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**STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED**

September 30, 2021 8:51 AM

Doc No(s) A - 79430907-08 (2)

**I hereby certify that this is
a true copy from the records
of the Bureau of Conveyances,**

[Signature]

**Registrar of Conveyances
Assistant Registrar, Land Court
State of Hawaii**

Pkg 11875616 OFC

/s/ LESLIE T KOBATA
REGISTRAR



LAND COURT SYSTEM

REGULAR SYSTEM

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

JL Avalon Capbridge, LLC
1440 Kapiolani Boulevard, Suite 1509
Honolulu, Hawaii 96814
(808) 445-9080

TITLE OF DOCUMENT:

SKY ALA MOANA AFFORDABLE HOUSING REGULATORY AGREEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS

PARTIES TO DOCUMENT:

DEVELOPER: JL Avalon Capbridge, LLC
1440 Kapiolani Blvd, Suite 1509
Honolulu, Hawaii 96814

CITY: City and County of Honolulu
Honolulu Hale
530 South King Street
Honolulu, Hawaii 96813

Tax Map Key Nos. (1) 2-3-016: 003; 004; and 008

(This document consists of 99 pages)

SKY ALA MOANA AFFORDABLE HOUSING REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS

This **AFFORDABLE HOUSING REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS** ("Agreement") is made this 24th day of September, 2021, by and between **JL AVALON CAPBRIDGE, LLC**, a Hawaii limited liability company, whose principal place of business and mailing address is 1440 Kapiolani Boulevard, Suite 1509, Honolulu, Hawaii 96814 ("Developer") and the **CITY AND COUNTY OF HONOLULU**, a political subdivision of the State of Hawaii, whose mailing address is 530 South King Street, Honolulu, Hawaii 96813 ("City"). The City and the Developer may be referred to individually herein as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, Developer is the fee owner of that certain real property located at 1388, 1400, and 1418 Kapiolani Boulevard, Honolulu Hawaii 96814 and described under City Tax Map Key Nos. 2-3-016:003, 004, and 008 ("Project Land"); and

WHEREAS, the Project Land is more particularly described in Exhibit 1, attached hereto and incorporated herein by reference; and

WHEREAS, Developer proposes to develop the Sky Ala Moana Condo-Hotel and Residential Project on the Project Land ("Project"); and

WHEREAS, the Project is subject to the requirements of Ordinance 18-10, which requires Developer to provide certain affordable housing units for the benefit of those who meet the eligibility requirements for affordable housing benefits; and

WHEREAS, the Project consists of the Sky Ala Moana West condominium project, being a forty-three (43) story high-rise tower with three hundred and ninety (390) market for-sale residential units (the "West Tower"), the Sky Ala Moana East condominium project, being a thirty-nine (39) story high rise tower with three hundred (300) condo-hotel units in addition to eighty-four (84) affordable for-sale housing units (the "East Tower"), and approximately 15,000 square feet of ground floor commercial space within the shared podium of the East Tower and West Tower (the "Podium"); and

WHEREAS, the Project's design does not comply with the applicable development standards established by the City's Land Use Ordinance ("LUO"); and

WHEREAS, LUO Section 21-9.100-5 allows the City to approve and permit developments that do not comply with development standards by issuing an Interim Planned Development-Transit Permit ("IPD-T Permit") under certain circumstances and

in exchange for community benefits that are commensurate with the design flexibility allowed by the IPD-T Permit; and

WHEREAS, Developer submitted an application for an IPD-T Permit for the Project to the City Department of Planning and Permitting ("DPP") on May 14, 2018 ("Application"); and

WHEREAS, DPP accepted the Application for processing under DPP File No. 2018/SDD-25; and

WHEREAS, an IPD-T Permit can only be issued by DPP after the Honolulu City Council ("City Council") approves the conceptual plans for the development and community benefits that will be provided by the developer and the project; and

WHEREAS, on October 29, 2018, DPP caused the Application and the Project's conceptual plans to be transmitted to the City Council for review via Departmental Communication No. 706 (2018); and

WHEREAS, the City Council duly approved the conceptual plans for the Project, subject to conditions by the adoption of Resolution No. 18-248, CD1, FD1 ("Resolution") on November 14, 2018; and

WHEREAS, Condition L of the Resolution requires Developer to satisfy the affordable housing requirements of Ordinance 18-10 ("AHR") as follows:

- L. The Applicant shall comply with the affordable housing requirements ("AHR") pursuant to Ordinance 18-10 using the longest period of affordability available (10 percent of total applicable units to remain affordable for a minimum of 30 years), and must generally maintain the unit mix (studios, one- and two-bedrooms) shown on Exhibits F-1 through F-17.

WHEREAS, Condition M of the Resolution also requires Developer to provide a minimum of 42 additional affordable housing units as a community benefit for the IPD-T Permit as follows:

- M. In addition to complying with the AHR of Ordinance No. 18-10 (as approved by DPP), the Applicant shall provide as a community benefit, at least an additional 42 dwelling units affordable to households earning 120 percent or less of the Area Median Income ("AMI") for Honolulu, to remain affordable for a minimum of 30 years. The affordable community benefit units must generally maintain the unit mix, (studios, one- and two-bedrooms) shown on Exhibits F-1 through F-17. If, after the end of the first 45-day marketing period, any affordable community benefit units remain unsold, the period of affordability for those units may be reduced to 20 years. If, after the end of the second 45-day marketing period, any

affordable community benefit units remain unsold, the period of affordability for those units may be reduced to 10 years. The first 45-day marketing period commences when the Applicant offers the affordable community benefit units for sale to the public after the Applicant's public report is issued by the State of Hawaii Real Estate Commission pursuant to Chapter 514B of the Hawaii Revised Statutes.

WHEREAS, the provision of eighty-four (84) affordable, for-sale housing units in the East Tower of the Project subject to the terms and conditions of this Agreement will satisfy the requirements of Ordinance 18-10 and Conditions L and M of this Resolution; and

WHEREAS, ROH Section 38-1.8 and Section 2-8 of DPP's Rules to Implement City's Affordable Housing Requirements (2019) ("Affordable Housing Rules") require Developer to execute an affordable housing agreement acceptable to the DPP Director and execute and record a declaration of restrictive covenants that encumbers the Project with the obligation to provide the affordable housing required by Ordinance 18-10; and

WHEREAS, the Parties wish to enter into this Agreement in order comply with the Affordable Housing Rules, Ordinance 18-10, and the Resolution; and

WHEREAS, the Parties acknowledge and agree that the consideration that they have given and received under this Agreement is fair and adequate consideration to support the terms of this Agreement and the duties and obligations arising hereunder;

NOW, THEREFORE, in exchange for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Developer and City hereby agree as follows.

DEFINITIONS

As used in the subsequent portions of this Agreement, the following terms shall have the meanings provided by the definitions below. Some of words that are defined below have been defined informally in the recitals to this Agreement; the informal definitions in the recitals to this Agreement are only for the mutual convenience of the Parties in setting forth the background information giving rise to this Agreement. Any conflicts between the informal definitions contained in the recitals to this Agreement and the following definitions shall be resolved in favor of the definitions below.

1. "Agreement" means this document, being the *Sky Ala Moana Affordable Housing Regulatory Agreement and Declaration of Restrictive Covenants* and includes all of the exhibits hereto (i.e., Exhibits 1, 2, 3, 4, and 5).
2. "Affordable" and "Affordability" mean: (a) requiring total annual payments for principal, interest, real property taxes, insurance premiums, and Association

Fees that do not exceed thirty-three percent (33%) of a Qualified Purchaser's annual Gross Household Income and (b) requiring total monthly payments for monthly principal and interest payments, real property taxes prorated on a monthly basis, required insurance premiums prorated on a monthly basis, and monthly Association Fees that do not exceed thirty three percent (33%) of a Qualified Purchaser's average monthly Gross Household Income (i.e., the Qualified Purchaser's annual Gross Household Income divided by 12).

3. "Affordable Housing Rules" means the City and County of Honolulu Department of Planning and Permitting's *Rules to Implement City's Affordable Housing Requirements* (2019), as may be amended.
4. "Affordable Housing Units" or "AHUs" mean dwelling units that are subject to the price and Use restrictions established by the Affordable Housing Rules; AHUs include both the AHR Units required by Ordinance 18-10 and the CBUs required by the Resolution.
5. "Association Fees" mean fees, costs, and charges for "common expenses" and the "operation of the property" as defined by HRS § 514B-3, and any similar fees, costs, and charges.
6. "AHR" or "Affordable Housing Requirements" mean the requirements made applicable to Developer and the Project by Ordinance 18-10 and the Affordable Housing Rules.
7. "AHR Units" mean any and all of the affordable housing units to be delivered by Developer as set forth in this Agreement for the purposes of complying with Ordinance 18-10 and Condition L of the Resolution.
8. "Area Median Income" or "AMI" means that Area Median Income determined annually by HUD for the Honolulu Metropolitan Statistical Area, as adjusted for household size. The AMI is published by DPP after it is released by HUD.
9. "City" means the City and County of Honolulu and includes its officers, agents, servants, employees, attorneys, consultants and independent contractors.
10. "City Council" means the City Council of the City and County of Honolulu.
11. "Community Benefit Units" or "CBUs" mean any and all of the 42 affordable housing units to be delivered by Developer as set forth in this Agreement for the purposes of complying with Condition M of the Resolution.
12. "Declaration of Restrictive Covenant" means a restrictive covenant that is recorded against the Project Units in the State of Hawai'i Bureau of Conveyances or the Office of the Assistant Registrar of the Land Court, as appropriate (if any Project Unit is registered in the Land Court and the Bureau of Conveyances, the

Declaration of Restrictive Covenant must be recorded in both the Land Court and the Bureau of Conveyances), and is effective as a covenant running with the land that is binding on the declarant, the declarant's successors in title or interest, and anyone claiming by, through or under the same.

13. "Department" and "DPP" mean the City and County of Honolulu Department of Planning and Permitting.
14. "Developer" means JL AVALON CAPBRIDGE, LLC, a Hawaii limited liability company, whose principal place of business and mailing address is 1440 Kapiolani Boulevard, Suite 1509, Honolulu, HI 96814 and includes its successors, assigns, and any and all persons claiming an interest in the Project or the Project Land by through or under the same. For the purposes of this definition, persons claiming an interest in the Project or Project Land "by, through or under" JL Avalon Capbridge, LLC include, without limitation, JL Avalon Capbridge, LLC's partners, subsidiaries, corporate alter egos and related business entities, if any.
15. "Director" means the Director of the City and County of Honolulu Department of Planning and Permitting or his/her authorized representative.
16. "Gross Household Income" means the total annual income from all sources received by the Household. Gross Household Income includes, without limitation, income from: wages, salaries, overtime pay, commissions, fees, tips and bonuses; other compensation for personal services; pensions and social security; incomes from assets, dividends and interest; net income from businesses or professions; cost of living adjustments; variable housing allowances; basic allowance for quarters; child support; unemployment compensation; and governmental assistance, including, but not limited to, veterans affairs disability compensation, disability, and Section 8 housing programs. Gross Household Income does not include the income of a co-mortgagor (as described in HRS §201H-46) who is not a household member; income from the employment of minor children (including foster children); income from the employment of full-time students up to twenty-three (23) years old; and the income of a Live In Aide.
17. "Household" means a single person; or two or more persons that live together and are related by blood, marriage, or by operation of law; or, for affordable for-sale units, no more than five unrelated persons who have established their status as a household in accordance with the Affordable Housing Rules, or, for affordable rental units, no more than five unrelated persons; or eight or fewer persons who reside together in a special treatment facility or other similar facility monitored and/or licensed by the State of Hawaii or the City and County of Honolulu, subject to the occupancy requirement as set forth under §3-5 of the Affordable Housing Rules. A Live In Aide is not included in a household.

18. "HUD" means the United States Department of Housing and Urban Development.
19. "HRS" means the Hawaii Revised Statutes.
20. "HRS Chapter 514B Association" means and includes any and all unit owners associations or similar associations established under HRS Chapter 514B (or any successor statute to the same) for the Project Units.
21. "Income Limit" means the maximum Gross Household Income that can be earned by a Household in order to purchase an AHU at the Project, as determined by the Affordable Housing Rules and the applicable AMI.
22. "Live In Aide" means a person approved by the Director who provides essential care services to a household member.
23. "Marketing Period" means the period of time during which an AHU is marketed. "Marketing Periods" commence as specifically set forth in the substantive terms of this Agreement, or, when the commencement of a "Marketing Period" is not defined by the terms of this Agreement, on the date that an AHU is first listed for sale in a newspaper of general circulation within the City. A "Marketing Period" ends when an AHU is no longer offered for sale on the terms applicable during the "Marketing Period," but may not terminate sooner than allowed by the terms of this Agreement regarding the marketing of AHR Units and CBUs.
24. "Party" mean the City or Developer.
25. "Parties" means the City and Developer.
26. "Period of Affordability" or "Affordability Period" means the time during which an AHU is subject to the Use and Affordability restrictions established by Ordinance 18-10 and/or the Project Documents.
27. "Project" means the Sky Ala Moana Condo-Hotel and Residential Project, as described generally herein and more specifically in the Project Documents.
28. "Project Documents" means and includes this Agreement, the Resolution, and any plans, specifications, or permits issued by DPP for the construction or development of the Project.
29. "Project Land" means that certain real property located at 1388, 1400 and 1418 Kapiolani Boulevard, Honolulu HI 96814 and described under City Tax Map Key Parcel Nos. 2-3-016:003, 004, and 008. The Project land is more specifically described in the Project Documents and Exhibit 1 hereto.
30. "Project Unit" means any and all of the dwelling units in the Project.

31. "Qualified Purchaser" means a purchaser of an AHU that meets the Income Limit and other requirements for purchasing an AHU established by the Affordable Housing Rules at the time of their application and purchase.
32. "Restriction period" means the period of time during which the Project is subject to this Agreement and the Project's AHUs are subject to buyback restrictions, must be sold or rented to target income groups, and must be occupied by owner-occupants in accordance with Chapter 5 of the Affordable Housing Rules.
33. "Resolution" means Resolution No. 18-248, CD1, FD1, adopted by the Honolulu City Council on November 14, 2018 and includes all of the exhibits thereto exhibits (i.e., Exhibits A-1 through A-2, B-1 through B-8, C-1 through C-4, D-1 through D-7, E-1 through E-3, and F-1 through F-17) and all of the records incorporated by reference therein (i.e., Departmental Communication No. 706 (2018)). A copy of the Resolution is attached as Exhibit 2 to this Agreement.
34. "ROH" means the Revised Ordinances of Honolulu, 1990 (*as amended*).
35. "Target Income Group" means the category of people whose Gross Household Income is below the maximum Income Limit for a given AHU.
36. "Use" and "Operation" mean: (1) any purpose for which the Project or Project Land is arranged, designed, employed, intended, maintained or occupied and (2) any activity, business, occupation, operation or transaction that is carried on or intended to be carried on at the Project or on the Project Land.

GENERAL PROVISIONS

1. Incorporation of Recitals. All of the above recitals are material to this Agreement and are hereby incorporated into this Agreement by this reference, provided that the definitions provided in the "Definitions" section of this Agreement shall control the proper construction and understanding of this Agreement.
2. Summary of the Agreement. The following is a summary of this Agreement, which is set forth in general terms for the mutual convenience of the Parties.
 - a. Developer agrees to fulfill the AHR imposed by Ordinance 18-10 in compliance with the Project Documents and all applicable laws.
 - b. Developer agrees to fulfill the community benefits requirements created by Condition M of the Resolution in compliance with the Project Documents and all applicable laws.
 - c. The City agrees that the delivery of the eighty-four (84) for-sale AHUs described in this Agreement will satisfy Developer's obligation to

contribute to the City's affordable housing supply under Ordinance 18-10 and the Resolution, provided that the AHUs are Used and maintained in compliance with Ordinance 18-10, the Affordable Housing Rules, the Project Documents, and this Agreement for the required Period of Affordability.

- d. In order to ensure that that the AHUs delivered pursuant to this Agreement continue to serve their intended purposes, Developer agrees to cooperate with the City and perform certain acts, which are more specifically set forth below.
- e. In order to comply with the Affordable Housing Rules, Developer agrees to certain other and additional terms and conditions, as fully set forth below.

The full terms of this Agreement are set forth below. The exclusion of any term of this Agreement from the foregoing summary does not in any way invalidate any portion of this Agreement or excuse a breach of the same. Conflicts between the summary provided above and the more detailed statement of the Parties' Agreement below, if any, shall be resolved in favor of the following, more specific provisions.

AFFORDABLE HOUSING AGREEMENT

1. General Purpose of the Project. The purpose of the Project is to redevelop the Project Land by replacing previously existing commercial structures with the structures and improvements described in the Project Documents. In order to comply with Ordinance 18-10 and the Project Documents, Developer has agreed to construct and deliver 84 AHUs in accordance with the terms hereof. This Agreement is required by the Affordable Housing Rules; its purposes are to: (a) ensure that Developer and the Project comply with Ordinance 18-10, the Affordable Housing Rules, and the Project Documents and (b) ensure that the AHUs delivered pursuant to this Agreement serve their intended purposes for the required period of time.
2. Affordable Housing Requirement. The AHR requirements for the Project arise from Ordinance 18-10 and the Resolution. Based on the information contained in the Project Documents, Ordinance 18-10 requires Developer and the Project to provide 42 AHUs (i.e., the AHR Units). In addition, the Resolution requires Developer and the Project to provide an additional 42 AHUs as a community benefit in exchange for the design flexibility granted to Developer and the Project by the Resolution (i.e., the CBUs). The total number of AHUs required for the Project is eighty-four (84). This requirement shall be satisfied by Developer and the Project through the delivery and Operation of eighty-four (84) for-sale, AHUs to be located in the East Tower subject to the terms and conditions of this Agreement.

- a. Forty-two (42) of the eighty-four (84) required AHUs will be provided to comply with Ordinance 18-10, which has been codified as Chapter 38 of the ROH. The AHR Units are identified in Exhibit 3 to this Agreement. The Period of Affordability for each AHR Unit will be thirty (30) years after the date of the first sale or conveyance of the AHR Unit to a Qualified Purchaser, as determined by the later of the two dates.
 - b. Forty-two (42) AHUs required for the Project will be provided to comply with Condition M of the Resolution (i.e., the CBUs). The CBUs are identified in Exhibit 3 to this Agreement. Each CBU will remain Affordable for a minimum period of thirty (30) years after the date of the first sale or conveyance of the CBU to a Qualified Purchaser, as determined by the later of the two dates, provided that:
 - i. Any CBU that is not sold after the end of the first 45-day marketing period may have its period of affordability reduced to twenty (20) years with the approval of the Director;
 - ii. Any CBU that is unsold after the end of the second 45-day marketing period may have its period of affordability reduced to ten (10) years with the approval of the Director; and
 - iii. No CBU may have its period of affordability reduced below ten (10) years.
 - c. The AHUs identified in Exhibit 3 to this Agreement contain a mix of studios, one-bedroom and two-bedroom units that is reasonably consistent with the Project Documents and the mix of unit types in the Project.
 - d. The construction, delivery, and Use of the AHUs will comply with Ordinance 18-10, the Affordable Housing Rules, and the Project Documents, at all times and in all respects.
 - e. The AHUs shall be constructed and delivered concurrently with the market units in the Project.
3. Rents and Rentals. The rental of AHUs is not allowed, except as specifically authorized by the Director in accordance with the Affordable Housing Rules. The rental of AHUs, if allowed by the Director, shall comply with affordable rental unit rates established by Section 2-12 of the Affordable Housing Rules.
 4. Maximum Base Sales Price. The maximum base sales price for the purchase of each AHU will be determined as follows.

- a. Purchasers will be required to make a down payment of ten percent (10%) of the sale price.
 - b. Financing for the purchase of AHUs will be based on a thirty (30) year term and the lower of either:
 - i. The average of the Average Conventional Thirty (30) Year Interest Rate on fixed rate mortgages for the U.S. from the Freddie Mac Primary Mortgage Market Survey for the week of the date of the submittal of the marking plan and the interest rate for the one (1) year preceding that date; or
 - ii. An interest rate Developer or other seller has secured for the purchaser financing.
 - c. The total sale price and terms of sale for an AHU must be Affordable to the Qualified Purchaser.
 - d. The purchaser's Gross Household Income must be within the Income Limit for their Target Income Group.
 - e. AHUs do not include a parking stall. Original purchasers shall be given the right to purchase no more than one (1) parking stall for each AHU, regardless of the size of the AHU. Each parking stall will be sold for \$38,000. The addition of the purchase price of a parking stall to the purchase price of an AHU may not cause the total price of any AHU to exceed the maximum allowable sales price established by this Agreement and the Affordable Housing Rules.
5. Acceptable methods for the reduction of Association Fees. Association Fees applicable to all AHUs must be limited to fees necessitated by common elements to which AHU owners have unrestricted access, such as common areas and amenities. Association Fees for AHUs may not include fees or charges related to limited common elements or Project elements to which AHU owners have restricted access or no access. In order to reduce and limit Association Fees for AHUs, Developer shall provide AHU owners with access to all common areas and amenities in the Project or:
- a. Exclude from the Association Fees for AHUs, costs, fees and charges related to the maintenance of all common areas and amenities that are not accessible by the owners of AHUs;
 - b. Allocate utilities in such a way that fees and charges for electricity, water and cable/wifi for AHUs are calculated separately and paid separately from non-AHUs;

- c. Provide cable/wifi service to AHUs via below-market rate bulk agreement packages throughout the Period of Affordability; and
 - d. Separately calculate and allocate expenses for the cooling of AHU corridors and AHU security, janitorial, postal and other services.
6. Implementation and Marketing Plan. Prior to the first announcement and publication for the initial sale of AHUs, Developer shall submit an implementation and marketing plan for review and approval by DPP. The implementation and marketing plan shall be consistent with this Agreement and include the information required in §2-6 and §4-2 of the Affordable Housing Rules. Developer's marketing and sale of all Project Units will comply with the implementation and marketing plan approved by the Director.
- a. The marketing and sale of AHR Units shall proceed as follows:
 - i. In the first Marketing Period, there will be two Target Income Groups. The twenty-one (21) AHR Units identified in Exhibit 3 will be marketed and sold to Qualified Purchasers earning one hundred twenty percent (120%) or less of the AMI, and the twenty-one (21) AHR Units identified in Exhibit 3 will be marketed and sold to Qualified Purchasers earning one hundred percent (100%) or less of the AMI. Sale prices for AHR Units in the first Marketing Period shall be Affordable to Qualified Purchasers in their respective Target Income Groups.
 - ii. Marketing efforts for AHR Units may commence at any time. However, for the purposes of this Agreement, the recognized start date of the first Marketing Period for AHR Units will be the date that the affordable housing lottery is held by the Developer for the sale of the AHR Units to the public. Developer will use its reasonable best efforts during the first Marketing Period and all subsequent Marketing Periods to sell all of the AHR Units to Qualified Purchasers in the Target Income Groups on Affordable terms. The first Marketing Period shall last for a minimum of 120 days from its recognized starting date.
 - iii. If, at the end of the first Marketing Period, Developer has been unable to obtain a contract for the sale of an AHR Unit to a Qualified Purchaser, then, during the second Marketing Period, the AHR Unit may be marketed and sold to households earning the percentage of the AMI that is 20 percent (20%) higher than the percentage of the AMI specified for first marketing period, provided that the percentage of the AMI does not exceed the HUD AMI income limit and the terms of sale are Affordable to Qualified Purchasers. The second Marketing Period may not begin until after

the East Tower receives a Temporary Certificate of Occupancy and shall last for a minimum of 120 days after the date that the Developer first publishes the public notice of the "contents" and marketing information, as required by § 4-2(b) of the Affordable Housing Rules.

- iv. If, at the end of the second Marketing Period, the Developer has been unable to obtain a contract for the sale of an AHR Unit to a Qualified Purchaser, then during the third marketing period, the AHR Unit may be marketed and sold to households earning the percentage of the AMI that is 20 percent (20%) higher than the percentage of the AMI specified for second marketing period, provided that the percentage of the AMI does not exceed the HUD AMI income limit and the terms of sale are Affordable to Qualified Purchasers. The third marketing period shall begin on the date that the Developer first publishes public notice of the marketing "contents" and information approved by the Director for the third marketing period, as required by § 4-2(b) of the Affordable Housing Rules and last for a minimum of 120 days.
- v. If, at the end of the third Marketing Period, the Developer has been unable to obtain a contract for the sale of an AHR Unit to a qualified purchaser, then the AHR Unit may be marketed and sold to households earning not more than the HUD AMI income limit, provided that prices are Affordable to Qualified Purchasers.
- vi. During the applicable Period of Affordability for AHR Units, no sale of an AHR Unit or transfer of title to the same may be made without the Director's approval of the total sale price for an AHR Unit (if any) and the qualifications of the person(s) receiving title to the AHR Unit. The Director's approval of the sale price for any AHR Unit during the Period of Affordability and the transfer of title to an AHR Unit to any person during the Period of Affordability shall be a condition of closing for all AHR Units. Any transfers of title that do not comply with this condition may be invalidated by the Director.

b. The marketing and sale of the CBUs shall be as follows:

- i. All CBUs must be sold to Qualified Purchasers earning one hundred twenty percent (120%) or less of the AMI.
- ii. The first Marketing Period for the CBUs shall commence on the date that Developer offers a CBU for sale to the public after the issuance of the Project's public report and last for a minimum of forty five days. During the first Marketing Period, CBUs may be marketed and sold to Qualified Purchasers earning one hundred

twenty percent (120%) or less of the AMI, under terms that require the CBU to remain affordable to purchasers for a minimum of 30 years from closing.

- iii. If the Developer has been unable to obtain a contract for the purchase of a CBU at end of the first Marketing Period for CBUs, then Developer may then market and sell the unsold CBU to households earning one hundred twenty percent (120%) or less of the AMI on terms that require the CBU to remain affordable to Qualified Purchasers for a minimum of 20 years from the date of closing. During the second Marketing Period, the sale of CBUs shall be subject to the same public notice requirements applicable to AHR Units under § 4-2(b) of the Affordable Housing Rules. The second marketing period for CBUs shall last for a minimum of 45 days, beginning on the first day Developer publishes the information and contents required by § 4-2(b), as approved by the Director.
 - iv. If the Developer has been unable to obtain a contract for the purchase of a CBU at end of the second 45 day (minimum) Marketing Period for CBUs, then Developer may market and sell any unsold CBUs to households earning one hundred twenty percent (120%) or less of the AMI under terms requiring that the CBU remain affordable for a minimum of 10 years from closing, during the third marketing period for the CBUs. The sale of CBUs during the third Marketing Period shall be subject to the same public notice requirements applicable to AHR Units under § 4-2(b) of the Affordable Housing Rules. The third Marketing Period for CBUs shall last for a minimum of 45 days beginning on the first day Developer publishes the information and contents required by § 4-2(b), as approved by the Director.
 - v. If Developer is unable to obtain a contract for the purchase of one or more CBUs after the end of the third Marketing Period, Developer shall move the City Council for a resolution directing the appropriate disposition of any unsold CBUs.
- c. Prior to transitioning from one marketing phase to another for any AHU, Developer shall submit a marketing report to the Director in compliance with § 4-3 of the Affordable Housing Rules.
 - d. All AHUs shall be first offered on a lottery basis. If there are AHUs that remain unsold after Developer has exhausted the list of qualified applicants eligible for the initial lottery, eligible purchasers may then be selected on a first-come, first-served basis, following the publication of a

notice informing the public of the availability of the remaining units for AHUs for purchase.

7. Estimated start date of marketing periods. The initial offering of AHR Units is currently anticipated to occur no later than December 2022. The initial offering of CBUs is anticipated to occur concurrently with the initial offering of AHR Units. Developer shall perform all acts reasonably necessary to make the initial public offering of the AHUs by this aspirational deadline.

8. Details of Eligibility and Income Verification per Chapter 3 of the Affordable Housing Rules. Developer shall be responsible for the initial collection and review of applications for affordable housing at the Project and the Director shall be responsible for the confirmation and approval of an applicant's eligibility.

a. Developer will require applicants to submit their applications to Developer using a form approved by the Director, screen applications for completeness, and maintain detailed records of applicants and applications are required by § 3-1 of the Affordable Housing Rules. Exhibit 4 is a copy of an application form approved by the Director.

b. Applications for qualified purchasers must demonstrate that the applicant meets the eligibility requirements stated in §§ 3-2 and/or 3-3 of the Affordable Housing Rules, as appropriate, and be accompanied by the documentation required for the Director's review under § 3-9 of the Affordable Housing Rules. To be accepted for processing, each application must state:

"Under penalties of perjury, I declare that I have examined all of this application, including accompanying documents, and, to the best of my knowledge, information, and belief, all of the statements contained herein are true, correct, and complete."

The forms attached as Exhibit 4 or forms of similar substances that are approved by the Director may be used by Developer and the applicants to comply with the requirements of this section of the Agreement.

c. Developer shall review applications for completeness and initial eligibility before submitting completed application packets with an income verification worksheet to DPP. Complete application packets will include all information and documentation needed for DPP to confirm an applicant's eligibility under Chapter 3 of the Affordable Housing Rules, provided that any information or documentation required for income verification under § 3-8 of the Affordable Housing Rules may be submitted to DPP at any time prior to closing. Completed application packets will be accompanied by an income verification worksheet that is completed by Developer using a form approved by the Director. The completed income

verification worksheet must provide an initial assessment and analysis of an applicant's eligibility based on the applicant's income and asset statement, and supporting documentation, all of which must be appended to the income verification worksheet for the applicant. As part of this initial assessment, Developer shall be responsible for verifying that the applicant meets the Income Limit requirements for the applicable Target Income Group and has the financial means to pay the monthly mortgage without exceeding 33 percent of the applicant's monthly gross household income (i.e., the applicant's annual Gross Household Income divide by 12).

- d. Developer shall maintain true and correct copies of all records and information related to applications that are accepted or rejected for processing for a period of no less than seven (7) years after the end of the last Period of Affordability for any AHUs. Developer will make these records available to the City for copying and inspection upon request. This requirement shall survive any termination of this agreement.
9. Waivers. Applicants that may qualify for a waiver from the DPP of any eligibility requirements under the Affordable Housing Rules may apply directly to DPP for a waiver. Applicants that are granted a waiver by DPP will be responsible for providing Developer with proof of the approved waivers. Developer shall be responsible for confirming any approved waivers with DPP.
10. Annual Reporting and Compliance. The restrictions on transfer, sale/buyback, and use under Chapter 5 of the Affordable Housing Rules shall be applicable and effective as to all AHUs and their owners. The provisions of Chapter 5 of the Affordable Housing Rules are specifically and expressly incorporated herein by this reference and are applicable to the Parties to this Agreement.
- a. AHUs sold to Qualified Purchasers shall be occupied as the Qualified Purchaser's principal residence for the duration of the Affordability Period and shall not be rented without the approval of the Director, based on extreme hardship circumstances as defined in the Affordable Housing Rules. Developer and the City shall have the right during the Affordability Period to verify owner occupancy of the AHU as a principal residence by any reasonable means, including on-site AHU inspections and the inspection and copying of documents and things.
 - b. Developer shall place a deed restriction in the deed for each AHU. The deed restriction will, in a form and substance approved by the Director, encumber all AHUs with the restrictions in this Agreement, including, without limitation, the restrictions described in Chapter 5 of the Affordable Housing Rules, for the duration of the affordability period for each AHU, provided, however, that CBUs with periods of affordability that are variable may be encumbered by a declaration of restrictive covenants in and form and substance approved by the Director. Deed restrictions and

declarations of restrictive covenants shall specifically grant Developer, the City, the HRS Chapter 514B association for the West Tower, the HRS Chapter 514B association for the East Tower, and members of the public who qualify for affordable housing at the Project the right to enforce these restrictions by way of specific performance or an action for a declaratory judgment and/or injunctive relief.

- c. The City shall have a right, but not a duty or obligation, to enforce the terms of this Agreement, which include, without limitation, the provisions of the Affordable Housing Rules that are incorporated into this Agreement by reference. If the City commences any legal or administrative action to interpret or enforce the terms of this Agreement or the restrictions on the AHUs (whether they are created by this Agreement, laws incorporated by reference, deed restrictions, or declarations of restrictive covenants), the City shall be entitled to the recovery of reasonable attorneys' fees and costs from properly named adverse parties, if the City is the prevailing party.

Developer shall comply with § 6-1 of the Affordable Housing Rules by submitting the required annual reports and information for the Project. Reports will be made in a form and substance acceptable to the Director and include all information required by § 6-1 of the Affordable Housing Rules. Developer shall also submit to DPP any other or supplemental information or documentation reasonably requested by DPP for the purposes of administering the Project Documents, Affordable Housing Rules, Resolution and/or Ordinance 18-10.

- d. If and when JL AVALON CAPBRIDGE, LLC has completed its obligations as Developer under this Agreement and no longer holds an interest in the Project or the Project Land, it shall then transfer true, correct, and complete copies of its files and records concerning the Project and the marketing and sale of the AHUs to the HRS 514B association for the East Tower. The East Tower association shall keep custody of these records and any additional records related to the Project and the marketing and sale of AHUs in the Project for a minimum of seven (7) years after the end of the last Period of Affordability for an AHU in the Project. The East Tower association shall make all records kept under its custody and control available to the City for copying and inspection, as they are kept in the ordinary course of business, upon request. The East Tower association shall also be responsible for the affordable rental housing monitoring and reporting required by Section 6-3 of the Affordable Housing Rules. The East Tower association's responsibility to maintain records and submit reports pursuant to Chapter 6 of the AH Rules shall be disclosed in the deed documents to the buyers of the AHUs, a draft copy of which shall be provided to the Director for review and approval prior to

recordation. The requirements of this section shall survive any termination of this Agreement.

- e. AHUs provided under this Agreement will be recognized as having fully satisfied the requirements of Ordinance 18-10 and the Resolution at the end of their affordability period, which is a minimum of thirty (30) years for AHR Units and ten (10) to thirty (30) years for CBUs (as contemplated by Condition M of the Resolution) if and only if they are Used in compliance with the requirements of the Ordinance 18-10, the Affordable Housing Rules, the Project Documents and this Agreement.

11. Inspection Requirements and Procedures. The City shall be entitled to inspect the Project (including the Project's common areas and the AHUs) and records and things related to the Project as follows.

- a. Construction Inspections. Developer shall permit the City to inspect the Project during construction in order to assess the progress of construction and the Project's compliance with the Ordinance 18-10, the Affordable Housing Rules, the Project Documents and other plans, specifications, and permits for the Project. Inspections of the Project pursuant to this provision shall be in addition to rather than in lieu of other inspections authorized by law or conducted by the City for the purposes of administering and enforcing statutes, ordinances, and administrative rules under its jurisdiction.
- b. Post-Construction Inspections. The City shall be entitled to physically access and inspect the Project in order to determine the Project's compliance with this Agreement, Ordinance 18-10, the Affordable Housing Rules, the Project Documents and other plans, specifications, and permits for the Project. Developer and the HRS Chapter 514B associations for the Project will cooperate with the City by providing the City with safe and reasonable access to the Project, as needed, and will take any and all actions reasonably necessary to ensure that the City has appropriate access throughout the Project, as required by this part.
- c. Inspection and Copying of Records. In addition to obtaining information and records as provided for in the Affordable Housing Rules and other portions of this Agreement, the City shall be entitled to copy and inspect records related to the planning, design, financing, construction, ownership, and Use of the Project for the purposes of assessing the Project's compliance with this Agreement, Ordinance 18-10, the Affordable Housing Rules, the Project Documents and other plans, specifications, and permits for the Project. Within a reasonable time after receiving a request for the inspection and copying of such records, the person responsible for keeping the records will grant the City access to the requested records and allow the City to inspect and copy the records as they are kept in the

ordinary course of business or provide the City with true and correct copies of the records requested by the City. In providing the City with access to its records or copies of its records, any person may identify specific records or information as proprietary. The City will not disclose proprietary records or information in response to requests for public records except as required or allowed by a court of competent jurisdiction. Breach of contract shall be the only actionable claim for a violation of this section by any person or Party and injunctive relief shall be the sole and exclusive remedy for a violation of this section. Each Party expressly waives its rights to assert any and all other claims or causes of action that might otherwise arise under the acts, duties, and rights addressed by this section of this Agreement

12. Standard clauses.

- a. Amendments. This Agreement may be amended or modified only by a written instrument signed by a duly authorized representative the Parties and recorded against all Project Units in the Bureau of Conveyances or the Land Court, as appropriate (if any unit is registered in both the Bureau of Conveyances and the Land Court, this Agreement and any amendments must be recorded in both the Land Court and the Bureau of Conveyances).
- b. No Waiver. Any waiver of any term or condition of this Agreement by the City must be in writing, specify the waived terms and the duration of the waiver, and be signed by an authorized City representative. Waivers affecting the period of affordability for any AHU, the maximum base sales for the same, or restrictions on the Use of an AHU must be recorded against the affected AHU in the Bureau of Conveyances or the Land Court, as appropriate (if any unit is registered in both the Bureau of Conveyances and the Land Court, this Agreement and any amendments must be recorded in both the Land Court and the Bureau of Conveyances) and shall not take effect until such recordation is complete. No waiver of any specific provision or term of this Agreement will imply a waiver of any other term or provision of this Agreement. Waivers will not be implied from any delay or failure by the City to take action on any breach of or default under this Agreement or other the applicable laws. No failure or delay by City to require strict or specific performance by Developer of any provision of this Agreement or to exercise any election contained herein shall be construed as a waiver of the same or any right, power or remedy hereunder. Nor shall any failure or delay of the City to enforce strict or specific performance of any term of this Agreement constitute a waiver or relinquishment for the performance of the same.
- c. No City Relationship. Nothing in this Agreement is intended to or shall establish the Parties as partners, co-venturers, or principal and agent with

one another. The Parties shall not establish or be determined to have established a joint venture, equity venture, partnership or any other relationship. The City neither undertakes nor assumes any responsibility or duty to Developer except as expressly provided in this Agreement. The City does not accept or undertake any duty to any third party with respect to this Agreement or the actions of the Developer. Neither Developer nor any of its employees, agents, contractors or other representatives or consultants shall pretend to be or hold themselves out as employees or agents of City. Developer shall not have any authority to act as an agent of City or to bind City to any obligation.

- d. Action by the City. Except as may be otherwise specifically provided herein, whenever any approval, notice, direction, consent or request by the City is required or permitted under this Agreement, such action shall be in writing and signed by the City's authorized representative. The above-described actions may be given, made or taken only by the City's authorized representatives.
- e. Successors and Assigns. This Agreement shall run with the land, and all of the terms, covenants and conditions of this Agreement shall be binding upon Developer, Developer's successors and assigns, and the HRS Chapter 514B associations for the Project. To the extent that Developer is not able make this Agreement an effective encumbrance on one or more Project Units, Developer shall require all owners of such units to execute a joinder to this Agreement or a consent to the recordation of this Agreement as a covenant running with the land against their unit. Joinders and consents required under this section of the Agreement shall be in a form and substance acceptable to the Director and recorded against the relevant Project Units at Developer's sole cost and expense.
- f. Compliance with laws. Developer, at its sole cost and expense, shall ensure that the Project complies with the Project Documents and all applicable laws at all times and in all respects.
- g. No Discrimination. Developer covenants by and for itself and any successors in interest that there shall be no discrimination against or segregation of any person or group of persons in the sale, lease, sublease, transfer, Use, occupancy, tenure or enjoyment of the Project Units on the basis of race, sex, sexual orientation, age, religion, color, ancestry, handicapped status, marital status, or arrest and court record.
- h. Further Assurances. The Parties shall execute, acknowledge and deliver to the other such other documents and instruments, and take such other actions, as either shall reasonably request as may be necessary to carry out the intent of this Agreement.

- i. Non-Liability of City and City Officials, Employees and Agents. No member, official, employee or agent of the City shall be personally liable to Developer or any successor in interest, in the event of any default or breach by the City, or for any amount of money which may become due to Developer or its successor or for any obligation of City under this Agreement. Developer waives on behalf of itself and its successors and assigns, any and all claims for direct liability, contribution, liability apportionment, and shared liability of any kind against the City for claims that arise, directly or indirectly, and in whole or in part, from any error, negligence, recklessness, lapse in judgment or omission in the planning, design, construction, maintenance or operation of the Project. This waiver specifically includes, without limitation, the right to apportion liability to the City or seek contribution from the City for claims and liabilities for monetary or property damage, loss of use, loss of profit, personal injury, wrongful death, negligence, professional errors and omissions, and general liability.
- j. Defense and Indemnity. To the greatest extent permitted by law, Developer shall indemnify, defend (with counsel approved by City), and hold the City harmless from and against all claims arising directly or indirectly and in whole or in part, as a result of or in connection with the design, construction, management, operation, sale, leasing, approval, or Use of the Project, including, without limitation, state and federal fair housing law claims and claims for the failure to perform any act or obligation under this Agreement. Developer's indemnification obligations under this Agreement shall not extend to claims to the extent that they are based on the negligence or willful misconduct of DPP. The provisions of this section of the Agreement shall survive the expiration and termination of this Agreement.
- k. Headings and Construction. The headings of the sections and paragraphs of this Agreement are for convenience only and shall not be used to interpret this Agreement. The language of this Agreement shall be construed as a whole according to its fair meaning and not strictly for or against any Party.
- l. Statutory References. To the extent that the same will not materially alter the obligations of the parties or their financial obligations under this Agreement, all references in this Agreement to particular statutes, regulations, ordinances, administrative rules or resolutions of the United States of America, the State of Hawaii, or the City and County of Honolulu shall be deemed to include the same statute, regulation, ordinance or resolution as hereafter amended or renumbered, or if repealed, to such other provisions as may thereafter govern the same subject.

- m. Time is of the Essence. Time is expressly made of the essence with respect to each and every provision of this Agreement.
- n. Governing Law and Venue. This Agreement shall be construed in accordance with the laws of the State of Hawaii without regard to principles of conflicts of law. Any action to enforce or interpret this Agreement shall be filed and heard in the Circuit Court of the First Circuit, State of Hawaii.
- o. Default and Notice of Default. Developer's failure to perform or deliver in accordance with any term, provision or covenant of this Agreement shall constitute an event of default hereunder if the same remains uncorrected to the satisfaction of the City after sixty (60) days written notice, as measured from the date a written notice of default is mailed to Developer. A notice of default issued by the City shall include:
 - i. Identification of the terms, provisions or covenants of this Agreement that have been breached;
 - ii. The transactions or units involved;
 - iii. The actions or inactions of the Developer giving rise to the to breach; and
 - iv. The actions necessary to cure the breach.
- p. City Remedies. Upon the occurrence of an event of default and its continuation beyond any extension of time to correct the same, if granted by the City, the City may proceed with any of the following remedies:
 - i. Bring an action breach of contract, equitable relief and/or injunctive relief seeking the specific performance of the terms and conditions of this Agreement, and/or enjoining, abating, or preventing any violation of such terms and conditions, and/or seeking declaratory relief;
 - ii. For violations of obligations with respect to the maximum sale price of AHUs, impose a charge in an amount equal to the actual amount of money an AHU is sold for in excess of applicable price restrictions;
 - iii. For violations of obligations with respect to rents for AHUs, impose a charge in an amount equal to the actual amount collected in violation of applicable Use restrictions or in excess of rents allowed for AHUs;

- iv. For violations of obligations related to the marketing and sale of AHUs, declare any affected sale or transaction void *ab initio* and invalid;
- v. For all breaches of this Agreement, rescind, revoke, or declare null and void any permits, development approvals, or authorizations for the Project;
- vi. For all violations of this Agreement, declare that the identified AHU does not satisfy the requirements of the AHR or Resolution; and/or
- vii. For all breaches of this Agreement, seek appropriate legal relief, whether at law or in equity.

The remedies provided for herein may be sought against JL AVALON CAPBRIDGE, LLC and its successors and assigns, which shall include both the owners of Project Units and the HRS Chapter 514B associations for the Project, as deemed appropriate by the City. Service of a notice of default and any legal process upon the HRS Chapter 514B associations for the Project shall be effective and legally binding on each and every HRS Chapter 514B association member.

- q. Third Party Beneficiaries. Qualified Purchasers and people who qualify to purchase AHU at the Project are expressly designated as third party beneficiaries to this Agreement. They shall have legal standing and rights to enforce the terms of this Agreement concerning the sale and marketing of the AHUs, Periods of Affordability, Use restrictions, and maximum sales prices of AHUs by specific performance, declaratory and injunctive relief, and breach of contract.
- r. Recordation; No Subordination. This Agreement shall be recorded against each Project Unit as a declaration of restrictive covenants. Deeds of trust provided for the benefit of lenders shall be subordinate to this Agreement, such that no deed of trust, instrument, or transaction may extinguish or take precedence over the Use and Affordability restrictions applicable to AHUs under this Agreement and applicable laws.
- s. No Lien Impairment. No violation or breach of the covenants, conditions, restrictions, provisions or limitations contained in this Agreement shall defeat or render invalid or in any way impair the lien or charge of any mortgage, deed of trust or other financing or security instrument for the Project or the Project Units. However, any of Developer's successors in interest shall be bound by applicable covenants, conditions, restrictions, limitations and provisions, whether such successor's title was acquired by foreclosure, deed in lieu of foreclosure, trustee's sale or otherwise.

- t. Computation of Time. The time in which any act is to be done under this Agreement is computed by excluding the first day and including the last day, unless the last day is a holiday recognized by the City or a Saturday or Sunday, in which case that day is also excluded.
- u. Legal Advice. Each Party represents and warrants to the other the following: they have carefully read this Agreement; they have had the benefit of legal advice from attorneys of their choosing regarding the contents and requirements of this Agreement; in signing this Agreement, they do so with full knowledge of their legal rights; and, they have freely signed this Agreement without any reliance upon any agreement, promise, statement or representation by or on behalf of the other Party, or their respective agents, employees, or attorneys, except as specifically set forth in this Agreement.
- v. Severability. Any part, provision, representation or warranty of this Agreement which is prohibited or which is held to be void or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof. To the extent permitted by law, the parties hereto waive any provision of law which prohibits or renders void or unenforceable any provision hereof. If the invalidity of any part, provision, representation or warranty of this Agreement will deprive any Party to this Agreement of the benefits intended to be conferred by this Agreement, the parties shall negotiate, in good-faith, to develop a revised agreement, the effect of which will be to convey the intended benefits of this Agreement to each party without invalidity.
- w. Term and Termination of Agreement. This Agreement shall remain in effect until the one (1) year after the end of the last Period of Affordability for any AHU governed by this Agreement. Upon termination of this Agreement, the Parties agree to execute and record appropriate instruments to release and discharge this Agreement and any real property encumbrances, as may be appropriate. However, the execution and recordation of such instruments shall not be necessary to the termination of this Agreement upon the expiration of its term.
- x. Entire Agreement; Exhibits. This Agreement, together with the Exhibits 1 to 5 contains the entire agreement of Parties with respect to the subject matter hereof, and supersedes all prior oral or written agreements between the Parties with respect the same.
- y. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

- z. Notices. Any notice required or permitted by the provisions of this Agreement to be given by a party to any other party, shall be written and shall be delivered by certified mail to each other party at the address and to the person designated by each party. No other method of notification shall be deemed effective.

CITY AND COUNTY OF HONOLULU:

City and County of Honolulu
Department of Planning and Permitting
650 South King Street, 7th Floor
Honolulu, Hawaii 96813
Attention: Director

JL AVALON CAPBRIDGE, LLC

JL Avalon Capbridge, LLC
1440 Kapiolani Boulevard, Suite 1509
Honolulu, Hawaii 96814
Attention: Timothy Lee

[Signatures begin on the next page]

IN WITNESS WHEREOF, the City has signed this Agreement as of the date first written above.

APPROVED:

By



Name: Brad T. Saito
Deputy Corporation Counsel

By



Name: Dean Uchida
Director of the for the City and County of
Honolulu Department of Planning
and Permitting

JL AVALON CAPBRIDGE, LLC
a Hawaii limited liability company

By



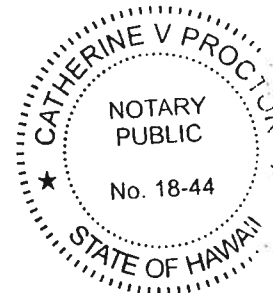
Timothy Lee
Its Authorized Representative

City Notary Page

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

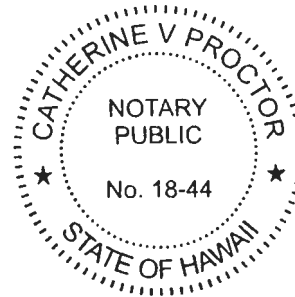
On this 24th day of September, 2021, before me personally appeared Dean Venada personally known, who, being by me duly sworn or affirmed, did say that he executed the foregoing instrument as his free act and deed, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

C. V. Proctor
Print Name: Catherine V. Proctor
Notary Public, State of Hawaii



My commission expires: 2/25/2022

| | |
|--|--------------------------|
| Doc. Date: <u>Updated at time of notation</u> | # Pages: <u>99</u> |
| Name: <u>Catherine V. Proctor</u> First Circuit | |
| Doc. Description: <u>Affordable Housing Regulatory</u> | |
| <u>Agreement and Declaration of</u> | |
| <u>Restrictive Covenants</u> | |
| <u>C. V. Proctor</u> Notary Signature | <u>9/24/2021</u> Date |
| NOTARY CERTIFICATION | |

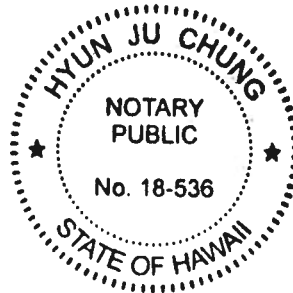


Developer's Notary Page

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

On this 20th day of September, 2021, before me personally appeared Timothy Lee personally known, who, being by me duly sworn or affirmed, did say that he executed the foregoing instrument as His free act and deed, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.


Print Name: Hyun Ju chung
Notary Public, State of Hawaii



My commission expires: 9-23-2022

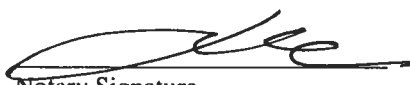
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|---|--------------------------|
| Doc. Date: <u>Undated</u> | # Pages: <u>99</u> |
| Name: <u>Hyun Ju chung</u> | First Circuit |
| Doc. Description: <u>Affordable Housing Regulatory</u> | |
| <u>Agreement and Declaration of</u> | |
| <u>Restrictive Covenants</u> | |
|  Notary Signature | <u>9-20-2021</u> Date |
| NOTARY CERTIFICATION | |

EXHIBIT 1
LEGAL DESCRIPTION OF LAND UNDERLYING PROJECT

-FIRST-

ALL that certain piece or parcel of land being portions of Grant 1290 to Wm. Miller and Grant 2790 to L. Kamehameha, the same being Lots 24 through 30, inclusive, and portion Lot 31, as shown on Map 1 of Land Court Consolidation 45, Deregistered in the State of Hawaii, Bureau of Conveyances as Document No. A72270700, dated October 15, 2019, and as shown on City and County of Honolulu, Department of Planning and Permitting, File No. 2020/SUB-153, approved on January 8, 2021.

Situate at Kalia, Waikiki, Honolulu, Oahu, Hawaii.

Beginning at the west corner of this parcel of land, the same being the south corner of Lot 23 as shown on Map 1, Land Court Consolidation 45 and on the northeast side of Kapiolani Boulevard, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUNCHBOWL" being 6,665.60 feet South and 1788.81 feet East and thence running by azimuths measured clockwise from true South:

1. 205° 20' 200.00 feet along Lot 23, Land Court Consolidation 45;
2. 295° 20' 176.00 feet along Makaloa Street;
3. 25° 20' 200.00 feet along Lot B, portions of Grant 1290 to Wm. Miller and Grant 2790 to L. Kamehameha, DPP File No. 2020/SUB-153;
4. 115° 20' 176.00 feet along Kapiolani Boulevard to the point of beginning and containing an area of 35,200 square feet.

SUBJECT, TO Easement A-2 for public access purposes, as shown on City and County of Honolulu, Department of Planning and Permitting File No. 2020/SUB-153, approved on January 8, 2021.

Beginning at the west corner of this easement, the same being 295° 20' 149.17 feet from the west corner of Lot A, as shown on City and County of Honolulu, Department of Planning and Permitting File No. 2020/SUB-153, approved on January 8, 2021 and on the northeast side of Kapiolani Boulevard, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUNCHBOWL" being 6,729.42 feet South and 1,923.63 feet East and thence running by azimuths measured clockwise from true South:

1. 205° 20' 200.00 feet along the remainder Lot A, portions of Grant 1290 to Wm. Miller and Grant 2790 to L. Kamehameha, DPP File No. 2020/SUB-153;
2. 295° 20' 10.00 feet along Makaloa Street;

3. 25° 20' 200.00 feet along the remainder Lot A, portions of Grant 1290 to Wm. Miller and Grant 2790 to L. Kamehameha, DPP File No. 2020/SUB-153;
4. 115° 20' 10.00 feet along Kapiolani Boulevard to the point of beginning and containing an area of 2,000 square feet.

SUBJECT, ALSO, TO Easement A-3 for public access purposes, as shown on City and County of Honolulu, Department of Planning and Permitting File No. 2020/SUB-153, approved on January 8, 2021.

Beginning at the west corner of this easement, the same being 295° 20' 166.00 feet from the west corner of Lot A, as shown on City and County of Honolulu, Department of Planning and Permitting File No. 2020/SUB-153, approved on January 8, 2021 and on the northeast side of Kapiolani Boulevard, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUNCHBOWL" being 6,736.62 feet South and 1,938.85 feet East and thence running by azimuths measured clockwise from true South:

1. 205° 20' 200.00 feet along the remainder of Lot A, portions Grant 1290 to Wm. Miller and Grant 2790 to L. Kamehameha, DPP File No. 2020/SUB-153;
2. 295° 20' 10.00 feet along Makaloa Street;
3. 25° 20' 200.00 feet along Lot B, portions of Grant 1290 to Wm. Miller and Grant 2790 to L. Kamehameha, DPP File No. 2020/SUB-153;
4. 115° 20' 10.00 feet along Kapiolani Boulevard to the point of beginning and containing an area of 2,000 square feet.

-SECOND-

ALL that certain piece or parcel of land being portions of Grant 1290 to Wm. Miller and Grant 2790 to L. Kamehameha, the same being a portion of Lot 31 and Lots 32 through 37, inclusive, as shown on Map 1 of Land Court Consolidation 45, Deregistered in the State of Hawaii, Bureau of Conveyances as Document No. A72270700, dated October 15, 2019, and as shown on City and County of Honolulu, Department of Planning and Permitting, File No. 2020/SUB-153, approved on January 8, 2021.

Situate at Kalia, Waikiki, Honolulu, Oahu, Hawaii.

Beginning at the west corner of this parcel of land, the same being the south corner of Lot A, City and County of Honolulu, Department of Planning and Permitting File No. 2020/SUB-153, approved on January 8, 2021 and on the northeast side of Kapiolani Boulevard, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUNCHBOWL" being 6,740.90 feet South and 1,947.88 feet East and thence running by azimuths measured clockwise from true South:

1. 205° 20' 200.00 feet along Lot A, portions of Grant 1290 to Wm. Miller and Grant 2790 to L. Kamehameha, DPP File No. 2020/SUB-153;
2. 295° 20' 174.00 feet along Makaloa Street;
3. 25° 20' 200.00 feet along Lot 38, Land Court Consolidation 45;
4. 115° 20' 174.00 feet along Kapiolani Boulevard to the point of beginning and containing an area of 34,800 square feet.

SUBJECT, TO Easement A-1 for pedestrian, utility, and maintenance purposes, as shown on City and County of Honolulu, Department of Planning and Permitting File No. 2020/SUB-41, approved on October 2, 2020.

SUBJECT, ALSO, TO Easement E-1 for electrical purposes as shown on City and County of Honolulu, Department of Planning and Permitting File No. 2020/SUB-153, approved on January 8, 2021.

Beginning at the east corner of this easement, the same being the north corner of Lot 38, Land Court Consolidation 45 and on the southwest side of Malakole Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUNCHBOWL" being 6,634.59 feet South and 2,190.73 feet East and thence running by azimuths measured clockwise from true South:

1. 25° 20' 100.00 feet along Lot 38, Land Court Consolidation 45;
2. 115° 20' 27.00 feet along the remainder of Lot B, portions of Grant 1290 to Wm. Miller and Grant 2790 to L. Kamehameha, DPP File No. 2020/SUB-153;
3. 205° 20' 100.00 feet along the remainder of Lot B, portions of Grant 1290 to Wm. Miller and Grant 2790 to L. Kamehameha, DPP File No. 2020/SUB-153;
4. 295° 20' 27.00 feet along Kapiolani Boulevard to the point of beginning and containing an area of 2,700 square feet.

EXHIBIT 2



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

No. 18-248, CD1, FD1

RESOLUTION

APPROVING A CONCEPTUAL PLAN FOR AN INTERIM PLANNED DEVELOPMENT-TRANSIT PROJECT FOR THE DEVELOPMENT OF THE SKY ALA MOANA CONDO-HOTEL AND RESIDENTIAL PROJECT.

WHEREAS, on May 14, 2018, the Department of Planning and Permitting ("DPP") accepted the application (File No. 2018/SDD-25) of Avalon Group, LLC (the "Applicant") for an Interim Planned Development-Transit ("IPD-T") permit to redevelop 70,000 square feet of land zoned BMX-3 Community Business Mixed-Use District with a mixed-use, condo-hotel, residential, and commercial project in the Ala Moana neighborhood, located at 1388, 1400, and 1418 Kapiolani Boulevard, and identified as Tax Map Keys 2-3-016: 003, 004, and 008 (the "Project"); and

WHEREAS, the Project is proposed to include the demolition of the existing commercial structures and the construction of a new two-tower mixed-use development, with a maximum height of 400 feet, which includes a 300-unit full-service hotel, 390 market rate residential units, affordable housing units (to satisfy affordable housing requirements and offered as community benefits), various amenities, ground floor commercial spaces, a linear plaza with path, a public driveway that traverses through the Project site, and other ground floor pedestrian and right-of-way improvements; and

WHEREAS, on June 20, 2018, the DPP held a public hearing, which was attended by representatives of the Applicant and the Applicant's agent, DPP staff members, and approximately 20 members of the public; testimony was offered by three members of the public at the hearing; and

WHEREAS, on October 29, 2018, the DPP, having duly considered all evidence and reports of said public hearing and the review guidelines established in Section 21-2.110-2 and 21-9.100-5 of the Land Use Ordinance ("LUO"), completed its report and transmitted its findings and recommendation of approval to the Council by Departmental Communication 706 (2018); and

WHEREAS, the conceptual plan for the Project is set forth in the exhibits attached hereto as Exhibits A-1 and A-2, B-1 through B-8, C-1 through C-4, D-1 through D-7, E-1 through E-3, and F-1 through F-17, and is further described in Departmental Communication 706 (2018), all of which are incorporated herein by this reference; and




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WHEREAS, the City Council, having received the findings and recommendation of the DPP on October 31, 2018, and having duly considered the matter, desires to approve the conceptual plan for the Project, subject to the conditions enumerated below; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that the conceptual plan for the IPD-T Project is approved, subject to the following conditions:

- A. The maximum permitted floor area ratio ("FAR") for the Project is 9.51 (665,700 square feet), and 10.0 (700,000 square feet) for the Project site. If the FAR of 0.49 that was transferred from the Project site to the adjacent property (Pacific Guardian Tower joint development) becomes available to develop on the Project site, additional community benefits and conditions related to any expansion of the Project floor area are required.
- B. The maximum height of the Project is 400 feet. Rooftop structures must conform to the Land Use Ordinance (LUO) Section 21-4.60(c).
- C. Encroachments into the Kapiolani Boulevard and Makaloa Street height setbacks are allowed as shown in Exhibits B-6 and B-7, with the satisfaction of Condition ~~1~~ 1.a. 
- D. Use of the Project site for hotel use as permitted under the BMX-4 Central Business Mixed Use District is allowed.
- E. The minimum number of vehicle parking spaces for the Project is 519 spaces. The maximum number of vehicle parking spaces for the Project is 960 spaces. The minimum number of loading spaces may be reduced to 9 loading spaces, at least four of which must be full-size (12 feet x 35 feet, with 14-foot vertical clearance).
- F. The Project must include a minimum of 169 short-term and 259 long-term bicycle parking spaces for the Project, subject to Condition H.1.c relating to the location of the bicycle parking spaces.



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- G. Prior to submitting an application for any building permit, the Applicant shall submit:
1. Updated plans to the DPP for review and approval showing the following:
 - a. The entire parking podium along Kapiolani Boulevard must be adequately screened with a green wall, trees, site-specific screening, or wrapped with habitable spaces.
 - b. Revised plans that show a setback of 23 feet, eight inches from the Ewa property line for the angled Ewa Tower.
 - c. The type and location of all short-term and long-term bicycle parking. The bicycle parking plans must be modified so that more than half (85 or more) of the 169 short-term bicycle parking spaces are located on the ground floor in publicly accessible areas, such as the front yard or the public driveway near the entrances to the hotel or residential lobbies. Bicycle parking in the plaza and path area must be adjacent to any active and transparent façade facing the open space, or no more than 50 feet from the public sidewalk, whichever is greater. The remainder of the short-term bicycle parking stalls may be on the second floor in the parking podium, and should be located near a publicly accessible stairway, elevator, or vehicle ramp. A sign directing the public to the additional in-podium short-term bicycle parking is required. The 259 long-term bicycle parking space must be distributed on the six parking floors and ground floor. The long-term spaces in the podium must be located near the stairway, elevator, or vehicle ramp.
 - d. The revised location for an on-site bikeshare station.
 - e. Sharrows and sidewalks on the public driveway.
 - f. A street tree plan to install large canopy trees along Makaloa Street.
 - g. The materials used for the sidewalks within the property, which should be consistent across the entire frontage, including across any driveways to signal pedestrian priority. The colors selected for the pavers must match the City's concrete sidewalk to avoid incongruous patchwork effects along Kapiolani Boulevard and



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Makaloa Street, and to allow for easy repairs.

- h. Ten car share spaces conveniently located and publicly accessible on the lowest floor of the parking podium and near an elevator or walkable ramp. Wayfinding signage must be provided to direct the public to the car share spaces.
2. Prior to the issuance of any grading or foundation permit, approval from the Department of Land and Natural Resources, State Historic Preservation Division ("SHPD"). In the event that subsurface historic resources, including human skeletal remains, structural remains, cultural deposits, artifacts, sand deposits, or sink holes are encountered during the demolition or construction activities, the Applicant shall stop work and contact the SHPD immediately. Work in the immediate area must be stopped until the SHPD is able to assess the impact, make further recommendations for mitigative activity, and issue an archaeological clearance indicating that mitigation measures have been implemented to its satisfaction.
3. An updated wind study that quantifies the wind conditions, proposes mitigation measures for the ground level and recreation deck, and describes the effectiveness of the proposed wind mitigation strategies. The Applicant shall implement the recommendations of the updated wind study, which must be incorporated into the building permit plans for ground level and the recreation deck improvements.
4. An updated Traffic Impact Report ("TIR"), or a separate analysis done to evaluate a protected bicycle lane on Kapiolani Boulevard. The updated TIR must provide a pedestrian and multi-modal analysis, and discuss compliance with complete streets design concepts. A post TIR is required approximately one year after the issuance of the final certificate of occupancy ("COO") for the Project to validate the traffic projections, distribution, and assignment contained in the initial TIR dated February 2017. The Applicant shall implement the TIR recommendations, as approved by the DPP and the Department of Transportation Services ("DTS").
5. A timeline or phasing plan of the anticipated dates to obtain major building permit(s) for demolition and construction work, including the projected date of occupancy, must be prepared by the Applicant in a format acceptable to the DPP. The timeline must identify when the



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Construction Management Plan ("CMP"), the Traffic Management Plan ("TMP"), and updates or validation to the findings of the initial TIR dated February 2017, will be submitted for review and approval, relative to when approvals for construction plans, and building and occupancy permits will be needed. Typically, the CMP must be submitted for review and approval prior to the issuance of demolition and building permits for major construction work. The TMP or subsequent updates must be submitted and approved prior to the issuance of the (temporary) COO for the Project. The TIR, including supplemental studies or subsequent updates, shall be submitted and approved prior to the commencement of each major phase of work, as required. A new TIR may be required if there is a significant change to the scope or timing of the major work items contained in the initial TIR.

6. The CMP must identify the type, frequency and routing of heavy trucks, and construction related vehicles. Every effort must be made to minimize impacts from these vehicles and construction-related activities. The CMP must identify and limit vehicular activity related to construction to periods outside of the peak periods of traffic, utilizing alternate routes for heavy trucks, provisions for either on-site or off-site staging areas for construction related workers and vehicles to limit the use of on-street parking around the Project site; and include other mitigation measures related to traffic and potential neighborhood impacts. The CMP must also include preliminary or conceptual traffic control plans. The Applicant shall document the condition of roadways prior to the start of construction activities and provide remedial measures, as necessary, such as restriping, road resurfacing, or reconstruction if the condition of the roadways deteriorates as a result of the construction-related activities.
7. The TMP must include Traffic Demand Management ("TDM") strategies to minimize the number of vehicular trips for daily activities and large events by residents and employees. TDM strategies may include carpooling and ride sharing programs; transit, bicycle and pedestrian incentives; and other similar TDM measures. The TMP must also include a pedestrian and bicycle circulation plan to provide accessibility and connectivity to and along the surrounding public sidewalks and at street intersections, as it relates to complete streets initiatives. Specifically, as a community benefit and if recommended by the TMP, the TDM strategies must include the implementation of free or discounted employee bus and rail passes, and incentives for bicycling to work. A post TMP is required approximately one



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year after the issuance of the COO to validate the relative effectiveness of the various TDM strategies identified in the initial TMP.

- H. Prior to the issuance of any building permit for the Project, the Applicant shall coordinate with the DTS and the DPP to:
 - 1. Demonstrate compliance with complete streets policies and principles.
 - 2. Ensure that all access driveways are designed with pedestrian and bicycle safety measures in place.
- I. The Applicant shall coordinate with the State Department of Transportation ("HDOT") for HDOT's to review of any updated studies, which must include a study of possible Project impacts on Ala Moana Boulevard, which is a State-maintained urban principal arterial roadway.
- J. Prior to the issuance of a (temporary) COO for the second of the two Project towers that are developed, the Applicant shall:
 - 1. Coordinate with the DTS and Oahu Transit Services to design and construct a bus stop and shelter fronting the Project site, if it is determined that one is needed at that location.
 - 2. Coordinate with the DPP and the DTS to contribute \$103,000 to the City, to be used to construct a bicycle lane on Kapiolani Boulevard, or to fund other complete streets improvements in the Ala Moana Neighborhood TOD Plan area.
- K. Prior to the issuance of a (temporary) COO for the Project:
 - 1. Relating to any permanent use on the Project site, the Applicant shall:
 - a. Submit a Street Tree Plan that is approved by the Department of Parks and Recreation.



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- b. Record with the State of Hawaii Bureau of Conveyances, or the State of Hawaii Land Court, or both as appropriate, an easement in favor of the City providing that the public driveway traversing the Project site and connecting Kapiolani Boulevard and Makaloa Street remain accessible to the public (including but not limited to all motorists, pedestrians, and bicyclists) at all hours for the life of the structure.
 - c. Execute an agreement with Bikeshare Hawaii or other current City bicycle sharing partner to provide space for an on-site bicycle sharing station with a minimum of 20 docking stations, or as deemed appropriate by Bikeshare Hawaii (or other City bicycle sharing partner). The bicycle sharing station must be located on the publicly-accessible private property portion of the Project site, and be suitable to accommodate a flat surface approximately 550 square feet in size (50 feet by 11 feet) that receives at least four hours of sunlight per day (for the station photovoltaic panels).
- 2. Relating to the condo-hotel units, the Applicant shall obtain a COO for the affordable residential units used to satisfy: (i) the affordable housing requirements under Ordinance 18-10, and (ii) the affordable community benefit units offered as a community benefit.
- L. The Applicant shall comply with the affordable housing requirements ("AHR") pursuant to Ordinance 18-10 using the longest period of affordability available (10 percent of total applicable units to remain affordable for a minimum of 30 years), and must generally maintain the unit mix (studios, one- and two-bedrooms) shown on Exhibits F-1 through F-17.
- M. In addition to complying with the AHR of Ordinance No. 18-10 (as approved by DPP), the Applicant shall provide as a community benefit at least an additional 42 dwelling units affordable to households earning 120 percent or less of the area median income ("AMI") for Honolulu, to remain affordable a minimum of 30 years. The affordable community benefit units must generally maintain the unit mix (studios, one- and two-bedrooms) shown on Exhibits F-1 through F-17. If, after the end of the first 45-day marketing period, any affordable community benefit units remain unsold, the period of affordability for those units may be reduced to 20 years. If, after the end of the second 45-day marketing period, any affordable community benefit units remain unsold, the period of affordability for those units may be reduced to 10 years. The first 45-day marketing period commences when the Applicant offers the affordable community benefit units for



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sale to the public after the Applicant's public report is issued by the State of Hawaii Real Estate Commission pursuant to Chapter 514B of the Hawaii Revised Statutes.

- N. The Applicant shall be responsible for the maintenance of all constructed improvements not otherwise accepted by the City or State for maintenance.
- O. Approval of this resolution does not constitute compliance with LUO or governmental agency requirements, including but not limited to building permit approval. They are subject to separate review and approval. The Applicant shall be responsible for ensuring that the final plans for the Project comply with all applicable LUO and other governmental provisions and requirements.
- P. The Applicant must obtain a building permit for the Project within five years after the date of issuance of a major special district permit for the Project. Failure to obtain a building permit within this period will render null and void this resolution and all approvals issued hereunder, provided that this deadline may be extended as follows:
 - 1. The DPP Director may extend this period if the Applicant demonstrates good cause, but the period cannot be extended beyond one year from the initial deadline without the approval of the City Council, which may grant or deny the approval in its complete discretion.
 - 2. If the Applicant requests an extension beyond one year from the initial deadline and the DPP Director finds that the Applicant has demonstrated good cause for the extension, the Director shall prepare and submit to the Council a report on the proposed extension, which must include the Director's findings and recommendations thereon, and a proposed resolution approving the extension. The Council may approve the proposed extension or an extension for a shorter or longer period, or deny the proposed extension, by resolution.
 - 3. If the Council fails to take final action on the proposed extension within the first to occur of: (i) 60 days after receipt of the DPP Director's report, or (ii) the Applicant's then-existing deadline for obtaining a building permit; the extension will be deemed denied.



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- Q. The Project must conform to the conceptual plan approved hereby and all conditions established herein. Any changes to the conceptual plan will require a new application and approval by the Council. The DPP Director may approve changes to the Project that do not significantly alter the size or nature of the Project, if the changes remain in conformance with the conceptual plan and the conditions herein. Any increase in height or density of the Project will be considered a significant alteration and a change to the conceptual plan; and

BE IT FURTHER RESOLVED that the Council finds as follows with respect to the conceptual plan for the Project, as conditioned herein:

- A. The Project concept, as a unified plan, is in the general interest of the public;
- B. The requested Project boundaries and requested flexibility with respect to development standards relating to density (floor area), building height limits, street centerline height setbacks, landscaping requirements, parking requirements, and permitted uses are consistent with the objectives of transit-oriented development and the provisions enumerated in ROH Section 21-9.100-4;
- C. The requested flexibility with respect to development standards relating to density (floor area), building height limits, street centerline height setbacks, landscaping requirements, parking requirements, and permitted uses is commensurate with the public amenities and community benefits proposed;
- D. The public amenities proposed will produce timely, demonstrable benefits to the community, support transit ridership, and implement the vision established in ROH Section 21-9.100-4; and



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BE IT FINALLY RESOLVED that copies of this resolution be transmitted to Kathy K. Sokugawa, Acting Director of Planning and Permitting, 650 South King Street, 7th Floor, Honolulu, Hawaii 96813; Avalon Group, LLC, 800 Bethel Street, Suite 501, Honolulu, Hawaii, 96813; and R. M. Towill Corporation, attention: Keith Kurahashi, 2024 North King Street, Suite 200, Honolulu, Hawaii, 98619-3494.

INTRODUCED BY:

Ernest Martin (br)

DATE OF INTRODUCTION:

November 1, 2018
Honolulu, Hawaii

Councilmembers

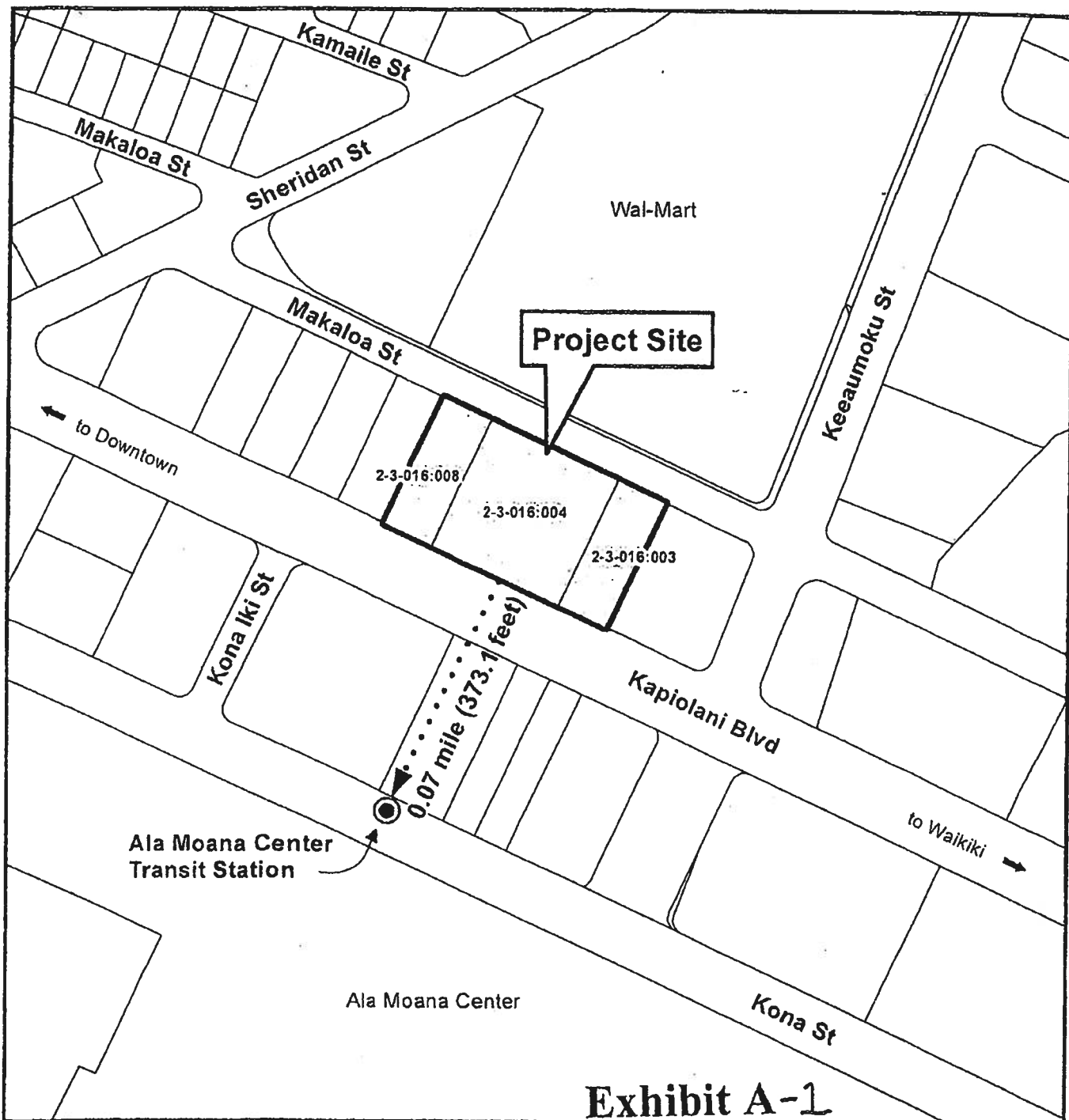


Exhibit A-1



VICINITY MAP

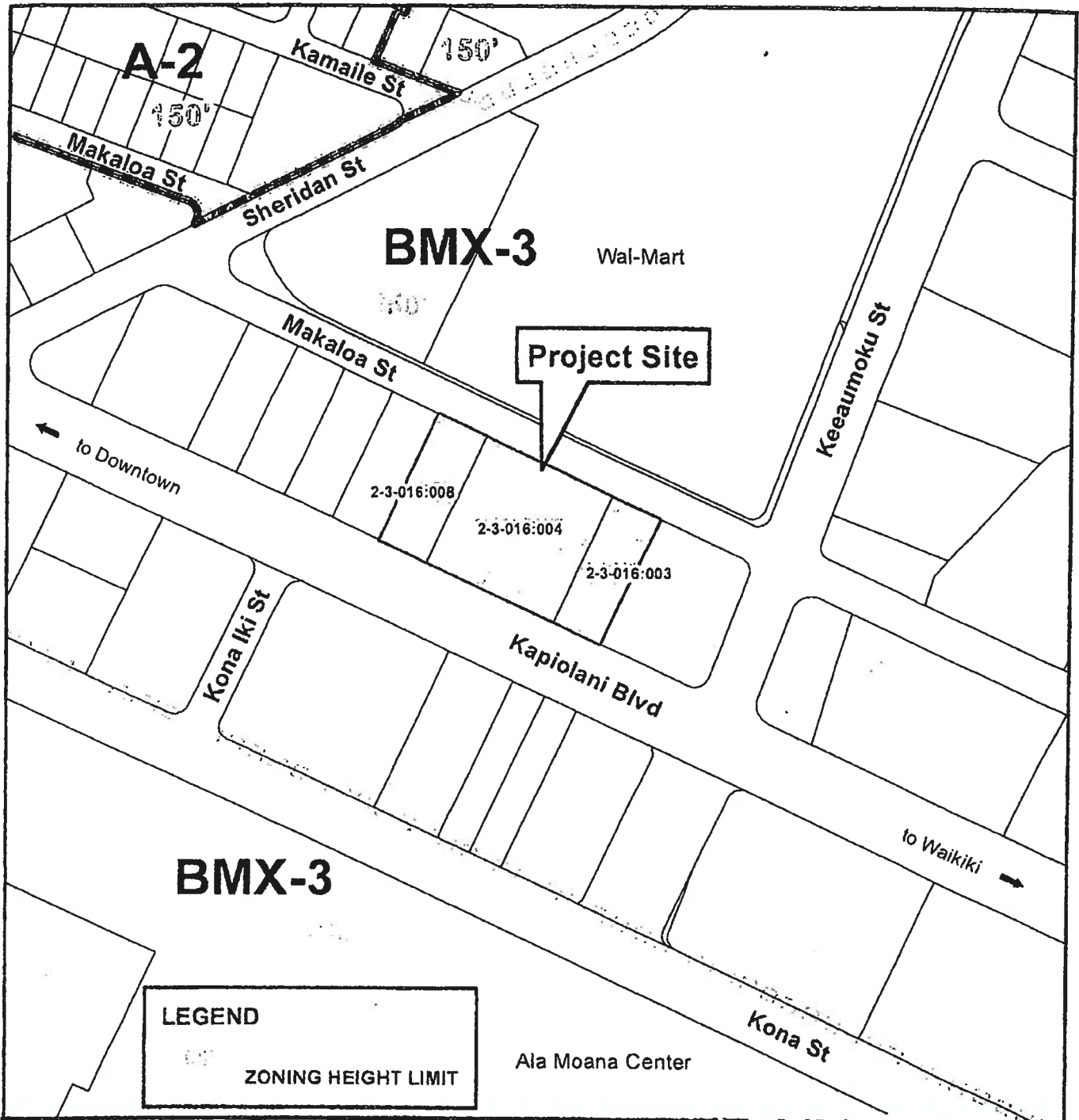
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Scale in Feet



LOCATION MAP MAKIKI-ALA MOANA

TAX MAP KEYS: 2-3-016:003, 004, 008

FOLDER NO.: 2018/SDD-25



VICINITY MAP

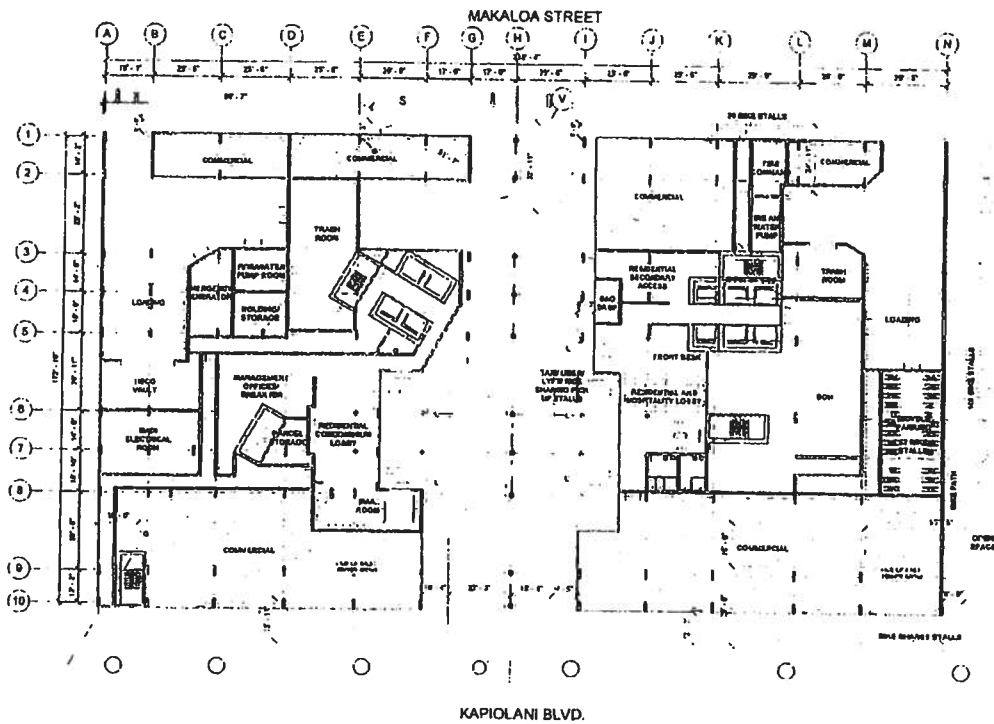
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Scale in Feet



PORTION OF **Exhibit A-2** **EXISTING ZONING MAP** **MAKIKI - ALA MOANA**

TAX MAP KEYS: 2-3-016:003, 004, 008

FOLDER NO.: 2018/SDD-25



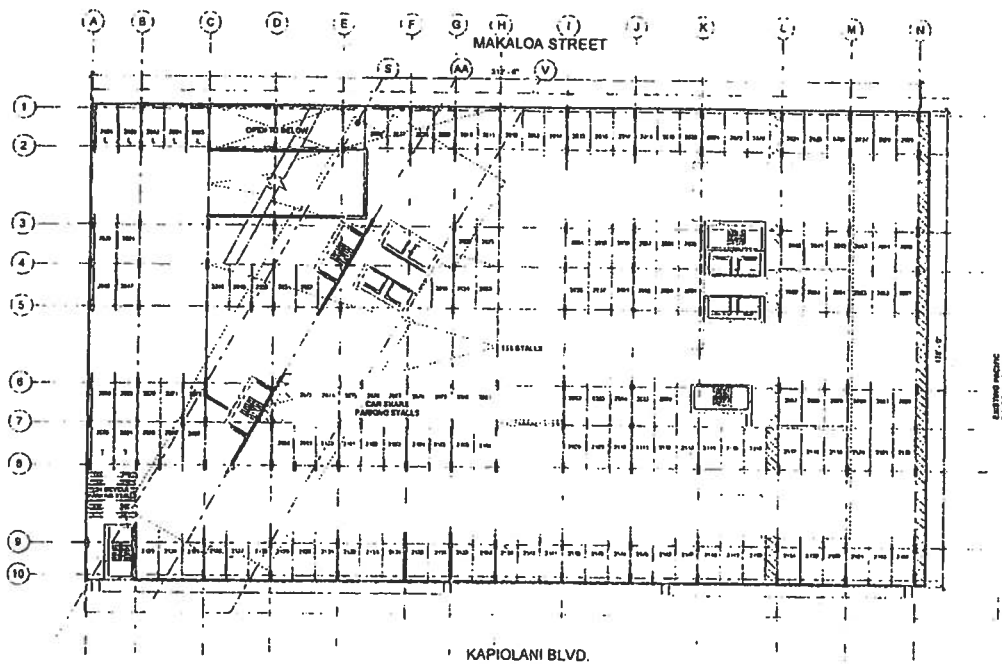
Appendix 1
1ST FLOOR PLAN
Avalon - Kapiolani Blvd. Development

Exhibit B-1

GRAPHIC SCALE

Scale: 1/16" = 1'-0"

DESIGN PARTNERS
INCORPORATED

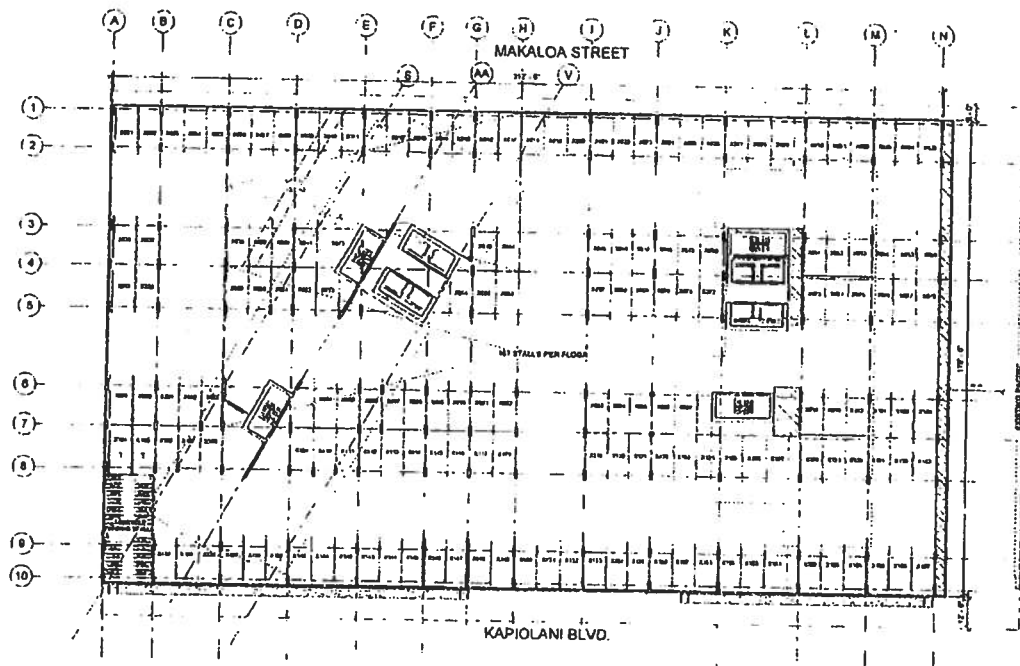


Appendix 1
2ND FLOOR PARKING PLAN
Location - Kapiolani Blvd. Development

Exhibit B-2

GRAPHIC SCALE
SCALE 1/16" = 1'-0"
Scale: 1/16" = 1'-0"

DESIGN PARTNERS
INCORPORATED

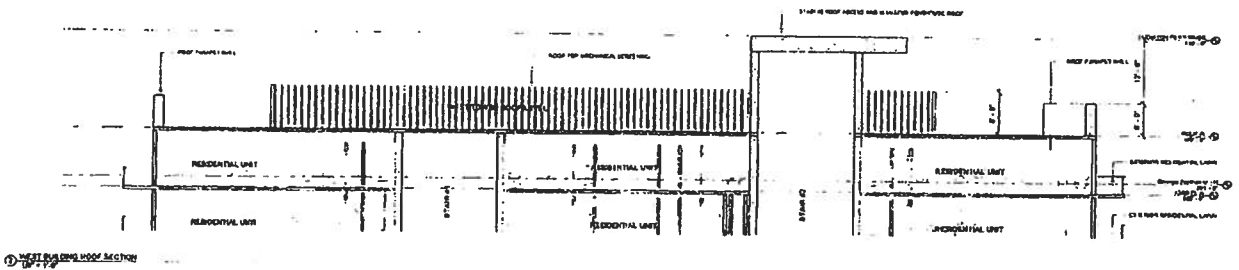
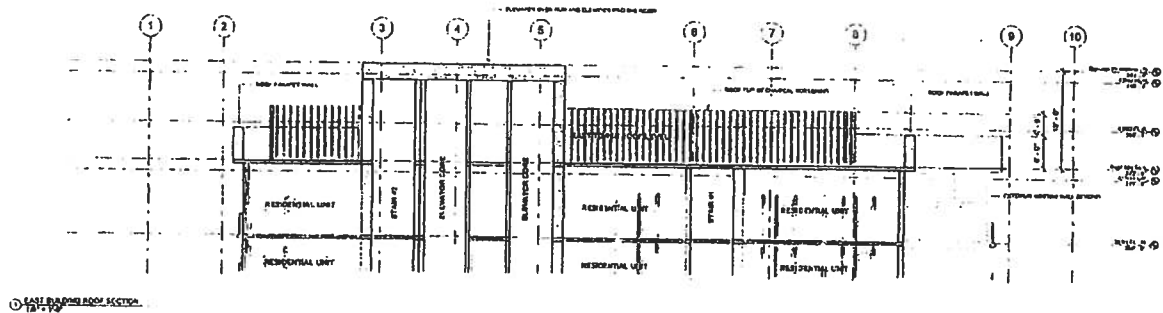


Appendix 1
TYPICAL PARKING PLAN FL 3-7
Aviation - Kapiolani Blvd. Development

Exhibit B-3

GRAPHIC SCALE
1" = 16'-0"
Scale: 1/16" = 1'-0"

DESIGN PARTNERS
UNIVERSITY CITY



Appendix 1 ENLARGED ROOF SECTIONS

Avalon - Raptolani Blvd. Development

Exhibit B-4

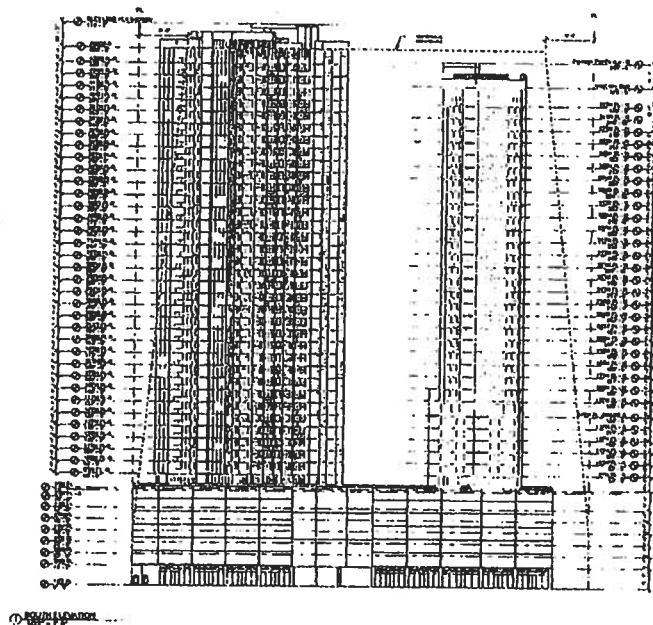
Scale: 1/8" = 1'-0"

DESIGN PARTNERS
ARCHITECTS



Scale: 1/16" = 1'-0"





VOLUME: 1,042,244 CU FT
 1ST FLOOR: 707,888 FT3
 2ND-17TH FLOOR:
 VOLUME OUTSIDE SETBACK LINE: 35,878 FT3
 VOLUME INSIDE SETBACK LINE: 2,845,312 FT3
 18TH FLOOR:
 VOLUME OUTSIDE SETBACK LINE: 362,770 FT3
 VOLUME INSIDE SETBACK LINE: 3,115,680 FT3
 DIAMONDHEAD TOWER:
 VOLUME OUTSIDE SETBACK LINE: 53,857 FT3
 VOLUME INSIDE SETBACK LINE: 2,295,483 FT3
 PROJECT TOTAL:
 VOLUME OUTSIDE SETBACK LINE: 442,525 FT3
 VOLUME INSIDE SETBACK LINE: 5,014,543 FT3
 TOTAL VOLUME:
 5,457,068 FT3
 TOTAL % OUTSIDE SETBACK LINE: 4.85%

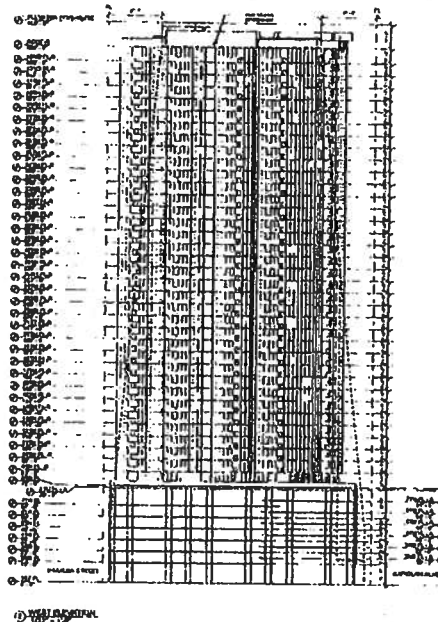


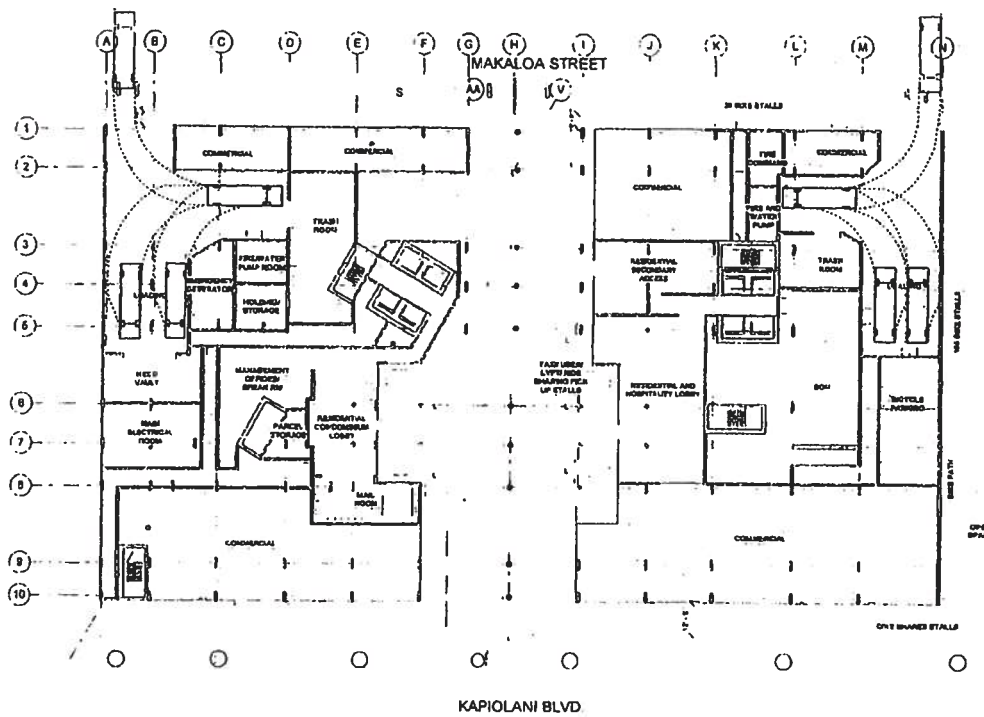
Exhibit B-7

GRAPHIC SCALE
 SCALE: 1/32" = 1'-0"
 ALL DIMENSIONS ARE IN FEET AND INCHES
 DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE

DESIGN PARTNERS
 INCORPORATED

Appendix 1 EXTERIOR ELEVATIONS - TRANSITIONAL SETBACK

Avalon - Kapiolani Blvd. Development



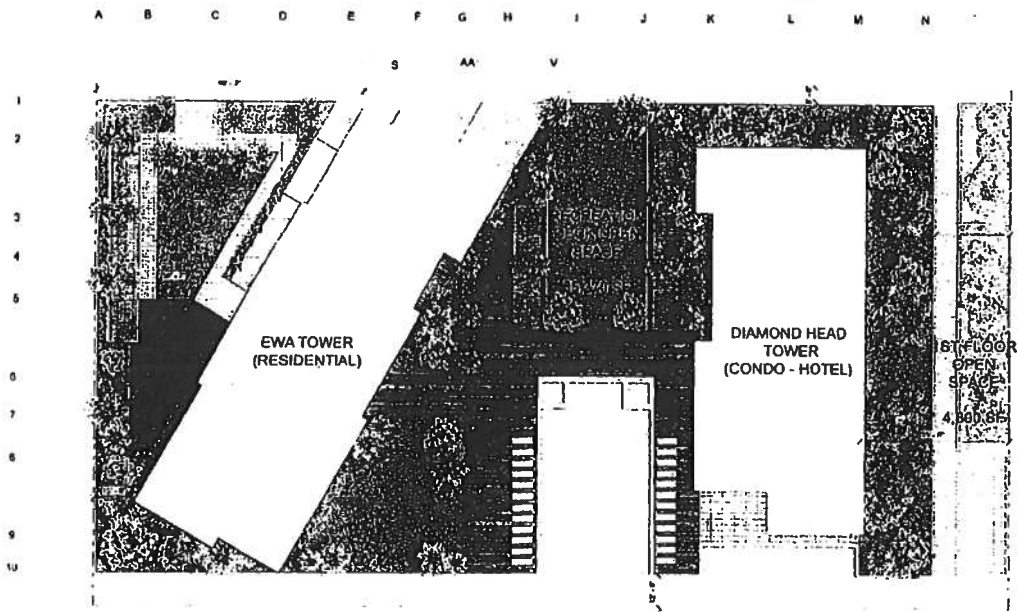
Appendix 1
LOADING DIAGRAM
Avalon - Kapiolani Blvd. Development

Exhibit B-8

GRAPHIC SCALE
1" = 10'-0"
Scale: 1/16" = 1'-0"

DESIGN PARTNERS
INCORPORATED

Exhibit C-1



Appendix 1

SITE PLAN / OPEN SPACE PLAN

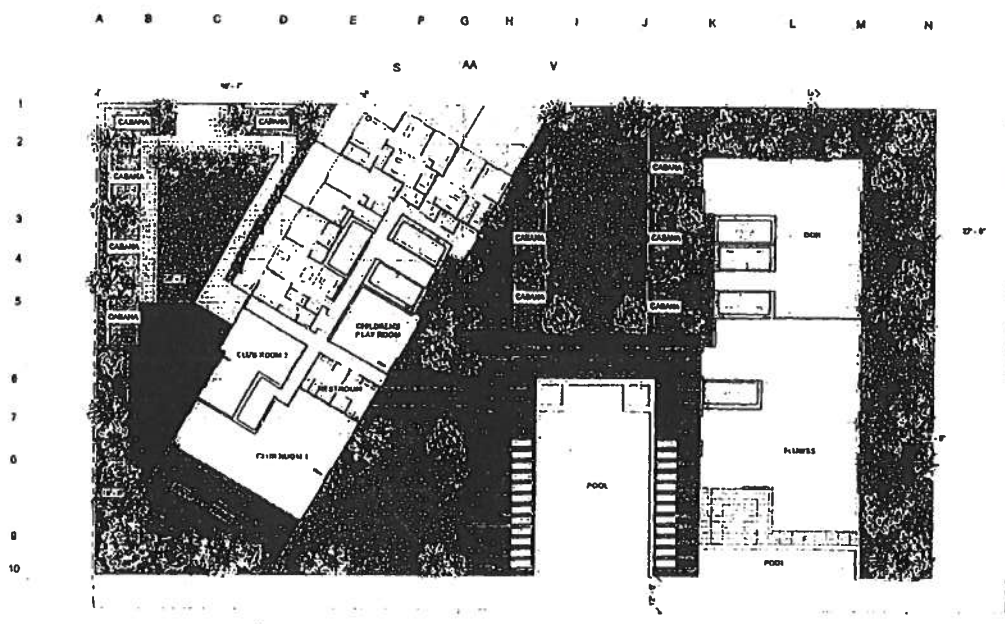
Avlon - Anplotani Blvd. Development

GRAPHIC SCALE
0' 10' 20' 30' 40' 50' 60' 70' 80' 90' 100'
ALL DIMENSIONS SHOWN ARE APPROXIMATE
Scale 1/16" = 1'-0"



Exhibit C-2

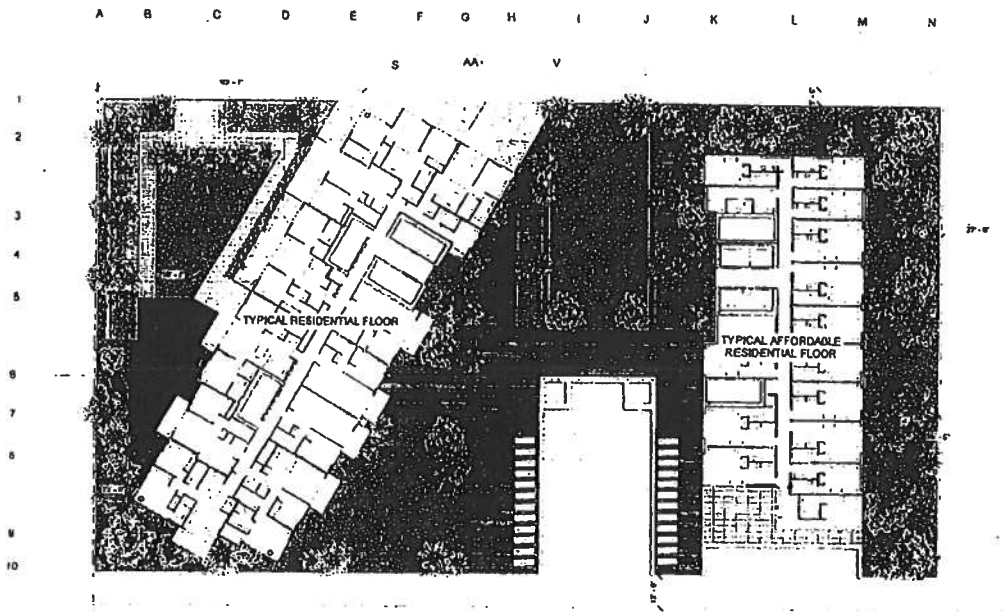
Appendix 1
RECREATION DECK
Avalon - International Blvd Development



GRAPHIC SCALE
ALL DIMENSIONS ARE IN FEET AND INCHES
Scale: 1/16" = 1'-0"



Exhibit C-3

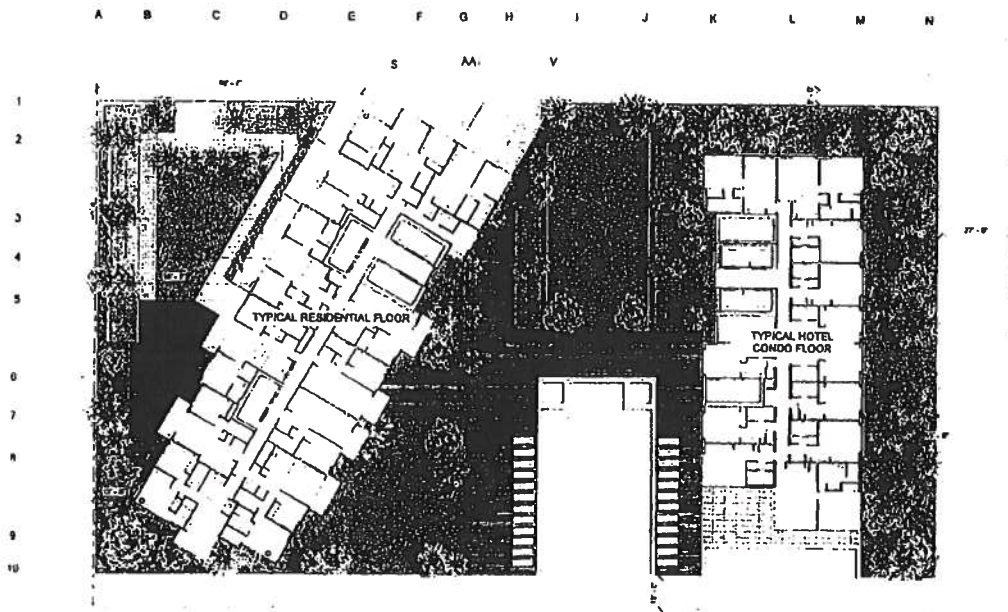


Appendix 1
TYPICAL RESIDENTIAL AND AFFORDABLE RESIDENTIAL PLAN FL. 9-14
Avalon - Kapiolani Blvd. Development

GRAPHIC SCALE
1" = 1'-0"
Scale: 1/16" = 1'-0"

DESIGN PARTNERS
ARCHITECTS

Exhibit C-4



Appendix 1
TYPICAL RESIDENTIAL AND HOTEL CONDO FLOOR PLAN FL. 15-39
Avlon - Kapiolani Blvd. Development

GRAPHIC SCALE
1" = 16'-0"
Scale: 1/16" = 1'-0"



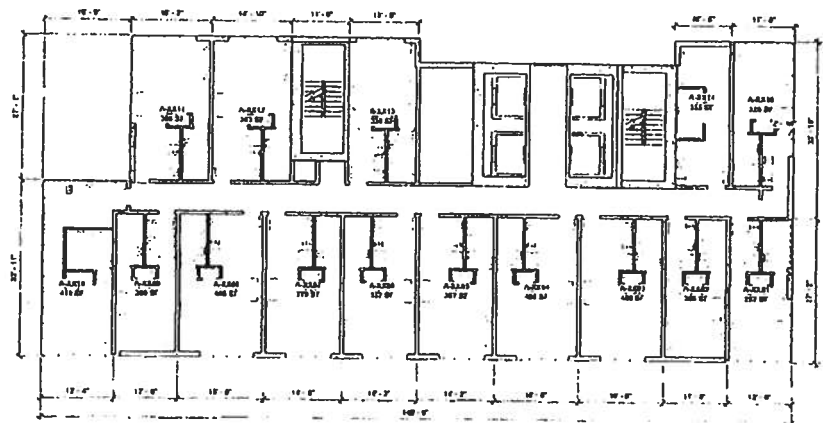
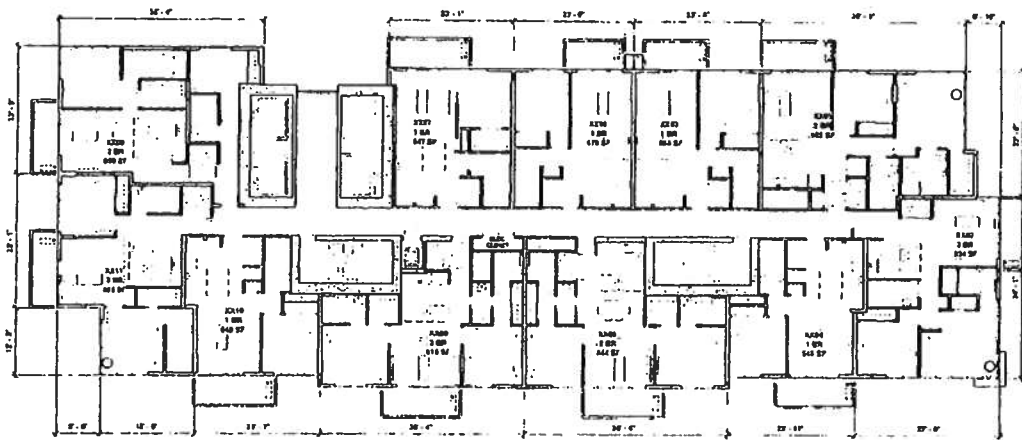


Exhibit D-1

Appendix 1
TYPICAL AFFORDABLE FLOOR PLATE FL. 9-14
Avalon - Kuylenstierna Blvd. Development

GRAPHIC SCALE
1" = 10'-0"
Scale: 1/8" = 1'-0"

DESIGN PARTNERS
INCORPORATED

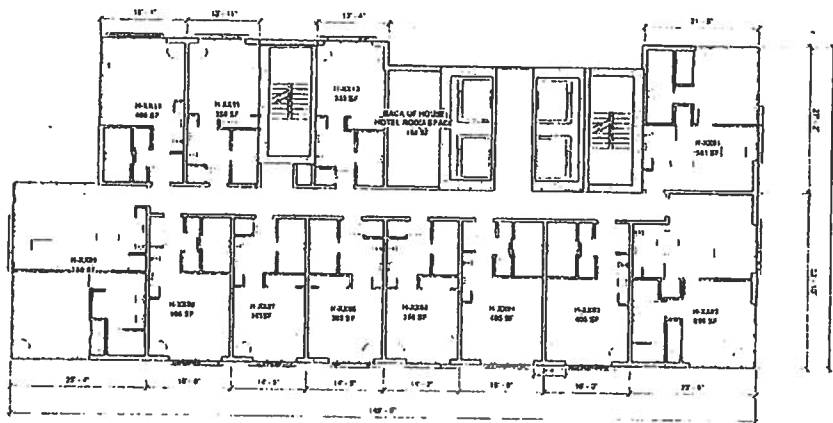


Appendix 1
 TYPICAL RESIDENTIAL CONDOMINIUM PLAN FL 9-43
 Avalon - Kailua-Kona Blvd. Development

Exhibit D-2

GRAPHIC SCALE
 1/8" = 1'-0"

DESIGN PARTNERS
 ARCHITECTS



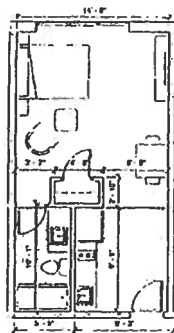
Appendix 1
TYPICAL HOTEL CONDO FLOOR PLAN FL. 15-39

Avdon - Capital City Development

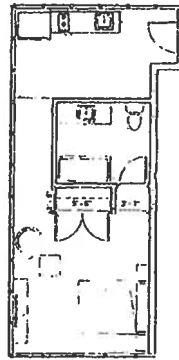
Exhibit D-3

GRAPHIC SCALE
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Scale: 1/8" = 1'-0"

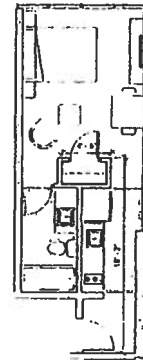
DESIGN PARTNERS
ARCHITECTS



10-UNIT APARTMENT



10-UNIT APARTMENT



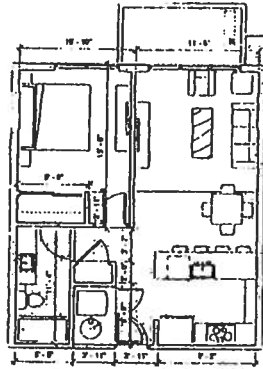
10-UNIT APARTMENT

Appendix 1 ENLARGED UNIT PLANS - AFFORDABLE UNITS Avalon - Highland Blvd. Development

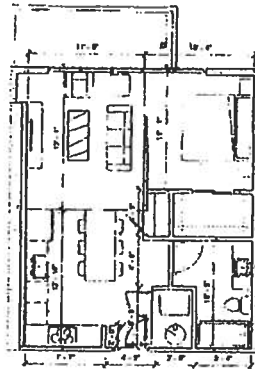
Exhibit D-4

GRAPHIC SCALE
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 Scale: 1/4" = 1'-0"

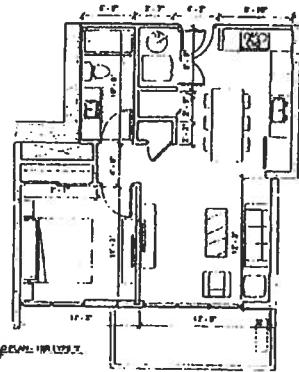




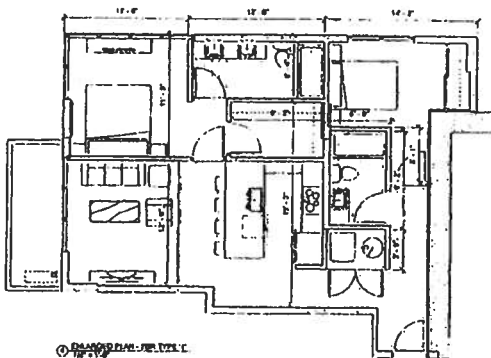
⑩ UNIT 101 - 1,100 S.F.



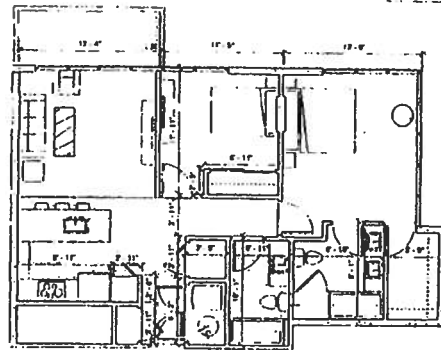
⑪ UNIT 102 - 1,100 S.F.



⑫ UNIT 103 - 1,100 S.F.



⑬ UNIT 104 - 1,100 S.F.



⑭ UNIT 105 - 1,100 S.F.

Exhibit D-5

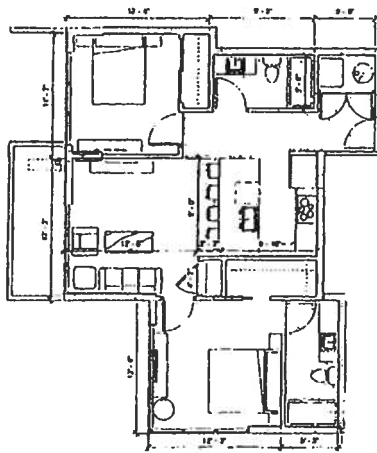
GRAPHIC SCALE

ALL DIMENSIONS SHOWN ARE APPROXIMATE AND SHOWN FOR INFORMATION ONLY. DIMENSIONS MAY VARY SLIGHTLY FROM THOSE SHOWN.

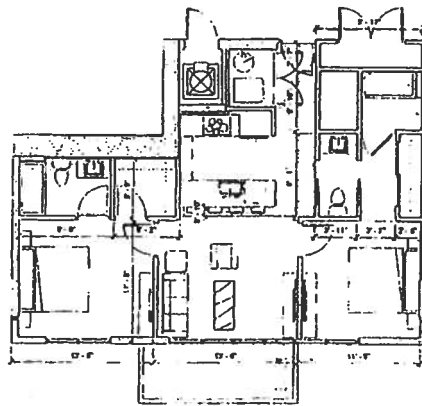
Scale: 1/4" = 1'-0"

DESIGN PARTNERS
INCORPORATED

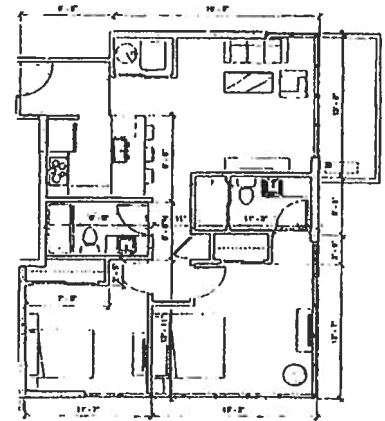
Appendix 1 ENLARGED UNIT PLANS - RESIDENTIAL UNITS Avalon - Kapitol Blvd. Development



UNIT 101 - 101 SQ. FT.



UNIT 102 - 102 SQ. FT.



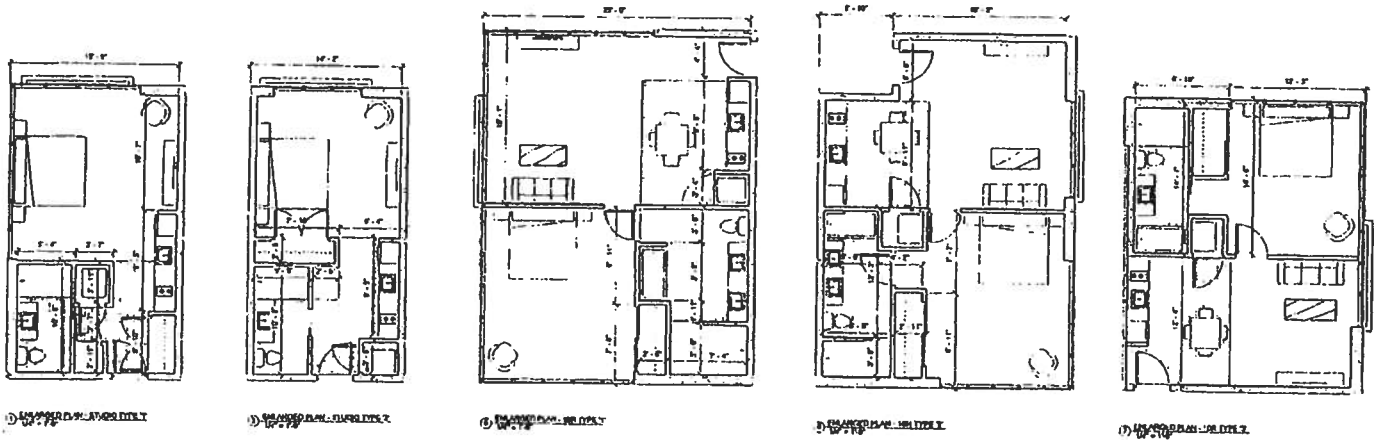
UNIT 103 - 103 SQ. FT.

Appendix 1 ENLARGED UNIT PLANS - RESIDENTIAL UNITS Kaplan-Bell Development

Exhibit D-6

GRAPHIC SCALE
1" = 1'-0"
Scale: 1/4" = 1'-0"

DESIGN PARTNERS
INCORPORATED

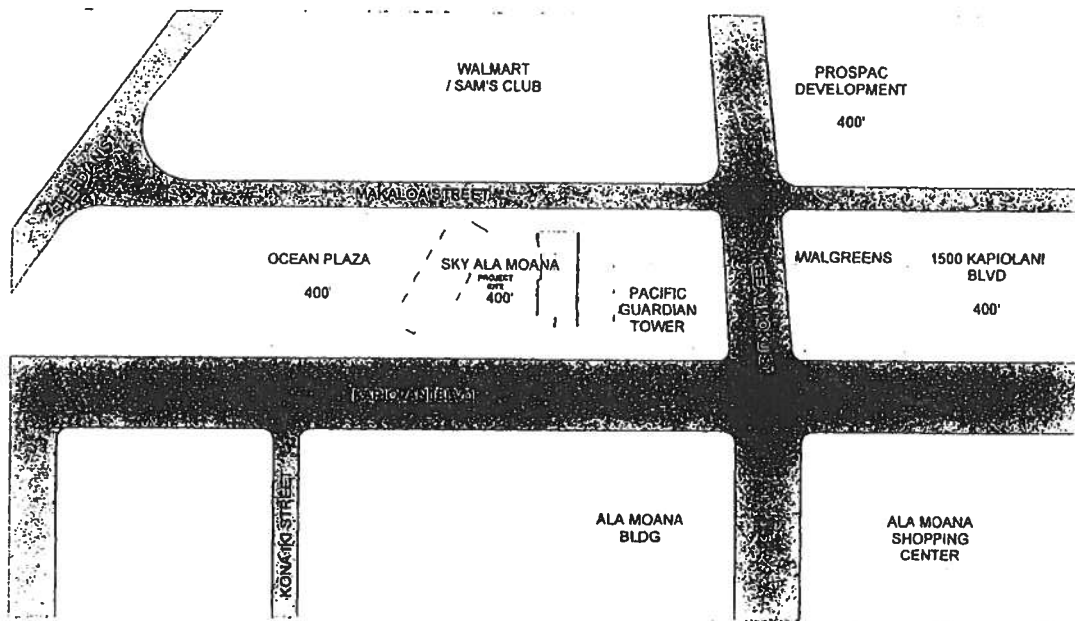


Appendix 1 ENLARGED UNIT PLANS - HOTEL UNITS Aviston - Kaptolinski Blvd. Development

Exhibit D-7

GRAPHIC SCALE
Scale: 1/4" = 1'-0"





Appendix 1
LOCATION MAP
 Avelon - Kapiolani Blvd. Development

Exhibit E-1

GRAPHIC SCALE
 1" = 100' - 0"
 ALL DIMENSIONS ARE APPROXIMATE. DIMENSIONS SHOWN IN THIS MAP ARE NOT TO BE USED FOR CONSTRUCTION.
 Scale 1/64" = 1'-0"

DESIGN PARTNERS
 INCORPORATED

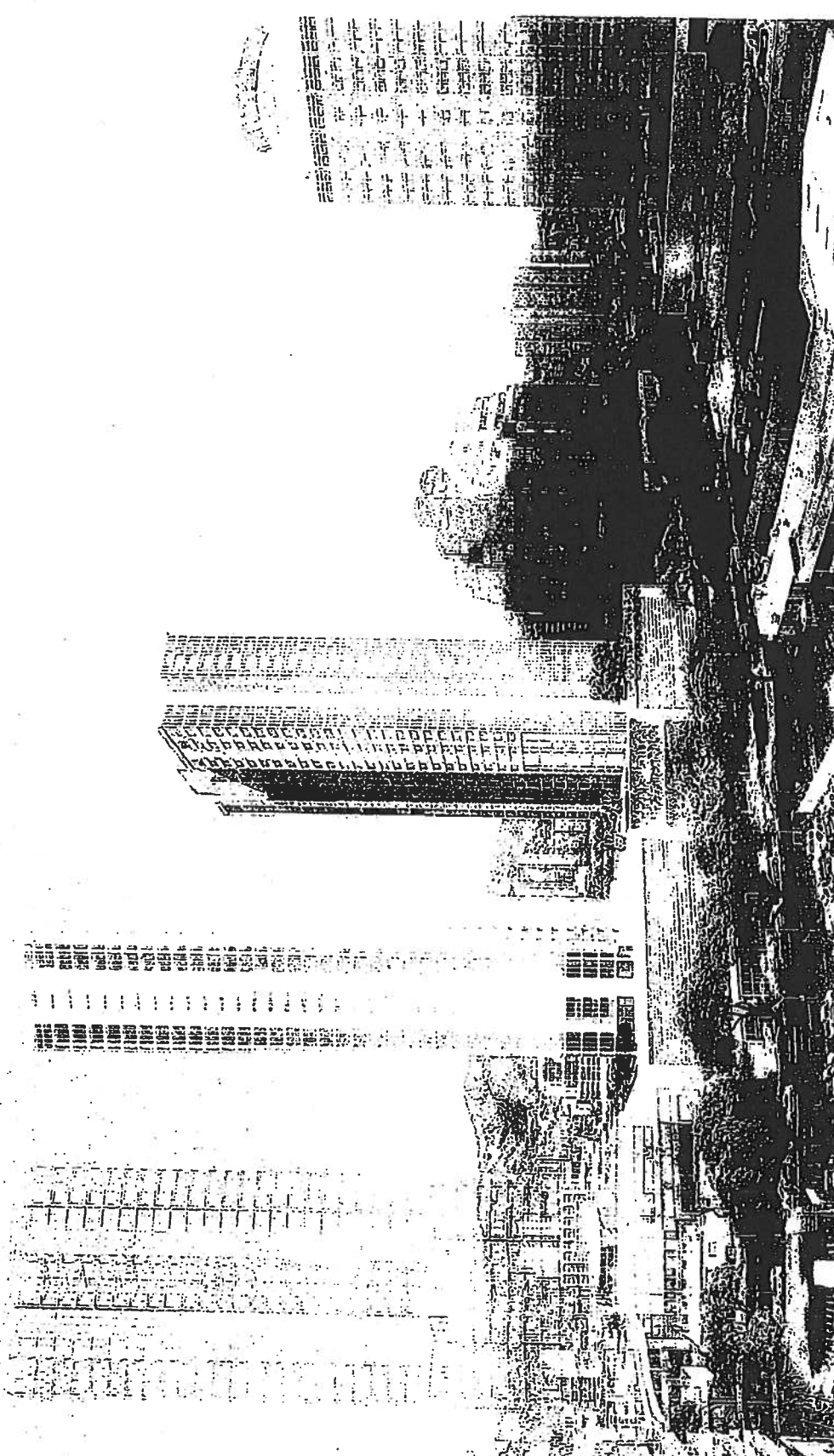


Exhibit E-2

CONCEPT RENDERING
Avalon - Kapiolani Blvd. Development
Appendix 1

SCALE: NTS



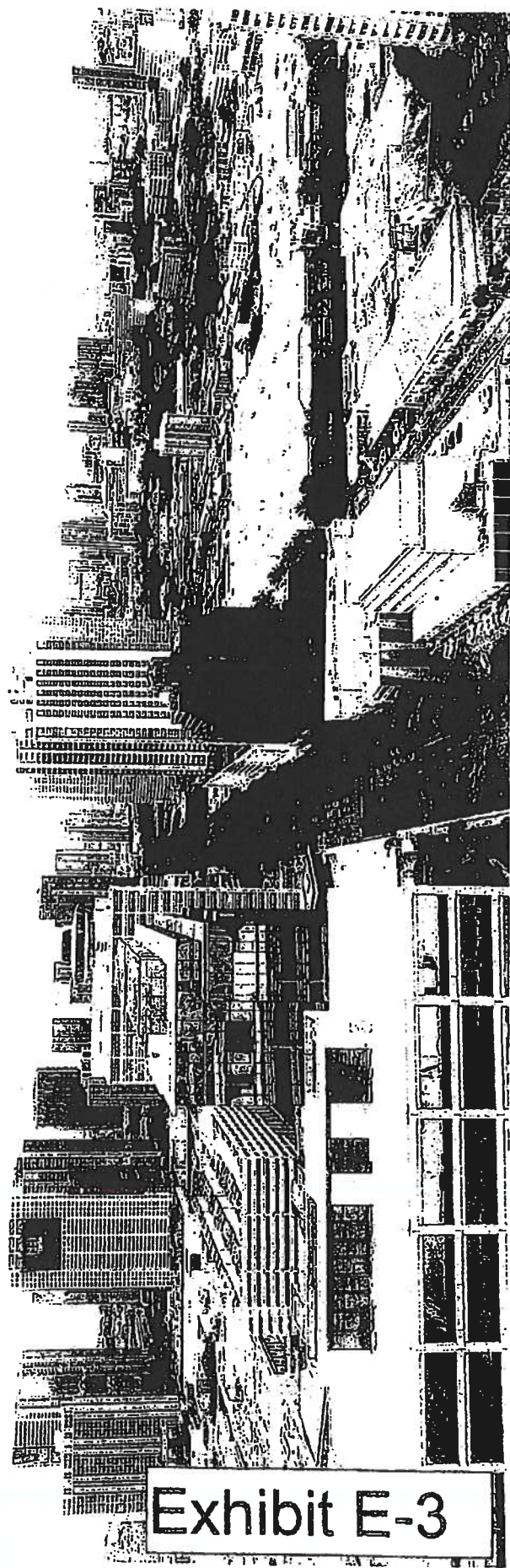
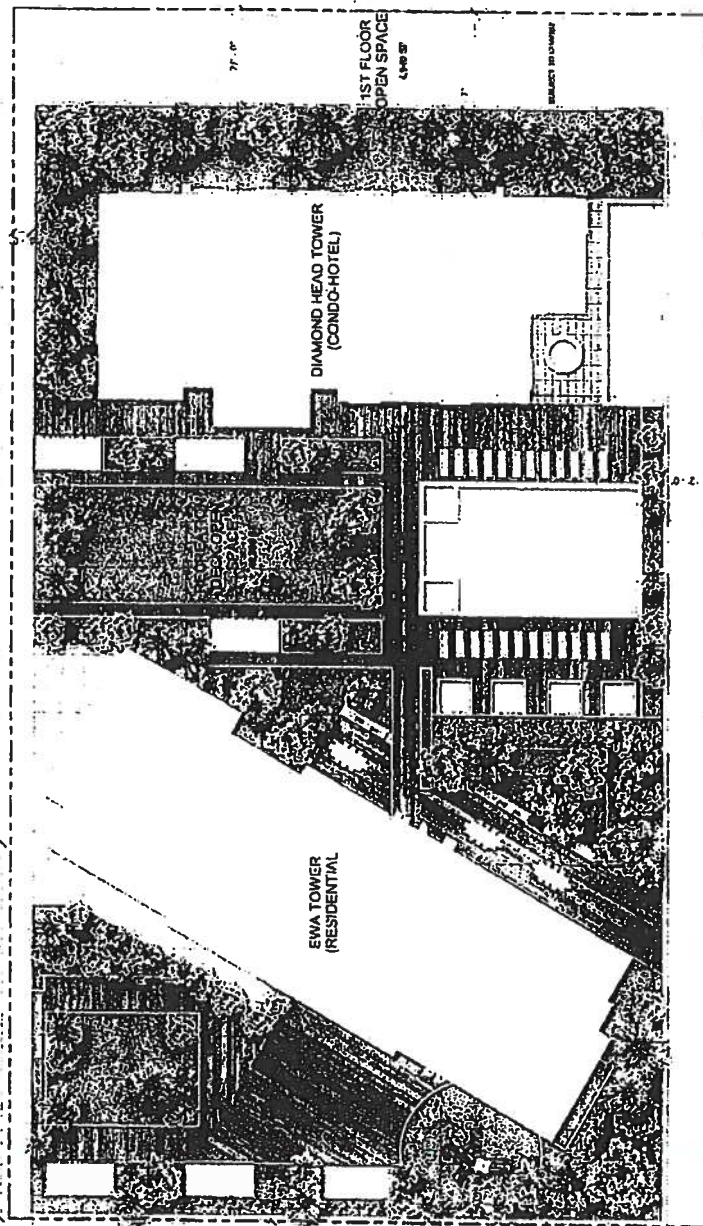


Exhibit E-3

CONCEPT RENDERING
Avalon - Kaptolant Blvd. Development Appendix 1



SCALE: NTS



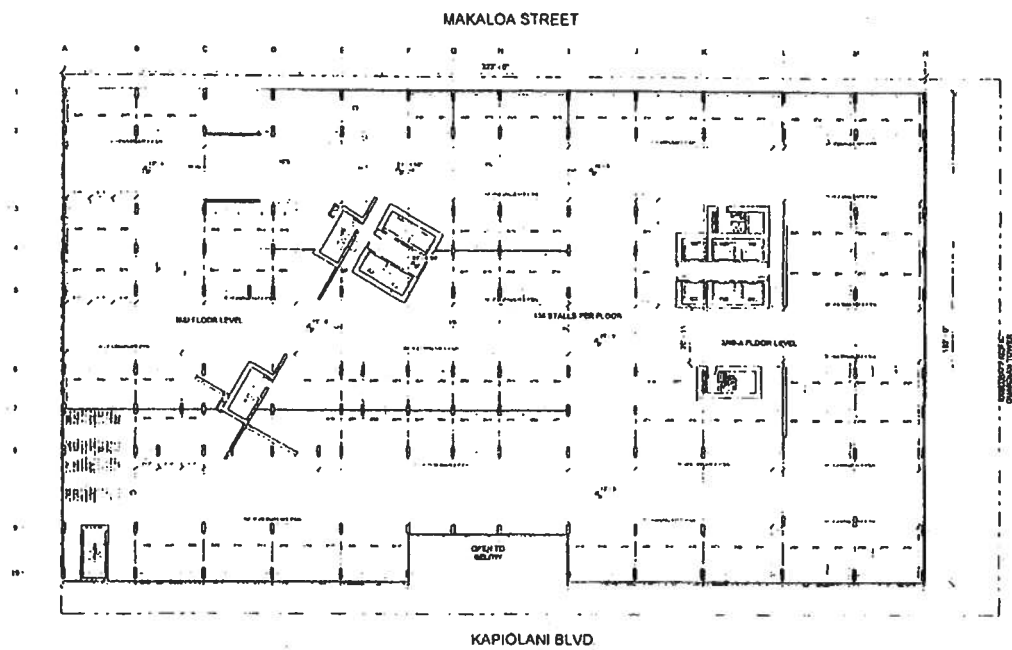
GRAPHIC SCALE
 0' 10' 20' 30' 40' 50' 60' 70' 80' 90' 100'
 0' 10' 20' 30' 40' 50' 60' 70' 80' 90' 100'
 0' 10' 20' 30' 40' 50' 60' 70' 80' 90' 100'
 Scale: 1/16" = 1'-0"



Appendix 1
 SITE PLAN / OPEN SPACE PLAN
 Avalon - Kapiolani Blvd. Development

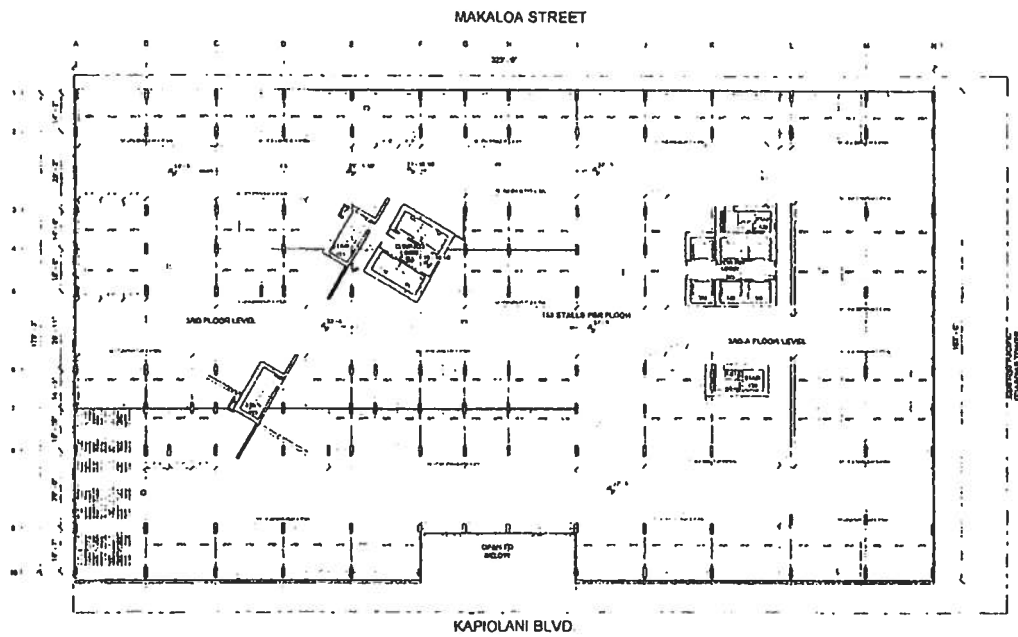
GRAPHIC SCALE
SCALE 1/8" = 1'-0"
ALL DIMENSIONS AND SPACING DIMENSIONS
ARE UNLESS OTHERWISE SPECIFIED
Scale 1/8" = 1'-0"

DESIGN PARTNERS
INCORPORATED



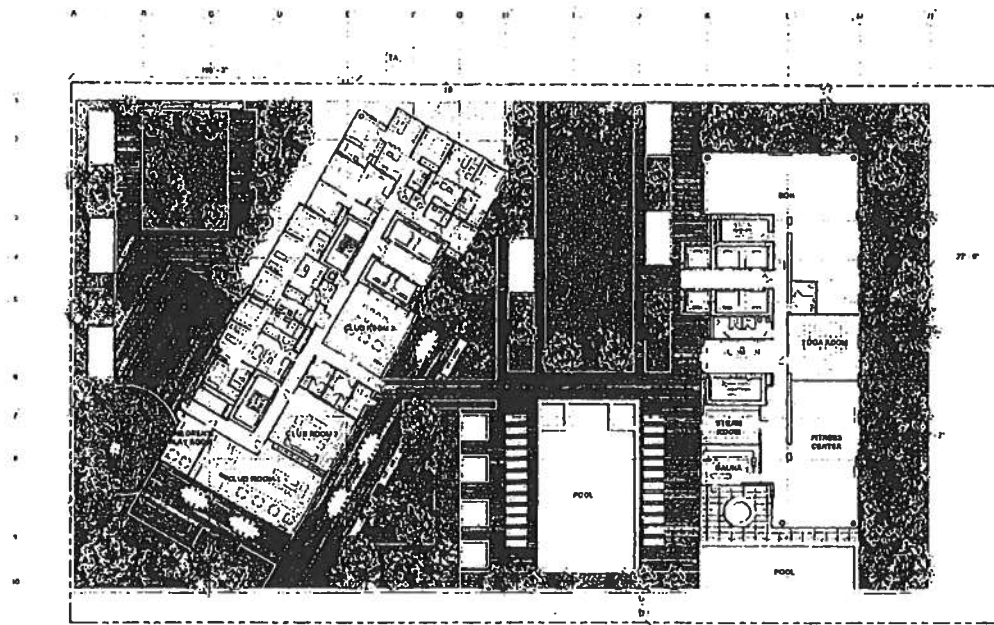
Appendix 1
 2ND FLOOR PARKING PLAN
 Avalon - Kapiolani Blvd. Development





Appendix 1
TYPICAL PARKING PLAN FL 3-6A
Avalon - Kapiolani Blvd. Development





RECREATION DECK
Avalon - Kapiolani Blvd. Development

GRAPHIC SCALE
1" = 10' - 0"
Scale 1/16" = 1'



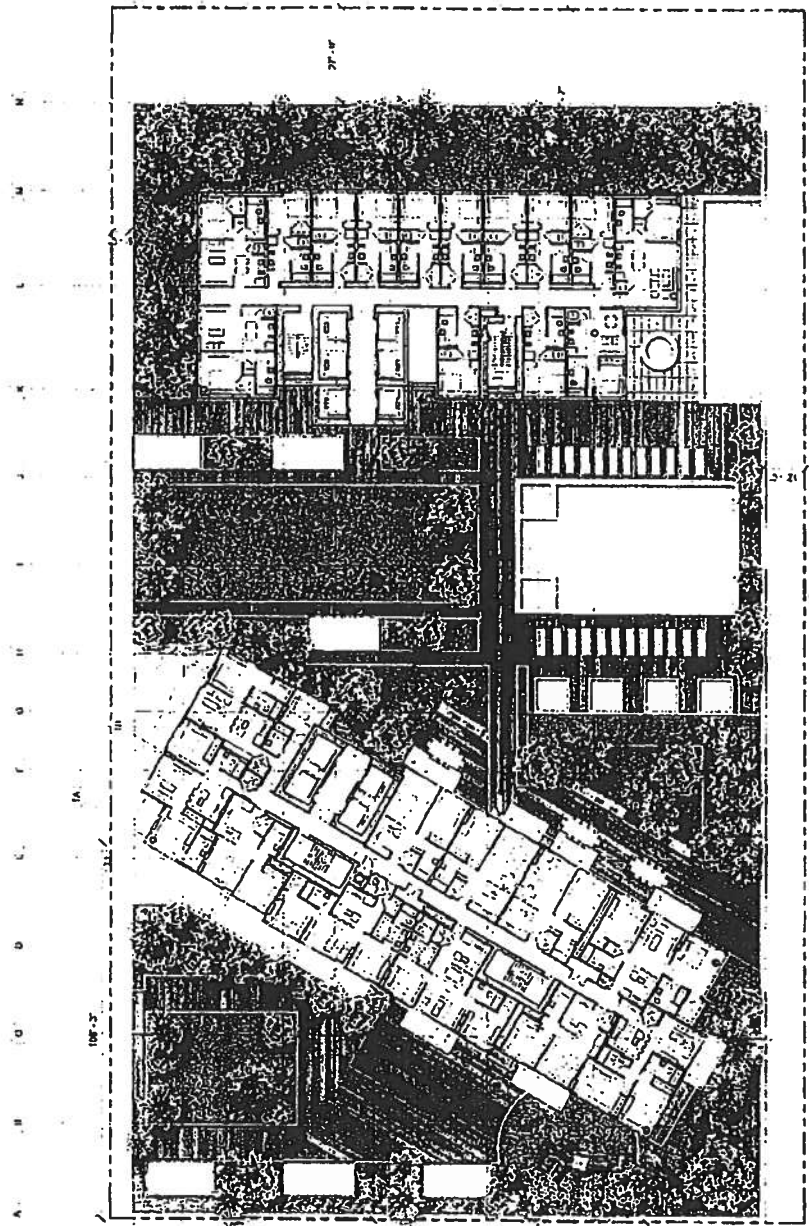


Exhibit F-6

FLOORS 9-14 TOWER SITE PLAN Avalon - Kapiolani Blvd. Development

Scale: 1/16" = 1'-0"



FLOORS 15-39 TOWER SITE PLAN Avalon - Kapiolani Blvd. Development

Scale: 1/16" = 1'-0"

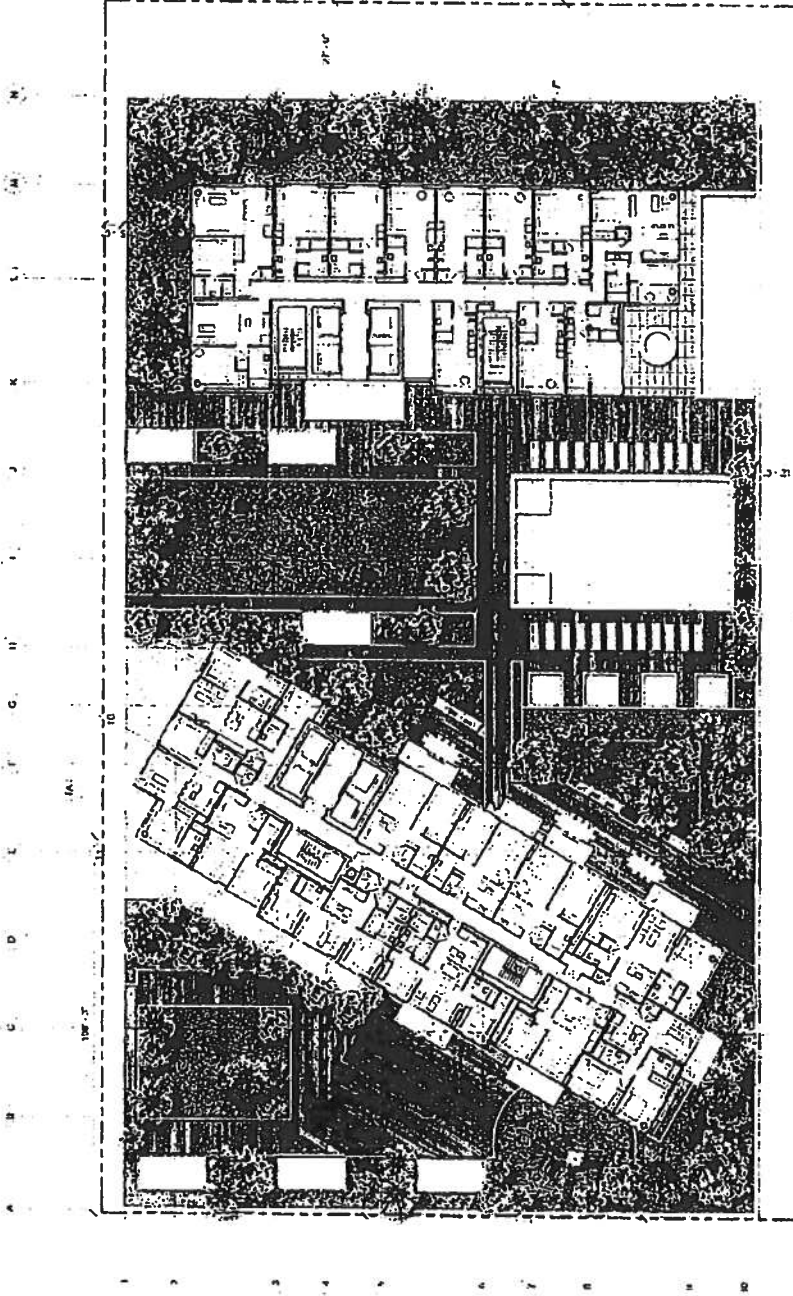


Exhibit F-7

GRAPHIC SCALE

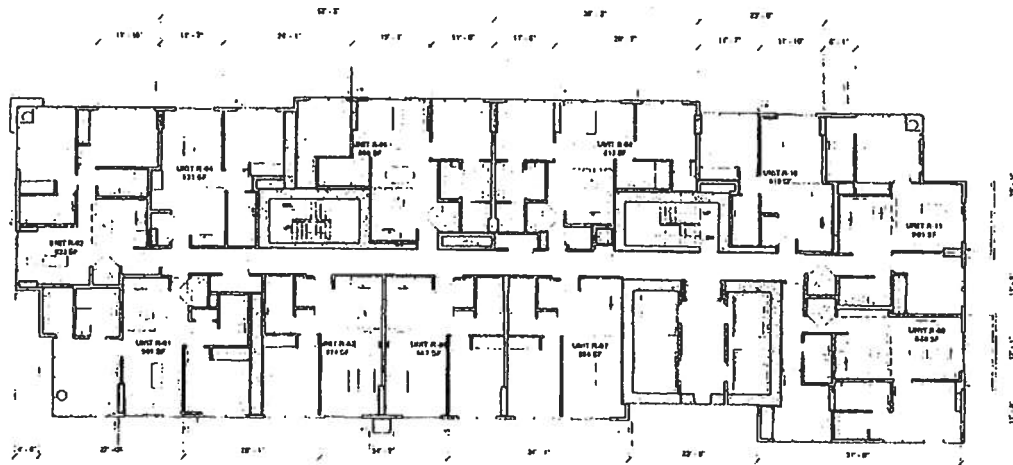
SCALE 1/8" = 1'-0"

ALL DIMENSIONS ARE IN FEET AND INCHES UNLESS OTHERWISE NOTED

Scale: 1/8" = 1'-0"



Exhibit F-9

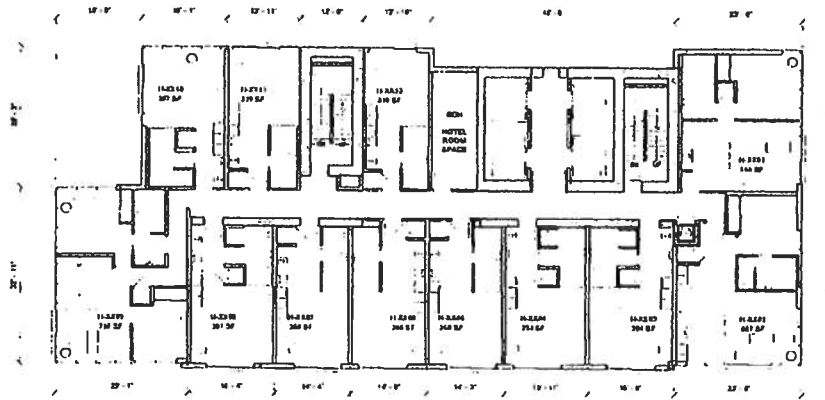


Appendix 1
 TYPICAL RESIDENTIAL CONDOMINIUM PLAN FL 8-42
 Avalon - Kapiolani Blvd. Development

GRAPHIC SCALE

Scale: 1/8" = 1'-0"

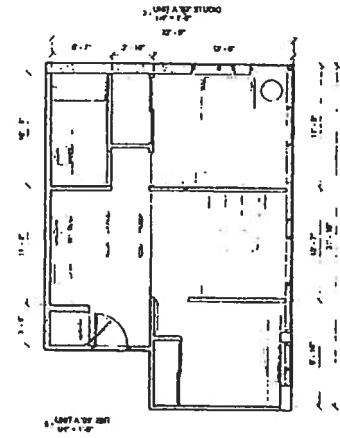
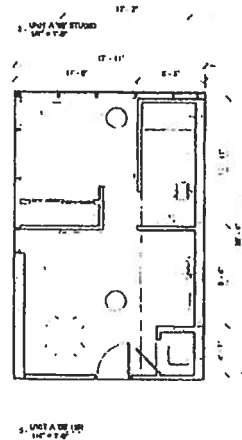
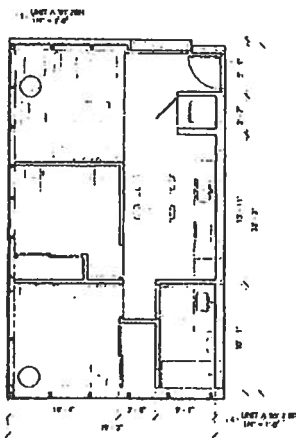
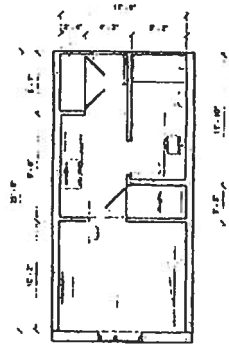
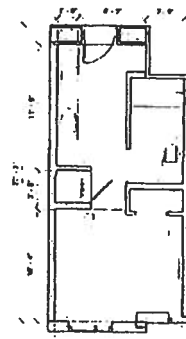
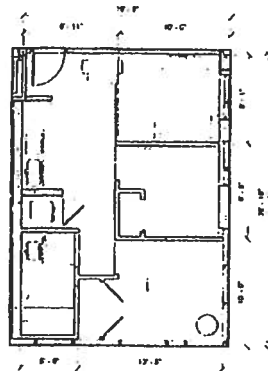
DESIGN PARTNERS
 ARCHITECTS



Appendix 1
TYPICAL HOTEL CONDO FLOOR PLAN FL. 14 - 38
Avalon - Kapiolani Blvd. Development

GRAPHIC SCALE
1" = 10'-0"
Scale 1/8" = 1'-0"





Appendix 1
ENLARGED UNIT PLANS - AFFORDABLE UNITS
Avalon - Kapiolani Blvd. Development

GRAPHIC SCALE
Scale: 1/4" = 1'-0"



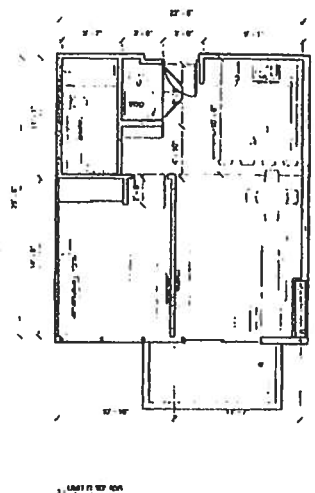
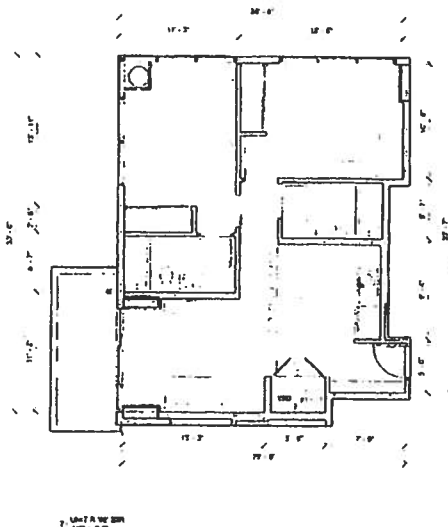
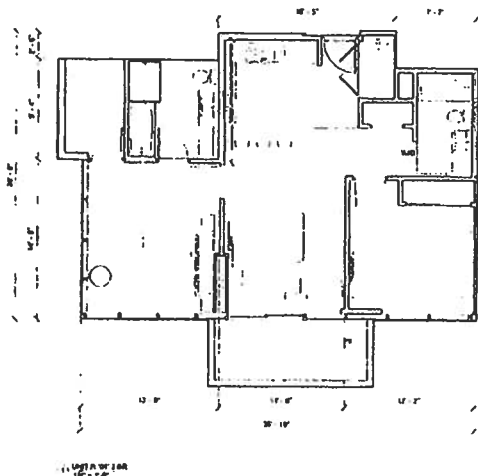


Exhibit F-12

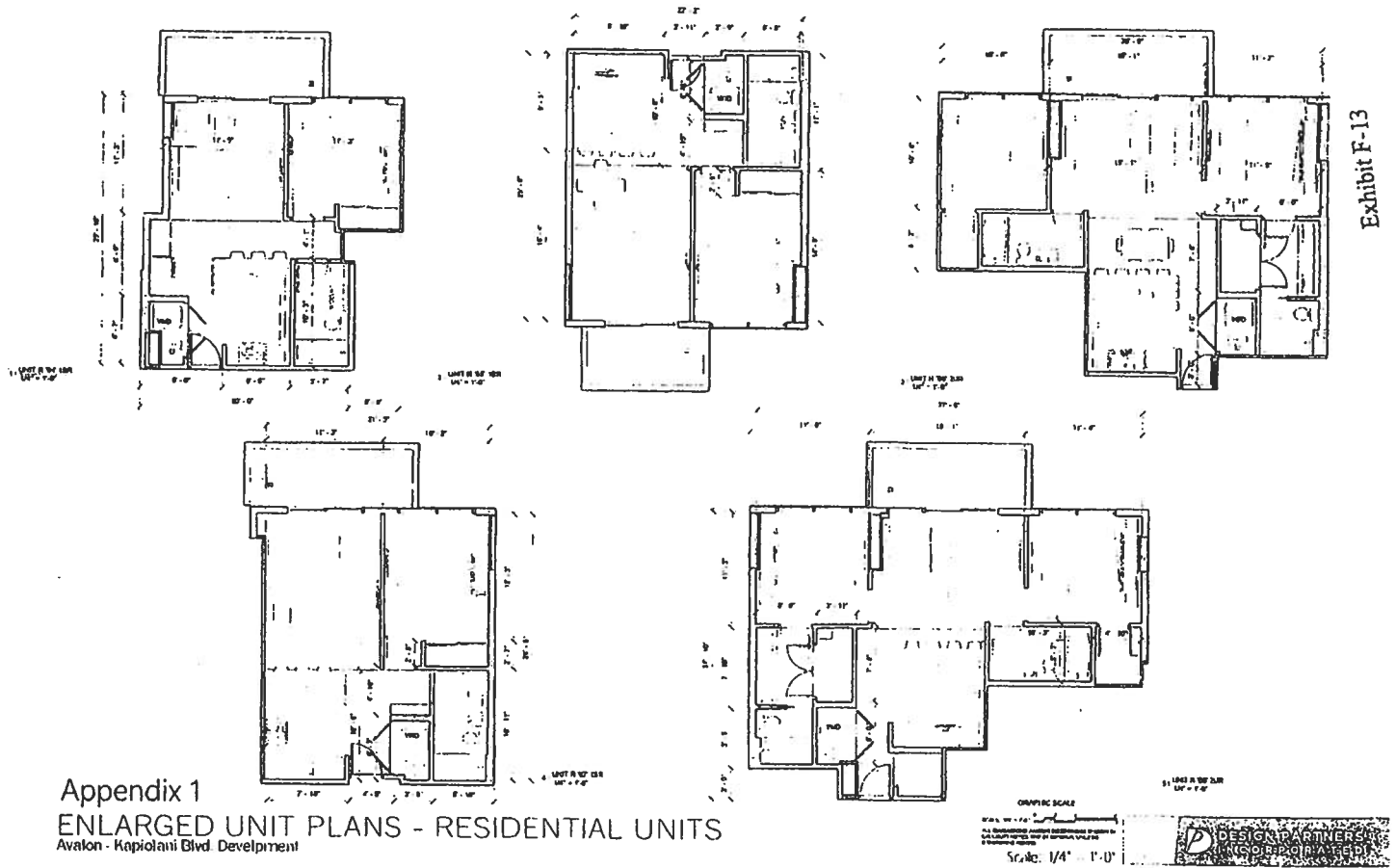
Appendix 1 ENLARGED UNIT PLANS - RESIDENTIAL UNITS Avalon - Kapiolani Blvd. Development

GRAPHIC SCALE
 SCALE 1/4" = 1'-0"
 ALL DIMENSIONS ARE IN FEET AND INCHES
 DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE
 © 2012 DESIGN PARTNERS, INC.

Scale 1/4" = 1'-0"

DESIGN PARTNERS, INC.

Exhibit F-13

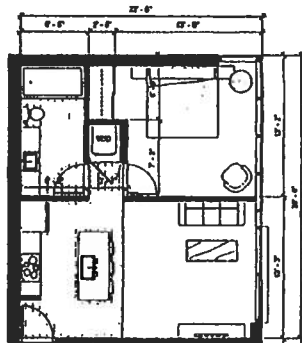




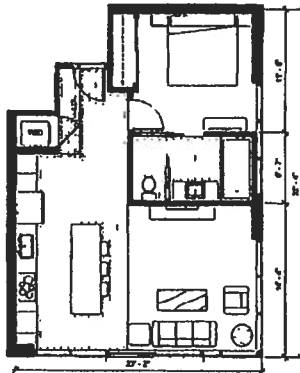
ENLARGED UNIT
Avalon • Kapiolani Blvd. Development



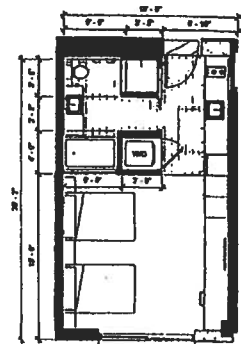
DESIGN PARTNERS
INCORPORATED



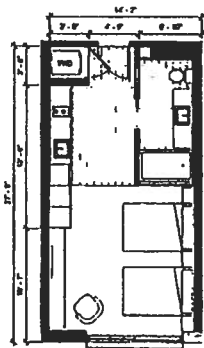
① UNIT 101 PLAN
10'-0" x 12'-0"



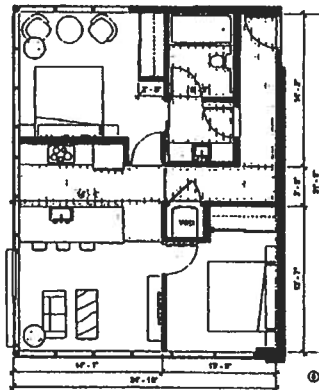
① UNIT 102 PLAN
10'-0" x 12'-0"



① UNIT 103 PLAN
10'-0" x 12'-0"



① UNIT 104 PLAN
10'-0" x 12'-0"



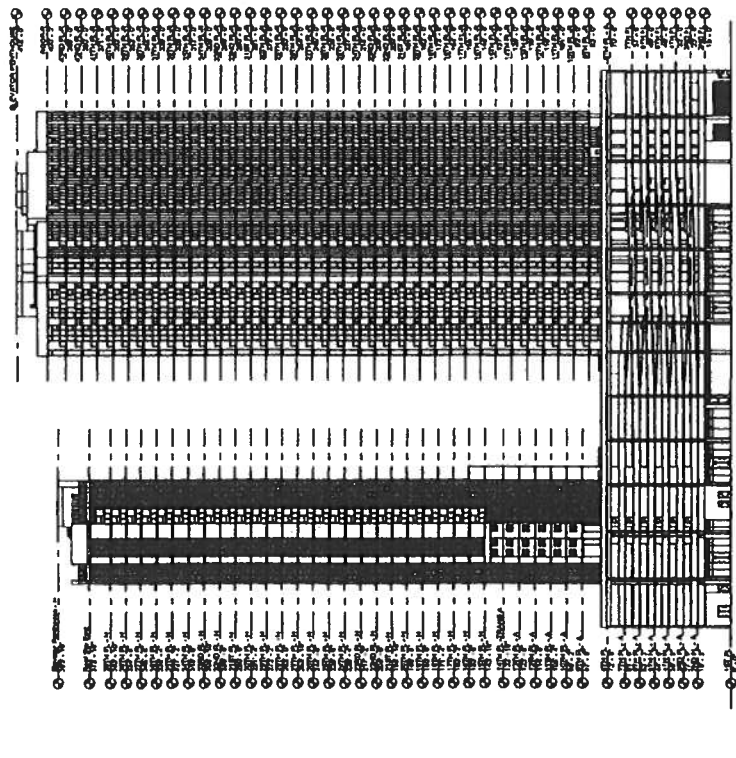
① UNIT 105 PLAN
10'-0" x 12'-0"

Exhibit F-15

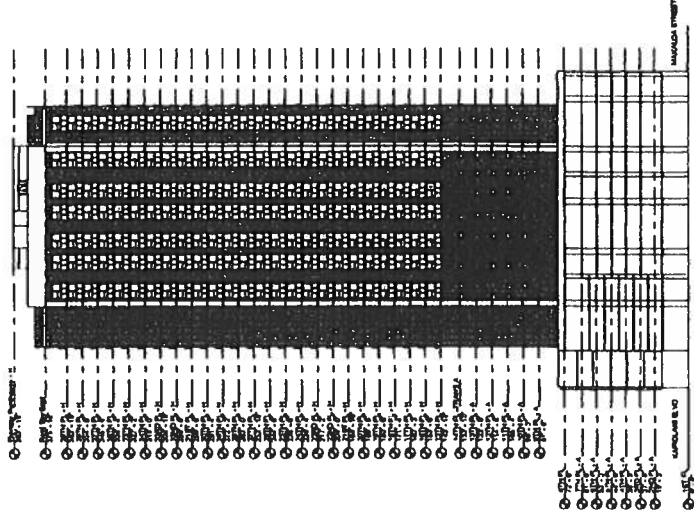
Appendix 1 ENLARGED UNIT PLANS - HOTEL UNITS Avalon - Kapiolani Blvd. Development

GRAPHIC SCALE
1" = 1'-0"
Scale: 1/4" = 1'-0"

DESIGN PARTNERS
INCORPORATED



① NORTH ELEVATION
1/32" = 1'-0"

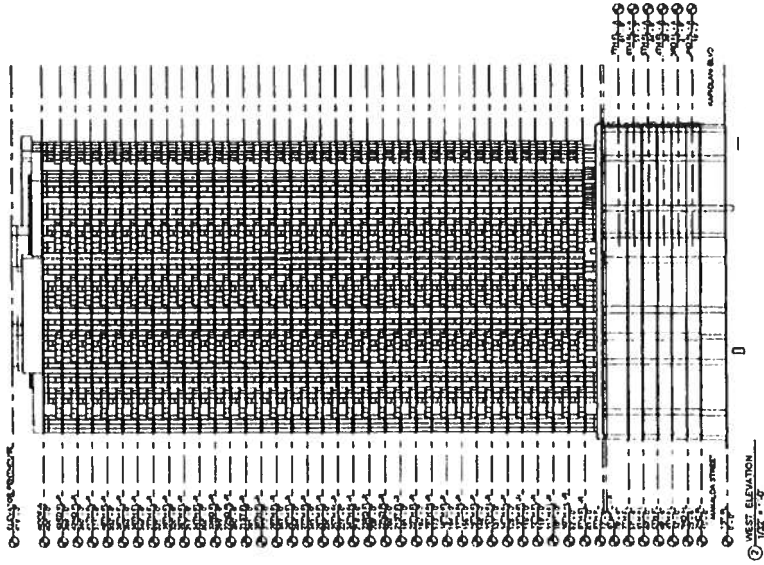
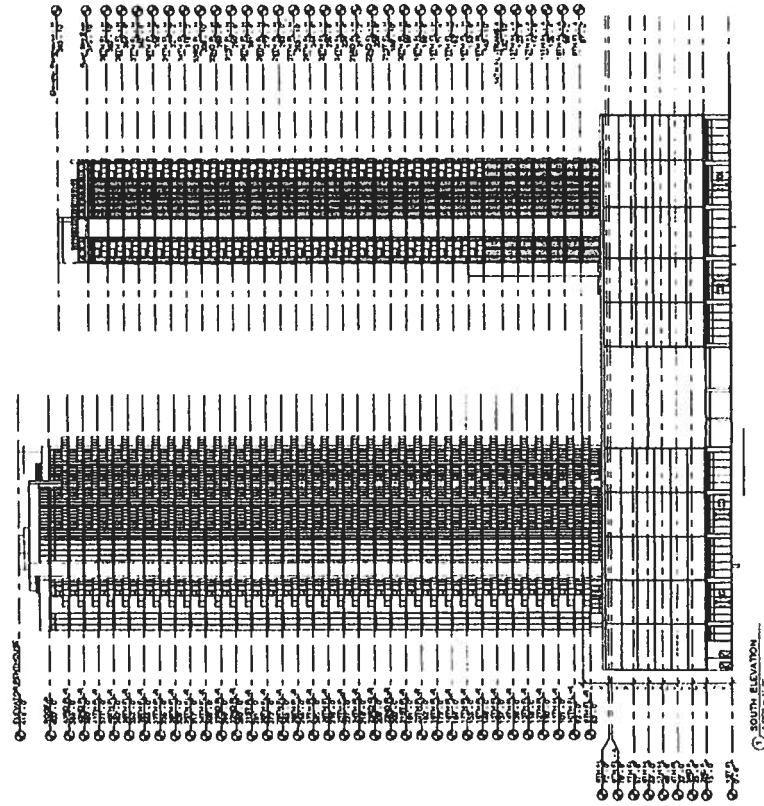


① EAST ELEVATION
1/32" = 1'-0"

Appendix 1 EXTERIOR ELEVATIONS Avalon - Kaptolani Blvd. Development

GRAPHIC SCALE
SCALE 1/32" = 1'-0"
ALL DIMENSIONS AND DISTANCES SHOWN
ON THESE PLANS ARE IN FEET AND INCHES
Scale: 1/32" = 1'-0"





Appendix 1 EXTERIOR ELEVATIONS Avalon - Kapiolani Blvd. Development

GRAPHIC SCALE
1/32\"/>

DESIGN PARTNERS
INCORPORATED

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

RESOLUTION 18-248, CD1, FD1

Introduced: 11/01/18 By: ERNEST MARTIN – BY REQUEST Committee: ZONING AND HOUSING

Title: RESOLUTION APPROVING A CONCEPTUAL PLAN FOR AN INTERIM PLANNED DEVELOPMENT-TRANSIT PROJECT FOR THE DEVELOPMENT OF THE SKY ALA MOANA CONDO-HOTEL AND RESIDENTIAL PROJECT.

Voting Legend: * = Aye w/Reservations

| | | |
|----------|-------------------------------|--|
| 11/07/18 | SPECIAL ZONING AND HOUSING | CR-377 – RESOLUTION REPORTED OUT OF COMMITTEE FOR ADOPTION AS AMENDED IN CD1 FORM. |
| 11/14/18 | COUNCIL | RESOLUTION AMENDED TO HAND-CARRIED FD1 (OCS 2018-1084/11/13/2018 5:09 PM) AS FURTHER AMENDED BY HANDWRITTEN CORRECTION TO CONDITION C ON PAGE 2. 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE. CR-377 AND RESOLUTION 18-248, CD1, FD1 WERE ADOPTED. 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR*, OZAWA, PINE. |

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this RESOLUTION


GLEN I. TAKAHASHI, CITY CLERK


ERNEST Y. MARTIN, CHAIR AND PRESIDING OFFICER

EXHIBIT 3
FOR-SALE AFFORDABLE UNIT MATRIX

| No. | Unit # | Unit Type | Unit | Unit SF | BR/BA | Plan | AMI (note 1) |
|-----|--------|-----------|--------|---------|-------|-----------|-----------------|
| 1 | 901 | F-01 | 1 BR | 408 | 1/1 | Ordinance | 100% |
| 2 | 902 | F-02 | 2 BR | 586 | 2/1 | Ordinance | 100% |
| 3 | 903 | F-03 | Studio | 299 | 0/1 | Ordinance | 100% |
| 4 | 904 | F-04 | Studio | 299 | 0/1 | Ordinance | 100% |
| 5 | 905 | F-05 | Studio | 299 | 0/1 | Ordinance | 100% |
| 6 | 906 | F-06 | Studio | 297 | 0/1 | Ordinance | 100% |
| 7 | 907 | F-07 | Studio | 296 | 0/1 | Ordinance | 100% |
| 8 | 908 | F-08 | Studio | 299 | 0/1 | Ordinance | 100% |
| 9 | 909 | F-09 | Studio | 299 | 0/1 | Ordinance | 100% |
| 10 | 910 | F-10 | Studio | 293 | 0/1 | Ordinance | 100% |
| 11 | 911 | F-11 | 2 BR | 474 | 2/1 | Ordinance | 100% |
| 12 | 912 | F-12 | 2 BR | 609 | 2/1 | Ordinance | 120% |
| 13 | 913 | F-13 | Studio | 299 | 0/1 | Ordinance | 100% |
| 14 | 914 | F-14 | Studio | 297 | 0/1 | Ordinance | 100% |
| 15 | 1001 | F-01 | 1 BR | 408 | 1/1 | Benefit | 120% |
| 16 | 1002 | F-02 | 2 BR | 586 | 2/1 | Benefit | 120% |
| 17 | 1003 | F-03 | Studio | 299 | 0/1 | Benefit | 120% |
| 18 | 1004 | F-04 | Studio | 299 | 0/1 | Benefit | 120% |
| 19 | 1005 | F-05 | Studio | 299 | 0/1 | Benefit | 120% |
| 20 | 1006 | F-06 | Studio | 297 | 0/1 | Benefit | 120% |
| 21 | 1007 | F-07 | Studio | 296 | 0/1 | Benefit | 120% |
| 22 | 1008 | F-08 | Studio | 299 | 0/1 | Benefit | 120% |
| 23 | 1009 | F-09 | Studio | 299 | 0/1 | Benefit | 120% |
| 24 | 1010 | F-10 | Studio | 293 | 0/1 | Benefit | 120% |
| 25 | 1011 | F-11 | 2 BR | 474 | 2/1 | Ordinance | 100% |
| 26 | 1012 | F-12 | 2 BR | 609 | 2/1 | Benefit | 120% |
| 27 | 1013 | F-13 | Studio | 299 | 0/1 | Benefit | 120% |
| 28 | 1014 | F-14 | Studio | 297 | 0/1 | Benefit | 120% |
| 29 | 1101 | F-01 | 1 BR | 408 | 1/1 | Ordinance | 100% |
| 30 | 1102 | F-02 | 2 BR | 586 | 2/1 | Ordinance | 120% |
| 31 | 1103 | F-03 | Studio | 299 | 0/1 | Ordinance | 120% |
| 32 | 1104 | F-04 | Studio | 299 | 0/1 | Ordinance | 120% |
| 33 | 1105 | F-05 | Studio | 299 | 0/1 | Ordinance | 120% |
| 34 | 1106 | F-06 | Studio | 297 | 0/1 | Ordinance | 100% |
| 35 | 1107 | F-07 | Studio | 296 | 0/1 | Ordinance | 100% |

| No. | Unit # | Unit Type | Unit | Unit SF | BR/BA | Plan | AMI (note 1) |
|-----|--------|-----------|--------|---------|-------|-----------|-----------------|
| 36 | 1108 | F-08 | Studio | 299 | 0/1 | Ordinance | 100% |
| 37 | 1109 | F-09 | Studio | 299 | 0/1 | Ordinance | 100% |
| 38 | 1110 | F-10 | Studio | 293 | 0/1 | Ordinance | 100% |
| 39 | 1111 | F-11 | 2 BR | 474 | 2/1 | Ordinance | 100% |
| 40 | 1112 | F-12 | 2 BR | 609 | 2/1 | Benefit | 120% |
| 41 | 1113 | F-13 | Studio | 299 | 0/1 | Ordinance | 120% |
| 42 | 1114 | F-14 | Studio | 297 | 0/1 | Ordinance | 120% |
| 43 | 1201 | F-01 | 1 BR | 408 | 1/1 | Benefit | 120% |
| 44 | 1202 | F-02 | 2 BR | 586 | 2/1 | Benefit | 120% |
| 45 | 1203 | F-03 | Studio | 299 | 0/1 | Benefit | 120% |
| 46 | 1204 | F-04 | Studio | 299 | 0/1 | Benefit | 120% |
| 47 | 1205 | F-05 | Studio | 299 | 0/1 | Benefit | 120% |
| 48 | 1206 | F-06 | Studio | 297 | 0/1 | Benefit | 120% |
| 49 | 1207 | F-07 | Studio | 296 | 0/1 | Benefit | 120% |
| 50 | 1208 | F-08 | Studio | 299 | 0/1 | Benefit | 120% |
| 51 | 1209 | F-09 | Studio | 299 | 0/1 | Benefit | 120% |
| 52 | 1210 | F-10 | Studio | 293 | 0/1 | Benefit | 120% |
| 53 | 1211 | F-11 | 2 BR | 474 | 2/1 | Benefit | 120% |
| 54 | 1212 | F-12 | 2 BR | 609 | 2/1 | Benefit | 120% |
| 55 | 1213 | F-13 | Studio | 299 | 0/1 | Benefit | 120% |
| 56 | 1214 | F-14 | Studio | 297 | 0/1 | Benefit | 120% |
| 57 | 1301 | F-01 | 1 BR | 408 | 1/1 | Ordinance | 120% |
| 58 | 1302 | F-02 | 2 BR | 586 | 2/1 | Ordinance | 120% |
| 59 | 1303 | F-03 | Studio | 299 | 0/1 | Ordinance | 120% |
| 60 | 1304 | F-04 | Studio | 299 | 0/1 | Ordinance | 120% |
| 61 | 1305 | F-05 | Studio | 299 | 0/1 | Ordinance | 120% |
| 62 | 1306 | F-06 | Studio | 297 | 0/1 | Ordinance | 120% |
| 63 | 1307 | F-07 | Studio | 296 | 0/1 | Ordinance | 120% |
| 64 | 1308 | F-08 | Studio | 299 | 0/1 | Ordinance | 120% |
| 65 | 1309 | F-09 | Studio | 299 | 0/1 | Ordinance | 120% |
| 66 | 1310 | F-10 | Studio | 293 | 0/1 | Ordinance | 120% |
| 67 | 1311 | F-11 | 2 BR | 474 | 2/1 | Ordinance | 120% |
| 68 | 1312 | F-12 | 2 BR | 609 | 2/1 | Ordinance | 120% |
| 69 | 1313 | F-13 | Studio | 299 | 0/1 | Ordinance | 120% |
| 70 | 1314 | F-14 | Studio | 297 | 0/1 | Ordinance | 120% |

| No. | Unit # | Unit Type | Unit | Unit SF | BR/BA | Plan | AMI (note 1) |
|-----|--------|-----------|--------|---------|-------|---------|-----------------|
| 71 | 1401 | F-01 | 1 BR | 408 | 1/1 | Benefit | 120% |
| 72 | 1402 | F-02 | 2 BR | 586 | 2/1 | Benefit | 120% |
| 73 | 1403 | F-03 | Studio | 299 | 0/1 | Benefit | 120% |
| 74 | 1404 | F-04 | Studio | 299 | 0/1 | Benefit | 120% |
| 75 | 1405 | F-05 | Studio | 299 | 0/1 | Benefit | 120% |
| 76 | 1406 | F-06 | Studio | 297 | 0/1 | Benefit | 120% |
| 77 | 1407 | F-07 | Studio | 296 | 0/1 | Benefit | 120% |
| 78 | 1408 | F-08 | Studio | 299 | 0/1 | Benefit | 120% |
| 79 | 1409 | F-09 | Studio | 299 | 0/1 | Benefit | 120% |
| 80 | 1410 | F-10 | Studio | 293 | 0/1 | Benefit | 120% |
| 81 | 1411 | F-11 | 2 BR | 474 | 2/1 | Benefit | 120% |
| 82 | 1412 | F-12 | 2 BR | 609 | 2/1 | Benefit | 120% |
| 83 | 1413 | F-13 | Studio | 299 | 0/1 | Benefit | 120% |
| 84 | 1414 | F-14 | Studio | 297 | 0/1 | Benefit | 120% |

Notes:

1) The AMI shown above is the starting percentage for the Affordable Housing Units. Refer to "Marketing Periods" within agreement for adjustment guidelines after the sales process begins.

| Unit Mix | | |
|-----------|-------|------------|
| Unit Type | BR/BA | Unit Count |
| Studio | 0/1 | 60 |
| 1-BED | 1/1 | 6 |
| 2-BED | 2/1 | 18 |
| Total | | 84 |

| | Unit Mix | | | |
|----------------------|----------|-------|-------|----------|
| | Studio | 1-BED | 2-BED | Subtotal |
| Benefit - 120% AMI | 30 | 3 | 9 | 42 |
| Ordinance - 100% AMI | 15 | 2 | 4 | 21 |
| Ordinance - 120% AMI | 15 | 1 | 5 | 21 |

EXHIBIT 4 APPLICATION FORM

Date _____

Affidavit of Eligibility for City-Regulated Affordable Housing Units

To be submitted to the Honolulu Department of Planning and Permitting
per Rules to Implement City's Affordable Housing Requirements (3/2019)

| | | |
|-------------------------|-----------------|---|
| Project and Unit | | |
| Project name | Applicant name | |
| Unit No. | ___ BR / ___ BA | <input type="checkbox"/> For-sale <input type="checkbox"/> Rent |

| | | |
|---|------------------------------|-----------------------------|
| Affidavit of Eligibility for AH Unit | | |
| The undersigned Applicant(s) certify the following: | | |
| I am a citizen of the United States or a resident alien. | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| I am at least eighteen (18) years of age. | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| I am domiciled in the State of Hawaii and have a bona fide intent to physically reside in the AH unit for the duration of the restriction period or lease agreement. | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| My total gross household income does not exceed the unit's designated income limit. See Table A for income limits | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| For-sale applicants: I have sufficient gross household income to qualify for a mortgage and spend no more than 33% of gross household income toward monthly housing payments. Rental applicants: I have sufficient gross household income to demonstrate an ability to pay rent and meet any additional criteria established by the City. | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| For-sale applicants: I, either individually or with a household member, do not own or have not owned for three years prior to this application, a majority interest in fee simple or leasehold lands suitable for dwelling purposes. Rental applicants: I do not own, and will not own for the duration of the rental period, a majority interest in fee simple or leasehold lands suitable for dwelling purposes. | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| For-sale applicants: My total net available household asset does not exceed the purchase price of the unit. Rental applicants: My total net available household asset does not exceed the unit's designated income limit as adjusted by household size. | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| For-sale applicants only: I have not previously received assistance under a program designed and implemented by any State or county agency to assist persons to purchase affordable housing units. | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| <i>The City's Affordable Housing Rules provide waivers and exceptions to some requirements under certain circumstances.</i> | | |

By signing this Affidavit the undersigned represent(s) and affirm(s) that the undersigned has/have read, understand(s) and agree(s) to the above statements.

- | | | | |
|----|---------------------------------|-------------------|-------------|
| 1) | | | |
| | <i>Applicant signature</i> | <i>Print name</i> | <i>Date</i> |
| 2) | | | |
| | <i>Co-applicant 1 signature</i> | <i>Print name</i> | <i>Date</i> |
| 3) | | | |
| | <i>Co-applicant 2 signature</i> | <i>Print name</i> | <i>Date</i> |

STATE OF HAWAII)
 : SS.
CITY AND COUNTY OF HONOLULU)

On this ____ day of _____, 20____, before me personally appeared _____, to me personally known, who, being by me duly affirmed, did say that such person executed the forgoing instrument as the free act and deed of such person, and in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Name: _____
Notary Public, State of Hawaii

My commission expires: _____

| | | | |
|--------------------------------|---|-----------------|-------|
| Date of Doc: | _____ | # Pages: | _____ |
| Name of Notary: | _____ | Notes: | _____ |
| Doc. Description: | Affidavit of Eligibility to Rent an Affordable Rental Dwelling Unit in the [Sky Ala Moana] | | |
| | | (stamp or seal) | |
| Notary Signature _____ | | Date _____ | |
| First Circuit, State of Hawaii | | | |
| NOTARY CERTIFICATION | | | |

(Please have the affidavit notarized for each applicant and co-applicant)

Date _____

Application for City-Regulated Affordable Housing Units

To be submitted to the Honolulu Department of Planning and Permitting
per Rules to Implement City's Affordable Housing Requirements (3/2019)

| | | |
|-------------------------|-----------------|---|
| Project and Unit | | |
| Project name | | Building name (if applicable) |
| Project address | | |
| Unit No. | ___ BR / ___ BA | <input type="checkbox"/> For-sale <input type="checkbox"/> Rent |

| | | | |
|---|--------------|-------------------------|----------|
| Primary Applicant | | | |
| First name | | Middle name/ initial | |
| Last name | | | |
| Address line 1 | | | |
| Address line 2 | | | |
| City | | State | ZIP code |
| Home phone | Mobile phone | Work phone | |
| Email address | | | |
| Photocopy of ID attached: <input type="checkbox"/> Hawaii driver's license <input type="checkbox"/> Hawaii State ID <input type="checkbox"/> Other gov't ID (specify) | | | |

| | | | |
|---|--------------|-------------------------|----------|
| Co-Applicant 1 (if applicable) | | | |
| First name | | Middle name/ initial | |
| Last name | | | |
| Address line 1 | | | |
| Address line 2 | | | |
| City | | State | ZIP code |
| Home phone | Mobile phone | Work phone | |
| Email address | | | |
| Photocopy of ID attached: <input type="checkbox"/> Hawaii driver's license <input type="checkbox"/> Hawaii State ID <input type="checkbox"/> Other gov't ID (specify) | | | |

| Co-Applicant 2 (if applicable) | | | |
|---|--------------|---------------------|----------|
| First name | | Middle name/initial | |
| Last name | | | |
| Address line 1 | | | |
| Address line 2 | | | |
| City | | State | ZIP code |
| Home phone | Mobile phone | Work phone | |
| Email address | | | |
| Photocopy of ID attached: <input type="checkbox"/> Hawaii driver's license <input type="checkbox"/> Hawaii State ID <input type="checkbox"/> Other gov't ID (specify) | | | |

| Primary Household Member | | | |
|--|-------|--|---|
| First name | | Middle name/initial | |
| Last name | | | |
| Birth date | | Employed? <input type="checkbox"/> Yes <input type="checkbox"/> No | Full-time student? <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Relationship to Primary Applicant <i>Choose response from options in List (1) below</i> | | Self | |
| Employer 1 | | | |
| Address 1 | | Address 2 | |
| City | State | ZIP code | |
| Start date | Phone | | |
| Employer 2 | | | |
| Address 1 | | Address 2 | |
| City | State | ZIP code | |
| Start date | Phone | | |
| Employer 3 | | | |
| Address 1 | | Address 2 | |
| City | State | ZIP code | |
| Start date | Phone | | |

(1) Choices for this category are:

Self
Spouse/Partner
Parent
Child
Sibling
Extended Family
Friend (not related)
Caretaker

Please provide a photo ID for every household member

| | | | |
|--|-------|--|---|
| Household Member 2 | | | |
| First name | | Middle name/initial | |
| Last name | | | |
| Birth date | | Employed? <input type="checkbox"/> Yes <input type="checkbox"/> No | Full-time student? <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Relationship to Primary Applicant <i>Choose response from options in List (1)</i> | | | |
| Employer 1 | | | |
| Address 1 | | Address 2 | |
| City | State | ZIP code | |
| Start date | Phone | | |
| Employer 2 | | | |
| Address 1 | | Address 2 | |
| City | State | ZIP code | |
| Start date | Phone | | |

| | | | |
|--|-------|--|---|
| Household Member 3 | | | |
| First name | | Middle name/initial | |
| Last name | | | |
| Birth date | | Employed? <input type="checkbox"/> Yes <input type="checkbox"/> No | Full-time student? <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Relationship to Primary Applicant <i>Choose response from options in List (1)</i> | | | |
| Employer 1 | | | |
| Address 1 | | Address 2 | |
| City | State | ZIP code | |
| Start date | Phone | | |
| Employer 2 | | | |
| Address 1 | | Address 2 | |
| City | State | ZIP code | |
| Start date | Phone | | |

| | | | |
|--|-------|--|---|
| Household Member 4 | | | |
| First name | | Middle name/initial | |
| Last name | | | |
| Birth date | | Employed? <input type="checkbox"/> Yes <input type="checkbox"/> No | Full-time student? <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Relationship to Primary Applicant <i>Choose response from options in List (1)</i> | | | |
| Employer 1 | | | |
| Address 1 | | Address 2 | |
| City | State | ZIP code | |
| Start date | Phone | | |
| Employer 2 | | | |
| Address 1 | | Address 2 | |
| City | State | ZIP code | |
| Start date | Phone | | |

| | | | |
|--|-------|--|---|
| Household Member 5 | | | |
| First name | | Middle name/initial | |
| Last name | | | |
| Birth date | | Employed? <input type="checkbox"/> Yes <input type="checkbox"/> No | Full-time student? <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Relationship to Primary Applicant <i>Choose response from options in List (1)</i> | | | |
| Employer 1 | | | |
| Address 1 | | Address 2 | |
| City | State | ZIP code | |
| Start date | Phone | | |
| Employer 2 | | | |
| Address 1 | | Address 2 | |
| City | State | ZIP code | |
| Start date | Phone | | |

| | | | |
|--|-------|--|---|
| Household Member 6 | | | |
| First name | | Middle name/initial | |
| Last name | | | |
| Birth date | | Employed? <input type="checkbox"/> Yes <input type="checkbox"/> No | Full-time student? <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Relationship to Primary Applicant <i>Choose response from options in List (1)</i> | | | |
| Employer | | | |
| Address 1 | | Address 2 | |
| City | State | ZIP code | |
| Start date | Phone | | |

| | | | |
|--|-------|--|---|
| Household Member 7 | | | |
| First name | | Middle name/initial | |
| Last name | | | |
| Birth date | | Employed? <input type="checkbox"/> Yes <input type="checkbox"/> No | Full-time student? <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Relationship to Primary Applicant <i>Choose response from options in List (1)</i> | | | |
| Employer | | | |
| Address 1 | | Address 2 | |
| City | State | ZIP code | |
| Start date | Phone | | |

| | | | |
|--|-------|--|---|
| Household Member 8 | | | |
| First name | | Middle name/initial | |
| Last name | | | |
| Birth date | | Employed? <input type="checkbox"/> Yes <input type="checkbox"/> No | Full-time student? <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Relationship to Primary Applicant <i>Choose response from options in List (1)</i> | | | |
| Employer | | | |
| Address 1 | | Address 2 | |
| City | State | ZIP code | |
| Start date | Phone | | |

Household Asset Verification

Choose asset type from options in List (2) below

| | |
|----------------------|---|
| Asset 1 | |
| Asset type (2) | Name of financial institution |
| Current market value | Annual Percentage Yield or mark 0% if none listed |

| | |
|----------------------|---|
| Asset 2 | |
| Asset type (2) | Name of financial institution |
| Current market value | Annual Percentage Yield or mark 0% if none listed |

| | |
|----------------------|---|
| Asset 3 | |
| Asset type (2) | Name of financial institution |
| Current market value | Annual Percentage Yield or mark 0% if none listed |

| | |
|----------------------|---|
| Asset 4 | |
| Asset type (2) | Name of financial institution |
| Current market value | Annual Percentage Yield or mark 0% if none listed |

| | |
|----------------------|---|
| Asset 5 | |
| Asset type (2) | Name of financial institution |
| Current market value | Annual Percentage Yield or mark 0% if none listed |

| | |
|----------------------|---|
| Asset 6 | |
| Asset type (2) | Name of financial institution |
| Current market value | Annual Percentage Yield or mark 0% if none listed |

| | |
|----------------------|---|
| Asset 7 | |
| Asset type (2) | Name of financial institution |
| Current market value | Annual Percentage Yield or mark 0% if none listed |

| | |
|----------------------|---|
| Asset 8 | |
| Asset type (2) | Name of financial institution |
| Current market value | Annual Percentage Yield or mark 0% if none listed |

(2) Choices for this category are:

- Bonds
- Certificate of Deposit (CD)
- Checking account
- Life insurance
- Mutual funds
- Real estate
- Savings account
- Stock
- Other

Please provide account statements and other supporting documents

Household Income

Please list all income earners, including those part-time and self-employed.

Do not include income of minor children, full-time students up to 23 years old, and live-in aides.

Income -- Household Member 1*Choose income source type from options in List (3) below*

| | |
|--------------------------|-------------------------------|
| Last name | First name |
| Income source 1 type (3) | Income source 1 Employer name |
| Annual income | |
| Income source 2 type (3) | Income source 2 Employer name |
| Annual income | |
| Income source 3 type (3) | Income source 3 Employer name |
| Annual income | |
| Income source 4 type (3) | Income source 4 Employer name |
| Annual income | |

- (3) Choices for this category are:
- Alimony
 - Child support
 - Gross pay
 - Investment income
 - No income
 - Pension
 - Retirement
 - Social Security
 - Unemployment compensation
 - Other

Please provide pay stubs, bank statements and other supporting documents

Income -- Household Member 2*Choose income source type from options in List (3)*

| | |
|--------------------------|-------------------------------|
| Last name | First name |
| Income source 1 type (3) | Income source 1 Employer name |
| Annual income | |
| Income source 2 type (3) | Income source 2 Employer name |
| Annual income | |
| Income source 3 type (3) | Income source 3 Employer name |
| Annual income | |

| Income -- Household Member 3 | |
|---|-------------------------------|
| <i>Choose income source type from options in List (3)</i> | |
| Last name | First name |
| Income source 1 type (3) | Income source 1 Employer name |
| Annual income | |
| Income source 2 type (3) | Income source 2 Employer name |
| Annual income | |
| Income source 3 type (3) | Income source 3 Employer name |
| Annual income | |

| Income -- Household Member 4 | |
|------------------------------|-------------------------------|
| Last name | First name |
| Income source 1 type (3) | Income source 1 Employer name |
| Annual income | |
| Income source 2 type (3) | Income source 2 Employer name |
| Annual income | |
| Income source 3 type (3) | Income source 3 Employer name |
| Annual income | |

| Income -- Household Member 5 | |
|------------------------------|-------------------------------|
| Last name | First name |
| Income source 1 type (3) | Income source 1 Employer name |
| Annual income | |
| Income source 2 type (3) | Income source 2 Employer name |
| Annual income | |
| Income source 3 type (3) | Income source 3 Employer name |
| Annual income | |

(Add pages as needed)

| Income limit, AMI group | |
|-------------------------|-------------------|
| Income limit \$ _____ | AMI group _____ % |

| Table A. Household Income Limits for Affordable Housing (2021) | | | | |
|--|--|-------------|-------------|-------------|
| To be eligible for City-regulated Affordable Housing, a household's gross income may not exceed the following limits. These figures are updated annually. AMI is the Area Median Income. | | | | |
| | 2021 income limits for Affordable Housing units designated for households earning: | | | |
| | 80% of AMI | 100% of AMI | 120% of AMI | 140% of AMI |
| 1-person household | \$67,680 | \$84,600 | \$101,520 | \$118,440 |
| 2-person household | \$77,360 | \$96,700 | \$116,040 | \$135,380 |
| 3-person household | \$87,040 | \$108,800 | \$130,560 | \$152,320 |
| 4-person household | \$96,640 | \$120,800 | \$144,960 | \$169,120 |
| 5-person household | \$104,400 | \$130,500 | \$156,600 | \$182,700 |
| 6-person household | \$112,160 | \$140,200 | \$168,240 | \$196,280 |
| 7-person household | \$119,840 | \$149,800 | \$179,760 | \$209,720 |
| 8-person household | \$127,600 | \$159,500 | \$191,400 | \$223,300 |

| Documentation |
|--|
| <p>Please include the following documentation with this application:</p> <ul style="list-style-type: none"> • Applicant AH eligibility affidavit (<i>Page 1 of this application</i>) • Statement that household member does not intend to work for a year (required if no income is selected) • Most recent two months' pay stubs or other documentation of income, including Social Security and VA benefits • Last two years' tax returns, including all applicable schedules • Bank and other financial institution statements, showing interest rate or interest earned • IRS Forms 1099, as applicable • Mortgage pre-qualification (for sale) or lease agreement (rental) • Photo ID of all household members • Other supporting documents (divorce decree, marriage certificate, etc.) |

EXHIBIT 5 INCOME VERIFICATION WORKSHEET

Income verification worksheet - for sale

Mo/Da/2021

2021/elog-xxxx

doc 182xxxx

Sky Ala Moana

Unit #

x BR/x BA

Sales price \$

Household size: X

Monthly paymt \$

Income worksheet for Firstname M. Lastname and Firstname M. Lastname

GROSS PAY & OTHER INCOME

Income types include gross pay from an employer, net income from business or profession, pension and Social Security, alimony and child support, unemployment compensation and gov't assistance, COLA & housing/subsistence allowance, and investment income.

It does not include income of a co-mortgagor who is not a household member, minor children and full-time students up to 23, and live-in aides.

| (source) | Amount | (source) | Amount | (source) | Amount | (source) | Amount | (source) | Amount |
|-------------|--------|-------------|--------|-------------|--------|-------------|--------|-------------|--------|
| date | \$0.00 | date | \$0.00 | date | \$0.00 | date | \$0.00 | date | \$0.00 |
| date | \$0.00 | date | \$0.00 | date | \$0.00 | date | \$0.00 | date | \$0.00 |
| date | \$0.00 | date | \$0.00 | date | \$0.00 | date | \$0.00 | date | \$0.00 |
| date | \$0.00 | date | \$0.00 | date | \$0.00 | date | \$0.00 | date | \$0.00 |
| date | \$0.00 | date | \$0.00 | date | \$0.00 | date | \$0.00 | date | \$0.00 |
| date | \$0.00 | date | \$0.00 | date | \$0.00 | date | \$0.00 | date | \$0.00 |
| date | \$0.00 | date | \$0.00 | date | \$0.00 | date | \$0.00 | date | \$0.00 |
| date | \$0.00 | date | \$0.00 | date | \$0.00 | date | \$0.00 | date | \$0.00 |
| date | \$0.00 | date | \$0.00 | date | \$0.00 | date | \$0.00 | date | \$0.00 |
| date | \$0.00 | date | \$0.00 | date | \$0.00 | date | \$0.00 | date | \$0.00 |
| date | \$0.00 | date | \$0.00 | date | \$0.00 | date | \$0.00 | date | \$0.00 |
| date | \$0.00 | date | \$0.00 | date | \$0.00 | date | \$0.00 | date | \$0.00 |
| date | \$0.00 | date | \$0.00 | date | \$0.00 | date | \$0.00 | date | \$0.00 |
| Sum | \$0.00 | Sum | \$0.00 | Sum | \$0.00 | Sum | \$0.00 | Sum | \$0.00 |
| # of stubs | 1 | # of stubs | 1 | # of stubs | 1 | # of stubs | 1 | # of stubs | 1 |
| average pay | \$0.00 | average pay | \$0.00 | average pay | \$0.00 | average pay | \$0.00 | average pay | \$0.00 |
| period type | 12 | period type | 12 | period type | 12 | period type | 12 | period type | 12 |
| est annual | \$0.00 | est annual | \$0.00 | est annual | \$0.00 | est annual | \$0.00 | est annual | \$0.00 |
| est monthly | \$0.00 | est monthly | \$0.00 | est monthly | \$0.00 | est monthly | \$0.00 | est monthly | \$0.00 |

ASSET INCOME

| | Mkt value | APY | Income |
|----------|-----------|-------|--------|
| (asset) | \$0.00 | 0.00% | \$0.00 |
| (asset) | \$0.00 | 0.00% | \$0.00 |
| (asset) | \$0.00 | 0.00% | \$0.00 |
| (asset) | \$0.00 | 0.00% | \$0.00 |
| (asset) | \$0.00 | 0.00% | \$0.00 |
| (asset) | \$0.00 | 0.00% | \$0.00 |
| (asset) | \$0.00 | 0.00% | \$0.00 |
| (asset) | \$0.00 | 0.00% | \$0.00 |
| Total A | \$0.00 | na | \$0.00 |
| Total B* | \$0.00 | na | \$0.00 |

Applicable income (larger of A or B)

\$0.00

* If total Mkt Value <\$5,000, Total B income is \$0

* If total Mkt Value >\$5,000, will be multiplied by 0.06%

Assets include checking, savings, CDs, stocks, bonds

| Annual income guidelines 2021 | | |
|-------------------------------|-----------|-----------|
| | 80% AMI | 120% AMI |
| Family of 1 | \$67,680 | \$101,520 |
| Family of 2 | \$77,360 | \$116,040 |
| Family of 3 | \$87,040 | \$130,560 |
| Family of 4 | \$96,640 | \$144,960 |
| Family of 5 | \$104,400 | \$156,600 |
| Family of 6 | \$112,160 | \$168,240 |
| Family of 7 | \$119,840 | \$179,760 |
| Family of 8 | \$127,600 | \$191,400 |

Pay period type

Weekly (52)
Bi-weekly (26)
Semi-monthly (24)
Monthly (12)

HOUSEHOLD INCOME & CAPACITY TO PAY

| | |
|-------------------------------------|--------|
| Household total est annual pay | \$0.00 |
| Household asset annual income | \$0.00 |
| Total household annual income | \$0.00 |
| Household est monthly pay | \$0.00 |
| Est monthly capacity to pay (x .33) | \$0.00 |
| Est monthly mortgage or rent | \$0.00 |
| Difference | \$0.00 |

Use this field to enter notes.

DPP 20210701