condition of their underlying land use or otherwise, to tie in to the proposed sewer extension?**

Section 21-5 of the Hawai'i County Code ("HCC") provides:

- (a) Every lot which is accessible to a sewer and which has plumbing fixtures located on it shall be connected to the sewer within one hundred twenty calendar days after the lot owner has been notified to do so by the director of public works or State department of health. If such plumbing fixtures have not been so connected, the premises shall not be used or occupied as a habitation or for any purpose for which plumbing fixtures are necessary.

- (b) Exceptions are as hereafter provided:

- (1) This section shall not apply to lots accessible to a sewer which have plumbing fixtures located on them and which were in existence prior to the date of July 1, 1989, providing that the lot's existing waste disposal system does

not violate any existing health, sanitation, or nuisance provision.

- (2) This section shall not apply to a lot which is below the level of the sewer and would require the installation of a pump to lift the sewage to proper elevation for discharge into the sewer.

In this case, Peter Boucher, Division Head of the Wastewater Division of the Department of Environmental Management, indicated to me that a few of the lots in Phases I and II of the Kaloko Light Industrial Subdivision would be accessible to the proposed sewer extension, and thus would be required under § 21-5, HCC, to "tie in" to the proposed extension if they did not fall into one of the exceptions.

Additionally, it appears that some of the properties listed in the preliminary identification are in Phase I and Phase II of the Kaloko Light Industrial Subdivision.

2. **Does Chapter 12 of the Hawai'i County Code require all property owners within the ID boundaries to participate and share in the costs of the ID? If yes, must Attachment A be amended to include all TMKs and their owners?**

First of all, certain lands are exempt from assessments as provided in § 12-5, HCC. It is thus possible that if exempt land is included in the ID boundaries, they will not share in the costs.

Aside from those owners who are specifically exempt from assessments, § 12-2, HCC, provides that "[t]he cost of the special improvement . . . shall be assessed against the land specially benefitted. . . ." Based upon this section, all owners not specifically exempted should participate and share in the cost of the Improvement District. *See, also*, 14 McQuillin Mun Corp § 38.58 (3rd Ed) ("The rule is that the assessment must be made on all the land in the district as designated by the ordinance or order creating the same.")

To the extent that Attachment A does not include all TMKs and their owners, it should be amended.

Additionally, for your information, while the assessment district should include all lands specially benefitted by the proposed improvement, this is not required. 14 McQuillin Mun Corp § 38.52 (3rd Ed). The council is granted considerable discretion in fixing the boundaries and areas of an improvement district, but your determination must not be palpably arbitrary or grossly

unfair. *Schnack v. The City and County of Honolulu*, 41 Haw. 219 (1955); *Brock v. Lemke*, 51 Haw. 175 (1969).

3. **Given the requirements of Chapter 12, is it legal to base the cost sharing on the size of the property, without considering the actual/proposed impacts of developments on the system itself? By the same token, may the resolution be amended to reallocate the costs on the basis of the amount of wastewater generated, as recounted by the EMC?**

Section 12-2, HCC, provides in pertinent part:

- (a) . . . The cost of the special improvement including the cost of acquiring (whether prior to or after the commencement of the proceedings for such improvements) any new land therefor, shall be assessed against the land specially benefitted on the basis of the following:
 - (1) On a frontage basis;
 - (2) According to area of the land within an improvement district;
 - (3) The permissible number of units assigned to each parcel in the improvement district under applicable zoning provisions;
* * *
 - (5) Required sewer capacity;
* * *
 - (7) Square footage of building; or
 - (8) Any method which the council finds assesses said land according to the special benefits conferred on said land, or any combination thereof.

From a plain reading of § 12-2, it is legal to base the cost sharing on the size of the property, without considering the actual/proposed impacts of developments on the system itself, as § 12-2(a)(2) allows such costs sharing.

As for whether the resolution can be "amended to reallocate the costs on the basis of the amount of wastewater generated, as recounted by the EMC," from a legal standpoint, § 12-2(a)(8) appears to cover such a reallocation, as cost sharing may be by "[a]ny method which the council finds assesses said land according to the special benefits conferred on said land,"

Whether the cost of an improvement is assessed against the land benefitted on a frontage basis or an area basis, etc. are questions that are, in this case within the jurisdiction of the council, and its decision on such matters, except in cases of fraud or mistake are conclusive. *See, De Mello v. Wilson*, 28 Haw. 298, 304 (1925).

Additionally, the establishment of an improvement district is a legislative function which is not reviewable by the courts unless fraud, illegality, abuse of discretion or mistake is alleged and shown. The determination of the existence of special benefits is a question of fact for legislative determination and the courts will disturb such determination only where it is palpably arbitrary, grossly unjust and confiscatory. *Schnack v. The City and County of Honolulu*, 42 Haw. 76, 77 (1957). Despite this standard, the court in *Schnack* determined that the Board of Supervisors abused its discretion when it assessed one lot to its entire depth where it assessed other property adjacent to or within the immediate vicinity of plaintiff's lot, and similar in usage in all other respects, to a depth of only 100 feet.

The council must decide if there is a sufficient nexus between the amount of the wastewater generated and "the special benefit conferred" as well as whether there is a practical, and not arbitrary or discriminatory way of estimating the amount of wastewater that will be generated from the affected properties. If you can do this, it will be legal to reallocate the costs on the basis of the amount of wastewater generated.

4. Does Chapter 12 permit the County of Hawai'i to pay for a portion of the ID and not apportion these costs among the ID property owners?

Section 12-5 actually mandates that the County pay for the costs for exempted public land and land exempted by law from assessments. However, in said situation § 12-5(b) gives the council the same right of approval or protest as though the County were the private owner of the public or exempted land so involved. The remainder of § 12-5(b) identifies the circumstances under which the County may be reimbursed for those expenditures.

As to whether the County may pay for a portion of the improvement district when public land and land exempted by law from assessments is not involved, § 12-7, HCC, provides that the County may advance funds "before or after the commencement of proceedings for creation of improvement districts and, to the extent that said costs are included in the cost of improvements for said improvement districts, the council may direct partial or full reimbursement to the County. . . ." [Emphasis Added.] The inclusion of the permissive word "may" indicates that the council could not direct the reimbursement and thus the County could pay for a portion of the improvement.

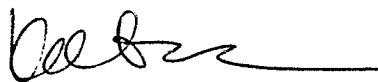
5. **As depicted in Attachment B, is it legal for the County to utilize portions of the historic Ala Loa Trail aka King's Highway for the sewer extension?**

Mr. Boucher was unaware that the proposed sewer extension utilized portions of a historic trail.

Obviously, any sewer extension would have to comply with all regulations concerning historic preservation. More specific information regarding whether the proposed extension would affect historic property would be contained in the report by the director of public works that would be prepared in response to this resolution.

I hope this letter adequately responds to the questions in your thoughtful memorandum of January 30, 2002. Please feel free to contact me should you have any questions or concerns regarding the content of this letter.

Sincerely,

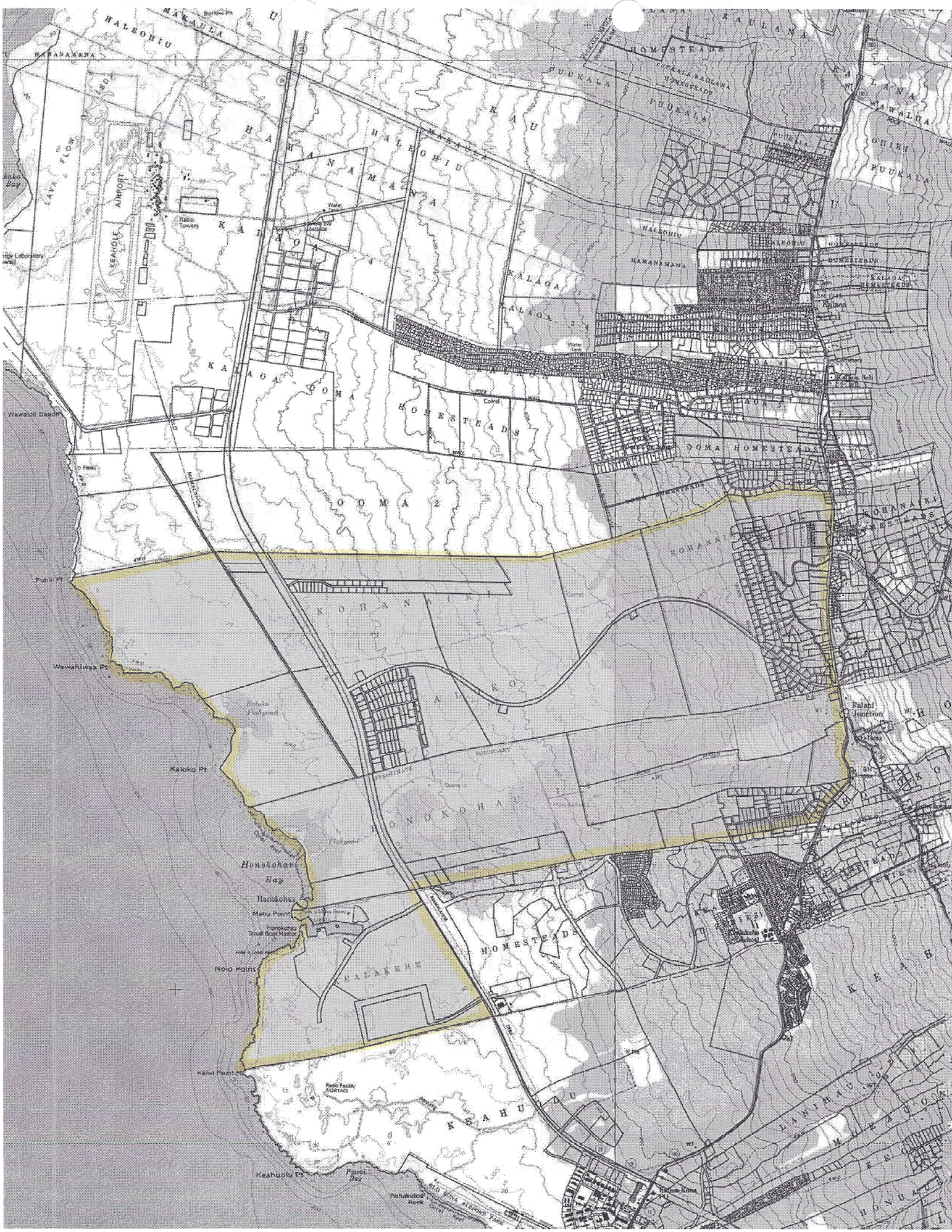


KATHERINE A. GARSON
Deputy Corporation Counsel

KAG:fc

cc: Peter Boucher, Division Head, Wastewater
Galen Kuba, Director of Environmental Management
Dennis K.W. Lee, P.E., Director,
Department of Public Works
Environmental Management Commission

NORTH KONA IMPROVEMENT DISTRICT



1-19-06

SSFM will do 3 options

② with preferred alternative

③ financing options.

75 days to do master plan

75 days to do implementation plan.

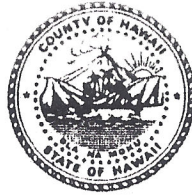
517 TMK#s

4800 acres
+ 600 ? acres

Steve Yee
Pam Harlow

assumptions - run by Council?

J. CURTIS TYLER III
Vice Chair
District 8 (North Kona)



Bus: (808) 326-5684
Fax: (808) 326-5697
ctyler@interpac.net

HAWAII COUNTY COUNCIL

Kona Council Office • 77-6399 Nalani Street • Suite 104 • Kailua-Kona • Hawaii'i • 96740-8980


January 30, 2002

MEMORANDUM:

TO: Lincoln Ashida
Corporation Counsel

FROM: J. Curtis Tyler III
Vice Chair

SUBJECT: Resolution 70-01,
Proposed Sewer Improvement District, North Kona



This memo is a follow-up to my 1/18 conversation with Joe Kamelamela of your office and my 1/22 testimony in Kona to the Environmental Management Commission (EMC) regarding the referenced resolution.

Since I have a number of ongoing legal concerns about specific parts of this resolution, I am requesting that your office address these concerns and provide me with a written opinion as to the legality of the resolution and proposed improvement district (ID). In this regard, I provide the following background information and apologize for its length.

In September 2000, Peter Boucher, Chief of the Wastewater Division, called to tell me that Mayor Yamashiro asked him to draw up a resolution for a sewer ID from the Kealakehe Treatment Plant to the Kaloko Industrial area. He also said that, due to the proposed development of Phases III and IV of that subdivision and the resulting petition before the Land Use Commission (LUC), time was of the essence and asked if I would be willing to introduce such a resolution.

Since I have always believed in the protection of the class AA waters makai of the proposed ID and do support the principles and purpose of the County's ID ordinance, I thanked him for the courtesy and asked for more details on the proposal itself.

REC'D - 4 300
RECEIVED

RECEIVED
FEB -4 2002

RECEIVED

JAN 32 10:03 '02

COUNTY OF HAWAII
DEPT. OF PUBLIC WORKS

FEB -1 10:20 '02

COUNTY OF HAWAII
DEPT. OF PUBLIC WORKS

For your info

FROM: Wm DATE: 2/10/02

TO: _____ INITIAL / DATE _____

CHIEF ENGINEER _____
 DEPT. CHIEF ENGINEER _____
 AUTOMOTIVE _____
 BUILDING _____
 ENGINEERING _____
 HIGHWAY MAINTENANCE _____
 TRAFFIC _____
 WASTE WATER _____
 SOLID WASTE _____
 BUSINESS MANAGER _____
 PERSONNEL MGMT SP _____
 SECRETARY _____
 DPW SAFETY _____

FOR YOUR: Return File Distribute Circulate Information

REMARKS:
 Take action
 Take action/ cc to me
 Reply directly
 Draft reply
 Review / Comment
 Investigate / recommend
 See / call me
 As requested

COUNTY OF HAWAII
DEPARTMENT OF PUBLIC WORKS
Route 511p

In mid-October, the Mayor forwarded his proposal (see Exhibit 1) to the Council. Shortly thereafter, Aaron Chung, Finance Committee chair, provided me with a copy and asked if I would like to introduce the resolution before the 10/20 deadline. When I reviewed the specifics of that initial proposal, I noticed that the boundaries of the proposed ID shown in Attachment B exclude the existing portions of the Kaloko Light Industrial Subdivision and a large section of the Kaloko-Honokohau National Park, while the proposed expansion of that subdivision, the very subject of the pending Land Use Commission (LUC) petition, was specifically included. I also noted the proposal had the County itself paying for 35% of the overall ID costs.

For these reasons, I asked Mr. Chung to hold off agendizing the matter until I could obtain more information from Mr. Boucher about my concerns. Subsequently, as I recall, a number of telephone calls were exchanged, but no face to face meetings occurred before Mayor Kim assumed office in early December. Shortly thereafter, I shared my concerns with Mr. Kim and the new DPW Director, Dennis Lee, who said they would look into the matter.

In early April 2001, I received a draft copy of a proposed resolution with attachments. I was very pleased to see that the size of the ID boundaries had been expanded to include the properties previously excluded, but I remained concerned that the County was still expected to pay for 22% of the ID costs. After further inquiry, I again was told that time was of the essence, due to the fact that the LUC petition was now the subject of a contested case. Nevertheless, since I agreed, in principle, with creation of an ID for the extension of the sewer system to this expanded area, I instructed staff to make some minor revisions to the draft and use my signature stamp, with the note that introduction was "by request," indicating I still had some reservations about certain aspects of the proposal. I expressed those reservations during the 4/17 Finance Committee hearing but did not want to hold the matter in committee. Upon more careful review of Attachment A prior to the first reading, I noticed that although the ID area had been expanded to include certain properties, the property listings and cost allocations did not. Therefore, on 5/2/01, at my request, the resolution (see Exhibit 2) was unanimously deferred for the purpose of "looking into" ongoing "questions," including mine and those of one member of the EMC.

On July 2, 2001, I spoke directly with Mr. Boucher about some of these questions and concerns and told him I felt portions of the resolution, in their present form, might be violative of the ID ordinance. He asserted that the ID wouldn't "fly" if the lots in the existing Kaloko Light Industrial Subdivision were included, since a majority of the lot owners wouldn't support the proposal, and, therefore, the percentage of objecting owners would exceed the requirements of the ordinance. He has repeated these assertions to both the LUC and EMC. Nevertheless, a

1/16/02 article in WHT (copy enclosed) seems to indicate that these same owners are "already obligated to tie into the sewer system" once it is extended to that area, as proposed by Resolution 70-01.

To my way of thinking, the Council-initiated ID process was created to bring specific public benefit to all landowners within a designated "district" by apportioning the costs among each of them, while ensuring that, if a certain number object, the ID shall not proceed. By the same token, it seems ludicrous that some would be purposely and specifically excluded just because they may object. This exclusion becomes even more ludicrous if the very owners who may object to being included are the very ones who may be required to hook up to the sewer extension by a condition of their own underlying zoning!

On July 3, 2001, the co-chairs of the EMC submitted a letter to Council (copy enclosed), supporting the resolution subject to two exceptions, both of which related directly to some of my ongoing concerns.

In August 2001, with the intent of moving this proposal along, I asked my legislative assistant, Rory Flynn, to request some clarification and, if necessary, an opinion regarding my specific questions and concerns. He indicated that a related request concerning the Coastview-Wonderview Water ID might address these and suggested we wait for that response. As you know, your office responded to that request earlier this month.

On December 3, I spoke by telephone with Carolyn Witcher, EMC member for District 8. She related concerns expressed by Mr. Boucher at the November EMC meeting, and she asked for an update on the deferral of the resolution. I related the chain of events chronicled above and my specific concerns, of which she was unaware. She then requested that I put these in writing so she could present them to all members of the EMC. I did so by memo on the same date (copy enclosed).

On January 22, I appeared before the EMC to speak on an unrelated agenda item, and since my 12/3 memo was part of the agenda, I provided an update to the commissioners and answered their questions about same. I also indicated that I would be sending this letter to you.

Inasmuch as 1/11/02 response from your office, unfortunately, did not address the specifics of this case, I am now seeking written clarification and, if necessary, your legal opinion(s) concerning Resolution 70-01 and attachments A & B thereto. My questions are:

1. Do the property owners in the existing Phases I and II of the Kaloko Light Industrial Subdivision have any legal obligations, as a condition of their underlying land use or otherwise, to tie in to the proposed sewer extension?

Lincoln Ashida
Corporation Counsel
January 30, 2002
Page 4

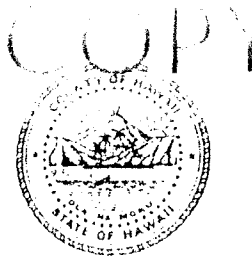
2. Does Chapter 12 of the Hawai'i County Code require all property owners within the ID boundaries to participate and share in the costs of the ID? If yes, must Attachment A be amended to include all TMKs and their owners?
3. Given the requirements of Chapter 12, is it legal to base the cost sharing on the size of the property, without considering the actual/proposed impacts of developments on the system itself? By the same token, may the resolution be amended to reallocate the costs on the basis of the amount of wastewater generated, as recounted by the EMC?
4. Does Chapter 12 permit the County of Hawai'i to pay for a portion of the ID and not apportion these costs among the ID property owners?
5. As depicted in Attachment B, is it legal for the County to utilize portions of the historic Ala Loa Trail aka King's Highway for the sewer extension?

Thank you for your consideration and for expediting my requests. If you have any questions about this letter, please call me.

JCT/mm
Attachments (5)

cc: James Arakaki
Dennis Lee ✓
Peter Boucher

Stephen K. Yamashiro
Mayor



Jiro A. Sumada
Deputy Chief Engineer

County of Hawaii

DEPARTMENT OF PUBLIC WORKS
25 Aupuni Street, Room 202 • Hilo, Hawaii 96720-4252
(808) 961-8321 • Fax (808) 961-8630

October 12, 2000

HONORABLE CHAIRMAN AND MEMBERS
HAWAII COUNTY COUNCIL
25 AUPUNI STREET
HILO HI 96720

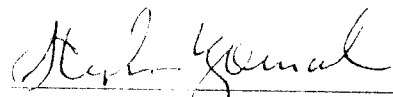
SUBJECT: RESOLUTION RELATING TO THE CONSTRUCTION OF IMPROVEMENTS
BY ASSESSMENTS AT KEALAKEHE, HONOKOHAU, AND KALOKO, DISTRICT OF
NORTH KONA, HAWAII

Attached is a proposed resolution relating to the construction of improvements by assessments pursuant to Section 12-10 of the Hawaii County Code for the purpose of extending the municipal sewer system.

Please forward a copy of this proposed resolution to the appropriate committee Chair. Your favorable consideration of this request would be greatly appreciated. Should you have any concerns, please contact us.


ROBERT YANABU
Chief Engineer

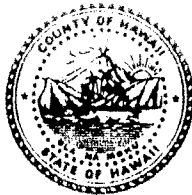
APPROVED:


STEPHEN K. YAMASHIRO
MAYOR

Cc: WWD

PER AMRON
ASK MR TYLER IF
HE WOULD LIKE
TO INTRODUCE.
NOTE: COMMITTEE
DEADLINE 10/20/00
4:30 PM

J. CURTIS TYLER III
Vice Chair
District 8 (North Kona)



Bus: (808) 326-5684
Fax: (808) 326-5697
ctyler@interpac.net

HAWAII COUNTY COUNCIL

Kona Council Office • 77-6399 Nalani Street • Suite 104 • Kailua-Kona • Hawai'i • 96740-8980

FAXED
12-3-01

Via Facsimile: 334-0831 4 30pm
Pages: 8

December 3, 2001

MEMORANDUM:

TO: Carolyn Witcher, Member
Environmental Management Commission

FROM: J. Curtis Tyler III, Vice Chair
Hawai'i County Council

SUBJECT: Sewer Improvement District/North Kona (Kealakehe to Kohanaiki)

Per our telephone conversation and your request this date, I am faxing you a copy of Communication 179 and Resolution 70-01 regarding the referenced subject.

As we discussed, I have three concerns regarding this resolution and have asked that the matter be deferred by the Council until these concerns have been addressed. My concerns are as follows:

- 1) Attachment A of the resolution does not appear to include all of the properties located within the boundaries of the Improvement District shown on Attachment B. My understanding of the Improvement District ordinance is that all properties located within such a district must be included.
- 2) Attachment B indicates that approximately 22% (\$2.2 million) of estimated costs of the improvements will be borne by the County. This also may be inconsistent with the ordinance.
- 3) The estimated cost shares shown on Attachment A for the properties listed appear to be based on land area, with no consideration given to actual usage and, therefore, impact on the environment.

District 8 ~ North Kona

LUC to Kaloko proposal

By **BOBBY COMMAND**
West Hawaii Today

1/16/02

A plan to double the size of the Kaloko Industrial Park being challenged by a nearby national park will come before the state Land Use Commission this week to decide what, if any, conditions should be attached to an approval.

TSA Corporation, which proposes the 102-acre industrial area expansion about two miles north of Kailua-Kona, is being challenged on environmental grounds by the Kaloko-Honokohau National Historic Park.

The Land Use Commission (LUC) meets Thursday and Friday in Honolulu to formulate an order based on testimony during a recently completed contested-case hearing.

Anthony Ching, LUC executive director, said the action is the first of two to be conducted by the commission. "The commission has already received proposed a decisions and orders from the parties and will meet to adopt the form of the order."

Ching said the LUC will then serve TSA Corporation and Kaloko-Honokohau National Historic Park and allow responses before meeting again in early February to reach a final order.

TSA Corporation seeks a district boundary amendment to transfer the parcel just mauka of the existing 130-acre Kaloko Industrial Park from conservation to the urban district.

The proposed development actually called "phases III and IV" would create more than 80 improved one-acre lots for mixed commercial and light industrial uses. Utilities, such as water, electricity and sewers, would be included on each lot.

Unlike the existing Kaloko Industrial Park, which uses cesspools for sewage disposal, current plans call for sewage to be discharged into septic tanks, aerobic units or individual wastewater systems. Runoff from rain would be directed into filtered dry wells.

The proposed methods to dispose of wastewater have alarmed a number of environmental and cultural groups, including the Kaloko Honokohau National Historic Park, Sierra Club Hawaii Chapter and Hawaiian rights group Na Kokua Kaloko-Honokohau.

Kaloko-Honokohau National Historic Park Superintendent Geraldine Bell could not be reached for comment. However, she has said in the past the National Park Service is not opposed to this project, but has major concerns about individual septic tanks being proposed for temporary wastewater disposal.

Park officials believe wastewater could filter through to contaminate Aimakapa Pond, a wetland area in the national park that supports the endangered Hawaiian coot, stilt and the threatened green sea turtle.

TSA Corporation plans also call for the installation of a "dry" sewer system that would be hooked up once the line from the county's Kealakehe Wastewater Treatment Plant is expanded northward.

Tenants in the first two phases are already obligated to tie into the sewer system when the county develops a line to the treatment plant.

The LUC will also be given an update about development plans for Maniniowali. WB Maniniowali LLC recently acquired the property from North Kona Development Group, and must meet all conditions imposed on the former owner before it can develop the property.

bcommand@westhawaii.com

COUNTY OF HAWAII
ENVIRONMENTAL MANAGEMENT COMMISSION
25 Aupuni Street, Room 202
Hilo, Hawai'i 96720

KONA COUNCIL
MEMBERS' OFFICE
2001 JUL 9 PM 2 36
COUNTY OF HAWAII

July 3, 2001

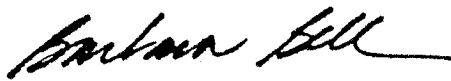
HONORABLE CHAIRMAN AND MEMBERS
HAWAII COUNTY COUNCIL
HAWAII COUNTY BUILDING
25 AUPUNI STREET
HILO HI 96720

SUBJECT: RESOLUTION NO. 70-01, RELATING TO THE CONSTRUCTION
OF IMPROVEMENTS BY ASSESSMENTS AT KEALAKEHE,
HONOKOHAU, KALOKO AND KOHANAIKI, DISTRICT OF
NORTH KONA, HAWAII

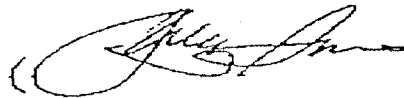
On Thursday, June 21, 2001, the members of the Environmental Management Commission approved a motion that supports the above resolution subject to two exceptions. The exceptions are that Attachment "A" is to be changed in two ways.

1. That the County of Hawai'i will not be subsidizing the cost of these projects. The Commission didn't feel it was appropriate for the County to subsidize the cost of commercial development in this area.
2. That equitable cost allocations based on usage shall be determined for the remaining users. In other words, the cost sharing for various users shall be reallocated based on projected wastewater generation rather than on land area.

Please forward a copy of these recommendations to the appropriate committee chair. Your review and consideration of this request would be greatly appreciated. Should you have any questions, please contact Barbara Bell at 961-6556 and Riley Smith at 885-2306.



BARBARA BELL
Co-Chair
Environmental Management Commission



RILEY W. SMITH
Co-Chair
Environmental Management Commission

cc: Harry Kim, Mayor
Lincoln Ashida, Corporation Counsel
Peter Boucher, Wastewater Division

Comm. No. 179.1
File No. IMD
Ref. To: COUNCIL

COUNTY OF HAWAI'I STATE OF HAWAI'I

RESOLUTION NO. 70 01

RELATING TO THE CONSTRUCTION OF IMPROVEMENTS BY ASSESSMENTS AT KEALAKEHE, HONOKOHAU, KALOKO AND KOHANAIKI, DISTRICT OF NORTH KONA, HAWAI'I

WHEREAS, the Council of the County of Hawai'i wishes to initiate proposed improvements on certain real property located at Kealakehe, Honokohau, Kaloko and Kohanaiki, District of North Kona, County and State of Hawai'i, for improvements consisting of extension to the municipal sewer system, the cost of which is to be borne by the County and the property owners pursuant to the provisions of Section 12-10, Hawai'i County Code, as amended; and

WHEREAS, Attachment "A" describes the necessary preliminary scope of work, together with an estimate of the probable cost thereof, and an estimate of the share of the cost of the improvements against each parcel of the real property subject to assessment; and

WHEREAS, Attachment "B" shows a map identifying the proposed limits of the Improvement District; and

WHEREAS, the Improvement Project has now been further and fully considered by the Council.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF HAWAI'I that (1) the Public Works Director of the County of Hawai'i be and is directed to investigate the information and data provided by the Council and such other information as the Public Works Director deems advisable and to report to the Council on the necessity, feasibility, and method of assessment desirable for the aforementioned sewer system at

ATTACHMENT A

IMPROVEMENTS BY ASSESSMENTS AT KEALAKEHE, HONOKOHAU, KALOKO AND KOHANAIKI, DISTRICT OF NORTH KONA, HAWAII

SCOPE:

Extend the sewer system from the existing Kealakehe Wastewater Treatment Plant north along the alignment of the Queen Kaahumanu Highway to Kohanaiki. The sewer system will include necessary gravity sewers, manholes, pump station(s) and force mains. Sewer laterals with cleanouts to be installed to each property serviced by the proposed improvements.

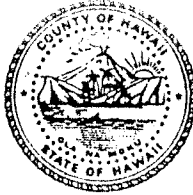
ESTIMATE OF PROBABLE COST:

14,000 lf gravity sewer @ \$300/lf	=	4,200,000
Honokohau Sewage Pump Station	=	2,200,000
4,000 lf force main @ \$250/lf	=	1,000,000
Allowance for design & inspection @ 20%	=	1,480,000
Allowance for contingencies @ 10%	=	888,000
TOTAL	=	9,768,000
SAY:	=	\$10,000,000

ESTIMATE OF SHARE OF COST:

TMK	OWNER	AREA (Acres)	COST
N/A	County of Hawai'i	N/A	2,200,000
7-4-8-010	Nat Park Service	234.73	967,948
7-4-8-013	Lanihau Partners	549.46	2,265,788
7-4-8-025	General Services Admin	59.20	244,121
7-4-8-026	McClellan Honokohau Prop	54.73	225,688
7-4-8-030	Lanihau Partners	9.90	40,824
7-4-8-042	Gentry Properties	4.08	16,825
7-4-8-055	Taylor Fam Ltd. Partnership	3.45	14,227
7-4-020-001	State of Hawai'i	1.24	5,130
7-4-020-002	State of Hawai'i	26.53	109,393
7-4-008-003	State of Hawai'i (DHHL)	200.00	824,733
7-3-9-002	United States of America	249.50	1,028,854
7-3-9-021	United States of America	72.08	297,234
7-3-9-017	Mid Corporation	224.43	925,474
7-3-9-018	Nansay International	92.86	382,923
7-3-51-060	TSA International	102.58	423,005
7-3-51-065	TSA International	1.37	5,649
7-3-51-066	TSA International	1.22	5,031
7-3-51-067	TSA International	1.09	4,495
7-3-51-068	TSA International	1.00	4,124
7-3-51-069	TSA International	1.07	4,412
7-3-51-070	TSA International	1.00	4,124
TOTAL		1,891.52	\$10,000,000

Harry Kim
Mayor



Dennis K. W. Lee
Director

Jiro A. Sumada
Deputy Director

County of Hawaii
DEPARTMENT OF PUBLIC WORKS
25 Aupuni Street, Room 202 • Hilo, Hawaii 96720-4252
(808) 961-8321 • Fax (808) 961-8630

April 3, 2001

HONORABLE CHAIRMAN AND MEMBERS
HAWAII COUNTY COUNCIL
25 AUPUNI STREET
HILO HI 96720

SUBJECT: RESOLUTION RELATING TO THE CONSTRUCTION OF IMPROVEMENTS
BY ASSESSMENTS AT KEALAKEHE, HONOKOHAU, AND KALOKO, DISTRICT OF
NORTH KONA, HAWAII

Attached is a proposed resolution relating to the construction of improvements by assessments pursuant to Section 12-10 of the Hawaii County Code for the purpose of extending the municipal sewer system.

Please forward a copy of this proposed resolution to the appropriate committee Chair. Your favorable consideration of this request would be greatly appreciated. Should you have any concerns, please contact us.

Dennis K.W. Lee

DKW Dennis K.W. Lee
Director

APPROVED:

Harry Kim
HARRY KIM, MAYOR

cc: WWD

RES 70-01

(EXHIBIT 2)

Comm. No. 179
File No. IMD
Re: To: FC
Ref. Date: APR 5 2001

ATTACHMENT A

IMPROVEMENTS BY ASSESSMENTS AT KEALAKEHE, HONOKOHAU, AND KALOKO, DISTRICT OF NORTH KONA, HAWAII

SCOPE: Extend the sewer system north from the existing Kealakehe Wastewater Treatment Plant Access Road to service the areas commonly referred to as the proposed Dept. of Hawaiian Homelands Honokohau Industrial Park, Honokohau Harbor, Kaloko-Honokohau National Historical Park, McClean Honokohau Properties, Lanihau Partners' Properties, and the Kaloko Light Industrial Subdivision, Phases 3&4. The sewer system will include necessary gravity sewers, manholes, pump station(s) and force mains. Sewer laterals with cleanouts to be installed to each property serviced by the proposed improvements.

ESTIMATE OF PROBABLE COST:

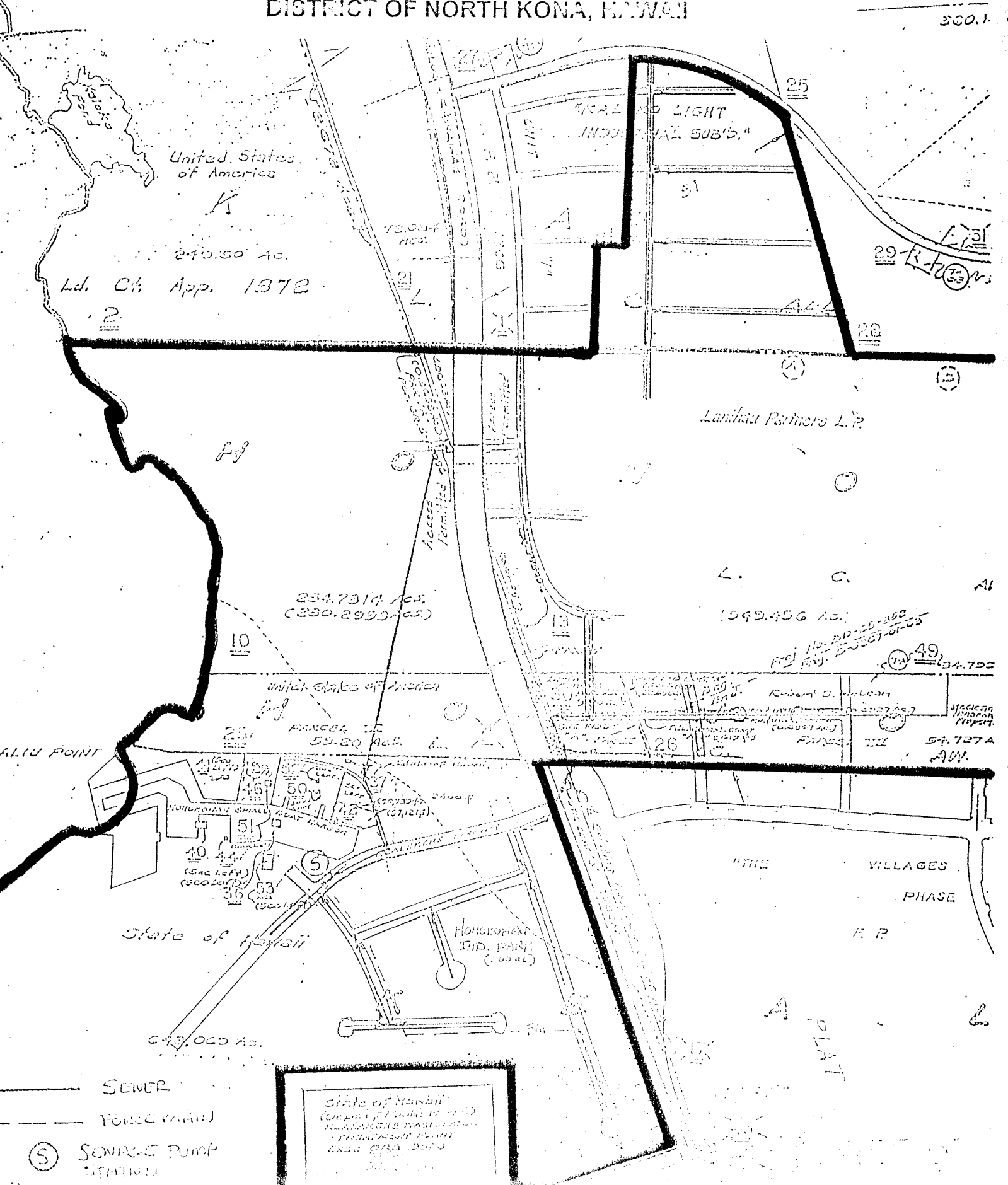
34,100 lf gravity sewer @ \$300/lf	=	\$ 10,230,000
Honokohau Sewage Pump Station	=	\$ 2,000,000
3,600 lf force main @ \$250/lf	=	\$ 900,000
Allowance for design & inspection @ 20%	=	\$ 2,626,000
<u>Allowance for contingencies @ 10%</u>	=	<u>\$ 1,575,000</u>
Total:	=	\$ 17,331,600

ESTIMATE OF SHARE OF COST OF IMPROVEMENTS:

TMK	OWNER	SEWER ACCESS (ft)	COST (\$)
N/A	County of Hawaii	35%	6,066,060
74008003	State of Hawaii	24,000	4,067,839
74008010	National Park Service	5,000	847,466
74008013	Lanikai Partners	11,800	2,000,021
74008025	General Services Administra	1,700	288,139
74008026	McClellan Honokohau Propertie	5,000	847,466
74008030	Lanikai Partners	2,500	423,733
74008033	Isemoto Contracting	322	54,577
74008042	Gentry Properties	500	84,747
74008054	SJA Partnership	321	54,407
74008055	Taylor Family Ltd Partnersh	359	60,848
73051001	Costco	600	101,696
73051060	T.S.A. International Ltd	10,500	1,779,679
73051065	T.S.A. International Ltd	356	60,340
73051075	T.S.A. International Ltd	222	37,628
73051076	T.S.A. International Ltd	234	39,661
73051077	T.S.A. International Ltd	248	42,034
73051087	T.S.A. International Ltd	245	41,526
73051088	T.S.A. International Ltd	231	39,153
73051089	T.S.A. International Ltd	224	37,966
73051092	T.S.A. International Ltd	350	59,323
73051093	T.S.A. International Ltd	354	60,001
73051094	T.S.A. International Ltd	350	59,323
73051095	T.S.A. International Ltd	350	59,323
73051096	T.S.A. International Ltd	350	59,323
73051097	T.S.A. International Ltd	350	59,323
TOTAL:		66,466	17,331,600
		17,331,600	17,331,600

ATTACHMENT B

IMPROVEMENTS AT KEALAKEHE, HONOKOHAU, AND KALOKO,
DISTRICT OF NORTH KONA, HAWAII



300.0'

United States of America

240.50 Ac.

Ld. Ch. App. 1372

KEALAHOU LIGHT INDUSTRIAL SUB'S.

Lanikai Partners L.P.

234,731.4 Ac. (230,299.7 Ac.)

1599,456 Ac.

59.20 Ac.

54,727 A

State of Hawaii

Honokohau Ind. Park (2004)

THE VILLAGES PHASE

PLAT

- SEWER
- FENCE WAIVED
- (S) SEWAGE PUMP STATION

State of Hawaii (County of Kona) Planning Department Technical Plan No. 2000-0000

COUNTY OF HAWAII STATE OF HAWAII

RESOLUTION NO. _____

RELATING TO THE CONSTRUCTION OF IMPROVEMENTS BY ASSESSMENTS AT
KEALAKEHE, HONOKOHAU, AND KALOKO, DISTRICT OF NORTH KONA, HAWAII

WHEREAS, the Council of the County of Hawaii wishes to initiate proposed improvements on certain real property located at Kealakehe, Honokohau, and Kaloko, District of North Kona, County and State of Hawaii, for improvements consisting of extension to the municipal sewer system, the cost of which is to be borne by the County and the property owners pursuant to the provisions of Section 12-10, Hawaii County Code, as amended; and

WHEREAS, Attachment " A " describes the necessary preliminary scope of work, together with an estimate of the probable cost thereof, and an estimate of the share of the cost of the improvements against each parcel of the real property subject to assessment; and

WHEREAS, Attachment " B " shows a map identifying the proposed limits of the Improvement District; and

WHEREAS, the Improvement Project has now been further and fully considered by the Council.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF HAWAII that (1) the Chief Engineer of the County of Hawaii be and is directed to investigate the information and data provided by the

Council and such other information as the Chief Engineer deems advisable and to report to the Council on the necessity, feasibility, and method of assessment desirable for the aforementioned sewer system at Kealakehe, Honokohau, and Kaloko, District of North Kona, County and State of Hawaii; and to include in his preliminary report all such data, survey, maps, plans, drawings, details, and specifications for the improvements and any other matters or details intended to apply thereto in accordance with the provisions of Section 12-10, Hawaii County Code, as amended; (2) the Chief Engineer shall, upon notification by the Council, consult with such financial consultant and bond counsel as the Council may hereafter employ with respect to the proposed improvement district and incorporate into any subsequent report the comments or recommendations of such persons.

BE IT FURTHER RESOLVED that the Clerk of the County of Hawaii transmit copies of this resolution to the Departments of Finance and Public Works.

Dated at Hilo, Hawaii, this _____ day of _____, 2000.

Introduced By:

Council Member, County of Hawaii