CONDOMINIUM PUBLIC REPORT

Prepared & Issued by: Developer: DANIEL A. CHARLSON and LYNDA CHARLSON
Address: 3704 Omao Road
Koloa, Kauai, Hawaii 96756

Project Name(*): Omao Pohaku Makamae Condominium
Address: Lot 50-D, Omao Homesteads
Omao, Kauai, Hawaii

Registration No. 4598

Effective date: May 8, 2001
Expiration date: June 8, 2002

Preparation of this Report:

This report has been prepared by the Developer pursuant to the Condominium Property Act, Chapter 514A, Hawaii Revised Statutes, as amended. This report is not valid unless the Hawaii Real Estate Commission has issued a registration number and effective date for the report.

This report has not been prepared or issued by the Real Estate Commission or any other government agency. Neither the Commission nor any other government agency has judged or approved the merits or value, in any, of the project or of purchasing an apartment in the project.

Buyers are encouraged to read this report carefully, and to seek professional advice *before signing a sales* contract for the purchase of an apartment in the project.

Expiration Date of Reports. Preliminary Public Reports and Final Public Reports automatically expire thirteen (13) months from the effective date unless a Supplementary Public Report is issued or unless the Commission issues an order, a copy of which is attached to this report, extending the effective date for the report.

Exception: The Real Estate Commission may issue an order, a copy of which shall be attached to this report, that the final public report for a two apartment condominium project shall have no expiration date.

Type of Report:

___ PRELIMINARY: (yellow)
The developer may not as yet have created the condominium but has filed with the Real Estate Commission minimal information sufficient for a Preliminary Public Report. A final Public Report will be issued by the developer when complete information is filed.

X FINAL: (white)
The developer has legally created a condominium and has filed complete information with the Commission.
[X] No prior reports have been issued.
[ ] This report supersedes all prior public reports.
[ ] This report must be read together with_____

___ SUPPLEMENTARY: (pink)
This report updates information contained in the:
[ ] Preliminary Public Report dated:_____
[ ] Final Public Report dated:_____
[ ] Supplementary Public Report dated:_____

And
[ ] Supersedes all prior public reports
[ ] Must be read together with_____
[ ] This report reactivates the_____
public report(s) which expired on_____

(*) Exactly as named in the Declaration

This material can be made available for individuals with special needs. Please call the Senior Condominium Specialist at 586-2644 to submit your request.

Disclosure Abstract: Separate Disclosure Abstract on this condominium project:

[ ] Required and attached to this report [X] Not required - Disclosures covered in this report.

Summary of Changes from Earlier Public Reports:

This summary contains a general description of the changes, if any, made by the developer since the last public report was issued. It is not necessarily all inclusive. Prospective buyers should compare this public report with the earlier reports if they wish to know the specific changes that have been made.

[X] *No prior reports have been issued by the developer.*

[ ] Changes made are as follows:

SPECIAL ATTENTION

This is a CONDOMINIUM PROJECT, **not** a subdivision. There are County restrictions on the number of residential dwelling units, or other structures, which may be built on the property. Therefore, unless the Purchaser is buying an existing residential dwelling, THERE IS NO ASSURANCE THAT THE PURCHASER WILL BE ABLE TO BUILD A RESIDENTIAL DWELLING UNIT ON THE PROPERTY. *THERE IS ALSO NO ASSURANCE THAT THE PURCHASER WILL BE ABLE TO* CONVERT AN EXISTING NON-RESIDENTIAL STRUCTURE TO A RESIDENTIAL USE. The Purchaser should consult with the appropriate County agencies to determine whether the Purchaser may build a residential dwelling unit, or any other type of structure, on the property.

1. There are presently NO RESIDENTIAL STRUCTURES ON THE PROPERTY. The only buildings on the property are shade sheds, each of which may be defined as an "apartment" under the condominium property act.

2. This public report does **not** constitute an approval of the project by the Real Estate Commission or any other governmental agency, nor does it warrant that all applicable County codes, ordinances, and subdivision requirements have necessarily been complied with.

3. The land area beneath and immediately appurtenant to each unit is designated a **LIMITED COMMON ELEMENT** and is **not** a legally subdivided lot. The dotted lines on the Condominium Map bounding the designated number of square feet in each limited common element land area are for illustrative purposes only and should not be construed to be the property lines of legally subdivided lots.

4. Facilities and improvements normally associated with County-approved subdivisions, such as fire protection devices, County street lighting, electricity, upgraded water facilities, improved access for owners and emergency traffic, drainage facilities, etc., may not be provided, and services such as County street maintenance and trash collection may not be available for interior roads and driveways.

THE PROSPECTIVE PURCHASER IS CAUTIONED TO CAREFULLY REVIEW THE CONDOMINIUM DOCUMENTS REFERENCED IN THIS PUBLIC REPORT FOR FURTHER INFORMATION WITH REGARD TO THE FOREGOING.

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EXHIBIT A: DESCRIPTION OF BUILDINGS
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General Information On Condominiums

A condominium is a special form of real property. To create a condominium in Hawaii, the requirements of the Condominium Property Act, Chapter 514A, Hawaii Revised Statutes, must be complied with. In addition, certain requirements and approvals of the County in which the project is located must be satisfied and obtained.

Some condominium projects are leasehold. This means that the land or the building(s) and other improvements are leased to the buyer. The lease for the land usually requires that at the end of the lease term, the lessees (apartment owners/tenants) deliver their interest in the land to the lessor (fee property owner). The lease also usually requires that the lessees either (1) convey to the lessor the building(s) and other improvements, including any improvements paid for by the lessees; or (2) remove or dispose of the improvements at the lessee's expense. Leases for individual apartments often require that at the end of the lease term, the lessee deliver to the lessor the apartment, including any improvements placed in the apartment by the lessee.

If you are a typical condominium apartment owner, you will have two kinds of ownership: (1) ownership in your individual apartment; and (2) an undivided interest in the common elements.

"Common Elements" are the areas of the condominium project other than the individual apartments. They are owned jointly by all apartment owners and include the land, either in fee simple or leasehold, and those parts of the building or buildings intended for common use such as foundations, columns, roofs, halls, elevators, and the like. Your undivided interest in the common elements cannot be separated from ownership of your apartment.

In some condominium projects, some common elements are reserved for the exclusive use of the owners of certain apartments. These common elements are called "limited common elements" and may include parking stalls, patios, lanais, trash chutes, and the like.

You will be entitled to exclusive ownership and possession of your apartment. Condominium apartments may be individually bought, sold, rented, mortgaged or encumbered, and may be disposed of by will, gift, or operation of law.

Your apartment will, however, be part of the group of apartments that comprise the condominium project. Study the project's Declaration, Bylaws, and House Rules. These documents contain important information on the use and occupancy of apartments and the common elements as well as the rules of conduct for owners, tenants, and guests.

Operation of the Condominium Project

The Association of Apartment Owners is the entity through which apartment owners may take action with regard to the administration, management, and operation of the condominium project. Each apartment owner is automatically a member of the Association.

The Board of Directors is the governing body of the Association. Unless you serve as a board member or an officer, or are on a committee appointed by the board, your participation in the administration and operation of the condominium project will in most cases be limited to your right to vote as an apartment owner. The Board of Directors and officers can take certain actions without the vote of the owners. For example, the board may hire and fire employees, increase or decrease maintenance fees, borrow money for repair and improvements and set a budget. Some of these actions may significantly impact the apartment owners.

Until there is a sufficient number of purchasers of apartments to elect a majority of the Board of Directors, it is likely that the developer will effectively control the affairs of the Association. It is frequently necessary for the developer to do so during the early stages of development and the developer may reserve certain special rights to do so in the Declaration and Bylaws. Prospective buyers should understand that it is important to all apartment owners that the transition of control from the developer to the apartment owners be accomplished in an orderly manner and in a spirit of cooperation.

I. PERSONS CONNECTED WITH THE PROJECT

Developer:	DANIEL A. CHARLSON and LYNDA CHARLSON 3704 Omao Road Koloa, Kauai, Hawaii 96756	Phone: (808) 742-7588

Names of officers and directors of developers who are corporations; general partners of a partnership; partners of a Limited Liability Partnership (LLP); or manager and members of a Limited Liability Company (LLC) (attach separate sheet if necessary):

N/A

Real Estate Broker:	BOB KEOWN, LTD. dba Makai Properties P. O. Box 905 Koloa, Kauai, Hawaii 96756	Phone: (808) 742-7561
Escrow:	TITLE GUARANTY ESCROW SERVICES, INC. 235 Queen Street Honolulu, Hawaii 96813	Phone: (808) 245-3381
General Contractor:	FERGUS S. MACOMBER dba Kokua Construction P. O. Box 54 Lawai, Kauai, Hawaii 96765	Phone: (808) 742-1300
Condominium Managing Agent:	Self-managed by Association of Unit Owners	Phone: N/A
Attorney for Developer	Donald H. Wilson Belles Graham Proudfoot & Wilson 4334 Rice Street, Suite 202 Lihue, Kauai, Hawaii 96766-1388	Phone: (808) 245-4705

*For Entities: Name of corporation, partnership, Limited Liability Partnership (LLP), or Limited Liability Company (LLC)

II. CREATION OF THE CONDOMINIUM; CONDOMINIUM DOCUMENTS

A condominium is created by recording in the Bureau of Conveyances and/or filing with the Land Court a Declaration of Condominium Property Regime, a Condominium Map (File Plan), and the Bylaws of the Association of Apartment Owners. The Condominium Property Act (Chapter 514A, HRS), the Declaration, Bylaws, and House Rules control the rights and obligations of the apartment owners with respect to the project and the common elements, to each other, and to their respective apartments. The provisions of these documents are intended to be, and in most cases are, enforceable in a court of law.

A. **Declaration of Condominium Property Regime** contains a description of the land, buildings, apartments, common elements, limited common elements, common interests, and other information relating to the condominium project.

The Declaration for this condominium is:
[ ] Proposed
[X] Recorded - Bureau of Conveyances: Document No. 2001-034267
Book_____ Page _____
[ ] Filed - Land Court: Document No. _____

The Declaration referred to above has been amended by the following instruments [state name of document, date and recording/filing information]:

B. **Condominium Map (File Plan)** shows the floor plan, elevation and layout of the condominium project. It also shows the floor plan, location, apartment number, and dimensions of each apartment.

The Condominium Map for this condominium project is:
[ ] Proposed
[X] Recorded - Bureau of Conveyances Condo Map No. 3228
[ ] Filed - Land Court Condo Map No. _____

The Condominium Map has been amended by the following instruments [state name of document, date and recording/filing information]:

C. **Bylaws of the Association of Apartment Owners** govern the operation of the condominium project. They provide for the manner in which the Board of Directors of the Association of Apartment Owners is elected, the powers and duties of the Board, the manner in which meetings will be conducted, whether pets are prohibited or allowed and other matters which affect how the condominium project will be governed.

The Bylaws for this condominium are:
[ ] Proposed
[X] Recorded - Bureau of Conveyances: Document No. 2001-034268
Book_____ Page _____
[ ] Filed - Land Court: Document No. _____

The Bylaws referred to above have been amended by the following instruments [state name of document, date and recording/filing information]:

D. **House Rules.** The Board of Directors may adopt House Rules to govern the use and operation of the common elements and limited common elements. House Rules may cover matters such as parking regulations, hours of operation for common facilities such as recreation areas, use of lanais and requirements for keeping pets. These rules must be followed by owners, tenants, and guests. They do not need to be recorded or filed to be effective. The initial House Rules are usually adopted by the developer.

The House Rules for this condominium are:

[ ] Proposed [ ] Adopted [X] Developer does not plan to adopt House Rules

E. **Changes to Condominium Documents.** Changes to the Declaration, Condominium Map, and Bylaws are effective only if they are duly adopted and recorded and/or filed. Changes to House Rules do not need to be recorded or filed to be effective.

1. Apartment Owners: Minimum percentage of common interests which must vote for or give written consent to changes:

	Minimum Set by Law	This Condominium
Declaration (and Condo Map)	75%*	100%
Bylaws	65%	100%
House Rules	-----	N/A

*The percentages for individual condominium projects may be more than the minimum set by law for projects with five or fewer apartments.

2. Developer

[ ] No rights have been reserved by the developer to change the Declaration, Condominium Map, Bylaws or House Rules.

[X] Developer has reserved the following rights to change the Declaration, Condominium Map, Bylaws or House Rules:

The Developer reserves the right to change the Declaration and Condominium Map as provided for in Section M. of the Declaration.

III. THE CONDOMINIUM PROJECT

A. **Interest to be Conveyed to Buyer:**

[X] Fee Simple: Individual apartments and the common elements, which include the underlying land, will be in fee simple.

[ ] Leasehold or Sub-leasehold: Individual apartments and the common elements, which include the underlying land will be leasehold.

Leases for the individual apartments and the underlying land usually require that at the end of the lease term, the lessee (apartment owner/tenant) deliver to the lessor (fee property owner) possession of the leased premises and all improvements, including improvements paid for by the lessee.

Exhibit_____contains further explanation regarding the manner in which the renegotiated lease rents will be calculated and a description of the surrender clause provision(s).

Lease Term Expires:_____ Rent Renegotiation Date(s): _____

Lease Rent Payable: [ ] Monthly [ ] Quarterly
[ ] Semi-Annually [ ] Annually

Exhibit_____contains a schedule of the lease rent for each apartment per [ ] Month [ ] Year

For Sub-leaseholds:

[ ] Buyer's sublease may be canceled if the master lease between the sublessor and fee owner is:
[ ] Canceled [ ] Foreclosed

[ ] As long as the buyer is not in default, the buyer may continue to occupy the apartment and/or land on the same terms contained in the sublease even if the master lease is canceled or foreclosed.

[ ] Individual Apartments in Fee Simple; Common Interest in the Underlying Land in Leasehold or Sub-leasehold:

Leases for the underlying land usually require that at the end of the lease term, the lessees (apartment owners/tenants) deliver to the lessor (fee property owner) their interest in the land and that they either (1) remove or dispose of the building(s) and other improvements at the lessee's expense; or (2) convey the building(s) and improvements to the lessor, often at a specified price.

Exhibit_____contains further explanations regarding the manner in which the renegotiated lease rents will be calculated and a description of the surrender clause provision(s).

Lease Term Expires: _____ Rent Renegotiation Date(s): _____

Lease Rent Payable: [ ] Monthly [ ] Quarterly
[ ] Semi-Annually [ ] Annually

Exhibit_____contains a schedule of the lease rent for each apartment per: [ ] Month [ ] Year

[ ] Other:

IMPORTANT INFORMATION ON LEASEHOLD CONDOMINIUM PROJECTS

The information contained in this report is a summary of the terms of the lease. For more detailed information, you should secure a copy of the lease documents and read them thoroughly.

If you have any legal questions about leasehold property, the lease documents or the terms of the lease and the consequences of becoming a lessee, you should seek the advice of an attorney.

There are currently no statutory provisions for the mandatory conversion of leasehold condominiums and there are no assurances that such measures will be enacted in the future.

In leasehold condominium projects, the buyer of an apartment will acquire the right to occupy and use the apartment for the time stated in the lease agreement. The buyer will not acquire outright or absolute fee simple ownership of the land. The land is owned by the lessor or the leased fee owner. The apartment owner or lessee must make lease rent payments and comply with the terms of the lease or be subject to the lessor's enforcement actions. The lease rent payments are usually fixed at specific amounts for fixed periods of time, and are then subject to renegotiation. Renegotiation may be based on a formula, by arbitration set in the lease agreement, by law or by agreement between the lessor and lessee. The renegotiated lease rents may increase significantly. At the end of the lease, the apartment owners may have to surrender the apartments, the improvements and the land back to the lessor without any compensation (surrender clause).

When leasehold property is sold, title is normally conveyed by means of an assignment of lease, the purpose of which is similar to that of a deed. The legal and practical effect is different because the assignment conveys only the rights and obligations created by the lease, not the property itself.

The developer of this condominium project may have entered into a master ground lease with the fee simple owner of the land in order to develop the project. The developer may have then entered into a sublease or a new lease of the land with the lessee (apartment owner). The developer may lease the improvements to the apartment owner by way of an apartment lease or sublease, or sell the improvements to the apartment owners by way of a condominium conveyance or apartment deed.

B. **Underlying Land:**

Address: Lot 50-D, Omao Homesteads
Omao, Kauai, Hawaii

Tax Map Key: (TMK): (4) 2-7-004-101

[X] Address [X] TMK is expected to change because addresses will be assigned by the County when houses are constructed; CPR numbers will be added to the current TMK number.

Land Area: 3.934 [ ] square feet [X] acre(s) Zoning: Open

Fee Owner: DANIEL A. CHARLSON and LYNDA CHARLSON
3704 Omao Road
Koloa, Kauai, Hawaii 96756

Lessor: N/A
Name

Address

C. **Buildings and Other Improvements:**

1. [X] New Building(s)
   [ ] Conversion of Existing Building(s)
   [ ] Both New Building(s) and Conversion

2. Number of Buildings: 2 Floors Per Building 1

   [X] Exhibit "A" contains further explanations.

3. Principal Construction Material:

   [ ] Concrete [ ] Hollow Tile [ ] Wood

   [X] Other Iron fence posts and shade cloth

4. Permitted Uses by Zoning:

	No. of Apts.	Use Permitted by Zoning	
[X] Residential *		[X] Yes	[ ] No
[ ] Commercial		[ ] Yes	[ ] No
[ ] Mix Res/Comm		[ ] Yes	[ ] No
[ ] Hotel		[ ] Yes	[ ] No
[ ] Timeshare		[ ] Yes	[ ] No
[ ] Ohana		[ ] Yes	[ ] No
[ ] Industrial		[ ] Yes	[ ] No
[ ] Agricultural		[ ] Yes	[ ] No
[X] Other: Sheds	2	[X] Yes	[ ] No

Is/Are this/ these use(s) specifically permitted by the project's Declaration or Bylaws?

[X] Yes [ ] No

* The second residence constructed on the property shall be deemed to be an Additional Dwelling Unit ("ADU") under County of Kauai ordinances, and is subject to all applicable ordinances for construction of ADU's. See Article V. C, page 20 of this Condominium Public Report for further information.

5. Special Use Restrictions:

The Declaration and Bylaws may contain restrictions on the use and occupancy of the apartments. Restrictions for this condominium project include but are not limited to:

[ ] Pets: _____

[ ] Number of Occupants: _____

[X] Other: The Project is subject to all use restrictions contained in the Declaration of Restrictive Covenants attached as Exhibit "I", including but not limited to restrictions on animals, design review approval, minimum house size for each of the residential dwellings in the project, and building materials.

[ ] There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators: 0 Stairways: 0 Trash Chutes: 0

Apt. Type	Quantity	BR/Bath	Net Living Area (sf)*	Net Other Area (sf)	Identify
Unit 1	1	0/0	N/A	20	Shade Shed
Unit 2	1	0/0	N/A	20	Shade Shed

Total number of Apartments: 2

***Net Living Area is the floor area of the apartment measured from the interior surface of the apartment perimeter walls.**

Other documents and maps may give floor area figures which differ from those above because a different method of determining the floor area may have been used.

Boundaries of Each Apartment:

See Exhibit "A"

Permitted Alterations to Apartments:

See Exhibit "B"

Apartments Designated for Owner-Occupants Only:
Fifty percent (50%) of **residential** apartments must be so designated; developer has a right to substitute similar apartments for those apartments already designated. Developer must provide this information either in a published announcement or advertisement as required by Section 514A-102, HRS; or include the information here in this public report and in the announcement (see attachment 11a). Developer has not elected to provide the information in a published announcement or advertisement.

7. Parking Stalls:

Total Parking Stalls: 4

	Regular		Compact		Tandem		
	Covered	Open	Covered	Open	Covered	Open	TOTAL
Assigned (for each unit)		2					4
Guest							
Unassigned							
Extra for Purchase							
Other:							
Total Covered & Open:	4		0		0		4

Each apartment will have the exclusive use of at least 2 parking stall(s). Buyers are encouraged to find out which stall(s) will be available for their use.

[ ] Commercial parking garage permitted in condominium project.

[ ] Exhibit _____ contains additional information on parking stalls for this condominium project.

8. Recreational and Other Common Facilities:

[ ] There are no recreational or common facilities.

[ ] Swimming pool [ ] Storage Area [ ] Recreation Area

[ ] Laundry Area [ ] Tennis court [ ] Trash Chute/Enclosure(s)

[X] Other: Common driveway access and utility services are provided to the property pursuant to an Access Easement Agreement attached as Exhibit "J".

9. Compliance With Building Code and Municipal Regulations; Cost to Cure Violations

[X] There are no violations. [ ] Violations will not be cured.

[ ] Violations and cost to cure are listed below. [ ] Violations will be cured by _____ (Date)

10. Condition and Expected Useful Life of Structural Components, Mechanical, and Electrical Installations (For conversions of residential apartments in existence for at least five years):

N/A

11. Conformance to Present Zoning Code

a. [X] No variances to zoning code have been granted.

[ ] Variance(s) to zoning code was/were granted as follows:

b. Conforming/Non-Conforming Uses, Structures, Lot

In general, a non-conforming use, structure, or lot is a use, structure, or lot which was lawfully at one time but which does not now conform to present zoning requirements:

	Conforming	Non-Conforming	Illegal
Uses	X		
Structures	X		
Lot	X		

If a variance has been granted or if uses, improvements or lot are either non-conforming or illegal, buyer should consult with county zoning authorities as to possible limitations which may apply.

Limitations may include restrictions on extending, enlarging, or continuing the non-conformity, and restrictions on altering and repairing structures. In some cases, a non-conforming structure that is destroyed or damaged cannot be reconstructed.

The buyer may not be able to obtain financing or insurance if the condominium project has a non-conforming or illegal use, structure, or lot.

D. **Common Elements, Limited Common Elements, Common Interests:**

1. Common Elements. Common Elements are those parts of the condominium project other than the individual apartments. Although the common elements are owned jointly by all apartment owners, those portions of the common elements which are designated as limited common elements (see paragraph 2 below) may be used only by those apartments to which they are assigned. The common elements for this project, as described in the Declaration, are:

[X] described in Exhibit "C".

[ ] as follows:

2. Limited Common Elements: Limited Common Elements are those common elements which are reserved for the exclusive use of the owners of certain apartments.

[ ] There are no limited common elements in this project.

[X] The limited common elements and the apartments which use them, as described in the Declaration, are:

[X] described in Exhibit "D" *.

[ ] as follows:

* Note: Land areas referenced herein are not legally subdivided lots.

3. Common Interests: Each apartment will have an undivided fractional interests in all of the common elements. This interest is called the "common interests." It is used to determine each apartment's share of the maintenance fees and other common profits and expenses of the condominium project. It may also be used for other purposes, including voting on matters requiring action by apartment owners. The common interests for the apartments in this project, as described in the Declaration, are:

[ ] described in Exhibit _____.

[X] as follows:

Each unit shall have appurtenant thereto an undivided fifty percent (50%) interest in all common elements of the property, and the same proportionate share in all common profits and common expenses of the property (except as may be otherwise provided in the Bylaws) and for all other purposes, including voting. The percentage common interest for each unit is determined by apportioning a fifty percent (50%) interest to each of the two (2) units irrespective of the actual land areas contained in each unit.

E. **Encumbrances Against Title:** An encumbrance is a claim against or a liability on the property or a document affecting the title or use of the property. Encumbrances may have an adverse effect on the property on or your purchase and ownership of an apartment in the project.

Exhibit "E" describes the encumbrances against the title contained in the title report dated March 2, 2001 and issued by Title Guaranty of Hawaii, Inc.

Blanket Liens:

A blanket lien is an encumbrance (such as a mortgage) on the entire condominium project that secures some type of monetary debt (such as a loan) or other obligation. A blanket lien is usually released on an apartment-by-apartment basis upon payment of specified sums so that individual apartments can be conveyed to buyers free and clear of the lien.

[ ] There are no blanket liens affecting title to the individual apartments.

[X] There are blanket liens which may affect title to the individual apartments.

Blanket liens (except for improvement district or utility assessments) must be released before the developer conveys the apartment to a buyer. The buyer's interest will be affected if the developer defaults and the lien is foreclosed prior to conveying the apartment to buyer.

Type of Lien	Effect on Buyer's Interest and Deposit if Developer Defaults or Lien is Foreclosed Prior to Conveyance
Mortgages	Lender has priority over Buyer's rights under a sales contract, and has a right to terminate sales contracts upon foreclosure of its mortgage before an apartment sale is closed. Should the lender terminate Buyer's sales contract, Buyer shall be entitled to a refund of all deposits, less escrow cancellation fee.

F. **Construction Warranties:**

Warranties for individual apartments and the common elements, including the beginning and ending dates for each warranty, are as follows:

1. Building and Other Improvements:

None: Units are sold "as is".

2. Appliances:

N/A

G. **Status of Construction and Date of Completion or Estimated Completion Date:**

The construction of Units 1 and 2 were completed on December 11, 2000.

H. **Project Phases:**

The developer [ ] has [X] has not reserved the right to add to, merge, or phase this condominium.

Summary of Developer's plans or right to perform for future development (such as additions, mergers or phasing):

IV. CONDOMINIUM MANAGEMENT

A. **Management of the Common Elements:** The Association of Apartment Owners is responsible for the management of the common elements and the overall operation of the condominium project. The Association may be permitted, and in some cases may be required, to employ or retain a condominium managing agent to assist the Association in managing the condominium project.

Initial Condominium Managing Agent: When the developer or the developer's affiliated is the initial condominium managing agent, the management contract must have a term of one year or less and the parties must be able to terminate the contract on notice of 60 days or less.

The initial condominium managing agent for this project, named on page five (5) of this report is:

[ ] not affiliated with the Developer [ ] the Developer or the Developer's affiliate.
[X] self-managed by the Association of Apartment Owners [ ] other _____

B. **Estimate of Initial Maintenance Fees:**

The Association will make assessments against your apartment to provide funds for the operation and maintenance of the condominium project. If you are delinquent in paying the assessments, a lien may be placed on your apartment and the apartment may be sold through a foreclosure proceeding.

Initial maintenance fees are difficult to estimate and tend to increase as the condominium ages. Maintenance fees may vary depending on the services provided.

Exhibit "F" contains a schedule of estimated initial maintenance fees and maintenance fee disbursements (subject to change).

C. **Utility Charges for Apartments:**

Each apartment will be billed separately for utilities except for the following checked utilities which are included in the maintenance fees:

[X] None [ ] Electricity (____ Common Elements only ____ Common Elements & Apartments)

[ ] Gas (_____ Common Elements only _____ Common Elements & Apartments)

[ ] Water [ ] Sewer [ ] Television Cable

[ ] Other _____

V. MISCELLANEOUS

A. **Sales Documents Filed With the Real Estate Commission:**

Sales documents on file with the Real Estate commission include but are not limited to:

[ ] Notice to Owner Occupants

[X] Specimen sales Contract
Exhibit "G" contains a summary of the pertinent provisions of the sales contract.

[X] Escrow Agreement dated March 5, 2001.
Exhibit "H" contains a summary of the pertinent provisions of the escrow agreement.

[ ] Other _____

B. **Buyer's Right to Cancel Sales Contract:**

1. Rights Under the Condominium Property Act (Chapter 514A, HRS):

Preliminary Report: Sales made by the developer are not binding on the prospective buyer. Sales made by the developer may be binding on the developer unless the developer clearly states in the sales contract that sales are not binding. A prospective buyer who cancels the sales contract is entitled to a refund of all moneys paid, less any escrow cancellation fee up to $250.00.

Supplementary Report to a Preliminary Report: Same as for Preliminary Report.

Final Report or Supplementary Report to a Final Report: Sales made by the developer are binding if:

A) The developer delivers to the buyer a copy of:
   1) Either the Final Public Report **OR** the Supplementary Public Report which has superseded the Final Public Report for which an effective date has been issued by the Real Estate Commission; **AND**
   2) Any other public report issued by the developer prior to the date of delivery, if the report was not previously delivered to the buyer and if the report has not been superseded;
B) The buyer is given an opportunity to read the report(s); **AND**
C) One of the following has occurred.
   1) The buyer has signed a receipt for the report(s) and waived the right to cancel; or
   2) Thirty (30) days have passed from the time the report(s) were delivered to the buyer; or
   3) The apartment is conveyed to the buyer within 30 days from the date the report(s) were delivered to the buyer.

Material Change: Binding contracts with the Developer may be rescinded by the buyer if:

A) There is a material change in the project which directly, substantially, and adversely affects (1) the use or value of the buyer's apartment or its limited common elements; or (2) the amenities available for buyer's use; **AND**
B) The buyer has not waived the right to rescind.

If the buyer rescinds a binding sales contract because there has been a material change, the buyer is entitled to a full and prompt refund of any moneys the buyer paid.

2. Rights Under the Sales Contract: Before signing the sales contract, prospective buyers should ask to see and carefully review all the documents relating to the project. If these documents are not in final form, the buyer should ask to see the most recent draft. These include but are not limited to the:

A) Condominium Public Reports issued by the developer which have been given an effective date be the Hawaii Real Estate Commission.
B) Declaration of Condominium Property Regime, as amended.
C) Bylaws of the Association of Apartment Owners, as amended.
D) House Rules, if any.
E) Condominium Map, as amended.
F) Escrow Agreement.
G) Hawaii's Condominium Property Act (Chapter 514A, HRS, as amended) and Hawaii Administrative Rules, (Chapter 16-107, adopted by the Real Estate Commission, as amended).
H) Other Declaration of Restrictive Covenants and Conditions attached hereto as Exhibit "I", and Access Easement Agreement attached hereto as Exhibit "J".

Copies of the condominium and sales documents and amendments made by the developer are available for review through the developer and are on file at the Department of Commerce and Consumer Affairs. Reprints of Hawaii's Condominium Property Act (Chapter 514A, HRS) and Hawaii Administrative Rules, Chapter 16-107, are available at the Cashier's Office, Department of Commerce and Consumer Affairs, 1010 Richards Street, 3rd Floor, Honolulu, Hawaii, mailing address: P.O. Box 541, Honolulu HI 96809, at a nominal cost.

This Public Report is a part of Registration No. 4598 filed with the Real Estate Commission on March 22, 2001.

Reproduction of Report. When reproduced, this report must be on:

[ ] YELLOW paper stock [X] WHITE paper stock [ ] PINK paper stock

C. **Additional Information Not Covered Above:**

1. The use of hazardous material is restricted except as provided under Article H of the Declaration and all hazardous materials laws.

2. For the purpose of Exhibit "F" of the Final Condominium Public Report the Developer has not conducted a reserve study in accordance with § 514A-83.6, HRS, and the replacement reserve rules, Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules, as amended.

3. The project, and all uses and improvements on the apartments in the project, are subject to each of the following:

   (i) Declaration of Restrictive Covenants and Conditions dated January 25, 2000, recorded as Document No. 2000-017237, attached hereto as Exhibit "I".

   (ii) Access Easement Agreement dated October 26, 2000, recorded as Document No. 2000-158198, attached hereto as Exhibit "J".

4. Purchasers should be aware that because the Project is located within the Open District of the CZO, land coverage within the Project shall be limited to ten percent (10%) of the total size of the property. As a result, the total land coverage is approximately .3934 acres, which shall be allocated to the Units as follows: Unit 1 – 55%; and Unit 2 – 45%.

5. Current County of Kauai ordinances allow the construction of one single family dwelling and one "additional dwelling unit" ("ADU"). This ADU is authorized to be constructed pursuant to a specific ordinance that may or may not continue to be in effect in the future. No warranty or representation is made by the Developer as to the continued effectiveness of the ADU ordinance or the ability of any Owner to construct an ADU on the property at any specific time in the future. Also, under current County of Kauai zoning and building procedures the ADU is defined as the second of the single family dwelling to be constructed on the property; the first single family dwelling to be constructed on the property will not be considered by the County as an ADU, but rather will be considered by the County as the "primary" single family dwelling authorized to be constructed on the property. There is no guarantee that the owners of both Units in this Project will be able to construct a single family dwelling on their respective Unit in the event the ADU ordinance expires and is not renewed, or in the event of any amendment to the ADU ordinance that adversely affects current rights regarding the construction of ADUs.

D. The developer declares subject to the penalties set forth in section 514A-49(b) that this project is in compliance with all county zoning and building ordinances and codes, and all other county permitting requirements applicable to the project, pursuant to Act 251 (SLH 2000) [Section 514A-] (The developer is required to make this declaration for issuance of an effective date for a final public report.

E. The developer hereby certifies that all the information contained in this Report and the Exhibits attached to this Report and all documents to be furnished by the developer to buyers concerning the project have been reviewed by the developer and are, to the best of the developer's knowledge, information and belief, true, correct and complete.

DANIEL A. CHARLSON and LYNDA CHARLSON
Name of Developer

Daniel A. Charlson — 2/28/01
DANIEL A. CHARLSON — Date

Lynda Charlson — 2/28/01
LYNDA CHARLSON — Date

Distribution:

Department of Finance, County of Kauai

Planning Department, County of Kauai

***Must be signed for a: corporation by an officer; partnership or Limited Liability Partnership (LLP) by the general partner, Limited Liability Company (LLC) by the manager or member; and for an individual by the individual.**

EXHIBIT "A"

DESCRIPTION OF BUILDINGS

The project consists of two (2) shade sheds constructed principally of iron fence posts and shade cloth, without a basement or foundation.

Units 1 and 2, located as shown on the Condominium Map, each contain a total area of 20 square feet.

The approximate net floor areas of each unit as set forth above is measured from the interior surface of the unit perimeter walls and includes all of the walls and partitions within its perimeter walls.

EXHIBIT "B"

ALTERATION OF PROJECT

Paragraph K of the Declaration provides that:

1. Provided that the unit owner satisfies the applicable terms and conditions of the Project Documents and obtains all of the necessary governmental permits, each unit owner shall have the right at his sole option at any time and from time to time, as hereinafter set forth, without the consent and/or approval of the owner of any other unit or any other persons or entity, to construct, reconstruct, repair, maintain, improve, renovate, remodel, make additions to, enlarge, remove, replace, alter or restore the improvements to or in his unit or portions thereof or upon or within the Yard Areas or other limited common elements or easements appurtenant to his unit (collectively, the foregoing are referred to as "alterations"). Each unit owner who makes such alterations (hereinafter referred to as the "Altering Owner") shall have the right without the consent or joinder of any other person to amend this declaration and the Condominium Map to accomplish any such alterations. If required by the Act, promptly upon completion of such alterations the Altering Owner shall duly record such amendment to this declaration in the Bureau of Conveyances, together with a complete set of the floor plans of such unit as so altered, certified by a registered architect or professional engineer to fully and accurately depict the altered portions of the property as built. All existing unit owners and all future unit owners and their mortgagees, by accepting an interest in a unit, consent to all such alterations and agree to give and shall be deemed to have given the Altering Owner a power of attorney to execute an amendment to the declaration solely for the purpose of describing the alterations to such unit in the declaration so that the Altering Owner shall hereafter have a power of attorney from all the other unit owners to execute such amendment to the declaration. This power of attorney shall be deemed coupled with each owner's interest in his unit (including his common interest) and shall be irrevocable. If, despite the provisions of this paragraph, any governmental agency shall require some or all of the owners of units in the Project (other than the Altering Owner) to sign the necessary governmental permit application or related documents, then all of the other unit owners shall be required to sign any such permit applications or related documents (including authorizations allowing the Altering Owner to sign such governmental permits on behalf of such other owners) as may be necessary to allow the Altering Owner to obtain all such governmental permit necessary to make the alterations authorized by this paragraph. Any such unit owner who wrongfully refuses to sign such permits or provide the Altering Owner with the necessary authorizations: shall be liable to the Altering Owner for all such damages (including costs and attorneys' fees) incurred by the Altering Owner as a result of such refusal; and shall be subject to such other legal and/or equitable remedies as may be available to the Altering Owner.

2. Any alteration of a unit pursuant to this paragraph K shall be subject to the following conditions:

(a) All such alterations shall conform with all applicable governmental regulations, laws and ordinances.

(b) Such alterations may decrease or increase the size of the affected unit, provided that no alteration shall extend or place the unit outside of the limits of the Yard Area appurtenant to such unit.

(c) All such alterations shall be at the sole expense of the unit owner making the change and shall be made within one (1) year of the commencement thereof and in a manner that will not unreasonably interfere with the other unit owner's use of his unit or Yard Area.

(d) The owner of the altered unit, at such owner's sole expense, shall have the right to utilize, relocate, construct, reconstruct, realign and/or develop additional, central and appurtenant installations for services to the unit affected by such alteration for electricity, sewer and other utilities and services. When necessary, the owner of the altered unit may add, delete, relocate, realign, designate and grant easements and rights-of-way over, under and on the common elements as necessary or desirable in connection therewith. Provided, however, that no work done pursuant to this paragraph shall cause any unreasonable interruption in the service of such utilities to any other part of the Project, nor shall it unreasonably interfere with any other unit owner's use or enjoyment of his unit or Yard Area.

3. In the event the Project is ever entitled to construct a Guest House, then the right to construct said Guest House is reserved to the owner of Unit 1. Said right may be assigned by the owner of Unit 1 to any other unit owner within the Project at any time. All provisions of the Comprehensive Zoning Ordinance and any other laws, ordinances or regulations which are applicable shall be observed by the unit owner to which the right to build a Guest House applies. The unit owner shall also consult with the appropriate County and/or State agencies regarding all applicable laws or regulations prior to construction.

4. Each and every conveyance, lease and mortgage or other lien made or created on any unit and all common interests, limited common elements, and other appurtenances thereto shall be subject to the provisions of this paragraph and any lease of a unit shall reserve to all unit owners the rights set forth in this paragraph.

* SPECIAL NOTATION: When applying for building permits, use permits, zoning permits or any other land use permits with governmental agencies, 75% of the owners of the Project maybe required to sign the permit forms. In such case, all unit owners shall be required to sign such permit applications and related documents as may be necessary for any unit owner to obtain such permits.

The issuance of an effective date for the Condominium Public Report should not be construed to mean that all governmental laws, ordinances and regulations have been complied with and all

subsequent development and use shall comply with applicable governmental laws, ordinances and regulations.

Additionally, the creation of the Condominium Property Regime does not mean that the land has met the subdivision requirements of the County. As such, certain facilities and improvements normally associated with County approved subdivisions may not be necessarily included as part of this Project.

EXHIBIT "C"

COMMON ELEMENTS

The common elements of the project shall specifically include, but are not limited to, the following:

1. The land described in Exhibit "A", attached to the Declaration, in fee simple.

2. All central and appurtenant installations for common services, including utilities.

3. Any and all apparatus and installations of common use and all other parts of the project necessary or convenient to its existence, use, maintenance or safety, or normally in common use.

EXHIBIT "D"

LIMITED COMMON ELEMENTS

Certain units shall have appurtenant thereto easements for the exclusive use of certain limited common elements as follows:

Yard Area 1: Yard Area 1 consists of the land area under and surrounding Unit 1, contains approximately 2.934 acres as designated on the Condominium Map, and is reserved for the exclusive use of Unit 1 for the support of the building and other improvements comprising Unit 1, and for the purposes described in the Project Documents.

Yard Area 2: Yard Area 2 consists of the land area under and surrounding Unit 2, contains approximately 1.000 acre as designated on the Condominium Map, and is reserved for the exclusive use of Unit 2 for the support of the building and other improvements comprising Unit 2, and for the purposes described in the Project Documents.

EXHIBIT "E"

ENCUMBRANCES AGAINST TITLE

1. Any taxes that may be due and owing and tax liens that may exist, refer to Director of Finance, Kauai County.

2. Free flowage of Omao Stream as shown on tax map.

3. A five feet wide right-of-way in favor of Koloa Water Works as shown on subdivision map prepared by Roger M. Caires, Registered Surveyor, with Caires Land Surveying dated December 20, 1999 and recertified on January 13, 2000.

4. A right-of-way for a four feet wide ditch as shown on subdivision map prepared by Roger M. Caires, Licensed Professional Land Surveyor with Caires Land Surveying, dated December 20, 1999, and recertified on January 13, 2000.

5. Setback for floodway and flood fringe purposes as shown on subdivision map prepared by Roger M. Caires, Licensed Professional Land Surveyor with Caires Land Surveying, dated December 20, 1999, and recertified on January 13, 2000.

6. Restriction of Vehicular Access Rights along Omao Road as shown on subdivision map prepared by Roger M. Caires, Licensed Professional Land Surveyor with Caires Land Surveying, dated December 20, 1999, and recertified on January 13, 2000.

7. A dirt road as shown on subdivision map prepared by Roger M. Caires, Licensed Professional Land Surveyor with Caires Land Surveying, dated December 20, 1999, and recertified on January 13, 2000.

8. Domestic water service will not be available until the required construction improvements for this subdivision are completed and accepted by the Department of Water, County of Kauai, as shown on subdivision map prepared by Roger M. Caires, Licensed Professional Land Surveyor with Caires Land Surveying, dated December 20, 1999, and recertified on January 13, 2000.

9. Due to high elevations of the lots, a dependable supply of water cannot be assured. The lot owners will be required to execute an Elevation Agreement with the Department of Water upon application for water service, agreeing to such water service as the Department is able to render, as shown on subdivision map prepared by Roger M. Caires, Licensed Professional Land Surveyor with Caires Land Surveying, dated December 20, 1999, and recertified on January 13, 2000.

10. No structure shall be permitted within the flood way. The flood way line shall be recognized as the building set back line, as shown on subdivision map prepared by Roger M. Caires, Licensed Professional Land Surveyor with Caires Land Surveying, dated December 20, 1999, and recertified on January 13, 2000.

11. Purchase Money Mortgage dated November 17, 1998, in favor of Shigeko Ogata, wife of Teruo Ogata, Masami Hadama, also known as Walter Masami Hadama, husband of Pauline M. Hadama, Kiyono Sato, wife of Senji Sato, Fumio Hadama, also known as Richard Fumio Hadama, Setsuko Kobayashi, Trustee of the Setsuko Kobayashi Self-Trusteed Trust dated July 19, 1993, and Toshio Kobayashi, Trustee of the Toshio Kobayashi Self-Trusteed Trust dated July 19, 1993, recorded in said Bureau as Document No. 98-174721.

12. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Declaration dated January 25, 2000, and recorded in said Bureau as Document No. 2000-017237.

13. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain Access Easement Agreement dated October 26, 2000, and recorded in said Bureau as Document No. 2000-158198.

14. Second Mortgage dated December 11, 2000, in favor of Robert E. Keown, husband of Gloria Keown, recorded in said Bureau as Document No. 2000-177939.

15. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

    Declaration of Condominium Property Regime of Omao Pohaku Makamae Condominium dated February 28, 2001, and recorded in said Bureau as Document No. 2001-034267.

    Condominium Map recorded as Map No. 3228.

16. Bylaws of the Association of Unit Owners of Omao Pohaku Makamae Condominium dated February 28, 2001, and recorded in said Bureau as Document No. 2001-034267.

EXHIBIT "F"

ESTIMATE OF INITIAL MAINTENANCE FEES
AND
ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS

Estimate of Initial Maintenance Fees:

Apartment	Monthly Fee x 12 months = Yearly Total
Unit 1	$25.00 x 12 = $300.00
Unit 2	$25.00 x 12 = $300.00

The Real Estate Commission has not reviewed the estimates of maintenance fee assessments and disbursements for their accuracy or sufficiency.

Estimate of Maintenance Fee Disbursements:

	Monthly Fee x 12 months = Yearly Total
Utilities and Services	
Air Conditioning	
Electricity	
[ ] common elements only	
[ ] common elements and apartments	
Elevator	
Gas	
[ ] common elements only	
[ ] common elements and apartments	
Refuse Collection	
Telephone	
Water and Sewer	
Maintenance, Repairs and Supplies	
Building	
Grounds	
Management	
Management Fee	
Payroll and Payroll Taxes	
Office Expenses	
Insurance	$ 50.00 x 12 = $600.00
Reserves(*)	
Taxes and Government Assessments	
Audit Fees	
Other	
TOTAL	$50.00 x 12 = $600.00

DANIEL A. CHARLSON and LYNDA CHARLSON, the owners/developers for the OMAO POHAKU MAKAMAE CONDOMINIUM project, hereby certify that the above estimates of initial maintenance fee assessments and maintenance fee disbursements were prepared in accordance with generally accepted accounting principles.

Daniel A. Charlson — 2/28/01
DANIEL A. CHARLSON — Date

Lynda Charlson — 2/28/01
LYNDA CHARLSON — Date

(*) Mandatory reserves assessment and collection in effect beginning 1994 budget year. The Developer is to attach to this exhibit an explanation whether, in arriving at the figure for "Reserves", the Developer has conducted a reserve study in accordance with §514A-83.6, HRS, and the replacement reserve rules, Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules, as amended.

Pursuant to §514A-83.6, HRS, a new association created after January 1, 1993, need not collect estimated replacement reserves until the fiscal year which begins after the association's first annual meeting.

End of EXHIBIT ___"F"

NOTE: Developer discloses that Developer has not conducted a reserve study in accordance with §514A-83.6, HRS, and the replacement reserve rules.

EXHIBIT "G"

SUMMARY OF DEPOSIT RECEIPT AND SALES CONTRACT

The Deposit Receipt and Sales Contract, including the terms and conditions attached thereto as Article IV (hereinafter collectively called the "Sales Contract") contain the price and other terms and conditions under which a purchaser will agree to buy a unit in the Project. Among other things, the Sales Contract states:

(a) The total purchase price, method of payment and additional sums which must be paid in connection with the purchase of a unit.

(b) That the purchaser acknowledges having received and read a public report (either preliminary or final) for the Project prior to signing the Sales Contract.

(c) That the Developer makes no representations concerning rental of a unit, income or profit from a unit, or any other economic benefit to be derived from the purchase of a unit.

(d) That the purchaser's money will be held in escrow, under the terms of the Escrow Agreement.

(e) Requirements relating to the purchaser's financing of the purchase of a unit.

(f) That the unit and the Project will be subject to various other legal documents which the purchaser should examine, and that the Developer may change these documents under certain circumstances.

(g) That the Developer makes no warranties regarding the unit, the Project or anything installed or contained in the unit or the Project.

(h) That the purchaser must close the purchase at a certain date and pay closing costs, in addition to the purchase price.

(i) That the purchaser will not receive interest on deposits made under the Sales Contract.

(j) If the buyer shall default:

(1) The contract may, at the seller's option, be terminated by written notice to the buyer; and

(2) Any sums paid by the buyer shall belong to the seller as liquidated damages (up to a maximum of 20% of the total purchase price); and

(3) The seller may pursue any other remedy, including specific performance, permitted by law or equity. All costs, including reasonable attorneys' fees, incurred by reason of default by the buyer shall be borne by the buyer.

Further, if the buyer shall default in making any payment when due, a late charge of one percent (1%) per month shall accrue from the due date until such payment, together with such late charge, is paid, or at any time prior to the time that such payment and late charge is paid in full, the seller may, at its option, terminate this contract as provided in paragraphs (1) through (3) above.

The Sales Contract contains various other important provisions relating to the purchase of a unit in the Project. It is incumbent upon purchasers and prospective purchasers to read with care the specimen sales Contract on file with the Real Estate Commission.

EXHIBIT "H"

SUMMARY OF ESCROW AGREEMENT

The Escrow Agreement sets up an arrangement under which the deposits a purchaser makes pursuant to a Sales Contract will be held by a neutral party ("Escrow"). Under the Escrow Agreement, these things will or may happen:

(a) Escrow will let the purchaser know when payments are due.

(b) Escrow will arrange for the purchaser to sign all necessary documents.

(c) The purchaser is entitled to a refund if the purchaser or seller cancels the Sales Contract in accordance with its cancellation provisions, or if the purchaser terminates its reservation before the Sales Contract is binding. However, Escrow may deduct from the refund cancellation fees in accordance with the Sales Contract.

In the event of a default by the purchaser, the funds paid by the purchaser shall belong to the seller as liquidated damages (up to a maximum of twenty percent (20%) of the total purchase price).

The Escrow Agreement contains various other important provisions and establishes certain charges with which a purchaser should be familiar. It is incumbent upon purchasers and prospective purchasers to read with care the executed Escrow Agreement on file with the Real Estate Commission.

(d) The purchaser's funds that are placed in trust prior to closing may be used by the seller after (1) the purchaser has (i) been provided with a final public report; (ii) executed a receipt and notice and has waived his right to cancel or thirty (30) days have elapsed since the purchaser has been provided with the final public report and receipt and notice of right to cancel; and (2) the seller notifies escrow in writing that since (i) and (ii) have happened, the Sales Contract is binding; and (3) the seller's attorney advises escrow that the Sales Contract is binding and the requirements of Hawaii Revised Statutes, Sections 514A-63 and -65 have been met.

(e) Escrow may not disburse any buyer's funds in the construction of the project until completion of the project and the expiration of the mechanic's and materialmen's lien period. Escrow may disburse prior to completion of the project and expiration of the applicable lien period if the Developers would furnish each purchaser an Owners Title Insurance with an endorsement against any future liens placed on the apartments or project as a result of the development, plus providing the Real Estate Commission a release of the General Contractor's lien rights.

R-451

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

FEB 08, 2000 10:00 AM

Doc No(s) 2000-017237

/s/CARL T. WATANABE
ACTING
REGISTRAR OF CONVEYANCES

km

LAND COURT SYSTEM REGULAR SYSTEM

After Recordation, Return by: Mail (X) Pickup ( )
BELLES GRAHAM PROUDFOOT & WILSON (DHW)
4334 Rice Street, Suite 202
Lihue, Kauai, Hawaii 96766
Telephone: (808) 245-4705

This document contains 25 pages

TYPE OF DOCUMENT:

DECLARATION OF RESTRICTIVE COVENANTS AND CONDITIONS

PARTIES TO DOCUMENT:

DECLARANT: CHARLSON/FRENCH JOINT VENTURE, a Hawaii general partnership
3704 Omao Road
Koloa, Kauai, Hawaii 96756

TAX MAP KEY FOR PROPERTY:

(4) 2-7-04:3

EXHIBIT I

DECLARATION OF RESTRICTIVE COVENANTS AND CONDITIONS

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, CHARLSON/FRENCH JOINT VENTURE, A Hawaii general partnership, whose principal place of business is Koloa, Kauai, Hawaii, and whose mailing address is 3704 Omao Road, Koloa, Hawaii, 96756, hereinafter called the "Declarant", is the owner in fee simple and developer of that certain land situated at 3704 Omao Road, Koloa, Island of Kauai, County of Kauai, State of Hawaii, more particularly identified as Kauai Tax Map Key: (4) 2-7-04:3, containing an area of 14.7 acres, more or less; and

WHEREAS, the Declarant is developing the parcel into a subdivision known as "Omao Homesteads", a true and correct copy of the final approved subdivision map of said subdivision being attached hereto as Exhibit "E" and incorporated herein by reference; and

WHEREAS, the Declarant desires to impose certain restrictive covenants and conditions upon all lots in the said subdivision for the purpose of enhancing and protecting the value, desirability and attractiveness of the subdivision and the surrounding environment,

NOW, THEREFORE, the Declarant does hereby declare that Lots 50-A through 50-D, inclusive, of Omao Homesteads (hereinafter referred to as Lots "A" through "D", respectively) resulting from the subdivision of the above-described property, being the lots described in Exhibits "A" through "D," respectively, attached hereto and incorporated herein by reference, shall be subject to the following conditions, covenants and restrictions from the date hereof until removed as contained herein:

1. General Restrictive Covenants. Each lot within the Omao Homestead Subdivision and any private or co-tenancy area appurtenant thereto shall be for the exclusive use and benefit of the Owner thereof, subject, however, to all of the following limitations and restrictions:

a. No improvement or other work which in any way significantly alters any lot from its natural or improved state existing on the date such lot was first conveyed by the Declarant to an Owner shall be made or done except upon strict compliance with and within the restrictions of this Declaration.

b. To protect views and to maximize a blending of structures with the natural environment, no structure erected on any of the said lots shall exceed a building height limit of (30) feet, measured from the finished grade at the main entry of the structure to the highest point of the roof. All utility lines on the lots shall be placed underground.

c. Notwithstanding any other law to the contrary, there shall be no more than one Dwelling Unit and, to the extent allowed by applicable County law, one

Additional Dwelling Unit (ADU) permitted on any lot within the subdivision, except in accordance with the terms and conditions of this Declaration. For the purposes of this Declaration, dwelling units shall mean a detached dwelling unit designed for the use of occupancy of a single family (as opposed to a multi-family unit), and includes an "ohana" unit if permitted by the appropriate governmental authorities. Also, to the extent and subject to the conditions stated in applicable County law, each lot may have constructed upon it one "guest house," as that term is defined in applicable law.

d. One of the two permitted dwellings on the lot shall contain not less than 2,000 square feet of livable floor area, exclusive of lanais, patios, servant's quarters, garage, storage space, and workshop. The second of the two permitted dwellings shall contain not less than 1,000 square feet of livable floor area, exclusive of lanais, patios, servant's quarters, garage, storage space, and workshop. Each dwelling shall have appurtenant to it a garage designed to accommodate at least two automobiles which is architecturally harmonious with the dwelling to which it is appurtenant.

e. All structures must not exceed two stories, and the total floor are (including lanais, decks and balconies) of the second story on any such structure shall not exceed seventy percent (70%) of the floor are under roof of the first story, it being the intention of the Declarant to create a "stair step" effect for the 2-story structures. A third level or basement may be permitted if the same is cut below the existing grade and the completed structure does not exceed the 30 foot height limit measured from the finished grade at the main entry of the structure.

f. All structures shall be built entirely of new materials, excluding existing dwellings(s) on Lot A and no "quonset" or "geodesic dome" type of building shall be erected, place or maintained on any of said lots.

g. No structure erected on the lots shall use mirrored glass, reflective sunscreens, or other highly reflective materials for any exterior windows.

h. The roofs of all structures erected on the lots shall be surfaced with wood shakes, tile, or designer steel of a type approved by the Design Committee. The use of any roofing such as corrugated iron, metal, rolled on build-up composition roof, Architect 80, and the like shall be prohibited.

i. All structures erected on the lots, including the roof, shall have an earthen tone exterior color, as may be approved by the Design Committee, or have a finish of earthen tone color, as may be approved by the Design Committee.

j. The area around each structure shall be landscaped with trees, shrubbery, and/or plantings in an appropriate fashion so as to minimize the visual intrusion of such structure to the neighboring lots in the subdivision.

k. Any bare areas resulting from excavation or fill shall be revegetated immediately to avoid erosion and visual impacts.

l. No fences or similar structures shall be painted or contain a finish other than earthen tones or other colors or finishes approved by the Design Committee.

m. No chain link fences shall be permitted except minimally around the vicinity of the dwelling as may reasonably be necessary to confine pets or for security purposes, provided, however, that any such chain link fence shall be screened through hedges and other plantings so as not be visible to the neighboring property.

n. Each dwelling shall be occupied and used only as a dwelling by the owner thereof, his or her tenants (other than transient vacation renters), family, employees and guests, and for no other purpose except as otherwise stated herein. No dwelling shall be used for a bed and breakfast or other short term of transient vacation rental business.

o. Each dwelling and any and all improvements from time to time located thereon shall be maintained by the Owner thereof in good and clean condition and repair in such manner as not to create any fire, safety or health hazard to the Omao Homestead Subdivision or any part thereof, all at such Owner's sole cost and expense.

p. No signs whatsoever, including without limitation, commercial, political or similar signs, visible from neighboring property, shall be erected or maintained upon any lot except:

(a) Such signs as may be required by legal proceedings;
(b) Residential identification sighs of combined total face area of three (3) square feet or less of each dwelling;
(c) During the time of construction of any dwelling or other improvements, job identification signs having a maximum face area of six (6) square feet per sign and of the type usually employed by contractors, subcontractors and tradesmen; and
(d) Not more than one (1) "For Sale" or "For Rent" sign having a maximum face area of two (2) square feet, such sign to refer only to the premises on which it is situated.

q. No house trailer, mobile home, permanent tent or similar facility or structure shall be kept, placed or maintained upon any lot at any time, provided, however, that the provisions of this paragraph shall not apply to the temporary construction shelter or facilities maintained for a period not to exceed one (1) year

during and used exclusively in connection with the construction of any work or improvement permitted on the lot.

r. No vehicle of more than one (1) ton capacity shall be kept, placed or maintained upon any lot in such a manner that such vehicle is visible from the adjoining street and neighboring property; provided, however, that the provisions of this paragraph shall not apply to construction equipment maintained for a period not to exceed one (1) year during and used exclusively in connection with the construction for any work or improvement permitted on the lot.

s. No accessories, structures or buildings shall be constructed, placed or maintained upon any lot prior to the construction of the main structure of the dwelling, provided however, that the provisions of this paragraph shall not apply to temporary construction shelters or facilities maintained for a period not to exceed one (1) year during and used exclusively in connection with the construction of the main structure of the dwelling, nor apply to facilities reasonably required or appurtenant to the conducting of any agricultural or other authorized non-residential activity on the lot. Guest houses (if and to the extent allowed by law) may be permitted to be constructed prior to the construction of the main dwelling if, and only if, such guest house is part of the master plan for the construction of the dwelling on the lot and the dwelling shown on such master plan is built in accordance there within a reasonable time not to exceed two (2) years.

t. No trailer, vehicle or boat shall be constructed, reconstructed or repaired upon any lot in such a manner that such construction, reconstruction or repair is visible from the neighboring properties, nor shall any vehicle, trailer or boat not in good operating condition be maintained upon any lot so as to be visible from any adjoining street or neighboring properties in the subdivision, provided that nothing in this paragraph shall prevent on Owner from performing minor work and minor repairs on his own trailer, vehicle or boat in his or her garage.

u. No open storage of boats, vehicles, furniture, fixtures, appliances and other goods and chattels will be permitted. These items may only be stored in an enclosed structure. No outside clothesline or other outside clothes drying or airing facilities shall be permitted except within a fenced service yard and not visible from the neighboring property.

v. No garbage or trash shall be permitted on any lot except in closed receptacles screen from view from any adjoining street and neighboring property, and no accumulated waste plant materials will be permitted on any lot, except as part of an established compost pile maintained in such a manner as not to be visible from neighboring property or as a necessary part of the agricultural activities conducted on such lot.

w. No owner shall violate or permit the violation on his or her lot of any applicable law or ordinance pertaining to zoning, building, fires, signs or other matter relating to the use and development of his or her lot or dwelling.

x. No garage shall be used for other than parking of vehicles and boats, unless the same is enclosed by a partition, wall, door or screen, normally kept closed so as not to be visible from neighboring properties. Specifically, and without limiting the generality of the foregoing, no garage not so enclosed shall be used for laundry or for storage purposes.

y. All driveways between the street and the dwelling on any lot in the subdivision shall be of concrete or asphalt. No dirt, coral or gravel driveways shall be permitted, provided that this paragraph shall not apply to temporary driveways and access for a period not to exceed one (1) year during and used exclusively in connection with the construction of the dwelling on the lot.

z. Dogs, cats and other typical household pets may be kept but only in reasonable numbers and under reasonable conditions so as not to become a nuisance to the neighboring lot owners, and all animals shall be cared for in conformance with practices of good animal husbandry. Livestock and game animals are strongly prohibited.

aa. No noxious or offensive activities shall be carried on upon any lot in the subdivision, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. All occupants shall exercise extreme care about making noise and in the use of musical instruments, radios, televisions, and amplifiers that may disturb the neighboring occupants.

bb. Cottage industries and businesses which can be conducted within the confines of structure on any lot; which do not result in increased noise, fumes, odors and waste generation; which to not require the presence of customers and employees on site with resulting additional traffic; and which do not pose a nuisance to the neighboring lots in the subdivision may be permitted if also allowed by the governmental authorities having jurisdiction over such activities.

cc. The (a) construction, reconstruction, refinishing or altering of any improvement upon, under or above any lot, (b) making or creating of any excavation or fill thereon for any improvements, (c) making any change in the natural or existing surface drainage thereof, (d) installation of any wiring for electrical, telephone or other utility line, television antenna, machines or air conditioning units, or other equipment or appurtenances whatsoever on the lot or protruding through the walls, window or roof of any improvement constructed thereon, and (e) installation of all initial and

subsequent landscaping improvements on any lot, are prohibited unless and until the Owner of such lot has obtained prior written approval therefore from the Design Committee as herein provided and has otherwise strictly complied with all of the provision of this Declaration.

dd. Any Owner proposing to perform any work which under the provisions of paragraph (cc) above requires prior approval of the Design Committee shall apply to the Design Committee for approval thereof as follows:

1. The owner shall submit to the Design Committee for approval prior to commencing such work preliminary plans for the proposed work, prepared by an architect, unless otherwise permitted by the Design Committee, and showing in detail, with dimensions, the nature of the improvements. Subject to an extension of the review time as described below, the Design Committee shall review any such preliminary plans within forty-five (45) days after the submission to them to it and shall return such plans to the Owner either with approval or with disapproval, in which latter case the nature of the objections shall be indicated. Subject to an extension of the review time as described below, failure to make such return within said forty-five (45) day period shall be deemed to mean that the plans are approved. Notwithstanding the foregoing provisions, in the event any preliminary plan that is submitted for review and approval of the Design Committee is, in the reasonable determination of the Design Committee, insufficient for the Design Committee to make a determination of the acceptability of the plan, or does not include any information required of such plan by this Declaration, the Design Committee shall notify the Owner or the Owner's architect in writing of the further items or information that needs to be submitted, and in such event the 45 day review period shall not begin to run until all required items or information are received by the Design Committee in acceptable form and content.

2. Thereafter, and still prior to the commencement of such work, the Owner shall submit three (3) sets of the final plans and specifications of the proposed work to the Design Committee, including where appropriate and without limitation, a plot plan showing easements, set back and contour lines, the location of all existing and/or proposed improvements, the proposed drainage plan, the proposed sanitary disposal facilities, the location of all existing trees having a height in excess of twenty-five feet (25') and a trunk measuring eighteen inches (18") or more in diameter at ground level and indicating which (if any) the Owner plans to remove, the nature and location of all initial landscaping to be planted or developed on the lot, and the location of all proposed utility installations. The plans and specifications shall indicate all exterior materials, finishes and colors to be used. Also, the Owner shall indicate his proposed construction schedule.

3. The Design Committee shall review the final plans and specifications submitted to it pursuant to subparagraph (2) and shall either approve the same or disapprove the same in writing within forty-five (45) days, subject to extension of the review time as described below. Any disapproval shall set forth in writing the reasons for disapproval. Subject to an extension of the review time as described below, failure to so approve or disapprove within said forty-five (45) day period shall be deemed approval. On request of an Owner, at any time, the chairperson or any member of the Design Committee shall give to the Owner a certificate in writing evidencing the approval of any plans that have been so approved. Notwithstanding the foregoing provisions, in the event any final plans and specifications that is submitted for review and approval of the Design Committee are, in the reasonable determination of the Design Committee, insufficient for the Design Committee to make a determination of the acceptability of the plans or specifications, or do not include any information required of such plans or specifications by this Declaration, the Design Committee shall notify the Owner or the Owner's architect in writing of the further items or information that needs to be submitted, and in such event the 45 day review period shall not begin to run until all required items or information are received by the Design Committee in acceptable form and content.

4. Nothing herein shall be deemed to required an Owner to obtain approval from the Design Committee as to any interior improvements or alterations, nor shall and Owner be required to obtain approval from the Design Committee when simply reconstructing or refinishing in accordance with the color and design of previous improvements made by the Declarant or previously approved by the Design Committee.

5. Approval as herein before provided shall be effective for a period of one (1) year and shall be deemed revoked if the Owner shall not have commenced such work within said one (1) year period and shall not thereafter complete the same within one (1) year after the commencement of such construction. If the Owner shall not so commence within said one (1) year period, the Owner shall be required to resubmit the final plans and specifications for approval, and the Design Committee shall not be bound by any previous decision in reviewing again such plans and specifications, but shall either approve or disapprove the same in writing with forty-five (45) days after such resubmission.

6. Upon completion of any work for which approved plans are required pursuant to this sub-paragraph (dd), the Owner shall give written notice thereof to the Design Committee, which shall within thirty (30) days of receipt

of such notice inspect such work to determine whether it was completed in substantial compliance with the approved plans and specifications. If the Design Committee finds that such work was not done in substantial compliance with such approved plans and specifications, it shall notify the Owner of such noncompliance and require the Owner to remedy such noncompliance. If the Owner shall have failed to remedy such noncompliance within sixty (60) days from the date of such notification, or such longer time as may reasonably be required, provided that the Owner has in good faith commenced action to remedy within said sixty (60) day period, the Design Committee may either remove improvement or remedy the noncompliance, and the Owner shall reimburse the Design Committee for all expenses incurred in connection therewith. If for any reason the Design Committee shall fail to notify the Owner of any such notice of completion thereof from the Owner, he improvement shall be deemed to have been completed in accordance with said approved plans. For all purposes stated in this sub-paragraph 6, each Owner of a lot in the Subdivision, by his or her acceptance of a conveyance of the lot shall be deemed to have granted a continuing right-of-entry to the Declarant, the Design Committee, and their respective members, contractors, employees, and other authorized agents for the purpose of inspecting or removing any improvements in accordance with this Declaration, and for otherwise remedying any noncomplying improvements or matters, and neither the Declarant, the Design Committee, nor their respective members, contractors, employees, and other authorized agents shall be liable to the Owner or any other person for any damage or injury caused by such entry, except for any such damage or injury resulting from the gross negligence or willful misconduct of such party(ies).

7. The Design Committee shall have the power to promulgate, by majority vote of the Design Committee members, such rules, standards or regulations, which are not inconsistent with the terms and conditions of this Declaration, in furtherance of the design review process detailed herein. Also, the Design Committee, by majority vote, shall be authorized to grant waivers or variances from the terms and conditions stated herein to the extent that such waiver or variance does not result in any substantial or material noncompliance with this Declaration by the Owner to whom the waiver or variance is granted.

8. In reviewing plans and specifications, the Design Committee shall consider the requirements and restrictions set forth in this Declaration and also shall consider whether the proposed improvement:

(i) is compatible and in harmony as to quality and type of materials and workmanship described herein or in the rules, standards, and regulations which may be promulgated by the Design Committee as provided herein, and as to external design and appearance with

reference to existing structures and other improvements in the area and with reference to the location of the proposed improvement with respect to topography and ground elevations;

(ii) constitutes a suitable and adequate development of the homesite; and

(iii) will or will not, because of its design, unreasonably interfere with the light and air or view of adjoining lots.

ee. The creation of a condominium property regime ("CPR") on any lot within the Omao Homestead Subdivision, in compliance with applicable State of Hawaii law, is permitted if such condominiumization does not result in a number of residential dwellings exceeding the maximum number of two (2) dwellings (plus one guest house) permitted under this Declaration, notwithstanding that a larger number of dwellings may be permitted by law.

ff. For a period of ten (10) years from the date hereof, and with the exception of the creation of a CPR as stated in the preceding sub-paragraph, no Owner of any lot within the Omao Homestead subdivision shall apply for or seek, directly or indirectly, any land use reclassification, zoning amendment, subdivision, variance or other governmental approval which would permit or result in a greater density of more than two (2) dwellings and one guest house on the lot. After the said 10 year period, and with the exception of the creation of a CPR as stated in the preceding sub-paragraph, no Owner of any lot within the Omao Homestead subdivision shall apply for or seek, directly or indirectly, any land use reclassification, zoning amendment, subdivision, variance or other governmental approval which would permit or result in a greater density of more than two (2) dwellings and one guest house on the lot without first obtaining the written approval of no less than seventy-five percent (75%) of the then owners of Lots A though D, inclusive, of the Omao Homestead Subdivision.

2 Design Committee: Organization, Power of Appointment and Removal of Members:

a. There shall be a Design Committee consisting of three (3) members. No member shall be required to meet any lot ownership or professional qualification for membership on the Design Committee.

b. The following persons are hereby designated as the initial members of the Design Committee:

1. Daniel A. Charlson
2. Lynda Charlson
3. Christine French

Each of the said persons shall hold office until such time as he or she has resigned or has been removed, or his or her successor has been appointed, as herein set forth.

c. Except as provided in sub-paragraph (d) below, the right from time to time to appoint and remove all members of the Design Committee shall be and is hereby reserved and vested solely in the Declarant.

d. The majority of the then owners of Lots A through D of the Omao Homestead Subdivision (based on 1 lot, 1 vote) shall have the right to appoint and remove all members of the Design Committee beginning and continuing from fifteen (15) years from the date of this Declaration, provided, however, that if the Declarant at any time prior to such date (a) fails to exercise its rights under paragraph (c) above for a continuous period of three (3) months, or (b) records a declaration with the Hawaii Bureau of Conveyances waiving such rights, then majority of the owners of Lots A through D shall thereupon and thereafter have the right to appoint and remove all members of the Design Committee.

e. Any member of the Design Committee may at any time resign from the Design Committee upon written notice delivered to the Declarant, or to the lot owners, whichever then has the right to appoint and remove members.

f. It shall be the duty of the Design Committee to consider and act upon such proposals or plans from time to time submitted to it, pursuant to the provisions of paragraphs 1(cc) and 1(dd) above.

g. The Design Committee shall meet from time to time as necessary properly to perform its duties hereunder. The vote or written consent of any two (2) members shall constitute the act of the Design Committee, unless the unanimous action of its members is otherwise required by this Declaration. The Design Committee shall keep and maintain a record of all actions from time to time taken by the Design Committee, and no member of the Design Committee shall receive any compensation for services rendered. All members shall be entitled to reimbursement by the Owner whose plans are being reviewed, or whose action or inaction results in remedial action being taken by the Design Committee, for reasonable expenses incurred by them in connection with the performance of any Design Committee function.

h. The approval by the Design Committee of any plans and specifications for any work done or proposed or in connection with any other matter requiring the approval of the Design Committee shall not be deemed to constitute a waiver of any right to withhold approval as to any similar plan, drawing, specification or matter whatever subsequently or additionally submitted for approval.

i. Neither the Design Committee nor any member thereof shall be liable to any Owner or to any other person for any damage, loss or prejudice suffered or claimed on account of (a) the approval of any plans, drawings and construction or performance of any work whether or not pursuant to approved plans, drawing and specifications, or (b) the development or manner of development of any property within the Omao Homestead Subdivision, provided, however, that such member has, with the actual knowledge possessed by him or her, acted in good faith. Without in any way limiting the generality of the foregoing, the Design Committee, or any member thereof, may, but is not required to, consult with or hear any owner or his or here contractor or architect with respect to any plans, drawings or specifications or any other proposals submitted to the Design Committee.

3. Building Setback Line for Drainage: All subdivision lots shall be subject to the building setback line shown on the final approved subdivision map for the Omao Homestead Subdivision for the purposes of preserving a drainage way for surface water runoff. With respect to the drainage setback, the following restrictions and conditions shall apply:

a. Each lot owner shall preserve and maintain the existing drainage pattern, and is prohibited from constructing any improvements within the setback area such as walls, which would be a barrier that may alter the drainage pattern;

b. Periodic flooding within the setback areas during times of heavy storms and rain conditions may be possible, during which time due care and precaution shall be exercised; and

c. Each lot owner shall accept storm runoff, shall preserve and maintain the drainage patter through the setback area, and shall accept the consequences from the runoff through the setback area.

4. Reservation in Declarant for Future Easements. The Declarant hereby reserves, and shall have the right to grant to any appropriate governmental, quasi-governmental, or private utility provider, any further and other easements, rights-of-entry, or other permissions or authority as may be deemed necessary by the Declarant, or by the appropriate public utility or utilities or governmental agency or agencies, for the purposes of providing access or utility services to and from the lots in the Omao Homestead Subdivision. For the purpose of granting such easements, rights-of-entry, or other permissions or authority, each Owner, by his or her acceptance of a lot conveyance in the Subdivision, hereby grants to the Declarant, its successors and assigns, an irrevocable power of attorney, coupled with an interest, for such purpose, to be exercised by the Declarant, its successors and assigns, as it may deem appropriate under the circumstances.

5. Binding Effect. These covenants and restrictions shall run with the land and shall be binding upon and inure to the benefit of the Declarant, all Owners of lots in the

Subdivision, and all other persons claiming through or under them from the date hereof until the first day of January 2014, after which time said covenants and restrictions shall be automatically extended for successive periods of 10 years each unless an instrument signed by no less than seventy-five percent of the then owners of Lots A through D, inclusive, in the Omao Homestead Subdivision has been recorded with the Hawaii Bureau of Conveyances, agreeing to revoke or change said covenants in whole or in part.

6. Remedial Actions. Any appropriate action may be filed or taken at law or in equity by the Declarant or its successors and assigns, or of any Owner of any of the said lots in the Omao Homestead Subdivision, to restrict or prevent by injunction, mandatory or restraining, any violation of any of the covenants, conditions and restrictions contained herein and upon the part of the lot Owners to be observed and performed, without prejudice to the right of the Declarant or its successors and assigns, or of any Owner of any of the said lots in the Subdivision, to adopt or pursue any other remedy simultaneously or thereafter for the same breach or failure, or for any subsequent breach or failure, or to take action to recover damages for any such breach or failure.

7. Separation and Survival of Terms. Invalidation of any of the covenants, conditions or restrictions stated herein by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned have executed this instrument this 25th day of January, 2000.

CHARLSON/FRENCH JOINT VENTURE

By Lynda Charlson
Name:
Its general partner

By Christine A. French
Name:
Its general partner

STATE OF HAWAII)
) SS:
COUNTY OF KAUAI)

On this 25th day of January, 2000, before me appeared Lynda Charlson, to me personally known, who, being by me duly sworn, did say that she is a general partner of CHARLSON/FRENCH JOINT VENTURE, a Hawaii general partnership, that the foregoing instrument was signed in the name and on behalf of said partnership, and said they acknowledged that they executed the same as their free act and deed and as the free act and deed of said partnership.

LETTITIA L. ULANDAY
Notary Public
STATE OF HAWAII

Name of Notary: Lettitia L. Ulanday
Notary Public, State of Hawaii.

My commission expires: 12-23-01

STATE OF HAWAII)
) SS:
COUNTY OF KAUAI)

On this 25th day of January, 2000, before me appeared Christine A. French, to me personally known, who, being by me duly sworn, did say that she is a general partner of CHARLSON/FRENCH JOINT VENTURE, a Hawaii general partnership, that the foregoing instrument was signed in the name and on behalf of said partnership, and said they acknowledged that they executed the same as their free act and deed and as the free act and deed of said partnership.

LETTITIA L. ULANDAY
Notary Public
STATE OF HAWAII

Name of Notary: Lettitia L. Ulanday
Notary Public, State of Hawaii.

My commission expires: 12-23-01

LOT 50-A

LAND SITUATED AT OMAO, KOLOA, KAUAI, HAWAII

Being Portions of Grants 6970 and 6783

Being also Portions of Lots 50 and 51, Omao Homesteads

Beginning at a point at the Northwest corner of this parcel of land on the Northeast corner of Lot 49-B, and on the Southwest corner of Lot 50-B, the coordinates of said point of beginning referred to Government Survey Triangulation Station "LAAUKAHI" being 8,984.71 feet South and 5,304.05 feet West, thence running by azimuths measured clockwise from true South:

1.	303° 47'	783.96	feet along Lot 50-B;
			thence along Lot 50-B on a curve to the right having a radius of 35 feet, the chord azimuth and distance being;
2.	348° 47'	49.50	feet;
3.	33° 47'	22.25	feet along Lot 50-B;
4.	123° 47'	128.77	feet along along Roadway Lot 50-E;
			thence along Roadway Lot 50-E on a curve to the left having a radius of 250 feet, the chord azimuth and distance being;
5.	102° 47'	179.18	feet;
6.	81° 47'	322.91	feet along Roadway Lot 50-E;
			thence along Roadway Lot 50-E on a curve to the right having a radius of 90 feet, the chord azimuth and distance being;
7.	109° 46' 45"	84.49	feet;
8.	137° 46' 30"	6.73	feet along Roadway Lot 50-E;

EXHIBIT A
PAGE 1 OF 2

9.	185° 10'	405.94	along Lots 49-A and 49-B to the point of beginning and containing an area of 3.242 acres.

SUBJECT, HOWEVER, to the following as shown on the subdivision map;

1. Easement "AU-1" in favor of Lots 50-A, 50-C, and 50-D affecting Lot 50-B for vehicular access and utility purposes.

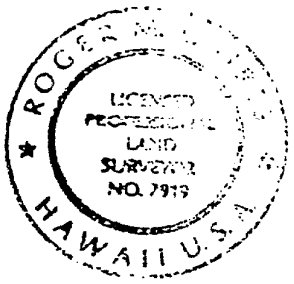
2. Easement "AU-2" in favor of Lots 50-A, 50-B, and 50-D affecting Lot 50-C for vehicular access and utility purposes.

3. Easement "E-1" in favor of Lots 50-B, 50-C, and 50-D affecting Lot 50-A for electrical utility purposes.

4. A vehicular access restriction along Omao Road.

5. Domestic water service will not be available until the required construction improvements for this subdivision are completed and accepted by the Department of Water, County of Kauai.

6. Due to high elevations of the lots, a dependable supply of water cannot be assured. The lot owners will be required to execute an Elevation Agreement with the Department of Water upon application for water service, agreeing to such water service as the Department is able to render.



Kalaheo, Hawaii 96741
December 20, 1999

DESCRIPTION PREPARED BY
CAIRES LAND SURVEYING

ROGER M. CAIRES
Licensed Professional Land Surveyor #7919

CAIRES LAND SURVEYING
P.O. Box 777
Kalaheo, Kauai, Hawaii 96741
635-3700
fax 332-8910

EXHIBIT A
PAGE 2 OF 2

LOT 50-B

LAND SITUATED AT OMAO, KOLOA, KAUAI, HAWAII

Being a Portion of Grant 6970

Being also a Portion of Lot 50, Omao Homesteads

Beginning at a point at the Southwest corner of this parcel of land on the Northeast corner of Lot 49-B, and on the Northwest corner of Lot 50-A, the coordinates of said point of beginning referred to Government Survey Triangulation Station "LAAUKAHI" being 8,984.71 feet South and 5,304.05 feet West, thence running by azimuths measured clockwise from true South:

1.	185° 10'	484.54	feet along Lot 49-E-1;
2.	242° 49'	170.01	feet along Ld Ct App 956;
3.	355° 26'	138.79	feet along Ld Ct App 956;
4.	267° 49'	124.00	feet along Ld Ct App 956;
5.	41° 27'	205.50	feet along Ld Ct App 956;
6.	336° 26'	99.19	feet along Ld Ct App 956;
7.	279° 35'	162.40	feet along Ld Ct App 956;
8.	19° 54'	342.37	feet along Lot 50-C;
9.	303° 47'	460.66	feet along Lot 50-C;
			thence along Lot 50-C on a curve to the right having a radius of 50 feet, the chord azimuth and distance being;
10.	348° 47'	70.71	feet;
11.	33° 47'	22.25	feet along Lot 50-C;
12.	123° 47'	15.00	feet along Roadway Lot 50-E;

EXHIBIT B
PAGE 1 OF 3

13.	213° 47'	22.25	feet along Lot 50-A;
			thence along Lot 50-A on a curve to the left having a radius of 35 feet, the chord azimuth and distance being:
13.	168° 47'	49.50	feet;
14.	123° 47'	783.96	feet to the point of beginning and containing an area of 3.910 acres.

Excepting and reserving therefrom the Koloa Water Works right-of-way five feet wide, across this lot, said right-of-way containing an area of 0.049 acre; leaving a net area of 3.861 acres.

SUBJECT, HOWEVER, to the following as shown on the subdivision map;

1. Easement "AU-1" in favor of Lots 50-A, 50-C, and 50-D affecting Lot 50-B for vehicular access and utility purposes.

2. Easement "AU-2" in favor of Lots A, B, and D affecting Lot 50-C for vehicular access and utility purposes.

3. Easement "E-1" in favor of Lots 50-B, 50-C, and 50-D affecting Lot 50-A for electrical utility purposes.

4. A five feet wide right-of-way in favor of Koloa Water Works affecting Lots 50-B, 50-C, and 50-D.

5. A flood way set back line affecting Lots 50-B, 50-C, and 50-D.

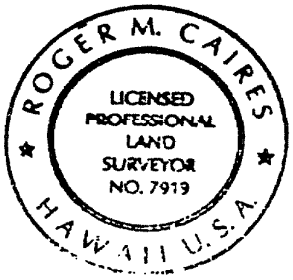
6. A vehicular access restriction along Omao Road.

7. Domestic water service will not be available until the required construction improvements for this subdivision are completed and accepted by the Department of Water, County of Kauai.

8. Due to high elevations of the lots, a dependable supply of water cannot be assured. The lot owners will be required to execute an Elevation Agreement with the Department of Water upon application for water service, agreeing to such water service as the Department is able to render.

EXHIBIT B
PAGE 2 OF 3

9. No structure shall be permitted within the flood way. The flood way line shall be recognized as the building set back line.



DESCRIPTION PREPARED BY
CAIRES LAND SURVEYING

Kalaheo, Hawaii 96741
December 20, 1999

ROGER M. CAIRES
Licensed Professional Land Surveyor #7919

CAIRES LAND SURVEYING
P.O. Box 777
Kalaheo, Kauai, Hawaii 96741
635-3700
fax 332-8910

EXHIBIT B
PAGE 3 OF 3

LOT 50-C

LAND SITUATED AT OMAO, KOLOA, KAUAI, HAWAII

Being Portions of Grants 6970 and 6783

Being also Portions of Lots 50 and 51, Omao Homesteads

Beginning at a point at the Northeast corner of this parcel of land, on the South Boundary of Ld Ct App 956, and on the Northwest corner of Lot 50-D, the coordinates of said point of beginning referred to Government Survey Triangulation Station "LAAUKAHI" being 8,764.18 feet South and 4,497.06 feet West, thence running by azimuths measured clockwise from true South:

1.	12° 40'	149.92	feet along Lot 50-D;
2.	49° 30'	251.58	feet along Lot 50-D;
3.	33° 47'	220.00	feet along Lot 50-D;
4.	303° 47'	250.00	feet along Lot 50-D;
			thence along Lot 50-D on a curve to the right having a radius of 65 feet, the chord azimuth and distance being;
5.	348° 47'	91.92	feet;
6.	33° 47'	22.25	feet along Lot 50-D;
7.	123° 47'	15.00	feet along Lot 50-B;
8.	213° 47'	22.25	feet along Lot 50-B;
			thence along Lot 50-B on a curve to the left having a radius of 50 feet, the chord azimuth and distance being;
9.	168° 47'	70.71	feet;
10.	123° 47'	460.66	feet along Lot 50-B;
11.	199° 54'	342.37	feet along Lot 50-B;
12.	268° 42'	139.67	feet along Ld Ct App 956;

EXHIBIT C
PAGE 1 OF 3

13.	215° 48'	153.72	feet along Ld Ct App 956;
14.	288° 37'	194.00	feet along Ld Ct App 956 to the point of beginning and containing an area of 3.514 acres.

Excepting and reserving therefrom the Koloa Water Works right-of-way five feet wide, across this lot, said right-of-way containing an area of 0.040 acre; leaving a net area of 3.474 acres.

SUBJECT, HOWEVER, to the following as shown on the subdivision map;

1. Easement "AU-1" in favor of Lots 50-A, 50-C, and 50-D affecting Lot 50-B for vehicular access and utility purposes.

2. Easement "AU-2" in favor of Lots A, B, and D affecting Lot 50-C for vehicular access and utility purposes.

3. Easement "E-1" in favor of Lots 50-B, 50-C, and 50-D affecting Lot 50-A for electrical utility purposes.

4. A five feet wide right-of-way in favor of Koloa Water Works affecting Lots 50-B, 50-C, and 50-D.

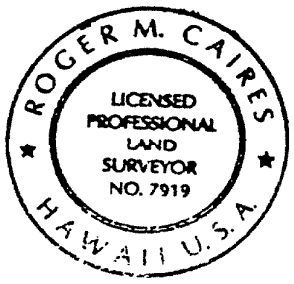
5. A floodway set back line affecting Lots 50-B, 50-C, and 50-D.

6. A vehicular access restriction along Omao Road.

7. Domestic water service will not be available until the required construction improvements for this subdivision are completed and accepted by the Department of Water, County of Kauai.

8. Due to high elevations of the lots, a dependable supply of water cannot be assured. The lot owners will be required to execute an Elevation Agreement with the Department of Water upon application for water service, agreeing to such water service as the Department is able to render.

9. No structure shall be permitted within the flood way. The flood way line shall be recognized as the building set back line.



Kalaheo, Hawaii 96741
December 20, 1999

DESCRIPTION PREPARED BY
CAIRES LAND SURVEYING

Roger M Caires

ROGER M. CAIRES
Licensed Professional Land Surveyor #7919

CAIRES LAND SURVEYING
P.O. Box 777
Kalaheo, Kauai, Hawaii 96741
635-3700
fax 332-8910

EXHIBIT C
PAGE 3 OF 3

LOT 50-D

LAND SITUATED AT OMAO, KOLOA, KAUAI, HAWAII

Being a Portion of Grant 6783

Being also a Portion of Lot 51, Omao Homesteads

Beginning at a point at the Northwest corner of this parcel of land on the Northeast corner of Lot 50-C, and on the South boundary of Ld Ct App 956, the coordinate of said point of beginning referred to Government Survey Triangulation Station "LAAUKAHI" being 8,764.18 feet South and 4,497.06 feet West, thence running by azimuths measured clockwise from true South;

1.	288° 37'	100.00	feet along Ld Ct App 956;
2.	12° 40'	101.70	feet along Parcel 36, TMK: (4) 2-7-04;
3.	349° 10'	101.60	feet along Parcel 36, TMK: (4) 2-7-04;
4.	333° 08'	167.10	feet along Parcel 36, TMK: (4) 2-7-04;
5.	36° 46'	466.98	feet along Parcel 1, TMK: (4) 2-7-04;
6.	123° 47'	25.00	feet along Roadway Lot 50-E;
7.	213° 47'	22.25	feet along Lot 50-C;
			thence along Lot 50-C on a curve to the left having a radius of 65 feet, the chord azimuth and distance being;
8.	168° 47'	91.92	feet;
9.	123° 47'	250.00	feet along Lot 50-C;
10.	213° 47'	220.00	feet along Lot 50-C;
11.	229° 30'	251.58	feet along Lot 50-C;
12.	192° 40'	149.92	feet along Lot 50-C to the point of beginning and containing an area of 3.934 acres.

Excepting and reserving therefrom the Koloa Water Works right-of-way five feet wide, across this lot, said right-of-way containing an area of 0.038 acre; also excepting and

EXHIBIT D

PAGE 1 OF 2

reserving therefrom a right-of-way four feet wide, across this lot for the ditch, said right-of-way containing an area of 0.030 acre; leaving a net area of 3.866 acres.

SUBJECT, HOWEVER, to the following as shown on the subdivision map;

1. Easement "AU-1" in favor of Lots 50-A, 50-C, and 50-D affecting Lot 50-B for vehicular access and utility purposes.

2. Easement "AU-2" in favor of Lots 50-A, 50-B, and 50-D affecting Lot 50-C for vehicular access and utility purposes.

3. Easement "E-1" in favor of Lots 50-B, 50-C, and 50-D affecting Lot 50-A for electrical utility purposes.

4. A five feet wide right-of-way in favor of Koloa Water Works affecting Lots 50-B, 50-C, and 50-D.

5. A right-of-way across Lot 50-D for a ditch.

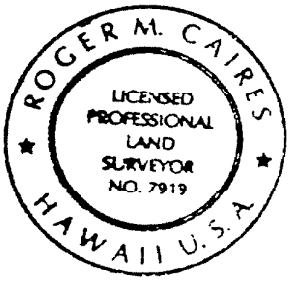
6. A floodway set back line affecting Lots 50-B, 50-C, and 50-D.

7. A vehicular access restriction along Omao Road.

8. Domestic water service will not be available until the required construction improvements for this subdivision are completed and accepted by the Department of Water, County of Kauai.

9. Due to high elevations of the lots, a dependable supply of water cannot be assured. The lot owners will be required to execute an Elevation Agreement with the Department of Water upon application for water service, agreeing to such water service as the Department is able to render.

10. No structure shall be permitted within the flood way. The flood way line shall be recognized as the building set back line.



Kalaheo, Hawaii 96741
December 20, 1999

DESCRIPTION PREPARED BY
CAIRES LAND SURVEYING

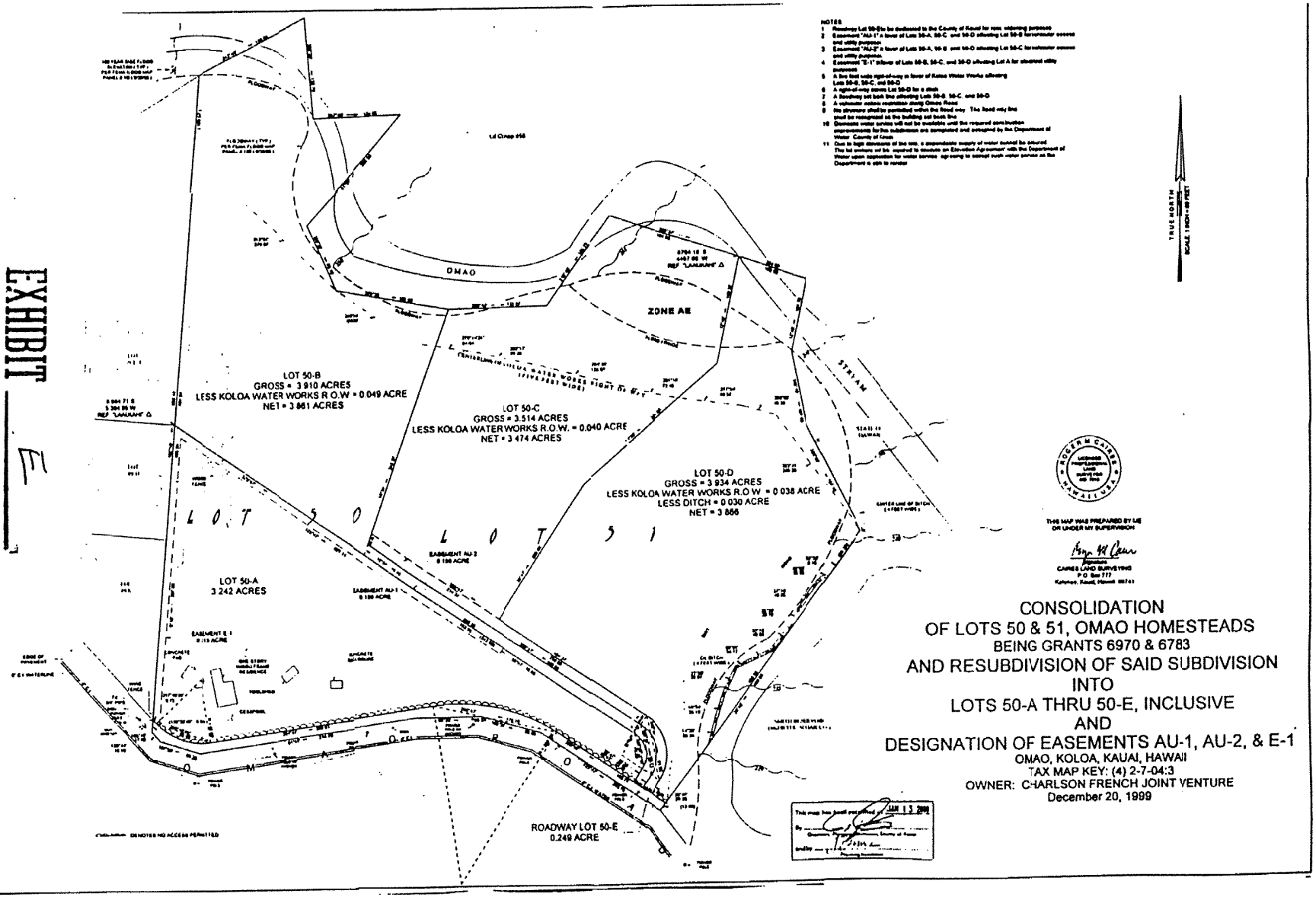
Roger M Caires

ROGER M. CAIRES
Licensed Professional Land Surveyor #7919

CAIRES LAND SURVEYING
P.O. Box 777
Kalaheo, Kauai, Hawaii 96741
635-3700
fax 332-8910

EXHIBIT D
PAGE 2 OF 2

EXHIBIT E
PAGE 1 OF 1



CONSOLIDATION
OF LOTS 50 & 51, OMAO HOMESTEADS
BEING GRANTS 6970 & 6783
AND RESUBDIVISION OF SAID SUBDIVISION
INTO
LOTS 50-A THRU 50-E, INCLUSIVE
AND
DESIGNATION OF EASEMENTS AU-1, AU-2, & E-1
OMAO, KOLOA, KAUAI, HAWAII
TAX MAP KEY: (4) 2-7-04:3
OWNER: CHARLSON FRENCH JOINT VENTURE
December 20, 1999

R-876

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

NOV 09, 2000 08:30 AM

Doc No(s) 2000-158198

/S/CARL T. WATANABE
ACTING
REGISTRAR OF CONVEYANCES

LAND COURT SYSTEM | REGULAR SYSTEM

After Recordation, Return by: Mail (✓) Pickup ( )
BELLES GRAHAM PROUDFOOT & WILSON (DHW)
4334 RICE STREET, STE. 202
LIHUE, KAUAI, HAWAII 96766

TG: 385524-A (2) PS

TGE: AO-401-631

AMY A. SILVA

This Document Contains 13 Pages

TYPE OF DOCUMENT:

ACCESS EASEMENT AGREEMENT

PARTIES TO DOCUMENT:

CHARLSON FRENCH JOINT VENTURE, a Hawaii general partnership
3704 Omao Road
Koloa, Kauai, Hawaii 96756

ROBERT FRENCH and CHRISTINE A. FRENCH, husband and wife
P. O. Box 1325
Koloa, Kauai, Hawaii 96756

DANIEL A. CHARLSON and LYNDA CHARLSON, husband and wife
3704 Omao Road
Koloa, Kauai, Hawaii 96756

TAX MAP KEY FOR PROPERTY:
(4) 2-7-004-003, -099, -100, and -101

{W:\DOCS\26119\2\W0045040.DOC}

EXHIBIT J

ACCESS EASEMENT AGREEMENT

This Access Easement Agreement ("Agreement") is made by and between CHARLSON FRENCH JOINT VENTURE, a Hawaii general partnership, whose mailing address is 3704 Omao Road, Koloa, Kauai, Hawaii 96756 (hereinafter called the "Joint Venture"), ROBERT FRENCH and CHRISTINE A. FRENCH, husband and wife, whose mailing address is P. O. Box 1325, Koloa, Kauai, Hawaii 96756 (hereinafter called "French"), and DANIEL A. CHARLSON and LYNDA CHARLSON, husband and wife, whose mailing address is 3704 Omao Road, Koloa, Kauai, Hawaii 96756 (hereinafter called "Charlson").

I. RECITALS

1. The Joint Venture is the owner in fee simple of those certain lands known as Lots 50-B and 50-C, situated at Omao, District of Koloa, Island and County of Kauai, State of Hawaii, and identified by Tax Map Key Nos. (4) 2-7-004-099 and (4) 2-7-004-100, respectively (hereinafter being referred to, respectively, as "Lot 50-B" and "Lot 50-C");

2. French is the owner in fee simple of that certain land known as Lot 50-A, also situated at Omao, District of Koloa, Island and County of Kauai, State of Hawaii, and identified by Tax Map Key No. (4) 2-7-004-003 (hereinafter being referred to as "Lot 50-A");

3. Charlson is the owner in fee simple of that certain land known as Lot 50-D, also situated at Omao, District of Koloa, Island and County of Kauai, State of Hawaii, and identified by Tax Map Key No. (4) 2-7-004-101 (hereinafter being referred to as "Lot 50-D");

2. Lot 50-B is subject to Easement "AU-1" (15 feet wide) for access and utility purposes, as shown on the final consolidation and resubdivision map for the property approved by the Planning Commission, County of Kauai on January 13, 2000, a true and correct copy of a portion of which map is attached hereto as Exhibit "A" and incorporated herein by reference;

3. Lot 50-C is subject to Easement "AU-2" (15 feet wide) for access and utility purposes, also as shown on said final consolidation and resubdivision map; and

4. The parties, as owners of Lots 50-A, 50-B, 50-C, and 50-D, wish to declare and document an agreement and understanding for the use and enjoyment of said Easements "AU-1" and "AU-2" by the current and future owners of Lots 50-A, 50-B, 50-C, and 50-D.

NOW, THEREFORE, the parties hereby declare that the following terms and conditions shall be and are hereby imposed upon Lots 50-A, 50-B, 50-C, and 50-D, and upon the current and future owners of said Lots (who shall sometimes be referred to in this Agreement as the "Lot owners" or the "owners"):

1. Grant of Easement "AU-1". The Joint Venture, as owner of Lot 50-B (sometimes referred to herein as the "Grantor"), hereby grants to the present and future owner(s) of Lots 50-A, 50-C, and 50-D (sometimes collectively referred herein to as the "Grantees"), a perpetual, non-exclusive easement for vehicular and pedestrian access and for utility purposes over and across Easement "AU-1," as shown on the map attached hereto as Exhibit "A." The area identified herein as Easement "AU-1" will sometimes be referred to as the "Easement "AU-1" Easement Area."

TO HAVE AND TO HOLD the same unto the owners of Lots 50-A, 50-C, and 50-D, and their respective heirs, successors, successors in trust, and assigns as owners of their respective properties identified herein, for the purposes stated herein, forever; subject, however, to all of the terms, conditions and limitations stated herein.

EXCEPTING AND RESERVING, HOWEVER, from the foregoing grant the right of the Joint Venture, as owner of Lot 50-B, to make use of the land within the Easement "AU-1" Easement Area in any manner which is not inconsistent with the rights of the grantees hereunder and the right to grant other easements within the Easement "AU-1" Easement Area for such purposes as are not inconsistent with and will not unreasonable interfere with the rights of the Grantee hereunder.

2. Grant of Easement "AU-2". The Joint Venture, as owner of Lot 50-C (sometimes also referred to herein as the "Grantor"), hereby grants to the present and future owner(s) of Lots 50-A, 50-B, and 50-D (sometimes also collectively referred to herein as the "Grantees"), a perpetual, non-exclusive easement for vehicular and pedestrian access and for utility purposes over and across Easement "AU-2," as shown on the map attached hereto as Exhibit "A." The area identified herein as Easement "AU-2 will sometimes be referred to as the "Easement "AU-2" Easement Area."

TO HAVE AND TO HOLD the same unto the owners of Lots 50-A, 50-B, and 50-D, and their respective heirs, successors, successors in trust, and assigns as owners of their respective properties identified herein, for the purposes stated herein, forever; subject, however, to all of the terms, conditions and limitations stated herein.

EXCEPTING AND RESERVING, HOWEVER, from the foregoing grant the right of the Joint Venture, as owner of Lot 50-C, to make use of the land within the Easement "AU-2" Easement Area in any manner which is not inconsistent with the rights of the grantees hereunder and the right to grant other easements within the Easement "AU-2" Easement Area for such purposes as are not inconsistent with and will not unreasonable interfere with the rights of the Grantee hereunder.

3. Use of Easement Areas. The intention of this Agreement is to create the easements described herein over and across the Easement Areas to be used by all of the Lot

owners, and their respective tenants, lessees, guests, invitees, heirs, successors, successors in trust, and assigns, for access and utility purposes in connection with their respective uses of the properties identified herein. This Agreement shall be liberally construed to effect this general purpose.

4. Improvements Within Easement Area. Subject to the provisions of Paragraph 5 below concerning the Lot owners' respective obligations for sharing of costs and expenses, and subject further, in every instance, to compliance with all applicable design review procedures and requirements pursuant to that certain Declaration of Restrictive Covenants and Conditions dated January 25, 2000 and recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2000-017237, the owners of Lots 50-A, 50-B, 50-C, and 50-D agree that they shall have the right to construct, install, maintain, reconstruct, replace and repair within the Easement Areas an improved surface driveway of not less than fifteen (15) feet in width and such other fences, vegetation, lighting fixtures, trash enclosures, reasonably-sized address signs or numbers, and other improvements or facilities as may be agreed by the owners from time to time. Each of the owners shall also be entitled to construct install, repair and maintain his or her own separate driveway connecting the common driveway in the Easement Areas to that owner's Lot or CPR unit. The driveway and other improvements or facilities shall be constructed so that each owner shall have reasonable access to his or her property from the Easement Areas. No owner shall unreasonably withhold his or her consent to proposed improvements or facilities in the Easement Areas as long as the proposed improvements or facilities are consistent with the purposes of this Agreement. Each owner shall be allowed to use the improvements constructed in the Easement Areas at no cost to the other owners, so long as any such use is not inconsistent with the purposes and provisions of this Agreement. The owners agree to cooperate in good faith and in a timely manner to reach agreement among themselves on the specific improvements to be constructed pursuant to this agreement and on the agreed costs and expenses to accomplish the same.

5. Sharing of Costs and Expenses.

(a) Initial Development Costs. It is agreed that the Joint Venture, as owner of Lots 50-B and 50-C, shall bear all costs and expenses of the initial design, construction, and installation of the common driveway, grassing, and utility connections located within the Easement Areas and serving all of the Lots. The owners of Lots 50-A and 50-D shall not be required to share in those initial costs and expenses.

(b) Common Driveway. For all costs and expenses of the common driveway that are necessitated at any time after the initial installation of road and utility improvements in the Easement Area, the owners shall share the costs and expenses for maintenance and repair of the common driveway in proportion to the length of the common driveway that is used by each owner to access his or her own property. For example, the owner of each of the four Lots described herein shall be responsible for equal one-fourth

shares of the cost of the common driveway up to the point where the driveway accessing the first Lot is constructed; the remaining three owners shall thereafter share the said cost in equal one-third shares up to the point where the driveway accessing the second Lot is constructed; the remaining two owners shall thereafter share the said cost in equal one-half shares up to the point where the driveway accessing the third Lot is constructed; and the owner of the final remaining Lot shall thereafter pay the entire cost beyond the third Lot access driveway. At such time as any of the Lots is submitted to a Condominium Property Regime ("CPR") according to the laws of the State of Hawaii, the individual CPR owners shall share in the costs of the common driveway in the same manner as stated herein, as if the CPR units were separate lots.

(c) Driveways to Individual Lots. The costs and expenses of constructing, installing, repairing, and maintaining the private driveways serving each of the four Lots (or a driveway serving a CPR unit) shall be the responsibility of the owner of the Lot (or CPR unit) served by the private driveway.

(d) Entryway. In the event the owners agree to install an entry gate or other entry facilities at the entry to the common driveway from Omao Road, then unless such improvements are part of the initial improvements paid for by the owners of Lots 50-B and 50-C, the costs and expenses to install, maintain and repair such facilities, and the costs and expenses of any other common improvements or facilities located at or near the entry to the Easement Areas from Omao Road, shall be shared by the owners of the four Lots in equal one-fourth shares.

(e) Landscaping. The costs and expenses to install and maintain any landscaping within the Easement Areas (beyond any initial landscaping planted at the cost or the owners of Lots 50-B and 50-C) shall be paid by the owners in the same manner as the costs related to the maintenance and repair of the common driveway, as detailed in sub-paragraph (b) above.

(f) Improvements Benefiting Only One Party. All costs and expenses related to any improvements authorized under this Agreement and located within one or the other of the Easement Areas that are for the use or benefit of only one owner shall be the responsibility of the owner enjoying the use and benefit of the same.

(g) Other Items. All other improvements to be located within the Easement Areas shall be paid for by the owners according to their further written agreement, and each owner hereby agrees to cooperate with the other owners in determining the fair and reasonable allocation of such costs and expenses.

6. Exercise of Rights. Each owner shall exercise his or her rights hereunder in such manner as to occasion as little interference as reasonably necessary with the use of the Easement Areas by the other owners.

7. Grantees' Indemnification. Each Grantee, for itself, himself or herself and not for the others, agrees to indemnify, defend, and hold the Grantor of each of the Easement Areas and the other owners, and their respective heirs, successors, successors in trust, assigns, owners, officers, directors, agents, and employees, harmless against all claims, suits and actions by whomsoever brought on account of injuries or damages to persons or property resulting from either the indemnifying Grantee's exercise of the Grantee's rights as granted herein or from any other person's use of the Easement Areas pursuant to the rights granted herein to the indemnifying Grantee.

8. Grantees' Liability for Damages. Each Grantee agrees to use due care in exercising its, his or her rights hereunder so as to avoid any damage to the Easement Areas, the common improvements located therein, and to each other owner's improvements and personal property located therein, and to be liable to the other owners for the full extent of any damages which the said Grantee, or any person entering, using, or occupying either or both of the Easement Areas under the said Grantee, may cause to the Easement Areas, or either of them, the common improvements located therein, or to each other owner's improvements or personal property located therein, resulting from the said Grantee's negligence, gross negligence, or willful action, or the negligence, gross negligence, or willful action of said Grantee's agents, employees, contractors, guests, invitees, or other persons, in exercising the said Grantee's rights as granted herein.

9. Grantees' Release of Claims. Each Grantee hereby releases each other owner, and the each other owner's heirs, successors, successors in trust, assigns, owners, officers, directors, agents, and employees, from any and all liability, losses and damages arising out of or related to the releasing Grantee's, or the releasing Grantee's agents', contractors', tenants', lessees' guests, or invitees', entry upon or use of either or both of the Easement Areas or other property of the other owners, including but not limited to any such liability related to the physical condition of the Easement Areas.

10. Condition of Easement Areas. Neither Grantor has made nor hereby makes any representation or warranty with respect to the condition of the Easement Area located on that Grantor's property, and the Grantees of each easement hereby accept the Easement Areas in their respective "as is" condition.

11. Restriction on Assignment. This Agreement and the rights granted hereunder shall run solely in favor of the Grantees, as owners of Lots 50-A, 50-B, 50-C, and 50-D, respectively, and may not be assigned, granted or otherwise given for the purpose of benefiting any other person, entity, or real property, except to a successor in ownership or a lessee or tenant of said Lots 50-A, 50-B, 50-C, and 50-D.

12. Liability Insurance. At all times during the term of this Agreement, each Grantee shall maintain one or more policies of comprehensive public liability insurance covering the Easement Areas and naming the other owners as additional insured parties, such coverage to be in such amounts as are commercially reasonable from time to time in the County of Kauai, State of Hawaii.

13. Covenants Running With The Land. The rights and obligations set forth herein shall be covenants running with title to Lots 50-A, 50-B, 50-C, and 50-D, and shall be binding upon, and inure to the benefit of, the owners of those Lots and their respective heirs, successors, successors in trust, and assigns as owners of said Lots.

14. No Liens. No owner shall take any action nor refrain from taking any action, nor shall any owner allow or authorize his or her agents or contractors to take any action or refrain from taking any action, by or as a result of which either of the Easement Areas or Lots 50-B or 50-C, or any portion thereof, shall be made subject to any mechanics' or materialman's lien or any other attachment, execution or judgment lien, or any other charge or encumbrance whatsoever. Should any such lien, charge or encumbrance or notice thereof be recorded, filed or attached to either Lot 50-B or Lot 50-C, the owner responsible for the same shall immediately pay off the same and cause the same to be satisfied and discharged of record, all at the sole expense of the said owner. The recordation, filing or attachment of any such lien shall constitute a default under this Agreement by the owner responsible for the said lien.

15. Default in Payment. In the event any owner hereto fails or refuses to contribute his or her agreed portion or share of any costs or expenses required to be paid hereunder within fifteen (15) calendar days of written demand for the same by any other owner, such failure or refusal shall constitute a default by said owner. In such event, the non-defaulting owners, or any of them, may elect any of the following:

(a) To advance the unpaid funds or any part thereof, in which case the owner advancing the same shall be reimbursed for sums advanced, together with interest at the rate of (a) one percent (1%) per month thereon or (b) the highest rate allowed by Hawaii law, whichever is less, commencing on the day following the advancement made, such advance and interest to be repaid within ten (10) days of written demand by the owner who advanced the funds; and

(b) If the defaulting owner shall fail to repay any such advance within ten (10) days of the written demand referred to in the preceding sub-paragraph, to bring an action against the defaulting owner for payment of the funds in question, plus interest as stated above, in which case the defaulting owner shall also pay for reasonable attorney's fees and costs incurred, including but not limited to court costs, in bringing such action.

16. Other Remedies. The preceding paragraph shall not preclude any other remedies at law or equity to which any owner may be entitled for or as a result of any default hereunder by any other owner.

17. Severability. If any term or provision of this Agreement is determined by a court or competent jurisdiction to be illegal, invalid or unenforceable for any reason whatsoever, such illegality, invalidity or unenforceability shall not affect the legality, validity or enforceability of the remainder of this Agreement.

18. Headings For Reference Only. The headings of the sections and subsections herein are inserted only for convenience and reference and shall in no way define, limit or describe the scope or intent of any provision of this Agreement.

19. Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed on original, but all of which together shall constitute one and the same instrument. Signature pages from separate signed copies may be attached to a single copy for purposes of recording.

20. Interpretation. The Grant shall be interpreted in accordance with the laws of the State of Hawaii.

21. Terms. The terms "Lot owner," "owner," "Grantor" and "Grantee" as and when used herein, or any pronouns used in place thereof, shall mean and include the masculine or feminine, the singular or plural number, individuals or corporation and their and each of their respective heirs, successors, successors in trust, personal representatives and assigns, according to the contest thereof.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed this 26th day of OCTOBER, 2000.

CHARLSON FRENCH JOINT VENTURE, a Hawaii general partnership

By Christine A. French
CHRISTINE A. FRENCH
Its General Partner

By Lynda Charlson
LYNDA CHARLSON
Its General Partner

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DANIEL A. CHARLSON

ROBERT FRENCH

LYNDA CHARLSON

CHRISTINE A. FRENCH

STATE OF HAWAII)
) SS:
COUNTY OF KAUAI)

On this 26th day of OCTOBER, 2000, before me appeared CHRISTINE A. FRENCH, to me personally known, who, being by me duly sworn, did say that she is the general partner of CHARLSON FRENCH JOINT VENTURE, a Hawaii general partnership, that the foregoing instrument was signed in the name and on behalf of said partnership, and said CHRISTINE A. FRENCH acknowledged that she executed the same as her free act and deed and as the free act and deed of said partnership.

LETTITIA L. ULANDAY
Notary Public
STATE OF HAWAII

Name of Notary: LETTITIA L. ULANDAY
Notary Public, State of Hawaii.

My commission expires: 12.23.01

{W:\DOCS\26119\2\W0045040.DOC}

STATE OF HAWAII)
) SS:
COUNTY OF KAUAI)

On this 26th day of OCTOBER, 2000, before me appeared LYNDA CHARLSON, to me personally known, who, being by me duly sworn, did say that she is the general partner of CHARLSON FRENCH JOINT VENTURE, a Hawaii general partnership, that the foregoing instrument was signed in the name and on behalf of said partnership, and said LYNDA CHARLSON acknowledged that she executed the same as her free act and deed and as the free act and deed of said partnership.

LETTITIA L. ULANDAY
Notary Public
STATE OF HAWAII

Name of Notary: LETTITIA L. ULANDAY
Notary Public, State of Hawaii.

My commission expires: 12.23.01

STATE OF HAWAII)
) SS:
COUNTY OF KAUAI)

On this 26th day of OCTOBER, 2000, before me personally appeared ROBERT FRENCH, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

LETTITIA L. ULANDAY
Notary Public
STATE OF HAWAII

Name of Notary: LETTITIA L. ULANDAY
Notary Public, State of Hawaii.

My commission expires: 12.23.01

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STATE OF HAWAII)
) SS:
COUNTY OF KAUAI)

On this 26th day of OCTOBER, 2000, before me personally appeared CHRISTINE A. FRENCH, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed the same as her free act and deed.

LETTITIA L. ULANDAY
Notary Public
STATE OF HAWAII

Name of Notary: LETTITIA L. ULANDAY
Notary Public, State of Hawaii.

My commission expires: 12.23.01

STATE OF HAWAII)
) SS:
COUNTY OF KAUAI)

On this 26th day of OCTOBER, 2000, before me personally appeared DANIEL A. CHARLSON, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

LETTITIA L. ULANDAY
Notary Public
STATE OF HAWAII

Name of Notary: LETTITIA L. ULANDAY
Notary Public, State of Hawaii.

My commission expires: 12.23.01

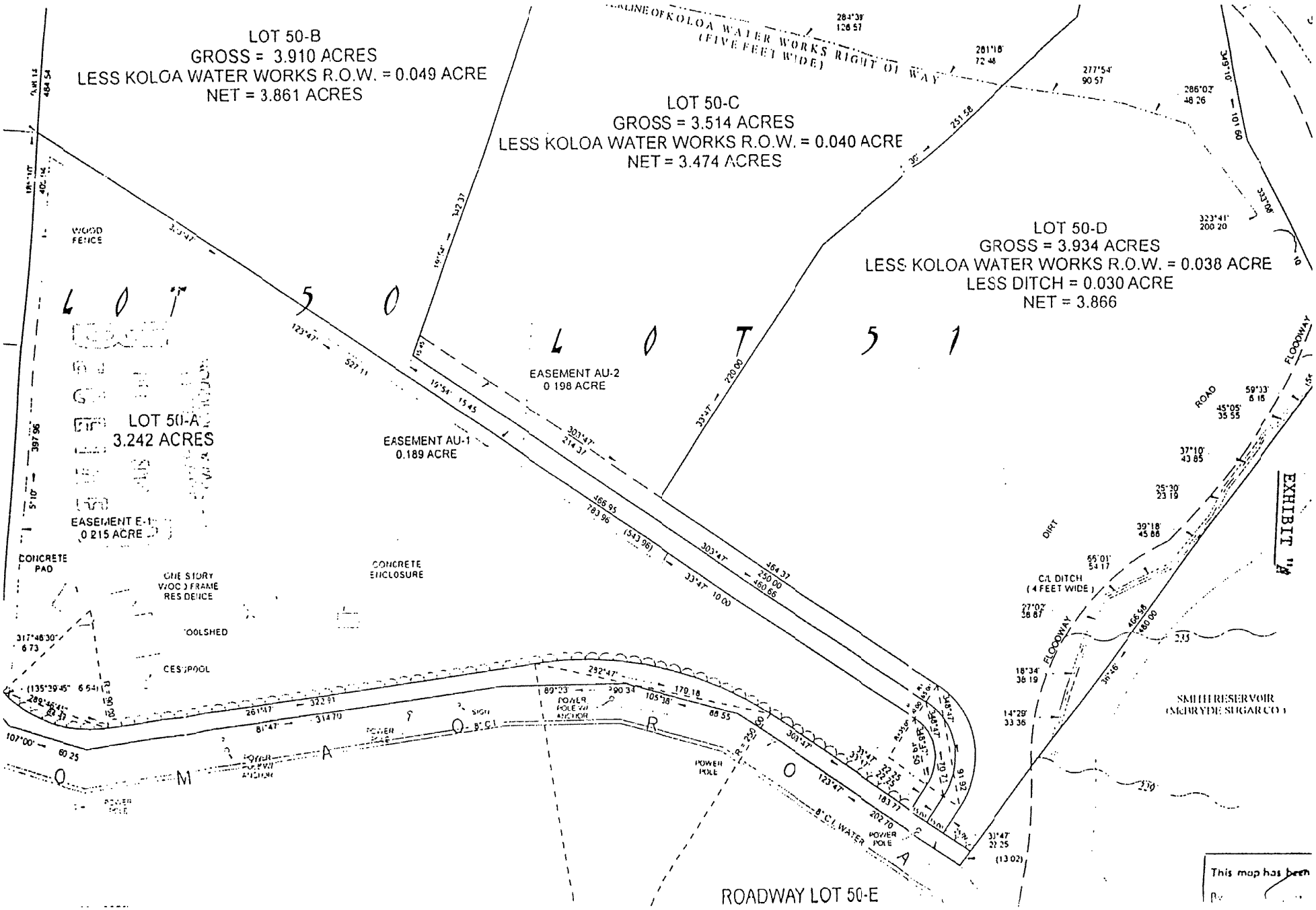
STATE OF HAWAII)
) SS:
COUNTY OF KAUAI)

On this 26th day of OCTOBER, 2000, before me personally appeared LYNDA CHARLSON, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed the same as her free act and deed.

LETTITIA L. ULANDAY
Notary Public
STATE OF HAWAII

Name of Notary: LETTITIA L. ULANDAY
Notary Public, State of Hawaii.

My commission expires: 12.23.01


LOT 50-B
GROSS = 3.910 ACRES
LESS KOLOA WATER WORKS R.O.W. = 0.049 ACRE
NET = 3.861 ACRES
LOT 50-C
GROSS = 3.514 ACRES
LESS KOLOA WATER WORKS R.O.W. = 0.040 ACRE
NET = 3.474 ACRES
LOT 50-D
GROSS = 3.934 ACRES
LESS KOLOA WATER WORKS R.O.W. = 0.038 ACRE
LESS DITCH = 0.030 ACRE
NET = 3.866
LOT 50
LOT 51
LOT 50-A
3.242 ACRES
EASEMENT AU-2
0.198 ACRE
EASEMENT AU-1
0.189 ACRE
EASEMENT E-1
0.215 ACRE
WOOD FENCE
CONCRETE PAD
ONE STORY WOOD FRAME RESIDENCE
CONCRETE ENCLOSURE
TOOLSHED
CESSPOOL
DIRT ROAD
FLOODWAY
C/L DITCH (4 FEET WIDE)
SMITH RESERVOIR (McBRYDE SUGAR CO.)
POWER POLE
ROADWAY LOT 50-E
This map has been
EXHIBIT "A"