

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

January 12, 2018

PSF No.: 16KD-112  
Ref. No.: EO 3657 & 4012

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

**KAUAI**

Grant of Perpetual, Non-Exclusive Easement to the County of Kauai, Department of Public Works (COK DPW) for Sidewalk and Pathway Access Purposes as Part of its Lihue Town Core Mobility and Revitalization Project [FAP No. TGR-0700(073)]; Issuance of Immediate Management and Construction Right-of-Entry to COK DPW, Kalapaki, Lihue, Kauai, Tax Map Keys: (4) 3-6-002:021 & 022.

**APPLICANT:**

County of Kauai, Department of Public Works.

**LEGAL REFERENCE:**

Sections 171-13 and 95, Hawaii Revised Statutes, as amended.

**LOCATION:**

Portion of Government lands of Lihue Town, located at Kalapaki, Lihue, Kauai, identified by Tax Map Key: (4) 3-6-002:021 por. & 022 por. Lot A, as shown on the attached map labeled Exhibit A.

**TMK/ DISTRICT/ ZONING/ ENCUMBRANCE/ AREA:**

TAX MAP KEY	DISTRICT	ZONING		ENCUMBRANCE	AREA
		SLU	CZO		
(4) 3-6-002:021	Kalapaki, Lihue	Urban	RS-1	Executive Order No. 3657; Department of Education-Wilcox Elementary School.	9.952 ac
				Easement-1	400 sf
(4) 3-6-002:022	Kalapaki, Lihue	Urban	RS-1	Executive Order No. 4012; Department of Education-Addition to Wilcox Elementary School.	29.00 ac

				Easement-2	6,500 sf

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution:

YES \_\_\_\_ NO x

EASEMENT CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain and repair a sidewalk and pathway over, under and across State-owned land for access purposes.

COMMENCEMENT DATE:

To be determined by the Chairperson.

EASEMENT TERM:

Perpetual, non-exclusive.

RIGHT-OF-ENTRY AND EASEMENT CONSIDERATION:

Gratis.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See attached (Exhibit C)

DCCA VERIFICATION:

Not applicable. The Applicant is a government entity and is not required to register with DCCA.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

1. Provide survey maps and descriptions for Easement 1 & Easement 2, according to State DAGS standards and at Applicant's own cost.

REMARKS:

By letter dated May 1, 2017, the County of Kauai, Department of Public Works, in reference to its Lihue Town Core Mobility and Revitalization Project, requested a grant of easement with an immediate management and construction right-of-entry over State lands set aside to the Department of Education for Wilcox Elementary School. Pursuant to the request, Tax Map Key: (4) 3-6-002:021 under Executive Order No. 3657 would be encumbered by a 400 square foot easement, and Tax Map Key: (4) 3-6-002:022 Lot A, under Executive Order No. 4012 would be encumbered by a 6,500 square foot easement, both to be utilized as a shared-use path for the proposed project.

The Department of Education provided a letter of concurrence to confirm its agreement with the issuance of an easement for the project over lands set aside to it for Wilcox Elementary School. (Exhibit B)

Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

The proposed sidewalk/pathway will be constructed generally along the alignment of an unimproved footpath on the subject parcels that has been in use for many years. Construction or improvement of sidewalks and pathways is exempt from the preparation of an environmental assessment as explained in Exhibit C.

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a perpetual non-exclusive easement to the County of Kauai, Department of Public Works, covering the subject area for sidewalk and pathway access purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
  - A. The standard terms and conditions of the most current perpetual easement document form, as may be amended from time to time;
  - B. Review and approval by the Department of the Attorney General; and
  - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

3. Grant an immediate management and construction right-of-entry to the County of Kauai, its consultants, contractors, and/or persons acting for or on its behalf, over portions of TMK: (4) 3-6-002:021 & 022, under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
  - A. The standard terms and conditions of the most current management and construction right-of-entry form, as may be amended from time to time;
  - B. Prior to the commencement of any ground work activities, COK DPW shall coordinate its proposed work schedule and activities with the Department of Education;
  - C. This management and construction right-of-entry is effective upon Land Board approval and shall continue until the grant of easement is issued; and
  - D. The Department of Land and Natural Resources reserves the right to impose additional terms and conditions at any time if it deems necessary while this right-of-entry is in force.


Respectfully Submitted,



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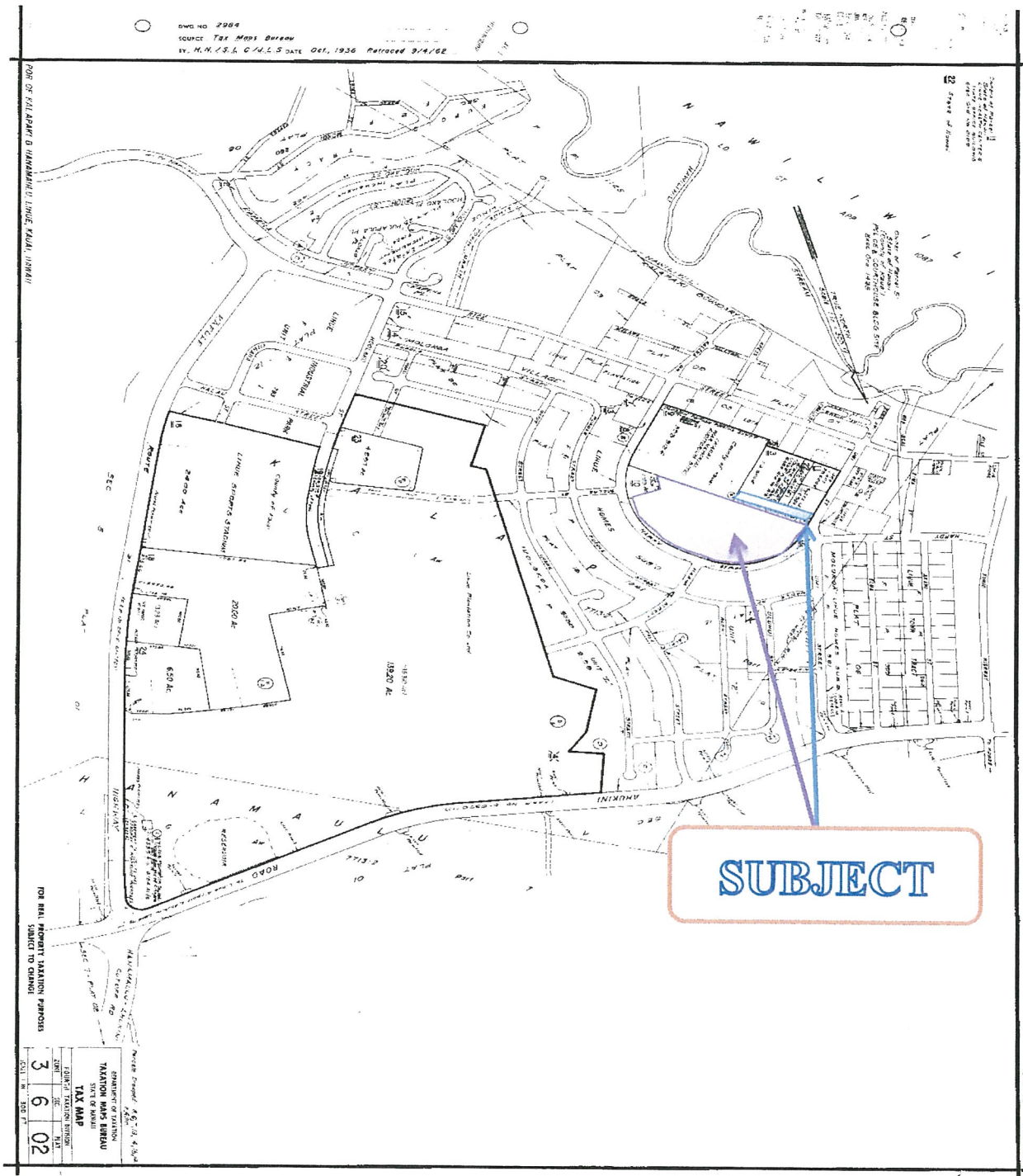
Wesley T. Matsunaga  
District Land Agent

APPROVED FOR SUBMITTAL:



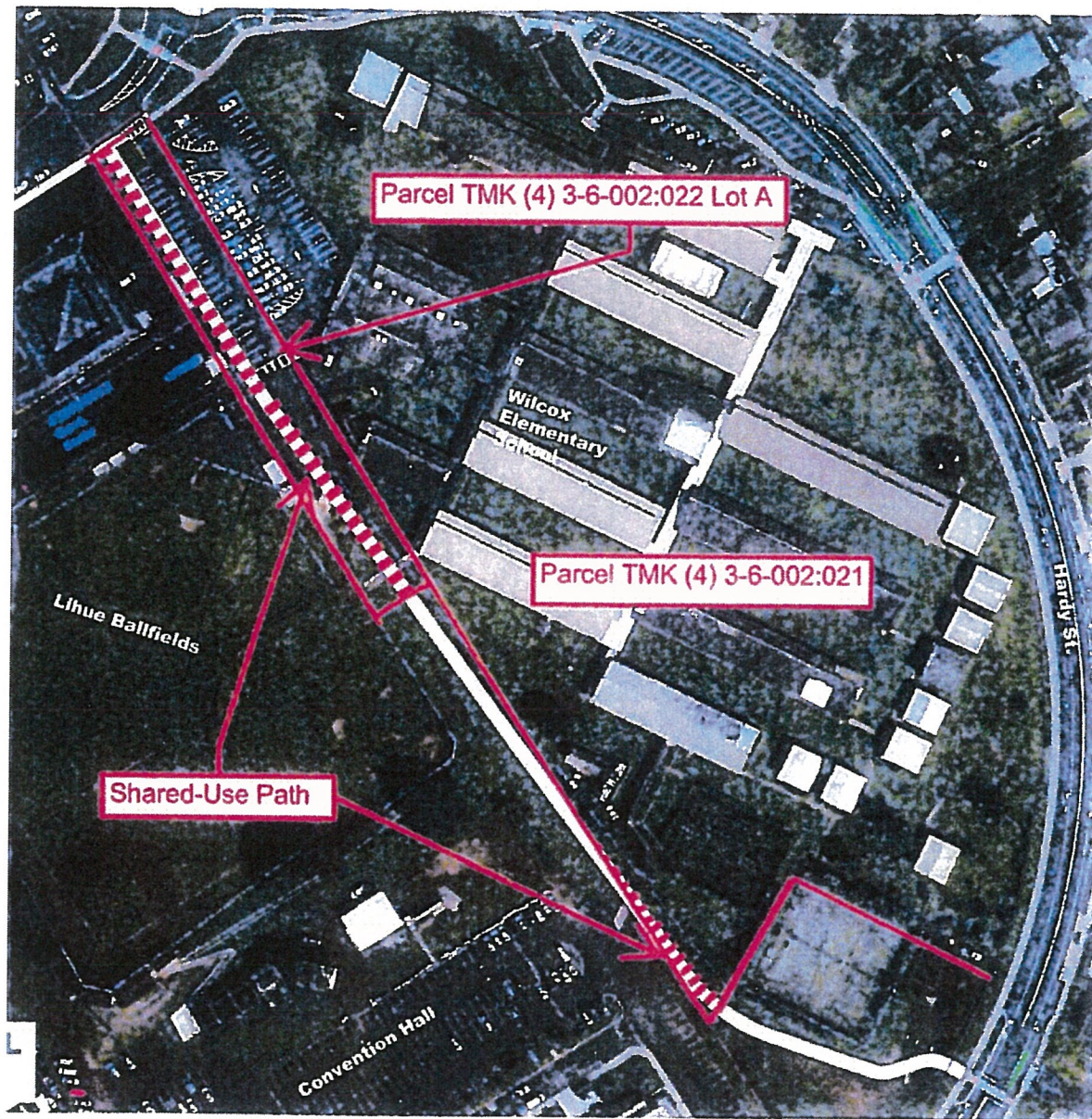
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Suzanne D. Case, Chairperson

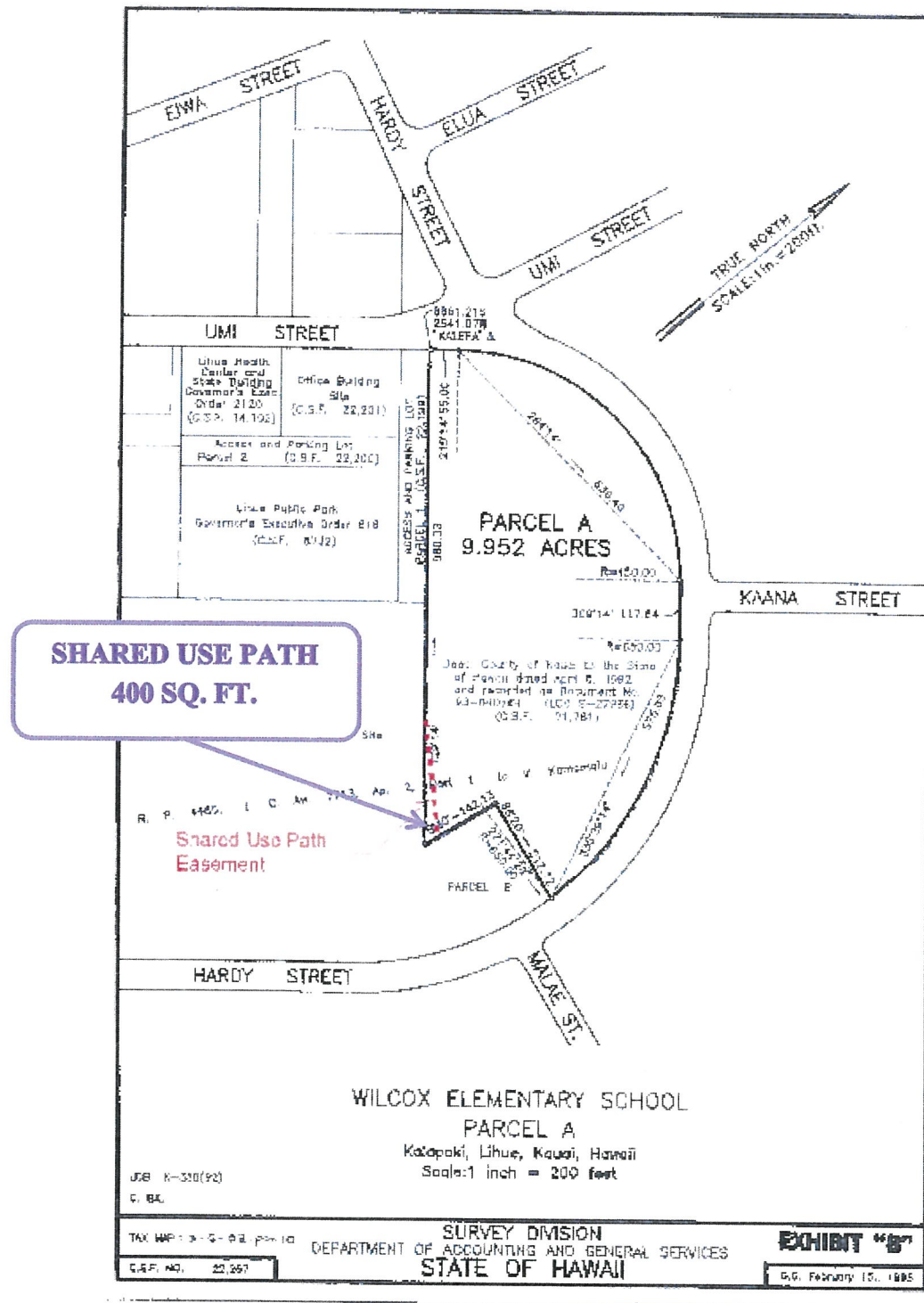


# EXHIBIT A



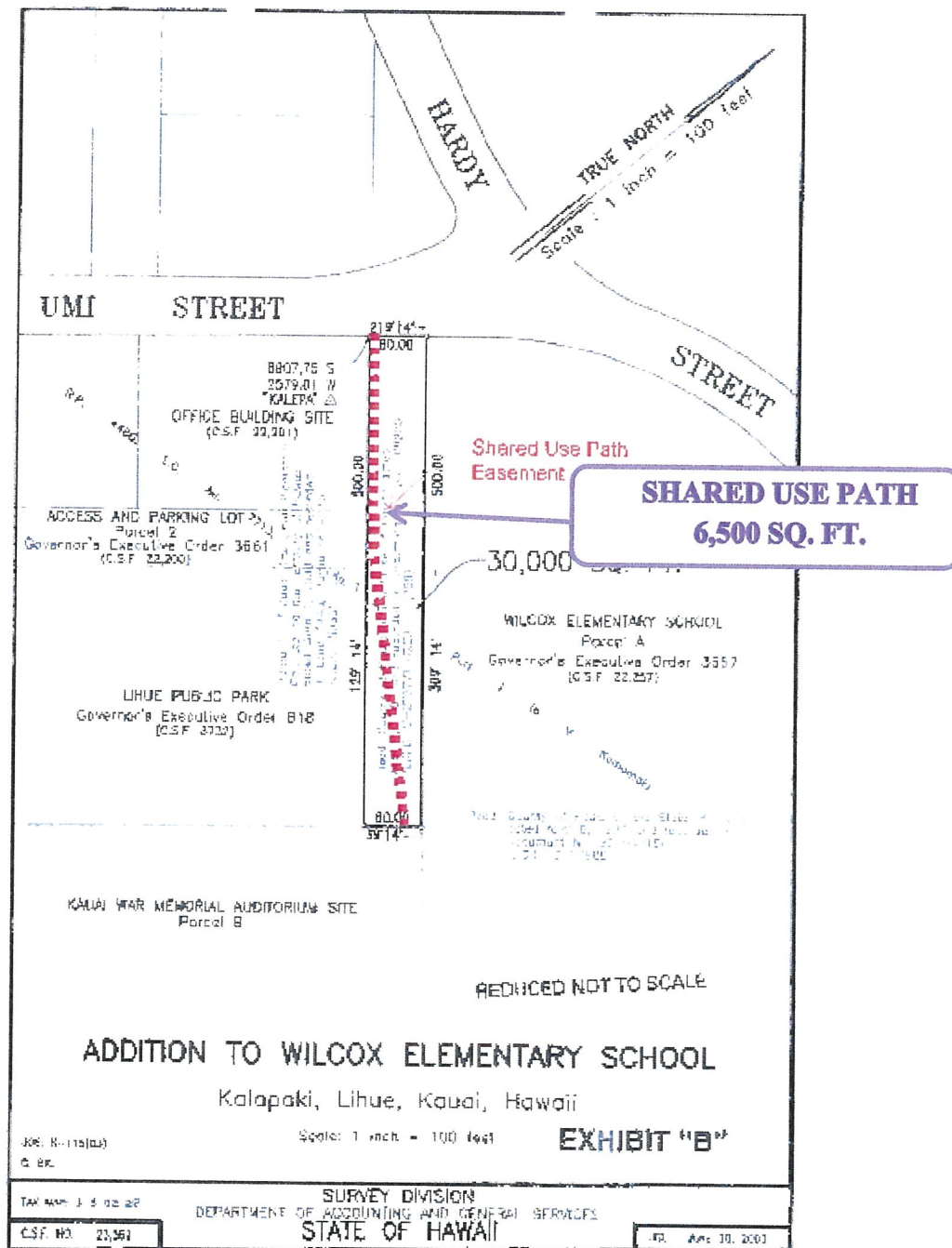


## EXHIBIT A



**EXHIBIT A**





**EXHIBIT A**



**Bernard P. Carvalho, Jr.**  
Mayor



**Lyle Tabata**  
Acting County Engineer

**Wallace G. Rezentes, Jr.**  
Managing Director

**DEPARTMENT OF PUBLIC WORKS**

**County of Kaua'i, State of Hawai'i**

4444 Rice Street, Suite 275, Lihue, Hawai'i 96766  
TEL (808) 241-4992 FAX (808) 241-6604

May 1, 2017

Kathryn Matayoshi, Superintendent  
Hawai'i State Department of Education  
P.O. Box 2360  
Honolulu, Hawaii 96804

Subject: Lihue Town Core Mobility and Revitalization Project, FAP No. TGR-0700(073)  
TMK (4) 3-6-002:021 & TMK (4) 3-6-002:022 Lot A

Dear Ms. Matayoshi,

The County of Kauai is proposing a shared-use path on the south side of Wilcox Elementary School that will traverse approximately 400 SF of State owned property set aside for Wilcox Elementary School under the control and management of the Department of Education (Executive Order No. 3657), identified as a portion of Tax Map Key No. (4) 3-6-002:021 and approximately 6,500 SF of State owned property set aside for addition to Wilcox Elementary School under the control and management of the Department of Education (Executive Order No. 4012), identified as a portion of Tax Map Key No. (4) 3-6-002:022 Lot A, both situated in Lihue, Kauai, Hawaii.

We will be asking the Board of Land and Natural Resources to set-aside to the County of Kauai easements and construction right-of-entries onto portions of the subject properties to accommodate the shared-use-path.

In order to expedite the Land Board's approval of the easements and right-of-entries to the County of Kauai we request your concurrence to the proceeding. Enclosed for your information are the following:

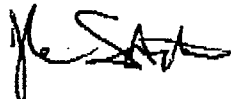
1. Civic Center Exhibit showing shared-use path locations in TMKs 3-6-002:021 & 3-6-002:022 Lot A
2. Parcel Map from Executive Order No. 3657 delineating the Easement.
3. Parcel Map from Executive Order No. 4012 delineating the Easement.

If there is no objection to our Land Board request for easements and right-of-entries, please acknowledge your concurrence by signing, dating, and returning the concurrence portion of this letter.

Ms. Matayoshi  
May 1, 2017  
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Your assistance in this matter will be appreciated. If there are any questions, please call me at (808) 241-4994 or email me at ltabata@kauai.gov.

Yours truly,



Lyle Tabata  
Acting County Engineer


Concurrence

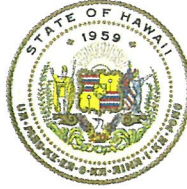
Subject to final approval by the Department of the Attorney General, State of Hawaii, I/We, the undersigned, concur with the Board of Land and Natural Resources to set-aside easements and issuance of right-of-entries to the County of Kauai onto properties currently set-aside under Executive Order Nos. 3657 and 4022 to the Department of Education, identified as being a portion of Tax Map Key No. (4) 3-6-002:021, containing an area approximately 1,500 square feet and Tax Map Key No. (4) 3-6-002:022 Lot A, containing an area approximately 5,000 square feet, both situated in Lihue, Kauai, Hawaii. It is acknowledged that the easements and right-of-entries are required to allow the County of Kauai to construct a shared-use path in connection with the Lihue Town Core Mobility and Revitalization Project, FAP No. TGR-0700(073).

Hawai'i State Department of Education

MAY 4 2017

Date

  
Kathryn Matayoshi, Superintendent



**STATE OF HAWAII**  
**DEPARTMENT OF LAND AND NATURAL RESOURCES**  
**LAND DIVISION**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

January 12, 2018

Ref. No.: 16KD-112

**EXEMPTION NOTIFICATION**

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR.

Project Title:	Grant of Perpetual, Non-Exclusive Easement with Right-of-Entry to the County of Kauai, Department of Public Works, for sidewalk and pathway access purposes.
Project / Reference No.:	PSF No.: 16KD-112
Project Location:	Kalapaki, Lihue, Kauai, Tax Map Keys: (4) 3-6-002:021 por. & 022 por.
Project Description:	Grant of Perpetual, Non-Exclusive Easement to the County of Kauai, Department of Public Works for sidewalk and pathway access purposes as part of the Proposed Lihue Town Core Mobility & Revitalization Project.
Chap. 343 Trigger(s):	Use of State land.
Exemption Class No. and Item Description:	In accordance with Hawaii Administrative Rule Sections 11-200-8(B) and the Exemption List for the County of Kauai approved by the Environmental Council and dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class 6, "Construction or placement of minor structures accessory to existing facilities," Item 9 "Construction of interior roadways, driveways, parking areas, sidewalks, pathways, aisles, curbs, gutters, and other similar items on state lands."
Consulted Parties:	County Department of Public Works, and Department of Education, and Department of Accounting and General Services.

**EXHIBIT C**

Recommendation:

The prior use of the subject area by the Department of Education for pathway purposes has resulted in no known significant impacts, whether immediate or cumulative, to the natural, environmental and/or cultural resources. As such staff believes that the proposed improvement of the sidewalk/pathway and grant of easement and right-of-entry to COK DPW for sidewalk and pathway purposes would involve negligible or no expansion or change in use of the subject area beyond that previously existing. The grant of easement with right-of-entry permit to the County of Kauai will probably have minimal or no significant effect on the environment. It is recommended that the Board of Land and Natural Resources find that the action is exempt from the preparation of an environmental assessment.