

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

March 9, 2018

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

PSF No.: 17MD-161

Maui

Request for Right-of-Entry Permit to the County of Maui, Department of Public Works, Highways Division, for Survey and Planning for Koukouai Bridge Repair Project, on Lands Encumbered by General Lease No. S-5485, Kikoo-Popoloa, Kipahulu, Hana, Maui, Tax Map Key: (2) 1-6-008: Portion of 008.

APPLICANT:

The County of Maui, a government entity.

LEGAL REFERENCE:

Sections 171-11 and -55, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Kikoo-Popoloa, situated at Kipahulu, Hana, Maui, identified by Tax Map Key: (2) 1-6-008:008 por., as shown on the attached maps labeled Exhibit A.

AREA:

11,731.02 square feet, more or less. See Exhibit B.

ZONING:

State Land Use District: Agriculture  
County of Maui CZO: Agriculture

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

Encumbered by General Lease No. S-5485, Greg Lind, Lessee, for pasture purposes.  
Lease to expire on March 31, 2031.

CHARACTER OF USE:

Surveying and planning for a bridge repair project.

TERM OF RIGHT-OF-ENTRY:

April 1, 2018 through March 31, 2020.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources 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 No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing" and Item No. 51, that states "Permits, Licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing," and Exemption Class No. 5, that states "Basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resources, and Item Nos. 1 – 3 that state, "1. Conduct survey or collect data on existing environmental conditions (e.g., noise, air quality, water flow, water quality, etc.); 2. Non-destructive data collection and inventory, including field, aerial and satellite surveying and mapping; 3. Conduct topographic, sounding, wave, littoral transport, bathymetric, and location surveys." See Exemption Notification attached as Exhibit F.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Obtain written concurrence from all users of the subject land.

REMARKS:

The County of Maui ('County'), Department of Public Works, is requesting a right-of-entry to a portion of the subject parcel because it is adjacent to the Koukouai Bridge. The area being requested for the right-of-entry is approximately 11,731 square feet, located at the south end of the parcel and immediately mauka of Hana Highway.

The Koukouai Bridge is in a deteriorated condition and the County needs to enter the subject parcel to conduct surveying and planning work for a bridge repair project, and they may subsequently want to use the parcel as a staging area and/or temporary bypass road while repairing the bridge. Recent photos of the bridge are attached as Exhibit C.

The County has received concurrence for right-of-entry from the lessee of the subject parcel, Greg Lind, who has a pasture lease. Mr. Lind's notarized letter of November 15, 2017 is attached as Exhibit D. In addition, the County has received right-of-entry agreements from the owners of the parcels on either side of the subject, which are TMKs (2) 1-6-008:009 owned by Laulima Farm, LLC, and (2) 1-6-008:018 owned by the Natale Family Living Trust. Copies of the right-of-entry agreements for the two adjacent TMKs are attached as Exhibit E.

The County will need access to the subject parcel beginning April 1, 2018 or as soon as practicable and are initially requesting two years for surveying, studies, planning and permitting. They may need longer than two years depending upon what they discover during the survey and studies. The rough timeline for the entire project, liberally estimated for unanticipated situations is as follows:

Survey/studies/planning/permitting - 6 years  
Design - 2 years  
Construction - 2 years  
Total: 10 years

The surveying, planning and design phases of the project are pending until right-of-entry can be obtained from the State of Hawaii. Required permits will depend upon the final design of the bridge repairs. The need for a special management area (SMA) permit is anticipated by the County. An environmental assessment can be done at that time.

The County has no plans for permanent improvements to the subject parcel. After the bridge repair project is complete, the subject parcel will be restored to its pre-construction condition to the extent reasonably possible.

A draft of this submittal was disseminated to the agencies listed below, with the results indicated:

Agency	Comment
DHHL	No response by suspense date.
DLNR – Forestry & Wildlife	No response by suspense date.
DLNR – Historic Preservation	No response by suspense date.
DLNR – Conservation and Coastal Lands	No response by suspense date.
DLNR – Engineering, Maui District	No response by suspense date.
DOT – Highways Division, Maui	No objections to ROE request.
County of Maui – Planning	No response by suspense date.
County of Maui – Public Works	Responded with no comments.
Federal Corps of Engineers	No response by suspense date.
Federal NRCS	No response by suspense date.
Office of Hawaiian Affairs	No response by suspense date.

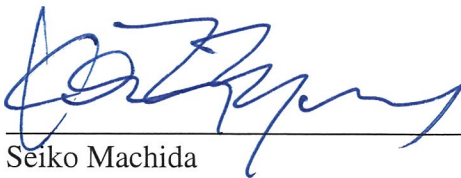
The above agencies were sent the submittal, which included the MDLO's request for an exemption from an environmental assessment, and MDLO did not receive any objections. In addition, MDLO staff spoke with the County of Maui Department of Public Works Right-of-Way Agent, and she stated that the right-of-entry being requested in this submittal will enable them to collect data needed for a future environmental assessment or environmental impact statement.

RECOMMENDATION: That the Board

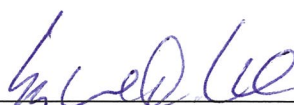
1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the issuance of a right-of-entry permit to the County of Maui covering the subject area 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 right-of-entry permit form, as may be amended from time to time;
  - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State; and
  - C. Authorize the Chairperson to issue future rights-of-entry to the Applicant in relation to its planning for the Koukouai Bridge repair project.



Respectfully Submitted,

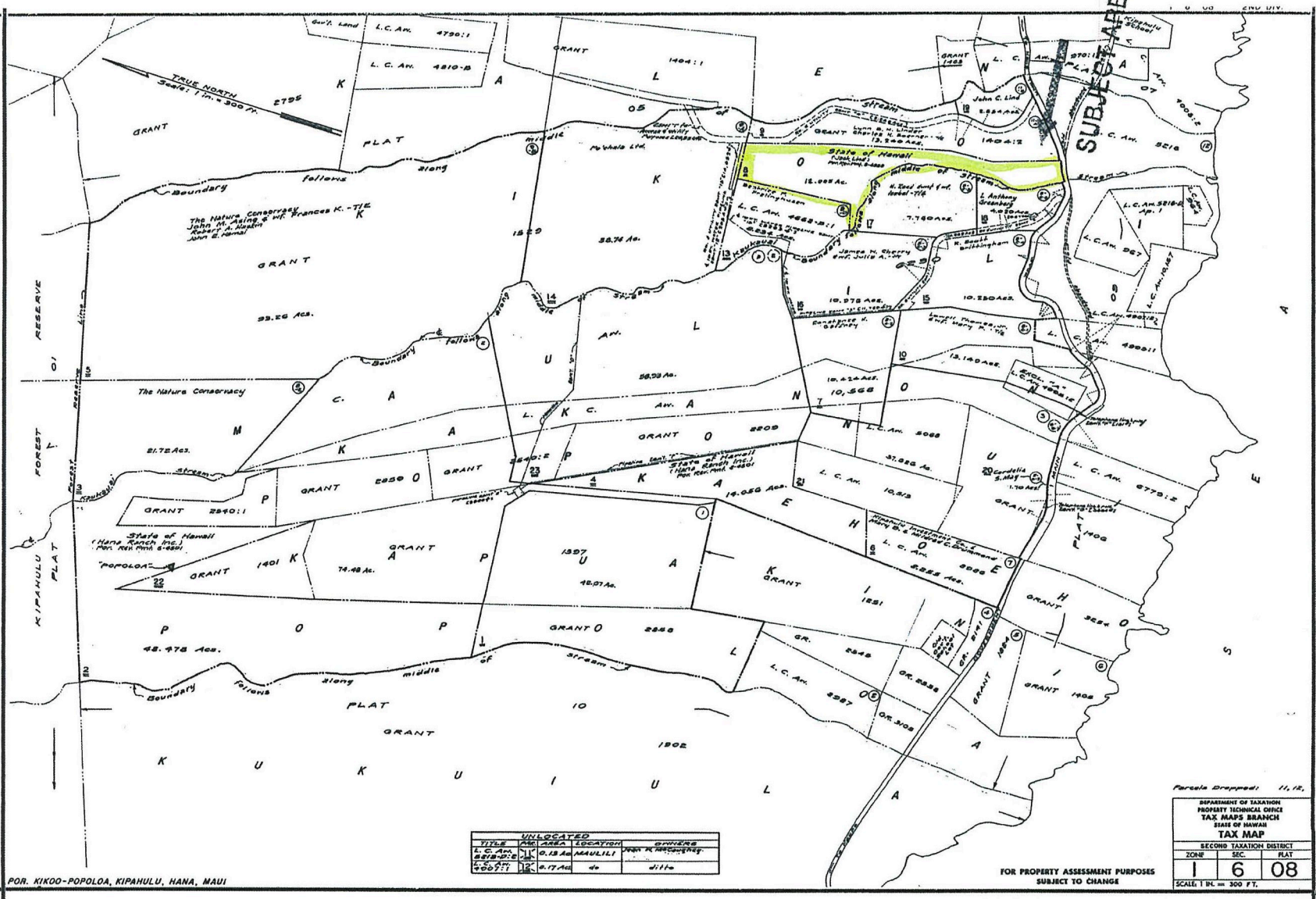
  
\_\_\_\_\_  
Seiko Machida  
Land Agent

APPROVED FOR SUBMITTAL:

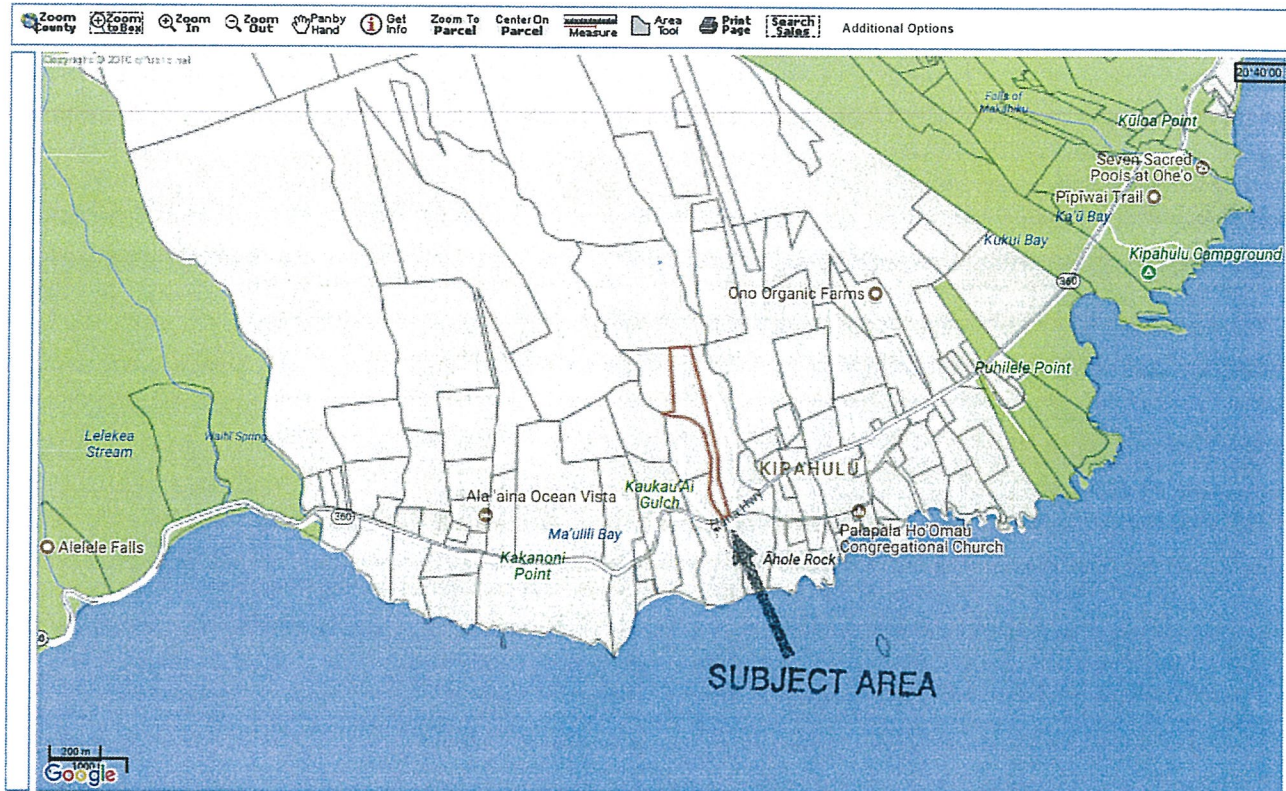
  
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Suzanne D. Case, Chairperson



DWG. NO. 3234



**EXHIBIT A**  
pg 1 of 2

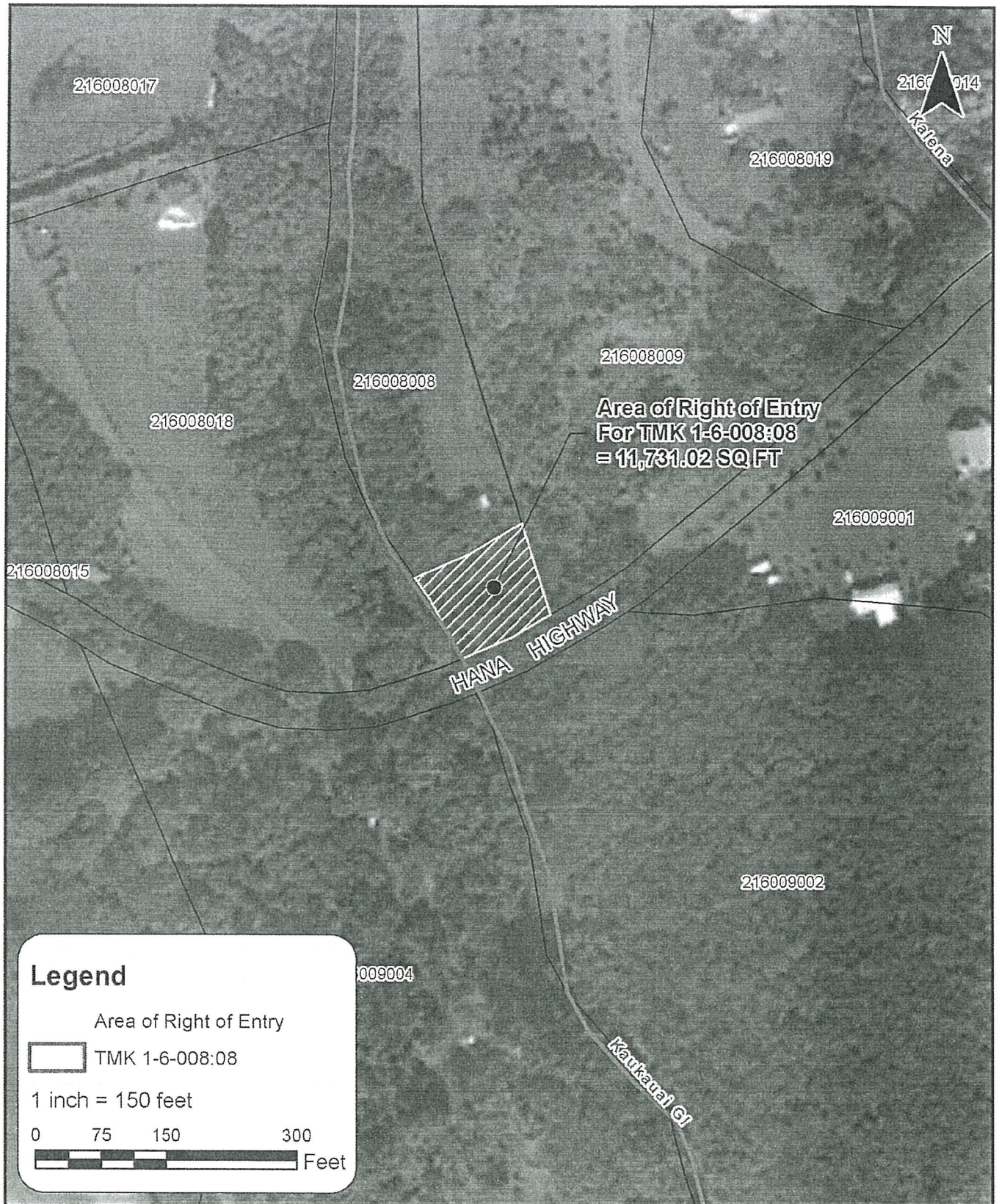


Maui County makes every effort to produce the most accurate information possible. No warranties, expressed or implied, are provided for the data herein, its use or interpretation. The assessment information is from the change before the next certified taxroll.

**EXHIBIT A**

pg 2 of 2





TMK 1-6-008:08  
AREA OF RIGHT OF ENTRY

Koukouai Bridge, Hana, Maui, Hawaii

Exhibit B



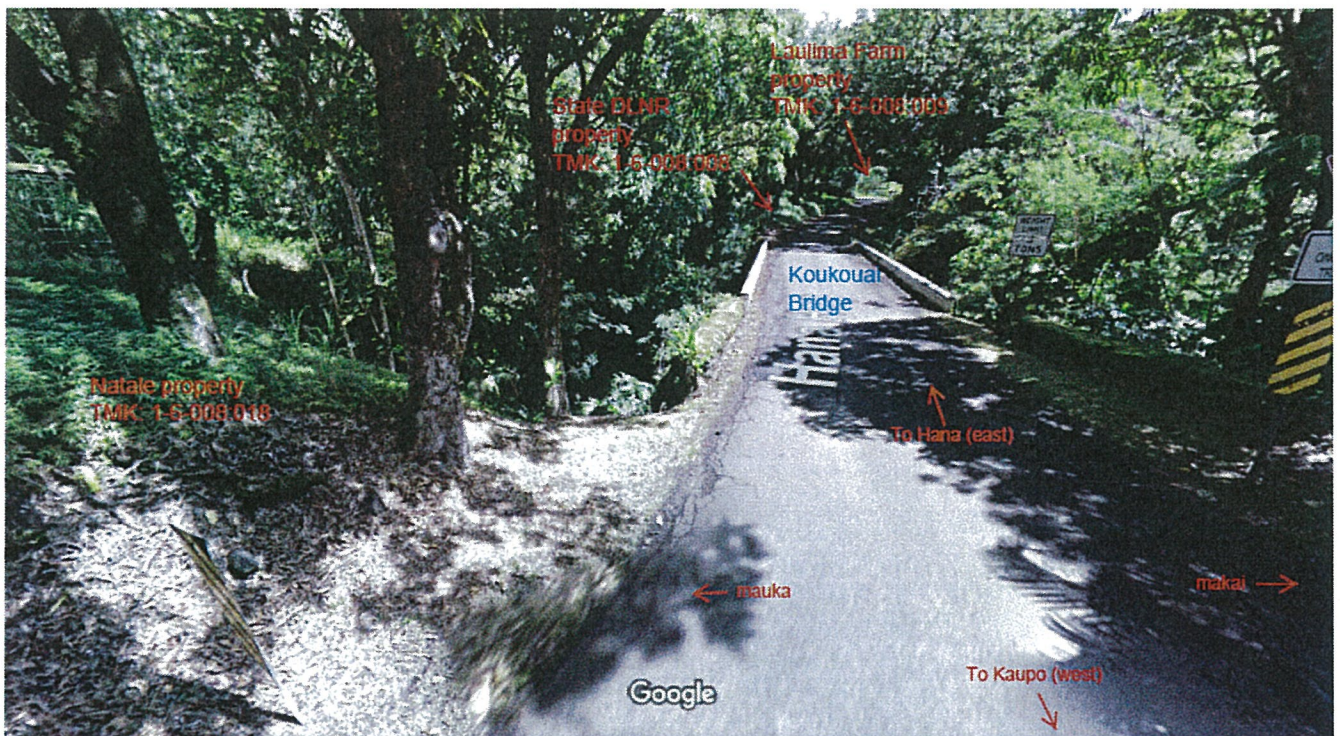


Looking towards Kaupo, State parcel on right, bridge in background



Bridge looking towards Hana, State parcel on left





Location of three adjacent mauka parcels



Underside of bridge

**EXHIBIT "C"**

pg 2 of 2



GREG LIND  
P.O. BOX 232  
HANA, HAWAII 96713

Daniel Ornellas, District Land Agent  
DLNR Maui District Land Office  
54 South High Street, Rm. 101  
Wailuku, HI 96793

**SUBJECT: KOUKOUAI BRIDGE IMPROVEMENTS  
FEDERAL AID PROJECT NO. BR-0360(013)  
CONSENT TO RIGHT OF ENTRY OVER TMK: (2)1-6-008:008  
GENERAL LEASE NO. S-5485**

Dear Mr. Ornellas,

This letter acknowledges that I am the current Lessee of General Lease No. S-5485 with the State of Hawaii as Lessor and owner of the property identified by TMK:(2)1-6-008:008. I understand that the County of Maui is seeking a Right of Entry Agreement by the State of Hawaii for its Koukouai Bridge Improvement Project (Exhibit "1" attached). By this letter, I am giving my written consent to allow the State of Hawaii to enter into such an agreement with the County of Maui for the portion of the land shown in Exhibit "A" attached to Exhibit "1" which is a portion of General Lease No. S-5485, further identified by TMK:(2)1-6-008:008.

Sincerely,

GREG LIND

Dated: Greg Lind

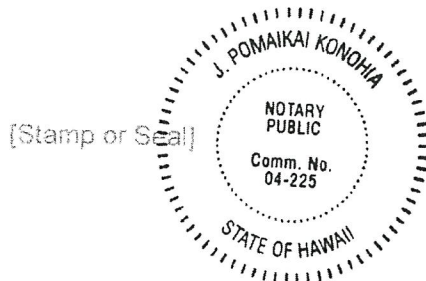
**EXHIBIT "D."**

pg 1 of 2

STATE OF HAWAII )  
 )  
COUNTY OF MAUI ) SS.

On this 15<sup>th</sup> day of November, 2017, before me personally appeared GREG LIND, to me personally known, who, being by me duly sworn, did say that he is the person who executed the foregoing instrument and acknowledged that he executed the same as his free act and deed,

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



J. Pomaikai Konohe  
Notary Public, State of Hawaii

Print Name: J. Pomaikai Konohe

My commission expires: **My Commission Expires**  
**May 2, 2020**

NOTARY PUBLIC CERTIFICATION			
Doc. Date:	<u>undated</u>	# Pages:	<u>8</u>
Notary Name:	<u>J. Pomaikai Konohe</u>	Judicial Circuit:	<u>Second</u>
Doc. Description:	<u>Koukouai Bridge Improvements Federal Aid Project No. BR-0360(013);</u>		
	<u>Consent to Right of Entry Over TMK:(2)1-6-008:008;</u>		
	<u>General Lease No. S-5485</u>		
Notary Signature:	<u>J. Pomaikai Konohe</u>		
Date:	<u>November 15, 2017</u>		

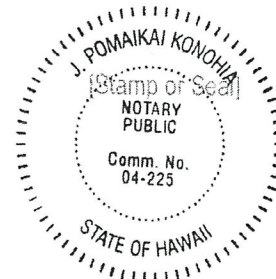


EXHIBIT "D."

pg 2 of 2



## RIGHT-OF-ENTRY AGREEMENT

THIS AGREEMENT effective as of November 1, 2017 and entered into by and between LAULIMA FARM, LLC (hereinafter called "GRANTOR"), whose mailing address is ~~SR-170~~ <sup>HC 1 BOX 170A JS.</sup>, Hana, Hawaii 96713, and the COUNTY OF MAUI, a political subdivision of the State of Hawaii, whose business address is 200 South High Street, Wailuku, Hawaii 96793 (hereinafter called "GRANTEE"),

KNOW ALL MEN BY THESE PRESENTS, that GRANTOR, the legal and/or equitable owner of the real property and improvements hereinafter mentioned, does hereby give and grant to GRANTEE, its employees, agents, consultants and contractors this Right-Of-Entry onto the premises designated as Tax Map Key No. (2)1-6-008:009, Hana, Hawaii, and as shown more specifically on the map attached hereto as Exhibit "A," for the following purposes: planning; topographic, biological, soil and archaeological survey; design; and any other investigative field work necessary to complete the KOUKOUAI BRIDGE IMPROVEMENTS PROJECT, FAP #BR-360(013) design; and

That Grantee shall, provide at least two (2) days' notice prior to entry upon Grantor's property; and

That this Right-Of-Entry shall become effective as of the date set forth above and terminate upon completion of the design of the above described project; and

That the Grantee shall indemnify and hold the Grantor harmless from and against all claims for property damage, personal injury, or wrongful death arising out of or in connection with the Right of Entry, to the extent that the Grantee's liability for such damage, loss or injury has been determined by a court of competent jurisdiction or

**EXHIBIT "E"**

*pg 1 of 10*

otherwise agreed to by the Grantee, and further, to the extent the payment for such damage, loss or injury is permitted by law and approved by the Maui County Council.

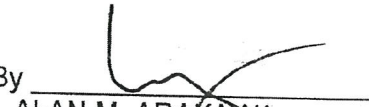
GRANTOR:



JOSHUA STEARN, Manager of  
LAULIMA FARM, LLC

GRANTEE:  
COUNTY OF MAUI


By



~~ALAN M. ARAKAWA~~  
~~Its Mayor~~

KEITH A. REGAN  
ACTING MAYOR, COUNTY OF MAUI

APPROVED AS TO FORM AND LEGALITY:



for MICHAEL J. HOPPER  
Deputy Corporation Counsel  
County of Maui

**EXHIBIT "E"**

pg 2 of 10

STATE OF HAWAII

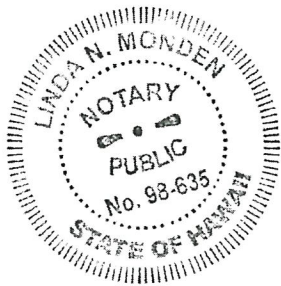
COUNTY OF MAUI

)  
) SS.  
)

On this 3rd day of November, 2017, before me personally appeared JOSHUA STEARN, Managing Member of LAULIMA FARM, LLC, to me known (or proven to me on the basis of satisfactory evidence) to be the person described in and who executed the foregoing document: Right of Entry Agreement above, who being duly sworn, did acknowledge that he executed the same as his free act and deed, with full powers to buy, sell, convey, mortgage, lease, etc. the property of said LLC in the capacity shown.

I, the Notary Public whose name is signed and printed in the signature area immediately below, do hereby certify that I notarized the foregoing Right of Entry Agreement, with an effective date of November 1, 2017, consisting of 5 pages in the Second Judicial Circuit of the State of Hawaii.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



Linda N. Monden

Notary Public, State of Hawaii

Print Name: Linda N. Monden

My commission expires: 11/20/2018

**EXHIBIT "E"**

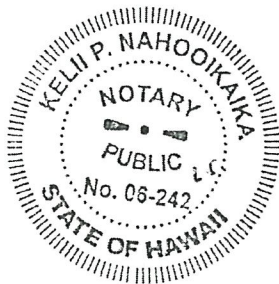
pg 3 of 10

STATE OF HAWAII )  
 ) SS.  
COUNTY OF MAUI )

On this 5th day of December, 2017, before me appeared ALAN M. ARAKAWA, to me personally known, who being by me duly sworn did say, that he is the Mayor of the County of Maui, a political subdivision of the State of Hawaii, and that the seal affixed to the foregoing instrument is the lawful seal of the said County of Maui, and that the said instrument was signed and sealed on behalf of said County of Maui by authority of its Charter, and the said ALAN M. ARAKAWA acknowledged the said Instrument to be the free act and deed of said County of Maui.

I, the Notary Public whose name is signed and printed in the signature block immediately below, do hereby certify that I notarized the foregoing Right of Entry Agreement, with an effective date of November 1, 2017, consisting of 5 pages in the Second Judicial Circuit of the State of Hawaii.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



Kelii P. Nahooikaika  
Notary Public, State of Hawaii

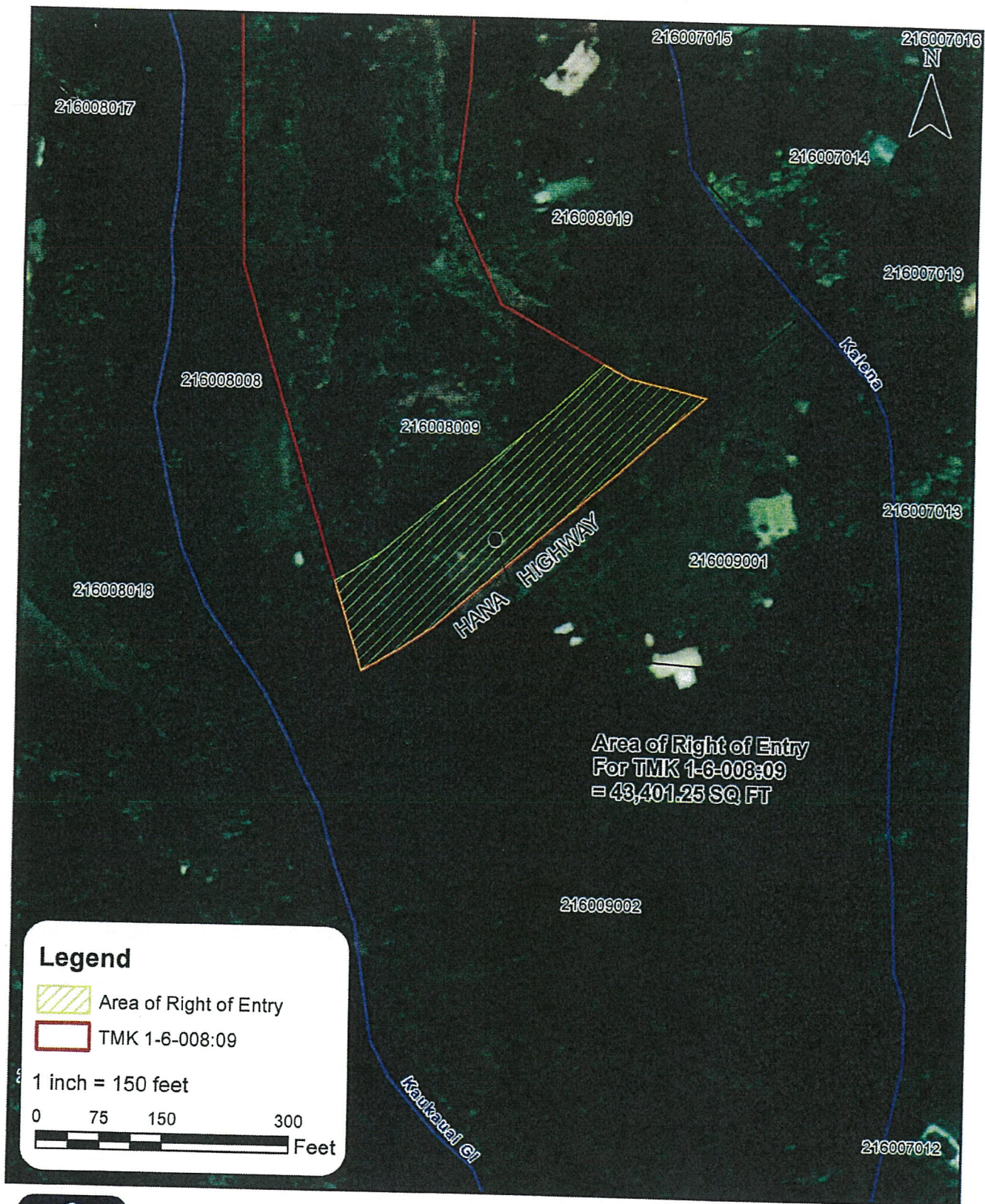
Print Name: KELII P. NAHOOIKAIKA

My commission expires: 4-30-18

**EXHIBIT "E"**

pg 4 of 10





TMK 1-6-008:09  
AREA OF RIGHT OF ENTRY

EXHIBIT "A"

Koukouai Bridge, Hana, Maui, Hawaii

EXHIBIT "E"  
pg 5 of 10



## RIGHT-OF-ENTRY AGREEMENT

THIS AGREEMENT effective as of October 1, 2017 and entered into by and between STEVE NATALE, TRUSTEE and STEVE NATALE, TRUSTEE OF THE NATALE FAMILY LIVING TRUST (hereinafter called "GRANTOR"), whose mailing address is HC 1 Box 172A, Hana, Hawaii 96713, and the COUNTY OF MAUI, a political subdivision of the State of Hawaii, whose business address is 200 South High Street, Wailuku, Hawaii 96793 (hereinafter called "GRANTEE"),

KNOW ALL MEN BY THESE PRESENTS, that GRANTOR, the legal and/or equitable owner of the real property and improvements hereinafter mentioned, does hereby give and grant to GRANTEE, its employees, agents, consultants and contractors this Right-Of-Entry onto the premises designated as Tax Map Key No. (2)1-6-008:018, Hana, Hawaii, and as shown more specifically on the map attached hereto as Exhibit "A," for the following purposes: planning; topographic, biological, soil and archaeological survey; design; and any other field work necessary to complete the KOUKOUAI BRIDGE IMPROVEMENTS PROJECT, FAP #BR-360(013) design; and

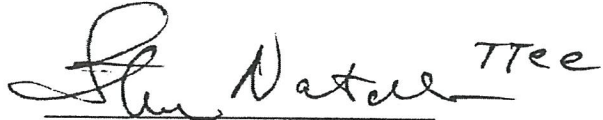
That Grantee shall, provide at least two (2) days' notice prior to entry upon Grantor's property; and

That this Right-Of-Entry shall become effective as of the date set forth above and terminate upon completion of the design of the above described project; and

That the Grantee shall indemnify and hold the Grantor harmless from and against all claims for property damage, personal injury, or wrongful death arising out of or in connection with the Right of Entry, to the extent that the Grantee's liability for such damage, loss or injury has been determined by a court of competent jurisdiction or


otherwise agreed to by the Grantee, and further, to the extent the payment for such damage, loss or injury is permitted by law and approved by the Maui County Council.

GRANTOR:


 TTe

STEVE NATALE, TRUSTEE  
and STEVE NATALE, TRUSTEE of the  
NATALE FAMILY LIVING TRUST

GRANTEE:  
COUNTY OF MAUI

By   
ALAN M. ARAKAWA KEITH A. REGAN  
~~Its Mayor~~ ACTING MAYOR, COUNTY OF MAUI

APPROVED AS TO FORM AND LEGALITY:

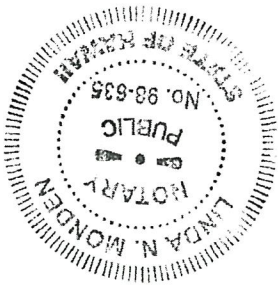
  
for MICHAEL J. HOPPER  
Deputy Corporation Counsel  
County of Maui

STATE OF HAWAII                    )  
  ) SS.  
COUNTY OF MAUI                 )

On this 21<sup>st</sup> day of November, 2017, before me personally appeared STEVE NATALE, TRUSTEE and STEVE NATALE, TRUSTEE of the Natale Family Living Trust, to me known (or proven to me on the basis of satisfactory evidence) to be the person described in and who executed the foregoing document: Right of Entry Agreement above, who being duly sworn, did acknowledge that he executed the same as his free act and deed, with full powers to buy, sell, convey, mortgage, lease, etc. the property of said Trust in the capacity shown.

I, the Notary Public whose name is signed and printed in the signature area immediately below, do hereby certify that I notarized the foregoing Right of Entry Agreement, with an effective date of October 1, 2017, consisting of 5 pages in the Second Judicial Circuit of the State of Hawaii.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



Linda N. Monden  
Notary Public, State of Hawaii

Print Name: Linda N. Monden  
My commission expires: 11/30/2018



STATE OF HAWAII )  
 ) SS.  
COUNTY OF MAUI )

On this 5th day of December, 2017, before me appeared ~~ALAN M. ARAKAWA~~ to me personally known, who being by me duly sworn did say, that he is the <sup>Kelii P. Nahookikaika</sup> Mayor of the County of Maui, a political subdivision of the State of Hawaii, and that the seal affixed to the foregoing instrument is the lawful seal of the said County of Maui, and that the said instrument was signed and sealed on behalf of said County of Maui by authority of its Charter, and the said ~~ALAN M. ARAKAWA~~ <sup>Kelii P. Nahookikaika</sup> acknowledged the said Instrument to be the free act and deed of said County of Maui.

I, the Notary Public whose name is signed and printed in the signature block immediately below, do hereby certify that I notarized the foregoing Right of Entry Agreement, with an effective date of October 1, 2017, consisting of 5 pages in the Second Judicial Circuit of the State of Hawaii.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



Kelii P. Nahookikaika  
Notary Public, State of Hawaii

Print Name: KELII P. NAHOOIKAIKA

My commission expires: 4-30-18





TMK 1-6-008:18  
AREA OF RIGHT OF ENTRY

EXHIBIT "A"

Koukouai Bridge, Hana, Maui, Hawaii

**EXHIBIT "E"**  
pg 10 of 10



## EXEMPTION NOTIFICATION

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

Project Title: Request for Right-of-Entry Permit to the County of Maui, Department of Public Works, Highways Division, for Survey and Planning for Koukouai Bridge Repair Project, on Lands Encumbered by General Lease No. S-5485

Project / Reference No.: PSF No. 17MD-161

Project Location: Kikoo-Popoloa, Kipahulu, Hana, Maui, Tax Map Key: (2) 1-6-008: Portion of 008.

Project Description: Request for Right-of-Entry Permit to the County of Maui, Department of Public Works, Highways Division, for survey and planning for the Koukouai Bridge repair project. The bridge is deteriorating due to its age and needs to be repaired. This request is for the survey, planning and design phase only.

Chap. 343 Trigger(s): Use of State Land

Exemption Class No.: In accordance with Hawaii Administrative Rule Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources 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 No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing" and Item No. 51, that states "Permits, Licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing," and Exemption Class No. 5, that states "Basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resources, and Item Nos. 1 – 3 that state, "1. Conduct survey or collect data on existing environmental conditions (e.g., noise, air quality, water flow, water quality, etc.); 2. Non-destructive data collection and inventory, including field, aerial and satellite surveying and mapping; 3. Conduct topographic, sounding, wave, littoral transport, bathymetric, and location surveys."

The applicant will be conducting surveys and studies of the area. These activities involve negligible impacts on the environment. These surveys and studies will provide data and information for any future environmental assessment.

Consulted Parties: The following agencies were consulted with regard to the project and staff's

**EXHIBIT F**



recommendation for an exemption from an environmental assessment: DHHL; DLNR-Forestry and Wildlife, Historic Preservation, Conservation and Coastal Lands, Engineering Maui District; DOT-Highways Division, Maui; OHA; County of Maui Departments of Planning and Public Works; Federal Corps of Engineers; and Federal NRCS. Responses were received from the DOT-Highways Division, Maui who had no objections, and the County of Maui Planning Department who had no comments. No responses were received from the remaining agencies.

Recommendation: That the Board find this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.