DRAFT
8/18/26
Bill 43 (2026)
Proposed UA

LAND COURT SYSTEM | REGULAR SYSTEM

AFTER RECORDATION: RETURN BY MAIL ( X ) PICK-UP ( )

Jason C. Hagan and Elisa A. Hagan
66-009 Waialua Beach Road
Haleiwa, Hawaii 96712

TITLE OF DOCUMENT:

UNILATERAL AGREEMENT AND DECLARATION FOR CONDITIONAL ZONING

PARTIES TO DOCUMENT:

Jason C. and Elisa A. Hagan
66-009 Waialua Beach Road, Unit A
Haleiwa, Hawaii 96712

Tax Map Key No. (1) 6-6-018:024

# UNILATERAL AGREEMENT AND DECLARATION FOR CONDITIONAL ZONING

THIS INDENTURE (hereinafter referred to as this "Unilateral Agreement" or this "Declaration"), made this ___ day of _____, 2026, by **JASON C. AND ELISA A. HAGAN**, husband and wife, whose mailing address is 66-9A Waialua Beach Road, Haleʻiwa, Hawaiʻi 96712, (hereinafter referred to as the "Declarants").

**WITNESSETH:**

WHEREAS, the Declarants are co-owners holding fee simple title in and to that certain real property located at 66-9A Waialua Beach Road, Haleʻiwa, Hawaiʻi 96712, Tax Map Key No. (1) 6-6-018:024, consisting of approximately 1.431 acres, and more particularly described in Exhibit A attached hereto and incorporated by reference herein (the "Land"), and desire to make the Land subject to this Unilateral Agreement; and

WHEREAS, the City Council (the "Council") of the City and County of Honolulu (the "City"), pursuant to the provisions of the Land Use Ordinance ("LUO"), § 21-2.80, Revised Ordinances of Honolulu 2021 ("ROH"), relating to conditional zoning, is considering a change in zoning under the LUO of an approximately 1.429-acre portion of the Land, more particularly described in Exhibit B attached hereto and incorporated by reference herein, from the Country District to the R-5 Residential District (the "zone change"); and

WHEREAS, the portion of the Land subject to the zone change, consisting of approximately 1.429 acres, is depicted as the cross-hatched area designated as the proposed zone change area on a portion of Zoning Map No. 17 (Mokulēʻia – Waialua – Haleʻiwa), attached hereto as Exhibit C, and incorporated by reference herein (the "zone change area"); and

WHEREAS, the remaining approximately 80-square-foot portion of the Land that is not within the zone change area is already zoned R-5 Residential District; and

WHEREAS, the Declarants seek rezoning of the zone change area to remove the nonconforming status of eight existing dwelling units located on the Land (six single-unit dwellings and one two-unit dwelling); the Declarants are not proposing any new development or change of use as a part of the requested zone change; and

WHEREAS, a public hearing regarding the zone change, Bill 43 (2026), was held by the Council on _____, 2026; and

WHEREAS, the Council recommended by its Zoning and Planning Committee Report No. _____ (2026) that the zone change be approved, subject to the following conditions contained in this Declaration, to be made pursuant to the provisions of ROH § 21-2.80, relating to conditional zoning, and to become effective on the effective date of the zoning ordinance approving the zone change (the "Rezoning Ordinance");

NOW THEREFORE, Declarants hereby covenant and declare as follows:

1. Subdivision. The Land may not be further subdivided, except for the creation of necessary easements for access or utility purposes.

2. Compliance With Other Governmental Requirements. The Declarants acknowledge that approval of the zone change does not constitute compliance with the LUO or other governmental requirements. They are subject to separate review and approval. The Declarants shall be responsible for ensuring that future development on or uses of the Land comply with all applicable LUO and other governmental provisions and requirements.

3. Noncompliance With Conditions. In the event of noncompliance with any of the conditions set forth herein, the DPP Director shall inform the Council and may seek civil enforcement or take appropriate action to terminate or stop any future development of the Land until applicable conditions are met, including but not limited to withholding the issuance of any permits related to the future development of the Land. Noncompliance also may be grounds for the enactment of ordinances making further zone changes, including revocation of the underlying zoning, upon initiation by the proper parties in accordance

with the Revised Charter of the City and County of Honolulu 1973 (Amended 2017 Edition), as amended.

NOW, THEREFORE, the Declarants hereby make the following additional Declarations:

As used herein, references to a specific City department or agency shall be deemed to include a reference to any successor department or agency.

That the conditions imposed herein are reasonably conceived to fulfill public service demands created by the requested zone change and are rationally related to the objective of preserving the public health, safety, and general welfare, and the further implementation of the O‘ahu General Plan of the City and County of Honolulu.

That any development of the zone change area must conform to the aforesaid conditions with the understanding that, at the request of the Declarants and upon the satisfaction of the conditions set forth in this Unilateral Agreement, the DPP may fully or partially release, as applicable, any of the foregoing conditions that have been fulfilled.

That if there are any conflicts between this Unilateral Agreement and any previous unilateral agreements applicable to the zone change area, the terms and conditions of this Unilateral Agreement shall apply.

AND IT IS EXPRESSLY UNDERSTOOD AND AGREED that the conditions imposed in this Declaration shall run with the Land and shall bind and constitute notice to all the parties hereto and subsequent lessees, grantees, assignees, mortgagees, lienors, successors, and any other persons who have or claim to have an interest in the Land, and the City and County of Honolulu shall have the right to enforce this Declaration by rezoning, appropriate action at law or suit in equity against all such persons; provided that the Declarants or their successors and assigns may file a petition with the DPP for amendment or removal of any conditions or termination of this Declaration, such petition to be processed in the same manner as petitions for zone changes.

This Agreement may be signed in two or more counterparts and each counterpart, when executed, shall be deemed an original, and all such counterparts shall be construed as one agreement binding on all of the parties.

*[REMAINDER OF THIS PAGE LEFT BLANK; SIGNATURE PAGES TO FOLLOW]*

IN WITNESS WHEREOF, the parties hereto have executed this Unilateral Agreement and Declaration for Conditional Zoning on the day and year first above written.

DECLARANTS

_____

JASON C. HAGAN

_____

ELISA A. HAGAN

STATE OF HAWAI‘I )
) SS.
CITY AND COUNTY OF HONOLULU )

On _____, 2026, before me personally appeared **JASON C. HAGAN**, personally known/proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Signature: _____

Print name: _____

Notary Public, State of Hawai‘i

My commission expires: _____

(*Official Stamp or Seal*)

N O T A R Y C E R T I F I C A T I O N

Document Date: _____ No. of Pages: _____

Notary Name: _____ Jurisdiction: First Circuit, State of Hawai‘i

Document Description: Unilateral Agreement and Declaration for Conditional Zoning

(*Official Stamp or Seal*)

_____
Notary Signature Date

Printed Name of Notary: _____

STATE OF HAWAIʻI )
) SS.
CITY AND COUNTY OF HONOLULU )

On _____, 2026, before me personally appeared **ELISA A. HAGAN**, personally known/proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Signature: _____

Print name: _____

Notary Public, State of Hawaiʻi

My commission expires: _____

(*Official Stamp or Seal*)

N O T A R Y C E R T I F I C A T I O N

Document Date: _____ No. of Pages: _____

Notary Name: _____ Jurisdiction: First Circuit, State of Hawaiʻi

Document Description: Unilateral Agreement and Declaration for Conditional Zoning

(*Official Stamp or Seal*)

_____
Notary Signature Date

Printed Name of Notary: _____

# EXHIBIT A

## Property Description

-PARCEL FIRST:-

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Royal Patent Number 909, Land Commission Award Number 2793, Apana 2 to Keawemuku and Kihewa and Royal Patent Number 899, Land Commission Award Number 2910, Apana I to Kahakualoa) situate, lying and being at Paalaa, District of Waialua, City and County of Honolulu, State of Hawaii, being PARCEL 19, now known as LOT B, and thus bounded and described:

Beginning at a pipe at the northwest corner of this parcel of land, being also the northeast comer of Parcel 19-A. the Coordinates of said point of beginning referred to Government Survey Triangulation Station “PUU IKI” being 14,196.37 feet north and 5,303.11 feet east and thence running by azimuths measured clockwise from true South:

| | | | | | |
|---|---|---|---|---|---|
| 1. | 257° | 19' | 30" | 186.95 | feet along the remainder of R. P. 909, L. C. Aw. 2793, Ap. 2 to Keawemuku and Kihewa to a pipe; |
| 2. | 277° | 21' | | 109.98 | feet along the remainder of R. P. 899, L. C. Aw. 2910, Ap. 1 to Kahakualoa to a pipe; |
| 3. | 7° | 27’ | | 163.26 | feet along R. P. 906, L. C. Aw. 2939, Ap. 3 to Kahoohalahala to a pipe; |
| 4. | 84° | 30" | | 234.60 | feet along Hawaiian Electric Company's Sub-Station Lot, along the remainders of R. P.899, L. C. Aw. 2910, Ap. 1 to Kahakualoa and R. P. 909, L. C. Aw. 2793, Ap. 2 to Keawemuku and Kihewa to a pipe; |
| 5. | 166° | 50’ | 50” | 161.66 | feet along Parcel 19-A, along the remainder of R. P. 909, L. C. Aw. 2793, Ap. 2 to Keawemuku and Kihewa to the point of beginning and containing an area of 45,624 square feet, more or less. |

-PARCEL SECOND:-

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Royal Patent Number 2887, Land Commission Award No. 2746 to Namakaohao and Royal Patent Number 909, Land Commission Award Number 2793,. Ap. 2 to Keawemuku and Kihewa) situate, lying and being at Paalaa, District of Waialua, City and County of Honolulu, State of Hawaii, being PARCEL 19-A. now known as LOT D, and thus bounded and described:

Beginning at a 2-inch pipe (found and adopted) at the northwest corner of this parcel of land, easterly of R. P. 4475, L. C. Aw. 7713,. Ap. 34 to V. Kamamalu, the coordinates of said point of beginning referred to Government Survey Triangulation Station “PUU IKI” being 14,186.25 feet north and 5,260.29 feet east and thence running by azimuths measured clockwise from true South:

| | | | | | |
|---|---|---|---|---|---|
| 1. | 256° | 42' | | 44.00 | feet along the remainder of R. P. 909, L. C. Aw. 2793, Ap. 2 to Keawemuku and Kihewa to a pipe; |
| 2. | 346° | 50' | 50" | 161.66 | feet along Parcel 19, along the remainder of R. P. 909, L C. Aw. 2793, Ap. 2 to Keawemuku and Kihewa to a pipe; |
| 3. | 346° | 42' | | 104.07 | feet along Hawaiian Electric Company's Sub-station Lot, along the remainder of R. P. 909, L. C. Aw. 2793, Ap. 2 to Keawemuku and Kihewa to a pipe; |
| 4. | 357° | 32' | 30" | 121.00 | feet along Hawaiian Electric Company's Sub-Station Lot, along the remainder of R. P. 909, L. C. Aw. 2793, Ap. 2 to Keawemuku and Kihewa to a pipe; |
| 5. | 84° | 30' | | 21.44 | feet along Parcel 20, along R. P. 4475, L. C. Aw. 7713, Ap. 34 to V. Kamamalu to a pipe; |
| 6. | 119° | 45' | | 26.70 | feet along Parcel 20, along R. P. 891, L. C. Aw. 8432, Ap. 2 to Kaiama to a pipe; |
| 7. | 177° | 32' | 30" | 103.72 | feet along Lot 1 and Parcel 16, along the remainder of R. P. 2887, L. C. Aw. 2746 to Namakaohao to a pipe; |
| 8. | 166° | 41' | | 195.43 | feet along R. P. 893, L. C. Aw. 7375 to Hua to a 2-inch pipe in concrete; |
| 9. | 167° | 06' | | 66.11 | feet along R. P. 4475, L. C. Aw. 7713, Ap. 34 to V. Kamamalu to the point of beginning and containing an area of 16, 735 square feet, or 0.394 acre, more or less. |

Together with a right and easement for all road and utility purposes, appurtenant to said PARCELS 19 (now known as LOT B) and 19-A (now known as LOT D), to be used in common with others thereunto entitled over, across. along, upon and under, etc. being Lots 2 and 3, same being PARCEL 20 (easement for road and utility purposes) and containing an area of 8,170 square feet, more or less, being more particularly described therein, as granted by instrument dated December 21, 1964, recorded in the Bureau of Conveyances of the State of Hawaii (the “Bureau”) in Liber 4913 at Page 442.

Being the premises conveyed to First Title Holding HAR000004, LLC, a Hawaii limited liability company, as tenant in severalty, by Trustee’s Deed dated May 28, 2020, recorded in the Bureau as Document No. A-74610072.

SUBJECT, HOWEVER, to:

1. Mineral and water rights of any nature.

2. -AS TO PARCEL SECOND ONLY:-

   (A) Reserving unto CASTLE & COOKE, INC., a Hawaiian corporation, its successors and assigns, a right and easement for all road and utility purposes, as set forth in DEED dated December 21, 1964, recorded in the Bureau in Liber 4913 at Page 442.

(B) A right and easement for road and utility purposes, as set forth in DEED dated October 11, 1955, recorded in the Bureau in Liber 3026 at Page 266 from Victor S. K. Houston, et al., Trustees of the Liliuokalani Trust to the Hawaiian Electric Company, Inc.

(C) An easement for road and utility purposes, as set forth in EXCHANGE DEED dated July 7, 1961, recorded in the Burean in Liber 4093 at Page 302 between CASTLE & COOKE INC. and ABRAHAM AIAU, et al. forth in DEED dated October 11, 1955, recorded in the Bureau in Libor 3026 at Page 266;

(D) An easement for road and utility purposes reserved unto the Trustees under the Liliuokalani Trust, as set forth in EXCHANGE DEED dated July 21, 1955, recorded in the Bureau in Liber 2994 at Page 352.

3. Structure position discrepancies and encroachment(s) as referenced on the survey map prepared by Jaime F. Alimboyoguen, Land Surveyor, Jaime F. Alimboyoguen, LLC, dated December 17, 2019.

4. Encroachment(s) as referenced on the survey map prepared by Jaime F. Alimboyoguen, Land Surveyor, with Jaime F. Alimboyoguen, LLC, dated December 17, 2019.

5. Real Property Mortgage; Security Agreement; Assignment of Leases and Rents; Fixture Filing; and Financing Statement. dated May 27, 2020, made by First Title Holding HAR000004, LLC, a Hawaii limited liability company, as Mortgagor, and James T. Harper and Shirley M. Harper, Co-Trustees of the James Harper Family Trust, dated June 29, 2000, with powers to sell, lease, mortgage or otherwise deal with and dispose of property of the trust estate, as Mortgagee, recorded in the Bureau as Document No. A-74610073.

# EXHIBIT B

## Zone Change Area Description

All of that certain land beginning at a point being 14,196.37 feet north and 5,303.11 feet east of Government Survey Triangulation Station “PUU IKI” and thence running by azimuths measured clockwise from true South:

| | | | | | |
|---|---|---|---|---|---|
| 1. | 257° | 19' | 30" | 186.95 | feet along the remainder of R. P. 909, L. C. Aw. 2793, Ap. 2 to Keawemuku and Kihewa to a pipe; |
| 2. | 277° | 21' | | 109.98 | feet along the remainder of R. P. 899, L. C. Aw. 2910, Ap. 1 to Kahakualoa to a pipe; |
| 3. | 7° | 27’ | | 163.26 | feet along R. P. 906, L. C. Aw. 2939, Ap. 3 to Kahoohalahala to a pipe; |
| 4. | 84° | 30" | | 234.60 | feet along Hawaiian Electric Company's Sub-Station Lot, along the remainders of R. P.899, L. C. Aw. 2910, Ap. 1 to Kahakualoa and R. P. 909, L. C. Aw. 2793, Ap. 2 to Keawemuku and Kihewa to a pipe; |
| 5. | 346° | 42' | | 104.07 | feet along Hawaiian Electric Company's Sub-station Lot, along the remainder of R. P. 909, L. C. Aw. 2793, Ap. 2 to Keawemuku and Kihewa to a pipe; |
| 6. | 357° | 32' | 30" | 121.00 | feet along Hawaiian Electric Company's Sub-Station Lot, along the remainder of R. P. 909, L. C. Aw. 2793, Ap. 2 to Keawemuku and Kihewa to a pipe; |
| 7. | 97° | 39' | 40” | 32.91 | feet; |
| 8. | 119° | 45' | | 13.72 | feet along Parcel 20, along R. P. 891, L. C. Aw. 8432, Ap. 2 to Kaiama to a pipe; |
| 9. | 177° | 32' | 30" | 103.72 | feet along Lot 1 and Parcel 16, along the remainder of R. P. 2887, L. C. Aw. 2746 to Namakaohao to a pipe; |
| 10. | 166° | 41' | | 195.43 | feet along R. P. 893, L. C. Aw. 7375 to Hua to a 2-inch pipe in concrete; |
| 11. | 167° | 06' | | 66.11 | feet along R. P. 4475, L. C. Aw. 7713, Ap. 34 to V. Kamamalu to the point of beginning and containing an area of 16, 735 square feet, or 0.394 acre, more or less. |
| 12. | 256° | 42' | | 44.00 | feet along the remainder of R. P. 909, L. C. Aw. 2793, Ap. 2 to Keawemuku and Kihewa to a pipe; |

# EXHIBIT C

## Portion of Zoning Map No. 17

