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**June 9, 2016**

**TO:** GAIL MURAYAMA  
 CLERK, COMMITTEE ON ZONING AND PLANNING

**FROM:** COUNCILMEMBER KYMBERLY MARCOS PINE *KMP*

**RE:** PROPOSED AMENDMENTS TO UNILATERAL AGREEMENT ATTACHED  
 TO BILL 62, CD1 (2015)

Attached for consideration by the Zoning and Planning Committee are my proposed amendments to the Unilateral Agreement attached to Bill 62, CD1 (2015), relating to Ocean Pointe Hoakalei rezone.

Thank you.

COUNCIL COM. 165

**AMENDMENT FORM**  
 UNILATERAL AGREEMENT (UA) AND DEVELOPMENT AGREEMENT (DA)

TOTAL PAGES: 1 of 1  
 DATE: 7-Jun-16  
 COUNCILMEMBER: PINE  
 STAFF & PHONE EXT: MC (x85024)

MEASURE NO.	PROJECT	CONDITION NO.	CONDITION TITLE	PAGE NO.	AMENDMENT DESCRIPTION / DIRECTIONS	AMENDMENT TEXT (RAMSEYER NEW LANGUAGE)	AMENDMENT CLARIFICATION / COMMENTS
Bill 62, CD1 (2015) UA	Ocean Pointe Hoakalei Rezone	New	Lagoon		Amends Paragraph 3 of NOW THEREFORE Clause relating to lagoon rules and usage.	<p>[The Declarant or its designee, shall from time to time, promulgate and enforce rules for the use, operation, and maintenance of the swimming cove and lagoon and all related facilities, including but not limited to parking and commercial concessions that rent recreational watercraft and equipment, and the Wai Kai Club or similar membership facility.</p> <p>In establishing the rules for the Wai Kai Club or similar membership facility, the Declarant or its designee shall uphold the Declarant's representations regarding activities that are allowed in the recreational water areas, as illustrated in the Declarants promotional materials provided to potential purchasers of residences in the development, including but not limited to allowing the use of the entire recreational lagoon's water areas by children of all ages, not requiring users to wear safety vests, allowing pets in the recreational water areas, allowing users to provide their own watercraft and equipment at no additional charge per watercraft or equipment, and not establishing a limit on guests for Wai Kai Club or similar membership facility members.</p> <p style="text-align: right;">The</p> <p>Declarant's designee must be a resort association established by the Declarant for this purpose. The resort association must be comprised of members representing homeowners in the _____ community (Community Representatives), owners and operators of the hotel and resort (Hotel Representatives), and owners and operators of the commercial concessions (Commercial Representatives). Membership and voting power in the resort association must be allocated as follows: _____ percent Community Representatives, _____ percent Hotel Representatives, and _____ percent Commercial Representatives.]</p>	Reflects amendments to the zone change to accommodate relocation of Resort Districts and BMX-3 Districts to lagoon waterfront.

					<p><u>The Declarant's designee shall convey the Wai Kai Club facilities to the Master Association or a sub-association composed of members with rights to use the club. Following the turnover of the Wai Kai Lagoon, the homeowners shall have the right to adopt rules changes governing the use of the Lagoon. Their responsibility to pay Lagoon costs shall not in any case exceed 30%. For so long as Declarant owns and controls the lagoon and other project amenities, homeowners will not be responsible for paying any capital costs associated with the development of the lagoon and such other project amenities.</u></p> <p><u>Following the turnover of the Wai Kai Club, members of the club shall have the right to adopt rules changes governing the use of the Club. In the case of the Lagoon and the Club, rules changes may be adopted either through direct vote of the homeowners/members or through elected representatives such as board members as provided in the governing documents.</u></p> <p><u>Declarant shall not turn over the lagoon or other project amenities until construction of such amenities is substantially complete. Following turnover, all capital assessments against homeowners shall be made by the appropriate owner's association in accordance with the governing documents.</u></p> <p><u>The Declarant or its designee, shall from time to time, promulgate and enforce rules for the use, operation, and maintenance of the swimming cove and lagoon and all related facilities, including but not limited to parking and commercial concessions that rent recreational watercraft and equipment, and the Wai Kai Club or similar membership facility.</u></p>	
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