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and Debtor-in-Possession

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF HAWAII

In re

LV KAPOLEI 54, LLC,

Debtor and  
Debtor-in-possession.

Case No. 11-00981  
(Chapter 11)

Disclosure Statement Hearing

DATE: July 18, 2011

TIME: 2:00 p.m.

JUDGE: Hon. Robert J. Faris

**FIRST AMENDED  
DISCLOSURE STATEMENT FOR CHAPTER 11 PLAN OF  
REORGANIZATION DATED JUNE 17, 2011, FILED BY DEBTOR;  
EXHIBITS "1" AND "2"**

## I. INTRODUCTION

LV KAPOLEI 54, LLC, the debtor and debtor-in-possession herein (the “Debtor”) has filed a chapter 11 plan of reorganization (the “Plan”) to provide for the Debtor to emerge from bankruptcy. A copy of the Plan is attached hereto as Exhibit 1. This Disclosure Statement is being sent to you to help you to make an informed judgment about the Plan, and to solicit your acceptance of the Plan. Unless otherwise defined herein, all capitalized terms contained herein shall have the meanings ascribed to them in the Plan.

The Debtor believes that the Plan provides the greatest and earliest possible recovery to holders of Allowed Claims, that acceptance of the Plan is in the best interests of all parties, and that any alternative would result in further delay, uncertainty, expense, and, smaller distributions to holders of Allowed Claims. The Debtor believes the acceptance, confirmation and implementation of the Plan is in the best interests of creditors of the Debtor.

The United States Bankruptcy Court for the District of Hawaii (the “Bankruptcy Court”) has scheduled a hearing on September 27, 2011, at 9:30 a.m. to consider whether to confirm the Plan.

On August 5, 2011, after notice and a hearing held on July 18, 2011, the Bankruptcy Court signed an order approving this Disclosure Statement as containing adequate information of a kind and in sufficient detail to enable hypothetical, reasonable investors typical of the Debtor's creditors to make an informed judgment whether to accept or reject the Plan.

The Disclosure Statement order sets forth deadlines for voting to accept or reject the Plan and procedures to be followed to object to confirmation of the Plan. A ballot for the acceptance or rejection of the Plan is enclosed with the Disclosure Statement that is submitted to the holders of Claims whom are entitled to vote to accept or reject the Plan. In addition, voting instructions accompany each ballot.

Attached as Exhibits to this Disclosure Statement are copies of the following:

- The Plan (Exhibit 1);
- The Debtor's Financial Forecast for the three year period of the Plan (the "Financial Forecast") (Exhibit 2).

Additional documents will be submitted as part of the Plan Supplement prior to the Confirmation Hearing.

#### **A. Purpose of Disclosure Statement**

The Bankruptcy Code requires that a proponent of a reorganization plan prepare and file with the Bankruptcy Court a "disclosure statement" that provides

information of a kind, and in sufficient detail, that would enable a typical holder of claims or equity interests in a class impaired under that plan to make an informed judgment with respect to the plan. This Disclosure Statement provides such information, as well as information regarding the deadlines for casting ballots with respect to the Plan, the deadlines for objecting to confirmation of the Plan, the requirements that must be satisfied in order for the Bankruptcy Court to confirm the Plan, and other relevant information. Parties in interest should read this Disclosure Statement, the Plan, and all of the accompanying exhibits in their entirety in order to determine:

- How the Plan will affect their Claims against and Equity Interests in the Debtor;
- Their rights with respect to voting for or against the Plan;
- Their rights with respect to objecting to confirmation of the Plan; and
- How and when to cast a ballot with respect to the Plan.

The Disclosure Statement, however, cannot and does not provide holders of Claims and Equity Interests with legal or other advice. You should consult with your lawyers and/or financial advisors to obtain specific advice regarding how the Plan will affect you and regarding your best course of action with respect to the Plan.

**B. Holders of Claims and Interests Entitled to Vote**

Holders of Claims in Classes 1, 2, and 3 (collectively the "Voting Classes") are entitled to vote on the Plan because such Classes are: (i) impaired under the Plan within the meaning of section 1124 of the Bankruptcy Code; and (ii) may receive distributions of property under the Plan and therefore are not deemed to have rejected the Plan under Section 1126(g) of the Bankruptcy Code.

Each holder of an Allowed Equity Interest in Class 4 is deemed to have accepted the Plan because holders of Allowed Equity Interest in Class 4 are unimpaired.

The Bankruptcy Court may confirm the Plan only if at least one Class of impaired Claims has voted to accept the Plan (without counting the votes of any insiders whose Claims are classified within that Class) and if certain statutory requirements are met as to both non-consenting members within a consenting Class and as to dissenting Classes. A Class of Claims has accepted the Plan only when at least one-half in number and at least two-thirds in amount of the Claims actually voting in that Class vote in favor of the Plan.

In the event of a rejection of the Plan by one or more Voting Classes, the Debtor intends to request that the Bankruptcy Court confirm the Plan in accordance with section 1129(b) of the Bankruptcy Code, which permits confirmation notwithstanding such rejection if the Bankruptcy Court finds that the

Plan “does not discriminate unfairly” and is “fair and equitable” with respect to the rejecting Classes.

**C. Voting Procedures**

**1. Voting Procedures And Deadlines**

The Debtor has provided copies of this Disclosure Statement and ballots (which include detailed voting instructions) to all known holders of impaired Claims in the Voting Classes. Those holders of a Claim in a Voting Class who seek to vote to accept or reject the Plan must complete the enclosed ballot and return it to:

Wagner Choi & Verbrugge  
James A. Wagner  
745 Fort Street, Suite 1900  
Honolulu, Hawaii 96813  
Telephone: (808) 533-1877

so that it actually is received by no later than the Balloting Deadline (as defined below). Creditors are encouraged to read and review their ballots carefully.

**All ballots must be completed, signed, returned to, and actually received by Wagner Choi & Verbrugge by no later than September 16, 2011, at 4:00 p.m., Hawaiian Standard Time (the “Balloting Deadline”).** Ballots received after the Balloting Deadline, and ballots returned directly to the Bankruptcy Court, will not be counted in connection with confirmation of the Plan.

**2. Date Of The Confirmation Hearing And Deadlines For Objection To Confirmation Of The Plan**

The hearing to determine whether the Bankruptcy Court will confirm the Plan (the "Confirmation Hearing") will commence on September 27, 2011, 9:30 a.m. in the Courtroom of the Honorable Robert J. Faris, United States Bankruptcy Judge for the District of Hawaii. The Confirmation Hearing may be continued from time to time by announcement in open court without further notice.

Any objections to confirmation of the Plan must be filed with the Bankruptcy Court and served on the following entities no later than September 12, 2011:

- (a) LV Kapolei 54, LLC, One Embarcadero Center, Suite 2405, San Francisco, California 94111, Attention: Mark Whiting
- (b) Wagner Choi & Verbrugge, Topa Financial Tower, 745 Fort Street, Suite 2900, Honolulu, Hawaii 96813. Counsel to Debtor;
- (c) Office of the United States Trustee, Attention: Curtis B. Ching, Esq., 1132 Bishop Street, Suite 602, Honolulu, Hawaii 96813.

Objections that are not timely filed and served may not be considered by the Bankruptcy Court. Please refer to the accompanying notice of the Confirmation Hearing for specific requirements regarding the form and nature of objections to confirmation of the Plan.

### 3. Important Notice And Cautionary Statement

The historical financial data relied upon in preparing the Plan and this Disclosure Statement are based upon the Debtor's books and records. The liquidation analysis, estimates, projections, and other financial information referenced in this Disclosure Statement or attached hereto as exhibits have been developed by the Debtor and its professional advisors, including Scott L. Mitchell of Colliers Monroe Friedlander, Inc., Christine Camp of Avalon Development Company, and Jan S. Medusky of Medusky and Co. Although these professional advisors assisted in the preparation of this Disclosure Statement, in doing so such professionals relied upon factual information and assumptions regarding financial, business, and accounting data provided by the Debtor and third parties, most of which information has not been audited. The professional advisors of the Debtor may not have independently verified such information and, accordingly, make no representations as to its accuracy. Moreover, although reasonable efforts have been made to provide accurate information, the Debtor cannot warrant or represent that the information in this Disclosure Statement, including any and all financial information, is without inaccuracy or omissions, or that actual values or distributions will comport with the estimates set forth herein.

No Person may rely upon the Plan or this Disclosure Statement or any of the accompanying exhibits for any purpose other than to determine whether to vote in



favor of or against the Plan. Nothing contained in such documents constitutes an admission of any fact or liability by any party, and no such information will be admissible in any proceeding involving the Debtor or any other Person, nor will this Disclosure Statement be deemed evidence of the tax or other legal effects of the Plan on holders of Claims or Equity Interests in the Bankruptcy Case.

## **II. BACKGROUND INFORMATION**

### **A. History and Events Leading to Bankruptcy**

The Debtor was formed as a Delaware limited liability company on February 22, 2005, for the purpose of acquiring, subdividing, improving, marketing, and selling approximately 53.71 acres of industrial land, constituting Phase 2 of the Kapolei Business Park (the "Property"). The Debtor was fully capitalized in the amount of \$12 million by its original members.

The Debtor entered into a Purchase and Sale Agreement to acquire the Property from KBP Land Partners, LLC, a Delaware limited liability company for a purchase price of \$22.5 million. At the time the Debtor acquired the property, it also acquired the rights of Declarant and Plan Coordinator for Phase 1 of the Kapolei Business Park which had been completed by the prior owners. It was contemplated upon the completion of Phase 2 of the Kapolei Business Park that Phase 1 and Phase 2 would be joined into a single owners' association.

The purchase from KBP Land Partners closed on April 15, 2005. On the same day, the Debtor closed on a loan from Bank of Hawaii in the amount of \$23,960,000 to provide funding for the balance of the purchase price and to provide operating capital.

The project, as originally contemplated, was to develop and sell a 57 lot subdivision over a three year period for a total project cost of approximately \$35 million. The total estimated sales were approximately \$50 million.

On February 22, 2008, the Debtor entered into a Loan Agreement with Central Pacific Bank ("CPB") to borrow \$21,450,000 pursuant to a Note and Mortgage of the same date. The CPB loan proceeds were used to retire the Bank of Hawaii loan and for operating capital.

The project moved forward with initial planning, design, subdivision approval, and permitting for the contemplated development. In addition, mass grading was completed on 50% of the site. However, the changing economic climate in 2008 and the subsequent financial crash that occurred disrupted the Debtor's efforts to achieve sales of the proposed subdivision lots, refinance of the CPB loan, and provide capital to complete the infrastructure.

On March 22, 2010, CPB elected to file a foreclosure action against the Debtor. Although the Debtor in good faith entered into protracted settlement and restructuring discussions with CPB which continued until shortly before the

Debtor's Chapter 11 filing, the parties were unable to reach a mutually agreeable restructuring. A public auction of the Property was held on March 23, 2011, in the foreclosure proceeding. The high bidder at the auction was CPB with a bid of \$16,000,000.

As a result of the failure of the efforts to restructure the CPB loan, the Debtor filed for relief under Chapter 11 of the Bankruptcy Code on April 8, 2011, commencing these proceedings. Pursuant to that certain Assignment of Mortgage and Other Loan Documents, dated June 30, 2011, KBP Industrial, LLC ("KBPI") acquired all of the claims and interest of Central Pacific Bank against the Debtor.

**B. Post-Confirmation Payment of U.S. Trustee's Quarterly Fees**

The Debtor shall pay any and all accrued post-petition U.S. Trustee's quarterly fees, including any such fees that accrue after the confirmation of the Plan.

**C. Post-Confirmation Management and Compensation**

Post confirmation, the Debtor will continue to be managed by Lokahi KBP, LLC ("LKBP"), pursuant to that certain Development Management Agreement, dated March 2005, as amended, by the Assignment and Assumption of Manager Interests, dated April 2005. Pursuant to the amended agreements which would only compensate LKBP based on net profits from the development, it is unlikely that LKBP will be compensated during the period of the Plan.

Although the day to day operations of the Debtor are managed by LKBP, the Debtor's development of the project continues to be managed under two management agreements with Lokahi Ventures, LLC and Avalon Development Company. The original Development Management Agreement was amended pursuant to that certain Amendment No. 2 to the Development Management Agreement, dated July 1, 2009, pursuant to which the management of the project was divided between Lokahi Ventures, LLC and Avalon Development Company. Under Amendment No. 2, Lokahi Ventures, LLC receives \$2,500 a month in basic development management fees and is entitled to an additional fee upon the sale of individual units of the Debtor's property equal to three-quarters of 1% of the gross sales price provided that the fee may be reduced pro rata with any equivalent fee paid to Avalon Development Company, all as more fully set forth in Amendment No. 2, a copy of which is attached to the Amended Plan Supplement.

On July 1, 2009, the Debtor also entered into that certain Management Agreement with Avalon Development Company ("Avalon Development Agreement"). Pursuant to the Avalon Development Agreement, Avalon receives \$7,500 a month in basic management fees and will continue to do so during the term of the Plan. Additionally, Avalon is entitled to a sale fee equal to 2.25% of the gross sales price of any sale of the Debtor's property, subject to a pro rata reduction with regard to any fee that might be paid to Lokahi Ventures, LLC.

Additionally, both management agreements provide that the gross commissions on any sale, including any broker's commissions, cannot exceed 6% of the gross sales price. A copy of the Avalon Management Agreement is attached to the Plan Supplement as Exhibit "E."

### **III. SUMMARY OF THE PLAN**

The Discussion of the Plan set forth below is qualified in its entirety by reference to the Plan, the terms of which are controlling. Holders of Claims and Interests and other interested parties are urged to read the Plan in its entirety so that they may make an informed judgment concerning the Plan.

#### **A. Classification and Treatment of Claims and Equity Interests**

The Plan provides for the treatment of four Classes of Claims and one Class of Equity Interests. The treatment of Claims described below applies only to Allowed Claims and Equity Interests. Claims that are the subject of a pending objection before the Bankruptcy Court or other pending litigation, or that have not been allowed pursuant to a Final Order of the Bankruptcy Court, will receive distributions under the Plan only if and after they become Allowed Claims. The Reorganized Debtor retains the right to initiate proceedings to subordinate or otherwise object to Claims prior to the proposed deadline of 180 days from the Effective Date.

**1. Administrative Expenses (Unclassified Claim)**

The Plan provides that the Reorganized Debtor shall pay to each holder of an Allowed Administrative Expense Claim, Cash in an amount equal to such Allowed Administrative Expense on the later of (i) within 30 days of the Effective Date; (ii) the date such Administrative Expense becomes an Allowed Administrative Expense Claim, or (iii) on such different terms as may be acceptable to the holder of the Allowed Administrative Expense Claim. In the case of goods and services provided to the Debtor in the ordinary course of its business during the Chapter 11 Case from the Petition Date through and including the Effective Date in the ordinary course of business, such ordinary course of business Administrative Expenses shall be paid upon the date upon which such liability is payable in the ordinary course of the Debtor's business, consistent with the current agreement of the parties.

At present, it is anticipated that the only administrative expense claim that may not have been paid in the ordinary course of the Effective Date may be the unpaid portion of the Debtor's counsel's attorneys' fees which should be covered in large part by the pre-petition retainer held by the Debtor's counsel.

The Confirmation Order shall contain a bar date for purposes of assertion and allowance of Administrative Expense Claims, other than Administrative Expenses which are Ordinary Course Administrative Expenses. The Confirmation

Order shall also contain a deadline for the Reorganized Debtor to object to Administrative Expense Claims, including Ordinary Course Administrative Expenses.

**2. Class 1: Allowed KBPI Secured Claim**

**2.1.1 Classification:** Class 1 consists of the Allowed KBPI Secured Claim.

**2.1.2 Treatment:** Unless KBPI and the Debtor agree to a different treatment, the CPB Promissory Note and CPB Mortgage shall be modified on the Effective Date as follows (hereinafter referred to as the “Modified Note and Modified Mortgage”):

**2.1.2.1** The Maturity Date shall be extended to a date that is the third anniversary of the Effective Date.

**2.1.2.2** The principal amount of the Modified Note shall be an amount equal to the amount outstanding under the CPB Note and CPB Mortgage as of the Effective Date (estimated to be approximately \$23,500,000, as of September 1, 2011).

**2.1.2.3** the Debtor shall make monthly interest only payments on the Modified Note commencing on the thirtieth (30<sup>th</sup>) day after the Effective Date and monthly on the same day of the month thereafter until the Modified Note is paid in full or matures.

**2.1.2.4** The interest rate on the Modified Note shall be four percentage (4%) points above the 30-day LIBOR rate.

**2.1.2.5** There shall be no rebalancing requirement.

**2.1.2.6** The release price for a partial release of the Modified Mortgage shall be an amount equal to 125% of par value on the then net saleable area, provided, however, that the release price for Unit 3 upon the sale to Hawaiian Dredging shall be the net proceeds of sale, approximately \$1,647,000.

Class 1 is impaired, and KBPI is entitled to vote to accept or reject the Plan.

**3. Class 2: Allowed General Unsecured Claims**

**3.2.1 Classification:** Class 2 consists of Allowed General Unsecured Claims.

**3.2.2 Treatment:** Holders of Allowed General Unsecured Claims shall be paid in full their Allowed Claims with interest at the rate of 6% per annum in eight equal quarterly installments, beginning on the ninetieth day after the Effective Date, and ending on the second anniversary date of the Effective Date.

There are six holders of Class 2 claims as identified on Exhibit "A" to the Plan.

Class 2 is impaired, and the holders of Allowed Claims in Class 2 are entitled to vote to accept or reject the Plan.



**4. Class 3: Allowed Subordinated Claims**

**4.3.1 Classification:** Class 3 consists of the Allowed Claims that are Subordinated Claims pursuant to the Plan. There are eight holders of Allowed Subordinated Claims as identified on Exhibit “B,” attached to the Plan.

**4.3.2 Treatment:** Holders of Allowed Subordinated Claims shall receive payment in full or pro rata in accordance with return provided them under the Debtor’s Operating Agreement, provided that the members of Class 1 and Class 2 have first been paid in full.

Class 3 is impaired and the holders of Subordinated Allowed Claims in Class 3 are entitled to accept or reject the Plan.

**5. Class 4: Allowed Equity Interests in Debtor**

**5.4.1 Classification:** Class 11 consists of the Allowed Equity Interests in Debtor.

**5.4.2 Treatment:** The holder of the Allowed Equity Interests in the Debtor are unimpaired and shall retain their equity interest in the Debtor in accordance with the terms of the Debtor’s Operating Agreement. The holders of Allowed Equity Interests are listed on Exhibit “C” to the Plan.

Class 4 is unimpaired, and the holder of an Allowed Equity Interest in the Debtor is deemed to accept the Plan.

**6. Class 5: Real Property Tax Claims**

**6.5.1 Classification:** Class 5 consists of the Allowed Real Property Tax Claims of the City and County of Honolulu.

**6.5.2 Treatment:** The Real Property Tax Claims will be paid in full at closing of the Hawaiian Dredging Sale. The Real Property Tax Claims totaled approximately \$779,000 as of the Petition Date.

### **III. MEANS OF IMPLEMENTING THE PLAN**

#### **1. Funding**

The Plan contemplates that additional capital in the amount of approximately \$1,700,000, will be required to carry out the terms of the Plan. Funding shall be by way of continued capital contributions from the Debtor's members pursuant to the terms of the Capital Contribution Funding Agreement, attached as Exhibit "D" to the Plan.

#### **2. Condominium Plan**

The Debtor shall record the Declaration of Condominium Property Regime of Kapolei Business Park Phase 2 substantially in the form attached to the Plan Supplement as Exhibit "A" and the Bylaws of the Association of Unit Owners of Kapolei Business Park Phase 2, substantially in the form attached to the Plan Supplement as Exhibit "B." The Condominium Plan creates nine units as more fully described in the Declaration. The Declaration reserves to the Developer the right to reconfigure the Units as necessary to facilitate the continued development

and sale of the Property. These rights allow the developer the flexibility to create units of varying sizes to adapt to market conditions.

### **3. Executory Contracts**

The Debtor will assume the following agreements:

(i) Exclusive Agreement to Market Real Estate dated February 21, 2008, between Colliers Monroe Friedlander, Inc. (“Colliers”) and the Debtor, a copy of which is attached to the Plan Supplement as Exhibit “C,” pursuant to which Colliers has and will continue to provide marketing and sales services to the Debtor.

(ii) Development Management Agreement dated March 2005, by and between the Debtor, as Owner, and Lokahi Ventures, LLC (“Lokahi”), as Developer, a copy of which is attached to the Plan Supplement as Exhibit “D,” pursuant to which Lokahi provides certain development management to the Debtor.

(iii) Management Agreement dated July 1, 2009, by and between the Debtor, as Owner, and Avalon Development Company, as Manager, a copy of which is attached to the Plan Supplement as Exhibit “E,” pursuant to which Avalon provides certain management services to the Debtor.

(iv) Purchase and Sale Agreement dated February 28, 2011, as amended, by and between the Debtor, as Seller, and Hawaiian Dredging

Construction Company, Inc., as Buyer, a copy of which without exhibits is attached to the Plan Supplement as Exhibit "F," pursuant to which Dredging will acquire Unit 3 of the Condominium and, inter alia, construct Driveway "A" as shown on the Condominium Plan. Pursuant to that certain Second Amendment to Purchase and Sale Agreement, a copy of which is attached to the Plan Supplement as Exhibit "F-1," the closing date has been extended to September 30, 2011.

(v) That certain Letter Agreement, dated April 1, 2010, by and between Hawaiian Electric Company, Inc. and the Debtor, as amended and extended by the parties, a copy of which is attached to the Plan Supplement as Exhibit "I."

#### **4. Continued Sale of Units**

(i) Within thirty (30) days of the Effective Date, the Debtor shall close the Hawaiian Dredging Sale, subject to such reasonable extension of the closing date as agreed to by the parties.

(ii) The Debtor shall continue the marketing and sale of the remaining units, subject to such reconfiguration of the units as the Debtor may elect, until all such units are sold and the proceeds distributed in accordance with the Plan.

#### **5. 363 Sale**

In the event all of the Property has not been sold and the Class I claim has not been paid in accordance with the terms of the Plan within thirty-six (36) months of the Effective Date, then in such event, unless Class I otherwise consents, the remaining units shall be sold at public auction, pursuant to Section 363 of the Code within ninety (90) days of the expiration of the thirty-six (36) month period. Said auction shall be conducted upon motion by the Debtor in open court and without an upset price.

**6. Time and Method of Distributions Under the Plan**

The Reorganized Debtor shall serve as the disbursing agent to hold and distribute Cash and such other property as may be distributed pursuant to the Plan.

**7. Provisions for Treatment of Disputed Claims**

Notwithstanding all references in the Plan to Claims that are Allowed, in undertaking the calculations concerning Allowed Claims or Allowed Administrative Expense Claims under the Plan, including the determination of the amount or number of distributions due to the holders of Allowed Claims and Allowed Administrative Expense Claims, each Disputed Claim shall be treated as if it were an Allowed Claim or Allowed Administrative Expense Claim for purposes of voting on the Plan, except that if the Bankruptcy Court estimates the likely portion of a Disputed Claim to be Allowed or authorized or otherwise determines the amount or number which would constitute a sufficient reserve for a

Disputed Claim (which estimates and determinations may be requested by the Reorganized Debtor), such amount or number as determined by the Bankruptcy Court shall be used as to such Claim. Objections to Claims must be filed and served within 180 days of the Effective Date.

#### **8. Discharge of the Debtor and Injunction**

Except as provided in the Plan or Confirmation Order, the rights afforded hereunder and the treatment of Claims, Administrative Expense Claims and Interests under the Plan will be in exchange for and in complete satisfaction, discharge and release of all Claims and Administrative Expense Claims and termination of all Interests, including any interest accrued on Claims from the Petition Date. Except as provided in the Plan or the Confirmation Order, confirmation will discharge the Debtor and Reorganized Debtor from all Claims, Administrative Expense Claims or other debts that arose before the Confirmation Date and all debts of the kind specified in sections 502(g), 502(h) or 502(i) of the Bankruptcy Code, whether or not (a) a proof of Claim based on such debt is filed or deemed filed pursuant to section 501 of the Bankruptcy Code, (b) a Claim based on such debt is allowed pursuant to section 502 of the Bankruptcy Code or (c) the holder of a Claim or Administrative Expense Claim based on such debt has accepted the Plan. As of the Confirmation Date, except as provided in the Plan or the Confirmation Order, all Entities shall be precluded from asserting against the

Debtor, the Reorganized Debtor, their successors or their property, any other or further claims, debts, rights, causes of action, liabilities or equity interests based upon any act, omission, transaction or other activity of any nature that occurred prior to the Confirmation Date.

**9. Retention of Rights of Action**

In accordance with section 1123(b) of the Bankruptcy Code, the Reorganized Debtor, to the extent set forth below, and its successors, any assigns hereunder and future assigns will retain and may exclusively enforce any rights of action subject only to any express waiver or release thereof in the Plan or in any other contract, instrument, release, indenture or other agreement entered into in connection with the Plan, and the Confirmation Order's approval of the Plan shall be deemed a *res judicata* determination of such rights to retain and exclusively enforce such rights of action unless the Bankruptcy Court orders otherwise. Absent such express waiver or release, the Reorganized Debtor, or its successors or assigns may pursue rights of action, as appropriate, in accordance with the best interests of the Reorganized Debtor (or its successors or future assigns).

**10. Exemption from Transfer Taxes**

Pursuant to section 1146(c) of the Bankruptcy Code, any transfers from the Debtor to the Reorganized Debtor or any other Person pursuant to the Plan including (a) the issuance of any stock, (b) the creation of any mortgage deed or

trust, or other security interest, and (c) the making of any agreement or instrument in furtherance of, or in connection with, this Plan, shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, stamp act, real estate transfer tax, mortgage recording tax or other similar tax or governmental assessment.

#### **IV. CERTAIN U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN**

The discussion below summarizes certain anticipated U.S. Federal income tax consequences of the Plan to the Debtors and certain Holders of Claims or Interests. This summary is provided for information purposes only and is based on the Internal Revenue Code of 1986, as amended (the “Code”), Treasury regulations promulgated thereunder, judicial authorities, and current administrative rulings and practice, all as in effect as of the date hereof and all of which are subject to change, possibly with retroactive effect, that could adversely affect the U.S. Federal income tax consequences described below.

This summary does not address all aspects of U.S. Federal income taxation that may be relevant to a particular Holder of a Claim or Interest in light of its particular facts and circumstances or to certain types of Holders of Claims or Interests subject to special treatment under the Code (for example, non-U.S. taxpayers, financial institutions, broker-dealers, life insurance companies, tax-exempt organizations, real estate investment trusts, regulated investment



companies, grantor trusts, persons holding a Claim as part of a “hedging,” “integrated,” or “constructive” sale or straddle transaction, persons holding claims through a partnership or other pass-through entity and persons that have a “functional currency” other than the U.S. dollar. This summary does not address the tax considerations applicable to Holders who obtained their Claims or Interests (or the rights underlying such Claims or Interests) in connection with the performance of services. In addition, this summary does not discuss any aspects of state, local, or non-U.S. taxation, nor does this summary address the U.S. Federal income tax consequences to Holders of Claims that are unimpaired under the Plan and Holders of Claims that are not entitled to receive or retain any property under the Plan.

TO ENSURE COMPLIANCE WITH TREASURY DEPARTMENT CIRCULAR 230, EACH HOLDER IS HEREBY NOTIFIED THAT: (A) ANY DISCUSSION OF U.S. FEDERAL TAX ISSUES IN THIS DISCLOSURE STATEMENT IS NOT INTENDED OR WRITTEN TO BE RELIED UPON, AND CANNOT BE RELIED UPON, BY ANY HOLDER FOR THE PURPOSE OF AVOIDING PENALTIES THAT MAY BE IMPOSED ON A HOLDER UNDER THE CODE; (B) SUCH DISCUSSION IS INCLUDED HEREBY BY THE PLAN PROPONENTS IN CONNECTION WITH THE PROMOTION OR MARKETING (WITHIN THE MEANING OF CIRCULAR 230) BY THE PLAN

PROPONENTS OF THE TRANSACTIONS OR MATTERS ADDRESSED  
HEREIN; AND (C) EACH HOLDER SHOULD SEEK ADVICE BASED ON ITS  
PARTICULAR CIRCUMSTANCES FROM AN INDEPENDENT TAX  
ADVISOR.

**A. U.S. Federal Income Tax Consequences to the Debtor and  
Holders of Interests**

**1. Tax Consequences to Debtor.**

The Debtor is a limited liability company (“LLC”) taxed as a pass-through entity for U.S. federal income tax purposes. As a result, there are no tax consequences to the Debtor.

**2. Tax Consequences to Holders of Interests.**

If any direct or indirect owner of the Debtor is itself a pass-through entity such as a partnership, LLC or S corporation, the income will again be passed through to the owners of that direct or indirect owner, and so on until income is allocated to an individual or to an entity that is not a pas-through for tax purposes.

Such Holders of Interests or their direct and indirect owners that are not pass-through entities for U.S. federal income tax purposes may be required to recognize income or gain as a result of the Plan, and should consult their own tax advisors regarding the tax consequences of the Plan.

**B. U.S. Federal Income Tax Consequences to Holders of Claims**

The U.S. Federal income tax consequences to Holders of Claims arising from the distributions to be made in satisfaction of their Claims pursuant to the Plan may vary, depending upon, among other things: (a) the type of consideration received by the Holder of a Claim in exchange for the Claim; (b) the nature of the indebtedness owed to it; (c) whether the Holder has previously claimed a bad debt or worthless security deduction in respect of its Claim; (d) whether such Claim constitutes a security; (e) whether the Holder of a Claim is a citizen or resident of the United States for tax purposes, or otherwise subject to U.S. Federal income tax on a net income basis; (f) whether the Holder of a Claim reports income on the accrual or cash basis; and (g) whether the Holder of a Claim receives distributions under the Plan in more than one taxable year. For tax purposes, the modification of a Claim may represent an exchange of the Claim for a new Claim, even though no actual transfer takes place. In addition, where gain or loss is recognized by a Holder of a Claim, the character of such gain or loss as long-term or short-term capital gain or loss or as ordinary income or loss will be determined by a number of factors, including the tax status of the Holder, whether the Claim constitutes a capital asset in the hands of the Holder and how long the Claim has been held or is treated as having been held, whether the Claim was acquired at a market discount, and whether and to what extent the Holder previously claimed a bad debt or

worthless stock or securities deduction with respect to the underlying Claim. A Holder who purchased its Claim from a prior holder at a discount to its face amount may be subject to the market discount rules of the Code. Under those rules, assuming that the Holder has made no election to amortize the market discount into income on a current basis with respect to any market discount instrument, any gain recognized on the exchange of its Claim (subject to a *de minimis* rule) generally would be characterized as ordinary income to the extent of the accrued market discount on such Claim as of the date of the exchange.

#### **1. General Treatment of Holders of Claims**

Pursuant to the Plan, the Debtors will transfer assets of the Debtors, either directly or indirectly, to holders of Allowed Claims in satisfaction and discharge of such Claims. Holders of such Claims will likely recognize gain or loss equal to the amount realized under the Plan in respect of their Claims less their respective tax bases in their Claims. The amount realized for this purpose will generally equal the sum of the cash and the fair market value of any other consideration received under the Plan in respect of their Claims. Any gain or loss recognized in the exchange will be capital or ordinary depending on the status of the Claim in the Holder's hands.

To the extent that cash received or deemed received by a Holder of a Claim is attributable to accrued interest on the Claim, the cash will be deemed made in

payment of such interest. The federal income tax laws are unclear on how much consideration will be deemed attributable to accrued interest when partial payments are made on a debt on which both principal and interest are owed. To the extent that the Holder of a Claim has not yet included the accrued interest in gross income, the cash deemed received in payment of such interest will generally be included in the Holder's gross income for federal income tax purposes. To the extent the Holder has previously included accrued interest on the Claim in gross income, the cash deemed received in payment of such interest generally will not be included in gross income. The Holder of an Allowed Claim may be able to claim a deductible loss if the cash deemed received for the accrued interest is less than the amount the Holder had previously included in gross income.

## 2. Bad Debt Deduction

The Holder of an Allowed Claim who under the Plan will receive in respect of a Claim an amount less than the Holder's tax basis in such Claim may be entitled to a bad debt deduction under section 166(a) of the Code. The rules regarding the ability of a taxpayer, who believes that a debt owed to it will not be collected in full to take a deduction related to such debt's partial or total worthlessness are very complex. Moreover, the application and impact of such rules vary greatly depending upon a taxpayer's individual circumstances, including the facts and circumstances of the holder, the obligor, and the instrument with

respect to which a deduction is claimed. Holders of Claims are therefore urged to consult their tax advisors with respect to the allowability of such a deduction.

**3. Importance of Obtaining Professional Tax Assistance**

THE FOREGOING DISCUSSION IS INTENDED ONLY AS A SUMMARY OF CERTAIN POTENTIAL TAX CONSEQUENCES OF THE PLAN AND IS NOT A SUBSTITUTE FOR INDIVIDUALLY TAILORED TAX ADVICE FROM A COMPETENT TAX ADVISOR. THE ABOVE DISCUSSION IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT TAX ADVICE. THE TAX CONSEQUENCES OF THE PLAN ARE IN MANY CASES COMPLEX, UNCLEAR AND UNCERTAIN AND MAY VARY DEPENDING ON A NUMBER OF DIFFERENT FACTORS, INCLUDING A CLAIMHOLDER'S PARTICULAR CIRCUMSTANCES. ACCORDINGLY, CLAIMHOLDERS ARE URGED TO CONSULT THEIR TAX ADVISORS ABOUT THE FEDERAL, STATE AND LOCAL, AND APPLICABLE FOREIGN INCOME AND OTHER TAX CONSEQUENCES OF THE PLAN.

**V. FEASIBILITY OF THE PLAN AND BEST INTEREST OF CREDITORS**

**A. Feasibility of the Plan**

The Bankruptcy Code requires that the Bankruptcy Court determine that confirmation of a Plan is not likely to be followed by liquidation or the need for further financial reorganization of the Debtors. For purposes of showing that the

Plan meets this feasibility standard, the Debtor has analyzed the ability of the Debtor to meet its obligations under the Plan and retain sufficient liquidity and capital resources to conduct its business. At the Confirmation Hearing, the Debtor will be prepared to demonstrate that the Plan is feasible.

To support the belief in the feasibility of the Plan, the Debtor has relied upon pro forma financial forecasts prepared by the Debtors for the period of the Plan (the “Financial Forecasts”), which are set forth in Exhibit “2” of this Disclosure Statement. The Financial Forecasts indicate that the Debtor should have sufficient cash flow to pay and service debt obligations and to fund its operations. The Financial Forecast shows that over the three year life of the Plan, sufficient revenue will be generated to pay all of the Debtor’s operating and development costs, pay the claims of Classes 1, 2, and 3 in full and leave a surplus of approximately \$10,000,000 for the Equity Interests. Accordingly, the Debtor believes that the Plan complies with the financial feasibility standard of section 1129(a)(11) of the Bankruptcy Code.

The Financial Forecasts assume that (i) the Plan will be confirmed and consummated in accordance with its terms, (ii) there will be no material change in legislation or regulations, or the administration thereof, including environmental legislation or regulations, that will have an unexpected effect on the operations of the Debtor, (iii) there will be no change in the United States regarding generally

accepted accounting principles that will have a material effect on the reported financial results of the Debtor, and (iv) there will be no material contingent or unliquidated litigation or indemnity claims applicable to the Debtor. To the extent that the assumptions inherent in the Financial Forecasts are based upon future business decisions and objectives, they are subject to change. In addition, although they are presented with numerical specificity and considered reasonable by the Debtor when taken as a whole, the assumptions and estimates underlying the Financial Forecasts are subject to significant business, economic and competitive uncertainties and contingencies, many of which will be beyond the control of the Debtor. Accordingly, the Financial Forecasts are only estimates that are necessarily speculative in nature. It can be expected that some or all of the assumptions in the Financial Forecasts will not be realized and that actual results will vary from the Financial Forecasts, which variation may be material. The Financial Forecasts should therefore not be regarded as a representation by the Debtor or any other person that the results set forth in the Financial Forecasts will be achieved. In light of the foregoing, readers are cautioned not to place undue reliance on the Financial Forecasts.

B. Secured Creditor KBPI's Comments



KBPI has disputed the adequacy of the information provided in the Disclosure Statement and asserts that the following deficiencies and risks should be disclosed to creditors and included in the Disclosure Statement:

1. Debtor's Plan cannot be confirmed as a matter of law because KBPI's note and mortgage matured on February 22, 2010, prior to Debtor's bankruptcy petition and the Plan proposes extending the maturity date for at least 4 years beyond the original maturity date.

2. Debtor's Plan cannot be confirmed because it improperly modifies the KBPI note and mortgage by, among other things, eliminating the rebalancing requirement of the loan which requires Debtor and guarantors to pay down the loan to reflect downward adjustments in the value of the mortgaged property.

3. Debtor's Plan cannot be confirmed because it improperly shifts significant risk to KBPI by, among other things, (a) developing the mortgaged property into a condominium property regime ("CPR") instead of a subdivision, (b) deferring payment to KBPI in favor of using sales proceeds of condominium units to finance infrastructure and development, and (c) relying on defective Financial Projections that (i) understate the costs of construction, (ii) overstate the sales of CPR units and (iii) require potential purchasers of un-improved CPR units to allow Debtor's use of initial deposits and sales proceeds to finance construction and improvements of the CPR units.

4. Debtor's Plan is not feasible because it does not require approval by the Hawaii Real Estate Commission of the proposed CPR and sales of CPR units.

5. Debtor's Plan is not feasible because it does not require any bonding for performance of the proposed construction work or bonding for payment of contractors, subcontractors, suppliers and materialmen.

6. Debtor's Plan cannot be confirmed because it is not a good faith Plan. The Plan shifts to KBPI and other creditors the significant risk of a failure of completion of the development of the mortgaged property. The Plan unfairly favors and benefits insiders and equity owners of Debtor.

### **C. Acceptance of the Plan**

As a condition to confirmation, the Bankruptcy Code requires that each Class of Impaired Claims vote to accept the Plan, except under certain circumstances.

Section 1126(c) of the Bankruptcy Code defines acceptance of a plan by a class of impaired claims as acceptance by holders of at least two thirds (2/3) in dollar amount and more than one half (1/2) in number of claims in that class, but for that purpose counts only those who actually vote to accept or to reject the Plan. For example, Class 2 General Unsecured Creditors votes to accept the Plan only if two thirds (2/3) in amount and a majority in number actually voting in such Class

cast their Ballots in favor of acceptance. Holders of Claims who fail to vote are not counted as either accepting or rejecting a plan.

**D. Best Interests Test**

Even if a plan is accepted by the holders of each class of claims and interests, the Bankruptcy Code requires a Bankruptcy Court to determine that the plan is in the best interests of all holders of claims or interests that are impaired by the plan and that have not accepted the plan. The “best interests” test, as set forth in section 1129(a)(7) of the Bankruptcy Code, requires a Bankruptcy Court to find either that all members of an impaired class of claims or interests have accepted the plan or that the plan will provide a member who has not accepted the plan with a recovery of property of a value, as of the effective date of the plan, that is not less than the amount that such holder would recover if the debtor were liquidated under chapter 7 of the Bankruptcy Code.

To calculate the probable distribution to holders of each impaired class of claims and interests if the debtors were liquidated under chapter 7 under the Bankruptcy Code, a bankruptcy court must first determine the aggregate dollar amount that would be generated from such debtors’ assets if their chapter 11 cases were converted to chapter 7 cases. This “liquidation value” would consist primarily of the proceeds from a forced sale of the debtors’ assets by a chapter 7 trustee.

Once the court ascertains the recoveries in liquidation of secured creditors and priority claimants, it must determine the probable distribution to general unsecured creditors and equity security holders from the remaining available proceeds in liquidation. If such probable distribution has a value greater than the distributions to be received by such creditors and equity security holders under the plan, then the plan is not in the best interests of creditors and equity security holders.

**E. Liquidation Analysis**

The Debtor assumes that if this case were converted to a proceeding under Chapter 7 that, given the amount of the KBPI Secured Claim, the Trustee would abandon the Property or the Court would lift the stay and allow KBPI to proceed with its foreclosure. In a foreclosure sale, there would be no proceeds for unsecured creditors or interest holders.

**F. Application of the 'Best Interests' of Creditors Test to the Liquidation Analyses**

The Debtor believes that the "best interests" test of section 1129 of the Bankruptcy Code is satisfied because the Debtor believes that the members of each Impaired Class will receive greater or equal value under the Plan than they would receive in a liquidation. Although the Debtor believes that the Plan meets the "best interests test" of section 1129(a)(7) of the Bankruptcy Code, there can be no assurance that the Bankruptcy Court will determine that the Plan meets this test.

**G. Confirmation Without Acceptance of All Impaired Classes: The “Cramdown” Alternative**

In view of a potential rejection by certain holders of Claims, the Debtor may have to seek confirmation of the Plan pursuant to the “cramdown” provisions of the Bankruptcy Code. Specifically, section 1129(b) of the Bankruptcy Code provides that a plan can be confirmed even if the plan is not accepted by all impaired classes, as long as at least one impaired class of claims has accepted it. The Bankruptcy Court may confirm a plan at the request of the Debtor if the plan “does not discriminate unfairly” and is “fair and equitable” as to each impaired class that has not accepted the plan. A plan does not discriminate unfairly within the meaning of the Bankruptcy Code if a dissenting class is treated equally with respect to other classes of equal rank.

The Debtor believes the Plan does not discriminate unfairly with respect to holders of Class 1, Class 2, Class 3, and Class 5 Claims or Holders of Interests in Class 4.

A plan is fair and equitable as to a class of secured claims that rejects a plan if, among other things, the plan provides (a)(i) that the holders of such claims retain the liens securing such claims, whether the property subject to such liens is retained by the debtor or transferred to another entity, to the extent of the allowed amount of such claims, and (ii) that each holder of a claim of such class receive on account of such claim deferred cash payments totaling at least the allowed amount.

of such claim, of a value, as of the effective date of the plan, of at least the value of such holder's interest in the estate's interest in such property; (b) for the sale, subject to section 363(k) of the Bankruptcy Code, of any property that is subject to the liens securing such claims, free and clear of such liens, with such liens to attach to the proceeds of such sale, and the treatment of such liens on proceeds under clause (a)(i) or (a)(ii) of this subparagraph; or (c) for the realization by such holders of the indubitable equivalent of such claims.

A plan is fair and equitable as to a class of unsecured claims which rejects a plan if the plan provides (i) for each holder of a claim included in the rejecting class to receive or retain on account of that claim property that has a value, as of the effective date of the plan, equal to the allowed amount of such claim; or (ii) that the holder of any claim or interest that is junior to the claims of such class will not receive or retain on account of such junior claim or interest any property at all.

A plan is fair and equitable as to a class of equity interests that rejects a plan if the plan provides (i) that each holder of an interest included in the rejecting class receive or retain on account of that interest property that has a value, as of the effective date of the plan, equal to the greatest of the allowed amount of any fixed liquidation preference to which such holder is entitled, any fixed redemption price to which such holder is entitled, or the value of such interest; or (ii) that the holder

of any interest that is junior to the interests of such class will not receive or retain under the plan on account of such junior interest any property at all.

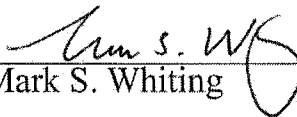
The Debtor believes that it will meet the "fair and equitable" requirements of section 1129(b) of the Bankruptcy Code with respect to Holders of Class 1, Class 2, and Class 3 and Class 5 Claims and Class 4 Interests.

## VI. RECOMMENDATION AND CONCLUSION

For all of the reasons set forth in this Disclosure Statement, the Debtor believes that the confirmation of the Plan is preferable to all other alternatives. Consequently, the Debtor urges all holders of Claims in voting Classes to vote to accept the Plan and to evidence their acceptance by duly completing and returning their Ballots so that they will be received on or before the voting deadline.

DATED: Honolulu, Hawaii, as of June 17, 2011.

LV KAPOLEI 54, LLC

  
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Attorneys for Debtor  
and Debtor-in-Possession

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF HAWAII

In re

LV KAPOLEI 54, LLC,

Debtor and  
Debtor-in-possession.

Case No. 11-00981  
(Chapter 11)

**FIRST AMENDED  
CHAPTER 11 PLAN OF REORGANIZATION FOR  
LV KAPOLEI 54, LLC, DATED AS OF JUNE 17, 2011;  
EXHIBITS "A" – "D"**

LV KAPOLEI 54, LLC ("Debtor") proposes the following chapter 11 plan pursuant to section 1121(a) of the Bankruptcy Code. The Disclosure Statement which will accompany the Plan will discuss the Debtor's history,

**EXHIBIT 1**

66930



business, assets, and results of operations, and contain a summary and discussion of the Plan. Holders of Claims and Equity Interests are encouraged to read the Disclosure Statement before voting to accept or reject the Plan.

## I.

### DEFINITIONS AND RULES OF CONSTRUCTION

#### 1. Defined Terms.

As used herein, the following terms have the respective meanings specified below (such meanings to be equally applicable to both the singular and plural, and masculine and feminine, forms of the terms defined):

**1.1. “Administrative Claims Bar Date”** has the meaning set forth in Section 2.3 below.

**1.2. “Administrative Expense Claim”** means a claim that is for payment of any cost or expense of administration of the Chapter 11 Case, allowable under sections 503(b) and 507(a)(2) of the Bankruptcy Code, including, without limitation, any actual and necessary post-petition expense of preserving the Estate, any actual and necessary post-petition expense of operating the business of the Debtor in Possession, all compensation or reimbursement of expenses to the extent allowed by the Bankruptcy Court under section 330 or 503 of the Bankruptcy Code, and any fees or charges assessed against the Estate of the Debtor under Section 1930 of chapter 123 of title 28 of the United States Code.

**1.3. “Allowed Administrative Expense Claim”** means an Administrative Expense Claim: (a) for which a request for payment is Filed on or before the Administrative Claims Bar Date and as to which no objection to such Administrative Expense Claim is in the amount set forth in such request; (b) that is allowed pursuant to a Final Order, in the amount set forth therein; or (c) is an Ordinary Course Administrative Expense as to which no objection has been Filed. Unless otherwise specified herein or by Final Order of the Bankruptcy Court, the amount of any Allowed Administrative Expense Claim shall not include interest on such Administrative Expense Claim accruing from and after the Petition Date.

**1.4. “Allowed Claim”** means, except as otherwise provided herein or by Final Order of the Bankruptcy Court, a Claim, proof of which was timely and properly Filed or, if no proof of claim was Filed, which has been or hereafter is listed by the Debtor on its respective Schedules as liquidated in amount and not disputed or contingent, and, in either case, as to which no objection to the allowance thereof, or request for estimation, has been interposed, and that is not otherwise a Disputed Claim.

**1.5. “Allowed General Unsecured Claim”** means a General Unsecured Claim to the extent it is or has become an Allowed Claim.

**1.6. “Allowed Secured Claim”** means a Secured Claim to the extent it is or has become an Allowed Claim.

**1.7. “Allowed Subordinated Claim”** means a Subordinated Claim to the extent it is or has become an Allowed Claim.

**1.8 “Bankruptcy Code”** means Title 11 of the United States Code, 11 U.S.C. § 101 *et seq.*, as now in effect or hereafter amended, and as applicable to the Chapter 11 Case.

**1.8. “Bankruptcy Court”** means the United States Bankruptcy Court for the District of Hawaii or, in the event such court ceases to exercise jurisdiction over the Chapter 11 Case, such other court that exercises jurisdiction over the Chapter 11 Case.

**1.9. “Bankruptcy Rules”** means, collectively, (i) the Federal Rules of Bankruptcy Procedure, as amended from time to time, as applicable to the Chapter 11 Case, and (ii) the Local Bankruptcy Rules applicable to cases pending before the Bankruptcy Court, as now in effect or hereafter amended.

**1.10. “Business”** means the operation of the business by the Debtor.

**1.11. “Business Day”** means any day which is not a Saturday, a Sunday, or a "legal holiday" as defined in Bankruptcy Rule 9006(a).

**1.12. “Cash”** means legal tender of the United States of America and equivalents thereof.

**1.13. “Chapter 11 Case”** means the case under chapter 11 of the Bankruptcy Code that was commenced by the filing of a voluntary petition on

April 8, 2011, before the Bankruptcy Court, and which case is styled, *In re LV Kapolei 54, LLC*, and assigned Bk. No. 11-00981(Chapter 11).

**1.14. "Claim"** means a "claim," as defined in section 101(5) of the Bankruptcy Code, against the Debtor.

**1.15. "Class"** means one of the Classes of Claims or Classes of Equity Interests designated in Article II of the Plan.

**1.16 "Condominium Property Regime"** means that certain Declaration of Condominium Property Regime of Kapolei Business Park Phase 2 and Bylaws of the Association of Unit Owners of Kapolei Business Park Phase 2 to be recorded against the Property, pursuant to the Plan, copies of which shall be included, as exhibits, to the Plan Supplement.

**1.17. "Confirmation"** means the entry of the Confirmation Order on the docket of the Chapter 11 Case.

**1.18. "Confirmation Date"** means the date on which the Confirmation Order is entered on the docket for the Chapter 11 Case within the meaning of Bankruptcy Rules 5003 and 9021.

**1.19. "Confirmation Hearing"** means the hearing held by the Bankruptcy Court on Confirmation of the Plan as such hearing may be continued from time to time.

**1.20. “Confirmation Order”** means the order of the Bankruptcy Court confirming the Plan in accordance with the provisions of chapter 11 of the Bankruptcy Code.

**1.21. “KBPI Secured Claim”** means the claim of KBP Industrial, LLC evidenced by that certain Loan Agreement and Promissory Note, dated February 22, 2008 (“CPB Promissory Note”), and in the face amount of \$21,450,000, which is secured by that certain Mortgage and Security Agreement and Fixture Filing, dated February 22, 2008, on the Property, which was registered in the Land Court of the State of Hawaii on February 27, 2008, as Document No. 3715681 (“CPB Mortgage”). The CPB Promissory Note and CPB Mortgage were assigned to KBPI, pursuant to that certain Assignment of Mortgage and Other Loan Documents, dated June 30, 2011.

**1.22. “Debtor’s Operating Agreement”** means that certain Operating Agreement of LV Kapolei 54, LLC, dated as of March 31, 2005, as amended by instruments dated January 15, 2007 and July 1, 2009, copies of which are attached to the Plan Supplement as Exhibit “G.”

**1.23. “Debtor”** means LV Kapolei 54, LLC, as the chapter 11 debtor.

**1.24. “Disclosure Statement”** means the written disclosure statement that relates to the Plan, as approved by the Bankruptcy Court pursuant to

Section 1125 of the Bankruptcy Code and Bankruptcy Rule 3017 as such disclosure statement may be amended, modified or supplemented from time to time.

**1.25. “Disputed Administrative Expense Claim”** means an Administrative Expense Claim: (a) for which a request for payment is Filed on or before the Administrative Claims Bar Date; or (b) an Ordinary Course Administrative Claims, and as to which an objection to such is Filed on or before the applicable objection deadline.

**1.26. “Disputed Claim”** means, respectively, any Claim: (a) as to which a Proof of Claim has been Filed and the dollar amount of such Claim, respectively, is not specified in a fixed amount; (b) prior to the deadline to object to such Claim, as to which a Proof of Claim has been Filed and the dollar amount of such Claim is specified in a fixed liquidated amount, the extent to which the stated amount of such Claim exceeds the amount of such Claim listed in the Schedules; and (c) with respect to either a Claim that is listed in the Schedules and/or as to which a Proof of Claim has been Filed, as to which the Debtor or any other party in interest has Filed a timely objection or request for estimation in accordance with the Bankruptcy Code, the Bankruptcy Rules, and/or any order of the Bankruptcy Court, which objection or request for estimation has not been withdrawn or determined by a Final Order.

**1.27. “Effective Date”** means the first Business Day (a) on which no stay of the Confirmation Order is in effect and (b) that is at least one Business Day after the date on which the conditions specified in Article 8 of the Plan have been satisfied or waived.

**1.28. “Estate”** means the estate created for Debtor pursuant to section 541 of the Bankruptcy Code, and includes all includes all the property, proceeds, profits and rents resulting or derived therefrom that are acquired by the Estate or by the Debtor from the Petition Date to the Effective Date, and by the Estate on or after the Effective Date.

**1.29. “Equity Interest”** means an interest in the Debtor represented by an issued and outstanding equity security as defined in Section 101(16) of the Bankruptcy Code.

**1.30. “File,” “Filed,” “Files,” or “Filing”** means properly and timely filed with the Bankruptcy Court in the Chapter 11 Case, as reflected on the official docket of the Bankruptcy Court for the Chapter 11 Case, and served on Persons, as such filing and service are required pursuant to the Bankruptcy Code, Bankruptcy Rules and/or order of the Bankruptcy Court.

**1.31. “Final Order”** means an order or judgment of the Bankruptcy Court or other applicable court, as entered on the applicable docket, that has not been reversed, stayed, modified or amended, and as to which the time to appeal,

petition for certiorari, or move for reargument or rehearing has expired and as to which no appeal, petition for certiorari, or other proceedings for reargument or rehearing shall then be pending or as to which any right to appeal, petition for certiorari, reargue, or rehear shall have been waived in writing in form and substance satisfactory to the Debtor in the event that an appeal, writ of certiorari, or reargument or rehearing thereof has been sought, such order or judgment of the Bankruptcy Court or other applicable court shall have been affirmed by the highest court to which such order or judgment was appealed, or certiorari has been denied, or from which reargument or rehearing was sought, and the time to take any further appeal, petition for certiorari or move for reargument or rehearing shall have expired.

**1.32. “General Unsecured Claim”** means any Claim that is not a Secured Claim or an Administrative Expense Claim.

**1.33. “Hawaiian Dredging Sale”** means the sale of Unit 3 of KBPII to Hawaiian Dredging Construction Company, Inc., pursuant to the terms of that certain Purchase and Sale Agreement, dated February 28, 2011, as amended by instruments dated March 15, 2011, and June 15, 2011, copies of which will be attached as exhibits to the Plan Supplement.

**1.34. “KBPI”** means KBP Industrial, LLC which entity acquired the claims of Central Pacific Bank on or about June 30, 2011.



1.35. “**KBPII**” means Kapolei Business Park Phase 2.

1.36. “**Lien**” means any mortgage, pledge, deed of trust, assessment, lien, security interest, lease, adverse claim, levy, constructive trust claim, equitable lien, charge or other encumbrance of any kind, or any other type of preferential arrangement, easement, right of way, conditional sale contract, title retention contract, limitation, or restriction of any kind on title and ownership of property.

1.37. “**Ordinary Course Administrative Expenses**” means costs or expenses allowable under section 503(b)(1)(A) incurred for goods and services provided to the Debtor in the ordinary course of its business during the Chapter 11 Case from the Petition Date through and including the Effective Date; provided, however, that Ordinary Course Administrative Expenses shall not include Professional Fee Claims

1.38. “**Person**” means any individual, corporation, limited liability company, general partnership, limited partnership, association, joint stock company, joint venture, estate, trust, the United States Trustee, a government or any political subdivision, governmental unit, official committee appointed by the United States Trustee, unofficial committee of creditors, or the executors, administrators or other legal representatives of any of the foregoing.

1.39. “**Petition Date**” means April 8, 2011.

**1.40. “Plan”** means this chapter 11 plan of reorganization for the Debtor, including all exhibits hereto and all documents incorporated by reference to the Plan Supplement, either in their present form or as they may amended, or modified from time to time.

**1.41. “Plan Supplement”** means the compilation of the forms of certain documents referred to herein as specified in Article I.B. of the Plan, as amended, modified or supplemented from time to time.

**1.42. “Property”** means that certain 53.712 acre parcel of real property, Phase 2 of the Kapolei Business Park, Kapolei, Hawaii, TMK No. (1) 9-1-075-035.

**1.43. “Professional Person”** means for purposes of this Plan, any professional person employed by the Debtor, or the Committee pursuant to sections 327 or 1103 of the Bankruptcy Code, or otherwise pursuant to an order of the Bankruptcy Court, or any professional or other Person seeking compensation or reimbursement of expenses in connection with the Chapter 11 Case under or pursuant to section 503(b)(4) of the Bankruptcy Code.

**1.44. “Professional Fee Claim”** means a Claim under sections 330(a), 331, 503 or 1103 of the Bankruptcy Code for compensation of a Professional Person or other Person for services rendered or expenses incurred

from the Petition Date in the Chapter 11 Case, through and including the Effective Date.

**1.45. “Reorganized Debtor”** means the Debtor on or after the Effective Date.

**1.46 “Right Of Action”** means any and all actions, causes of action, suits, accounts, controversies, agreements, promises, rights to legal remedies, rights to equitable remedies, rights to payment and claims, whether known, unknown, reduced to judgment, not reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured and whether asserted or assertable directly or derivatively, in law, equity or otherwise, and whether commenced or arising before or after the Effective Date.

**1.47. “Schedules”** means the schedules of assets and liabilities, list of equity security holders and statement of financial affairs filed by the Debtor as amended from time to time.

**1.48. “Secured Claim”** means a Claim against the Debtor to the extent of the value, as determined by the Bankruptcy Court pursuant to section 506(a) of the Bankruptcy Code, of any interest in property of the Estate securing such Claim.

**1.49. “Subordinated Claims”** means the claim of insiders of the Debtor who lent funds to the Debtor pre-petition and are entitled to a preferred return on said funds in accordance with the terms of the Debtor’s Operating Agreement.

**2. Interpretation; Application of Definitions and Rules of Construction.**

Unless otherwise specified, all section, article, schedule or exhibit references in this Plan are to the respective section in, article of, or schedule or exhibit to, this Plan, as the same may be amended, waived or modified from time to time.

The words “herein,” “hereof,” “hereto,” “hereunder,” and others of similar import refer to the Plan as a whole and not to any particular section, subsection, or clause contained in the Plan. A term used herein that is not defined herein shall have the meaning ascribed to that term, if any, in the Bankruptcy Code or Bankruptcy Rules and shall be construed in accordance with the rules of construction applied thereto.

**3. Plan Supplement.**

Forms of certain documents referred to herein are contained in a separate Plan Supplement on File (or to be Filed) with the Clerk of the Bankruptcy Court. The Plan Supplement will be filed with the Bankruptcy Court on or before

the Confirmation Hearing in accordance with the deadline to be set by the Bankruptcy Court. The Plan Supplement may be inspected in the office of the Clerk of the Bankruptcy Court during normal court hours. Holders of Claims may obtain a copy of the Plan Supplement or excerpts therefrom upon written request to counsel for Debtor.

**4. Exhibits.**

All exhibits and schedules to the Plan and all documents contained in the Plan Supplement are incorporated into and are a part of the Plan as if set forth in full herein.

**II.**

**CLASSIFICATION AND TREATMENT OF CLAIMS**

**1. Classification.**

The categories listed below classify Allowed Claims and Interests for all purposes, including voting, confirmation, and distribution pursuant to the Plan:

<b>Class</b>	<b>Status</b>
Class 1: Allowed KBPI Secured Claim	Impaired – entitled to vote
Class 2: Allowed General Unsecured Claims	Impaired – entitled to vote
Class 3: Allowed Subordinated Claims	Impaired – entitled to vote
Class 4: Allowed Equity Interests in Debtor	Unimpaired – not entitled to vote

Class	Status
Class 5: Real Property Tax Claims	Impaired – entitled to vote

Administrative Expense Claims are not classified in accordance with Section 1123(a)(1) of the Bankruptcy Code and holders of such claims are not entitled to vote to accept or reject the Plan.

**2. Administrative Expense Claims.**

**2.1. Administrative Expense Claims.** Subject to the provisions of sections 330(a), 331 and 503(b) of the Bankruptcy Code, each Allowed Administrative Expense Claim shall be paid by the Debtor or the Reorganized Debtor, as the case may be, in full, in Cash, 30 days after the later of (i) the Effective Date, (ii) the due date thereof in accordance with its terms, (iii) the date upon which such Administrative Claim becomes an Allowed Claim, (iv) for any liability incurred in the ordinary course of business, the date upon which such liability is payable in the ordinary course of such Debtor’s business, consistent with past practices or (v) such other date as may be agreed by the parties.

**2.2. Compensation and Reimbursement Claims.** On, or as soon as practicable after, the Effective Date, each holder of an Allowed Claim that is based upon awarded compensation or reimbursement of expenses by the Bankruptcy Court in accordance with section 330 or 331 of the Bankruptcy Code

or entitled to the priority pursuant to section 503(b)(2), 503(b)(3), 503(b)(4) or 503(b)(5) of the Bankruptcy Code, shall, shall be paid in full, in Cash, the amounts allowed by the Bankruptcy Court: (a) on or as soon as reasonably practicable following the later to occur of (i) the Effective Date, and (ii) the date on which the Bankruptcy Court order allowing such Claim becomes a Final Order; or (b) upon such other terms as may be mutually agreed upon between such holder of an Allowed Administrative Claim and the Debtor.

**2.3. Administrative Claim Bar Date.**

Except as otherwise provided herein, unless previously Filed or paid, requests for payment of Administrative Expense Claims (other than Ordinary Course Administrative Claims) must be Filed pursuant to the procedures specified in the Confirmation Order and the notice of entry of the Confirmation Order, no later than 60 days after the Effective Date (“Administrative Claims Bar Date”); provided, however, that the Administrative Claims Bar Date may be extended from time to time upon the mutual agreement of the Debtor and the applicable holder of an Administrative Expense Claim, or pursuant to an order of the Court. Holders of Administrative Expense Claims that are required to File a request for payment of such Administrative Expense Claims and that do not File such a request by the applicable Administrative Claims Bar Date will be forever barred from asserting such Administrative Expense Claims against the Debtor, the Estate or their

respective property, and such Administrative Expense Claims will be deemed discharged as of the Effective Date. Unless extended by the Bankruptcy Court or by agreement of the Debtor and the Filing party, objections to such requests must be Filed and served on the requesting party by the later of (A) 120 days after the Effective Date or (B) 60 days after the Filing of the applicable request for payment of Administrative Expense Claims.

**3. Treatment.**

**3.1. Class 1: Allowed KBPI Secured Claim**

**3.1.1 Classification:** Class 1 consists of the Allowed KBPI Secured Claim.

**3.1.2 Treatment:** Unless KBPI and the Debtor agree to a different treatment, the CPB Promissory Note and CPB Mortgage shall be modified on the Effective Date, as follows (hereinafter referred to as the “Modified Note and Modified Mortgage” and together, the “Modified Note and Mortgage”):

**3.1.2.1** The Maturity Date of the Modified Note and Mortgage shall be extended to a date that is the third anniversary of the Effective Date.

**3.1.2.2** The principal amount of the Modified Note shall be an amount equal to the amount outstanding under the CPB Note and CPB



Mortgage as of the Effective Date (estimated to be approximately \$23,500,000, as of September 1, 2011).

**3.1.2.3** The Debtor shall make monthly interest only payments on the Modified Note commencing on the thirtieth (30<sup>th</sup>) day after the Effective Date and on the same day of the month thereafter until the Modified Note is paid in full or matures.

**3.1.2.4** The interest rate on the Modified Note shall be four percentage (4%) points above the 30-day LIBOR rate.

**3.1.2.5** There shall be no rebalancing requirement.

**3.1.2.6** The release price for a partial release of the Modified Mortgage shall be an amount equal to 125% of par value on the then net saleable area, provided, however, that with respect to the Hawaiian Dredging sale of Unit 3, the release price shall be the net sale proceeds, approximately \$1,647,000.

**3.1.2.7** The real property collateral for the Modified Mortgage shall be the Property, subject to the Condominium Property Regime to be filed on the Property.

Class 1 is impaired, and KBPI is entitled to vote to accept or reject the Plan.

**3.2. Class 2: Allowed General Unsecured Claims**

**3.2.1 Classification:** Class 2 consists of Allowed General Unsecured Claims. There are six creditors in Class 2 holding Claims in the amount of \$65,845.03. Creditors in Class 2, are identified on Exhibit "A," attached hereto.

**3.2.2 Treatment:** Holders of Allowed General Unsecured Claims shall be paid in full their Allowed Claims with interest at the rate of 6% per annum in eight equal quarterly installments, beginning on the ninetieth day after the Effective Date, and ending on the second anniversary date of the Effective Date.

Class 2 is impaired, and the holders of Allowed Claims in Class 2 are entitled to vote to accept or reject the Plan.

**3.3. Class 3: Allowed Subordinated Claims**

**3.3.1 Classification:** Class 3 consists of the Allowed Claims that are subordinated pursuant to the Plan. There are eight holders of Allowed Subordinate Claims in the aggregate amount of \$573,905.75. The Creditors in Class 3 are identified on Exhibit "B," attached hereto.

**3.3.2 Treatment:** Holders of Allowed Subordinated Claims shall receive payment in full or pro rata in accordance with return provided them under the Debtor's Operating Agreement, provided that the members of Class 1 and Class 2 have first been paid in full.

Class 3 is impaired and the holders of Subordinated Allowed Claims in Class 3 are entitled to vote to accept or reject the Plan.

**3.4. Class 4: Allowed Equity Interests in Debtor**

**3.4.1 Classification:** Class 4 consists of the Allowed Equity Interests in Debtor. There are seven holders of Equity Interest in the Debtor. The Class 4 Equity Interest Holders are identified on Exhibit "C," attached hereto.

**3.4.2 Treatment:** The holders of the Allowed Equity Interests in the Debtor are unimpaired and shall retain their equity interest in the Debtor in accordance with the terms of the Debtor's Operating Agreement.

Class 4 is unimpaired, and the holder of an Allowed Equity Interest in the Debtor is deemed to accept the Plan.

**3.5. Class 5: Real Property Tax Claims**

**3.5.1 Classification:** Class 5 consists of the Allowed Real Property Tax Claims of the City and County of Honolulu.

**3.5.2 Treatment:** The Real Property Tax Claims will be paid in full at closing of the Hawaiian Dredging Sale. The Real Property Tax Claims totaled approximately \$779,000 as of the Petition Date.

### III.

#### ACCEPTANCE OR REJECTION OF THE PLAN

##### 4.1. Voting Classes.

Each holder of an Allowed Claim in Classes 1, 2, 3, and 5 shall be entitled to vote to accept or reject the Plan.

##### 4.2. Voting Rights Of Holders Of Disputed Claims.

Except as otherwise provided in the Plan, pursuant to Bankruptcy Rule 3018(a), a Disputed Claim that falls within the provisions of Section 1.29(a) and (c) hereof will not be counted for purposes of voting on the Plan to the extent it is disputed, unless an order of the Bankruptcy Court is entered after notice and a hearing temporarily allowing the Disputed Claim for voting purposes under Bankruptcy Rule 3018(a). A Disputed Claim that falls within the provisions of Section 1.29(b) hereof will be counted for purposes of voting on the Plan unless and until such Claim becomes a Disputed Claim that falls within the provisions of Section 1.29(c) hereof. Disallowance of a Disputed Claim for voting purposes is without prejudice to the claimant's right to seek to have its Disputed Claim allowed for purposes of distribution under the Plan.

##### 4.3. Presumed Acceptance And Rejection Of Plan.

Class 4 is unimpaired under the Plan and, therefore, is conclusively presumed by the Bankruptcy Code to accept the Plan.

#### **4.4. Nonconsensual Confirmation.**

In the event that any impaired class of Claims or class of Equity Interests shall fail to accept the Plan in accordance with section 1129(a)(8) of the Bankruptcy Code, the Debtor reserves the right to (i) request that the Bankruptcy Court confirm the Plan in accordance with section 1129(b) of the Bankruptcy Code, and/or (ii) modify the Plan in accordance with section 1127(a) of the Bankruptcy Code.

### **IV.**

#### **IMPLEMENTATION OF THE PLAN**

##### **5.1. General Means Of Implementation**

The Plan will be implemented and consummated through various means contemplated by the Bankruptcy Code, including, without limitation, through the actions and transactions summarized as follows:

##### **1. Funding**

The Plan contemplates that additional capital in the amount of approximately \$1,700,000, will be required to carry out the terms of the Plan. Funding shall be by way of continued capital contributions from the Debtor's members pursuant to the terms of the Capital Contribution Funding Agreement, attached hereto as Exhibit "D."

## **2. Condominium Plan**

The Debtor shall record the Declaration of Condominium Property Regime of Kapolei Business Park Phase 2 substantially in the form attached to the Plan Supplement as Exhibit "A" and the Bylaws of the Association of Unit Owners of Kapolei Business Park Phase 2, substantially in the form attached to the Plan Supplement as Exhibit "B." The Condominium Plan creates nine units as more fully described in the Declaration. The Declaration reserves to the Developer the right to reconfigure the Units as necessary to facilitate the continued development and sale of the Property.

## **3. Executory Contracts**

The Debtor will assume the following agreements:

(i) Exclusive Agreement to Market Real Estate dated February 21, 2008, between Colliers Monroe Friedlander, Inc. ("Colliers") and the Debtor, a copy of which is attached to the Plan Supplement as Exhibit "C," pursuant to which Colliers has and will continue to provide marketing and sales services to the Debtor.

(ii) Development Management Agreement dated March 2005, by and between the Debtor, as Owner, and Lokahi Ventures, LLC ("Lokahi"), as Developer, a copy of which is attached to the Plan Supplement as Exhibit "D,"

pursuant to which Lokahi provides certain development management to the Debtor.

(iii) Management Agreement dated July 1, 2009, by and between the Debtor, as Owner, and Avalon Development Company, as Manager, a copy of which is attached to the Plan Supplement as Exhibit "E," pursuant to which Avalon provides certain management services to the Debtor.

(iv) Purchase and Sale Agreement dated February 28, 2011, by and between the Debtor, as Seller, and Hawaiian Dredging Construction Company, Inc. ("Dredging"), as Buyer, a copy of which is attached to the Plan Supplement as Exhibit "F," pursuant to which Dredging will acquire Unit 3 of the Condominium and, inter alia, construct Driveway "A" as shown on the Condominium Plan.

(v) That certain Letter Agreement, dated April 1, 2010, by and between Hawaiian Electric Company, Inc. and the Debtor, as amended and extended by the parties, a copy of which is attached to the Plan Supplement as Exhibit "I."

**4. Continued Sale of Units**

(i) Within thirty (30) days of the Effective Date, the Debtor shall close the Hawaiian Dredging Sale, subject to such reasonable extension of the closing date as agreed to by the parties.

(ii) The Debtor shall continue the marketing and sale of the remaining units, subject to such reconfiguration of the units as the Debtor may elect, until all such units are sold and the proceeds distributed in accordance with the Plan.

**5. 363 Sale.** In the event all of the Property has not been sold and the Class I claim has not been paid in accordance with the terms of the Plan within thirty-six (36) months of the Effective Date, then in such event, unless Class I otherwise consents, the remaining units shall be sold at public auction, pursuant to Section 363 of the Code within ninety (90) days of the expiration of the thirty-six (36) month period. Said auction shall be conducted upon motion by the Debtor in open court and without an upset price.

**5.2. Provisions for Treatment of Disputed Claims**

Notwithstanding all references in the Plan to Claims that are Allowed, in undertaking the calculations concerning Allowed Claims or Allowed Administrative Expense Claims under the Plan, including the determination of the amount or number of distributions due to the holders of Allowed Claims and



Allowed Administrative Expense Claims, each Disputed Claim shall be treated as if it were an Allowed Claim or Allowed Administrative Expense Claim for purposes of voting on the Plan, except that if the Bankruptcy Court estimates the likely portion of a Disputed Claim to be Allowed or authorized or otherwise determines the amount or number which would constitute a sufficient reserve for a Disputed Claim (which estimates and determinations may be requested by the Reorganized Debtor), such amount or number as determined by the Bankruptcy Court shall be used as to such Claim. Objections to Claims must be filed and served within 180 days of the Effective Date.

### **5.3. Revesting of Assets.**

The Debtor will, as the Reorganized Debtor, continue to exist on and after the Effective Date as a separate entity, formed under the laws of the State of Delaware, with all of the powers of a limited liability company under the applicable non-bankruptcy law, and without prejudice to any right to alter or terminate its existence (whether by merger or otherwise). Except as otherwise provided in the Plan, on and after the Effective Date, all property of the Estate of the Debtor, including all rights of action, and any property acquired by the Debtor under or in connection with the Plan will vest in the Reorganized Debtor free and clear of all Claims, Liens, charges, other encumbrances and interests, except as otherwise provided for herein. On and after the Effective Date, the Reorganized

Debtor may operate its business and may use, acquire and dispose of property and compromise or settle any claims or interests without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules, other than restrictions expressly imposed by the Plan or the Confirmation Order.

#### **5.4. Exemption from Transfer Taxes.**

Pursuant to section 1146(c) of the Bankruptcy Code, any transfers from the Debtor to the Reorganized Debtor or any other Person pursuant to the Plan including (a) the creation of any mortgage deed or trust, or other security interest, and (b) the making of any agreement or instrument in furtherance of, or in connection with, this Plan, shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, stamp act, real estate transfer tax, mortgage recording tax or other similar tax or governmental assessment.

#### **5.5. Post-Confirmation Management and Compensation.**

Post confirmation, the Debtor will continue to be managed by Lokahi KBP, LLC ("LKBP"), pursuant to that certain Development Management Agreement, dated March 2005, as amended, by the Assignment and Assumption of Manager Interests, dated April 2005. Pursuant to the amended agreements which would

only compensate LKBP based on net profits from the development, it is unlikely that LKBP will be compensated during the period of the Plan.

Although the day to day operations of the Debtor are managed by LKBP, the Debtor's development of the project continues to be managed under two management agreements by Lokahi Ventures, LLC and Avalon Development Company. The original Development Management Agreement was amended pursuant to that certain Amendment No. 2 to the Development Management Agreement, dated July 1, 2009, pursuant to which the management of the project was divided between Lokahi Ventures, LLC and Avalon Development Company. Under Amendment No. 2, Lokahi Ventures, LLC receives \$2,500 a month in basic development management fees and is entitled to an additional fee upon the sale of individual units of the Debtor's property equal to three-quarters of 1% of the gross sales price provided that the fee may be reduced pro rata with any equivalent fee paid to Avalon Development Company, all as more fully set forth in Amendment No. 2, a copy of which is attached to the Amended Plan Supplement.

On July 1, 2009, the Debtor also entered into that certain Management Agreement with Avalon Development Company (“Avalon Development Agreement”). Pursuant to the Avalon Development Agreement, Avalon receives \$7,500 a month in basic management fees and will continue to do so during the term of the Plan. Additionally, Avalon is entitled to a sale fee equal to 2.25% of the gross sales price of any sale of the Debtor’s property, subject to a pro rata reduction with regard to any fee that might be paid to Lokahi Ventures, LLC. Additionally, both management agreements provide that the gross commissions on any sale, including any broker’s commissions, cannot exceed 6% of the gross sales price. A copy of the Avalon Management Agreement is attached to the Plan Supplement as Exhibit “E.”

**5.6. Issuance and Execution of Plan Related Documents.**

On and after the Confirmation Date, all actions contemplated by the Plan shall be taken by the Debtor and such actions shall be deemed authorized and approved in all respects (subject to the provisions of the Plan), including, without limitation, the execution and the delivery of, and the performance under, all other documents and agreements contemplated by or relating to the Plan.

**5.7. Occurrence of the Effective Date.**

The Effective Date shall occur on the first Business Day following the satisfaction (or waiver) of the conditions precedent to the occurrence of the Effective Date as set forth in Article VIII hereof.

**5.8. Occurrence of the Debtor's Discharge**

The Debtor's discharge under the Bankruptcy Code, the Plan, and the Confirmation Order shall occur on the Effective Date.

**5.9. Certain Fees and Expenses**

From and after the Effective Date, the expenses incurred in the ordinary course of the Business, fees and expenses of Professional Persons, amounts payable to the U.S. Trustee under 28 U.S.C. § 1930(a)(6), and adequate protection payments, shall be paid by the Debtor, in the ordinary course of business, or pursuant to a Final Order of the Bankruptcy Court.

**V.**

**DISTRIBUTIONS**

**6.1. Reorganized Debtor to Serve as Disbursing Agent.**

The Reorganized Debtor shall serve as the disbursing agent to hold and distribute Cash and such other property as may be distributed pursuant to the Plan.

**6.2. Disputed Claims That Do Not Become Allowed Claims.**

To the extent that a Disputed Claim is disallowed, subordinated, voided, voided for the benefit of the Debtor's Estate, or recharacterized, the Debtor shall not make any distribution on account of such Disputed Claim.

Notwithstanding all references in the Plan to Claims that are Allowed, in undertaking the calculations concerning Allowed Claims or Allowed Administrative Expense Claims under the Plan, including the determination of the amount or number of distributions due to the Holders of Allowed Claims and Allowed Administrative Expense Claims, each Disputed Claim shall be treated as if it were an Allowed Claim, except that if the Bankruptcy Court estimates the likely portion of a Disputed Claim to be Allowed or authorized or otherwise determines the amount or number which would constitute a sufficient reserve for a Disputed Claim (which estimates and determinations may be requested by the Reorganized Debtor), such amount or number as determined by the Bankruptcy Court shall be used as to such Claim.

**6.3. No Distributions To Non-Filing Parties.**

Pursuant to Bankruptcy Rule 3003(c)(2), (a) no distribution under the Plan shall be made to any party whose claim is listed by the Debtor as disputed, contingent, or unliquidated if such party fails to file a Claim, and (b) any and all Claims of such non-filing parties (described in subsection (a)) shall be disallowed.

**6.4. De Minimis Distributions.**

No Cash payment of less than ten dollars (\$10.00) shall be made by the Reorganized Debtor to any holder of a Claim.

**6.5. Record Date For Distributions.**

On the Confirmation Date, there shall be no further changes in the holders of record of Claims. The Debtor shall not recognize any transfer of Claims occurring after the Confirmation Date, but shall instead be entitled to recognize and deal for all purposes with only those holders of record stated on the applicable transfer ledgers on the docket of Claims for the Chapter 11 Case as of the Confirmation Date.

**6.6. Saturday, Sunday, or Legal Holiday.**

If any payment or act under the Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date.

**6.7. Delivery Of Distributions, Address Of Holder.**

For purposes of all notices and Distributions under this Plan, the Debtor shall be entitled to rely on the name and address of the holder of each Claim as specified by, and Distributions to holders of Claims shall be made by regular U.S. first class mail to, the following addresses: (1) the address set forth on

the respective Filed proof of Claim of such holder; (2) the address set forth in any written notice of address change delivered by the holder to the Debtor after the date of any related Filed proof of Claim, or (3) the address reflected on the Schedules if no proof of Claim is Filed and the Debtor has not received a written notice of a change of address.

## VI.

### EXECUTORY CONTRACTS AND UNEXPIRED LEASES

#### 7.1. Rejection Generally

On the Effective Date, all executory contracts or unexpired leases to which the Debtor is a party shall be deemed automatically rejected in accordance with the provisions and requirements of sections 365 and 1123 of the Bankruptcy Code, unless such executory contracts or unexpired leases (i) shall have been previously assumed by the Debtor by Final Order of the Bankruptcy Court, (ii) shall be the subject of a motion to assume pending on or before the Effective Date, (iii) are listed on the schedule of assumed executory contracts or unexpired leases to be filed with the Plan Supplement as Exhibit "H," which will be filed with the Plan Supplement and may be amended through the date that is ten (10) days prior to the Confirmation Hearing, or (iv) are otherwise assumed pursuant to the terms of this Plan. The Debtor reserves the right to amend Plan Supplement Exhibit "H" at any time prior to the Confirmation Date. Entry of the Confirmation Order by the



Bankruptcy Court shall constitute approval of the rejections and assumptions contemplated hereby pursuant to sections 365(a) and 1123 of the Bankruptcy Code as of the Effective Date, including assumption of those executory contracts listed in Section 5.1.3. above. Each executory contract and unexpired lease assumed pursuant to this Article VII shall revest in and be fully enforceable by the Reorganized Debtor in accordance with its terms, except as modified by the provisions of this Plan, or any order of the Bankruptcy Court authorizing and providing for its assumption or applicable federal law.

#### **7.2. Objections to Assumption**

Any party in interest wishing to object to the assumption or assignment of an executory contract or unexpired lease, shall File and serve any objection to such assumption by the same deadline and in the same manner established for filing objections to Confirmation, unless the assumption of such executory contract or unexpired lease is the subject of an amendment to Plan Supplement Exhibit "H," in which case the deadline is the date that is the earlier of: (a) twenty (20) days after the date of such amendment; or (b) the day that is five (5) days before the initial Confirmation Hearing.

#### **7.3. Payments Related To Assumption**

Any defaults under each executory contract and unexpired lease to be assumed under the Plan, shall be cured, pursuant to Bankruptcy Code

Section 365(b)(1), by payment of the amount (“**Cure Amount**”), if any, and shall be paid on or as soon as practicable after the Effective Date by the Debtor or on such terms as may be agreed upon between the parties. In the case of a dispute with respect to such Cure Amount set forth in a timely Filed objection to the assumption or assignment, the Debtor shall pay such Cure Amount in Cash on or as soon as practicable after entry of a Final Order resolving the dispute, and approving the assumption.

#### **7.4. Bar Date For Rejection Claims**

Any Claim by any party to an executory contract or unexpired lease rejected by the Debtor hereunder shall be classified in Class 2, provided, however, that: (a) any Claim arising from rejection of an executory contract or unexpired lease which has not been barred by a prior order of the Bankruptcy Court, shall be forever barred and shall not be enforceable unless a proof of Claim is Filed within 30 days after the mailing of the Notice of Effective Date; and (b) nothing herein shall constitute a waiver of the Claims Bar Date, if applicable.

## VII.

### EFFECTIVENESS OF THE PLAN

#### 8.1. Conditions Precedent.

The Plan shall not become effective (“Effective Date”) unless and until the following conditions shall have been satisfied, or waived by the Debtor in its sole and absolute discretion:

**8.1.1** The Confirmation Order, in form and substance reasonably satisfactory to the Debtor shall be a Final Order.

**8.1.2** The Debtor shall have received an initial infusion of \$1,700,000, in working capital from its members, pursuant to the Capital Contribution Funding Agreement, which contribution shall be made on a date that is not more than 10 business days after the Confirmation Order becomes a Final Order.

#### 8.2. Notice Of Effective Date.

As soon as practicable after the Effective Date has occurred, the Debtor shall File with the Bankruptcy Court, and serve on the members of the various Classes, an informational notice specifying the Effective Date, as a matter of record.

## VIII.

### CRAMDOWN

#### 9.1. Cramdown Request

The Debtor requests Confirmation under section 1129(b) of the Bankruptcy Code with respect to any impaired Class that does not accept the Plan pursuant to section 1126 of the Bankruptcy Code. The Debtor reserves the right to modify the Plan to the extent, if any, that Confirmation pursuant to section 1129(b) of the Bankruptcy Code requires modification.

## IX.

### RETENTION OF JURISDICTION AND

### MISCELLANEOUS MATTERS

#### 10.1. Retention of Jurisdiction

Notwithstanding the entry of the Confirmation Order or the occurrence of the Effective Date, the Bankruptcy Court shall retain jurisdiction over the Chapter 11 Case and any of the proceedings related to the Chapter 11 Case pursuant to section 1142 of the Bankruptcy Code and 28 U.S.C. § 1334 to the fullest extent permitted by the Bankruptcy Code and other applicable law, including, without limitation, such jurisdiction as is necessary to ensure that the purpose and intent of the Plan are carried out, provided, however, that the Bankruptcy Court shall not have jurisdiction with respect to Tax Claims that arise

solely after the Effective Date. Without limiting the generality of the foregoing, the Bankruptcy Court shall retain jurisdiction for the following purposes:

(a) establish the priority or secured or unsecured status of, allow, disallow, determine, liquidate, classify, or estimate any Claim or Administrative Expense Claim;

(b) grant or deny any applications for allowance of compensation or reimbursement of expenses authorized pursuant to the Bankruptcy Code or the Plan, for periods ending on or before the Effective Date;

(c) resolve any matters related to the assumption, assumption and assignment or rejection of any executory contract or unexpired lease to which the Debtor is a party or with respect to which the Debtor may be liable, and to hear, determine and, if necessary, liquidate any Claims or Administrative Expenses arising therefrom;

(d) ensure that Distributions to holders of Allowed Claims or Administrative Expense Claims are made pursuant to the provisions of the Plan, and to effectuate performance of the provisions of the Plan;

(e) decide or resolve any motions, adversary proceedings, contested or litigated matters and any other matters and grant or deny any applications involving the Debtor that may be pending before the Effective Date or that may be commenced thereafter;

(f) except as otherwise provided in the Confirmation Order or in the Plan, enter such orders as may be necessary or appropriate to implement or consummate the provisions of the Plan and all contracts, instruments, releases, indentures and other agreements or documents created in connection with the Plan, the Disclosure Statement, or the Confirmation Order, including, without limitation, any stay orders as may be appropriate in the event that the Confirmation Order is for any reason stayed, revoked, modified or vacated;

(g) resolve any cases, controversies, suits or disputes that may arise in connection with the consummation, interpretation or enforcement of the Plan, or the Confirmation Order, including the release and injunction provisions set forth in and contemplated by the Plan and the Confirmation Order or any Person's rights arising under or obligations incurred in connection with the Plan, or the Confirmation Order;

(h) subject to the restrictions on modifications provided in any contract, instrument, release, indenture or other agreement or document created in connection with the Plan, modify the Plan before or after the Effective Date pursuant to section 1127 of the Bankruptcy Code or modify the Disclosure Statement, the Confirmation Order or any contract, instrument, release, indenture or other agreement or document created in connection with the Plan, the Disclosure Statement, or the Confirmation Order; or remedy any defect or omission or

reconcile any inconsistency in any Bankruptcy Court order, the Plan, the Disclosure Statement, or the Confirmation Order, or any contract, instrument, release, indenture or other agreement or document created in connection with the Plan, the Disclosure Statement, or the Confirmation Order, in such manner as may be necessary or appropriate to consummate the Plan;

(i) issue injunctions, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any Person with the consummation, implementation or enforcement of the Plan or, the Confirmation Order,

(j) consider and act on the compromise and settlement of any Claim against, or Right of Action of the Debtor;

(k) enter such orders as may be necessary or appropriate in connection with the recovery of the assets of the Debtor, wherever located;

(l) determine such other matters as may be provided for in the Confirmation Order or as may from time to time be authorized under the provisions of the Bankruptcy Code or any other applicable law;

(m) enforce all orders, judgments, injunctions, releases, exculpations, indemnifications and rulings issued or entered in connection with the Chapter 11 Case, or the Plan;

(n) determine any other matters that may arise in connection with or relate to the Plan, the Disclosure Statement, the Confirmation Order, or any contract, instrument, release, indenture or other agreement or document created in connection with the Plan, the Disclosure Statement, or the Confirmation Order, except as otherwise provided in the Plan;

(o) determine any other matter not inconsistent with the Bankruptcy Code; and

(p) enter an order concluding the Chapter 11 Case.

## **10.2. Headings**

The headings used in the Plan are inserted for convenience only and neither constitute a portion of the Plan nor in any manner affect the construction of the provisions of the Plan.

## **10.3. Notices**

All notices and requests in connection with the Plan shall be in writing and shall be hand delivered or sent by mail addressed to:

If to Debtor:

LV Kapolei 54, LLC  
One Embarcadero Center, Suite 2405  
San Francisco, California 94111  
Facsimile: (415) 391-4430  
Phone: (415) 391-4440

Copy to:

Wagner Choi & Verbrugge  
745 Fort Street, Suite 1900  
Honolulu, HI 96813-3820



Attn: James A. Wagner  
Facsimile: (808) 566-6900  
Phone: (808) 533-1877

#### **10.4. Successors and Assigns**

The rights, duties and obligations of any Person named or referred to in the Plan shall be binding upon, and shall inure to the benefit of, the successors and assigns of such Person.

#### **10.5. Severability of Plan Provisions**

If, prior to Confirmation, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void or unenforceable, the Bankruptcy Court will have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision will then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of the Plan will remain in full force and effect and will in no way be affected, impaired or invalidated by such holding, alteration or interpretation. The Confirmation Order will constitute a judicial determination that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to their terms.

#### **10.6. No Waiver**

Neither the failure to list a Claim in the Schedules filed by the Debtor, the failure of any Person to object to any Claim for purposes of voting, the failure of any Person to object to a Claim or Administrative Expense Claim prior to Confirmation or the Effective Date, the failure of any Person to assert a Right of Action prior to Confirmation or the Effective Date, the absence of a proof of Claim having been Filed with respect to a Claim, nor any action or inaction of any Person with respect to a Claim, Administrative Expense Claim, or Right of Action other than a legally effective express waiver or release shall be deemed a waiver or release of the right of the Debtor or its successors or representatives, before or after solicitation of votes on the Plan or before or after Confirmation or the Effective Date to (a) object to or examine such Claim or Administrative Expense Claim, in whole or in part or (b) retain and either assign or exclusively assert, pursue, prosecute, utilize, otherwise act or otherwise enforce any Rights of Action.

#### **10.7. Inconsistencies**

In the event the terms or provisions of the Plan are inconsistent with the terms and provisions of the exhibits to the Plan or documents executed in connection with the Plan, the terms of such documents shall control; provided, however, in the event of a conflict between either the Plan or such documents or exhibits and the Confirmation Order, the Confirmation Order shall control.

#### **10.8. Payment of Statutory Fees**

All quarterly fees due and payable to the Office of the United States Trustee pursuant to section 1930(a)(6) of title 28 of the United States Code shall be duly paid in full as and when due, as required by section 1129(a)(12) of the Bankruptcy Code.

#### **10.9. Indemnification Obligations.**

The Reorganized Debtor shall indemnify, to the fullest extent required by the Reorganized Debtor's constituent documents and applicable non-bankruptcy law, any person serving as a manager of the Reorganized Debtor for any act or omission of such person as a manager of the Debtor, regardless of whether such act or omission occurred prior to or after the Petition Date.

#### **10.10. Governing Law**

Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and Bankruptcy Rules), the laws of the State of Hawaii (without reference to its conflict of law rules) shall govern the construction and implementation of the Plan and any agreements, documents, and instruments executed in connection with the Plan, unless otherwise specifically provided in such agreements, documents, or instruments.

### **10.11. Withholding, Reporting, And Payment Of Taxes**

In connection with the Plan and all instruments issued in connection therewith and distributions thereon, the Debtor shall comply with all withholding and reporting requirements imposed by any federal, state, local, or foreign taxing authority and all distributions hereunder shall be subject to any such withholding and reporting requirements. The Debtor shall report and pay taxes as may be required by applicable law. In addition, to the extent required by applicable law, reported distributions from such reserves shall include all interest and investment income, if any, attributable to the Cash or property being distributed net of taxes which are, or are estimated to be, due and payable thereon.

## **X.**

### **EFFECT OF CONFIRMATION**

#### **11.1. Binding Effect of Confirmation**

Confirmation will bind the Debtor, all holders of Equity Interests, Claims or Administrative Expense Claims and other parties in interest to the provisions of the Plan whether or not the Equity Interest, Claim or Administrative Expense Claim of such holder is impaired under the Plan and whether or not the holder of such Claim, Administrative Expense Claim or Equity Interest has accepted the Plan.

### **11.2. Good Faith**

Confirmation of the Plan shall constitute a finding that: (i) this Plan has been proposed by the Debtor in good faith and in compliance with applicable provisions of the Bankruptcy Code; (ii) all Persons' solicitations of acceptances or rejections of this Plan and the offer, issuance, sale, or purchase of a security offered or sold under the Plan have been in good faith and in compliance with applicable provisions of the Bankruptcy Code.

### **11.3. No Limitations on Effect of Confirmation**

Nothing contained in the Plan will limit the effect of Confirmation as described in section 1141 of the Bankruptcy Code.

### **11.4. Discharge of Claims, Administrative Expenses and Interests**

Except as provided in the Plan or Confirmation Order, as of the Effective Date the rights afforded hereunder and the treatment of Claims, Administrative Expense Claims and Equity Interests hereunder will be in exchange for and in complete satisfaction, discharge and release of all Claims, Administrative Expense Claims and Equity Interests, including any interest accrued on Claims from the Petition Date. Except as provided in the Plan or the Confirmation Order, Confirmation will discharge the Debtor from all Claims, Administrative Expense Claims or other debts that arose before the Confirmation Date and all debts of the kind specified in sections 502(g), 502(h) or 502(i) of the

Bankruptcy Code, whether or not (a) a proof of Claim based on such debt is Filed or deemed Filed pursuant to section 501 of the Bankruptcy Code, (b) a Claim based on such debt is allowed pursuant to section 502 of the Bankruptcy Code or (c) the holder of a Claim or Administrative Expense Claim based on such debt has accepted the Plan. As of the Effective Date, except as provided in the Plan or the Confirmation Order, all Persons shall be precluded from asserting against the Debtor, its respective successors or property, any other or further claims, debts, rights, causes of action, liabilities or equity interests based upon any act, omission, transaction or other activity of any nature that occurred prior to the Effective Date.

#### **11.5. Judicial Determination of Discharge**

As of the Effective Date, except as provided in the Plan or in the Confirmation Order, all Persons shall be precluded from asserting against the Debtor any other or further Claims, Administrative Expense Claims, debts, rights, causes of action, liabilities, or equity interests based on any act, omission, transaction or other activity of any kind or nature that occurred before the Effective Date. In accordance with the foregoing, except as provided in the Plan or in the Confirmation Order, the Confirmation Order will be a judicial determination of discharge of all such Claims, Administrative Expense Claims and other debts and liabilities against the Debtor, pursuant to sections 524 and 1141 of the Bankruptcy Code, and such discharges shall void any judgment obtained against the Debtor, at

any time, to the extent that such judgment relates to a discharged liability, Claim, or Administrative Expense Claim. Notwithstanding the foregoing, federal and state governmental agencies shall not be subject to the foregoing injunction with respect to the exercise and enforcement of any of their respective regulatory or police rights and powers.

### **11.6. Injunctions**

**11.6.1** Except as provided in the Plan or the Confirmation Order, as of the Effective Date, all Persons that have held, currently hold or may hold a Claim or other debt or liability, or Equity Interest, that is satisfied or released, as applicable, will be permanently enjoined from taking any of the following actions on account of any such discharged or satisfied Claims, debts or liabilities:

(a) commencing or continuing in any manner any action or other proceeding against the Debtor, the Estate, or their respective property, other than to enforce any right pursuant to the Plan to a distribution; (b) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order against the Debtor, the Estate, or their respective property, other than as permitted pursuant to (a) above; (c) creating, perfecting or enforcing any Lien or encumbrance against the Debtor, the Estate, or their respective property; (d) asserting a setoff, right of subrogation or recoupment of any kind against any debt, liability or obligation due to the Debtor or the Estate; and (e) commencing or continuing any action, in any

manner, in any place that does not comply with or is inconsistent with the provisions of the Plan, provided however, that nothing herein shall affect or otherwise impair the existing right of setoff by the United States of mutual pre-petition obligations. Notwithstanding the foregoing, federal and state governmental agencies shall not be subject to the foregoing injunction with respect to the exercise and enforcement of any of their respective regulatory or police rights and powers.

**11.6.2** As of the Effective Date, all Persons that have held, currently hold or may hold any claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action or liabilities that are released pursuant to the Plan will be permanently enjoined from taking any of the following actions against any Person or its property on account of such released claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action or liabilities, including, without limitation: (a) commencing or continuing in any manner any action or other proceeding; (b) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order; (c) creating, perfecting or enforcing any Lien; (d) asserting a setoff, right of subrogation or recoupment of any kind against any debt, liability or obligation due to any Person; and (e) commencing or continuing any action, in any manner, in any place that does not comply with or is inconsistent with the provisions of the Plan. Notwithstanding the foregoing,



federal and state governmental agencies shall not be subject to the foregoing injunction with respect to the exercise and enforcement of any of their respective regulatory or police rights and powers.

## **XI.**

### **MODIFICATION OR WITHDRAWAL OF PLAN**

**12.1.** The Debtor may seek to amend or modify the Plan at any time prior to its Confirmation in the manner provided by section 1127 of the Bankruptcy Code or as otherwise permitted by law without additional disclosure pursuant to section 1125 of the Bankruptcy Code, except as the Bankruptcy Court may otherwise order, and the Debtor reserves the right to amend the terms of the Plan or waive any conditions to its Confirmation, effectiveness or consummation if the Debtor determines that such amendments or waivers are necessary or desirable to confirm, effectuate or consummate the Plan.

**12.2.** After confirmation of the Plan, the Debtor may apply to the Bankruptcy Court, pursuant to section 1127 of the Bankruptcy Code, to modify the Plan. After confirmation of the Plan, the Debtor may apply to remedy defects or omissions in the Plan or to reconcile inconsistencies in the Plan.

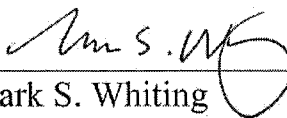
**XII.**

**CONFIRMATION REQUEST**

**13.1.** The Debtor requests that the Court confirm the Plan and that it do so, if applicable, pursuant to section 1129(b) of the Bankruptcy Code notwithstanding the rejection of the Plan by any impaired Class.

DATED: Honolulu, Hawaii, as of June 17, 2011.

LV KAPOLEI 54, LLC

  
Mark S. Whiting

Submitted by:

/s/ James A. Wagner  
JAMES A. WAGNER  
ALLISON A. ITO  
Attorneys for Debtor and Debtor-in-Possession  
LV KAPOLEI 54, LLC

**LV KAPOLEI 54, LLC**  
**PLAN OF REORGANIZATION**

**Class 2 Allowed General Unsecured Claims**

<b>CREDITOR</b>	<b>ALLOWED AMOUNT</b>
Avalon Development Company	23,560.20
Bays Lung	3,722.51
Belt Collins	533.75
Crowell Moring	3,124.00
Lokahi Ventures, LLC	27,500.00
Price Okamoto Himeno & Lum	7,404.57

**EXHIBIT "A"**

66930

**LV KAPOLEI 54, LLC**  
**PLAN OF REORGANIZATION**

**Class 3 Allowed Subordinated Claims**

<b>CREDITOR</b>	<b>ALLOWED AMOUNT</b>
BGF&F Kapolei, LLC	1,196.00
HG Capital VI, LLC	13,893.75
HG Capital VII, LLC	28,856.25
Lokahi KBP, LLC	57,000.00
Lokahi Ventures, LLC	142,500.00
Maui Development Company, Ltd.	5,210.00
Mark E. Pearson	2,085.00
RSF Kapolei, L.P.	322,004.75

**EXHIBIT "B"**

**LV KAPOLEI 54, LLC**  
**PLAN OF REORGANIZATION**

**Class 4 Allowed Equity Interests**

<b>EQUITY HOLDER</b>	<b>ALLOWED EQUITY INTEREST</b>
Lokahi KBP, LLC	10.000%
RSF Kapolei, L.P.	31.333%
HG Capital VI, LLC	18.525%
HG Capital VII, LLC	38.475%
Maui Development Company, Ltd.	1.042%
Mark E. Pearson	0.417%
BGF&F Kapolei, LLC	0.208%
	<b>TOTAL 100.00%</b>

**EXHIBIT "C"**

**CAPITAL CONTRIBUTION FUNDING AGREEMENT  
OF  
LV KAPOLEI 54, LLC**

This Agreement is entered into as of \_\_\_\_\_, 2011, by and between LV KAPOLEI 54, LLC, a Delaware limited liability company ("Debtor") and its members LOKAHI VENTURES, LLC, a Colorado limited liability company; HG CAPITAL VI, LLC, a California limited liability company; HG CAPITAL VII, LLC, a Delaware limited liability company; and RSF KAPOLEI, L.P., a Texas limited partnership.

WHEREAS, on February 22, 2005, the Members formed LV Kapolei 54, LLC;

WHEREAS, as of the date of this Agreement, the respective Members' ownership interest in the Debtor is as set forth in Exhibit "A," attached hereto and incorporated herein by reference;

WHEREAS, on April 8, 2011, the Debtor filed for relief under Chapter 11 of the U.S. Bankruptcy Code, commencing that certain proceeding entitled, *In re LV Kapolei 54, LLC*; Case No. 11-00981;

WHEREAS, on June 17, 2011, the Debtor filed that certain Plan of Reorganization for the Debtor;

WHEREAS, pursuant to the Plan, the Debtor requires infusion of additional capital in the amount of approximately \$1,700,000 to carry out the terms of the Plan;

WHEREAS, pursuant to the terms of the Debtor's Operating Agreement, Members may, but are not required, to make capital contributions;

WHEREAS, it would be beneficial to the feasibility of the Debtor's Plan if the Members agreed to fund the necessary additional capital required under the Debtor's Plan.

NOW, THEREFORE, the Members agree as follows:

1. Funding Commitment. Each Member agrees to fund the Members' pro rata portion pursuant to the terms of the Debtor's Operating Agreement, based upon each Member's Equity Percentage Interest in the Debtor as set forth on Schedule A, attached hereto, of such capital calls as may be made by the Debtor's manager from time-to-time up to the total aggregate amount of \$1,700,000.

**EXHIBIT "D"**

2. Condition Precedent. This Agreement is contingent upon the Hawaiian Dredging Sale closing and the initial funding under this commitment shall occur contemporaneously with the Hawaiian Dredging Sale closing.

3. Effective Date. This Agreement shall take effect on the Effective Date of the Debtor's Plan or Reorganization.

IN WITNESS WHEREOF, the undersigned parties have executed this Agreement as of the date first written above.

LV Kapolei 54, LLC,  
a Delaware limited liability company

By \_\_\_\_\_

Mark Whiting  
as the sole member of Makena Capital, LLC, a co-manager  
of Lokahi KBP, LLC, the Manager of LV Kapolei 54, LLC,  
a Delaware limited liability company

LOKAHI VENTURES, LLC,  
a Colorado limited liability company

By \_\_\_\_\_

Its \_\_\_\_\_

HG Capital VI, LLC,  
a California limited liability company

By: HG Capital, LLC,  
a Delaware limited liability company,  
Manager

By: \_\_\_\_\_  
Henry J.H. Bandet, President

HG Capital VII, LLC,  
a Delaware limited liability company

By: HG Capital Partners VII, LLC,  
a Delaware limited liability company,  
Managing Member

By: \_\_\_\_\_  
Henry J.H. Bandet, President

RSF Kapolci, L.P.,  
a Texas limited partnership

By: Mahowald Group III, LLC,  
a Texas limited liability company,  
General Partner

By: \_\_\_\_\_  
Christopher W. Mahowald, President



**CAPITAL CONTRIBUTION FUNDING AGREEMENT**

**OF**

**LV KAPOLEI 54, LLC**

<b>EQUITY HOLDER</b>	<b>ALLOWED EQUITY INTEREST</b>
Lokahi KBP, LLC	10.000%
RSF Kapolei, L.P.	31.333%
HG Capital VI, LLC	18.525%
HG Capital VII, LLC	38.475%
Maui Development Company, Ltd.	1.042%
Mark E. Pearson	0.417%
BGF&F Kapolei, LLC	0.208%
	TOTAL 100.00%

**EXHIBIT "A"**

LV Kapelei 54, LLC - Projections through December 2014

	Total - 2011	Total - 2012	Total - 2013	Total - 2014	Total
<b>Total Income</b>	\$1,647,213	\$13,268,745	\$8,022,030	\$22,563,503	\$45,501,491
Monthly Operating Expenses					
Development and Property Management Fees	\$90,075	\$124,241	\$124,241	\$124,241	\$462,797
Other Fees: Accounting Etc	\$3,000	\$5,000	\$5,000	\$5,000	\$18,000
Property Insurance	\$2,340	\$3,500	\$15,000	\$10,000	\$30,840
Real Property Taxes	\$779,784	\$273,412	\$250,000	\$200,000	\$1,503,195
General Engineering and Architecture: Revise Grading Plans, Drainage plan, and NPDES- Per Estimate Belt Collins- Includes Erosion Control	\$75,000	\$125,000	\$0	\$0	\$200,000
Condo Documentation	\$1,000	\$0	\$0	\$0	\$1,000
HECO Survey	\$6,000	\$0	\$0	\$0	\$6,000
Permit Extension Fee	\$3,000	\$0	\$0	\$0	\$3,000
Title Report- HDCC	\$1,000	\$0	\$0	\$0	\$1,000
Legal -General/ PSA prep, etc.	\$17,500	\$30,000	\$30,000	\$30,000	\$107,500
Misc. Contingency, Administrative, Travel, etc.	\$28,000	\$42,000	\$42,000	\$42,000	\$154,000
<b>General Operating Expenses- Estimated</b>	\$1,006,698	\$603,153	\$466,241	\$411,241	\$2,487,332
Infrastructure Costs	\$0	\$500,000	\$3,500,000	\$3,500,000	\$7,500,000
<b>Net Operating Income before debt service</b>	\$640,515	\$12,165,593	\$4,055,789	\$18,652,262	\$35,514,158
Estimated Interest Expense @5%	\$361,046	\$846,958	\$534,698	\$247,450	\$1,990,151
Principal Reduction	\$1,647,213	\$8,847,095	\$4,209,197	\$8,781,865	\$23,485,370
Payments to Class 2 Unsecured Creditors	\$8,988	\$35,954	\$26,965	\$0	\$71,908
<b>Net Cash Flow</b>	(\$1,376,733)	\$2,435,586	(\$715,071)	\$9,622,947	\$9,966,729

EXHIBIT 2

**Sales Assumptions**

Lot Number	Acres	Square Feet	Projected Sale Date	Listing Price per Square foot	Adjustments *	Projected Sales Price/PSF	Projected Sales Price	Available Square feet	Ending Loan Amount	Release Price @1.25%	Release Price @1.25%
									23,485,370		
3 **	4.00	174,240	10/1/2011	\$17.00	(\$3.50)	\$13.50	\$2,352,240	1,979,715	21,838,157	*	(\$1,647,213)
5	1.17	50,878	3/1/2012	\$27.00	\$0.00	\$27.00	\$1,373,708	1,928,837	21,136,614	\$13.79	(\$701,543)
4	2.00	87,120	3/1/2012	\$28.00	\$0.00	\$28.00	\$2,439,360	1,841,717	19,943,264	\$13.70	(\$1,193,350)
7	4.00	174,240	5/1/2012	\$25.00	\$0.00	\$25.00	\$4,356,000	1,667,477	17,584,789	\$13.54	(\$2,358,475)
8	8.00	348,480	9/1/2012	\$17.50	\$0.00	\$17.50	\$6,098,400	1,318,997	12,991,062	\$13.18	(\$4,593,728)
9	4.00	174,284	4/1/2013	\$22.00	\$0.00	\$22.00	\$3,834,238	1,144,713	10,845,370	\$12.31	(\$2,145,692)
2	4.00	174,240	9/1/2013	\$27.50	\$0.00	\$27.50	\$4,791,600	970,473	8,781,865	\$11.84	(\$2,063,505)
1	4.41	192,143	4/1/2014	\$25.00	\$0.00	\$25.00	\$4,803,579	778,330	6,608,473	\$11.31	(\$2,173,392)
6	17.87	778,330	9/1/2014	\$25.00	\$0.00	\$25.00	\$19,458,252	0		\$0.00	(\$6,608,473)
<b>Total Net Acres</b>	<b>49.448</b>	<b>2,153,955</b>			<b>Total Sales</b>	<b>\$22.98</b>	<b>\$49,507,377</b>				<b>(\$23,485,370)</b>

\* In escrow with Hawaiian Dredging. Hawaiian Dredging to provide construction of "Roadway A" at estimated cost of \$3.50. (\$609, 840). NOTE- The release price less than 1.25% of PAR on Loan due to escrows to ensure completion and delivery of electrical service and other contingencies. However, 100% of net proceeds to go to lender.

	Apr-11	May-11	Jun-11	Jul-11	Aug-11	Sep-11	Oct-11	Nov-11	Dec-11	Total - 2011
<b>Monthly Income</b>										
<b>LOT #3- Purchase Price Gross</b>							\$2,265,120			\$2,265,120
Sales Commissions @6%							(\$135,907)			(\$135,907)
Misc Sales costs							(\$32,000)			(\$32,000)
Electrical Service/Cable Set aside							(\$350,000)			(\$350,000)
Increase from LOI to PSA design changes							(\$50,000)			(\$50,000)
Change order Set aside							(\$50,000)			(\$50,000)
<b>Net Sales Proceeds- Lot #3</b>							<b>\$1,647,213</b>			<b>\$1,647,213</b>
<b>Purchase Price Gross-Lot #5</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Sales Commissions @6%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Misc Sales costs @1%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Net Sales Proceeds- Lot #5</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Purchase Price Gross-Lot #4</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Sales Commissions @6%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Misc Sales costs @1%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Net Sales Proceeds- Lot #4</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Purchase Price Gross-Lot #7</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Sales Commissions @6%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Misc Sales costs @1%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Net Sales Proceeds- Lot #7</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Purchase Price Gross-Lot #8</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Sales Commissions @6%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Misc Sales costs @1%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Net Sales Proceeds- Lot #8</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Purchase Price Gross-Lot #9</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Sales Commissions @6%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Misc Sales costs @1%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Net Sales Proceeds- Lot #9</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Purchase Price Gross-Lot #2</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Sales Commissions @6%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Misc Sales costs @1%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Net Sales Proceeds- Lot #2</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Purchase Price Gross- Lot #6</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Sales Commissions @6%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Misc Sales costs @1%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Net Sales Proceeds- Lot #6</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Purchase Price Gross- Lot #1</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Sales Commissions @6%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Misc Sales costs @1%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Net Sales Proceeds- Lot #1</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Total Income</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$1,647,213	\$0	\$0	\$1,647,213

	Apr-11	May-11	Jun-11	Jul-11	Aug-11	Sep-11	Oct-11	Nov-11	Dec-11	Total - 2011
<b>Monthly Operating Expenses</b>										
Development and Property Management Fees	\$7,247	\$10,353	\$10,353	\$10,353	\$10,353	\$10,353	\$10,353	\$10,353	\$10,353	\$90,075
Other Fees: Accounting Etc		\$3,000	\$0	\$0	\$0	\$0				\$3,000
Property Insurance	\$2,340									\$2,340
Real Property Taxes	\$0	\$0	\$0	\$0	\$0	\$779,784				\$779,784
General Engineering and Architecture; Revise Grading Plans, Drainage plan, and NPDES- Per Estimate Belt Collins- Includes Erosion Control	\$0	\$0	\$15,000	\$25,000	\$35,000	\$0				\$75,000
Condo Documentation	\$0	\$0	\$0	\$1,000						\$1,000
HECO Survey		\$6,000								\$6,000
Permit Extension Fee			\$3,000							\$3,000
Title Report- HDCC				\$1,000						\$1,000
Legal -General/ PSA prep, etc.	\$0	\$0	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500	\$17,500
Misc. Contingency, Administrative, Travel, etc.	\$0	\$3,500	\$3,500	\$3,500	\$3,500	\$3,500	\$3,500	\$3,500	\$3,500	\$28,000
General Operating Expenses- Estimated	\$9,587	\$22,853	\$34,353	\$43,353	\$51,353	\$796,137	\$16,353	\$16,353	\$16,353	\$1,006,698
Infrastructure Costs	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Net Operating Income before debt service	(\$9,587)	(\$22,853)	(\$34,353)	(\$43,353)	(\$51,353)	(\$796,137)	\$1,650,859	(\$16,353)	(\$16,353)	\$640,515
Payments to Creditors										
Estimated Interest Expense @5%	\$0	\$0	\$0	\$0	\$0	\$90,992	\$90,992	\$90,992	\$88,069	\$361,046
Principal Reduction	\$0	\$0	\$0	\$0	\$0	\$0	\$1,647,213	\$0	\$0	\$1,647,213
Payments to Class 2 Unsecured Creditors	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$8,988	\$8,988
Net Cash Flow	(\$9,587)	(\$22,853)	(\$34,353)	(\$43,353)	(\$51,353)	(\$887,129)	(\$107,346)	(\$107,346)	(\$113,411)	(\$1,376,733)
	(\$9,587)	(\$32,441)	(\$66,794)	(\$110,147)	(\$161,501)	(\$1,048,630)	(\$1,155,976)	(\$1,263,321)	(\$1,376,733)	(\$1,376,733)

	Jan-12	Feb-12	Mar-12	Apr-12	May-12	Jun-12	Jul-12	Aug-12	Sep-12	Oct-12	Nov-12	Dec-12	Total - 2012
<b>Monthly Income</b>													
LOT #3- Purchase Price Gross													
Sales Commissions @6%													
Misc Sales costs													
Electrical Service/Cable Set aside													
Increase from LOI to PSA design changes													
Change order Set aside													
<b>Net Sales Proceeds- Lot #3</b>													
Purchase Price Gross-Lot #5	\$0	\$0	\$1,373,708	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$1,373,708
Sales Commissions @6%	\$0	\$0	(\$82,422)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	(\$82,422)
Misc Sales costs @1%	\$0	\$0	(\$13,737)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	(\$13,737)
<b>Net Sales Proceeds- Lot #5</b>	\$0	\$0	\$1,277,549	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$1,277,549
Purchase Price Gross-Lot #4	\$0	\$0	\$2,439,360	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$2,439,360
Sales Commissions @6%	\$0	\$0	(\$146,362)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	(\$146,362)
Misc Sales costs @1%	\$0	\$0	(\$24,394)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	(\$24,394)
<b>Net Sales Proceeds- Lot #4</b>	\$0	\$0	\$2,268,605	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$2,268,605
Purchase Price Gross-Lot #7	\$0	\$0	\$0	\$0	\$4,356,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$4,356,000
Sales Commissions @6%	\$0	\$0	\$0	\$0	(\$261,360)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	(\$261,360)
Misc Sales costs @1%	\$0	\$0	\$0	\$0	(\$43,560)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	(\$43,560)
<b>Net Sales Proceeds- Lot #7</b>	\$0	\$0	\$0	\$0	\$4,051,080	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$4,051,080
Purchase Price Gross-Lot #8	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$6,098,400	\$0	\$0	\$0	\$6,098,400
Sales Commissions @6%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	(\$365,904)	\$0	\$0	\$0	(\$365,904)
Misc Sales costs @1%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	(\$60,984)	\$0	\$0	\$0	(\$60,984)
<b>Net Sales Proceeds- Lot #8</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$5,671,512	\$0	\$0	\$0	\$5,671,512
Purchase Price Gross-Lot #9	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Sales Commissions @6%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Misc Sales costs @1%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Net Sales Proceeds- Lot #9</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Purchase Price Gross-Lot #2	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Sales Commissions @6%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Misc Sales costs @1%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Net Sales Proceeds- Lot #2</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Purchase Price Gross- Lot #6	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Sales Commissions @6%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Misc Sales costs @1%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Net Sales Proceeds- Lot #6</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Purchase Price Gross- Lot #1	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Sales Commissions @6%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Misc Sales costs @1%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Net Sales Proceeds- Lot #1</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Total Income</b>	\$0	\$0	\$3,546,153	\$0	\$4,051,080	\$0	\$0	\$0	\$5,671,512	\$0	\$0	\$0	\$13,268,745

	Jan-12	Feb-12	Mar-12	Apr-12	May-12	Jun-12	Jul-12	Aug-12	Sep-12	Oct-12	Nov-12	Dec-12	Total - 2012
<b>Monthly Operating Expenses</b>													
Development and Property Management Fees	\$10,353	\$10,353	\$10,353	\$10,353	\$10,353	\$10,353	\$10,353	\$10,353	\$10,353	\$10,353	\$10,353	\$10,353	\$124,241
Other Fees: Accounting Etc		\$5,000											\$5,000
Property Insurance		\$136,706		\$3,500				\$136,706					\$3,500
Real Property Taxes													\$273,412
General Engineering and Architecture: Revise Grading Plans, Drainage plan, and NPDES- Per Estimate Belt Collins- Includes Erosion Control	\$25,000	\$25,000	\$25,000	\$25,000	\$25,000								\$125,000
Condo Documentation													\$0
HECO Survey													\$0
Permit Extension Fee													\$0
Title Report- HDCC													\$0
Legal -General/ PSA prep, etc.	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500	\$30,000
Misc. Contingency, Administrative, Travel, etc.	\$3,500	\$3,500	\$3,500	\$3,500	\$3,500	\$3,500	\$3,500	\$3,500	\$3,500	\$3,500	\$3,500	\$3,500	\$42,000
General Operating Expenses- Estimated	\$41,353	\$183,059	\$41,353	\$44,853	\$41,353	\$16,353	\$16,353	\$153,059	\$16,353	\$16,353	\$16,353	\$16,353	\$603,153
Infrastructure Costs	\$0	\$0	\$250,000	\$0	\$250,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$500,000
Net Operating Income before debt service	(\$41,353)	(\$183,059)	\$3,254,800	(\$44,853)	\$3,759,727	(\$16,353)	(\$16,353)	(\$153,059)	\$5,655,159	(\$16,353)	(\$16,353)	(\$16,353)	\$12,165,593
Payments to Creditors													
Estimated Interest Expense @5%	\$88,069	\$83,097	\$83,097	\$83,097	\$73,270	\$73,270	\$73,270	\$73,270	\$54,129	\$54,129	\$54,129	\$54,129	\$846,958
Principal Reduction	\$0	\$0	\$1,894,893	\$0	\$2,358,475	\$0	\$0	\$0	\$4,593,728	\$0	\$0	\$0	\$8,847,095
Payments to Class 2 Unsecured Creditors	\$0	\$0	\$8,988	\$0	\$0	\$8,988	\$0	\$0	\$8,988	\$0	\$0	\$8,988	\$35,954
Net Cash Flow	(\$129,423)	(\$266,156)	\$1,267,822	(\$127,950)	\$1,327,982	(\$98,612)	(\$89,623)	(\$226,329)	\$998,313	(\$70,483)	(\$70,483)	(\$79,471)	\$2,435,586
	(\$1,506,159)	(\$1,772,311)	(\$504,489)	(\$632,440)	\$695,542	\$596,930	\$507,307	\$280,977	\$1,279,290	\$1,208,808	\$1,138,325	\$1,058,853	\$1,058,853

	Jan-13	Feb-13	Mar-13	Apr-13	May-13	Jun-13	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Total - 2013
<b>Monthly Income</b>													
<b>LOT #3- Purchase Price Gross</b>													
Sales Commissions @6%													
Misc Sales costs													
Electrical Service/Cable Set aside													
Increase from LOI to PSA design changes													
Change order Set aside													
<b>Net Sales Proceeds- Lot #3</b>													
Purchase Price Gross-Lot #5	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Sales Commissions @6%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Misc Sales costs @1%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Net Sales Proceeds- Lot #5</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Purchase Price Gross-Lot #4	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Sales Commissions @6%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Misc Sales costs @1%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Net Sales Proceeds- Lot #4</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Purchase Price Gross-Lot #7	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Sales Commissions @6%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Misc Sales costs @1%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Net Sales Proceeds- Lot #7</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Purchase Price Gross-Lot #8	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Sales Commissions @6%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Misc Sales costs @1%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Net Sales Proceeds- Lot #8</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Purchase Price Gross-Lot #9	\$0	\$0	\$0	\$3,834,238	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$3,834,238
Sales Commissions @6%	\$0	\$0	\$0	(\$230,054)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	(\$230,054)
Misc Sales costs @1%	\$0	\$0	\$0	(\$38,342)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	(\$38,342)
<b>Net Sales Proceeds- Lot #9</b>	\$0	\$0	\$0	\$3,565,842	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$3,565,842
Purchase Price Gross-Lot #2	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$4,791,600	\$0	\$0	\$0	\$4,791,600
Sales Commissions @6%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	(\$287,496)	\$0	\$0	\$0	(\$287,496)
Misc Sales costs @1%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	(\$47,916)	\$0	\$0	\$0	(\$47,916)
<b>Net Sales Proceeds- Lot #2</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$4,456,188	\$0	\$0	\$0	\$4,456,188
Purchase Price Gross- Lot #6	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Sales Commissions @6%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Misc Sales costs @1%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Net Sales Proceeds- Lot #6</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Purchase Price Gross- Lot #1	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Sales Commissions @6%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Misc Sales costs @1%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Net Sales Proceeds- Lot #1</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Total Income</b>	\$0	\$0	\$0	\$3,565,842	\$0	\$0	\$0	\$0	\$4,456,188	\$0	\$0	\$0	\$8,022,030



	Jan-13	Feb-13	Mar-13	Apr-13	May-13	Jun-13	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Total - 2013
<b>Monthly Operating Expenses</b>													
Development and Property Management Fees	\$10,353	\$10,353	\$10,353	\$10,353	\$10,353	\$10,353	\$10,353	\$10,353	\$10,353	\$10,353	\$10,353	\$10,353	\$124,241
Other Fees: Accounting Etc			\$5,000										\$5,000
Property Insurance			\$125,000	\$15,000					\$125,000				\$15,000
Real Property Taxes													\$250,000
General Engineering and Architecture: Revise Grading Plans, Drainage plan, and NPDES- Per Estimate Belt Collins- Includes Erosion Control													\$0
Condo Documentation													\$0
HECO Survey													\$0
Permit Extension Fee													\$0
Title Report- HDCC													\$0
Legal -General/ PSA prep, etc.	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500	\$30,000
Misc. Contingency, Administrative, Travel, etc.	\$3,500	\$3,500	\$3,500	\$3,500	\$3,500	\$3,500	\$3,500	\$3,500	\$3,500	\$3,500	\$3,500	\$3,500	\$42,000
General Operating Expenses- Estimated	\$16,353	\$16,353	\$146,353	\$31,353	\$16,353	\$16,353	\$16,353	\$16,353	\$141,353	\$16,353	\$16,353	\$16,353	\$466,241
Infrastructure Costs	\$0	\$0	\$250,000	\$250,000	\$0	\$0	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$3,500,000
Net Operating Income before debt service	(\$16,353)	(\$16,353)	(\$196,353)	\$3,284,488	(\$16,353)	(\$16,353)	(\$516,353)	(\$516,353)	\$3,814,835	(\$516,353)	(\$516,353)	(\$516,353)	\$4,055,789
Payments to Creditors													
Estimated Interest Expense @5%	\$54,129	\$54,129	\$54,129	\$45,189	\$45,189	\$45,189	\$45,189	\$45,189	\$36,591	\$36,591	\$36,591	\$36,591	\$534,698
Principal Reduction	\$0	\$0	\$0	\$2,145,692	\$0	\$0	\$0	\$0	\$2,063,505	\$0	\$0	\$0	\$4,209,197
Payments to Class 2 Unsecured Creditors	\$0	\$0	\$8,988	\$0	\$0	\$8,988	\$0	\$0	\$8,988	\$0	\$0	\$0	\$26,965
Net Cash Flow	(\$988,371)	(\$70,483)	(\$845,471)	\$1,093,607	(\$61,842)	(\$70,531)	(\$561,842)	(\$561,842)	\$1,705,750	(\$552,945)	(\$552,945)	(\$552,945)	(\$715,071)
	\$988,371	\$917,888	\$458,416	\$1,532,024	\$1,490,481	\$1,419,950	\$858,408	\$296,866	\$2,002,616	\$1,449,671	\$896,727	\$343,782	\$343,782

Monthly Income	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14	Total - 2014
<b>LOT #3- Purchase Price Gross</b>													
Sales Commissions @6%													
Misc Sales costs													
Electrical Service/Cable Set aside													
Increase from LOI to PSA design changes													
Change order Set aside													
<b>Net Sales Proceeds- Lot #3</b>													
Purchase Price Gross-Lot #5	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Sales Commissions @6%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Misc Sales costs @1%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Net Sales Proceeds- Lot #5</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Purchase Price Gross-Lot #4	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Sales Commissions @6%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Misc Sales costs @1%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Net Sales Proceeds- Lot #4</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Purchase Price Gross-Lot #7	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Sales Commissions @6%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Misc Sales costs @1%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Net Sales Proceeds- Lot #7</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Purchase Price Gross-Lot #8	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Sales Commissions @6%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Misc Sales costs @1%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Net Sales Proceeds- Lot #8</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Purchase Price Gross-Lot #9	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Sales Commissions @6%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Misc Sales costs @1%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Net Sales Proceeds- Lot #9</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Purchase Price Gross-Lot #2	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Sales Commissions @6%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Misc Sales costs @1%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Net Sales Proceeds- Lot #2</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Purchase Price Gross-Lot #6	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$19,458,252	\$0	\$0	\$0	\$19,458,252
Sales Commissions @6%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	(\$1,167,495)	\$0	\$0	\$0	(\$1,167,495)
Misc Sales costs @1%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	(\$194,583)	\$0	\$0	\$0	(\$194,583)
<b>Net Sales Proceeds- Lot #6</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$18,096,174	\$0	\$0	\$0	\$18,096,174
Purchase Price Gross- Lot #1	\$0	\$0	\$0	\$4,803,579	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$4,803,579
Sales Commissions @6%	\$0	\$0	\$0	(\$288,215)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	(\$288,215)
Misc Sales costs @1%	\$0	\$0	\$0	(\$48,036)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	(\$48,036)
<b>Net Sales Proceeds- Lot #1</b>	\$0	\$0	\$0	\$4,467,328	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$4,467,328
<b>Total Income</b>	\$0	\$0	\$0	\$4,467,328	\$0	\$0	\$0	\$0	\$18,096,174	\$0	\$0	\$0	\$22,563,503

	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14	Total - 2014
<b>Monthly Operating Expenses</b>													
Development and Property Management Fees	\$10,353	\$10,353	\$10,353	\$10,353	\$10,353	\$10,353	\$10,353	\$10,353	\$10,353	\$10,353	\$10,353	\$10,353	\$124,241
Other Fees: Accounting Etc				\$5,000								\$0	\$5,000
Property Insurance				\$10,000									\$10,000
Real Property Taxes				\$100,000						\$100,000		\$0	\$200,000
General Engineering and Architecture: Revise Grading Plans, Drainage plan, and NPDES- Per Estimate Belt Collins- Includes Erosion Control												\$0	\$0
Condo Documentation													\$0
HECO Survey													\$0
Permit Extension Fee													\$0
Title Report- HDCC													\$0
Legal -General/ PSA prep, etc.	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500	\$30,000
Misc. Contingency, Administrative, Travel, etc.	\$3,500	\$3,500	\$3,500	\$3,500	\$3,500	\$3,500	\$3,500	\$3,500	\$3,500	\$3,500	\$3,500	\$3,500	\$42,000
General Operating Expenses- Estimated	\$16,353	\$16,353	\$16,353	\$131,353	\$16,353	\$16,353	\$16,353	\$16,353	\$16,353	\$116,353	\$16,353	\$16,353	\$411,241
Infrastructure Costs	\$0	\$0	\$0	\$0	\$0	\$0	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$1,000,000	\$3,500,000
Net Operating Income before debt service	(\$16,353)	(\$16,353)	(\$16,353)	\$4,335,975	(\$16,353)	(\$16,353)	(\$516,353)	(\$516,353)	\$17,579,821	(\$616,353)	(\$516,353)	(\$1,016,353)	\$18,652,262
Payments to Creditors													
Estimated Interest Expense @5%	\$36,591	\$36,591	\$36,591	\$27,535	\$27,535	\$27,535	\$27,535	\$27,535	\$0	\$0	\$0	\$0	\$247,450
Principal Reduction	\$0	\$0	\$0	\$2,173,392	\$0	\$0	\$0	\$0	\$6,608,473	\$0	\$0	\$0	\$8,781,865
Payments to Class 2 Unsecured Creditors	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Net Cash Flow	(\$290,837)	(\$52,945)	(\$52,945)	\$2,135,047	(\$43,889)	(\$43,889)	(\$543,889)	(\$543,889)	\$10,971,348	(\$616,353)	(\$516,353)	(\$1,016,353)	\$9,622,947
	\$290,837	\$237,893	\$184,948	\$2,319,996	\$2,276,107	\$2,232,219	\$1,688,330	\$1,144,441	\$12,115,789	\$11,499,436	\$10,983,083	\$9,966,729	\$9,966,729

