

AGREEMENT FOR REGIONAL TRAFFIC IMPROVEMENTS

THIS AGREEMENT, made, executed, and delivered this 16th day of September, 1999, by and between 1250 OCEANSIDE PARTNERS, hereinafter "OCEANSIDE," whose business address is 78-6831 Ali'i Drive, Suite K-15, Kailua-Kona, Hawaii 96740, and the COUNTY OF HAWAII, whose business and post office address is 25 Aupuni Street, Hilo, Hawaii 96720, hereinafter "COUNTY," through its Planning Department and Department of Public Works.

WITNESSETH:

WHEREAS, OCEANSIDE is required to construct a bypass highway (also referred to as "Mamalaho Highway Bypass"), and other regional traffic improvements within the approximate vicinity of Keauhou and Captain Cook, County of Hawaii, pursuant to the respective conditions of County of Hawaii Ordinance Nos. 96-7, 96-8, and 97-36, as comprehensively set forth in paragraph 13 of that certain Development Agreement which was executed by the parties effective April 20, 1998;

WHEREAS, under such ordinances and provisions of that Development Agreement, OCEANSIDE is required to post a bond in favor of the COUNTY in order to assure that such regional traffic improvements will be constructed in conjunction with OCEANSIDE's construction of its subdivision (Planning Department Subdivision File No. 98-124); and

WHEREAS, the parties desire that, as such regional traffic improvements are constructed, individual bonds shall be released by the COUNTY upon the COUNTY's confirmation that a particular scope of work which is secured by such individual bond

has been completed.

NOW, THEREFORE, IT IS HEREBY AGREED, by and between OCEANSIDE and the COUNTY, that:

1. OCEANSIDE shall construct to completion the Mamalahoa Highway Bypass and other required regional traffic improvements, scopes of work, performance schedules, and related bond amounts which are contained in Exhibit A attached hereto, and in accordance with the applicable requirements and standards of the COUNTY and to the satisfaction of the Department of Public Works.

2. In the event OCEANSIDE, after receiving all necessary development approvals and in the absence of a force majeure, fails to complete all required improvements and utilities within the respective time periods contained in Exhibit A or such extension as may be granted in writing, the COUNTY, through its Department of Public Works may complete the improvements and recover the full cost and expense thereof from OCEANSIDE.

3. OCEANSIDE's obligation to construct the improvements as specified in this agreement shall be secured by a good and sufficient surety bond (other than personal surety), certified check, or other security acceptable to the Planning Director and approved by the Corporation Counsel, such bond or other acceptable security to be payable to the County, and conditioned upon the faithful performance of any and all work required to be done by OCEANSIDE in accordance with the provisions of this agreement. Said bond or other acceptable security, whether by single or multiple

instruments, shall have a cumulative face value of no less than the sum of TWENTY-FIVE MILLION FIFTY THOUSAND AND NO/ DOLLARS (\$25,050,000.00).

4. Upon OCEANSIDE's request, the surety bond(s) or other acceptable security shall be released by the COUNTY upon the completion of a specific scope of work which is secured by the particular surety bond or other acceptable security which is requested by OCEANSIDE to be released, subject to the COUNTY's confirmation that such work has been completed in accordance with approved plans.

5. OCEANSIDE's obligations to complete the Mamalahoa Highway Bypass as specified in this Agreement and the bond or other security which secures the obligations shall become unconditionally effective on either: (1) the date of the initial conveyance of any lot within the subdivision, (2) the date of recordation of the subdivision with the Bureau of Conveyances, State of Hawaii, or (3) one hundred eighty days (180) days after the date of final subdivision approval, whichever is sooner. If prior to the occurrence of any of the above-described events in this paragraph, the COUNTY rescinds its final subdivision approval and nullifies the final subdivision plat map for OCEANSIDE's proposed subdivision, then the COUNTY shall execute a cancellation of this Agreement with OCEANSIDE, thereby terminating OCEANSIDE's obligations hereunder and the bond or other security which secures said obligations.

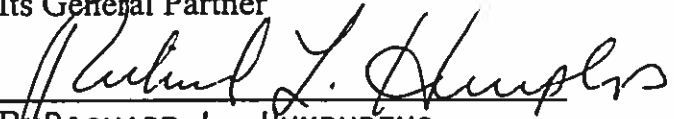
6. This agreement shall be terminable at will by OCEANSIDE if all necessary development approvals are not issued by appropriate governmental agencies for the construction of the Mamalahoa Highway Bypass and other regional traffic improvements

which are described herein.

IN WITNESS WHEREOF, the parties hereto have caused these present to be executed the day and year first above written.

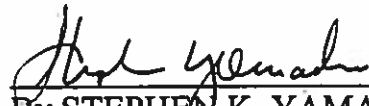
1250 OCEANSIDE PARTNERS,
a Hawaii limited partnership

By RED HILL 1250, INC.,
Its General Partner


By RICHARD L. HUMPHREYS
Its VICE PRESIDENT

"OCEANSIDE"

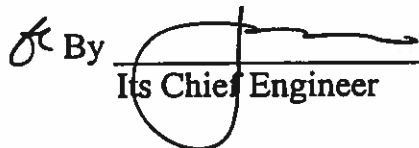
COUNTY OF HAWAII:


By STEPHEN K. YAMASHIRO
Its Mayor

PLANNING DEPARTMENT

By 
Its Planning Director

DEPARTMENT OF PUBLIC WORKS

By 
Its Chief Engineer

"COUNTY"

APPROVED AS TO
FORM AND LEGALITY:



Asst. DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII
Date 9/17/89

EXHIBIT A

MAMALAHOA HIGHWAY BYPASS AND RELATED REGIONAL TRAFFIC IMPROVEMENTS

Scopes of Work, Performance Schedules, and Bond Amounts

<u>Scope of Work</u>	<u>Completion Date</u>	<u>Bond Amount</u>
1. Mamalahoa Highway Bypass Phase I (Keauhou to Haleki'i Street)	January 2005	\$15,500,000.00
2. Mamalahoa Highway Bypass Phase II (Haleki'i Street to Napoopoo)	January 2005	\$ 9,260,000.00
3. Mamalahoa Highway/Haleki'i Street Intersection Improvements	January 2005	\$ 290,000.00

Key No. 3rd Division 8-1-004:003;

WHEREAS, OCEANSIDE is required to construct a bypass highway (also referred to as "Mamalahoa Highway Bypass"), and other regional traffic improvements within the approximate vicinity of Keauhou and Captain Cook, County of Hawaii, pursuant to the respective conditions of County of Hawaii Ordinance Nos. 96-7, 96-8, and 97-36, as comprehensively set forth in paragraph 13 of that certain Development Agreement which was executed by the parties effective April 20, 1998;

WHEREAS, under such ordinances and provisions of that Development Agreement, OCEANSIDE is required to post a bond in favor of the COUNTY in order to assure that such regional traffic improvements will be constructed; and


WHEREAS, the above-named principal has entered into that certain Agreement For Regional Traffic Improvements with the County of Hawaii through its Departments of Public Works and Water Supply, dated this 16th day of September, 1999, to complete the aforementioned improvements within the time periods therein specified, or such extension as may be mutually agreed upon, and upon default, the County of Hawaii through its Departments of Public Works and Water Supply may cause the same to be completed and recover the costs thereof from the principal and surety, which said agreement is made part of this bond the same as though set forth herein;

NOW, THEREFORE, if the above-bounden principal shall fully and faithfully do and perform according to the terms which are set forth in said Agreement For Regional Traffic Improvements within the time periods, this obligation shall be void; otherwise it

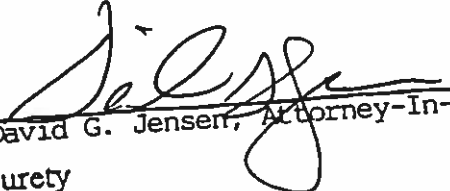
shall be and remain in full force and effect.

1250 OCEANSIDE PARTNERS,
a Hawaii limited partnership

By RED HILL 1250, INC.,
Its General Partner


RICHARD L. HUMPHREYS, VICE PRESIDENT
Principal

AMERICAN MOTORISTS
INSURANCE COMPANY


David G. Jensen, Attorney-In-Fact
Surety

AMERICAN MOTORISTS INSURANCE COMPANY

Home Office: Long Grove, IL 60049

POWER OF ATTORNEY

Know All Men By These Presents:

That the American Motorists Insurance Company, a corporation organized and existing under the laws of the State of Illinois, and having its principal office in Long Grove, Illinois, does hereby appoint

David G. Jensen, Laura Mary Lachey

its true and lawful agent(s) and attorney(s)-in-fact, to make, execute, seal, and deliver during the period beginning with the date of issuance of this power and ending December 31, 2001, unless sooner revoked for and on its behalf as surety, and as its act and deed:

Name of Principal: 1250 Oceanside Partners

Bond No.: 3SM 959 009 00

Penal Sum: \$ 15,500,000.00

Name of Obligor: County of Hawaii and Department of Water Supply & Public Works

Description: Regional Traffic Improvement Bond for Hokuli'a Phase I

EXCEPTION: NO AUTHORITY is granted to make, execute, seal and deliver any bond or undertaking which guarantees the payment or collection of any promissory note, check, draft or letter of credit.

This authority does not permit the same obligation to be split into two or more bonds in order to bring each such bond within the dollar limit of authority as set forth herein.

This appointment may be revoked at any time by the American Motorists Insurance Company.

The execution of such bonds and undertakings in pursuance of these presents shall be as binding upon the said American Motorists Insurance Company as fully and amply to all intents and purposes, as if the same had been duly executed and acknowledged by its regularly elected officers at its principal office in Long Grove, Illinois.

THIS APPOINTMENT SHALL CEASE AND TERMINATE WITHOUT NOTICE AS OF DECEMBER 31, 2001.

This Power of Attorney is executed by authority of a resolution adopted by the Executive Committee of the Board of Directors of said American Motorists Insurance Company on February 23, 1988 at Long Grove, Illinois, a true and accurate copy of which is hereinafter set forth and is hereby certified to by the undersigned Secretary as being in full force and effect:

"VOTED, That the Chairman of the Board, the President, or any Vice President, or their appointees designated in writing and filed with the Secretary, or the Secretary shall have the power and authority to appoint agents and attorneys-in-fact, and to authorize them to execute on behalf of the Company, and attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings, obligatory in the nature thereof, and any such officers of the Company may appoint agents for acceptance of process."

This Power of Attorney is signed, sealed and certified by facsimile under and by authority of the following resolution adopted by the Executive Committee of the Board of Directors of the Company at a meeting duly called and held on the 23rd day of February, 1988:

"VOTED, That the signature of the Chairman of the Board, the President, any Vice President, or their appointees designated in writing and filed with the Secretary, and the signature of the Secretary, the seal of the Company, and certifications by the Secretary, may be affixed by facsimile on any power of attorney or bond executed pursuant to resolution adopted by the Executive Committee of the Board of Directors on February 23, 1988 and any such power so executed, sealed and certified with respect to any bond or undertaking to which it is attached, shall continue to be valid and binding upon the Company."

In Testimony Whereof, the American Motorists Insurance Company has caused this instrument to be signed and its corporate seal to be affixed by its authorized officers, this 26th day of July, 1993.

Attested and Certified:

AMERICAN MOTORISTS INSURANCE COMPANY

Robert P. Hames



J. S. Kemper III

Robert P. Hames, Secretary

J. S. Kemper, III, Exec, Vice President

NOTE: ANY ERASURES OR WHITE OUT WILL VOID THIS POWER OF ATTORNEY.

BOND FIRST TERM PREMIUM FULLY EARNED
(Regional Traffic Improvements)

KNOW ALL MEN BY THESE PRESENTS:

That we, 1250 OCEANSIDE PARTNERS, a Hawaii limited partnership, of 78-6831 Ali'i Drive, Kailua-Kona, Suite K-15, Hawaii 96740, State of Hawaii, as principal, and AMERICAN MOTORISTS INSURANCE COMPANY, of

Illinois, as surety, are held and firmly bound unto the County of Hawaii, a municipal corporation of the State of Hawaii, and/or the Department(s) of Water Supply and Public Works of said County, hereinafter called the obligees, their successors and assigns in the full and just sum of Nine Million Two Hundred Sixty thousand and no/100 DOLLARS (\$9,260,000), for the payment of which to the said obligees, their successors and assigns, well and truly to be made, we do hereby bind ourselves and our respective heirs, executors and administrators, assigns and/or successors, jointly and severally, firmly by these presents.

Signed, sealed, delivered, and dated this 13th day of September, 1999, at _____, State of Hawaii.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

WHEREAS, the said principal, is the developer of that certain development known as Hokuli'a Phase 1, situated at Honuaino 4, Hokukano 1 & 2, Kanaeue 1 & 2, Halekii, Keekee 1 & 2, Iikahi, Kanakau 1 & 2, Kalukalu 1, 2 & 3, and Onouli 1, North and South Kona, Island of Hawaii, County and State of Hawaii, identified by Tax Map

Oceanside/Hokuli'a
Bond (Regional Traffic Improvements)
August 11, 1999 DRAFT

Key No. 3rd Division 8-1-004:003;

WHEREAS, OCEANSIDE is required to construct a bypass highway (also referred to as "Mamalahoa Highway Bypass"), and other regional traffic improvements within the approximate vicinity of Keauhou and Captain Cook, County of Hawaii, pursuant to the respective conditions of County of Hawaii Ordinance Nos. 96-7, 96-8, and 97-36, as comprehensively set forth in paragraph 13 of that certain Development Agreement which was executed by the parties effective April 20, 1998;

WHEREAS, under such ordinances and provisions of that Development Agreement, OCEANSIDE is required to post a bond in favor of the COUNTY in order to assure that such regional traffic improvements will be constructed; and

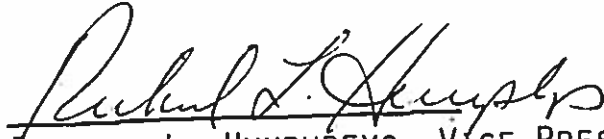
WHEREAS, the above-named principal has entered into that certain Agreement For Regional Traffic Improvements with the County of Hawaii through its Departments of Public Works and Water Supply, dated this 16th day of September, 1999, to complete the aforementioned improvements within the time periods therein specified, or such extension as may be mutually agreed upon, and upon default, the County of Hawaii through its Departments of Public Works and Water Supply may cause the same to be completed and recover the costs thereof from the principal and surety, which said agreement is made part of this bond the same as though set forth herein;

NOW, THEREFORE, if the above-bounden principal shall fully and faithfully do and perform according to the terms which are set forth in said Agreement For Regional Traffic Improvements within the time periods, this obligation shall be void; otherwise it

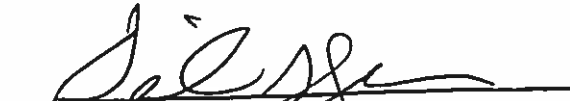
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a Hawaii limited partnership

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Its General Partner


RICHARD L. HUMPHREYS, VICE PRESIDENT
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its true and lawful agent(s) and attorney(s)-in-fact, to make, execute, seal, and deliver during the period beginning with the date of issuance of this power and ending December 31, 2001, unless sooner revoked for and on its behalf as surety, and as its act and deed:

Name of Principal: 1250 Oceanside Partners

Bond No.: 3SM 959 010 00 Penal Sum: \$ 9,260,000.00

Name of Obligor: County of Hawaii and Department of Water Supply & Public Works

Description: Regional Traffic Improvements Bond for Hokuli'a Phase I

EXCEPTION: NO AUTHORITY is granted to make, execute, seal and deliver any bond or undertaking which guarantees the payment or collection of any promissory note, check, draft or letter of credit.

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In Testimony Whereof, the American Motorists Insurance Company has caused this instrument to be signed and its corporate seal to be affixed by its authorized officers, this 26th day of July, 1993.

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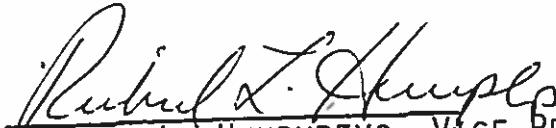
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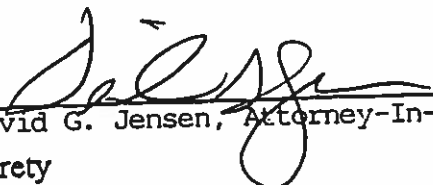
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Bond No.: 3SM 959 011 00 Penal Sum: \$ 290,000.00

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Description: Regional Traffic Improvements for Hokuli'a Phase I

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