

## **BOARD OF WATER SUPPLY**

**TOM SHIGEMOTO**, CHAIR  
**MICAH FINNILA**, VICE-CHAIR  
**CLYDE KODANI**, SECRETARY  
**JULIE SIMONTON**, MEMBER

**KA'AINA HULL**, EX-OFFICIO  
**TROY TANIGAWA**, EX-OFFICIO  
**ERIC FUJIKAWA**, EX-OFFICIO  
**ANASTASIA PERRY**, STUDENT EX-OFFICIO



**JOSEPH E. TAIT**  
MANAGER AND CHIEF ENGINEER

### **REGULAR MONTHLY MEETING NOTICE AND AGENDA**

Thursday, February 19, 2026  
9:30 a.m. or shortly thereafter

Meetings of the Board of Water Supply, County of Kaua'i will be conducted in-person at the Department of Water Board Room, 2<sup>nd</sup> Floor located at 4398 Pua Loke Street, Līhu'e, Kaua'i, Hawai'i, and remotely in accordance with Act 220, Session Laws of Hawai'i 2021 via interactive conference technology as follows:

**Click on the link below to join on your computer or mobile app by VIDEO:**

<https://us06web.zoom.us/j/86846894734>

**Passcode: 263109**

**OR**

**Dial phone number and enter conference ID to call in and join by AUDIO:**

**Phone: 888 788 0099 US Toll-free**  
**Phone Conference ID: 868 4689 4734**

**Please Note:** If you do not provide a name, unique identifier, or alias when joining the meeting, you will be renamed to allow staff to address and manage individual guests.

In the event of a lost connection the Board will recess for up to 30 minutes to restore the connection. If the connection cannot be restored within 30 minutes, the Board will continue the meeting at 12:00 p.m. or shortly thereafter. If the visual link cannot be restored, the Board may reconvene with an audio-only link using the above dial-in phone number and conference ID. A lost connection only applies to remote connections provided as part of the remote meeting but does not apply to a public member being unable to access the meeting due to a connectivity issue on their end.

### **CALL TO ORDER**

### **ROLL CALL**

### **ANNOUNCEMENTS**

1. Next Scheduled Board Meeting: Thursday, March 19, 2026

### **APPROVAL OF AGENDA**

### **MEETING MINUTES**

1. Regular Board Meeting – January 20, 2026
2. Executive Session – January 20, 2026

### **PUBLIC TESTIMONY**

**CORRESPONDENCE**

1. Email dated January 13, 2026 from The Heirs of David Nu'uhiwa re: Pending Shoreline Certifications, Land Use Permits, or Building Applications for TMK: (4) 5-8-010:025 (Lot 5-C) and the surrounding Nu'uhiwa allotments in Wainiha.

**NEW BUSINESS**

1. Discussion and Adoption of Resolution No. 26-05, 2025 Employee of the Year Albert Cadavona, Construction & Maintenance Worker III, Operations Division
2. Discussion and Adoption of Resolution No. 26-06, 2025 Employee of the Year Chrysanthemum "Christine" Ererita, Contracts Officer, Fiscal Division
3. Discussion and Adoption of Resolution No. 26-07, 2025 Employee of the Year Joseph Perreira Jr., Waterworks Inspector III, Engineering Division
4. Manager's Report No. 26-25 Discussion and Possible Action to Request Board Approval of the Indemnification Provision and Unspecified Future Obligations in the Agreement for Kilauea Elementary School between the Board of Water Supply, County of Kauai and the State of Hawaii, Department of Education
5. Manager's Report No. 26-26 Discussion and Possible Action to Request Board Approval of the Indemnification Provision and Unspecified Future Obligations in the Agreement for Ka Waiwai ma Kapaa at Kalukalu between the Board of Water Supply, County of Kauai and the Waiwai Collective, LLC
6. Manager's Report No. 26-27 Discussion and Possible Action to Request Board Approval of the Indemnification Provision in the Agreement for Anahola Neighborhood Center between the Board of Water Supply, County of Kauai and the County of Kauai, Department of Parks and Recreation
7. Manager's Report No. 26-28 Discussion and Possible Action to Request Board Approval of the Indemnification Provision and Unspecified Future Obligations in the Agreement for Kekaha Neighborhood Center between the Board of Water Supply, County of Kauai and the County of Kauai and the State of Hawaii, Department of Education
8. Manager's Report No. 26-29 Discussion and Possible Action to Request Board Approval of the Indemnification Provision in the Agreement for Lihue Neighborhood Center between the Board of Water Supply, County of Kauai and the County of Kauai, Department of Parks and Recreation
9. Manager's Report No. 26-30 Discussion and Possible Action to Request Board Approval of the Indemnification Provision in the Agreement for Waimea Neighborhood Center between the Board of Water Supply, County of Kauai and the County of Kauai, Department of Parks and Recreation
10. Manager's Report No. 26-31 Discussion and Possible Action to Request Board Approval of the Indemnification Provision in the Agreement for Koloa Neighborhood Center between the Board of Water Supply, County of Kauai and the County of Kauai, Department of Parks and Recreation
11. Manager's Report No. 26-32 Discussion and Possible Action to Approve the Right-of-Entry Agreement with the Kaua'i County Housing Agency for Staging and Stockpiling for the Pu'u Pane 1.0 MG Tank Project at TMK: (4) 5-2-005:054, Kilauea, Kaua'i, Hawai'i

12. Manager's Report No. 26-33 Discussion and Possible Action to Request Board Approval of the Land Exchange of TMK (4) 2-3-005:006 and TMK (4) 2-3-005:025, as Identified in the Land Exchange Agreement (Agreement) Between the Bank of Hawaii, as Trustee of the Kukuilono Park Trust Estate, the County of Kaua'i, and the Board of Water Supply, County of Kaua'i
13. Manager's Report No. 26-34 Discussion and Possible Action to Request Board Approval for Indemnification and Unspecified Future Obligations for Autodesk, Inc. between the Board of Water Supply, County of Kaua'i and Autodesk, Inc.
14. Manager's Report No. 26-35 Discussion and Possible Action to Request Board Approval for Indemnification and Unspecified Future Obligation for Dashlane, Inc. between the Board of Water Supply, County of Kauai and Dashlane, Inc.

### **STAFF REPORTS**

1. **Fiscal**
  - a. Monthly dashboard – Number of Service Calls, Number of Walk-in Customers, Number of Customer Emails and Correspondence, Number of Customer Rebills, Accounting Highlights, Transponder Replacement highlights and progress, Staff Overtime hours
  - b. Budget Report for January 2026
2. **Operations**
  - a. Monthly dashboard – Annual Financial Impact Overview, Staff Overtime Hours, Budgeted and Vacant Positions, Services Received/Completed, Highlights: New Hires and Recruitment, Interviews scheduled, Training: Forklift operation, DSO Exams
3. **Engineering**
  - a. Monthly dashboard – Budgeted and Vacant Positions, Staff Overtime Hours, Projects In Design, In Construction, Completed; Water Resources and Planning Statistics – Customer Requests, Applications and Permits, Service and Records Requests, Number of Backflow Devices tested
    - i. Capital Improvement Plan (CIP) Project Highlights/Status Updates:
      - Kapa'a Homesteads 325' Tanks
      - Pu'u Pane 1.0 Million Gallon Tank
      - Kalāheo Water System Improvements
      - University of Hawai'i Experimental Station 605' Tank
      - Kīlauea Wells 1 & 2 MCC, Chlorination Facilities
      - Kūhiō Hwy (Hardy-Oxford) 18" Main Replacement
      - Weke, Anae, Mahimahi and Hee Roads 6" and 8" Main Replacement
    - ii. DOW Project Highlights/Status Updates:
      - Water Systems Investment Plan (WSIP)
      - Kaua'i Water Use and Development Plan (KWUDP)
      - As-Needed Grant Writing and Preparation Services: WaterSMART Grant for Advanced Metering Infrastructure (AMI) Meters
4. **Administration**
  - a. Human Resources – updates on Personnel Vacancies
5. **Manager and Chief Engineer**
  - a. Reports to Manager:
    1. First Amendment to Contract 760 with the Limtiaco Consulting Group, Inc., Job No. 24-02, Project No. LO-10, Lāwa'i 6" and 8" Main Replacement

2. Change Order No. 5 to Contract No. 722 (Kiewit Infrastructure West Co.), Job No. 16-04, WP2020 #KW-03, MCC, Chlorination Facilities Kīlauea Wells No. 1 and No. 2
3. Year 2 Services for Contract No. 769 with Compulink Management Center, Inc. DBA Laserfiche, IT-2025-01, Document Management Software, Hosting, and Support Services
4. Year 2 Services for Contract No. 779 with Kaua'i Mechanical, Inc. GS-2025-05, Service and Maintenance of DOW's Various Air Conditioning Units
5. Change Order No. 1 to Contract No. 782 with Alpha, Inc. Job. No. 18-03, WP2020 #PLH-27, Kūhiō Highway (Hardy-Oxford) 18" Main Replacement
6. Professional Services 2026-PROF-SCS-1, Contract Award to Imanaka Asato, LLC and Stag Liuzza, LLC, Special Counsel for Aqueous-Film-Forming Foams ("AFFF") Litigation MDL No. 2873

**TOPICS FOR NEXT BOARD OF WATER SUPPLY MEETING:** *(March)*

1. Discussion and Receipt of the Department of Water's (DOW)'s Financial Statements and Independent Auditor's Report for the Fiscal Year Ended June 30, 2025
2. Discussion and Possible Action on the Department of Water's (DOW's) DRAFT Operating and Capital Budgets for FY 2026-2027

**TOPICS FOR FUTURE BOARD OF WATER SUPPLY MEETING:**

**EXECUTIVE SESSION:**

Pursuant to Hawai'i Revised Statutes (HRS) §92-7(a), the Board may, when deemed necessary, hold an executive session on any agenda item without written public notice if the Executive Session was not anticipated in advance. Any such executive session shall be held pursuant to HRS §92-4 and shall be limited to those items described in HRS §92-5(a).

**ADJOURNMENT**



### **WRITTEN TESTIMONY**

The Board is required to afford all interested persons an opportunity to present testimony on any agenda item. The Board encourages written testimony at least two (2) business days prior to a scheduled Board meeting. At each Board meeting, the Board will accept oral and written testimony on any agenda item during the Public Testimony portion.

Please include:

1. Your name and if applicable, your position/title and organization you are representing
2. The agenda item that you are providing comments on; and
3. Whether you are a registered lobbyist and, if so, on whose behalf you are appearing.

Send written testimony to:

Board of Water Supply, County of Kaua'i  
C/O Administration  
4398 Pua Loke Street

Līhu'e, Hawai'i 96766

E-Mail: [board@kauaiwater.org](mailto:board@kauaiwater.org)

Phone: (808) 245-5406

### **Public Testimony**

You do not need to register to provide oral testimony on the day of the meeting. Please note that public testimony is taken after the approval of the meeting agenda to ensure public testimony is received before any action is taken on an agenda item. The length of time allocated to present oral testimony may be limited at the discretion of the chairperson.

#### **SPECIAL ASSISTANCE**

If you need an auxiliary aid/service or other accommodation due to a disability, or an interpreter for non-English speaking persons, please call (808) 245-5406 or email [board@kauaiwater.org](mailto:board@kauaiwater.org) as soon as possible. Requests made as early as possible will allow adequate time to fulfil your request. Upon request, this notice is available in alternate formats such as large print, Braille, or electronic copy.

A horizontal splash of blue water with bubbles, serving as a background for the title text.

# DRAFT MINUTES

MINUTES  
BOARD OF WATER SUPPLY  
Tuesday, January 20, 2026

The Board of Water Supply, County of Kaua'i, met in a regular meeting in Līhu'e on Thursday, January 20, 2026. Chair Tom Shigemoto called the meeting to order at 9:31 a.m. The following Board members were present:

**BOARD:**

Mr. Tom Shigemoto, *Chair*  
Ms. Micah Finnila, *Vice-Chair*  
Ms. Julie Simonton  
Mr. Eric Fujikawa  
Mr. Troy Tanigawa (*remote*)  
Ms. Anastacia Perry, *Student member*

**EXCUSED:**

Mr. Clyde Kodani  
Mr. Ka'aina Hull

Quorum was achieved with 4 members present at Roll Call; Board member Tanigawa entered the meeting at 10:38 a.m.

**ANNOUNCEMENTS**

1. Next Scheduled Board Meeting: Thursday, February 19, 2026

**APPROVAL OF AGENDA**

**The agenda was approved with no objections**

**MEETING MINUTES**

1. Regular Board Meeting – December 18, 2025

**The minutes of the December 18, 2025 Regular Board meeting were received for the record.**

**PUBLIC TESTIMONY**

No public testimony was given.

**NEW BUSINESS**

1. Confirmation of Board Committee Appointments for 2026

**Board member Julie Simonton moved to confirm the Board Committee Appointments for 2026, seconded by Mr. Fujikawa; with no objections, motion carried with 4 Ayes.**

2. Manager's Report No. 26-22 Discussion and Possible Action to execute an annual Use and Occupancy Permit No. 945 between the State of Hawai'i and the Board of Water Supply, County of Kaua'i for non-trenching maintenance, inspection and other uses and activities within the State Highway Right of Way, Kaua'i, Hawai'i

Board member Fujikawa stated that he would be recusing himself from decision-making on this item as the Permit involves State of Hawaii Department of Transportation. This item was moved to be taken up after the Executive Session.

3. Manager's Report No. 26-23 Discussion and Possible Action to approve a Grant of Easement for Kuanoe O Kōloa, TMK (4) 2-8-014:032

Project Management Officer Scott Suga provided a summary of the Manager's Report submitted.

**Board member Julie Simonton moved to approve Manager's Report No. 26-23, seconded by Ms. Finnila; with no objections, motion carried with 4 Ayes.**

4. Manager's Report No. 26-24 Discussion and Possible Action to select and approve a proposed rate scenario for a 5-year time period (FY 2027-2031) to be presented to the public for feedback:

- a. Scenario 1: 25%, 25%, 6.5%, 6.5%, 6.5%
- b. Scenario 2: 25%, 25%, 12%, 12%, 12%
- c. Scenario 3: 30%, 30%, 15%, 15%, 15%

Chair Shigemoto asked if the Board felt it necessary to go through the presentation at length as it is information they have previously seen. The Board felt a summary would suffice.

Engineering Division Head Jason Kagimoto provided a brief recap of Slides 5 through 19 of the Rate Study presentation, which was reviewed in detail at the December 18, 2025 Board meeting.

#### **Slide 5**

Mr. Kagimoto stated the Department is in favor of Rate Scenario 1, which is aligned with the Prioritized Achievable CIP pie chart on the far right of Slide 5. This would address about 1/3 of the overall needs, but this would be both accomplishable while balancing the rate increase for the customers.

#### **Slides 6 and 7 – WSIP CIP Project Prioritization, New Wells**

The 4 projects shaded mint green are identified as being prioritized achievable under Scenario 1. The map on the following Slide shows those new well projects signified by blue dots; 3 of the wells are in water restricted areas of Wainiha/Haena, Hanalei, and Kilauea to address source deficiencies, with the 4<sup>th</sup> well in Lihue that is needed to support future growth. These 4 projects are 44% of the overall need.

#### **Slides 8 and 9 – WSIP CIP Project Prioritization – New Tanks**

There are 6 new tank projects are identified as being within the recommended approach (mint green shading). The map on the following Slide shows the locations of these tank projects as signified by the orange dots in Wainiha, Haena, Hanalei, Kilauea, Lower Wailua, and Upper Wailua, all of which have existing meter restrictions and are storage deficient. These 6 projects are 40% of the overall need.

#### **Slides 10 and 11 – WSIP CIP Project Prioritization Pipeline R&R**

This is the biggest need in terms of Department projects that need to get done.

These are not specifically identified in terms of actual projects, but are prioritized based on funding, and coordination with the Operations division as needs arise. The map on the following Slide shows what is achievable under Scenario 1 signified by dark green lines, and is about 20% of the total need.

#### **Slide 12 – WSIP CIP Project Prioritization Tank R&R**

8 projects are identified as achievable under Scenario 1: Puupilo 0.125 MG Rehab; Kauai Inn Tank Rehab; Kilauea Tanks #1 and #2, 0.25 MG Rehab; Maka Ridge Tank Rehab and Resiliency; Hanapepe Heights 0.5 MG Rehab; Kalepa Tank Rehab; Lawai (Akemama) Tank Rehab; Paanau Tank 1 0.25MG Rehab.

#### **Slide 13 – WSIP CIP Project Prioritization – Well R&R**

9 projects are identified as achievable under Scenario 1: Hanapepe Town Well MCC, chlorination facilities; Haena Well 66 & Wainiha Well MCC, chlorination facilities; Hanapepe Well A MCC, chlorination facilities; Hanapepe Well B MCC, chlorination facilities; Puhi Well 1 (KCC), chlorination facilities; Garlinghouse Well MCC, EGEN, Mechanical/Electrical Improvements; Lawai Wells No. 1 and 2 MCC, chlorination facilities; Kilohana Wells A, B, F & I MCC, permanent generator; Koloa Well C & D MCC, chlorination facilities.

#### **Slide 14 – WSIP CIP Project Prioritization BPS R&R**

The 3 prioritized Booster Pump System projects are shaded mint green: Andrade BP-MCC, permanent generator and housing; Puu Pilo Booster Station Rehab; Waimea Heights BP MCC, Mechanical/Electrical Improvements.

#### **Slide 15 – WSIP CIP Project Prioritization New Pipeline**

There is only 1 project identified, which is currently contracted and in the process of working on the Environmental Impact Statement (EIS) to move forward.

#### **Slide 16 – WSIP CIP Project Prioritization Site Access & Operational**

There are 7 different projects identified, some are for specific locations with the 7<sup>th</sup> one being for Access Agreement Development. Mr. Kagimoto explained that when they identify new sites for tanks, these access agreements need to be developed.

Mr. Kagimoto stated that the goal was to identify what projects would be included in Scenario 1, which is the Department's recommended approach. These priorities can be adjusted based on outside funding for specific projects that may be specific to certain communities. Operational issues in certain areas may also result in reprioritizing projects.

In response to Board member Finnila regarding the color coding for projects listed on Slides 6 through 17, Mr. Kagimoto explained that green shading represents the project can move forward, yellow shading represents projects that would have been able to move forward under Scenario 3, and orange shading represents projects that are unable to move forward at this time. He noted that the Department does NOT recommend Scenario 3 given the ability to accomplish that amount of work as well as the community impact.

Board member Eric Fujikawa stated he sees the new pipelines projects, and asked whether any pipeline upgrade projects have been identified; is there any intention of expanding when R&R's are going in? Mr. Kagimoto stated that the GIS map on Slide 11 shows the different areas that have been identified as needing different things such as increased sizing for fire flow. However, they have not put together a prioritization list of pipeline R&R for the purposes of this presentation because while they have identified the overall need, they are still refining the scope

of work for specific areas as each project comes up. Mr. Kagimoto stated the general approach is to prioritize current needs versus future needs, so they have outlined the anticipated future projects that they are aware of, which are of lower priority.

Mr. Fujikawa agreed with that approach and further asked if that would address all of the 7% that is undersized for fire flow. Michelle Sorensen of Brown and Caldwell, who had joined the meeting remotely, explained that prioritization for fire flow resizing will be in tandem with a prioritized project that is being worked on, but they have not specifically outlined whether old pipes versus undersized pipes will be addressed. That work is still going to be done based on the funding that is available for CIP.

Mr. Kagimoto clarified that what the Department is looking for today is for the Board to select a Scenario that they approve to move forward with public discussion; today's action would not be approval of actual implementation of a rate structure but will move the process forward to public outreach.

Board member Fujikawa expressed his appreciation for the feedback the Department receives throughout the public outreach process, noting he will try to attend the public meetings in his area, but would also like the Board to receive a debriefing on how those meetings are going.

Chair Shigemoto commented that any time rate increases are done, people will be concerned as nobody like rate increases. However, based on the proposed scenario and schedule, he is hoping the Department will be able to accomplish those goals, noting that if anything upsets ratepayers, its spending money that is not being utilized in a timely manner. He feels that they are capable of determining what is accomplishable based on their staff shortages and is certain they will be hearing from the public as things move forward. Mr. Shigemoto also thanked the consultants and DOW's Engineering team for their hard work in getting to this point.

**Board member Julie Simonton moved to approve that the Board allows the Department to move forward for public feedback on Scenario 1 of the proposed rate structures, seconded by Ms. Finnila; with no objections, motion carried with 4 Ayes.**

## **STAFF REPORTS**

### **1. Fiscal**

- a. Monthly dashboard – Number of Service Calls, Number of Walk-in Customers, Number of Customer Emails and Correspondence, Number of Customer Rebills, Accounting Highlights, Transponder Replacement highlights and progress, Staff Overtime hours
- b. Budget Report for November 2025

Waterworks Controller Renee Yadao provided a brief overview of the Monthly Dashboard and Budget Report.

### **2. Operations**

- a. Monthly dashboard – Annual Financial Impact Overview, Staff Overtime Hours, Budgeted and Vacant Positions, Services Received/Completed, Highlights: New Hires and Recruitment (**Ops hired 10 new employees in 2025; New Ops record for New Hires!**), Interviews scheduled, Training: Large Customer and Source Meter Calibration Testing

### **3. Engineering**

- a. Monthly dashboard – Budgeted and Vacant Positions, Staff Overtime Hours, Projects In Design, In Construction, Completed; Water Resources and Planning Statistics – Customer Requests, Applications and Permits, Service and Records Requests, Number of Backflow Devices tested
  - i. Capital Improvement Plan (CIP) Project Highlights/Status Updates:
    - Kapa’a Homesteads 325’ Tanks
    - Pu’u Pane 1.0 Million Gallon Tank
    - Kalāheo Water System Improvements
    - University of Hawai‘i Experimental Station 605’ Tank
    - Hā’ena 0.2 MG Tank
    - Kīlauea Wells 1 & 2 MCC, Chlorination Facilities
    - Kūhiō Hwy (Hardy-Oxford) 18” Main Replacement
  - ii. DOW Project Highlights/Status Updates:
    - Water Systems Investment Plan (WSIP)
    - Kaua‘i Water Use and Development Plan (KWUDP)
    - As-Needed Grant Writing and Preparation Services: WaterSMART Grant for Advanced Metering Infrastructure (AMI) Meters
- 4. **Administration**
  - a. Human Resources – updates on Personnel Vacancies
- 5. **Manager and Chief Engineer**
  - a. Reports to Manager:
    1. Change Order No. 7 for Contract No. 701 with Glenmount Global Solutions, LLC, Job No. 20-03 SCADA System Maintenance and Professional Consultation Services
    2. Multi-Term Contract Encumbrance for Construction Contace C765, Job No. 24-05 – Kapa’a Homesteads Well No. 4 Pump and Controls
    3. Change Order No. 1 for Contract No. 778 with ABR Ventures LLC dba Honua Waterworks, GS-2025-04 Hydrants & Appurtenances and Various Building Water Pipe Repair and Maintenance Fittings

**TOPICS FOR NEXT BOARD OF WATER SUPPLY MEETING: (January)**

1. Confirmation of Board Committee Appointments for 2026

**TOPICS FOR FUTURE BOARD OF WATER SUPPLY MEETING:**

**EXECUTIVE SESSION:**

Pursuant to Hawai‘i Revised Statutes (HRS) §92-7(a), the Board may, when deemed necessary, hold an executive session on any agenda item without written public notice if the Executive Session was not anticipated in advance. Any such executive session shall be held pursuant to HRS §92-4 and shall be limited to those items described in HRS §92-5(a).

1. Pursuant to Hawai‘i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4), the Office of the County Attorney requests an Executive Session with the Board to provide a briefing and to discuss possible settlement authority for the claim made against the Board by Matthew J. Tabonair, dated December 19, 2024, and to consult with the Board’s attorney on its powers, duties, privileges, immunities, and liabilities as they relate to this agenda item.

**Board member Simonton moved to enter into executive session, seconded by Mr. Fujikawa; with no objections, motion carried with 4 Ayes.**



The Board entered into Executive Session at 9:59 a.m.

The Board resumed in Open Session at 10:52 a.m.

The Board concluded its executive session for Item 1. Item 1 involved discussion for the purpose stated on the agenda for that particular item. Pursuant to HRS 92-4(b), the disclosure of the discussion would defeat the purpose of convening the executive meeting which was held pursuant to HRS 92-5(a)(4).

**Board member Simonton moved to ratify actions taken in Executive Session, seconded by Ms. Finnila; with no objections, motion carried with 5 Ayes.**

**ADJOURNMENT**

The meeting was adjourned at 10:55 a.m.

Respectfully submitted,

Cherisse Zaima  
Commission Support Clerk

A horizontal graphic of a water splash or wave, rendered in shades of light blue and white, spanning the width of the page. The word "CORRESPONDENCE" is superimposed on this graphic in a blue, serif font.

# CORRESPONDENCE

**Cherisse Zaima**

---

**From:** Exsurferbabe <exsurferbabe@aol.com>  
**Sent:** Tuesday, January 13, 2026 11:56 AM  
**To:** DOW Board  
**Subject:** Fw: FORMAL OBJECTION: Title Conflict & Unauthorized Survey - TMK (4) 5-8-010:025 (Lot 5-C)

You don't often get email from exsurferbabe@aol.com. [Learn why this is important](#)

[External]

**CAUTION: This email originated from outside of the Department of Water. Do not follow guidance, click links, or open attachments unless you recognize the sender and know the content is safe.**

[Sent from the all new AOL app for iOS](#)

Begin forwarded message:

On Tuesday, January 13, 2026, 1:54 PM, Exsurferbabe <exsurferbabe@aol.com> wrote:

**Attn: Director Ka‘āina Hull,**

**Aloha**

**This is a formal notice of objection regarding any pending Shoreline Certifications, Land Use Permits, or building applications for TMK (4) 5-8-010:025 (Lot 5-C) and the surrounding Nu‘uhiwa allotments in Wainiha.**

**The Dispute:**

**We have become aware of a survey conducted on January 29, 2025, by Honua Engineering for Zona Urdina, LLC. Be advised that this parcel is part of the Nu‘uhiwa 50-acre exclusion as mandated by the 1947 Final Decree of Equity No. 109 (Fifth Circuit Court). This land was explicitly**

**excluded from the Robinson Estate partition and belongs to the heirs of David Nu‘uhiwa.**

**Notice to the Department:**

**Any attempt by Zona Urdina, LLC or the Robinson Estate to quiet title or certify a shoreline on this property is a direct encroachment on a court-ordered family allotment. We are requesting that the Planning Department stay all permits and certifications for this TMK until the title cloud created by the 1947 Decree is resolved.**

**The Win-Win-Win Path:**

**We are actively seeking a resolution with the Department of Water regarding the Wainiha Wells (which also sit on our land)**

- 1. Granting permanent easements for County infrastructure.**
- 2. Securing 50 water meters for 1-acre Nu‘uhiwa homestead lots to house local families currently in tents.**
- 3. Formal recognition of the 1947 Decree boundaries.**

**Supplement to Notice of Interest:**

**Please be advised that the Nu‘uhiwa 50-acre claim (Equity 109) includes the riparian water rights associated with the Wainiha stream flow currently feeding the County system. Our "Win-**

**Win-Win" offer remains open: We will secure your water future in exchange for the 50 meters and title recognition for our people.**

**The Royal Patent (1850s):** The claim originates from LCA (Land Commission Award) and Royal Patent records that were never legally merged into the Robinson Estate. These are "Kuleana" rights that stay with the bloodline.

**The 1877 Hui Deed (Book 50, Page 160):** D. Nu‘uhiwa is listed as one of the 71 original shareholders of the Wainiha Hui. This deed proves that the family didn't just live there; they purchased the valley as partners.

**The 1947 "Equity 109" Exclusion:** This is the most critical piece. During the partition of the valley, the Fifth Circuit Court specifically carved out the Nu‘uhiwa 50 acres and Lot 5 because the court recognized the family had "Perfected Title." The court ruled these acres were NOT part of the Robinson's land.

**Continuous Occupancy (Ahi Kā):** The fact that Hawaiian families (the "Protectors") are currently living in tents on this land is the physical manifestation of the Nu‘uhiwa claim. Under Hawaiian Kingdom law and the Kuleana Act, the "Ahi Kā" (keeping the fires burning) maintains the family's connection to the land.

**Hui Shareholder Status:** Our ancestor, D. Nu‘uhiwa, was a founding member of the 1877 Wainiha Hui (Share #71). This is recorded in the Bureau of Conveyances, Book 50, Page 160.

**The 1947 Partition Decree:** In Equity No. 109, the Fifth Circuit Court explicitly identified the Nu‘uhiwa 50-acre exclusion and Lot 5. The court held that these lands were reserved for the heirs and were not to be absorbed by the Robinson Estate.

**Title Cloud:** Any modern survey (including the January 2025 survey by Honua Engineering) that fails to account for these specific court-ordered exclusions is legally defective.

**The County must verify these records before allowing Zona Urdina, LLC to proceed. We remain committed to our Win-Win-Win proposal to secure the County's water in exchange for the 50 meters and recognition of our family's title.**

**Respectfully,**

**The Heirs of David Nu'uhiwa**

[Sent from the all new AOL app for iOS](#)

A horizontal splash of blue water with bubbles and ripples, centered on the page.

# NEW BUSINESS



**RESOLUTION No. 26-05**

**DEPARTMENT OF WATER,  
COUNTY OF KAUAI  
EMPLOYEE OF THE YEAR**

**ALBERT CADA VONA  
MAHALO  
2025**

WHEREAS, Albert Cadavona has been selected by his peers as the Department of Water's 2025 Outstanding Employee of the Year; and

WHEREAS, Albert joined the Department of Water on October 1, 2020, as a Construction & Maintenance Worker I, bringing with him years of experience from the private sector; and

WHEREAS, Albert is the epitome of reliability and consistency, early to work every day, shows up with a great attitude, is always respectful, and will drop everything to help when needed; and

WHEREAS, Albert takes pride in everything he does, making sure that the customer is always satisfied, which he demonstrates with the quality of work that he provides; and

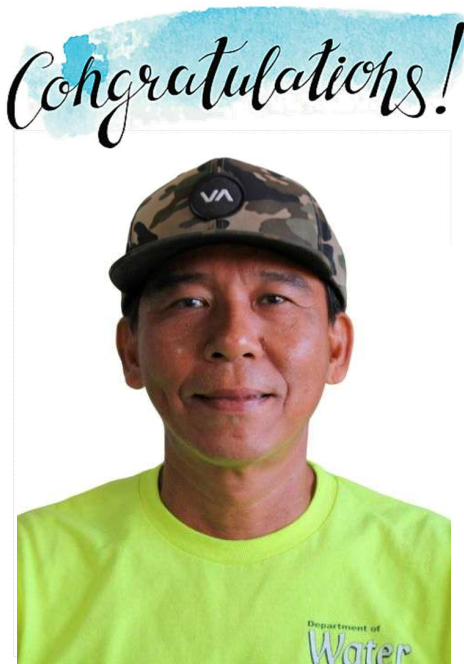
WHEREAS, Albert has saved the Department countless hours and hundreds of thousands of dollars with both new and rehabilitative construction work that was previously performed by outside contractors; and

WHEREAS, Albert was instrumental in constructing the Kilohana On-Site Sodium Hypochlorite Building for less than \$50,000, a coordinated effort between Engineering and Operations, which would have cost the Department over \$150,000 to contract for design and construction; and

WHEREAS, Albert's work ethic is infectious and those that work for him or with him are elevated to his level by the example he sets every day; and

WHEREAS, Albert has demonstrated sustained superior performance and dependability as an Operations Division team member and is in keeping with the highest standards of the Department of Water; and

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF WATER SUPPLY, COUNTY OF KAUAI, STATE OF HAWAII, that it acknowledges and appreciates the contributions of Albert Cadavona for his outstanding dedication and loyalty and congratulate him upon being chosen to receive the 2025 Outstanding Employee of the Year Award.



We do certify that the foregoing was duly adopted by the Board of Water Supply during its meeting on February 19, 2026

---

Tom H. Shigemoto, Chair

---

Clyde T. Kodani, Secretary

**RESOLUTION No. 26-06**

**DEPARTMENT OF WATER,  
COUNTY OF KAUA‘I  
EMPLOYEE OF THE YEAR**

**CHRYSANTHEMUM (CHRISTINE)  
ERORITA  
MAHALO  
2025**

WHEREAS, Chrysanthemum (Christine) Erorita has been selected by their peers as the Department of Water’s 2025 Outstanding Employee of the Year; and

WHEREAS, Christine joined the Department of Water on August 19, 2013 initially as the Secretary to the Deputy Manager; and

WHEREAS, Christine subsequently joined the Fiscal Division as the Department’s Contract Officer on August 16, 2021; and

WHEREAS, Christine’s unwavering commitment, can-do attitude, and willingness to go above and beyond in every task is truly admirable; and

WHEREAS, Christine is exceptionally organized and solely responsible for assisting the Department with contract execution

WHEREAS, Christine continues to be a positive supporter and cheer leader of her fellow Fiscal Team members. Motivating and lifting spirits with her sense of humor; and

WHEREAS, Christine has and continues to demonstrate superior performance and dependability as a Fiscal Division team member and Department of Water employee; and

WHEREAS, Christine is always willing to provide support and assistance to team members in every division, and shares her knowledge and expertise with those needing guidance; and

WHEREAS, Christine’s diligence and strong work ethic help keep us on track with our contract renewals and procurement deadlines; and

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF WATER SUPPLY, COUNTY OF KAUA‘I, STATE OF HAWAII, that it acknowledges and appreciates the contributions of Chrysanthemum “Christine” Erorita for her outstanding dedication and loyalty and congratulate her upon being chosen to receive the 2025 Outstanding Employee of the Year Award.



We do certify that the foregoing was duly adopted by the Board of Water Supply during its meeting on February 19, 2026

---

Tom H. Shigemoto, Chair

---

Clyde T. Kodani, Secretary

**RESOLUTION No. 26-07**

**DEPARTMENT OF WATER,  
COUNTY OF KAUA‘I  
EMPLOYEE OF THE YEAR**

**JOSEPH PERREIRA, JR.  
MAHALO  
2025**

WHEREAS, Joseph Perreira Jr. has been selected as the Department of Water’s 2025 Outstanding Employee of the Year; and

WHEREAS, Joseph Perreira Jr. has spent over 11 years with the Department of Water, in both the Engineering and Operations Division, serving as an Engineering Support Technician, Maintenance Worker and Waterworks Inspector II and III; and

WHEREAS, Joseph Perreira Jr. has the character and traits that we all strive for, he is technically sound, hardworking, consistent, fair, and has a “can do” attitude; and

WHEREAS, Joseph Perreira Jr. understands the critical role that the Department of Water has within our community, to consistently provide safe and reliable potable water to our customers, and he is dedicated to making sure that the water infrastructure being constructed for the Department of Water can be relied upon for decades to come; and

WHEREAS, Joseph Perreira Jr. is the backbone of the waterworks inspector team, this can be seen in the way he is always prepared and steady no matter what challenges arise, the way he communicates with engineers and contractors, and how he holds everyone to the same standard; and

WHEREAS, Joseph Perreira Jr. is a natural leader, happy to mentor and teach anyone who wants to learn and improve themselves, and there’s no better example than when he was planning to retire but delayed his retirement for 6 months so that he could mentor as recently hired Waterworks Inspector Aide; and

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF WATER SUPPLY, COUNTY OF KAUAI, STATE OF HAWAII, that it acknowledges and appreciates the contributions of Joseph Perreira, Jr. for his outstanding dedication and loyalty and congratulate him upon being chosen to receive the 2025 Outstanding Employee of the Year Award.

*Congratulations!*



We do certify that the foregoing was duly adopted by the Board of Water Supply during its meeting on February 19, 2026

---

Tom H. Shigemoto, Chair

---

Clyde T. Kodani, Secretary

# DEPARTMENT OF WATER

County of Kauaʻi

*"Water has no Substitute – Conserve It!"*

## MANAGER'S REPORT No. 26-25

February 19, 2026

Re: Discussion and Possible Action to Request Board Approval of the Indemnification Provision and Unspecified Future Obligations in the Agreement for Kīlauea Elementary School between the Board of Water Supply, County of Kauaʻi and the State of Hawaiʻi, Department of Education

### **RECOMMENDATION:**

It is recommended that the Board of Water Supply, County of Kauaʻi (Board), approve the indemnification provision and language regarding the Department's responsibility for potential damages, if any were to occur during the Department's use of the facility, in order to use the State of Hawaiʻi, Department of Education's Kīlauea Elementary School to present the updated water rates to the public.

**FUNDING:** N/A

### **BACKGROUND:**

The Department, as part of the Water Systems Investment Plan (WSIP), has performed a rate study and received Board approval for public outreach and the rulemaking process. The Department will be hosting a series of public meetings throughout the island to present the updated water rates to the community.

### **OPTIONS:**

**Option 1: Approve Manager's Report as recommended.**

Pro: DOW will move forward with the public meeting scheduled for 3/10/26.

Con: None.

**Option 2: Do not approve the Manager's Report as recommended.**

Pro: None.

Con: DOW will not move forward with the public meeting scheduled for 3/10/26.

JK/crz

Attachment(s): DOE-SOH Agreement for Use of School Buildings, Facilities, or Grounds – Kīlauea Elementary School

## DEPARTMENT OF EDUCATION - STATE OF HAWAII

## Request &amp; Agreement for Use of School Buildings, Facilities, or Grounds

Hawaii Revised Statutes §302A-1148 &amp; 302A-1148.5 • Hawaii Administrative Rules Title 8, Chapter 39

(Application must be received by the School at least 10 working days prior to requested date of use)

## EVENT &amp; CONTACT INFORMATION

Name of School Kilauea Elem Date 1/15/2026Facility List Cafeteria Dining Room (3601 sf to 6600 sf) - No air conditioningEvent Start Date 3/9/2026 3/10/2026 Event End Date 3/9/2026 3/10/2026  
(Cannot exceed 12 consecutive months)Dates/Days of Use \_\_\_\_\_  
(e.g., specific dates; every Saturday; after school hours every school day)Total Days of Use (Not to exceed 50 days, except for State, including DOE, and County Park activities) 1 Expected Number of Attendees 50Time of Use: From 03:30 PM to 08:30 PM (Min 2 hrs; include time required for set up, activity, and clean up) Total Hours Per Day 4.5Name of Event or Description WSIP COMMUNITY MEETINGOrganization/Individual DEPT. OF WATER, COUNTY OF KAUAI Contact Person MALIA REIS FOR Department of WaterAddress 4398 PUA LOKE ST. LIHUE, HI 96766 Ani TurnerPhone Number 808-245-5461 Email Address aturner@kauaiwater.org

Please answer all questions

	Yes	No
1. Is this a DOE-sponsored activity? (School Administration: _____ )	<input type="checkbox"/>	<input checked="" type="checkbox"/>
a. Is your organization a separate school entity (e.g., Parent-Teacher Organization, Board of Education)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Will other vendors participate in the event?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Is this educational programming for A+, 21CCLC, REACH, or UPLINK?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
a. Is the programming administered by a DOE contracted vendor?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. Is this a government-sponsored activity?(Sponsoring Agency: <u>DEPT OF WATER, COUNTY OF KAUAI</u> )	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a. Is this a State-sponsored activity?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Is this a County-sponsored activity?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Is this a County Department of Parks and Recreation educational or recreational activity?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4. Is your organization tax-exempt non-profit? (Taxl.D. No.: _____ )	<input type="checkbox"/>	<input checked="" type="checkbox"/>
a. Does the activity involve student child-care services?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5. Is there an admission, fee/charge, tuition, donation, or contribution collected for the event/activity?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6. Is this a personal or private for-profit business activity?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
7. Does the activity involve fundraising?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
8. Does the activity involve meetings, or services to promote a business, product, or religion?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
9. Does the activity involve political campaigning?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
10. If the request is for auditorium use, do you employ union stage workers?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
11. Is this a non-DOE athletic event?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
a. Will other vendors be participating in this event?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
12. Do you plan to operate a carnival?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
a. Do you plan to sublease the facility?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
13. Do you plan to operate a fair (e.g., craft fair, farmers' market)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
a. Do you plan to sublease the facility?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
14. Will you and/or your vendors/sub lessees commercially prepare food items (off-site or on-site) for sale?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
15. Do you plan to use motor vehicle(s) on school property (food trucks, car shows, exhibits, etc.)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

I, the undersigned, on behalf of the organization I represent, have provided truthful and accurate information. If the school facilities, equipment or grounds are not properly maintained by the user, the State of Hawaii Department of Education will deny further use of the school facilities, equipment or grounds to the individual or organization and seek appropriate restitution for damages incurred. The applicant further understands that the school facilities and grounds are to be alcohol and tobacco free, meaning that the use of any alcohol or tobacco substances are prohibited at all times on school grounds or at any school activities. Furthermore, I understand that as a user of school facilities, the activity being conducted shall be lawful. Should disabled persons wish to participate in the requested use, applicants must make reasonable modifications and/or programmatic accommodations to permit such participation.

First and Last Name Manager, Department of Water, County of Kauai☒ By checking this box, I hereby certify my typed electronic signature and acknowledge the above requirements.

DISTRIBUTION: ORIGINAL - School; COPY - Requestor

## DEPARTMENT OF EDUCATION - STATE OF HAWAII

Agreement for Use of School Buildings, Facilities, or Grounds

Hawaii Revised Statutes §302A-1148 &amp; 302A-1148.5 • Hawaii Administrative Rules Title 8, Chapter 39

*(Application must be received by the School at least 10 working days prior to requested date of use)*

## PREEMPTION NOTICE • CIVIL DEFENSE NOTICE

## NATIONAL POLLUTANT DISCHARGE ELIMINATION NOTICE • DEPARTMENT OF HEALTH REGULATIONS

## Preemption Notice

To assure school uses are given priority over non-school uses, all approved requests are subject to preemption by the school for unanticipated school needs. Should an unanticipated school need arise, schools may preempt all or a portion of the requested use period for the school's needs.

## Civil Defense Notice

In the event of a Civil Defense declared emergency during non-school hours, the undersigned is responsible for the safety of their program participants. The Department of Education is not obligated to provide for Civil Defense emergencies during non-school hours except when the applicable school is designated for use as a shelter by the American Red Cross.

## National Pollutant Discharge Elimination System (NPDES) Notice

The National Pollutant Discharge Elimination System (NPDES) is a regulatory program administered by the United States Environmental Protection Agency that calls for the control and management of storm water pollution. In Hawaii, our storm water drainage systems were designed to prevent flooding by channeling storm water into drains that discharge through outlets along the coastline.

However, the storm water drainage systems were not designed for the disposal of waste or pollutants. In order to protect the environment and fulfill our pollution prevention (P2) responsibilities, the Department of Education must implement best management practices (BMPs) as part of a storm water management plan (SWMP).

The undersigned understands that every effort should be made to prevent pollution as a consequence of using school facilities. Waste and pollution if not curtailed will enter storm drains and eventually make its way to the ocean. Organizers and participants can help by preventing litter and minimizing the use of autos on campus by carpooling, riding bikes, and using public transportation. Report any illegal dumping and observed violations by calling the City Illegal Dumping Hotline at (808) 768-3300 (Honolulu) or the respective county offices (neighbor islands).

## Department of Health Safety Code Requirements (Hawaii Administrative Rules Title 11, Chapter 50)

Applicant responsible for complying with all Department of Health regulations for all food related events.

First and Last Name \_\_\_\_\_

Manager, Department of Water, County of Kauai

Acceptance and Acknowledgment



By checking this box, I hereby certify my typed electronic signature and acknowledge the above requirements.



## DEPARTMENT OF EDUCATION - STATE OF HAWAII

## Agreement for Use of School Buildings, Facilities, or Grounds

Hawaii Revised Statutes §302A-1148 &amp; 302A-1148.5 • Hawaii Administrative Rules Title 8, Chapter 39

*(Application must be received by the School at least 10 working days prior to requested date of use)*

## LIABILITY REQUIREMENTS • INDEMNIFICATION STATEMENT

## Liability Insurance Requirements (Per Department of Accounting and General Services Risk Management Office)

1. Promoters and/or organizers of fairs and carnivals, and non-DOE sponsored athletic event users must have general liability insurance of no less than \$1 million per occurrence for personal injury and \$3 million in the aggregate. Non-DOE sponsored athletic event users with less than 100 attendees may obtain a general liability insurance policy for the lesser amount listed under requirement #2.
2. All users, including carnival and fair sub lessees and vendors at DOE/school sponsored events, and except those identified above, must have general liability insurance of no less than \$500,000 per occurrence and \$1 million in the aggregate.
3. Users selling food items, including carnival and fair sub lessees and vendors at DOE/school sponsored events, must also have products and completed operations coverage of no less than \$500,000 per occurrence and \$1 million in the aggregate.
4. Organizations operating motor vehicles, including carnival and fair sub lessees and vendors at DOE/school sponsored events, must have automobile liability of no less than \$500,000 per occurrence and \$1 million in the aggregate.
5. State of Hawaii and Department of Education are to be named as additional insured.
6. Certificates of Insurance must be provided to the school.
7. Liability waivers and indemnification agreements are required from all users.

## Indemnification Statement\*

The undersigned individual(s), group and/or organization, his or their heirs, personal representative and assigns, or its officers, directors, members, agents, employees, successors and assigns, for and in consideration of the State of Hawaii Department of Education permitting and allowing the use of the designated school rooms, buildings, and/or facilities jointly and severally agree(s) to indemnify and save harmless the State of Hawaii Department of Education against any and all loss, liability, demands, claims, suits, action or proceedings of every name, character and description which may be suffered or incurred by or brought against the State of Hawaii Department of Education for or an account of any injuries or damages to any person or property received or sustained by any person, directly or indirectly, by or in consequence of the use of the facilities by the undersigned individual(s), groups and/or organization.

First and Last Name \_\_\_\_\_

Manager, Department of Water, County of Kauai

Acceptance and Acknowledgment



By checking this box, I hereby certify my typed electronic signature and acknowledge the above requirements.

*\*(1) State agencies are not required to sign this indemnification statement and are not required to obtain a general liability insurance policy.  
(2) Each vendor/sub lessee is required to sign this indemnification statement and is required to obtain a general liability insurance policy in the amounts stated above.*



# DEPARTMENT OF WATER

County of Kaua'i

*"Water has no Substitute – Conserve It!"*

## MANAGER'S REPORT No. 26-26

February 19, 2026

Re: Discussion and Possible Action to Request Board Approval of the Indemnification Provision and Unspecified Future Obligations in the Agreement for Ka Waiwai ma Kapa'a at Kalukalu between the Board of Water Supply, County of Kaua'i and the Waiwai Collective, LLC

### **RECOMMENDATION:**

It is recommended that the Board of Water Supply, County of Kaua'i (Board), approve the indemnification provision and language regarding the Department's responsibility for potential damages, if any were to occur during the Department's use of the facility, in order to use the Waiwai Collective, LLC's Ka Waiwai ma Kapa'a at Kalukalu to present the updated water rates to the public.

**FUNDING:** \$418.85

### **BACKGROUND:**

The Department, as part of the Water Systems Investment Plan (WSIP), has performed a rate study and received Board approval for public outreach and the rulemaking process. The Department will be hosting a series of public meetings throughout the island to present the updated water rates to the community.

### **OPTIONS:**

**Option 1:** **Approve Manager's Report as recommended.**

Pro: DOW will move forward with the public meeting scheduled for 3/11/26.

Con: The Department will be obligated to pay the deposit and rental fee.

**Option 2:** **Do not approve the Manager's Report as recommended.**

Pro: The Department would not be obligated to pay the deposit or rental fee.

Con: DOW will not move forward with the public meeting scheduled for 3/11/26.

JK/crz

Attachment: WaiWai Collective LLC Venue Rental Agreement

*WAIWAI COLLECTIVE LLC  
VENUE RENTAL AGREEMENT  
Ka Waiwai ma Kapaa @Kalukalu*

This Venue Rental Agreement (“Agreement”), effective from the date of execution by the Chairperson of the Board of Water Supply, County of Kaua'i, is made and entered into by and between Waiwai Collective, LLC, of Kalukalu 1624 Kuhio Hwy (“Lessor”) and Board of Water Supply, Līhu'e, Hawai'i 96766 (“Lessee”). The parties hereto, intending to be legally bound, and in consideration of the mutual covenants hereinafter contained, agree as follows:

**GRANT**

Lessor, on the dates and times set forth herein, and subject to the terms and conditions of this Agreement, hereby grants to Lessee a license to use Ka Waiwai ma Kapaa @ Kalukalu for Kauai Department of Water Meeting to be held on Wednesday, March 11, 2026 between the hours of 5:00 pm and 7:00 pm.

**DATE/TIMES OF PERMITTED USE**

Access to the Venue for the Event will commence at 4:00 pm on the date of the Event and will end at 8:00 pm.

**RENTAL FEES**

Lessee shall pay to Lessor a base rental fee of \$418.85 (\$400 + \$18.85), (“Rental Fee” including tax) for the use of the Venue plus all other additional charges agreed upon by the parties and listed below in ADDITIONAL FEES/SERVICES. Lessee shall deposit 50% of the Rental Fee to Lessor upon the execution of this Agreement, which shall be applied by Lessor to the total Rental Fee. The remaining balance of the Rental Fee shall be paid in full by Lessee to Lessor on the day of the Event prior to the completion of the Event.

**ADDITIONAL FEES/SERVICES**

Lessee may contract Lessor for additional services, all charged separately from and in addition to the base rental fee agreed upon above. These additional services available to Lessee offered by Lessor include:

- Catering
- Table and chair rental
- Sound system rental and sound operator fee
- Additional or after-hours A/C
- Other additional miscellaneous expenses

Should Lessee desire to contract Lessor to provide any or all of the above listed services, the details and fees pertaining to these additional services shall be detailed in a signed writing by both parties and attached as an addendum to this Agreement.

In addition to the 50% base rental fee deposit due upon execution of this Agreement, Lessee shall also pay Lessor a 50% deposit for all agreed upon Additional Fees at this time.

### **INDEMNIFICATION**

Lessee shall indemnify, defend, and hold harmless Lessor, its officers, agents, employees, and assigns from and against any and all loss, cost (including attorneys' fees), damage, expense, and/or liability (including statutory liability and liability under workers' compensation laws) in connection with any and all claims, judgments, damages, penalties, fines, liabilities, losses, suits, and/or administrative proceedings caused by the negligence of the Lessee, its agents, employees, contractors, lessees, invitees, representatives, in, on, or about the Venue. This indemnity shall survive the termination of this Agreement. Lessee hereby releases Lessor from any and all liability or responsibility to Lessee or anyone claiming through or under Lessee by way of subrogation or otherwise for any loss or damage to equipment or property of Lessee.

### **"AS-IS" CONDITION**

Lessee agrees to accept the Venue in its "as-is" condition.

### **ASSIGNMENT AND SUBLICENSING**

Lessee shall not assign any interest in this Agreement or otherwise transfer or sublicense the Venue, in whole or in part, or permit the use of the Venue to any party other than Lessee.

### **TERMINATION**

Lessor may terminate this Agreement based upon any one or more of the following events:

- Failure of Lessee to pay the Rental Fee, Additional Fees, or any other agreed upon charges when due; or
- Failure of Lessee to perform any of its covenants hereunder.

In any or all of the aforesaid events, and in addition to any and all rights and remedies available to Lessor by law or in equity, Lessor may, with or without notice, immediately terminate this Agreement and expel and/or remove Lessee, and/or any other person or persons from the Venue together with their goods and chattels, using such force as may be necessary in the judgment of Lessor or its agents in so doing. Lessor may recover from Lessee all damages it may incur by reason of such breach by Lessee or resort to legal process to recover any loss or damage incurred by reason of such breach, in addition to any other remedy Lessor may have.

## **INTERFERENCE**

Lessee shall use the Venue in a manner which shall not cause interference with the use or occupancy of the other portions of the Building by Lessor or others in any way. Lessee's use hereunder will be done in such a manner so as not to interfere with or impose any additional expense upon Lessor in maintaining the Building.

## **RESTORATION**

Prior to the execution of this Agreement, Lessor and Lessee will do a walk-through of the Venue to determine the initial state of the Venue and all included facilities. If any damage occurs to the Venue, or if any repairs or replacements need to be made to the Venue as a result of Lessee's exercise of its rights under this Agreement, Lessee shall pay Lessor for any such damage, repairs, or replacements upon demand by Lessor.

## **CANCELLATION**

Lessee may elect to cancel this Agreement at any time up to 90 days prior to the Event, or within 48 hours after execution of this Agreement, by providing written notice of such election to Lessor, at no cost to Lessee. If Lessee elects to cancel this agreement between 89 and 31 days prior to the Event, Lessor is entitled to keep the 50% Rental Fee deposit and recover from Lessee any expenses incurred in good faith by Lessor in preparation for Lessee's use of the Venue.

For cancellations 30 or fewer days prior to the Event, Lessee will be charged 100% of the Rental Fee and any expenses incurred by Lessor in preparation for Lessee's use of the Venue in accordance with this Agreement. Lessee recognizes that the foregoing cancellation policy is not intended to be punitive but meant to reflect Lessor's foregoing actual or potential business opportunities in reserving the Venue for Lessee and Lessor's diminished ability to rent the Venue to another party within 30 days or less.

## **GOVERNING LAW**

This Agreement shall be governed by and constructed in accordance with the laws of the State of Hawai'i. Any legal actions, claims or demands shall be handled in a court of competent jurisdiction within the State of Hawai'i.

## **SEVERABILITY**

To the maximum extent possible, each provision of this Agreement shall be interpreted in such manner as to be valid and enforceable under applicable law. If any provision of this Agreement is held to be invalid or unenforceable under applicable law, such provision shall be modified so as to be rendered valid and enforceable while implementing, to the maximum extent possible, the original intent of such provision. If such modification is not possible or allowed, then such provision shall be ineffective only to the extent of such unenforceability or invalidity without affecting the remainder of such provision or any other provisions in the Agreement.

## **SIGNATORIES**

This Agreement shall be signed by an authorized representative of Waiwai Collective, LLC and by an authorized representative of the Board of Water Supply, County of Kaua'i.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

## **LESSOR**

Waiwai Collective, LLC

Keoni Willing

Signature WC Representative /Date

General Manager

Title

## **LESSEE**

**RECOMMENDED FOR APPROVAL:**

**BOARD OF WATER SUPPLY,  
COUNTY OF KAUA'I**

\_\_\_\_\_  
By: Joseph E Tait  
Its: Manager and Chief Engineer

\_\_\_\_\_  
By: Tom Shigemoto  
Its: Chair

**APPROVED AS TO FORM AND  
LEGALITY:**

\_\_\_\_\_  
Deputy County Attorney

# DEPARTMENT OF WATER

County of Kauaʻi

*"Water has no Substitute – Conserve It!"*

## MANAGER'S REPORT No. 26-27

February 19, 2026

Re: Discussion and Possible Action to Request Board Approval of the Indemnification Provision in the Agreement for Anahola Neighborhood Center between the Board of Water Supply, County of Kauaʻi and the County of Kauaʻi, Department of Parks and Recreation

### **RECOMMENDATION:**

It is recommended that the Board of Water Supply, County of Kauaʻi (Board), approve the indemnification provision in the agreement to use the County of Kauaʻi, Department of Parks and Recreation's Anahola Neighborhood Center to present the updated water rates to the State of Hawaiʻi, Department of Hawaiian Home Lands (DHHL) beneficiaries.

**FUNDING:** N/A

### **BACKGROUND:**

The Department, as part of the Water Systems Investment Plan (WSIP), has performed a rate study and received Board approval for public outreach and the rulemaking process. The Department will be hosting a series of public meetings throughout the island to present the updated water rates to the community.

### **OPTIONS:**

**Option 1:** Approve Manager's Report as recommended.

Pro: DOW will move forward with the public meeting scheduled for 3/12/26.

Con: None.

**Option 2:** Do not approve the Manager's Report as recommended.

Pro: None.

Con: DOW will not move forward with the public meeting scheduled for 3/12/26.

JK/crz

Attachment: County of Kauaʻi Dept. of Parks and Recreation Facilities Use Agreement – Anahola Club House

# FACILITY SALES RECEIPT



**Receipt #** 369640  
**Payment Date:** 01/23/26  
**Household:** 85798

Kapaa Neighborhood Center  
 4491 Kou St.  
 Kapaa HI 96746  
 Phone: (808)822-1931  
 www.kauai.gov

Water Department County Of Kauai Wk Ph: (808)245-5455  
 4398 Pua Loke St  
 Lihue HI 96766  
 mreis@kauaiwater.org

**Reservation Details: Anahola Club House, Anahola Club House**

Address: 3900 Kawello Rd., Anahola, HI, 96703  
 Reserv. Contact: **Water Department County Of Kauai**  
 Phone Number: **(808)245-5455**  
 Reserv. Number: 96611  
 Status: Firm  
 Purpose: Dept. of Water Meeting  
 Anticipated Count: 30

	<u>Date(s) And Times</u>	<u>New Fees</u>	<u>Total Fees</u>	<u>New Paid</u>	<u>Total Paid</u>	<u>Amount Due</u>
	Thu 03/12/2026 3:30P to 8:30P	0.00	0.00	0.00	0.00	0.00
Facility Comments	This permit is valid only for the hours specified and will be forfeited if permittee is not present at the start time. Permittee is required to restore the facility to its original condition or better, which includes the removal of all trash. Failure to comply may result in forfeiture of the deposit. ____ Initials					
Misc Fac. Comments:	PICK UP KEY AT KAPAA NC THE DAY OF 12PM-4PM					
Special Questions:	Event Type: Type I Maintenance Comment Code: Reservation Comment Code:					

Reservee: Water Department County Of Kauai Reservation No: 96611  
 4398 Pua Loke St  
 Lihue, HI 96766  
 No Phone # Listed

**Waiver of Claim and Indemnity Agreement**

For and in consideration of the County's providing the use of the above-mentioned building, facility, or grounds, I, the undersigned, individually, jointly and in any representative or legal capacity, on behalf of my respective self, heirs, executors and/or administrators, do hereby waive, release, discharge and agree to hold harmless and indemnify the COUNTY OF KAUAI, its officers, employees and agents, individually and in their official capacity, from all liability or loss of any claim for death, injury, or damage to property resulting directly or indirectly from the undersigned Applicant's use of the County building, facility or grounds. I further avow that my aforesaid waiver, release, discharge and agreement shall be applicable to any guest or participant in any program or event conducted or held by the Applicant at the above-described building, facility, or grounds.

Joseph E. Tait, Manager, Department of Water, County of Kauai  
 Print Name of Applicant

\_\_\_\_\_  
 Signature  
 of Applicant

**APPROVED AS TO FORM AND LEGALITY:**

\_\_\_\_\_  
 Deputy County Attorney

Processed on 01/23/26 @ 3:12pm by MH

Total New Fees	0.00
Total New Taxes	0.00
<b>Total Due</b>	<b>0.00</b>
Total Fees Paid	0.00
Total Taxes Paid	0.00
<b>Total Paid</b>	<b>0.00</b>



## FACILITY SALES RECEIPT

<b>Receipt #</b>	<b>369640</b>
Payment Date:	01/23/2026
Household:	85798

---

### Household Balance Information

Overall Household Credit Balance Available	0.00
Overall Household Balance Due	0.00

---

# DEPARTMENT OF WATER

County of Kauaʻi

*"Water has no Substitute – Conserve It!"*

## MANAGER'S REPORT No. 26-28

February 19, 2026

Re: Discussion and Possible Action to Request Board Approval of the Indemnification Provision and Unspecified Future Obligations in the Agreement for Kekaha Neighborhood Center between the Board of Water Supply, County of Kauaʻi and the County of Kauaʻi, Department of Parks and Recreation

### **RECOMMENDATION:**

It is recommended that the Board of Water Supply, County of Kauaʻi (Board), approve the indemnification provision and language regarding the Department's responsibility for potential damages, if any were to occur during the Department's use of the facility, in order to use the County of Kauaʻi, Department of Parks and Recreation's Kekaha Neighborhood Center to present the updated water rates to the State of Hawaiʻi, Department of Hawaiian Home Lands (DHHL) beneficiaries.

**FUNDING:** N/A

### **BACKGROUND:**

The Department, as part of the Water Systems Investment Plan (WSIP), has performed a rate study and received Board approval for public outreach and the rulemaking process. The Department will be hosting a series of public meetings throughout the island to present the updated water rates to the community.

### **OPTIONS:**

**Option 1: Approve Manager's Report as recommended.**

Pro: DOW will move forward with the public meeting scheduled for 4/6/26.

Con: None.

**Option 2: Do not approve the Manager's Report as recommended.**

Pro: None.

Con: DOW will not move forward with the public meeting scheduled for 4/6/26.

JK/crz

Attachment: County of Kauaʻi Dept. of Parks and Recreation Facilities Use Agreement – Kekaha Neighborhood Center



## FACILITY SALES RECEIPT

**Receipt #** 369625  
**Payment Date:** 01/23/26  
**Household:** 85798

Kekaha Neighborhood Center  
8130 Elepaio Rd.  
Kekaha HI 96752  
Phone: (808)337-1671

Water Department County Of Kauai  
4398 Pua Loke St  
Lihue HI 96766  
mreis@kauaiwater.org

### Reservation Details: Kekaha Neighborhood Center, Kekaha NC Park

Address:	8130 Elepaio Rd., Kekaha, HI, 96752	<u>New Fees</u>	<u>Total Fees</u>	<u>New Paid</u>	<u>Total Paid</u>	<u>Amount Due</u>
Reserv. Contact:	<b>Water Department County Of Kauai</b>	0.00	0.00	0.00	0.00	0.00
Phone Number:	<b>(808)245-5455</b>					
Reserv. Number:	96604					
Status:	Firm					
Purpose:	Public Meeting					
Anticipated Count:	40					

Date(s): Mon @ 8:00am - 10:00pm: 4/6

Resv Comment Code

- Permittee is responsible for any damages to County property, including the repair or replacement of the structures and surrounding areas.
- Permittee is responsible for all trash generated during this event. Trash must be removed from premises immediately after the conclusion of the event.
- Vehicles are not permitted to park inside the park area without the approval of the Director. Failure to comply with this condition may result in a fine up to five hundred dollars (\$500.00) per vehicle.
- Food concessions that will operate during this event must have an applicable Department of Health (DOH) Permit and GET License. A copy of the DOH Permit and GET License must be submitted to the Department prior to the completion of the Park Permit.
- Overnight camping is not permitted.
- Permittee is required to ensure that emergency vehicles have easy access to all areas of the event.
- Permittee will be responsible for ensuring that this event complies with all Americans with Disabilities Act (ADA) requirements.
- No animals are allowed at County facilities, except for service animals specifically trained to aid a person with a disability.
- Failure to comply with any of the above conditions could result in the denial of future requests to use County park facilities, fines, and/or the forfeiture of the deposit.

Special Questions: Event Type: Type III  
Maintenance Comment Code:

Reservee: Water Department County Of Kauai Reservation No: 96604  
4398 Pua Loke St  
Lihue, HI 96766  
(808)245-5455

### Waiver of Claim and Indemnity Agreement

For and in consideration of the County's providing the use of the above-mentioned building, facility, or grounds, I, the undersigned, individually, jointly and in any representative or legal capacity, on behalf of my respective self, heirs, executors and/or administrators, do hereby waive, release, discharge and agree to hold harmless and indemnify the COUNTY OF KAUAI, its officers, employees and agents, individually and in their official capacity, from all liability or loss of any claim for death, injury, or damage to property resulting directly or indirectly from the undersigned Applicant's use of the County building, facility or grounds. I further avow that my aforesaid waiver, release, discharge and agreement shall be applicable to any guest or participant in any program or event conducted or held by the Applicant at the above-described building, facility, or grounds.

Print Name of Applicant

FACILITY SALES RECEIPT

Receipt #369625  
Payment Date:01/23/2026  
Household:85798

Signature of Applicant

Processed on 01/23/26 @ 12:40pm by BT	Total New Fees	0.00
	Discount Applied	0.00
	Total Due	0.00
	Total Fees Paid	0.00
	Total Paid	0.00

Household Balance Information

Overall Household Balance Due0.00

# DEPARTMENT OF WATER

County of Kauaʻi

*"Water has no Substitute – Conserve It!"*

## MANAGER'S REPORT No. 26-29

February 19, 2026

Re: Discussion and Possible Action to Request Board Approval of the Indemnification Provision in the Agreement for Līhuʻe Neighborhood Center between the Board of Water Supply, County of Kauaʻi and the County of Kauaʻi, Department of Parks and Recreation

### **RECOMMENDATION:**

It is recommended that the Board of Water Supply, County of Kauaʻi (Board), approve the indemnification provision in the agreement to use the County of Kauaʻi, Department of Parks and Recreation's Līhuʻe Neighborhood Center to present the updated water rates to the public.

**FUNDING:** N/A

### **BACKGROUND:**

The Department, as part of the Water Systems Investment Plan (WSIP), has performed a rate study and received Board approval for public outreach and the rulemaking process. The Department will be hosting a series of public meetings throughout the island to present the updated water rates to the community. The Department is not required to make a deposit.

### **OPTIONS:**

**Option 1:** Approve Manager's Report as recommended.

Pro: DOW will move forward with the public meeting scheduled for 4/7/26.

Con: None.

**Option 2:** Do not approve the Manager's Report as recommended.

Pro: None.

Con: DOW will not move forward with the public meeting scheduled for 4/7/26.

JK/crz

Attachment: County of Kauaʻi Dept. of Parks and Recreation Facilities Use Agreement – Kalaheo Neighborhood Center



## FACILITY SALES RECEIPT

Receipt # 369279  
Payment Date: 01/15/26  
Household: 85798

Kalaheo Neighborhood Center  
4480 Papalina Rd.  
Kalaheo HI 96741  
Phone: (808)332-9770

Water Department County Of Kauai  
4398 Pua Loke St  
Lihue HI 96766  
aturner@kauaiwater.org

### Reservation Details: Lihue Neighborhood Center, Lihue NC New

Address:	3353 Eono St., Lihue, HI, 96766	<u>New Fees</u>	<u>Total Fees</u>	<u>New Paid</u>	<u>Total Paid</u>	<u>Amount Due</u>
Reserv. Contact:	<b>Water Department County Of Kauai</b>	0.00	0.00	0.00	0.00	0.00
Phone Number:	<b>(808)245-5461</b>					
Reserv. Number:	96515					
Status:	Firm					
Purpose:	Meeting DOW					

Date(s): Tue @ 4:00pm - 8:00pm: 4/7

Resv Comment Code This permit is valid only for the hours specified and will be forfeited if permittee is not present at the start time. Permittee is required to restore the facility to its original condition or better, which includes the removal of all trash. Failure to comply may result in forfeiture of the deposit. \_\_\_\_ Initials

Special Questions: Event Type: Type III  
Maintenance Comment Code:

Reservee: Water Department County Of Kauai Reservation No: 96515  
4398 Pua Loke St  
Lihue, HI 96766  
(808)245-5461

### Waiver of Claim and Indemnity Agreement

For and in consideration of the County's providing the use of the above-mentioned building, facility, or grounds, I, the undersigned, individually, jointly and in any representative or legal capacity, on behalf of my respective self, heirs, executors and/or administrators, do hereby waive, release, discharge and agree to hold harmless and indemnify the COUNTY OF KAUAI, its officers, employees and agents, individually and in their official capacity, from all liability or loss of any claim for death, injury, or damage to property resulting directly or indirectly from the undersigned Applicant's use of the County building, facility or grounds. I further avow that my aforesaid waiver, release, discharge and agreement shall be applicable to any guest or participant in any program or event conducted or held by the Applicant at the above-described building, facility, or grounds.

\_\_\_\_\_  
Print Name of Applicant

\_\_\_\_\_  
Signature of Applicant

Processed on 01/15/26 @ 3:28pm by CK

Total New Fees	0.00
Discount Applied	0.00
<b>Total Due</b>	<b>0.00</b>
Total Fees Paid	0.00
<b>Total Paid</b>	<b>0.00</b>

FACILITY SALES RECEIPT

Receipt #

Payment Date:

Household:

369279

01/15/2026

85798

---

Household Balance Information

Overall Household Balance Due

0.00

---

# DEPARTMENT OF WATER

County of Kauaʻi

*"Water has no Substitute – Conserve It!"*

## MANAGER'S REPORT No. 26-30

February 19, 2026

Re: Discussion and Possible Action to Request Board Approval of the Indemnification Provision in the Agreement for Waimea Neighborhood Center between the Board of Water Supply, County of Kauaʻi and the County of Kauaʻi, Department of Parks and Recreation

### **RECOMMENDATION:**

It is recommended that the Board of Water Supply, County of Kauaʻi (Board), approve the indemnification provision in the agreement to use the County of Kauaʻi, Department of Parks and Recreation's Waimea Neighborhood Center to present the updated water rates to the public.

**FUNDING:** N/A

### **BACKGROUND:**

The Department, as part of the Water Systems Investment Plan (WSIP), has performed a rate study and received Board approval for public outreach and the rulemaking process. The Department will be hosting a series of public meetings throughout the island to present the updated water rates to the community.

### **OPTIONS:**

**Option 1:** Approve Manager's Report as recommended.

Pro: DOW will move forward with the public meeting scheduled for 4/8/26.

Con: None.

**Option 2:** Do not approve the Manager's Report as recommended.

Pro: None.

Con: DOW will not move forward with the public meeting scheduled for 4/8/26.

JK/crz

Attachment: County of Kauaʻi Dept. of Parks and Recreation Facilities Use Agreement – Waimea Neighborhood Center



# FACILITY SALES RECEIPT



Receipt # **369404**  
Payment Date: 01/20/26  
Household: 85798

Waimea Neighborhood Center  
4556 Makeke Rd.  
Waimea HI 96796  
Phone: (808)338-1122  
www.kauai.gov

Water Department County Of Kauai Hm Ph: (808)245-5455  
4398 Pua Loke St  
Lihue HI 96766  
mreis@kauaiwater.org

## Reservation Details: Waimea Neighborhood Center, Waimea NC Hall/Kitch

Address: 4556 Makeke Rd., Waimea, HI, 96796  
Reserv. Contact: **Water Department County Of Kauai**  
Phone Number: **(808)245-5455**  
Reserv. Number: 96536  
Status: Firm  
Purpose: Public Meeting  
Anticipated Count: 50

<u>Date(s) And Times</u>	<u>New Fees</u>	<u>Total Fees</u>	<u>New Paid</u>	<u>Total Paid</u>	<u>Amount Due</u>
Wed 04/08/2026 3:00P to 10:00P	0.00	0.00	0.00	0.00	0.00

Resv Comment Code For and in consideration of the County's providing the use of the above facility, we the undersigned, jointly, individually and in any representative or legal capacity, on behalf of our respective selves, heirs, executors and /or administrators, do hereby waive, release, discharge and agree to hold harmless and indemnify the COUNTY OF KAUAI, its officers, employees and agents, individually and in their official capacity, from all liability or loss of any claim for death, injury, or damage to property resulting directly or indirectly from the undersigned participant's participation in the program. We further avow that our aforesaid waiver, release, discharge and agreement shall be applicable to any owner of a facility and/or property at or upon which the program is held.

PRINT NAME OF PARTICIPANT, PARENT OR GUARDIAN

Special Questions: SIGNATURE OF PARTICIPANT, PARENT OR GUARDIAN  
Event Type: Type I  
Maintenance Comment Code:

Processed on 01/20/26 @ 11:42am by MKC

Total New Fees	0.00
Total New Taxes	0.00

<b>Total Due</b>	<b>0.00</b>
------------------	-------------

Total Fees Paid	0.00
Total Taxes Paid	0.00

<b>Total Paid</b>	<b>0.00</b>
-------------------	-------------

## Household Balance Information

Overall Household Credit Balance Available	0.00
Overall Household Balance Due	0.00

# DEPARTMENT OF WATER

County of Kauaʻi

*"Water has no Substitute – Conserve It!"*

## MANAGER'S REPORT No. 26-31

February 19, 2026

Re: Discussion and Possible Action to Request Board Approval of the Indemnification Provision in the Agreement for Kōloa Neighborhood Center between the Board of Water Supply, County of Kauaʻi and the County of Kauaʻi, Department of Parks and Recreation

### **RECOMMENDATION:**

It is recommended that the Board of Water Supply, County of Kauaʻi (Board), approve the indemnification provision in the agreement to use the County of Kauaʻi, Department of Parks and Recreation's Kōloa Neighborhood Center to present the updated water rates to the public.

**FUNDING:** N/A

### **BACKGROUND:**

The Department, as part of the Water Systems Investment Plan (WSIP), has performed a rate study and received Board approval for public outreach and the rulemaking process. The Department will be hosting a series of public meetings throughout the island to present the updated water rates to the community.

### **OPTIONS:**

**Option 1:** Approve Manager's Report as recommended.

Pro: DOW will move forward with the public meeting scheduled for 4/9/26.

Con: None.

**Option 2:** Do not approve the Manager's Report as recommended.

Pro: None.

Con: DOW will not move forward with the public meeting scheduled for 4/9/26.

JK/crz

Attachment: County of Kauaʻi Dept. of Parks and Recreation Facilities Use Agreement – Koloa Neighborhood Center



## FACILITY SALES RECEIPT

Receipt # 370011  
Payment Date: 01/29/26  
Household: 85798

Anne Knudsen Park  
Maluhia Rd.  
Koloa HI 96756  
Phone: (808)241-4463

Water Department County Of Kauai  
4398 Pua Loke St  
Lihue HI 96766  
mreis@kauaiwater.org

### Reservation Details: Koloa Neighborhood Center, Koloa NC

Address: 3461B Weliweli Rd., Koloa, HI, 96756  
Reserv. Contact: **Water Department County Of Kauai**  
Phone Number: **(808)245-5455**  
Reserv. Number: 96674  
Status: Firm  
Purpose: public meeting  
Anticipated Count: 60

<u>New Fees</u>	<u>Total Fees</u>	<u>New Paid</u>	<u>Total Paid</u>	<u>Amount Due</u>
0.00	0.00	0.00	0.00	0.00

Date(s): Thu @ 3:30pm - 8:30pm: 4/9  
Special Questions: Event Type: Type I  
Maintenance Comment Code:  
Reservation Comment Code:

Reservee: Water Department County Of Kauai Reservation No: 96674  
4398 Pua Loke St  
Lihue, HI 96766  
No Phone # Listed

### Waiver of Claim and Indemnity Agreement

For and in consideration of the County's providing the use of the above-mentioned building, facility, or grounds, I, the undersigned, individually, jointly and in any representative or legal capacity, on behalf of my respective self, heirs, executors and/or administrators, do hereby waive, release, discharge and agree to hold harmless and indemnify the COUNTY OF KAUAI, its officers, employees and agents, individually and in their official capacity, from all liability or loss of any claim for death, injury, or damage to property resulting directly or indirectly from the undersigned Applicant's use of the County building, facility or grounds. I further avow that my aforesaid waiver, release, discharge and agreement shall be applicable to any guest or participant in any program or event conducted or held by the Applicant at the above-described building, facility, or grounds.

Print Name of Applicant \_\_\_\_\_

Signature of Applicant \_\_\_\_\_

Processed on 01/29/26 @ 3:47pm by SM

Total New Fees	0.00
Discount Applied	0.00
<b>Total Due</b>	<b>0.00</b>
Total Fees Paid	0.00
<b>Total Paid</b>	<b>0.00</b>

FACILITY SALES RECEIPT

Receipt #370011  
Payment Date:01/29/2026  
Household:85798

Household Balance Information

Overall Household Balance Due0.00

# DEPARTMENT OF WATER

County of Kauaʻi

*"Water has no Substitute – Conserve It!"*

## MANAGER'S REPORT No. 26-32

February 19, 2026

Re: Discussion and Possible Action to Approve the Right-of-Entry Agreement with the Kauaʻi County Housing Agency for Staging and Stockpiling for the Puʻu Pane 1.0 MG Tank Project at TMK: (4) 5-2-005:054, Kīlauea, Kauaʻi, Hawaiʻi

### **RECOMMENDATION:**

It is recommended that the Board approve a Right-of-Entry (ROE), and the indemnification language within, to allow for the Board's contractor to use the identified site, TMK (4) 5-2-005:054, under possession of the Kauaʻi County Housing Agency pursuant to HRS § 101-32, for staging and stockpiling while constructing the Puʻu Pane 1.0 MG Tank project.

**FUNDING:** N/A

### **BACKGROUND:**

A ROE has been prepared to allow the Board's contractor to use the identified site for staging and stockpiling while constructing the Puʻu Pane 1.0 MG Tank project.

### **OPTIONS:**

**Option 1:** Approve the ROE from the Kauaʻi County Housing Agency.

Pro: This will allow the Board's contractor to use the site for staging and stockpiling at no additional cost to the Department or contractor.

Con: None.

**Option 2:** Do not approve the ROE from the Kauaʻi County Housing Agency.

Pro: None.

Con: The Board's contractor will need to identify another site, which may place additional financial and other resource burden on the Department.

JK/crz

Attachment: Right-of-Entry TMK:5-2-005:054 Kilauea Town Site, Staging and Stockpile Plan for Kilauea 466' Tank, 1.0 MG

## **RIGHT-OF-ENTRY**

THIS INDENTURE made this \_\_\_\_\_ day of \_\_\_\_\_, 2026 by and between Kaua'i County Housing Agency, a municipal agency, whose mailing address is 4444 Rice Street, Suite 330, Līhu'e, HI 96766, (hereinafter the "Grantor"), and the **BOARD OF WATER SUPPLY** of the County of Kaua'i, whose mailing address is 4398 Pua Loke Street, Līhu'e, Hawai'i 96766 (hereinafter the "Board").

## **W I T N E S S E T H:**

For and in consideration of the sum of One Dollar (\$1.00) to the Grantor paid, the receipt whereof is hereby acknowledged, the Grantor does hereby grant to the Board, its officers, employees, contractors, subcontractors, and agents (hereinafter collectively the "Grantee"), a temporary construction right-of-entry subject to the following terms and conditions:

1. This right-of-entry shall be an area over, under, and across that certain property situated, lying, and being at Kīlauea, Kaua'i, Hawai'i at Tax Map Key No. 5-2-005: 054, also known as the Kīlauea Town Site (hereinafter the "License Area"), see Exhibit A.
2. This right-of-entry shall be used by the Grantee for purposes of the construction, installation, reinstallation, maintenance, repair, and removal of water pipelines and related meters, valves, and other associated waterworks facilities appurtenances for the Grantee to utilize a portion of the Grantor's property as identified on the Staging and Stockpile Plan, attached hereto as Exhibit B for the purposes of construction staging and stockpiling for the Grantee's project referred to as the Kīlauea 466' Tank, 1.0 MG.
3. The Grantee shall indemnify and hold harmless the Grantor from and against any claims for injuries or damages of any kind occasioned, in whole or in part, by Grantee's negligent actions or omissions arising out of its exercise of this right-of-entry.
4. This right-of-entry shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.
5. The Grantor warrants and covenants with the Grantee that Grantor has the right of possession of the property pursuant to HRS § 101-32, has full right and authority to convey the right-of-entry described herein, and will warrant and defend the right-of-entry granted herein against all adverse claims arising from or through the Grantor.
6. This right-of-entry may be executed in counterparts. Each counterpart shall be executed by one or more parties hereinbefore named and the several counterparts shall constitute one instrument to the same effect as though the signatures of all the parties are upon the same document.
7. The term of this right-of-entry shall commence on July 1, 2026, and shall terminate upon the Grantee's completion of the entire work described in paragraph 2 above and the Grantee will notify the Grantor of such completion.
8. If the project as described in Paragraph 2 does not commence within two (2) years of the execution of this right-of-entry, the Grantor may revoke this right-of entry. Revocation shall be effective upon written notice to Grantee, or at such later time as

may be specified by Grantor in such notice. Upon revocation, Grantee shall immediately cease all activities authorized under this right-of-entry and shall promptly vacate the Property, subject only to obligations that expressly survive termination.

9. Upon termination of the right-of-entry, the Grantee shall remove all of its equipment from the Property and reasonably restore the Property to a condition similar to that which existed prior to the Grantee's work thereon.

**IN WITNESS WHEREOF**, the parties hereto do hereby make and duly execute this Indenture to be effective upon the date of execution by the Chairperson of the Board of Water Supply, County of Kaua'i, below.

**GRANTOR(S):**

RECOMMENDED FOR APPROVAL:

APPROVED: COUNTY OF KAUA'I

\_\_\_\_\_  
Director  
Kaua'i County Housing Agency

\_\_\_\_\_  
By: Chelsie Sakai  
Its: Finance Director

APPROVED AS TO FORM  
AND LEGALITY:

\_\_\_\_\_  
Deputy County Attorney  
Kaua'i County Housing Agency

APPROVED:

---

Manager and Chief Engineer

APPROVED AS TO FORM  
AND LEGALITY:

---

Deputy County Attorney  
Board of Water Supply, County of Kaua'i

**GRANTEE:**

BOARD OF WATER SUPPLY, COUNTY  
OF KAUA'I

---

Chairperson



# DEPARTMENT OF WATER

County of Kauaʻi

*"Water has no Substitute – Conserve It!"*

## MANAGER'S REPORT No. 26-33

February 19, 2026

Re: Discussion and Possible Action to Request Board Approval of the Land Exchange of TMK (4) 2-3-005:006 and TMK (4) 2-3-005:025, as Identified in the Land Exchange Agreement (Agreement) Between the Bank of Hawaii, as Trustee of the Kukuiohono Park Trust Estate, the County of Kauaʻi, and the Board of Water Supply, County of Kauaʻi

### **RECOMMENDATION:**

It is recommended that the Board of Water Supply, County of Kauaʻi (Board), approve the land exchange as identified in the Agreement, dated January 8, 2019, between the Bank of Hawaii, as Trustee of the Kukuiohono Park Trust Estate (Trust), the County of Kauaʻi, and the Board. This agreement will exchange a parcel currently owned by the County (TMK (4) 2-3-005:006) with a parcel currently owned by the Trust (TMK (4) 2-3-005:025). The Board will also pay the difference in the appraisal value of the two parcels, \$100,000.00, to the Trust. It is also recommended that the Board authorize the Manager and Chief Engineer of the DOW, and/or his duly authorized representative, to draft, negotiate, and execute any and all documents, instruments, or other agreements necessary to complete the land exchange as contemplated in the Agreement and any of its Amendments.

**FUNDING:** \$100,000.00

### **BACKGROUND:**

The Board executed an Agreement with the Trust on January 8, 2019. The purpose of the land exchange is to exchange a parcel currently owned by the County (TMK (4) 2-3-005:006) with a parcel currently owned by the Trust (TMK (4) 2-3-005:025). The County's parcel had an abandoned water tank on it. As part of this Land Exchange Agreement, the Board demolished the water tank and, after performing the agreed upon environmental assessments, planted grass to match the existing golf course fairway to which it is adjacent. The Trust's parcel currently contains a Department water tank which is active, and there is enough space on that same parcel to construct a second water tank that would serve the Kalāheo community.

The Agreement identified that, "In the event the fair market value of the Trust Parcel is greater than the value of the County Parcel that the Trust acquires, if any, then the Board shall agree to pay the Trust additional cash consideration equal to the difference in fair market value. Such amount shall be payable simultaneously with the making of the conveyances. Notwithstanding the foregoing, the Board shall have the option to terminate this Agreement and the transaction if the difference payable by the Board is more than \$50,000.00." The value of the Trust's parcel was assessed to be \$100,000 greater than the County's parcel. To close escrow, the Department would pay that amount to the Trust, pursuant to the Agreement.

The Department would like to complete the land exchange, which includes said escrow closing. As such, the Department would like the Manager and Chief Engineer, or his duly authorized representative, to be able to execute any and all documents necessary to complete the land exchange as identified in the Agreement.

**OPTIONS:**

**Option 1:**

**Approve Manager's Report as recommended.**

Pro:

DOW will move forward with land exchange as identified in the Agreement and will be able to stop paying the license fee for the active water tank when the land exchange is completed, and the delegation of authority to the Manager will allow for more efficient performance of the necessary tasks to complete the land exchange as contemplated under the Land Exchange Agreement.

Con:

None.

**Option 2:**

**Do not approve the Manager's Report as recommended.**

Pro:

None.

Con:

DOW will not move forward with the land exchange as identified in the Agreement and will continue to pay the license fee for the active water tank.

JK/crz

Attachment: Land Exchange Agreement Bank of Hawai'i/ Board of Water Supply, County of Kaua'i – Kukuiohono Site



RECEIVED

TRUST REAL ESTATE DEPARTMENT  
130 Merchant Street, 3rd floor  
Honolulu, HI 96813

2019 JAN 11 PM 12:53

DEPARTMENT OF WATER  
COUNTY OF KAUAI

**TRANSMITTAL MEMORANDUM**

DATE: 01/08/2019

TO: Brian Wienand, P.E. Manager & Chief Engineer  
Attn: Mary-Jane Akuna & Eric Fujikawa  
4398 Pua Loke Street  
Lihue, Kauai, HI 96766

FROM: Robin L. Nonaka, Vice President & Manager

RE: **ACCOUNT #: 115025702 ACCOUNT NAME: Kukuilono**  
**RE1656868 ADDRESS: Kukuilono - Water System**  
**TAX MAP KEY: (4) 2-3-005-006; 025**

Enclosed please find:

- |   |  |
|---|--|
| <input type="checkbox"/> For your information   | <input type="checkbox"/> For recordation/filing          |
| <input type="checkbox"/> For signature & return | <input type="checkbox"/> Signed and return               |
| <input type="checkbox"/> For review & comment   | <input checked="" type="checkbox"/> For necessary action |
| <input type="checkbox"/> For correction         | <input type="checkbox"/> Per our conversation            |
| <input type="checkbox"/> For your files         | <input type="checkbox"/> See remarks below               |

Comments:

Returning attached one (1) original signed Land Exchange Agreement for Kukuilono Site

Please contact Robin Nonaka at 694-4567 should you have any questions.

## LAND EXCHANGE AGREEMENT

THIS LAND EXCHANGE AGREEMENT ("Agreement"), is dated JANUARY 8, 2019 2018, and entered into by and between **BANK OF HAWAII**, a Hawaii corporation, as Trustee of the Kukuioolono Park Trust Estate created under that certain Indenture made by and between Walter D. McBryde and Hawaiian Trust Company, Limited, dated August 20, 1918, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 498 at Page 488, as amended from time to time, whose mailing address is P.O. Box 3170, Honolulu, Hawaii 96802, hereinafter referred to as the "**Trust**", and the **COUNTY OF KAUA'I** (hereinafter called "**County**") and the **BOARD OF WATER SUPPLY, COUNTY OF KAUA'I** (hereinafter referred to as the "**Board**"), whose mailing address is 4398 Pua Loke Street, Lihue, Hawaii 96766.

### WITNESSETH:

WHEREAS, the County owns a parcel of land (being TMK (4) 2-3-5-006), which contains approximately 9,598 square feet and an abandoned water tank among other things, said parcel being shown in Exhibit A, attached hereto and incorporated herein by reference (hereafter referred to as the "County Parcel");

WHEREAS, the Trust owns a parcel of land (being TMK (4) 2-3-005-025), which contains approximately 0.94 acres and an existing approximately 250,000 gallon County of Kaua'i Department of Water tank, said parcel being shown in Exhibit A, attached hereto and incorporated herein by reference (hereafter referred to as the "Trust Parcel"). The Board plans to construct on the Trust Parcel a 500,000-gallon tank for use by the Board, but shall not commence such construction until the conveyance of the Trust Parcel to the Board is completed;

WHEREAS, the Board and the Trust entered into a License Agreement for the use of the Trust Parcel which was premised upon the completion of a new tank on the Trust Parcel and the decommissioning of the old tank on the County Parcel;

WHEREAS, the parties proposed a land exchange wherein the Trust would exchange the Trust Parcel for the County Parcel;

WHEREAS, in 2007, the County Engineer and the Director of Finance, recommended to the Kaua'i County Council (hereafter referred to as the "Council") that the County convey the County Parcel, in favor of the Trust, in exchange for the Trust conveying the Trust Parcel to the Board;

WHEREAS, the Council approved Resolution No. 2007-76, authorizing the County Engineer and the Director of Finance to act in accordance of such approval; and

WHEREAS, the County and the Board, having progressed toward the remediation of the County Parcel, the parties wish to proceed with the land exchange on the terms and subject to the conditions set forth below;



NOW THEREFORE, in consideration of the terms and conditions of this Agreement, the Trust, the County, and the Board agree as follows:

I. Subject of Conveyances.

- a. County agrees to convey and the Trust agrees to accept, upon the terms and subject to the conditions and exception hereinafter set forth, all right title and interest of the County in and to the County Parcel, which upon completion of the remediation remediation required under this Agreement will be vacant land.
- b. Trust agrees to convey and the Board agrees to accept, upon the terms and conditions hereinafter set forth, all right title and interest of the Trust in and to the Trust Parcel, on which is constructed a water tank owned, operated, and maintained by the Board as permitted by the License Agreement between the Trust and the Board (Dated June 27, 2005).

II. **Removal of Infrastructure on County Parcel:** The Board agrees to do the following by no later than \_\_\_\_\_, ~~2019~~ 2020: *TRUSTEE AS AFORESAID*

- a. Prepare an initial environmental hazards site assessment of the County Parcel prior to any demolition work being done on the County Parcel. The initial environmental hazard site assessment shall be done by a licensed environmental/hazardous material engineer ("Consultant") and shall include a hazardous material survey and evaluation of the County Parcel, including but not limited to soils, structures and equipment including for asbestos, lead, PCBs, and petroleum products and byproducts, and any and all additional pollutants and contaminants recommended by the Consultant. During the initial environmental hazard site assessment, the underground storage tank will be removed. The Board shall provide a copy of the initial environmental hazard site assessment to the Trust.
- b. The Board shall prepare a demolition plan and provide a copy to the Trust. After the initial environmental hazard site assessment the Board shall subsequently implement the demolition plan and demolish and remove all improvements, structures, debris and equipment from the County Parcel, including but not limited to underground and above ground storage tanks, sheds, pipes (with the exception of approximately 150 feet of abandoned 6" and 8" cast iron pipe which the Board warrants does not contain asbestos, lead or other pollutants or hazardous or toxic materials), poles, power lines, and other structures (collectively, the "Improvements, Equipment and Debris"). The Board shall complete the demolition plan pursuant to the requirements of all applicable laws, including but not limited to environmental laws, including, but not limited to, the requirements of chapter 342L, Hawaii Revised Statutes, concerning the regulation of underground storage tanks, and implementing regulations, including subpart 7 of chapter 11-280.1,

Hawaii Administrative Rules, concerning closure of underground storage tank systems.

- c. Upon completion of the demolition and removal of the Improvements, Equipment and Debris from the County Parcel, in compliance with applicable environmental laws, the Board shall prepare a supplemental environmental hazard site assessment, which includes a hazardous material survey and evaluation of the soils, including but not limited to sampling and testing for asbestos, lead, PCBs and petroleum products and byproducts, and any and all additional pollutants and contaminants recommended by the Consultant. The Board shall complete the demolition and removal within 30 days after commencing demolition and removal. The Board shall complete such demolition, removal and, as describe below, restoration in accordance with all applicable laws, regulations and other legal requirements, including but not limited to laws concerning the demolition and removal of lead-based paint, asbestos, petroleum products and byproducts, PCBs and other hazardous materials to the extent applicable. Prior to the Closing Deadline (defined below), the Board shall obtain a no further action letter from the State of Hawaii Department of Health ("HDOH") upon completion of the demolition and removal work if such a letter is available with respect to such work.
- d. A copy of all environmental hazards site assessments and the permanent underground storage tank closure report shall be provided to the Trust and the County.
- e. If, upon conclusion of each of the two environmental hazard site assessments, remediation is deemed necessary, the Board will mitigate such material to the extent required by applicable law and as a condition of the conveyance.
- f. Upon conclusion of the initial and supplemental environmental hazard site assessments, and if applicable, issuance of a no further action letter by the HDOH, the Trust shall, at its sole discretion, determine whether it wishes to acquire the County Parcel or to not acquire the County Parcel. Such decision by the Trust shall be made no later than 30 days of the supplemental environmental hazard site assessment, and in any event, prior to the conveyance of the Trust Parcel to the Board.
- g. If the Trust decides to not acquire the County Parcel, the Trust and the County will negotiate an easement for the Trust's use, access, and enjoyment of the County Parcel consistent with the surrounding area. While negotiating toward such easement, the Trust shall have a license to enter the County Parcel to maintain the Parcel. Whether or not the Trust and County enter into such an easement arrangement, the Trust shall also have the option to pay the County the FMV of the County Parcel and obtain the County's commitment to keep the parcel vacant and used only for landscaping and use consistent with the surrounding area (for example, currently such use would be golf course fairway use).
- h. Upon completion of demolition and removal, the Board shall restore the County Parcel to grade and grass such parcel to a condition similar to the adjacent golf course fairway using the same type of grass as the grass prevailing in the fairway; provided the Trust provides the seeds or sprigs necessary to comply with this



paragraph. The Board shall complete the restoration within 90 days after completing demolition and removal.

- i. The Board warrants that the services to be rendered and performed under this Agreement shall be performed and rendered by professionals experienced, licensed (if such licensure is required), and qualified to perform such services.
- j. The Board shall maintain at all relevant times all licenses, permits, or other certifications necessary to perform the remediation under this Agreement, and the Board shall ensure compliance with all applicable laws. To the Board's actual knowledge upon completion of the remediation the County Parcel will not be in material violation of any federal, state, or local laws, rules, statutes, or other regulations. This warranty shall survive termination of this Agreement.
- k. The Board's responsibilities under this Section II shall survive the conveyances under this Agreement.

### III. Conveyance of Trust Parcel to the Board.

- a. Conveyance. Upon completion of Section II of this Agreement, the Trust agrees to convey its interest in the Trust Parcel to the Board, together with easements for access and utilities, and existing improvements, in "as is" condition, provided a reputable title insurance company shall commit to insure title to the Trust Parcel free and clear of all liens and encumbrances, except for the CDUP Conditions (as defined below), the deed provisions discussed below, and the exceptions shown on Exhibit \_\_\_\_ attached hereto, and with all faults by Limited Warranty Deed, in accordance with the Payment section of this Agreement. The deed to the Board shall reserve to the Trust the right to lock or otherwise secure the gate to the Kukuiohono Park (provided a key or other means of access is provided to the Board), and to relocate, from time to time, the easements conveyed to the Board, including but not limited to the relocation of the access easement to conform to relocation or realignment of that road by the Trust; provided, however, that should the Trust require that the easement area and/or the water facilities within, on, or under the easement area be relocated, the Trust will, at the Trusts own expense and pursuant to the Board's instructions and specifications, relocate the affected easement area and water facilities and appurtenances without interruption of the Board's services. As used herein, "CDUP Conditions" means the conditions imposed by the State of Hawaii Department of Land and Natural Resources in its letter dated November 17, 2008 approving the Board's Conservation District Use Application (CDUA) KA-3475. The Board agrees to indemnify, defend and hold harmless the Trust from all claims, expenses and liability arising under or relating to the CDUP Conditions. These provisions shall survive the conveyance of the Trust Parcel to the Board.
- b. Restrictions on Improvements. Future improvements anticipated include a new 500,000 gallon water storage tank and appurtenances. The Board acknowledges that the Park has a substantial interest in maintaining the appearance and view of

and from Kukuilono Park, including and not limited to the views from the golf course (as now or in the future configured) and surrounding areas. At all times after the execution of this Agreement, Board shall give the Board of Directors of Kukuilono Park ("Park") reasonable opportunity to review and comment upon any future improvements that the Board may erect on the Trust Parcel. The Board shall take the Park's comments and concerns into consideration in erecting any such improvements on the Trust Parcel. In particular, the Board will consider the effect of its improvements on views from the Kukuilono Park golf course and will take reasonable steps to mitigate against the adverse impacts which any improvements may have on such views. The Board shall comply with conditions imposed by the BLNR, including paint color for the tanks on the Trust Parcel. The Board shall not paint or allow any tanks or improvements on the Trust Parcel with bright colors. For the protection of views from the adjacent Trust property, the Board acknowledges that the Trust does not have plans to remove an existing tree line between the water tank(s) now or in the future located on the Trust Parcel and the adjacent Trust property (currently used as a road and golf course). The Trust shall have no obligation to maintain, trim or remove trees and other foliage located on, around or overhanging the Trust Parcel, but if a tree originating from the golf course side of the Trust Parcel were to fall onto the Trust Parcel or the fence thereon, the Trust would remove the fallen tree. For safety or operational reasons, the Board may trim trees and other foliage that overhang or threaten to damage improvements on the Trust Parcel, provided that the Board shall provide prior notice of any work on Trust land outside of the Trust Parcel (at least a week except in case of emergency), and shall exercise due care in performing any such work and shall defend and indemnify the Trust from any claims for personal injury, death or property damage arising from such work. The Board shall not remove trees in the Trust Parcel and shall leave healthy trees located on the Trust Parcel in place; provided, however, the Board shall not be obligated to water nor replace trees on the Trust Parcel should they die or require removal because of natural causes (i.e., old age, strong winds, disease), and the Board may trim trees as required to install fencing.

- c. Deed Covenants. The deed to the Board shall include covenants running with the land consistent with the foregoing provisions.
- d. Closing Deadline. Subject to the satisfaction of all conditions to conveyance, the conveyance(s) contemplated under this Agreement shall be completed by no later than a date that is eighteen (18) months from the date of this Agreement ("Closing Deadline"). If such conveyances are not completed by the Closing Deadline, then either party that is not in breach of this Agreement shall have the right to terminate this Agreement. Notwithstanding the foregoing, provided that the only reason for delay in the conveyance(s) is because of delays in obtaining a required approval or permit from a government agency other than the Board, the County or any County agency, then the Closing Deadline may be extended for such additional



time up to a maximum of six (6) additional months as needed to obtain such required approval or permit.

- IV. **Conveyance of County Parcel to the Trust.** If the Trust decides to acquire the County Parcel, upon completion of Section II of this Agreement, then the County agrees to convey its interest in the County Parcel to the Trust by Limited Warranty Deed, in the condition noted in said Section II, provided a reputable title insurance company shall commit to insure title to the Trust Parcel free and clear of all liens and encumbrances, except for the exceptions shown on Exhibit \_\_\_\_ attached hereto, in accordance with the Payment section of this Agreement.

V. **Payment.**

- a. If the Trust decides to acquire the County Parcel, in accordance with Sections II and III above, then:
- i. The Trust and Board agree that the fair market value of the County Parcel and the Trust Parcel shall be determined by a third party MAI appraiser, selected and retained by the Board at its sole expense, but subject to the consent of the Trust, which consent shall not be unreasonably withheld, in accordance with State of Hawaii procurement requirements. The improvements on the County Parcel and the Trust Parcel shall be ignored for purposes of determining the fair market value of the subject Parcels.
  - ii. If the fair market values of both the County Parcel that the Trust acquires and the Trust Parcel are equal, then no additional consideration will be due.
  - iii. In the event the fair market value of the County Parcel acquired by the Trust is greater than the value of the Trust Parcel, then the Trust shall agree to pay to the County additional cash consideration equal to the difference in fair market value. Such amount shall be payable simultaneously with the making of the conveyances. Notwithstanding the foregoing, the Trust shall have the option to terminate this agreement and the transaction if the difference payable by the Trust is more than \$11,700.
  - iv. In the event the fair market value of the Trust Parcel is greater than the value of the County Parcel that the Trust acquires, if any, then the Board shall agree to pay the Trust additional cash consideration equal to the difference in fair market value. Such amount shall be payable simultaneously with the making of the conveyances. Notwithstanding the foregoing, the Board shall have the option to terminate this Agreement and the transaction if the difference payable by the Board is more than \$50,000.00.
- b. If the Trust declines to acquire the County Parcel then:

- i. In accordance with the foregoing, the Trust and Board agree that the Board shall pay the Trust the fair market value of the Trust Parcel, as determined by a third party MAI appraiser. The appraiser shall be selected and retained by the Board at its sole expense, in accordance with State of Hawaii procurement requirements; provided, however, that the Trust has consented to the appraiser, such consent shall not be unreasonably withheld. The improvements on the Trust Parcel shall be ignored for the purposes of determining the fair market value of the Trust Parcel.
  - c. Notwithstanding anything herein to the contrary, if the Trust does not agree with the value from any appraisal, the Trust may elect to retain another appraiser at the sole expense of the Trust. If the second appraisal does not result in an agreement between the Board and the Trust on value within 30 days after completion of the second appraisal, then the two appraisers shall agree on a third appraiser to appraise the relevant property with any costs related thereto being split evenly between the Trust and the Board. If the third appraisal does not result in an agreement on value within 30 days after completion of the third appraisal, then the value from the two closest of the three appraisals shall be averaged and used by the parties. The value of the easements to be conveyed to the Board shall be included in the valuation of the Trust Parcel.
- VI. Escrow and Closing Costs. The conveyances shall be consummated using a reputable escrow and title company procured in accordance with State of Hawaii procurement requirements. Board shall pay for half of the escrow costs and recording fees, title insurance, and conveyance tax. The Trust shall pay for half of the escrow costs, recording fees, title insurance, and conveyance tax. Each party shall bear its own attorneys' fees.
- VII. Limit on Trustee's Liability. In accordance with Section 560:7-306(a) of the Hawaii Revised Statutes, as amended, said Bank of Hawaii is executing this document solely in its capacity as Trustee as aforesaid, and is not assuming any personal liability in its corporate capacity hereunder. Any recovery against the Trust based on this instrument shall be limited to the assets of the Trust referred to above.
- VIII. Counterparts; Faxed and Emailed Executed Instruments. The parties may execute this Agreement using counterpart signature pages. A party's delivery of the signature pages of this Agreement by fax or email shall be as effective as the delivery of original signatures by such party.
- IX. Conditions Precedent to Conveyances. The Trust shall have no obligation to complete the conveyances unless the following conditions are either waived by the Trust or satisfied prior to the deadline for the Conveyances:
  - a. The Bank of Hawaii Real Estate Investment Committee, the Board of



Directors of Kukuilono Park and the Governor of the State of Hawaii shall have consented to the conveyance of the Trust Parcel on the terms of this Agreement. The Trust shall take the lead in requesting and obtaining the Governor's consent. The Board shall cooperate with the Trust in the Trust's efforts to obtain such consent;

- b. The Board and County shall be in compliance with this Agreement, including but not limited to the removal of the structures and equipment;
- c. A reputable title insurance company shall commit to insure title to the County Parcel free and clear of all encumbrances except for those indicated on Exhibit attached hereto; without limiting the generality of the foregoing, the Trust shall not be obligated to accept title to the County Parcel subject to the instruments recorded at Liber 2310, page 470, and Liber 4529, page 402
- d. The Board shall have timely provided the environmental site assessment reports and the permanent closure report described above in this Agreement prepared by a qualified environmental consultant for the County Parcel, and the Trust shall not have elected to cancel this Agreement as a result of the content of such report; and
- e. Assuming the Trust has elected to acquire the County Parcel and further assuming that the Trust has not elected to waive this condition, the County shall have arranged for the County's agreement with Hawaii Telephone Company recorded in Liber 4529 at Page 402 to be terminated, and the title company insuring the Trust's acquisition of title to the County Parcel shall be committed to insuring the Trust's title against: (i) such agreement, and (ii) the deed recorded in Liber 2310 at Page 470.

X. License Agreement. Upon the execution of this Agreement the License Agreement between the Trust and the Board shall continue on a month to month basis until the conveyance of the Trust Parcel to the Board at which time the License Agreement shall automatically be terminated without liability to the Board. If the conveyance occurs on any date other than the first day of a calendar month, any license fee owed at the time of conveyance shall be prorated according to the number of days in the month the conveyance occurs. Such license fee shall be paid in full simultaneously with the conveyance. The Trust reserves the right to reasonably raise the license fees payable under the License Agreement from time to time.

XI. Dedications and Easements; 1031 Exchange. After the execution of this Agreement, but prior to conveyance, the parties shall not dedicate, gift, transfer, mortgage, or convey any interest in the County Parcel or the Trust Parcel without prior written consent from the other parties which may be withheld. Notwithstanding the foregoing, the Trust reserves the right to consummate the conveyance and/or acquisition of any parcel as part of a tax

deferred exchange. County shall cooperate with the reasonable requests of the Trust to consummate such a tax deferred exchange, including but not limited to acknowledging the assignment of the Trust's interest in this Agreement to an exchange intermediary.

XII. Land Use Designation. This Agreement is not intended to nor shall it operate as modifying in any way the land use designations of any parcel subject hereof.

XIII. Miscellaneous Provisions.


- a. Parties; Third-Party Beneficiary; Successors and Assigns. This Agreement is an agreement solely for the benefit of the parties (and their permitted successors and/or assigns). No other person, party, or entity shall have any rights hereunder nor shall any other person, party, or entity be entitled to rely upon the terms, covenants, and provisions contained herein. This Agreement and all its covenants, terms, and provisions, shall be binding on and inure to the benefit of each party and its successors and assigns.
- b. Survival. The provisions of this Agreement shall survive the conveyances unless otherwise indicated.
- c. Interpretation and Construction.
  - i. The Parties acknowledge that, in connection with negotiating and executing this Agreement, each has had its own counsel and advisors and that each has reviewed and participated in the drafting of this Agreement. Any rule of construction that requires any ambiguities to be interpreted against the drafter shall not be employed in the interpretation of: (i) this Agreement; (ii) any exhibits to this Agreement; or (iii) any document drafted or delivered in connection with the transactions contemplated by this Agreement.
  - ii. Any captions or headings used in this Agreement are for convenience only and do not define or limit the scope of this Agreement.
  - iii. The singular of any term, including any defined term, shall include the plural and the plural of any term shall include the singular. The use of any pronoun with respect to gender shall include the neutral, masculine, feminine and plural. The term "Person" or "Persons" includes a natural person or any corporation, limited liability company, partnership, trust or other type of entity validly formed.

XIV. Recordation. The parties shall instruct escrow to record the deed(s) referred to above for the parcels to be transferred.

[end of text on this page]

IN WITNESS WHEREOF, the parties hereto have executed these presents the day and year first above written.

BANK OF HAWAII, as Trustee as aforesaid and not individually

By   
Its VICE PRESIDENT

By   
Its VICE PRESIDENT



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

On this 8th day of January, 2019, before me personally appeared ROBIN L. NONAKA and Carol L. Tom to me personally known, who, being by me duly sworn, did say that they are VICE PRESIDENT and VICE PRESIDENT, respectively, of **Bank of Hawaii, a Hawaii corporation, Trustee of the Kukuilono Park Trust Estate**, and that such instrument was signed on behalf of such corporation; and said ROBIN L. NONAKA and Carol L. Tom acknowledged such instrument to be the free act and deed of such corporation as Trustee as aforesaid.



(Official Stamp or Seal)

Signature: *Paula Simeona*  
Print Name: Paula Simeona  
Notary Public, State of Hawaii  
My Commission Expires: July 22, 2022

NOTARY CERTIFICATION STATEMENT

Document Identification or Description: Land Exchange Agreement covering Kukuilono Park Water Tank Site of Kukuilono

Doc. Date: January 8, 2019 or \_\_\_ Undated at time of notarization  
No. of Pages: 14 Jurisdiction: First Circuit  
(in which notarial act is performed)

*Paula Simeona*

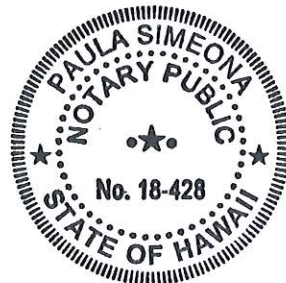
Notary Signature

January 8, 2019

Date of Notarization and  
Certification Statement

Paula Simeona


Printed Name of Notary



(Official Stamp or Seal)

RECOMMENDED FOR APPROVAL

BOARD OF WATER SUPPLY  
COUNTY OF KAUAI

  
Bryan Wienand, P.E.  
Manager and Chief Engineer

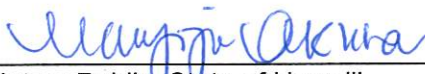
  
Beth Tokioka  
Chairperson, Board of Water Supply

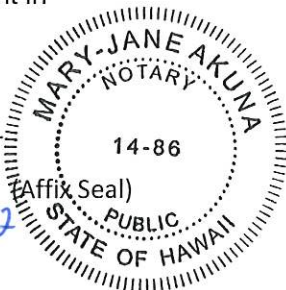
APPROVED AS TO FORM  
AND LEGALITY

  
Mahealani M. Krafft  
Deputy County Attorney


STATE OF HAWAII )  
 ) ss.  
COUNTY OF KAUAI )

On this 28th day of December, 2018 in the Fifth Circuit, State of Hawaii, before me personally appeared **Beth Tokioka**, who is personally known to me or whose identity I proved on the basis of satisfactory evidence, who being by me duly sworn or affirmed, did say that such person is the **Chairperson** for the **Board of Water Supply, County of Kauai** executed Land Exchange Agreement, dated undated and consisting of 13 pages at the time of notarization, as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

  
Notary Public, State of Hawaii  
Name of Notary: Mary Jane Akuna  
My Commission expires: March 30, 2022



COUNTY OF KAUAI:

  
Acting County Engineer

  
Director of Finance

APPROVED AS TO FORM AND LEGALITY:


*John L.*

For

STATE OF HAWAII )  
 ) ss.  
COUNTY OF KAUAI )

On this 18<sup>th</sup> day of December, 2018, before me appeared KEN SHIMONISHI, to me personally known, who being by me was duly sworn, and that said officer is the DIRECTOR OF FINANCE for the COUNTY OF KAUAI, a political subdivision of the State of Hawai'i; and that the foregoing instrument was signed on behalf of said COUNTY with authority by authority of its Charter; and that said officer acknowledged the instrument to be the free act and deed of said COUNTY.

A circular notary seal for Laurie A. Ebinger-Kelley, a Notary Public in the State of Hawaii. The seal features the text "LAURIE A. EBINGER-KELLEY" around the top inner edge, "NOTARY PUBLIC" in the center, and "Commission # 96-229" and "STATE OF HAWAII" around the bottom inner edge. The seal is blue and has a decorative border of small dots.

  
Laurie A. Ebinger-Kelekoma  
Notary Public, State of Hawaii  
My commission expires: April 10, 2019

Doc. Date: undated at time of notarization #Pages: 12

Laurie A. Ebinger-Kelekoma Fifth Circuit

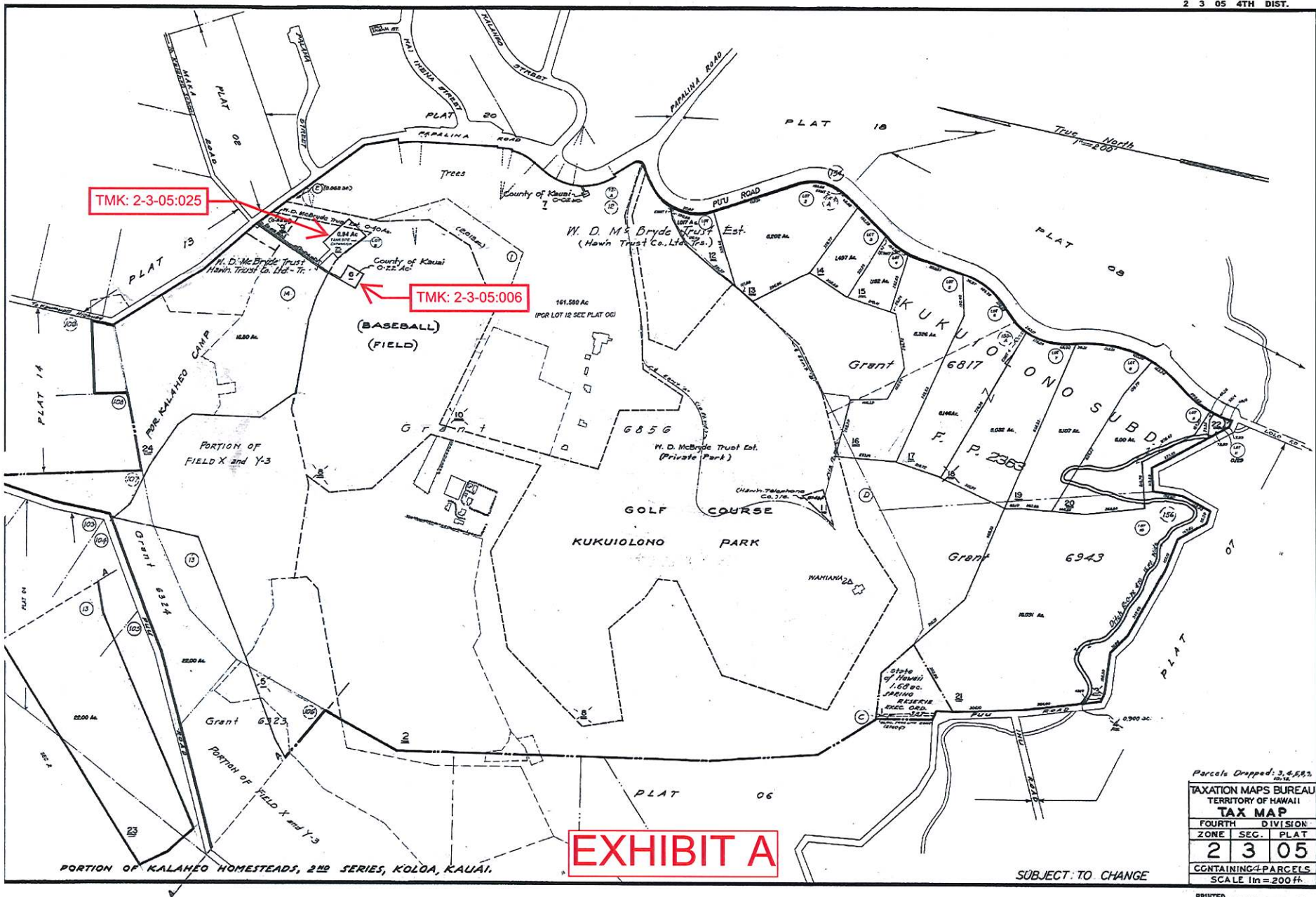
Print Name

Doc. Description: Land Exchange Agreement  
Kukuiolono Park

 Lawrence A. Ebinger-Kelley Dec. 18, 2018  
Notary Signature Date

Land Exchange Agreement  
Bank of Hawai'i, County of Kaua'i, Board of Water Supply, County of Kaua'i  
Kukuilono Site  
(4) 2-3-005:006; :025  
Kalāheo/Kōloa Water System





# DEPARTMENT OF WATER

County of Kaua'i

*"Water has no Substitute – Conserve It!"*

## MANAGER'S REPORT No. 26-34

February 19, 2026

Re: Discussion and Possible Action to Request Board Approval for Indemnification and Unspecified Future Obligations for Autodesk, Inc. between the Board of Water Supply, County of Kaua'i and Autodesk, Inc.

### **RECOMMENDATION:**

The Department recommends that the Board approve Option 1, which will allow the Department to move forward with the software update and renewal of Autodesk, Inc.'s InfoWater software.

**FUNDING:** N/A

### **BACKGROUND:**

The Department's Engineering team continues to utilize Autodesk's InfoWater software to prepare hydraulic models to assist with its engineering planning and design operations. Additionally, it is used to help identify and anticipate potential impacts to short- and long-term operational adjustments.

Yearly licenses and update of the software is required to continue with its use. The agreement contains language for indemnification and unspecified future obligation provisions. The County Attorney's Office has reviewed and approved the General Terms for Autodesk, Inc.

The section within the agreement that reference Unspecified Future Obligations is shown below:

### **Autodesk Terms of Use – General Terms, Dated December 8, 2025:**

#### **8.5 Use of Your Content**

You will indemnify and hold harmless (and, at Autodesk's request, defend) Autodesk against any and all losses, liabilities, expenses (including reasonable attorneys' fees) suffered or incurred by Autodesk by reason of any claim, suit or proceeding arising out of or relating to (1) Your Content; (2) Your (including Your Authorized Users') use of Offerings, including any Output or other results produced by such use; and (3) Your (including Your Authorized Users') breach of these Terms (including any Additional Agreement, Special Terms, or other applicable terms).

## **OPTIONS**

### **Option 1:**

#### **Approve the Department's Request.**

- Pro: The Department will be able to move forward with the renewal, update and continued use of Autodesk, Inc.'s InfoWater software.
- Cons: The Department would have potential risk associated with indemnification and unspecified future obligation provisions of the Autodesk, Inc. software agreement.

### **Option 2:**

#### **Deny the Department's Request.**

- Pro: No potential legal risk associated with indemnification and unspecified future obligation provisions of the Quest software agreement.
- Cons: The Department's would no longer be able to utilize the InfoWater software and the staff that have been utilizing it would be required to revert to a manual process to conduct their planning, design and operational impact assessments.

MH/crz

Attachment: Autodesk Terms of Use

# Terms of Use

---

The Autodesk Terms of Use include the following:

- [General Terms \(https://www.autodesk.com/company/terms-of-use/en/general-terms\)](https://www.autodesk.com/company/terms-of-use/en/general-terms)
- [Special Terms \(https://www.autodesk.com/company/terms-of-use/en/special-terms\)](https://www.autodesk.com/company/terms-of-use/en/special-terms)
- [Offerings \(https://www.autodesk.com/company/terms-of-use/en/offering-types-and-benefits\)](https://www.autodesk.com/company/terms-of-use/en/offering-types-and-benefits)
- [Success Benefits \(https://www.autodesk.com/company/terms-of-use/en/success-benefits\)](https://www.autodesk.com/company/terms-of-use/en/success-benefits)
- [Acceptable Use \(https://www.autodesk.com/company/terms-of-use/en/acceptable-use\)](https://www.autodesk.com/company/terms-of-use/en/acceptable-use)

General Terms last updated: December 8, 2025

Other tabs above last updated as indicated in that tab

[Learn more > \(https://www.autodesk.com/company/terms-of-use/terms-of-use-changes\)](https://www.autodesk.com/company/terms-of-use/terms-of-use-changes)

## General Terms

These Terms apply to your account with Autodesk and to our Offerings and constitute a binding contract between us.

PLEASE NOTE THAT SECTION 17.4 (AUTODESK PARTY, GOVERNING LAW, DISPUTE RESOLUTION) BELOW CONTAINS MANDATORY ARBITRATION AND CLASS ACTION WAIVER PROVISIONS THAT MAY GOVERN ANY RESOLUTION OF DISPUTES BETWEEN YOU AND AUTODESK. PLEASE READ THESE TERMS (INCLUDING SECTION 17.4) CAREFULLY.

---

## 1. Acceptance

By accepting these General Terms during your account registration or subscription process, or by accessing or using our Offerings, you confirm your acceptance of these General Terms and other applicable Terms and your agreement to be a party to this binding contract. If you do not agree to these Terms, you must not access or use our Offerings.

You agree to these Terms on behalf of the company or other legal entity for which you are acting (for example, as an employee or contractor) or, if there is no company or legal entity, on behalf of yourself as an individual (in either case, “You”). You represent and warrant that you have the right and authority (as well as the capacity—for example, you are of sufficient legal age) to act on behalf of and bind such entity (if any) and yourself. Additional capitalized terms are defined in these Terms, including in Section 18 (Definitions) below.

---

## 2. Special Terms

Some Offerings may be subject to special terms set forth in the Special Terms (<https://www.autodesk.com/company/terms-of-use/en/special-terms>) or in the Documentation for the Offerings (“Special Terms”).

You agree to the Special Terms, if any, for an Offering that You subscribe to, access, or use.

---

## 3. Return for Refund

For a limited period, if You (a) object to any of these Terms, (b) object to any Autodesk terms of purchase or auto-renewal applicable to the purchase or renewal, or (c) are dissatisfied (for any reason) with the Offering to which You subscribed, You may return the Offering and may qualify for a refund under the Autodesk Return Policy (<https://www.autodesk.com/customer/help?guid=GUID-0D758126-DBBC-4489-8DBF-924977E9DC94#refund-policy>).

---

## 4. Your Account

You are responsible for anyone who obtains, accesses, or uses Offerings through You or Your account (including Your Authorized Users) and their compliance with these Terms as though each of them is You. In certain cases, Your Authorized Users may be required to set up individual accounts or agree to applicable terms in order to obtain, access, or use Offerings, but You remain responsible. You also agree to secure and not share user IDs or passwords (except with authorized account administrators).

If You suspect unauthorized use of Your account, please contact <https://www.autodesk.com/trust/contact-us> (<https://www.autodesk.com/trust/contact-us>).

---

## 5. You Own Your Work

You will retain Your ownership rights to files, designs, models, data sets, images, documents or similar material created by You (or Your Authorized Users) and submitted or uploaded to an Offering by You (or Your Authorized Users).

---

## 6. Privacy and Security

### Privacy

Autodesk is committed to protecting Your privacy and letting You know what Autodesk will do with Your personal data. Autodesk's [Privacy Statement \(https://www.autodesk.com/company/legal-notices-trademarks/privacy-statement\)](https://www.autodesk.com/company/legal-notices-trademarks/privacy-statement) sets forth how Autodesk may collect, use, store and process personal data of or relating to You, and how You may request access to or deletion of Your personal data.

Autodesk offers a Data Processing Addendum, available on our [Trust Center \(https://www.autodesk.com/trust/privacy\)](https://www.autodesk.com/trust/privacy), which sets forth Autodesk's obligations as a processor for personal data under the General Data Protection Regulation.

### Security

Autodesk shall maintain administrative, technical, and physical safeguards designed to protect the security, confidentiality, and availability of Your Content.

---

## 7. Offering Term

Each subscription to an Offering is for a fixed, limited time period (the "Offering Term"). The length of the Offering Term will be indicated in the Offering Identification.

Certain subscriptions may renew automatically. If you would like to cancel any automatic renewal, please see [Cancelling Automatic Renewal for Subscriptions \(https://www.autodesk.com/support/account/manage/billing/cancel\)](https://www.autodesk.com/support/account/manage/billing/cancel).

---

## 8. Offerings

### 8.1 Rights to Offerings

For any Offering consisting of Software or a Cloud Service that Autodesk makes available or provides to You, and subject to compliance with these Terms and all payment obligations, including any taxes and other fees, Autodesk grants to You a non-exclusive right to use the Offering (and permit Your Authorized Users to use the Offering) solely (a) during the Offering Term, (b) in accordance with any applicable Special Terms, and (c) within the scope of Your subscription, including the permitted number, Offering Type, Territory and other attributes specified for the type and level that You selected when subscribing for the Offering. If Your Offering Identification does not specify those attributes, the Offering will have the attributes of a Trial Version.

Except as expressly authorized by these Terms, or as otherwise expressly permitted in writing by Autodesk, You will not: (i) reproduce, modify, adapt, translate, port, or create derivative works of all or any portion of any Offering, except as expressly permitted by applicable law notwithstanding a contractual prohibition to the contrary, or (ii) sublicense, transfer, distribute, transmit, sell, lease, rent, loan, or otherwise make available all or any portion or functionality of any Offering to a third party (whether on a service bureau basis or otherwise).

Any Software (including any Update or Upgrade) that Autodesk makes available or delivers to You is licensed for a limited subscription period, not sold. You may make one archival copy of the Software You subscribed to solely for Your backup and archival purposes for the duration of the Offering Term.

## **8.2 Access to Software and Cloud Services**

Subject to compliance with these Terms, Autodesk will, during the Offering Term, make Offerings available to You through Your account or other electronic means. Autodesk will not be liable for any losses or other liability incurred by You or others due to sending Your account information to an incorrect address. You may be required to log into Your account or provide Autodesk additional information to activate, access, or use an Offering. Some Offerings may cause Your computers or other devices to automatically connect to the internet (intermittently or on a regular basis)—for example, to validate the proper use of Your subscription, provide You with access to services (including third-party services), or download and install Updates or Upgrades, all without further notice to You. You and Your Authorized Users agree to such connection and to validation of Your subscription and to the automatic downloading and installation of Updates and Upgrades. You may not be able to adjust Your Update or Upgrade settings for certain Offerings, including those for which automatic Updates or Upgrades are required for operation or security of the Offering.

During the Offering Term, Autodesk may make available or deliver Updates or Upgrades to Software. You will promptly install any mandatory Updates.

## **8.3 Autodesk APIs**

In connection with an Offering, you may have access to standard application programming interfaces, software development kits, tools, libraries, scripts, sample source code and similar developer material (collectively, “APIs”). Autodesk may monitor Your usage of the APIs to verify compliance with these Terms. Unless otherwise specified in the applicable Special Terms (including Documentation), You may use the APIs only (a) for the Offering for which you have a subscription and/or for which the APIs are provided, (b) during the Offering Term, (c) in accordance with the Special Terms (including Documentation) specific to the APIs, and (d) to develop applications, services, modules, or components solely for Your internal business use. Your use of the APIs for any other purposes, including Your development of commercial software products or services, requires a separate developer license and is only permitted under the Autodesk Platform Services Terms (<https://www.autodesk.com/company/legal-notices-trademarks/terms-of-service-autodesk360-web->



[services/forge-platform-web-services-api-terms-of-service](https://www.autodesk.com/company/terms-of-use/en/offering-types-and-benefits)) via one of the Access Options described in Offerings (<https://www.autodesk.com/company/terms-of-use/en/offering-types-and-benefits>). APIs may not be available in certain geographical areas or languages.

#### **8.4 Use of Third-Party Material and Services**

Autodesk may provide You with content, designs, models, data sets, project information, documents, libraries, audio, links, data, applications and other software, services, or other material of a third party (collectively, “Third-Party Material/Services”) in connection with Offerings. Any Third-Party Material/Services may be governed by different terms found in or with such Third-Party Material/Services (for example, in the “About Box,” a .txt file, or accompanying license terms), on a registration page of a third party, or in the Special Terms (including Documentation) for the Offering for which the Third-Party Materials/Services are provided (collectively, “Third-Party Terms”). If there are no Third-Party Terms, Your use will be (a) subject to the same terms as the Offering for which You received the Third-Party Material/Services, (b) solely in connection with Your use of such Offering, and (c) limited to the Offering Term. You take sole responsibility for determining, obtaining and complying with all Third-Party Terms. Autodesk will have no responsibility for, and makes no representations or warranties regarding, (i) any Third-Party Material/Services or Your use of Third-Party Material/Services, and (ii) any Third-Party Terms or Your compliance with such Third-Party Terms.

#### **8.5 Use of Your Content**

In order for You to access or use certain Offerings, or for Autodesk to provide You with certain services, You may wish to upload or otherwise share Your Content. Autodesk personnel will not use Your Content except (a) at Your request, or with Your consent; (b) in connection with providing and improving Offerings (including maintaining, securing, updating, or otherwise modifying Offerings); or (c) in connection with legal obligations, enforcement, investigations, or proceedings. ( )Autodesk may block or remove Your Content for any reason, including non-compliance with these Terms. When You provide or make accessible Your Content, You authorize Autodesk and its designees to use, reproduce, modify, distribute and make available Your Content in connection with providing You with Offerings and the other activities contemplated by these Terms.

You are responsible for ensuring that (i) Your Content and its use with any Offering comply with all applicable laws and regulations and these Terms, (ii) Your Content will not infringe or misappropriate any intellectual property or proprietary rights of any person, and (iii) You secure backup copies of Your Content at all times. You acknowledge that online services may suffer disruptions or outages, and You may not be able to retrieve Your Content as a result.

You will indemnify and hold harmless (and, at Autodesk’s request, defend) Autodesk against any and all losses, liabilities, expenses (including reasonable attorneys’ fees) suffered or incurred by Autodesk by reason of any claim, suit or proceeding arising out of or relating to (1) Your Content; (2) Your (including Your Authorized Users’) use of Offerings, including any Output or other results produced by such use; and (3) Your (including Your Authorized Users’) breach of these Terms (including any Additional Agreement, Special Terms, or other applicable terms).

#### **8.6 Collaboration and Sharing of Your Content**

Some Offerings permit You to collaborate with others, including sharing or publishing Your Content. If You choose to share or publish Your Content, others may be able to use, sell, reproduce, modify, distribute, make available, display, transmit and communicate Your Content, and suspending or terminating access will not delete or inhibit access to any of Your Content that was earlier shared or



published. If You do not want others to have any such access or any of those rights, do not use the sharing, publishing, or other collaboration features of the Offerings and set Your permissions accordingly. Keep in mind that forums and galleries may be public, and submissions are generally public.

An Offering may feature links to Third-Party Material/Services. Such links are provided as a convenience to You. Autodesk does not monitor or control what such third parties will do with Your Content. You are responsible for ensuring the appropriate level of access to Your Content by any third party. If You authorize any of Your Content to be shared with any third party, Autodesk may make Your Content available to such third party; Autodesk will, however, have no responsibility or liability for the actions of such third party.

---

## 9. Trial Versions

Autodesk may make available or deliver Offerings (or features of an Offering) described as “not for resale,” “free,” “evaluation,” “trial,” “pre-release,” “beta,” or another similar designation (collectively, “Trial Versions”). Except as expressly set forth in the Documentation for the Trial Version or applicable Special Terms, (a) you may access or use the Trial Version only for a period of 30 days from download or receipt, (b) Your use will be limited to non-commercial evaluation purposes, (c) the use of a Trial Version will be only by You as an individual or, if You are an entity, by one named employee, and (d) the Trial Version may only be used within the Territory where You acquired the Offering.

Notwithstanding any other provisions in these Terms, (i) Autodesk makes no commitments with respect to Trial Versions, including any commitment to continue any Trial Version or to convert any Trial Version into an Offering; (ii) Autodesk constantly conducts research to improve our Offerings and makes no commitment that such research will be commercially released in an Offering; and (iii) Trial Versions may contain code that is not fully tested, including errors and faults that may cause total data loss or system failure. Subscriptions to Trial Versions do not include subscription Benefits, and Autodesk reserves the right, without any further notice, to end any Trial Versions at any time.

---

## 10. Feedback

If You provide Autodesk with ideas for improvement, suggestions, or other feedback (collectively, “Feedback”), You hereby grant to Autodesk a non-exclusive, transferable, irrevocable, worldwide, royalty-free license (with rights to sublicense) to make, use, sell, offer to sell, reproduce, modify, distribute, make available, publicly display and perform, disclose and otherwise exploit the Feedback and any Offerings using the Feedback.

---

## 11. Limitations on Use

### 11.1 Offerings are tools

The Offerings are tools and are intended only to assist You with Your design, analysis, simulation, estimation, testing and other activities and are not a substitute for Your professional judgment or Your own independent design, analysis, simulation, estimation, testing, or other activities, including, for example, those with respect to product stress, safety and utility. You acknowledge that the Offerings may not have been designed or tested for Your specific use, and the Offerings and Output may not achieve the results You desire within Your constraints. It is Your responsibility to (a) determine whether the use of an Offering is appropriate for Your purposes, (b) determine the appropriate use for the Offerings, and (c) select the Offerings and other computer programs and materials, in each case to help achieve Your intended results or Output. You acknowledge that as between You and Autodesk, You are solely responsible for (i) Your (including Your Authorized Users') use of the Offerings and any results produced by the Offerings, including any Output, and (ii) establishing the adequacy of independent procedures for testing the reliability, safety, accuracy, completeness, compliance with applicable legal requirements and industry standards, and other characteristics of any Output, including insights, recommendations, and all items designed with the assistance of the Offerings. Autodesk will not be responsible or liable in any manner whatsoever for the results obtained through use of the Offerings, including any Output.

### **11.2 Offerings Not Designed for Sensitive Personal Data**

The data storage functionality associated with Offerings is NOT suitable for the storage of Social Security numbers, credit or debit card numbers, financial account numbers, driver's license numbers, medical information, or health insurance information; data about personal characteristics or other personal data, such as race or ethnic origin, religion or philosophical beliefs, political affiliation or opinions, genetic or biometric data, sexual orientation, or trade union membership; or other information that may expose, or pose a risk of harm to, an individual if improperly disclosed or used (collectively, "Sensitive Personal Data"). Except as expressly required by Autodesk (for example, a credit card number used to purchase a subscription), You will not upload or otherwise make available to Autodesk any Sensitive Personal Data, including any files containing Sensitive Personal Data, in connection with Your use of any Offering.

### **11.3 Acceptable Use of Offerings**

You will access and use (and permit access to and use of) Offerings only in compliance with the Acceptable Use Policy (<https://www.autodesk.com/company/terms-of-use/en/acceptable-use>) and all applicable laws.

---

## **12. Confidentiality**

You or Autodesk (as the "Disclosing Party") may disclose or make available Confidential Information to the other party (as the "Receiving Party") in connection with these Terms. The Receiving Party will use the same degree of care as to the Disclosing Party's Confidential Information that it uses to protect its own confidential information of like kind (but in no event less than reasonable care) and will (a) use the Confidential Information of the Disclosing Party only in connection with Offerings, and (b) except as otherwise authorized by the Disclosing Party in writing, limit access to the Confidential Information of the Disclosing Party to those of its employees, consultants, contractors, service providers, professional advisors and other individuals who need such access for purposes related to Offerings and who are subject to confidentiality obligations with the Receiving Party no less stringent than those in these Terms. The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by law to do so. The Receiving Party will give the Disclosing Party prior notice

of such compelled disclosure (to the extent legally permitted) and take reasonable steps to limit such disclosure. Autodesk may also disclose Your Confidential Information to comply with any governmental or regulatory body request (including subpoenas or court orders), as part of a legal proceeding involving Autodesk, or at Your request. If disclosure is made at Your request, You may be responsible for the costs of compiling and providing access to Your Confidential Information.

---

## 13. Autodesk Proprietary Rights

You acknowledge and agree that Autodesk and its licensors and suppliers will have ownership of and all rights with respect to (a) the Offerings, Documentation, APIs, and other information or material made available to You by Autodesk, including any copies of the foregoing, (b) any materials or other information based on, derived from, or otherwise using any of the foregoing (including Metrics), and (c) all rights under trade secrets, copyrights, trademarks, patents, and any other intellectual property or proprietary rights relating to any of the foregoing. The structure and organization, the underlying algorithms and other internals, the protocols, data structures and other externals, and the source code of the Offerings and the APIs constitute proprietary and confidential information of Autodesk, and You will not disclose such information to third parties, or use such information for any purpose other than as required for ordinary-course access to and use of the Offerings as set forth in these Terms, without Autodesk's prior written consent. You will not access or attempt to access the Offerings by any means other than the interface Autodesk provides or authorizes. You will not engage in any decompiling, disassembling, or other reverse engineering, or otherwise attempt to discover, learn, or study the structure or organization, underlying algorithms or other internals, protocols, data structures or other externals, or the source code of the Offerings or APIs, except as expressly permitted under applicable law notwithstanding a contractual prohibition to the contrary. Autodesk may make available or provide access to other confidential and proprietary information (either marked as such or understood to be such under the circumstances) to enable Your access or use of the Offerings, and any such information will be deemed to be Autodesk Confidential Information.

You have only the rights expressly granted to You under these Terms (including the Special Terms). All rights not expressly granted are reserved by Autodesk and its licensors and suppliers; Autodesk and its licensors and suppliers expressly disclaim (and You agree not to assert) any other rights.

You will not take any action, or authorize, encourage, or assist any third party to take any action, inconsistent with this Section 13.

---

## 14. Limited Warranty, Disclaimers, Limitations on Liability

### 14.1 Limited Warranty

Autodesk warrants that, for any paid subscription, as of the date on which the subscribed-for Offering is made available to You and for 90 days thereafter or, if the Offering Term is shorter, such shorter period ("Warranty Period"), the Offering will provide the general features and functions described in the end-user Documentation for the Offering. Autodesk's entire obligation and liability, and Your sole and exclusive remedy, for Autodesk's breach of this warranty will be for Autodesk, at its option, (a) to attempt reasonably to remedy the breach or (b) to refund the amounts received for the affected subscription and terminate such subscription. You will bring any warranty claim for any Offering

within its applicable Warranty Period, and any warranty claims You bring after such Warranty Period will be excluded.

## **14.2 Disclaimers**

EXCEPT FOR THE EXPRESS LIMITED WARRANTY SET FORTH IN SECTION 14.1 (LIMITED WARRANTY) ABOVE, AND ANY EXPRESS WARRANTIES SET FORTH AS SUCH IN ANY ADDITIONAL AGREEMENT OR SPECIAL TERMS, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, (a) THE OFFERINGS (INCLUDING ANY RELATED SOFTWARE, CLOUD SERVICE, DOCUMENTATION, APIS, OR OTHER MATERIALS) ARE PROVIDED “AS IS,” “WITH ALL FAULTS,” AND WITHOUT WARRANTY OR CONDITION OF ANY KIND AND (b) AUTODESK AND ITS LICENSORS AND SUPPLIERS MAKE, AND YOU RECEIVE, NO WARRANTIES, REPRESENTATIONS, CONDITIONS, OR COMMITMENTS OF ANY KIND, EXPRESS OR IMPLIED, ORAL OR WRITTEN, WITH RESPECT TO ANY OF THE OFFERINGS OR ANY OUTPUT, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, OR QUIET ENJOYMENT, ANY WARRANTIES OR CONDITIONS IMPLIED BY STATUTE, OR ANY WARRANTIES OR CONDITIONS BASED ON A COURSE OF DEALING, USAGE OF TRADE OR INDUSTRY STANDARDS. Any statements by Autodesk or its third-party agents, representatives, or service providers about the Offerings (including any statements about their functionality or performance) or Output, or other communications with You (including any insights, recommendations, guidance, assessments, projections, estimates or opinions), that are not contained in these Terms (including any Additional Agreement or Special Terms) are for information purposes only and do not constitute a warranty, representation, condition, or other commitment. Without limiting the generality of the foregoing, Autodesk and its licensors and suppliers do not warrant or otherwise commit that (i) the Offerings or Output, or Your access thereto or use thereof, will be available, uninterrupted, timely, error-free, secure, accurate, reliable, or complete, (ii) the Offerings will meet any particular performance, availability or service-level criteria, (iii) Your Content will not be lost or damaged, or (iv) errors or defects will be corrected or any particular support requests will be resolved to meet Your needs or expectations. Also, for clarity, (1) any reference to “unlimited” access, use, storage, or otherwise with respect to an Offering is subject to the technical limitations of the Offering, and (2) some Offerings or functionality may not be available in all locations (including the Territory) or languages.

## **14.3 Limitations on Liability**

NEITHER AUTODESK NOR ANY OF ITS LICENSORS OR SUPPLIERS WILL HAVE ANY LIABILITY (DIRECTLY OR INDIRECTLY) FOR ANY INCIDENTAL, SPECIAL, INDIRECT, CONSEQUENTIAL, OR PUNITIVE DAMAGES; LOSS OF PROFITS OR REVENUE; BUSINESS INTERRUPTION OR LOSS OF USE; COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES OR OTHER COVER; FAILURE OF, OR DEFECTS IN, THE OUTPUT; LOSS, CORRUPTION, OR DELETION OF (OR FAILURE TO DELETE) DATA OR YOUR CONTENT; OR DAMAGES RESULTING FROM FORCE MAJEURE. THE AGGREGATE LIABILITY OF AUTODESK AND ITS LICENSORS AND SUPPLIERS WITH RESPECT TO ANY OFFERING OR OUTPUT THEREOF WILL IN NO EVENT EXCEED THE GREATER OF (a) THE AMOUNT PAID OR PAYABLE BY YOU FOR THE OFFERING IN THE ONE-YEAR PERIOD BEFORE THE EVENTS OR CIRCUMSTANCES GIVING RISE TO THE LIABILITY FIRST OCCURRED, OR (b) US\$1000. YOU ACKNOWLEDGE AND AGREE THAT THE DISCLAIMERS AND LIMITATIONS OF LIABILITY IN THESE TERMS CONSTITUTE AN ESSENTIAL ELEMENT OF THE BARGAIN BETWEEN YOU AND AUTODESK, AND THAT AUTODESK WOULD NOT HAVE PROVIDED THE OFFERINGS TO YOU WITHOUT YOUR AGREEMENT TO EACH OF THESE TERMS. THE LIMITATIONS ON LIABILITY IN THESE TERMS WILL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW TO ANY DAMAGES OR OTHER LIABILITY, HOWEVER CAUSED AND REGARDLESS OF THE THEORY OF LIABILITY, WHETHER BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE AND

STRICT LIABILITY), INDEMNIFICATION, RECOURSE, STATUTE, OR OTHERWISE, AND EVEN IF AUTODESK HAS BEEN ADVISED OF THE POSSIBILITY OF THE LIABILITY OR THE LIABILITY IS OTHERWISE FORESEEABLE, AND REGARDLESS OF WHETHER THE LIMITED REMEDIES IN THESE TERMS FAIL OF THEIR ESSENTIAL PURPOSE.

NOTHING IN THESE TERMS RESTRICTS OR EXCLUDES AUTODESK'S LIABILITY FOR (i) DEATH OR PERSONAL INJURY CAUSED BY AUTODESK'S WILLFUL MISCONDUCT OR GROSS NEGLIGENCE, OR (ii) YOUR DAMAGES OR LOSSES CAUSED BY AUTODESK'S FRAUD. ALSO, AUTODESK DOES NOT SEEK TO LIMIT YOUR WARRANTIES, YOUR OTHER RIGHTS AND REMEDIES, OR THE LIABILITY OF AUTODESK FOR DAMAGES OR LOSSES TO THE EXTENT THE LIMITS ARE NOT PERMITTED BY APPLICABLE LAW (SUCH AS STATUTORY WARRANTIES, CONDITIONS, REMEDIES, OR LIABILITIES THAT CANNOT BE EXCLUDED BY APPLICABLE LAW). THESE TERMS GIVE YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY ALSO HAVE OTHER LEGAL RIGHTS, WHICH VARY FROM JURISDICTION TO JURISDICTION, INCLUDING LEGAL RIGHTS DESCRIBED IN SECTION 19 (COUNTRY/JURISDICTION-SPECIFIC TERMS) BELOW.

---

## 15. Indemnity

Subject to these Terms, Autodesk will defend You against any claim brought against You by a third party alleging that any Covered Offering infringes such third party's patent, copyright, trademark, or trade secret rights ("IP Claim"), and Autodesk will pay damages finally awarded against You (or any settlement amount agreed to in writing by Autodesk) as a result of the IP Claim, provided You (a) promptly notify Autodesk of the IP Claim, (b) give Autodesk sole control of the defense and settlement of the IP Claim, and (c) promptly provide Autodesk with any assistance and cooperation requested by Autodesk in connection with the defense and settlement. These defense and payment obligations do not apply if (i) the IP Claim arises from, or is based on, the use or combination of the Covered Offering with any software, hardware, data, material, or service not provided by Autodesk, (ii) the IP Claim covers any method or process not fully embodied in the Covered Offering, (iii) there is available an Update or Upgrade that avoids the infringement alleged in the IP Claim, or (iv) You have been in breach of these Terms. If Autodesk receives information about an infringement claim related to any Offering, Autodesk may, in its discretion, (1) modify or replace the Offering, (2) obtain a license for Your continued use of the Offering, and/or (3) terminate Your subscription for the Offering and refund any prepaid fees covering the remainder of the Offering Term of the terminated subscription. This Section 15 states Autodesk's sole obligations and Your exclusive remedy for any infringement of any third-party intellectual property rights.

---

## 16. Term, Termination, Suspension

These Terms become effective on the first date accepted in accordance with Section 1 (Acceptance) above and continue in effect indefinitely unless terminated in accordance with the provisions of these Terms, including this Section 16.

### 16.1 Your Right to Terminate

You may terminate Your subscriptions and these Terms if Autodesk is in material breach of these Terms and fails to cure such breach within 30 days after written notice of the breach.

## **16.2 Autodesk's Right to Terminate or Suspend a Subscription or Account**

Autodesk may terminate (or disable or suspend Your access to and use of) any or all of Your subscriptions or other Offerings, or terminate these Terms and Your account, if (a) You have no current paid subscriptions; (b) You have failed to timely pay any amounts (including fees and taxes) owing to Autodesk; (c) You (including any of Your Authorized Users) are otherwise in material breach of these Terms and fail to cure such breach within 30 days after written notice of the breach; or (d) You become subject to bankruptcy or insolvency proceedings, become insolvent, make an arrangement with or affecting Your creditors (including an assignment for the benefit of creditor) or commence a process of liquidation. These Terms will automatically terminate without further notice or action by Autodesk if You go into liquidation. Autodesk may also immediately disable or suspend Your access to and use of Offerings and Your Content if Autodesk believes in good faith that Your (or Your Authorized Users') conduct or failure to act, or Your Content, may (i) pose a security risk, constitute illegal activity, or otherwise adversely impact Offerings, systems, or other users, (ii) constitute or enable tampering with, removing, disabling or otherwise limiting the effectiveness of any technical protections, or (iii) subject Autodesk, or its suppliers, resellers, distributors, users, or any similar third parties, to liability.

## **16.3 Effect of Termination of Subscription**

Upon expiration or termination of a subscription or other Offering for any reason, Your rights with respect to that Offering, including any related Software license, Cloud Service access, and Benefits, will end. At that time, You will stop all access to and use of the Offering and uninstall any and all copies of materials related to such Offering (including any related Software, Documentation, APIs, or other material from Autodesk). In addition, at Autodesk's request, You will destroy any such copies or return them to Autodesk or the party from which You acquired the Offering. You will retain proof that You returned or destroyed all such copies. In connection with the expiration or termination of a subscription, (a) as a convenience to You for some Cloud Services, Autodesk may provide You with a brief period (for example, 30 days) in which You may retrieve Your Content after expiration or termination of the Cloud Services, if You are in compliance with these Terms and pay the applicable fees, if any (for example, Autodesk's then-current professional services fees for any assistance Autodesk provides), and (b) otherwise, Autodesk may delete, without notice, any or all of Your Content, including backup and other copies thereof.

## **16.4 Effect of Termination of Terms or Account**

Upon any termination of these Terms for any reason, (a) Your account and Your subscriptions and other Offerings, including those of Your Authorized Users, will immediately terminate, and (b) the effects described above with respect to expiration or termination of a subscription or other Offering will apply to all subscriptions and other Offerings attached to Your account. Your payment obligations, Your responsibility for anyone who obtains, accesses, or uses Offerings through You or Your account (including Your Authorized Users) (including the responsibility described in Section 4 (Your Account)), and the following sections of these General Terms will survive termination for any reason: Section 5 (You Own Your Work); Section 8.3 (Autodesk APIs); Section 8.4 (Use of Third-Party Material and Services); Section 8.5 (Use of Your Content); Section 8.6 (Collaboration and Sharing of Your Content); Section 10 (Feedback); Section 11 (Limitations on Use); Section 12 (Confidentiality); Section 13 (Autodesk Proprietary Rights); Section 14.2 (Disclaimers); Section 14.3 (Limitations on Liability); Section 16.3 (Effect of Termination of Subscription); this Section 16.4; Section 17 (Miscellaneous), including Section 17.4 (Autodesk Party, Governing Law, Dispute Resolution); Section 18 (Definitions); and Section 19 (Country/Jurisdiction-Specific Terms).

## 17. Miscellaneous

### 17.1 Changes to the Offerings

Autodesk reserves the right from time to time to (a) modify, discontinue, or substitute an Offering (including any Benefits, features, functionality, or supporting services related to the Offering), or (b) add or modify license keys, authorizations or other means of controlling or measuring access to or use of the Offerings. Autodesk will endeavor to notify You of any major changes to an Offering in the applicable release notes or other Documentation for the Offering.

### 17.2 Changes to Terms

To the maximum extent permitted by applicable law, Autodesk reserves the right from time to time to (and You acknowledge that Autodesk may) modify these Terms. Autodesk will endeavor to notify You of any changes to these Terms (“Terms Modification Notice”), including by posting to this site. It is your responsibility to regularly check this site for updates, including Terms Modification Notices. Except as otherwise expressly set forth in these Terms, if any modification to the Terms has a material adverse effect on You and You do not agree to the modification, You may reject the modification by notifying Autodesk of the rejection within 30 days of the Terms Modification Notice. If You reject a modification under these circumstances, (a) Your access to and use of any Offerings affected by the modification will continue to be governed by the terms in effect immediately before the modification (except to the extent the modification was made for security, privacy, or legal compliance reasons, in which case the modification will be effective immediately) until the earlier of (i) the end of the applicable Offering Term, or (ii) 180 days after the Terms Modification Notice; and (b) Your rights to such Offerings, including any related subscription Benefits, will then terminate. In the event of such a termination by You, Autodesk (or the party from whom You purchased Your subscription) will refund the prorated portion of any prepaid fees applicable to the remaining Offering Term of Your subscription for the affected Offerings after the effective date of termination. In any event, if any subscription is renewed or extended, it will be under the then-current Terms. Notices by You or Autodesk will be provided as set forth below, except that You may also provide Your notice of rejection via email (within the 30-day period described above) to the following email address [Terms.Modification.Rejection@autodesk.com](mailto:Terms.Modification.Rejection@autodesk.com) (<mailto:Terms.Modification.Rejection@autodesk.com>), or in any other manner specified in the Terms Modification Notice.

Notwithstanding the forgoing, if the Special Terms, Offering Types and Benefits, or other policies include different terms or procedures for modification thereof, modification may, at Autodesk’s option, be handled as described therein.

You acknowledge that Your commitments with respect to the Offerings and subscription Benefits are not contingent on delivery of future features or functionality (or oral or written statements about future features or functionality).

### 17.3 Language of Terms, Interpretation

The English language version of these Terms will be the version used when interpreting or construing these Terms, and any notices or other communications in connection with these Terms will be provided in the English language. Any reference in these Terms to “days” are to calendar days unless otherwise specified. The words “including” and “for example” or “e.g.,” and words of similar import, are not limiting or exclusive and will be deemed followed by “without limitation,” whether or not such language is included. Section and other headings are for ease of reference only and are not to be used to interpret the meaning of any provision. Any rights and remedies provided for in these Terms are



cumulative and are in addition to, and not in lieu of, any other rights and remedies available under applicable law.

#### 17.4 Autodesk Party, Governing Law, Dispute Resolution

##### (a) General

Depending on where Your principal place of business is (or, if You are an individual, where You are resident), these Terms are between You and the Autodesk Party set out below. The governing law for these Terms, including any rights, obligations and claims of the parties, will be as specified below. Similarly, any dispute or claim arising out of or relating to these Terms, including the breach, performance, termination, enforcement, interpretation, or validity of these Terms (and whether under contract, tort, including strict liability, competition law, or otherwise), and including the determination of the scope or applicability of the dispute resolution provisions of these Terms, will be finally determined under the law, in the location and by the dispute resolution process specified below (except as may be specified in Section 19 (Country/Jurisdiction-Specific Terms) below.

Your principal place of business (or, if You are an individual, the place of Your residency)	References to “Autodesk Party” means the following Autodesk entity:	Governing law is:	Exclusive jurisdiction/forum for dispute resolution:
United States and Canada	Autodesk, Inc., a Delaware corporation	(i) State of California, and (ii) to the extent controlling, federal laws of the United States	Arbitration administered by ADR Services, Inc. (“ADR Services”), pursuant to Section 17.4(b) below and (to the extent not inconsistent with such section) in accordance with the arbitration rules of ADR Services as in effect when the notice of arbitration is submitted. The seat of the arbitration will be San Francisco.
Mainland China, Hong Kong, and Macau	Autodesk, Inc., a Delaware corporation	Singapore	Arbitration administered by the Singapore International Arbitration Centre (“SIAC”) in accordance with the Arbitration Rules of the SIAC as in effect when the notice of arbitration is submitted. The



			seat of the arbitration will be Singapore.
Australia	Autodesk, Inc., a Delaware corporation	(i) State of New South Wales, and (ii) to the extent controlling, federal laws of Australia	Courts of New South Wales
Asia, Oceania, and the Asia-Pacific region, other than Mainland China, Hong Kong, Macau and Australia	Autodesk, Inc., a Delaware corporation	Singapore	Courts of Singapore
Europe, the Middle East, and Africa	Autodesk Ireland Operations Unlimited Company, an Irish company	Ireland	Courts of Ireland
Worldwide (unless in a country or region described above), including Mexico, South America, Central America, Caribbean region, and Antarctica	Autodesk, Inc., a Delaware corporation	(i) State of California, and (ii) to the extent controlling, federal laws of the United States	(i) United States District Court for the Northern District of California in San Francisco, or (ii) courts of the State of California, County of San Francisco.

(b) Binding Arbitration and Dispute Resolution for United States and Canada

If Your principal place of business (or, if You are an individual, Your residence) is in the United States or Canada, the following informal dispute resolution and binding arbitration provisions apply to You:

(i) Informal Dispute Resolution and Binding Arbitration

Autodesk seeks to resolve any claim or dispute (“Claim”) informally. If You or Autodesk have a Claim arising out of or relating to an Offering or these Terms, You and Autodesk will first seek to resolve the Claim informally by providing notice of the Claim in the manner described below for Notices and cooperating with the other party to try to address the matter amicably. If the Claim is not resolved through informal dispute resolution within 30 days after receipt of the notice of a Claim, either party may proceed with formal dispute resolution.

You and Autodesk agree to binding individual arbitration of any Claim arising out of or relating to an Offering or these Terms and waive any right to go to court and have a trial in front of a judge or jury. The United States Federal Arbitration Act, including its procedural provisions, and not state law, governs the interpretation and enforcement of this dispute-resolution provision. Arbitration will be conducted by ADR Services pursuant to its rules and as set forth in this Section 17.4. To commence arbitration, a party must send a written demand for arbitration that describes the Claim and request for relief with the details required by the ADR Services rules (“Demand”). Any Demand from You to Autodesk must be sent to Autodesk, Inc., The Landmark @ One Market, Suite 400, San Francisco, California 94105 USA, Attention: Chief Legal Officer. Any Demand from Autodesk to You must be sent to the address You provided during the informal dispute-resolution process described above or, if no address was provided, sent as described in Section 17.11 (Notices) below.

(ii) Fees for Binding Arbitration

Payment of all arbitrator fees will be governed by the ADR Services rules, except to the extent that any fees (including attorneys’ fees) and costs paid by either party are reallocated upon order of the arbitrator following a determination that (1) You or Autodesk breached any of the provisions of this Section 17.4, (2) the substance of Your or Autodesk’s Claim or the relief sought by You or Autodesk was frivolous or brought for an improper purpose, or (3) reallocation is otherwise permitted under applicable law. If Autodesk brings a Claim against You, Autodesk will pay all ADR Services fees associated with the Claim. If You bring a Claim against Autodesk, You and Autodesk will split those fees evenly. Further, if the arbitrator determines that You are unable to pay any part of those ADR Services fees, Autodesk will pay them for You.

(iii) Mass Filings

If You bring a Claim against Autodesk that is similar to the Claims of at least 24 other customers or users, or if You and at least 24 other customers or users with Claims against Autodesk are represented by the same lawyers or by lawyers who are coordinating with each other (in either case, a “Mass Filing”), you and Autodesk agree to the following protocol:

ADR Services will randomly assign sequential numbers to each of the Claims included in a Mass Filing, after which the Claims numbered 1-10 will be designated the “Initial Test Cases” and will proceed to arbitration. The filing fees will be paid only for the Initial Test Cases; for all other Claims, the filing fees (together with any arbitrator consideration of the other Claims) will be held in abeyance, and neither You nor Autodesk will be required to pay any such filing fees. The arbitrator will render a final award for the Initial Test Cases within 180 days after the initial pre-hearing conference, unless such period is extended by the arbitrator. Thereafter, the results of the Initial Test Cases will be given to a mediator,

and such mediator and the parties will have 90 days from the mediator's appointment (the "Mediation Period") to agree on a resolution or substantive methodology for resolving the remaining Claims. If the parties are unable to resolve the remaining Claims during the Mediation Period, either party may choose to opt out of the binding arbitration process and proceed in court with the remaining Claims. Notice of any opt-out must be provided in writing within 60 days after the close of the Mediation Period. Absent notice of an opt-out, the remaining Claims will be arbitrated individually in the order determined by the sequential numbers assigned to the Claims in the Mass Filing. Filing fees for each Claim will be due upon commencement of the arbitration of such Claim.

(iv) Determination of Arbitrability, Enforcement of Rights

The arbitrator will have the right to determine the arbitrability of any Claim.

Notwithstanding the foregoing arbitration provision, each party may enforce its, or its licensors', patent, copyright, or trademark rights in any court of competent jurisdiction.

(c) Waiver of Class or Consolidated Actions

All Claims arising out of, or relating to, an Offering or these Terms must be arbitrated or litigated on an individual basis and not on a class basis. Claims of more than one customer or user cannot be arbitrated or litigated jointly or consolidated with those of any other customer or user.

(d) Injunctive and Other Equitable Relief

Notwithstanding any other provisions of these Terms, if a Claim is subject to resolution in the specified court or courts under Section 17.4(a) (General) above, Autodesk may apply for injunctive relief and other equitable remedies (or their equivalent) in any jurisdiction or forum, including any available court. If a Claim is subject to arbitration, either party may apply to a court of competent jurisdiction for interim measures necessary to preserve the parties' rights, including pre-arbitration attachments or injunctions, and any such request will not be deemed incompatible with, or a waiver of, the agreement to arbitrate.

## **17.5 Force Majeure**

Neither party will be responsible or have any liability for any delay or failure to perform to the extent due to unforeseen circumstances or causes beyond its reasonable control, including acts of God, earthquake, fire, pandemic, flood, sanctions, embargoes, strikes, lockouts or other labor disturbances, civil unrest, unavailability or delay of suppliers or licensors, riots, terrorist or other malicious or criminal acts, war, failure or interruption of the internet or third party internet connections or infrastructure, power failures, acts or orders of civil and government authorities and severe weather ("Force Majeure"). The affected party will give the other party prompt written notice (when possible) of the failure to perform and use its reasonable efforts to limit the resulting delay in its performance.

## **17.6 Export**

When You obtain, access or use an Offering, You will comply with the export control and international trade laws and regulations of the United States and of any other country whose laws apply to You or Your Content. You will not access or use any Offering from within a U.S. sanctioned location or if You appear on any U.S. government restricted parties list. You will obtain U.S. government and any other required authorization before You obtain, access or use, or allow any person or entity to obtain, access or use, any Offering for a U.S.-restricted end use. Restricted end uses include work on nuclear, chemical or biological weapons or on missile systems capable of delivering them. You may not upload or otherwise provide Autodesk with any content or materials (including Your Content) that constitute

classified information or that are subject to the International Traffic in Arms Regulations (“ITAR”) or its foreign counterparts. You may not upload or otherwise provide Autodesk with any content or materials that cannot legally be transferred from Your location to the United States or from the United States to Your location. You are solely responsible for compliance with all export control requirements applicable to Your Content and You may not use any Offering to make Your Content or any other content or materials available to any country, entity or other party that cannot legally receive them under U.S. and other applicable law. Autodesk reserves the right to suspend or terminate Your Offerings for failure to comply with requests for additional export control related assurances or if Autodesk determines in its sole discretion that sanctions and/or export control related laws and regulations restrict the provision of products, services and/or other financial benefit.

## **17.7 Government**

This Section 17.7 applies if You are a United States federal or other Governmental Entity. The Offerings are “commercial computer software” as defined at 48 C.F.R. § 2.101 and 48 C.F.R. § 252.227-7014(a)(1) and as the term is used in 48 C.F.R. §§ 12.212 and 227.7202, and, where services, are “commercial services” as defined in 48 C.F.R. § 2.101. The Offerings and related Documentation are provided to You and your Authorized Users, for use by You or on Your behalf, subject to these Terms and with only those rights as are granted to all other Autodesk customers and their Authorized Users pursuant to these Terms. These Terms apply to Governmental Entity customers and Authorized Users except to the limited extent You are prohibited by the laws of Your jurisdiction from accepting any provisions of these Terms. If and to the extent any provision of these Terms is so prohibited, such provision will be deemed modified only to the extent reasonably necessary to conform to applicable law but to give maximum effect to the provision as written.

## **17.8 Verification of Compliance**

Autodesk reserves the right to verify Your compliance with these Terms and may, at its discretion, do so by providing you with a report regarding Your noncompliant use of Offerings and/or by conducting a remote or on-site audit (any such action, a “Verification”).

If a remote or on-site audit is required, Autodesk or its representative will provide You electronic written notification. You must use an Autodesk-approved tool to gather information from all devices accessing Your Offerings and obtain any necessary access and consent from Your Authorized Users. Within 15 calendar days of audit notification, You must submit Your audit results to the notifying party. Audit results must include machine IDs, serial numbers, Autodesk IDs, NT/Windows username, device ID and other information relating to Your Offerings.

If, through a Verification, Autodesk determines You are in violation of these Terms, You must immediately purchase new Offerings at least equal to the total of the value of the identified noncompliance and Autodesk’s reasonable costs to complete the Verification.

Failure to comply with this Section 17.8 is a material breach of these Terms. Autodesk reserves the right to suspend and/or terminate Your access to Offerings as set forth in Section 16.2 (Autodesk’s Right to Terminate or Suspend a Subscription or Account) above, as well as to seek any other remedies available at law or in equity as set forth in Section 17.4 (Autodesk Party, Governing Law, Dispute Resolution) above.

## **17.9 Assignment**

You may not assign or otherwise transfer these Terms or Your rights or obligations under these Terms (whether by operation of law or otherwise) without Autodesk’s prior written consent, and Autodesk

may terminate these Terms (including Your rights under these Terms) if You are acquired by, or come to be controlled by, any other person or entity (whether by acquisition of shares, merger, or other transaction) without such written consent of Autodesk. Autodesk may assign or otherwise transfer these Terms (without Your consent or notice to You) as part of a reorganization, merger, sale of assets or other transaction that involves all or a portion of the Offerings or related business.

#### **17.10 Severability**

If and to the extent any provision of these Terms is held unenforceable under applicable law, (a) such provision will be deemed modified to the extent reasonably necessary to conform to applicable law but to give maximum effect to the intent of the parties set forth in these Terms, and (b) such provision will be ineffective only as to the jurisdiction in which it is held unenforceable without affecting enforceability in any other jurisdiction.

#### **17.11 Notices**

Any notices by You to Autodesk will be sent by postal mail or delivery service to Autodesk, Inc., The Landmark @ One Market, Ste. 400, San Francisco, CA 94105 USA, Attention: Chief Legal Officer. Such notices will be effective when received by Autodesk.

Except as otherwise expressly stated in these Terms (including any Additional Agreement or Special Terms), any notices by Autodesk to You will be provided (a) by email to the registered email address associated with Your account, (b) by posting to Your account, (c) by posting within an Offering (for example, through an in-Offering notification function or sign-in notification), (d) by postal mail or delivery service to the address associated with Your account, or (e) in any other manner deemed reasonable by Autodesk that involves specific notification to You. Notices from Autodesk to You will, (i) in the case of notices by email, be effective one day after being sent and (ii) in the case of other notices, five days after being posted or sent. You hereby agree to service of process being effected on You by registered mail sent to the address set forth on Your Customer Information Form (or, if no Customer Information Form has been provided, Your last address known by Autodesk) if so permitted by applicable law.

#### **17.12 Entire Agreement, No Waiver**

These Terms, including any Additional Agreement and any Special Terms (which are incorporated by reference in these Terms), constitute the entire agreement between You and Autodesk (and merge and supersede any prior or contemporaneous agreements, discussions, communications, representations, warranties, advertising or understandings) with respect to the subject matter hereof. Any access to or use of an Offering is expressly conditioned on the application of these Terms, and any other terms are expressly rejected.

If there is any conflict between these General Terms and any Special Terms, the Special Terms will control in relation to their subject matter. If there is any conflict between these General Terms or the Special Terms and the Additional Agreement, the Additional Agreement will control in relation to its subject matter to the extent set forth in the Additional Agreement.

Failure to enforce or exercise any provision of these Terms is not a waiver of such provision, unless such waiver is specified in writing and signed by the party against which the waiver is asserted.

#### **17.13 DMCA**

The Digital Millennium Copyright Act of 1998 (the “DMCA”) provides recourse for copyright owners who believe that material appearing on the internet infringes their rights under U.S. copyright law. If

You believe in good faith that materials made available by or through Autodesk infringe Your copyright, You (or Your agent) may send Autodesk a notice requesting that Autodesk remove the material or block access to it. If You believe in good faith that someone has wrongly filed a notice of copyright infringement against You, the DMCA permits You to send Autodesk a counter-notice. Notices and counter-notices are required to meet the then-current statutory requirements imposed by the DMCA. See <http://www.copyright.gov/> (<http://www.copyright.gov/>) for details. Notices and counter-notices should be sent to:

Copyright Agent  
Autodesk, Inc.

The Landmark @  
One Market, Ste. 400  
San Francisco, CA 94105  
USA

E-mail: [copyright.agent@autodesk.com](mailto:copyright.agent@autodesk.com)  
(<mailto:copyright.agent@autodesk.com>) Tel: +1 (415) 507.5000  
Fax: + 1 (415) 507.6128

Autodesk suggests that You consult Your legal advisor before filing a notice or counter-notice.

---

## 18. Definitions

“**Additional Agreement**” means any agreement signed directly with an Autodesk entity that expressly supplements or amends the Terms (for example, an enterprise business agreement).

“**Authorized Users**” or “**Your Authorized Users**” means (a) You (if You are an individual) and (b) identified individuals (such as Your individual employees, consultants and contractors and other individuals accessing and using an Offering) for whom You have acquired a subscription to an Offering. If an Offering allows You to designate Authorized Users for such Offering, You will be responsible for providing notice to, and obtaining agreement from, any such Authorized Users regarding the application of these Terms to their access to and use of such Offering prior to their access and use.

“**Autodesk**” means Autodesk, Inc., a Delaware (United States) corporation, together with its subsidiaries and other affiliates.

“**Autodesk Party**” means the particular Autodesk entity identified in Section 17.4 (Autodesk Party, Governing Law, Dispute Resolution) above.

“**Benefits**” means any benefits made available to You or Your Authorized Users by Autodesk. Benefits are typically based on the type or level of Offering for which You subscribe. Benefits may include access to Updates and Upgrades, rights to previous versions, additional Software or Cloud Services, pre-release versions, APIs, global use rights, technical support, training, webinars, forums, events, galleries, newsletters and usage data. Benefits may also include account benefits such as single sign-on and management of Your profile, security settings, linked accounts and preferences.

“**Cloud Service**” means a web- or cloud-based service made available by Autodesk, whether or not provided as part of a subscription and whether or not provided for a fee. Cloud Services may include software as a service (SaaS) and remote storage or processing of data.

**“Confidential Information”** means information not generally known to the public that is (a) made available or disclosed by a Disclosing Party to a Receiving Party in writing and (b) designated by the Disclosing Party in writing as Confidential. Nonetheless, Confidential Information does not include (i) any information that (1) becomes generally known to the public without breach of any obligation owed to the Disclosing Party; (2) was known to the Receiving Party before receipt from the Disclosing Party without breach of any obligation (and without a duty of confidentiality) owed to the Disclosing Party; (3) is received from a third party without breach of any obligation (and without a duty of confidentiality) owed to the Disclosing Party; or (4) was independently developed by the Receiving Party; ii) any of Your Content that You send to, or allow to be accessed by, a third party through an Offering; or (iii) any Feedback. Autodesk Confidential Information in any event includes the non-public aspects of (A) any Offerings and any related product plans, technology and other technical information (including APIs and any elements of your development using, disclosing or based on use of the APIs) and (B) business negotiations.

**“Covered Offering”** means any Offering for which you have paid Autodesk a subscription fee of more than US\$100 in the previous 12 months, excluding any Offering that has been modified by You or at your direction, and excluding any Third-Party Material/Services.

**“Customer Information Form”** means a form completed by or on behalf of You and submitted to Autodesk (or to a reseller, distributor, or other third party), directly or indirectly, in connection with Your account, a subscription or other Offering.

**“Documentation”** means the then-current end-user documentation (including online, printed, or other documentation) and any technical or legal requirements for an Offering.

**“Governmental Entity”** means any nation or government, including the United States federal government, any state, municipality, or other political subdivision thereof, and any entity, body, agency, commission, department, board, bureau, or judicial body pertaining to government, and any employee or official thereof.

**“Metrics”** means data and other information regarding access to and use of any Offerings (including Your access and use). Metrics includes information regarding usage of features, functions, storage and indexes and information regarding usage, volume, type, storage and processing of Your Content (but not Your Content itself). If Metrics includes any personal data, treatment of such personal data will be pursuant to the Privacy Statement (<https://www.autodesk.com/company/legal-notices-trademarks/privacy-statement>).

**“Offerings”** means Software, Cloud Services, and Benefits provided by Autodesk, and any subscriptions for such items.

**“Offering Identification”** means one or more designations by Autodesk that set forth (as applicable) the name of an Offering; the Offering Type; and the permitted number, Territory, and length of Your subscription. The Offering Identification may be (a) provided in a written confirmation or other notice issued to You by Autodesk, posted to Your account, transmitted via email, or otherwise made available to You; (b) located in the Offering or on or with any Autodesk packaging; or (c) obtained from Autodesk on request. Offering Identification does not include any designation, confirmation, packaging or other document provided by a reseller, distributor, or other third party.

**“Offering Type”** means the license type specified by Autodesk for a subscription (for example, single-user, multi-user, or Flex). Offering Types are set forth on Offering Types and Benefits (<https://www.autodesk.com/company/terms-of-use/en/offering-types-and-benefits>).



**“Output”** means all results, work product, designs, prototypes or other items created or generated by or through any use of any Offering, including any products, parts or services based on or using such results, work product, designs, prototypes, or other items.

**“Software”** means any software or similar materials, including any modules, components, features and functions, made available by Autodesk, whether or not provided as part of a subscription and whether or not provided for a fee. Software includes Updates and Upgrades.

**“Terms”** (including “these Terms”) means these General Terms and the other terms referenced in these General Terms, including the Special Terms and Additional Agreement (if any), together with any other applicable terms.

**“Territory”** means the country or jurisdiction where You acquired Your subscription. Autodesk may indicate the applicable Territory in an Offering Identification. For additional information regarding the definition of Territory see Section 19 (Country/Jurisdiction-Specific Terms) below.

**“Updates”** means security fixes, hot fixes, patches and other updates (including new features, new functions and other modifications released between Upgrades).

**“Upgrades”** means new versions of Offerings, or add-ons to or additional products associated with Offerings, as determined by Autodesk.

**“Your Content”** means (a) any files, designs, models, data sets, images, documents, or similar material submitted or uploaded to any Offering by You (or Your Authorized Users) and (b) Your specific output generated from the use of any Offering based on Your own raw data or information.

---

## 19. Country/Jurisdiction-Specific Terms

Notwithstanding the other provisions of these Terms, if Your principal place of business is in (or, if You are an individual, You are a resident of) a country or jurisdiction identified below, the terms set forth below for such country or jurisdiction will apply to You:

### 19.1 United Kingdom; Member States of the European Union and European Economic Area

(a) If You acquired Your subscription in a Member State of the European Union or the European Free Trade Association, the applicable “Territory” for such subscription is all the countries of the European Union and the European Free Trade Association.

(b) If Your principal place of business is in (or, if You are an individual, You are resident of) a Member State of the European Union or the European Economic Area and there are any court proceedings in a Member State between You and a third party relating to the use of an Offering, (i) You will inform Autodesk promptly in writing of such court proceedings, and (ii) You will not serve Autodesk with a third party notice regarding such proceedings unless Autodesk requests in writing that You do so.

(c) Nothing in these Terms will exclude or restrict (i) Autodesk’s liability for death or personal injury caused by Autodesk’s negligence or willful misconduct, (ii) other damages caused to You by Autodesk’s fraud, willful misconduct or gross negligence, (iii) if applicable, Autodesk’s strict liability for defects of products under applicable statutory law of a Member State of the European Union or the European Economic Area (e.g., the German Product Liability Act), or (iv) any other liability that cannot be excluded or restricted under applicable law.

(d) The following provisions apply if You are contracting with Autodesk Ireland Operations Unlimited Company (“Autodesk Ireland”) as a consumer and are a resident of either the United Kingdom or a country that is a Member State of the European Union or the European Economic Area. These provisions will control in case of a conflict with other provisions of these Terms.

(i) Governing Law and Jurisdiction. If you are a consumer resident of the United Kingdom, these Terms are governed by English law. If you are a consumer resident of a country that is a Member State of the European Union or European Economic Area, these Terms are governed by Irish law. Nothing in these Terms will deprive You of the protections granted to You by the law of the country where you reside that cannot be derogated from by contract pursuant to the law of such country. Autodesk Ireland may bring a claim with respect to an Offering against You only in the courts of the country where You reside, and You have the right to bring a claim with respect to an Offering against Autodesk Ireland either in the courts of Ireland or in the courts of the country where You reside. In any case, You and Autodesk Ireland have the right to bring a counterclaim in the court in which, in accordance with this provision, the original claim is pending.

(ii) Assignment. If Autodesk assigns or otherwise transfers these Terms, Autodesk will notify you of such transfer in advance and ensure that such transfer does not prejudice Your rights under these Terms. You may terminate these Terms (including any subscriptions hereunder) within thirty (30) days of receipt of such notice of transfer, and, if a resident of the United Kingdom, receive a refund for the prorated portion of any prepaid fees applicable to the remaining Offering Term of Your affected subscriptions. If You wish to assign or otherwise transfer these Terms (and your rights and obligations under these Terms) to another entity, You must deliver written notice to Autodesk requesting consent to such transfer. Autodesk’s consent to such transfer is subject to (1) Your demonstration that the transferee will comply with these Terms, (2) Your agreement to remain responsible for the transferee’s compliance, (3) Your agreement to no longer access or use any Offerings subject to these Terms, and (4) any other conditions deemed reasonable by Autodesk.

(iii) Changes to Terms. If Autodesk modifies any of these Terms (whether needed to comply with applicable law or regulation, or for justified commercial, technical, security or operational reasons), Autodesk will provide reasonable notice of such modifications to You in advance of their effective date.

(1) If You are a consumer resident of a Member State of the European Union or the European Economic Area, You may reject any such modifications (except those required by law or regulation) by providing notice of rejection via email (within 30 days of the effective date) to the following email address [Terms.Modification.Rejection@autodesk.com](mailto:Terms.Modification.Rejection@autodesk.com) (<mailto:Terms.Modification.Rejection@autodesk.com>), or in any other manner, specified in the notice of modification. If you do not provide notice of rejection within such time period, You are deemed to have consented to any noticed modifications, unless Your explicit consent is required under the laws applying to You.

(2) If You are a consumer resident of the United Kingdom and do not agree with such modifications, You may terminate these Terms before the noticed effective date and receive a refund for the prorated portion of any prepaid fees applicable to the remaining Offering Term of Your affected subscriptions.

(iv) Changes to Offerings. You acknowledge that Autodesk may change (including suspend or withdraw) Offerings to which You have subscribed from time to time, including when needed to comply with applicable law or regulation, for justified commercial, technical, security, or operational reasons, or to make any improvements to Your access to and use of the Offerings. For existing

subscriptions, any such changes will be made without additional cost to You, and Autodesk will provide reasonable advanced notice of any such changes, in a clear and comprehensible manner, where required under applicable law. If You do not agree with such changes, You may terminate your subscription to the changed Offering within 30 days of the later of (1) Your receipt of the notice of Offering change or (2) the effective date of the change, and You will receive a pro-rata refund for the unused Offering Term.

(v) Liability of Autodesk. Notwithstanding Section 14.3 (Limitations on Liability) above and Section 17.12 (Entire Agreement, No Waiver) above, such sections will not exclude Autodesk's liability to You for: (1) misrepresentations in voluntary statements about an Offering made by Autodesk to You that You rely on in purchasing the Offering; (2) failure to provide pre-contract information regarding an Offering that Autodesk is required by the law of the country where You reside to provide to You before purchasing the Offering; (3) if applicable, Autodesk's breach of implied terms that cannot be excluded or restricted under English law (including implied terms relating to satisfactory quality of, fitness for a particular purpose of, conformance to pre-contractual information relating to, or Autodesk's right to supply, digital content); or (4) if applicable, consequential or indirect losses that cannot be excluded or restricted under English law.

(vi) Statutory Warranties. You may have statutory warranty rights under the law applying to You that cannot be excluded or restricted by agreement between You and Autodesk in advance. Such warranty rights will remain unaffected by these Terms. Autodesk offers or makes no further implied or statutory warranties or conditions regarding the Offerings, and explicitly disclaims all implied warranties and conditions to the maximum extent permitted by applicable law.

(vii) Consumer Right of Withdrawal. Under applicable law, consumer residents of a Member State of the European Union or the European Economic Area have a statutory right to withdraw from their subscription to an Offering within 14 days of its purchase. How this right may apply is explained in Consumer Right of Withdrawal Information (<https://damassets.autodesk.net/content/dam/autodesk/www/company/terms-of-use/EU-and-EEA-Consumer-Right.pdf>). Please note that Your more favorable rights of return for refund that Autodesk voluntarily grants You under Section 3 (Return for Refund) above are not affected by this statutory right of withdrawal.

(e) Contact Us. You may contact Autodesk Ireland by calling +353 1 571 8800, emailing [Autodesk.Ireland.Inquiries@autodesk.com](mailto:Autodesk.Ireland.Inquiries@autodesk.com) (<mailto:Autodesk.Ireland.Inquiries@autodesk.com>), or writing to Autodesk Ireland Operations Unlimited Company, 1 Windmill Lane, 2nd Floor, Dublin, Ireland D02 F206.

(f) In addition, notwithstanding any limitations on Territory in these Terms, these Terms do not limit cross-border access or use (such as access or use in one Member State of the European Union of Offerings purchased in another Member State of the European Union) that is expressly authorized by applicable law.

## **19.2 Australia (updated as at 1 September 2024)**

These Terms form a contract between You and the Autodesk Party set out in Section 17.4 (Autodesk Party, Governing Law, Dispute Resolution) above which governs Your access to, and use of, Offerings. However, You may have Additional Agreements with local Autodesk affiliates, subsidiaries, or their resellers, distributors, or similar third parties for the purchase of those Offering(s). The following provisions apply to such purchases by Australian consumers:

For the purpose of this provision, Australian Consumer Law means The Australian Consumer Law as embodied in Schedule 2 to the Competition and Consumer Act 2010 (Cth). Nothing in these Terms are intended to exclude any non-excludable statutory rights you may be entitled to at law, including as a consumer under Australian Consumer Law.

(a) **Assignment.** If Autodesk assigns or otherwise transfers these Terms, Autodesk will notify you of such transfer in advance and ensure that such transfer does not prejudice Your rights under these Terms. You may terminate these Terms (including any subscriptions hereunder) within thirty (30) days of receipt of such notice of transfer, and, if a resident of Australia, receive a refund for the prorated portion of any prepaid fees applicable to the remaining Offering Term of Your affected subscriptions. If You wish to assign or otherwise transfer these Terms (and your rights and obligations under these Terms) to another entity, You must deliver written notice to Autodesk requesting consent to such transfer. Autodesk's consent to such transfer is subject to (1) Your demonstration that the transferee will comply with these Terms, (2) Your agreement to remain responsible for the transferee's compliance, (3) Your agreement to no longer access or use any Offerings subject to these Terms, and (4) any other conditions deemed reasonable by Autodesk.

(b) **Changes to Terms.** If Autodesk modifies any of these Terms (whether needed to comply with applicable law or regulation, or for justified commercial, technical, security or operational reasons), Autodesk will provide reasonable notice of such modifications to You in advance of their effective date.

i You may reject any such modifications (except those required by law or regulation) by providing notice of rejection via email (within 30 days of the effective date) to the following email address [Terms.Modification.Rejection@autodesk.com](mailto:Terms.Modification.Rejection@autodesk.com) (<mailto:Terms.Modification.Rejection@autodesk.com>), or in any other manner, specified in the notice of modification. If you do not provide notice of rejection within such time period, You are deemed to have consented to any noticed modifications, unless Your explicit consent is required under the laws applying to You.

ii If You do not agree with such modifications, You may terminate these Terms before the notice effective date and receive a refund for the prorated portion of any prepaid fees applicable to the remaining Offering Term of Your affected subscriptions.

(c) **Changes to Offerings.** You acknowledge that Autodesk may change (including suspend or withdraw) Offerings to which You have subscribed from time to time, including when needed to comply with applicable law or regulation, for justified commercial, technical, security, or operational reasons, or to make any improvements to Your access to and use of the Offerings. For existing subscriptions, any such changes will be made without additional cost to You, and Autodesk will provide reasonable advance notice of any such changes, in a clear and comprehensible manner, where required under applicable law. If You do not agree with such changes, You may terminate your subscription to the changed Offering within 30 days of the later of (1) Your receipt of the notice of Offering change or (2) the effective date of the change, and You will receive a pro-rata refund for the unused Offering Term.

(d) **Liability of Autodesk.** Notwithstanding Section 14.3 (Limitations on Liability) above and Section 17.12 (Entire Agreement, No Waiver) above, such sections will not exclude Autodesk's liability to You for: (1) misrepresentations in voluntary statements about an Offering made by Autodesk to You that You rely on in purchasing the Offering; (2) failure to provide pre-contract information regarding an Offering that Autodesk is required by the law of the country where You reside to provide to You

before purchasing the Offering; (3) if applicable, Autodesk's breach of implied terms that cannot be excluded or restricted under applicable law (including implied terms relating to satisfactory quality of, fitness for a particular purpose of, conformance to pre-contractual information relating to, or Autodesk's right to supply, digital content); or (4) if applicable, consequential or indirect losses that cannot be excluded or restricted under Australian law.

(e) **Limitation of Liability.** Nothing in the Terms restricts or excludes Autodesk's liability for fraudulent misrepresentation.

(f) **Return for Refund.** The Autodesk Return Policy is in addition to the statutory rights you may be entitled to as a consumer under the Australian Consumer Law, and similar legislation.

(g) **Autodesk Proprietary Rights.** For the avoidance of doubt, nothing in clause 13 *Autodesk Proprietary Rights*, is intended to exclude non-excludable statutory rights you may be entitled to at law, including as a consumer under the Australian Consumer Law.

(h) **Effect of Termination of Subscription.** At Autodesk's request, unless required to be maintained by applicable law or statute, You will destroy any and all copies of materials related to such Offering (including any related Software, Documentation, APIs, or other material from Autodesk) or return them to Autodesk or the party from which You acquired the Offering.

(i) **Limited Warranty, Disclaimers, Limitations on Liability:** CERTAIN LEGISLATION, INCLUDING THE AUSTRALIAN CONSUMER LAW, MAY LIMIT THE ABILITY TO EXCLUDE LIABILITY OR MAY IMPLY WARRANTIES OR CONDITIONS OR IMPOSE OBLIGATIONS WHICH CANNOT BE EXCLUDED, RESTRICTED OR MODIFIED EXCEPT TO A LIMITED EXTENT. CLAUSE 14 MUST IN ALL CASES BE READ SUBJECT TO THESE STATUTORY PROVISIONS.

DESPITE ANYTHING ELSE IN THESE TERMS, IF ANY OFFERING IS SUBJECT TO THE MANDATORY WARRANTIES OR GUARANTEES OF THE COMPETITION AND CONSUMER ACT (CTH) OR OTHER APPLICABLE LAW IN AUSTRALIA (THE "LAW"), AND SUCH LAW PERMITS AUTODESK TO LIMIT ITS LIABILITY FOR BREACH OF THESE WARRANTIES OR CONDITIONS, THEN AUTODESK'S LIABILITY FOR BREACH OF ANY SUCH WARRANTY OR GUARANTEE WILL BE LIMITED, AT AUTODESK'S OPTION, TO THE REPAIR, REPLACEMENT OR REPERFORMANCE (OR THE COST OF DOING SO) OF THE RELEVANT OFFERING.

(j) The warranty provided in Section 14.1 (Limited Warranty) above is provided by Autodesk Australia Pty Ltd, or the Autodesk subsidiary or affiliate indicated on your quote, invoice or Offering Identification. Please use the address and contact details set out on your quote, invoice or other Offering Identification, or contact Autodesk Australia Pty Ltd at Level 17, 1 Denison Street, North Sydney, NSW 2060, Australia (phone: (02) 9844 8000; email: [Autodesk.Australia.Warranty.Claims@autodesk.com](mailto:Autodesk.Australia.Warranty.Claims@autodesk.com)

[\(mailto:Autodesk.Australia.Warranty.Claims@autodesk.com\)](mailto:Autodesk.Australia.Warranty.Claims@autodesk.com)), to make a claim under the warranty provided in Section 14 (Limited Warranty) above. Please have details of Your Offering, serial number, place of purchase, details of the defect and Your return contact details prior to contacting us. The warranty provided in Section 14 (Limited Warranty) above is in addition to other rights and remedies you have at law.

(k) Our goods and services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the service, you are entitled:

(a) to cancel your service contract with us; and

(b) to a refund for the unused portion, or to compensation for its reduced value.

(l) You are also entitled to choose a refund or replacement for major failures with goods. If a failure with the goods or a service does not amount to a major failure, you are entitled to have the failure rectified in a reasonable time. If this is not done, you are entitled to a refund for the goods and to cancel the contract for the service and obtain a refund of any unused portion. You are also entitled to be compensated for any other reasonably foreseeable loss or damage from a failure in the goods or service.

(m) Autodesk will not be responsible for user error and may refer any such issues to a supporting reseller, distributor or similar third party, if any. You may be required to return the Offering to the address we provide to You at the time, at Your own cost.

### 19.3 Mainland China, Hong Kong, and Macau

If You acquired Your subscription in mainland China, the “Territory” for such subscription is Mainland China. Likewise, if You acquired Your subscription in Hong Kong, the “Territory” for such subscription is Hong Kong; and if You acquired Your subscription in Macau, the “Territory” for such subscription is Macau.

Print (javascript:window.print())

English

(/company/terms-of-use/en/general-terms)

Deutsch		How to buy	Support
( (/company/terms-of-use/de/general-terms)	Autodesk Foundation ↗	View all products	Manage your account
( Español	(https://www.autodesk.org/)	(https://www.autodesk.com/products)	(https://manage.autodesk.com)
( (/company/terms-of-use/es/general-terms)			
( Français	Sustainability	Buying with Autodesk	Download and install
( (/company/terms-of-use/fr/general-terms)	(https://www.autodesk.com/sustainability/overview)	(https://www.autodesk.com/buying/overview)	software
] Italiano		Renewal options	(https://manage.autodesk.com/products)
( (/company/terms-of-use/it/general-terms)	Contact us	(https://www.autodesk.com/buying/renewal)	Autodesk Product Status
;	(https://www.autodesk.com/company/contact-us)		↗
/ Portugues		Find a partner	(https://health.autodesk.com/)
( (/company/terms-of-use/br/general-terms)	Students and educators	(https://www.autodesk.com/support/partners)	Autodesk Community
( (/company/terms-of-use/cs/general-terms)	(https://www.autodesk.com/education/home)	Sales and refunds	(https://forums.autodesk.com/)
;	Affiliate program	(https://www.autodesk.com/customer/help)	Education support
( (/company/terms-of-use/pl/general-terms)	(https://www.autodesk.com/customer/help)		(https://www.autodesk.com/customer/help)



( 日本語 (/company/terms-of-use/jp/general-terms)	m/affiliate-program/overview)	Choose your subscription plan (https://www.autodesk.com/buying/plans)	m/education/support)
( 한국어 (/company/terms-of-use/kr/general-terms)	Autodesk Research ↗ (https://www.research.autodesk.com/)	Contact support (https://www.autodesk.com/support)	
( 简体中文 (/company/terms-of-use/cn/general-terms)	Design & Make with Autodesk (https://www.autodesk.com/design-make)	Prepay pricing for occasional use (https://www.autodesk.com/buying/flex)	
( 繁體中文 (/company/terms-of-use/cn2/general-terms)			

Privacy (<https://www.autodesk.com/company/legal-notices-trademarks/privacy-statement>) | Do not sell or share my personal information (<https://www.autodesk.com/company/legal-notices-trademarks/ccpa-do-not-sell>) | Cookie preferences () | Report noncompliance (<https://www.autodesk.com/genuine/report-piracy>) | Terms of use (<https://www.autodesk.com/company/terms-of-use/en/general-terms>) | Legal (<https://www.autodesk.com/company/legal-notices-trademarks>) | © 2026 Autodesk Inc. All rights reserved

# DEPARTMENT OF WATER

County of Kaua'i

*"Water has no Substitute – Conserve It!"*

## MANAGER'S REPORT No. 26-35

February 19, 2026

Re: Discussion and Possible Action to Request Board Approval for Indemnification and Unspecified Future Obligations for Dashlane, Inc. between the Board of Water Supply, County of Kaua'i and Dashlane, Inc.

### **RECOMMENDATION:**

The Department recommends that the Board approve Option 1, which will allow the Department to move forward with the software license purchase and use of Dashlane, Inc.'s software.

**FUNDING:** N/A

### **BACKGROUND:**

The Department's Information Technology (IT) team utilizes Dashlane, Inc.'s software to securely manage its passwords for the IT systems it manages.

Yearly licenses and update of the software is required to continue with its use. The agreement contains language for indemnification and unspecified future obligation provisions. The County Attorney's Office has reviewed and approved the Business Terms and Conditions for Dashlane, Inc.

The section within the agreement which references Unspecified Future Obligations is shown below:

### **Dashlane Business Terms and Conditions, Dated February 17, 2025:**

#### **8 Indemnification**

c. By Client. Client will indemnify and hold harmless (including paying reasonable attorneys' fees and court costs) Dashlane and its officers, directors, and employees against any third-party claim relating to (i) Secured Data or Client's use of the Secured Data, including allegations that such use violates contractual rights of third parties, or (ii) any violation of applicable laws, including Privacy Laws, by Client with respect to its use of the Services.

**OPTIONS**

**Option 1:**

**Approve the Department's Request.**

- Pro: The Department will be able to move forward with the renewal, update and continued use of Dashlane, Inc.'s software.
- Cons: The Department would have potential risk associated with indemnification and unspecified future obligation provisions of the Dashlane, Inc. software agreement.

**Option 2:**

**Deny the Department's Request.**

- Pro: No potential legal risk associated with indemnification and unspecified future obligation provisions of the Dashlane, Inc. software agreement.
- Cons: The Department's would no longer be able to utilize the Dashlane Inc. software and the staff that have been utilizing it would be required to revert to a manual process to conduct their work.

MH/crz

Attachment: Dashlane Business Terms and Conditions

## Dashlane Business Terms and Conditions

Revised: February 17, 2025

These Dashlane Business Terms and Conditions (the “Terms”) govern the use by organizations (each, a “Client”) of browser extensions and applications (each, an “App”, and all Apps collectively with related services, the “Services”) made available by the Dashlane entity indicated below (together with its affiliates, “Dashlane”). By entering into an order referencing these Terms, or by subscribing to the Services at <https://www.dashlane.com/business/buy> (each, an “Order” and, together with these Terms and any documents referenced herein, the “Agreement”) Client agrees to comply with these Terms. The Services available to Client and its Users are specified on the Order. If the Terms and an Order conflict, the Order will control. Unless otherwise indicated on the Order, Clients registered in the Eurozone contract with Dashlane SAS, located at 21 Rue Pierre Picard, 75018 Paris, France, and all other Clients contract with Dashlane USA, Inc., a Delaware corporation located at 44 West 18th Street, New York, NY 10011. Agreements are effective on the date the Order is placed, unless otherwise indicated on the Order (the “Effective Date”).

### 1. LICENSE GRANT AND RESTRICTIONS.

#### a. Grant.

i. Subject to these Terms and any limits in the Order, Dashlane grants Client and individuals who access the Services using Client’s account (each, a “User”) a nonexclusive, nontransferable (except that Client may re-allocate licenses from one User to another via the Services) license to install and use the Apps in object code form solely to access and use the Services during the Term (as defined in Section 10(a)). Use by Client’s legal affiliates is permitted, provided that Client is responsible for compliance with the Agreement by its affiliates.

ii. The license includes the right to (1) make and use copies of any descriptions of the functionality and technical requirements of the Apps and Services made available by Dashlane at the Dashlane Business Support Center or otherwise provided to Client,

(collectively, “Documentation”), and (2) use any improvements, bug fixes, and new versions of Apps licensed by Client made available at no additional cost to all licensees of such Apps (each, an “Update”). Updates are applied automatically to cloud-based elements of the Services but may need to be manually installed to Apps installed on User devices.

b. Restrictions. Client and Users will not (i) use the Services for any illegal purpose or in ways that damage them or interfere with their operation; (ii) remove any copyright, trademark or other rights notices in the Services or Documentation; (iii) sublicense, sell, lease (including on a service bureau basis), share, transfer, distribute, or otherwise make the Apps or Services available except as permitted herein; (iv) extract or otherwise use elements of the Services in ways not intended hereunder, including by incorporating them into other software or products; (v) modify, create derivative works of, reverse engineer, reverse compile, or disassemble the Apps (except to the extent explicitly permitted by applicable law); or (vi) circumvent any security measures or use restrictions in the Services. Dashlane may suspend Client’s and/or any User’s access to the Services for any violation of these restrictions, provided that Dashlane will contact the Client prior to doing so unless Dashlane reasonably believes that the violation presents an immediate threat to the Services’ integrity or security. In the case of such suspension, Client and Dashlane will work in good faith to promptly resolve the issue.

c. Support. Dashlane’s online support resources and knowledge base are available at <https://support.dashlane.com>. Dashlane will promptly (i) respond to technical or operational issues regarding the Services reported to Dashlane’s established B2B support channels, and (ii) use commercially reasonable efforts to promptly remediate verified technical issues with the Services. Because App functionality is partially dependent on the operating system or browser in which the App runs, support is limited to (A) the current and most recent prior major version of the applicable operating system or browser and (B) App versions that are not more than one (1) year old. The cloud-based elements of the Services will be available 99.9% of the time in any calendar month, as shown at <https://status.dashlane.com/>, excluding any scheduled downtime (which we will provide notice of at least 72 hours in advance) or Force Majeure Event (as defined in Section 11.l), and provided that Dashlane may suspend access to such elements at any time and without notice to protect against a threat to the Services’ security or integrity.

d. Modification. Dashlane may update the Services in its sole discretion, provided that such updates do not materially impair the availability or security of the Services. Dashlane may make additional features, including new Apps, available during the Term (each, an “Add-On”). Add-Ons will be made available to Client as and when made available to other similarly situated customers, and require additional fees and execution of a new or modified Order if not purchased through the Site. Add-Ons are distinct from Updates, which are changes to existing Services and are provided to all users of such Services at no additional charge.

## 2. REGISTRATION.

a. Depending on the Client’s subscription, account configuration, and feature availability, Users must either use an SSO service, provide an email address and master password, or create a passwordless login (each “Account Credentials”) to access the Services. Client and Users are responsible for maintaining the security and confidentiality of their Account Credentials.

b. Certain Services let Users share passwords and other information about third party accounts (“Third-Party Account Information”) with one another. By using the Services’ sharing features, Client authorizes Dashlane to provide Third Party Account Information to the designated Users via the Services. Client acknowledges that Dashlane does not control Client’s and its Users’ sharing of Third Party Account Information via the Services, and that Client is fully responsible for such sharing.

## 3. PAYMENT.

a. Fees. In exchange for the licenses granted herein, Client will pay Dashlane the amounts specified on the applicable Order (the “Fees”). Unless paid during online checkout, Fees are due thirty (30) days after receipt of the applicable invoice. Except as explicitly stated herein, Fees are not refundable.



b. Taxes. Client will pay any sales, use, excise, value-added or similar taxes or duties assessed on the Services (“Taxes”), except for taxes based on Dashlane’s net income. Dashlane will include any Taxes it is responsible for collecting and remitting on the applicable invoice. If you are in a jurisdiction that taxes the receipt of SaaS services but where we do not have a legal presence, you are responsible for reporting and paying any taxes due to local authorities.

c. Late Payment. If Client fails to pay overdue Fees within ten (10) calendar days of receipt of notice that they are overdue, Dashlane may suspend Client’s and its Users’ access to the Services until payment all overdue Fees are paid in full.

d. Reseller Purchases. If you license the Services through an authorized Dashlane reseller or distributor (each, a “Reseller”) the following terms apply:

i. Resellers may not modify these Terms, except that Sections 3(a) and 3(b) above will be superceded by the equivalent provisions in your agreement with the Reseller.

ii. Resellers are solely responsible for the completeness, accuracy, and processing (including collection and remittance of payment to Dashlane) of any order for the Services placed with us on a Client’s behalf. We may suspend or terminate a Client’s rights to use the Service if we do not receive timely payment from the Reseller.

iii. Refunds owed to Clients paying through a Reseller will be paid to such Reseller, who is responsible for distributing the refund to the Client.

#### 4. INTELLECTUAL PROPERTY.

a. Secured Data. Client grants Dashlane a fully-paid, worldwide license during the Term to process any data (including Third-Party Account Information and information that can be used to identify individual, natural persons (“Personal Data”)) stored by Client and its Users in Apps (collectively, “Secured Data”) solely to the extent required to provide the applicable

Services. Except for this limited license, Client will retain all right, title, and interest in and to Secured Data. Secured Data can only be decrypted locally within Apps on User devices; Dashlane is unable to access decrypted Secured Data under any circumstances. Client is solely responsible for the use of Secured Data as input into the Services (including its use by Users on Client's behalf). This provision only applies to the extent that Client's subscription includes individual "vaults" for Client Users.

b. Services. Except for the licenses granted herein, Dashlane will retain all right, title, and interest in and to the Services, including all content that is not Secured Data available on or through the Services ("Dashlane Content"). To the extent Client is permitted to reproduce Dashlane Content (such as posting logos on its corporate intranet) Client will include all copyright notices, information, and restrictions contained in or attached to such content.

c. Usage Data. The Services automatically report information to Dashlane related to installation, updates, use of and errors related to the Services ("Usage Data") without specific notice to Users, consistent with the Privacy Policy. There are two types of Usage Data:

i. "Event Data" is information about use of the Apps' internal functions (e.g., what features are enabled, how many third-party account credentials are stored by a particular User). Event Data is linked to individual Users when they have an active account but is anonymized after that User's account is deleted. Event Data is shared only with Dashlane subprocessors to provide the Services and communicate with Users (consistent with communication settings established by the Client and/or Users). Certain Event Data is also available to authorized administrators of Client Accounts (each, a "Client Admin") so that they may monitor the use of the Services. Anonymized Event Data may be used by Dashlane in its sole discretion.

ii. "Behavioral Data" is information about what Users do outside of the Services (e.g., sites where autofill is used). Certain Behavioral Data is available to Client Admins on an individual User basis to enable Client Admins to improve Client security (e.g., Client Admins can see whether a User has compromised credentials), but is only available to Dashlane on a fully anonymized basis (e.g. Dashlane can see what percentage of all Users have credentials for a specific site, but not whether any particular User has credentials for

that site). Dashlane has no ability to associate Behavioral Data with any individual User. Dashlane may use anonymized Behavioral Data in its sole discretion.

d. Open Source Software. Like most software developers, Dashlane integrates “open source” software (“OSS”) into the Services. OSS is licensed under the terms of the end-user license that accompanies each OSS component, and not under Section 1(a), but nothing in any OSS license limits the Client’s rights to use the Services or Dashlane’s responsibilities under the Agreement, including indemnification obligations under Section 8.

e. Feedback. Client grants Dashlane an unrestricted, worldwide, perpetual, irrevocable, royalty-free right to use any ideas, suggestions, comments, enhancement requests, or other input about the Services provided to Dashlane by Client or Users (“Feedback”) for any lawful purpose.

## 5. SECURITY.

a. Connectivity. Client and Users are responsible for any network and internet connectivity required to download Apps and use the Services, including the security of such connectivity.

b. Data Security. Dashlane has and will maintain (i) commercially reasonable technical, administrative, and physical safeguards designed to prevent the unauthorized release, access to, or publication of Secured Data, Confidential Information, or Personal Data in Dashlane’s possession or control (each such event, an “Incident”), and (ii) procedures designed to comply with laws applicable to the Services, including those governing the processing of Personal Data, such as (i) the General Data Protection of the European Parliament and of the Council (“GDPR”) and any implementing laws thereof enacted by an EU member state; (ii) the U.K. Data Protection Act 2018 and the United Kingdom General Data Protection Act (“UK GDPR”); (iii) the Australian Privacy Act 1988 and National Privacy Principles; (iv) the Canadian Personal Information Protection and Electronic Documents Act; (v) the California Consumer Privacy Act, and implementing regulations (“CCPA”); (vi) any other existing or newly enacted laws regarding privacy; and (vii) any amendments and

successors to the foregoing (collectively, “Privacy Laws”). Dashlane employees and agents with access to Client Confidential Information or Personal Data are subject to appropriate written confidentiality obligations and instructed in the proper handling of such information and data. Dashlane will reasonably (and as required by Privacy Laws) assist Client with its data security and processing obligations with respect to Personal Data in Dashlane’s possession or control, including Client’s obligations as a “Controller” under the GDPR and UK GDPR, a “business” under the CCPA, and similar rights provided by other Privacy Laws, if applicable. Client consents to the processing and storage of Client Data on hardware owned or controlled by third parties (e.g., AWS). Where Client Data is subject to Privacy Laws, the Data Processing Addendum available at <https://www.dashlane.com/terms/business/dpa> is incorporated into and made a part of the Agreement. To the extent that the DPA conflicts with the Privacy Policy, the DPA controls.

c. Notice. Dashlane will notify Client within thirty-six (36) hours of any Incident affecting Client Personal Data. The notice will include information about the nature and amount of Personal Data affected and the likely consequences of the Incident, to the extent known. Dashlane will promptly investigate and, where possible, mitigate any Incident and provide Client with updates of such efforts. Upon confirmation of an Incident, Dashlane will modify its processes and security program as necessary to prevent recurrence. Notices under this Section 5(c) may be provided directly to Users if the Incident affects multiple Dashlane clients or if Dashlane, in its sole discretion, determines that communication with all Dashlane users is legally required or appropriate. In such situations, Dashlane will use commercially reasonable efforts to provide prior notice to the Client Admin or other designated contact. Notice provided under this Section is not, nor will it be deemed, an admission of liability or fault by Dashlane.

## 6. CONFIDENTIALITY.

a. General. “Confidential Information” means any non-public information, including pricing, technology, business methods, finances, and trade secrets, that is marked or identified as “Confidential” or the equivalent when disclosed, or that a reasonable person would recognize as confidential from its nature or the circumstances of its disclosure. In connection with the Agreement, each party (the “Receiving Party”) may have access to certain of the other party’s (the “Disclosing Party”) Confidential Information or that of third

parties that the Disclosing Party is required to maintain as confidential. Each party retains ownership of its Confidential Information.

b. Obligations. The Receiving Party will: (i) only use Confidential Information to fulfill its obligations hereunder; (ii) only provide access to Confidential Information on an “as-needed” basis to its personnel, agents, and consultants who are bound by written obligations materially similar to this Section 6, and (iii) maintain Confidential Information using methods at least as protective as it uses to protect its own information of a similar nature, but with at least a reasonable degree of care. The Receiving Party will promptly return or destroy the Disclosing Party’s Confidential Information and Personal Data upon termination or expiration of the Agreement, except that it may maintain limited copies of the same consistent with its established data retention policies and subject to this Section 6. The obligations in this Section 6(b) will apply during and for three (3) years after the Term, except in the case of Confidential Information that is a trade secret, in which case the obligations will remain in effect for so long as the trade secret is maintained.

c. Exceptions. Confidential Information does not include, and Section 6(b) does not apply to, information that is: (i) publicly available when disclosed or becomes publicly available without fault of the Receiving Party after disclosure; (ii) rightfully communicated to the Receiving Party by an entity or entities not bound to keep such information confidential, whether prior to or following disclosure, (iii) independently developed by the Receiving Party without reference to the Disclosing Party’s Confidential Information; or (iv) approved for disclosure by the Disclosing Party. In addition, the Receiving Party may disclose Confidential Information (a) to comply with the order of a court, governmental body, or regulator, provided that, as permitted by law, the Receiving Party will first give written notice to the Disclosing Party and reasonably cooperate with the Disclosing Party’s efforts, at the Disclosing Party’s expense, to limit the scope of such disclosure; or (b) to establish its rights under the Agreement.

## 7. WARRANTIES AND DISCLAIMER.

a. Mutual Representations and Warranties. Each party represents and warrants that (i) it has the right to enter into and perform its obligations under the Agreement, (ii) such performance does not and will not conflict with any other agreement of such party or any

judgment, order, or decree by which it is bound, and (iii) it will comply with all laws applicable to its performance under the Agreement, including Privacy Laws.

b. Dashlane Warranties. Dashlane further represents and warrants that (i) the Apps will materially perform as specified in the Documentation; (ii) the support described in Section 1(c) will be provided in a professional and workmanlike manner by individuals with the necessary skill and experience to perform their duties; (iii) Dashlane will obtain and maintain during the Term all licenses and consents required for the provision of the Services; and (iv) the Apps do not and will not include viruses or malware.

c. Disclaimer. EXCEPT AS SPECIFICALLY PROVIDED IN THIS SECTION 7, NEITHER PARTY MAKES, AND EACH EXPRESSLY DISCLAIMS, ANY REPRESENTATIONS OR WARRANTIES IN CONNECTION WITH THE AGREEMENT, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.

## 8. INDEMNIFICATION.

a. By Dashlane. Dashlane will indemnify and hold harmless (including payment of reasonable attorneys' fees and court costs) Client and its officers, directors, and employees against any third-party claim alleging (i) that the Services, as used in accordance with this Agreement and the Documentation, infringe the intellectual property rights of a third party, or (ii) that the provision of the Services violates applicable laws, including Privacy Laws. The infringement indemnification provided above will not apply to the extent the alleged infringement arises out of (A) Client's use of the Services in violation of the Agreement, (B) Client's failure to use an Update that Dashlane communicated was required to avoid infringement, or (C) Secured Data as uploaded to the Services.

b. Alternative Remedy for Infringement. If the Services or any element thereof is found to infringe any third-party intellectual property rights, Dashlane may, in its sole discretion, either (i) procure the right for Client to continue to use the affected element; or (ii) modify the affected element to be non-infringing without materially diminishing the Services' functionality. If neither (i) nor (ii) is commercially reasonable, Dashlane may terminate the



Agreement by giving Client thirty (30) days' prior written notice, and refund Client the pro-rata portion of any prepaid Fees.

c. By Client. Client will indemnify and hold harmless (including paying reasonable attorneys' fees and court costs) Dashlane and its officers, directors, and employees against any third-party claim relating to (i) Secured Data or Client's use of the Secured Data, including allegations that such use violates contractual rights of third parties, or (ii) any violation of applicable laws, including Privacy Laws, by Client with respect to its use of the Services.

d. Procedures. The obligations in this Section 8 are contingent on the indemnified party (i) promptly notifying the indemnifying party of any indemnifiable claim; (ii) granting the indemnifying party sole control over the defense and settlement of the claim (provided that a settlement may not impose costs or liability on the indemnified party without its prior, written consent); and (iii) providing reasonable assistance to the indemnifying party at the indemnifying party's expense.

e. Sole Remedy. This Section 8 states the indemnified party's sole remedy, and the indemnifying party's entire liability, with respect to any indemnifiable claim.

## 9. LIMITATION OF LIABILITY.

a. General. EXCEPT FOR A PARTY'S GROSS NEGLIGENCE, FRAUD, WILLFUL MISCONDUCT, BREACH OF SECTION 6 (CONFIDENTIALITY), OR INDEMNIFICATION OBLIGATIONS UNDER SECTION 8, NEITHER PARTY WILL BE LIABLE FOR (i) LOST PROFITS, LOST DATA OR ANY OTHER CONSEQUENTIAL, SPECIAL, INCIDENTAL, OR INDIRECT DAMAGES, HOWEVER CAUSED AND REGARDLESS OF THE THEORY OF LIABILITY ASSERTED, ARISING OUT OF THE SERVICES OR THE AGREEMENT, EVEN IF THE PARTY AGAINST WHICH THE CLAIM IS ASSERTED HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR (ii) DAMAGES EXCEEDING, IN THE AGGREGATE, THE TOTAL AMOUNT PAID AND PAYABLE BY CLIENT TO DASHLANE UNDER THE AGREEMENT IN THE TWELVE (12) MONTHS PRIOR TO THE DATE ON WHICH THE CLAIM AROSE.

b. Security. NOTWITHSTANDING SECTION 9(a), IF AN INCIDENT IS FOUND TO BE DUE TO DASHLANE'S FAILURE TO COMPLY WITH ITS OBLIGATIONS UNDER SECTION 5(b), DASHLANE'S MAXIMUM LIABILITY WILL BE THE GREATER OF (I) THREE (3) TIMES THE FEES PAID AND PAYABLE BY CLIENT FOR THE SERVICES DURING THE TWELVE (12) MONTHS PRIOR TO THE EVENT GIVING RISE TO THE CLAIM, OR (II) \$US 100,000.

c. THE LIMITATIONS IN THIS SECTION 9 ARE (i) CUMULATIVE AND WILL NOT BE ENLARGED BY MULTIPLE CLAIMS, AND (ii) AN ESSENTIAL ELEMENT OF THE AGREEMENT.

#### 10. TERM AND TERMINATION.

a. Term. The Agreement will commence on the Effective Date and remain in effect for one (1) year or such other period indicated on the Order (the "Initial Term"), unless terminated earlier as provided herein. After the Initial Term, the Agreement will automatically renew for additional periods of the same duration as the Initial Term (each a "Renewal Term", and all Renewal Terms together with the Initial Term, the "Term") at Dashlane's then-current Fees, unless Client provides written notice of non-renewal to Dashlane at least thirty (30) days prior to the expiration of the then-current Term.

b. Termination. Either party may terminate the Agreement for a material breach of any of its provisions by the other party that is not cured within thirty (30) days following written notice thereof. The Agreement may be terminated immediately by either party upon written notice if the other party (i) commences insolvency, receivership, bankruptcy, or any other proceedings for the settlement of its debts (or if such proceedings are instituted by a third party and not dismissed within thirty (30) days), (ii) makes an assignment for the benefit of creditors, or (iii) ceases to do business in the normal course.

c. Effect of Termination. Upon termination or expiration of the Agreement, all licenses granted hereunder will immediately terminate and Client will pay any Fees incurred prior to the date of such termination. If Client terminates the Agreement for Dashlane's uncured material breach as set forth in Section 10(b), Dashlane will issue a pro-rata refund of prepaid Fees (if applicable) Sections 3 (to the extent Fees remain due) 4, 6, 8, 9, 10(c), and 11 of these Terms will survive expiration or termination of the Agreement for any reason.

## 11. GENERAL.

### a. Governing Law and Venue.

i. For Entities Contracting with Dashlane USA. The Agreement, including its formation, will be governed by the laws of the State of New York without giving effect to conflicts of laws principles that would require a different result. Any claim, action or proceeding hereunder will be brought in the federal or state courts located in New York County, New York, and the parties irrevocably consent to such jurisdiction and venue. The United Nations Convention on Contracts for the International Sale of Goods will not apply to the Agreement.

ii. For Entities Contracting with Dashlane SAS. Except to the extent mandated by relevant Privacy Laws, the Agreement, including its formation, will be governed by the laws of the Republic of France without giving effect to conflicts of laws principles that would require a different result. Any claim, action or proceeding hereunder will be brought in the courts located in Paris, France, and the parties irrevocably consent to such jurisdiction and venue. The United Nations Convention on Contracts for the International Sale of Goods will not apply to the Agreement.

b. Insurance. Dashlane will maintain at least the following insurance coverages during the Term: (i) worker's compensation and employer's liability insurance of at least US \$1,000,000 or as required by law, (ii), comprehensive general liability insurance, including for bodily injury, death, and property damage, with a minimum combined single limit of US \$4,000,000 per occurrence and in the aggregate, (iii) errors and omissions insurance, including coverage for cyber liability, employee dishonesty, and computer fraud, in an amount of at least US \$10,000,000 per event. Policy amounts may be met by any combination of primary and excess / umbrella policies.

c. Trial Periods and Beta Versions. Entities may access the Services for up to thirty days at no charge in connection with evaluating the Services (a "Trial Period"). In addition, we may occasionally offer Clients the opportunity to use certain experimental features or App versions that are made available on a trial basis ("Beta Releases"). There is no obligation to

enter into a Trial Period or use Beta Releases. NOTWITHSTANDING SECTIONS 7 AND 9, ALL USE OF (I) THE SERVICES DURING A TRIAL PERIOD AND (II) BETA RELEASES IS “AS IS,” AT THE RISK OF THE RECIPIENT, AND WITHOUT ANY REPRESENTATIONS, WARRANTIES, COVENANTS OR OBLIGATIONS OF ANY KIND BY DASHLANE. Dashlane may modify or remove Beta Releases at any time. Beta Releases are also subject to the terms available [here](#).

d. Export. Client represents that it is not named on any U.S. government denied-party list. Client will not use the Services in violation of any U.S. export law or regulation.

e. Government Users. Each of the components that constitute the Apps or any other software related to the Services and its related documentation is a “commercial item” as defined at 48 C.F.R. 2.101, consisting of “commercial computer software” and “commercial computer software documentation” as such terms are used in 48 C.F.R. 12.212. Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4, all U.S. Government end users acquire the Apps and any other software component of the Services and related documentation with only those rights set forth in the Agreement.

f. Remedies; Injunctive Relief. All remedies under the Agreement are cumulative. A party’s breach or threatened breach of Sections 1(b), 4, or 6 may cause irreparable injury that cannot be compensated by monetary damages. Accordingly, in addition to any other remedies available to it, a party may seek injunctive or other equitable relief in any court of competent jurisdiction for such breach or threatened breach.

g. Notices. Any communication intended to have legal effect hereunder will be in writing and given (a) via email to the Client Admin (if to Client) or to [legal@dashlane.com](mailto:legal@dashlane.com) (if to Dashlane) with acknowledgement of receipt, (b) personally, or (c) sent via an internationally recognized courier service requiring signature upon receipt to the address of the receiving party indicated on the Order (or such other address as later provided by that party). Notices will be deemed given when delivered or refused.

h. Attribution. Dashlane may indicate that Client is a customer on Dashlane’s website and in other standard marketing materials. Any such attribution will be consistent with Client’s

style guidelines or requirements as communicated to Dashlane. The parties may agree to additional marketing efforts (e.g., case studies, events) in writing.

i. Relationship between the Parties. The parties are independent contractors and nothing in this Agreement will be construed to create a partnership or joint venture between them. Neither party will have, or represent that it has, the authority or power to bind the other.

j. Assignment. Neither party may assign the Agreement without the other party's written consent, except in connection with any merger, consolidation, sale of all or substantially all of such party's assets, or otherwise by operation of law. Any other attempt to assign this Agreement will be null and void. This provision will not prevent Dashlane from using third party service providers related to the Services (e.g, web hosting) in the normal course of its operations.

k. Waiver. A party's failure to enforce any provision of this Agreement will not be deemed a waiver of future enforcement of that or any other provision.

l. Force Majeure. Nonperformance of either party will be excused to the extent that performance is rendered impossible by events beyond its reasonable control (each, a "Force Majeure Event"), provided that the affected party takes commercially reasonable steps to mitigate the effect of such event.

m. Entire Agreement; Amendment. The Agreement is the entire understanding of the parties with respect to the Services and supersedes any prior agreements, proposals, and communications about them. Terms and conditions on any purchase order, invoice, or other such document, whether issued prior to or after the Effective Date, that conflict with any provision of this Agreement will have no force and effect. These Terms may be modified by Dashlane at any time in its sole discretion, provided that such changes will not take effect until the next Renewal Term. Any amendment to these Terms must be explicitly reflected in the Order, and will remain in effect for the Term unless subsequently modified, regardless of any changes to the Terms.

n. Counterparts. An Order may be executed in counterparts, each of which will be deemed an original, and all of which will constitute one and the same document. The parties may electronically sign Orders.

o. Interpretation. Titles and headings used in these Terms are for reference only and do not affect their meaning. As used herein, “may” means “has the right, but not the obligation to,” “will” indicates a requirement, and “including” means “including, without limitation.” If any provision of the Agreement is held by a court of competent jurisdiction to be contrary to law, the remaining provisions will be unaffected. If you are reviewing these Terms in a language other than English, it has been translated for your convenience, but the English language version is the official version of this Agreement.

p. No Third-Party Beneficiaries. Except as expressly set forth herein, nothing in the Agreement grants any rights to any entity other than the parties to the Agreement.



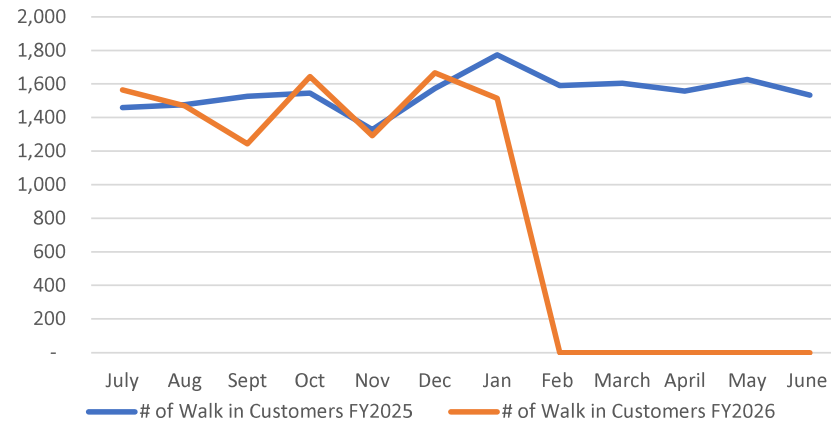
A horizontal splash of blue water with bubbles, positioned behind the text.

# STAFF REPORTS

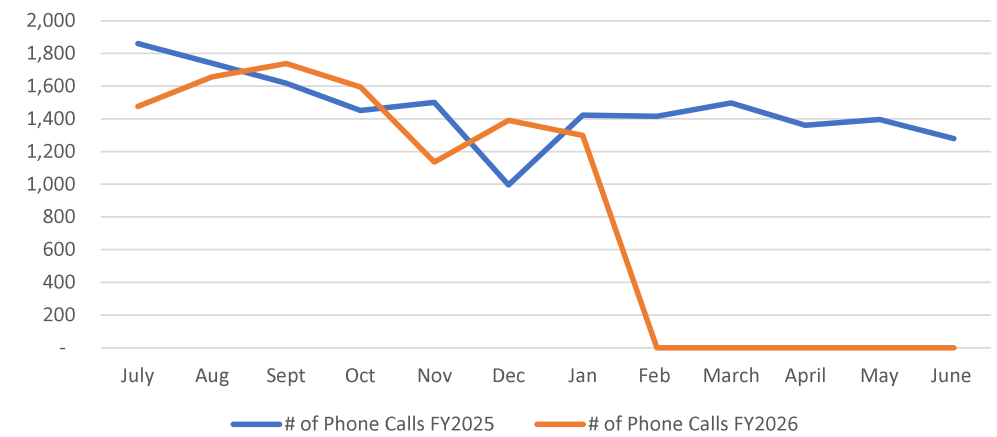


# FISCAL DIVISION DASHBOARD

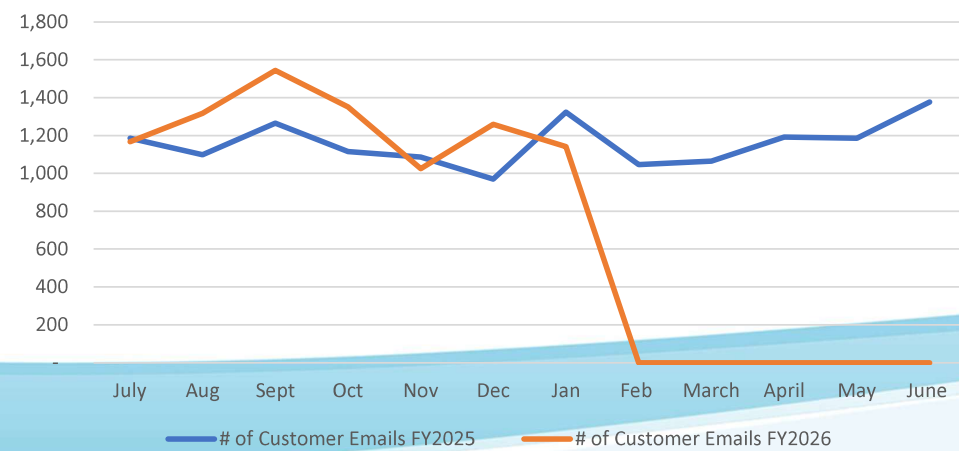
### # of Walk in Customers



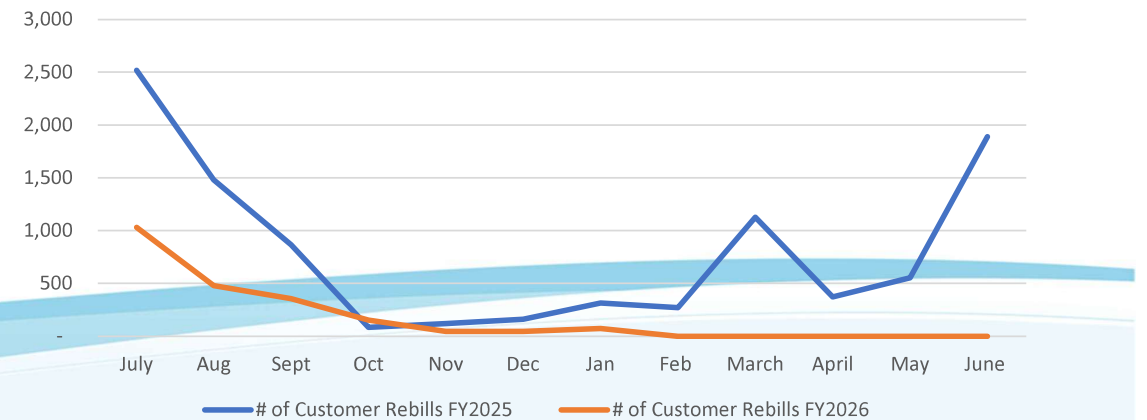
### # of Customer Service Calls



### # of Customer Emails and Correspondence



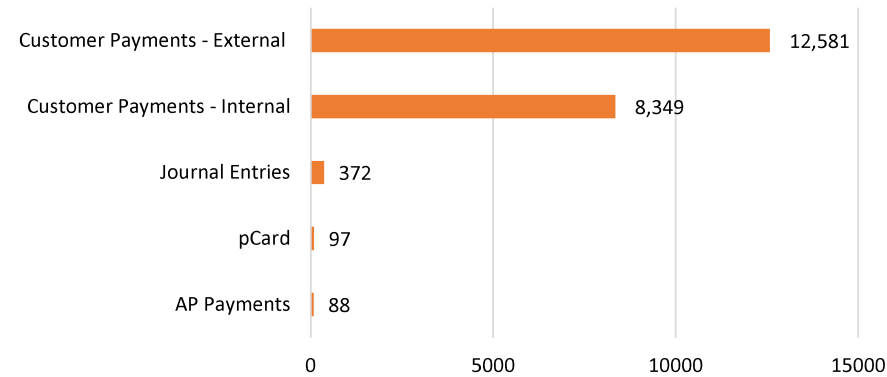
### # of Customer Rebills





# FISCAL DIVISION DASHBOARD

## Accounting Highlights

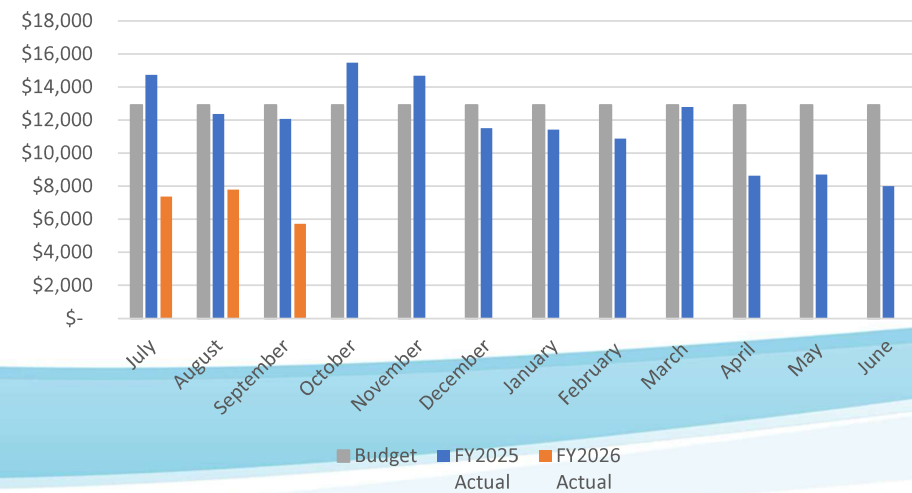


### Transponder Replacement Highlights:

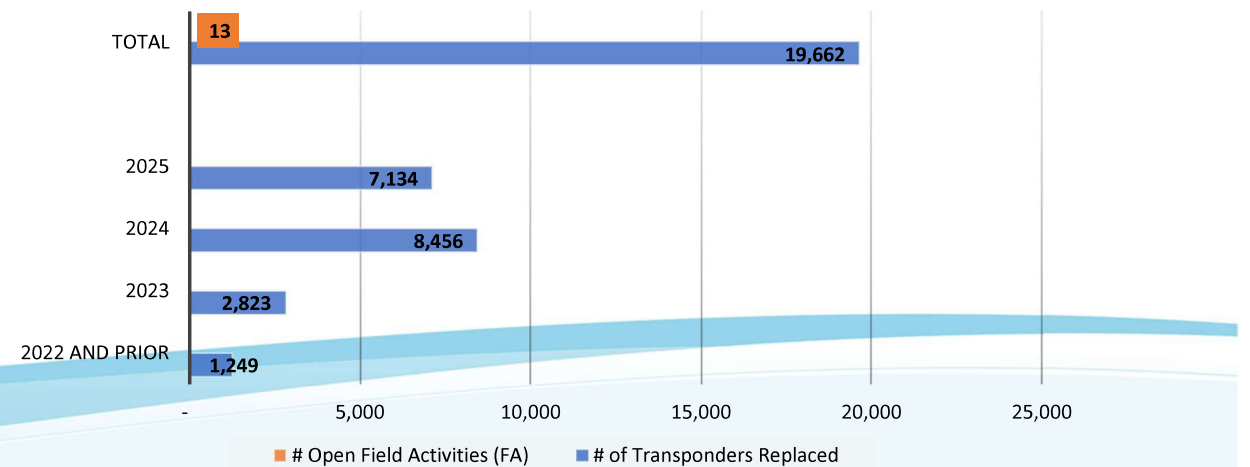
- 79 Transponders Replaced in January 2026.
- 85% Replaced to date.
- <1>% Failed; awaiting replacement.
- 15% Active; expected to fail soon.

Monthly Transactional Volume processed and reconciled by the Accounting Team.

## Overtime



## Transponder Replacement Progress (Calendar Year)



Department Of Water Budget Report for January, 2026

	January 2026			Fiscal Year 2026			
	Budget	Actual	Variance	Year to Date Budget	Year to Date Actual	Variance	Variance %
Operating Revenue	\$ 2,995,974.00	\$ 2,570,489.03	\$ (425,484.97)	\$ 20,971,818.00	\$ 22,009,335.75	\$ 1,037,517.75	4.9.%
Expenses							
Labor *	\$ 1,278,478.42	\$1,142,646.16	\$ 135,832.26	\$ 8,949,348.92	\$7,972,558.73	\$ 976,790.19	10.9.%
Services	1,361,349.08	390,114.51	971,234.57	9,529,443.58	\$3,460,257.37	6,069,186.21	63.7.%
Utilities & Materials	797,635.75	777,110.51	20,525.24	5,583,450.25	3,856,870.36	1,726,579.89	30.9.%
Total Operating Expenses	\$ 3,437,463.25	\$ 2,309,871.18	\$ 1,127,592.07	\$ 24,062,242.75	\$ 15,289,686.46	\$ 8,772,556.29	36.5.%
Debt Service Principal & Interest	995,705.00	964,852.93	30,852.07	6,293,883.00	6,657,204.42	(363,321.42)	(5.8.%)
Operating and Debt Expenses	\$ 4,433,168.25	\$ 3,274,724.11	\$ 1,158,444.14	\$ 30,356,125.75	\$ 21,946,890.88	\$ 8,409,234.87	27.7.%
Net Income (Loss)	\$ (1,437,194.25)	\$ (704,235.08)	\$ 732,959.17	\$ (9,384,307.75)	\$ 62,444.87	\$ 9,446,752.62	100.7.%

\* Current month's labor is estimated

Capital Projects and Purchases\*\*

	Fiscal Year Budget	January YTD 2026 Actual	Remaining Budget
Water Utility Funded Projects			
WU-IT-RandR Capital Purchases--	\$ 57,665.38	\$ 13,065.76	\$ 44,599.62
WU-IT-Expansion Capital Purchases--	978,197.32	79,614.43	898,582.89
WU-Eng-ALLR-17-10-KW-07 Paua Valley Tank Repair	9,407.62		9,407.62
WU-Eng-ALLR-Hanapepe Stream Crossing	54,498.95		54,498.95
WU-Eng 11-04 LO-10 Lawai 6n8inch Main Replacement	75,324.96	7,864.28	67,460.68
WU-Eng WK-08, Kapaa Homesteads 2-0.5MG Tanks	2,597,000.00		2,597,000.00
WU -23-05 Weke, Anae, Mahimahi Hee 6-8 inch mains	3,424,663.00		3,424,663.00
WU-Eng-23-08 Hanapepe Town Well MCC	502,319.08	9,670.00	492,649.08
WU-Eng-Job 18-3 -Kuhio Hwy Hardy-Oxford 16IN Main	3,199,896.96	121,177.51	3,078,719.45
WU-Eng Phase I-Demo Admin Bldg/MoveConduit/ATS Lab	230,700.00	3,374.40	227,325.60
WU-Eng-56%R-Job 23-03 Kuhio Hwy Papaloa to Waikaea	69,074.57		69,074.57
WU-Eng-16-4-WKK-03-Kilauea Wells MCC Rehab	233,462.60		233,462.60
WU-Eng Phase I-Demo Admin Bldg/MoveConduit/ATS Lab	230,700.00		230,700.00
WU-23-02 WK-34, Kuamoo Rd 8" Main Replace (6,500')	99,063.00		99,063.00
WU-Eng-WK-08-Kapaa Homesteads 2-0.5MG Tanks	400,000.00		400,000.00
WU-Eng-WK-39 Kapaa Homesteads Well #4 Pump&Control	2,400,000.00		2,400,000.00
WU-Eng PLH-35b, Kapaia Cane Haul Road 18" Main Env	1,124,375.70		1,124,375.70
WU-Eng-Security Fencing Admin Bldg	368,315.39		368,315.39
WU-Eng-Expansion Capital Purchases	13,867.01		13,867.01
Job 17-10 KW-07 Paua Valley Tank Repair	278,450.95		278,450.95
WU-Cns-44%R-09-01 Yamada Tank Clearwell, Conn Pipe	2,520,810.21	90,189.77	2,430,620.44
WU-Const-R&R-Tank Remediation Repair	32,899.55		32,899.55
Job 16-02 PLH-35B Kapaia Cane Haul Rd 18" Main	2,990,220.00		2,990,220.00
Job 02-14 WK39 WK08 Kapaa Hmstd Well 4; Pkg A Well	194,120.62		194,120.62

WU-Ops-R&R-Upgrade and Replace SCADA RTU and PLC	19,498.65		19,498.65
WU-Ops-RandR Capital Purchases	3,274,252.87	240,082.74	3,034,170.13
WU-Ops-Expansion Capital Purchases	1,355,094.26	9,087.16	1,346,007.10
Projects with budget but no activity	(230,700.00)		(230,700.00)
	<b>\$ 26,733,878.65</b>	<b>\$ 574,126.05</b>	<b>\$ 26,159,752.60</b>

<b>FRC Funded Projects</b>			
FRC-Eng-ALLE--H-08 Hanalei Well 2	\$ 130,000.00	\$ -	\$ 130,000.00
FRC-Eng WK-08, Kapaa Homesteads 2-0.5MG Tanks	3,000,000.00	122,751.00	2,877,249.00
FRC-Eng-ALLE-12-02 WK-23 UH Expmntal Storage Tank	198,957.00		198,957.00
FRC Eng 04-08 WK-39 Drill Kapaa Homestead Well 4	102,328.99	(88,440.75)	190,769.74
FRC-Eng-90%E-Kilauea 1.0MG Tank Job 02-06	7,212.24		7,212.24
Job 15-08-HW-11-Haena 0.2MG Tank	1,306.63		1,306.63
FRC-Eng-ALLE-Wainiha Well #4	200,000.00		200,000.00
Projects with budget but no activity			-
	<b>\$ 3,639,804.86</b>	<b>\$ 34,310.25</b>	<b>\$ 3,605,494.61</b>

<b>Build America Bonds Funded Projects</b>			
Eng-ALLR-09-01 K-01 Kalaheo 1111FT & 1222FT	\$ 63,998.94	\$ -	\$ 63,998.94
Eng-ALLE-02-14 WK-08 Kapaa Homesteads Tank	5,600,000.00		5,600,000.00
Eng WK-39, Drill/Dev Kapaa Homesteads Well No4	2,600,000.00		2,600,000.00
Cns-ALLE-02-06WKK15-Kilauea 466 Tank Puu Pane	9,706.76		9,706.76
Eng-98%E-02-01 Land for Kukuiofono Tank Site	53,508.05		53,508.05
Cons-Exp-Kapaia Cane Haul Road	1,091,650.00		1,091,650.00
	<b>\$ 9,418,863.75</b>	<b>\$ -</b>	<b>\$ 9,418,863.75</b>

<b>State Allotment Funded Projects</b>			
WK-08-Kapaa Homesteads 2-0.5MG Tanks	\$ -	\$ -	\$ -
17-10-KW-07 Paua Valley Tank Repair	-		-
WK-39, Kapaa Homesteads Well No. 4 Pump and Controls	-		-
PLH-27 Kūhiō Highway (Hardy-Oxford) 16' Main Replacement	-		-
	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>

<b>State Revolving Funded Projects</b>			
WK-08, Kapaa Homesteads 2.0 SMG Tanks	\$ 5,200,000.00		\$ 5,200,000.00
Yamada Tank Conn Pipe	4,128,478.23		4,128,478.23
	<b>\$ 9,328,478.23</b>	<b>\$ -</b>	<b>\$ 9,328,478.23</b>

<b>Total Capital Projects</b>	<b>\$ 49,121,025.49</b>	<b>\$ 608,436.30</b>	<b>\$ 48,512,589.19</b>
-------------------------------	-------------------------	----------------------	-------------------------

Selected Divisions

	January 2026			Fiscal Year 2026			
	Budget	Actual	Variance	Year to Date Budget	Year to Date Actual	Variance	Variance %
Engineering	\$ 931,395.00	\$ 213,740.07	\$ 717,654.93	\$ 6,519,765.00	\$ 2,119,055.31	\$ 4,400,709.69	67.5.%
Fiscal	234,918.00	174,851.40	60,066.60	1,644,426.00	1,236,754.50	407,671.50	24.8.%
Operations	1,441,899.00	1,376,845.49	65,053.51	10,093,293.00	7,946,634.00	2,146,659.00	21.3.%
	<b>\$ 2,608,212.00</b>	<b>\$ 1,765,436.96</b>	<b>\$ 842,775.04</b>	<b>\$ 18,257,484.00</b>	<b>\$ 11,302,443.81</b>	<b>\$ 6,955,040.19</b>	<b>38.1.%</b>



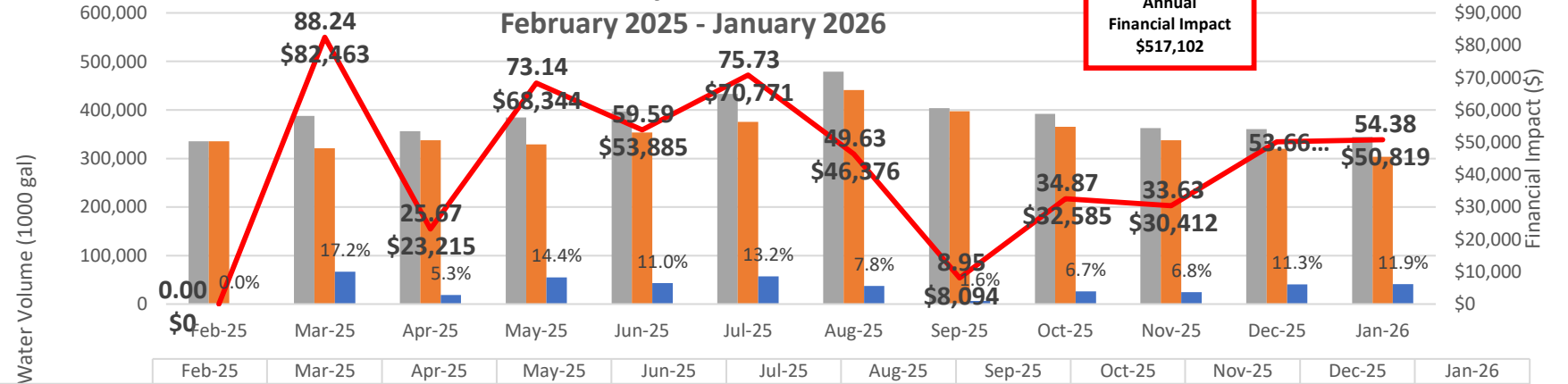
Ops Highlights:

- 1. Recommended Janitor Working Supervisor for hire. Water Service Investigator, Water Meter Mechanic, Construction & Maintenance Worker I, and Pipefitter in recruitment.
- 2. Electrician Helper accepted a promotion with Solid Waste.
- 3. Training conducted was for Forklift certification and the DSO Exam was given.

# OPERATIONS DASHBOARD

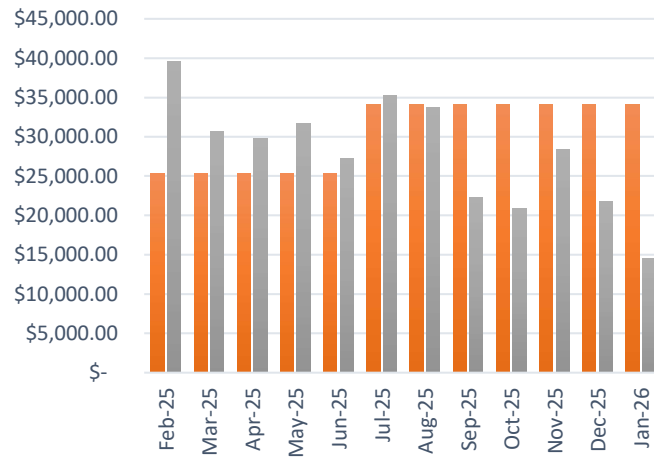
## Monthly Water Audit

February 2025 - January 2026

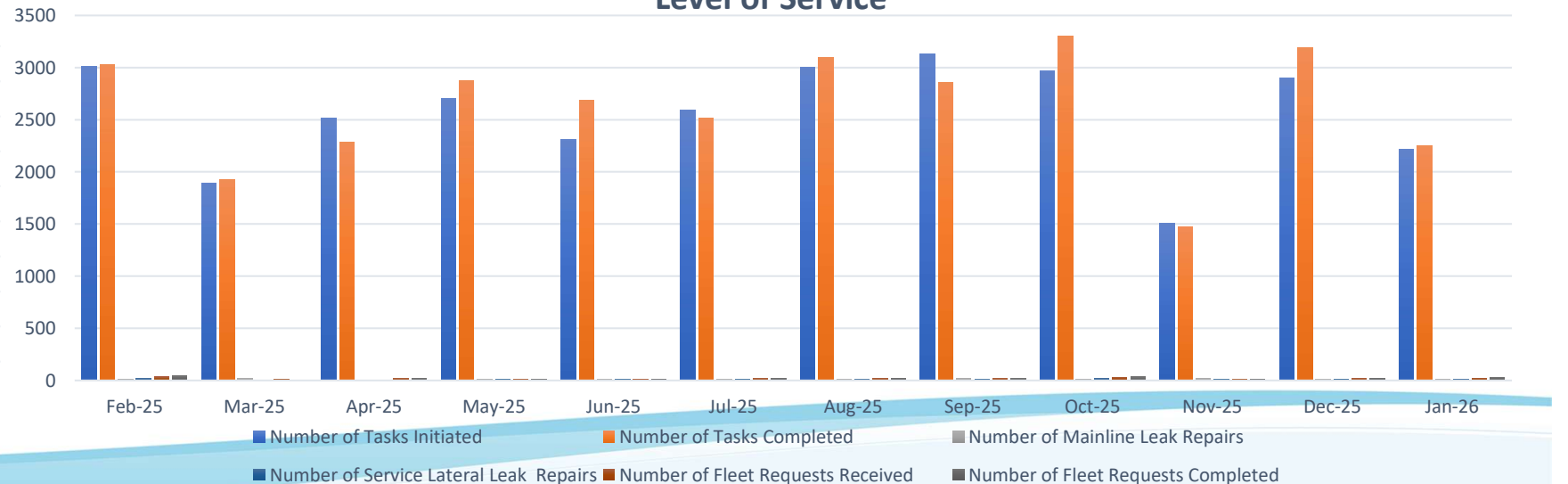


	Feb-25	Mar-25	Apr-25	May-25	Jun-25	Jul-25	Aug-25	Sep-25	Oct-25	Nov-25	Dec-25	Jan-26
Produced (Kgals)	335,512	387,916	356,362	384,673	397,151	432,800	478,834	404,003	392,013	362,519	360,824	344,669
Customer Read (Kgals)	335,512	321,113	337,556	329,308	353,499	375,469	441,265	397,446	365,616	337,882	320,206	303,501
Non-Rev Water (Kgals)	0	66,803	18,806	55,365	43,652	57,331	37,569	6,557	26,397	24,637	40,618	41,168
Financial Impact	\$0	\$82,463	\$23,215	\$68,344	\$53,885	\$70,771	\$46,376	\$8,094	\$32,585	\$30,412	\$50,140	\$50,819

## Overtime



## Level of Service





# OPERATIONS

	Last Month		Current Month		Previous FY		Current FY	
					Year to Date		Year to Date	
STAFFING								
Budgeted Staff   Vacancies	49	11	48	12	48	11	48	12
OVERTIME								
Budget (\$)   Actual (\$)	\$34,166.67	\$21,825.33	\$34,166.67	\$14,568.12	\$177,916.67	\$234,575.63	\$239,166.67	\$177,110.82
FLEET MANAGEMENT								
# of Fleet Requests Received	18		22		167		139	
# of Fleet Requests Completed	22		33		163		171	
METER PROGRAM								
# of Existing Meters Replaced	0		0		247		3	
# of Existing Meters Repaired	76		86		3037		1386	
# of New Meters Installed	2		8		90		54	
# of New Laterals Installed	0		0		2		0	

# OPERATIONS



LEVEL OF SERVICE									
	Last		Current		Previous		Current		
	Month		Month		FY YTD		FY YTD		
# of Tasks Initiated	2898		2214		18095		18315		
# of Tasks Completed	3187		2255		18730		18693		
# of Mainline Leak Repairs	15		14		101		105		
# of Service Lateral Leak Repairs	8		16		124		91		
# of Calls for Service	191		203		1494		1366		
# of Temporary Hydrant Meters Installed	0		0		17		6		
# One Call Request Received   Completed	63	62	77	76	284	283	550	542	
# of Hydrant Hits	3		1		9		15		

WATER AUDIT				
	Last	Current Month	Previous	Current
	Month		FY YTD	FY YTD
Water Produced (Million Gallons)	360.824	344.669	2836.665	2775.662
Customer Meter Reading (Million Gallons)	320.206	303.501	2375.484	2541.385
Non-Revenue Water (Million Gallons)	40.618	41.168	461.181	234.277
Non-revenue %	11%	12%	16%	8%
Financial Impact	\$50,139.67	\$50,818.60	\$569,291.05	\$289,196.21



# ENGINEERING DASHBOARD

	Last Month		Current Month		Previous FY Year to Date		Current FY Year to Date	
STAFFING								
Budgeted Staff   Vacancies	22	4	22	4	25	5	-	-
OVERTIME								
Budget (\$)   Actual (\$)	\$15,400	\$1,700	\$15,400	\$2,500	\$90,400	\$159,900	\$107,900	\$67,500

	Last Month		Current Month	
PROJECT MANAGEMENT				
DOW Projects In Design   In Construction	8	11	8	11
Private Projects Design Approved   In Construction	4	165	5	169
Private Projects Construction Completed	3		9	

## CIP Project Highlights:

- Kapa'a Homesteads 325' Tanks
  - Installing water line
  - Installing retaining wall
- Pu'u Pane 1.0 MG Tank
  - Issued solicitation, 2/9/26
  - Bid opening, 4/22/26
- Kalāheo Water System Improvements
  - Working on change order proposal to upgrade booster pumps at 908' Tank site and Yamada Tank site
- UH Experimental Station 605' Tank
  - Reviewing water line profile
- Kīlauea Wells 1 & 2 MCC, Chlorination Facilities
  - Energizing and testing temporary MCC, 2/17/26
  - Transferring pumps to temporary MCC, 2/24/26
  - Permanent MCC being built
- Kūhiō Hwy (Hardy-Oxford) 18" Main Replacement
  - Night work ongoing on Kūhiō Highway
- Weke, Anae, Mahimahi and Hee Roads 6" and 8" Main Replacement
  - Water line work to start in March

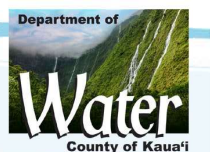


# ENGINEERING DASHBOARD

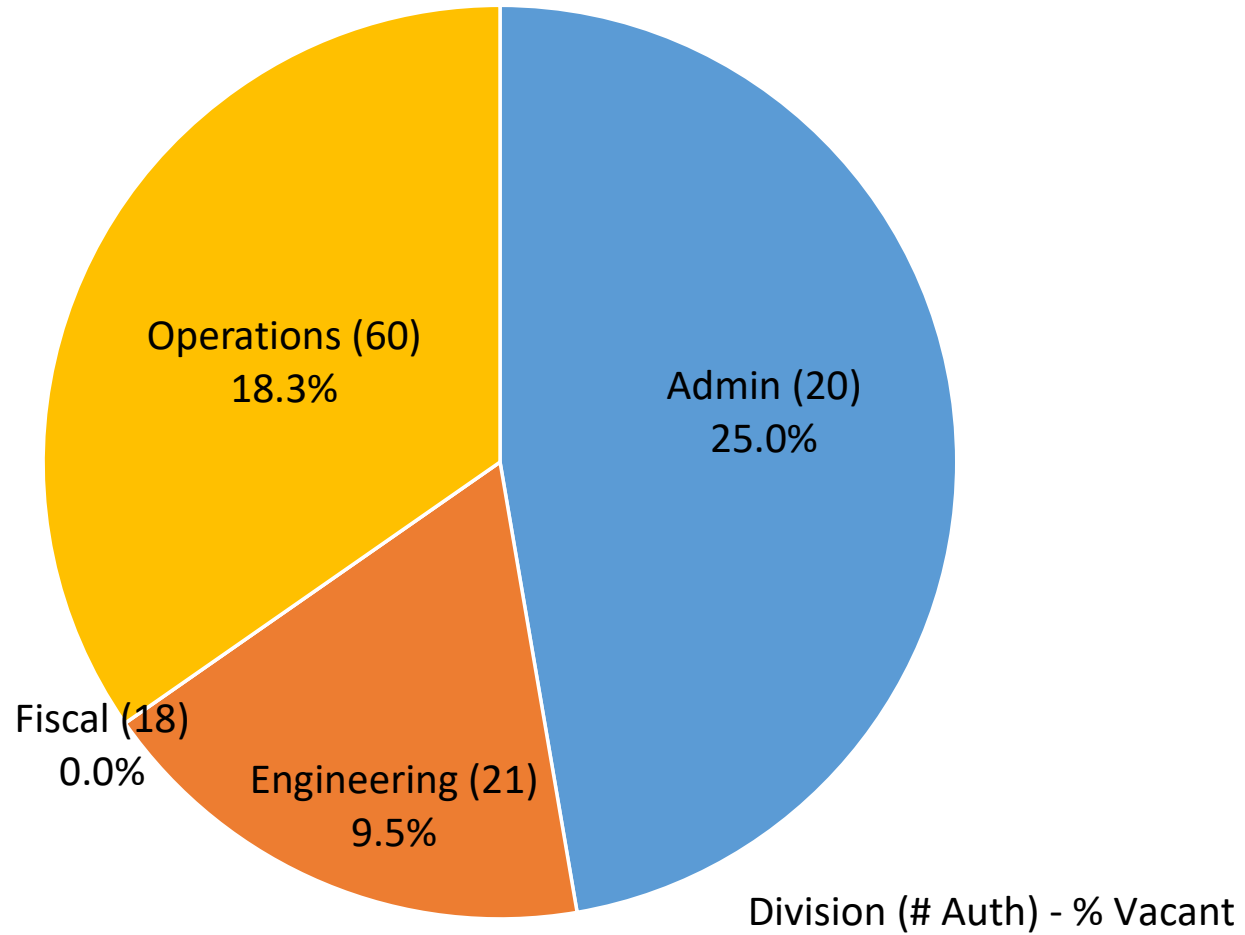
	Last Month		Current Month		Previous FY Year to Date		Current FY Year to Date	
WATER RESOURCES AND PLANNING								
Number of Customer Requests Received   Completed								
Subdivision Applications, Zoning, Land Use and Variance Permits	8	4	13	5	59	57	67	47
ADU/ARU Clearance Applications	9	9	17	16	31	27	91	88
Building Permits	101	99	56	53	1037	971	771	761
Water Service Requests	24	20	27	30	207	203	180	180
Government Records Request	2	1	4	3	26	20	20	20
Backflow Inspection # of Devices Tested	134		320		775		889	

## DOW Project Highlights:

- Water Systems Investment Plan (WSIP)
  - Scheduled public meetings for weeks of 3/9/26 and 4/6/26
  - Working on Ka Paʻakai analysis
- Kauaʻi Water Use and Development Plan (KWUDP)
  - Working on developing a general inventory of traditional and customary practices for each moku
- As-Needed Grant Writing and Preparation Services
  - Applied for WaterSMART Grant for AMI Meters 11/13/24



## % Vacancy Within Each Division Level



DEPARTMENT OF WATER  
County of Kauaʻi  
“Water has no substitute – Conserve It!”

**MANAGER’S UPDATE**

February 19, 2026

*Pursuant to Board Policy No. 3*

**1. FIRST AMENDMENT TO CONTRACT 760 WITH THE LIMTIACO CONSULTING GROUP, INC.  
JOB NO. 24-02, PROJECT NO. LO-10, LĀWA‘I 6” AND 8” MAIN REPLACEMENT,  
LĀWA‘I, KAUA‘I, HAWAII**

**RECOMMENDATION:**

It is recommended that the Manager approve the First Amendment to Contract No. 760 with The Limtiaco Consulting Group for the subject project. The amendment includes a no cost time extension of 180 calendar days from the Notice to Proceed for this amendment.

**FUNDING:**

Account No.	10-20-10-540-010		
Acct Description	WU/Eng/Admin/Professional Services		
Funds Available	Verified by WWC		\$N/A
Contract No.	760		
Vendor	The Limtiaco Consulting Group, Inc.		
	Contract Amount	\$199,324.24	
	Contingency	\$675.76	
	Total Funds Certified To Date	\$200,000.00	
First Amendment:			
	Contract time extension (180 calendar days)	\$0.00	
	Total Amendment	\$0.00	<\$N/A>
Contract Amount To Date		\$199,324.24	

**BACKGROUND:**

Contract NTP Date: June 3, 2024  
Original Contract End Date: June 2, 2025  
New Contract End Date: 180 calendar days from the NTP of this amendment

The Department of Water (DOW) has identified the subject project in Water Plan 2020 as LO-10. The subject project will provide 60% design documents and initial permitting services for the replacement of approximately 6,400 linear feet of water lines on various streets in Lāwa‘i, including Anuenue Road, Aulima Road, Huapoo Road, Oyama Road, Konishi Road, Piko Road, Uha Road, Blackstad Road, Blackstad Lane, and Kalua Moa Road.

This amendment will provide a no cost time extension for the contractor to complete the 60% design submittal for DOW review.

**2. CHANGE ORDER NO. 5 TO CONTRACT NO. 722 (KIEWIT INFRASTRUCTURE WEST CO.)**  
**JOB NO. 16-04, WP2020 #KW-03, MCC, CHLORINATION FACILITIES KILAUEA WELLS NO. 1 AND NO. 2, KILAUEA WATER SYSTEM, KILAUEA, KAUA'I, HAWAII**

**RECOMMENDATION:**

It is recommended that the Manager approve Change Order No. 5 for Contract No. 722.

**FUNDING:**

<b>FROM:</b>			
Account No.	10-20-00-604-116		\$237,078.00
	10-20-00-604-157		\$200,000.00
	10-20-00-604-175		\$2,525.29
Acct Description	WU/Eng/Admin/Capital Outlay – R & R		
Funds Available	Verified by WWC		\$439,603.29
<b>TO:</b>			
Account No.	10-20-00-604-157		
Acct Description	WU/Eng/Admin/Capital Outlay – R&R		
Contract No.	722		
Vendor	Kiewit Infrastructure West Co.		
	Contract Amount	\$3,124,020.00	
	Change Order No. 1 (06/15/23)	\$64,870.08	
	Change Order No. 2 (06/15/23)	\$22,976.72	
	Change Order No. 3 (10/17/24)	\$146,702.30	
	Change Order No. 4 (04/17/25)	\$185,900.08	
	Total Funds Certified	\$967,872.38	
Change Order No. 5:			
	Permanent MCC Redesign	\$439,603.29	
	Total Change Order	\$439,603.29	<\$439,603.29>
Contract Amount To Date		3,984,072.47	
Funds Certified To Date		\$1,407,475.67	

**BACKGROUND:**

Contract NTP Date: November 7, 2022  
Original Contract End Date: July 28, 2024  
New Contract End Date: December 24, 2028

The scope of work included a permanent motor control center (MCC). It was determined that the permanent MCC needed to be redesigned due to space restrictions at the site. The contract was suspended in order for the redesign of the permanent MCC to be performed and reviewed by the Department. This change order includes the redesign effort, including escalation costs for labor, equipment, and materials.



**3. YEAR 2 SERVICES FOR CONTRACT NO. 769 WITH COMPULINK MANAGEMENT CENTER, INC. DBA LASERFICHE IT-2025-01, DOCUMENT MANAGEMENT SOFTWARE, HOSTING, AND SUPPORT SERVICES**

**RECOMMENDATION:**

It is recommended that the Manager approve Year 2 services for Contract No. 769 with Compulink Management Center, Inc. dba Laserfiche.

**FUNDING:**

Account No.	10-02-10-550-000		
Acct Description	WU/IT/Admin/Subscription Based IT Arrangements (SBITAs)		
Funds Available	Verified by WWC		\$38,000.00
Contract No.	769		
Vendor	Compulink Management Center, Inc. dba Laserfiche		
	Contract Amount	\$131,498.55	
	5% Contingency	\$N/A	
	Year 1 of 3 (10/17/24)	\$85,415.00	
	First Amendment (03/20/25)	\$7,425.00	
	Total Funds Certified To Date	\$92,840.00	
Year 2 of 3:			
Multi-Term Contract for C769		\$22,701.20	
	Total	\$22,701.20	<\$38,000.00>
Contract Amount To Date		\$161,624.75	

**BACKGROUND:**

Contract NTP Date: January 6, 2025  
Original Contract End Date: January 5, 2028  
New Contract End Date: N/A

The Department currently operates in a highly paper driven environment. The purpose of the document management software is to transition to an electronic workflow, which captures records, routes for approval, and ultimately stores documents in the cloud for recordkeeping.

Multi-term contract for three (3) years.

Year 1: \$85,415.00

**Year 2: \$22,701.20**

Year 3: \$23,382.35

Total Contract (1,095 days): \$131,498.55

**4. YEAR 2 SERVICES FOR CONTRACT NO. 779 WITH KAUAI MECHANICAL, INC.  
GS-2025-05, SERVICE AND MAINTENANCE OF DOW'S VARIOUS AIR  
CONDITIONING UNITS**

**RECOMMENDATION:**

It is recommended that the Manager approve Year 2 services for Contract No. 779 with Kauai Mechanical, Inc.

**FUNDING:**

Account No.	10-40-60-561-000		
Acct Description	WU/Ops/TandD/Repairs and Maintenance – Other than Water System		
Funds Available	Verified by WWC		\$75,000.00
Contract No.	779		
Vendor	Kauai Mechanical, Inc.		
	Contract Amount	\$199,981.17	
	5% Contingency	\$9,999.00	
	Year 1 of 3 (02/20/25)	\$66,660.39	
	Total Funds Certified To Date	\$76,659.39	
Year 2 of 3:			
	Multi-Term Contract for C779	\$66,660.39	
	Total	\$66,660.39	<\$75,000.00>
Contract Amount To Date		\$133,320.78	

**BACKGROUND:**

Contract NTP Date: March 11, 2025  
Original Contract End Date: March 9, 2028  
New Contract End Date: N/A

The Department requires periodic maintenance to upkeep the refrigeration and air conditioning equipment for the Administration, Microlab, and Operations Buildings. The budget breakdown for this multi-term service contract is the following:

Year 1 = \$66,660.39  
**Year 2 = \$66,660.39**  
Year 3 = \$66,660.39  
Contract Amount = \$199,981.17

**5. CHANGE ORDER NO. 1 TO CONTRACT NO. 782 WITH ALPHA, INC.  
JOB NO. 18-03, WP2020 # PLH-27, KUHIO HIGHWAY (HARDY-OXFORD) 18"  
MAIN REPLACEMENT**

**RECOMMENDATION:**

It is recommended that the Manager approve Change Order No. 1 for Contract No. 782 with Alpha, Inc.

**FUNDING:**

Account No.	10-20-00-604-148		
Acct Description	WU/Eng/Admin/Capital Outlay – R&R (PLH-27 Kuhio Highway (Hardy-Oxford) 18" Main Replacement)		
Funds Available	<i>Verified by WWC</i>		\$1,864,740.00
Contract No.	782		
Vendor	Alpha, Inc.		
	Contract Amount	\$5,013,270.50	
	5% Contingency	\$0.00	
	Total Funds Certified To Date	\$2,513,270.50	
Change Order No. 1:			
Add Bid Items 52, 55, 56, and 62		\$1,864,740.00	
	Total	\$1,864,740.00	<\$1,864,740.00>
Contract Amount To Date		\$6,878,010.50	

**BACKGROUND:**

Contract NTP Date: September 8, 2025  
Original Contract End Date: October 12, 2026  
New Contract End Date: N/A

The Department of Water (DOW) has budgeted additional funds for this project, identified as PLH-27 in Water Plan 2020. The budget is allowing for additional bid items to be added to the contract

**6. PROFESSIONAL SERVICES 2026-PROF-SCS-1, CONTRACT AWARD TO IMANAKA ASATO, LLC AND STAG LIUZZA, LLC  
SPECIAL COUNSEL SERVICES FOR AQUEOUS-FILM-FORMING FOAMS ("AFFF") LITIGATION MDL NO. 2873**

RECOMMENDATION:

It is recommended that the Manager in coordination and concurrence with the County Attorney, approve a legal services contract award to Imanaka Asato, LLC and Stag Liuzza, LLC (jointly Special Counsel). Special Counsel will be compensated on a contingency fee basis in which Special Counsel will only be compensated if the Board is paid a recovery for its claim in the AFFFF multi-district litigation settlements. As such, the Department does not need certify funding for the legal services provided by Special Counsel under this contract.

FUNDING:

Account No.	n/a		
Acct Description	n/a		
Funds Available	Verified by WWC		n/a
Contract No.	786		
Vendor	Imanaka Asato, LLC and Stag Liuzza, LLC		
	Contract Amount	n/a	
	Total Funds Certified	n/a	

BACKGROUND:

The Office of the County Attorney, in coordination with the Department of Water, seeks special counsel to provide legal services to the Board of Water Supply related to the filing of a civil action and/or claims in the Aqueous-Film-Forming Foams Litigation MDL No. 2873 relating to pending settlements for recovery of costs associated with damages to the public drinking water system against defendants who manufactured, marketed, distributed, and/or sold aqueous film-forming foam. Aqueous film-forming foam is an effective fire fighting foam that contains per-and polyfluoroalkyl substances or PFAS and causes damage to public drinking water systems.

CONVEYANCE OF WATER FACILITIES **NONE**

<u>APPLICANT</u>	<u>TMK #</u>	<u>LOCATION</u>