

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

September 14, 2018

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

PSF No.: 180D-079

Island of Oahu

Acquisition of Private Lands and Set Aside and Management Right-of-Entry to Division of State Parks for Preservation, open space, cultural, recreational, and public parks purposes, Pupukea, Ko'olaupia, Oahu, Tax Map Keys: (1) 5-9-024:001, (1) 5-9-023:001, (1) 6-1-002-022.

APPLICANT AGENCY:

Department of Land and Natural Resources-Division of State Parks

PRIVATE LANDOWNER:

A Charitable Foundation (ACF), a non-profit corporation, as tenants in severalty

LEGAL REFERENCE:

Sections 107-10, 171-11 and 171-30, Hawaii Revised Statutes, as amended.

LOCATION:

Privately-owned lands of Pupukea situated at Waimea, Ko'olaupia, Oahu, identified by Tax Map Keys: (1) 5-9-024:001, (1) 5-9-023:001, (1) 6-1-002-022, as shown on the attached map labeled Exhibit A.

AREA:

79 acres, more or less.

ZONING:

State Land Use District: Preservation

County of Honolulu CZO: Conservation

CURRENT USE:

Vacant and unencumbered

CONSIDERATION:

None. Private landowner is donating the subject lands at no cost to the State.

PURPOSE:

Public park, scenic, and cultural purposes.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

An Environmental Assessment is not required because no state funds are being used for the land acquisition (gratis donation). However, an Environmental Assessment was completed for the "Pupukea Ridge Preservation Project", in which the current donation for a "state park" was contemplated and examined. The Final Environmental Assessment for the subject project was published in the OEQC's Environmental Notice on October 8, 2005 with a finding of no significant impact (FONSI), letter attached as Exhibit B.

APPLICANT REQUIREMENTS:

Applicant has fulfilled the requisite due diligence at their own cost:

1. Title Report dated August 23, 2017.
2. Subdivision approval as discussed in the background remarks;
3. Survey maps and descriptions for the privately-owned property according to State DAGS standards.
4. A Phase I environmental site assessment (ESA), dated February 2017 was reviewed by DLNR staff as well as the Attorney General's office. No REC's were identified and a Phase II ESA was not triggered. It is noted in the ESA report that an old vehicle, a remnant from the properties' agricultural past, is present. It is covered in thick vegetation and was already in that condition when the current landowner purchased the property over 20 years ago. Removal of the vehicle is not recommended at this time due to the considerable cost and difficulty in removing it and because it poses no risk to health or safety.
5. Since this is a gratis donation of real property, an appraisal and review appraisal are not required. In lieu of an appraisal, a site visit and ground survey of the property by DLNR staff from LD and Parks was conducted to confirm that the condition of the property is as the landowner and all site assessments asserts. The intended property is indeed vacant, unencumbered, and of high resource value. No hazardous conditions were observed.

BACKGROUND & REMARKS:

In 2002, Mr. David Druz, President of A Charitable Foundation Corporation (ACF), proposed to donate 63 acres on the northern rim of Waimea Valley in Pupukea on O'ahu to the State for public park purposes. At the time, Mr. Druz was acquiring 3 parcels encompassing 94.175 acres and he proposed to rezone, consolidate and then re-subdivide the 3 parcels (TMKs: 6-1-002:022; 5-9-023:001; and 5-9-024:001, respectively) to allow for the intended donation of 79 acres. DLNR, Division of State Parks agreed to the

donation as a state park reserve because it serves a public purpose per §171-30(a)(1) and an assessment of the natural, cultural, scenic, and recreational values of the property found that:

1. The rim of Waimea Valley to the east of Pu'u O Mahuka Heiau State Historic Site would be preserved as open space, thus promoting the historical setting and cultural landscape of this significant historic property.
2. The view planes along northern ridgeline of Waimea Valley would be retained.
3. The property offered passive recreational opportunities for the Pupukea community and general public, including hiking, picnicking, and equestrian trails.

It was agreed by ACF and State Parks that the intent of the donation of the undeveloped, former agricultural land was to create a public resource that would retain the character of the open space and scenic views of Waimea Valley with minimal development in order to facilitate visitation and maintenance of the property.

At their meeting held on May 24, 2002 (Item D-15), the Board of Land and Natural Resources approved a public meeting as the first step in a subzone boundary amendment with a subzone re-designation for a portion of the Conservation District parcel from Limited to General. In 2005, the donation acreage was increased to 79 acres. An Environmental Assessment was prepared and community meetings were held regarding the subzone re-designation, consolidation and re-subdivision, and the donation to the State. A presentation was made at the North Shore Neighborhood Board meeting held on April 26, 2005. The North Shore Neighborhood Board, Sunset Beach Community Association, and residents of the Pupukea subdivision adjacent to the property have all voiced their support for the donation and the passive park concept. The Final EA and Finding of No Significant Impact (FONSI) were published in the October 8, 2005 Environmental Notice of the Office of Environmental Quality Control.

An extensive and detailed synopsis of the due diligence work that has been conducted and completed by the donor, ACF is provided in the form of testimony by Mr. David Druz and is attached for your reference as Exhibit C. Letters in support from the community are attached as Exhibit D.

RECOMMENDATION: That the Board:

1. Authorize the acquisition of the subject private lands and under the terms and conditions cited above which are by this reference incorporated herein and further subject to the following:
 - A. The terms and conditions of the draft warranty deed document as may be amended and attached as Exhibit E;
 - B. Review and approval by the Department of the Attorney General;
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
2. Authorize the issuance of a management right-of-entry permit to the Division of

State Parks covering the subject area under the terms and conditions cited above, effective immediately upon acquisition by the State, which are by this reference incorporated herein and further subject to the following:

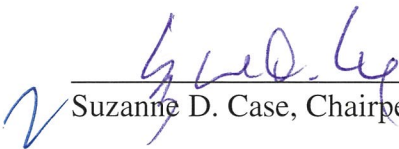
- A. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time;
 - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
3. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to Division of State Parks 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 executive order form, as may be amended from time to time;
 - B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
 - C. Review and approval by the Department of the Attorney General; and
 - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

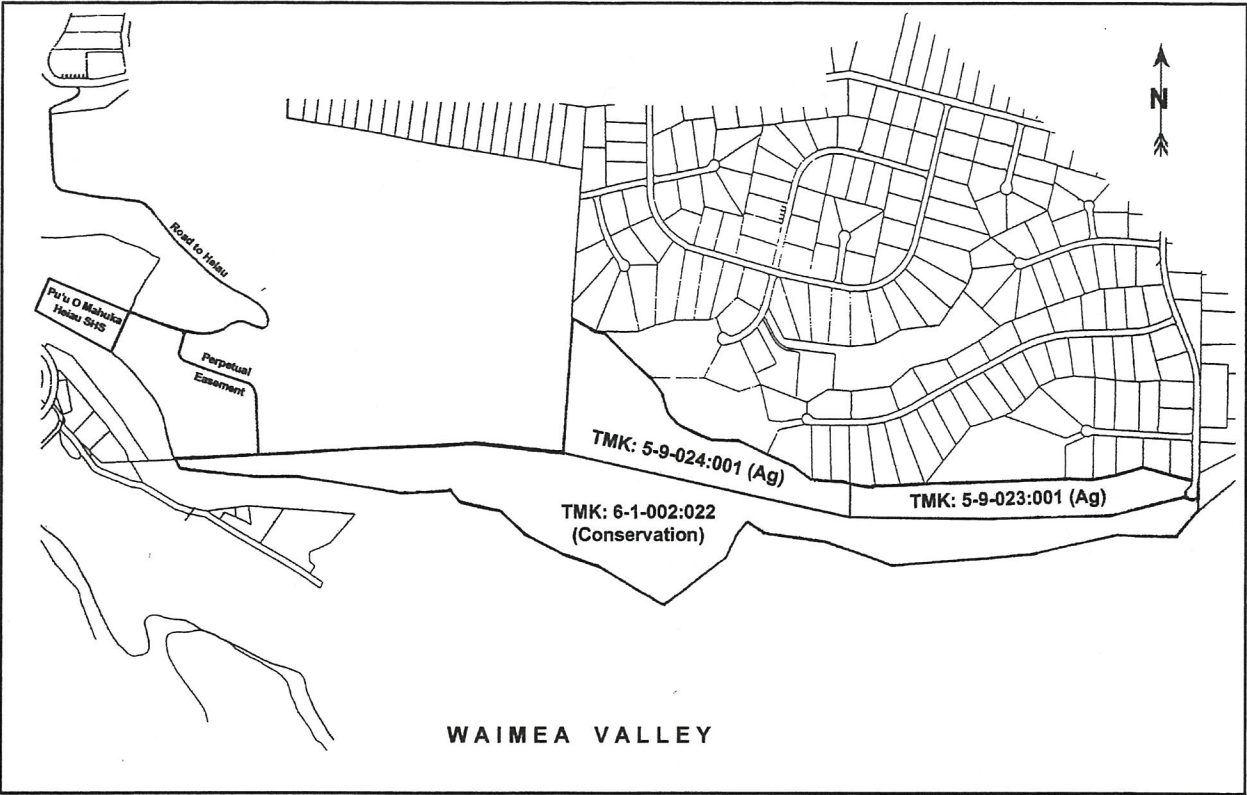


Malama Minn
Project Development Specialist

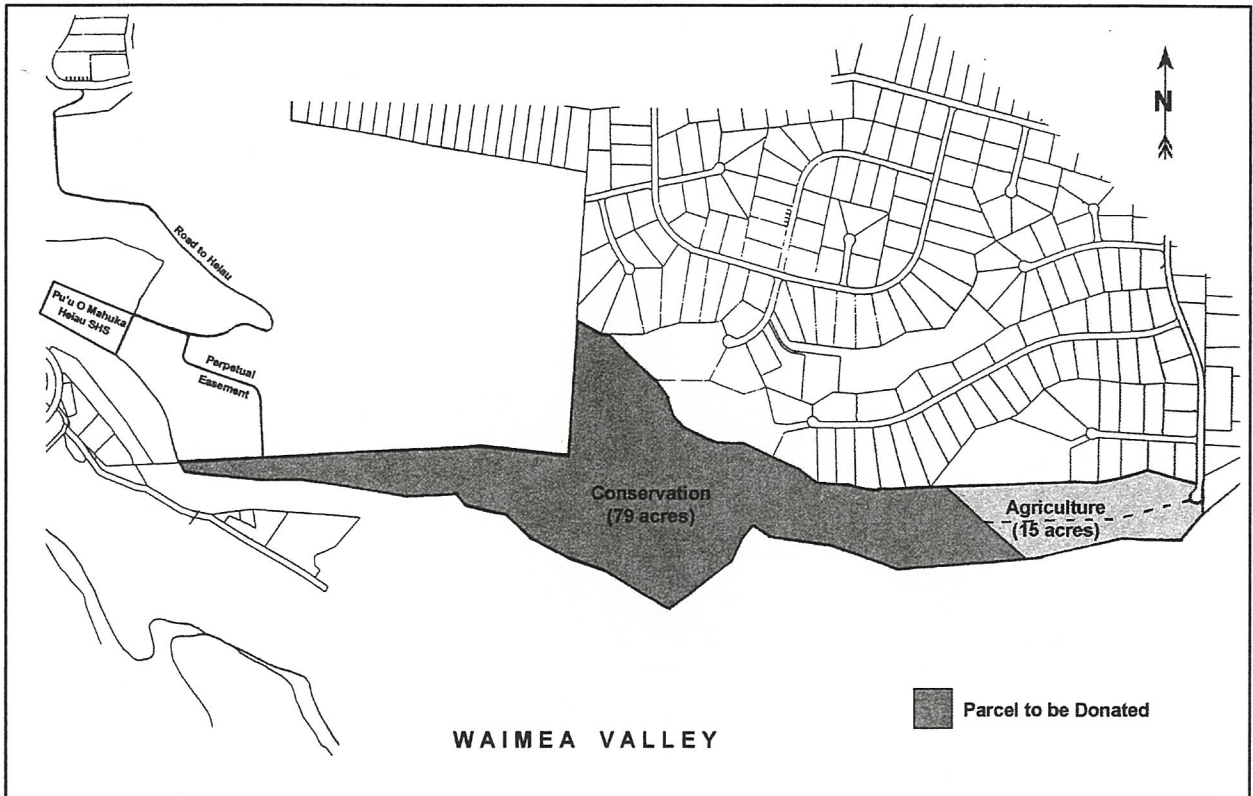
APPROVED FOR SUBMITTAL



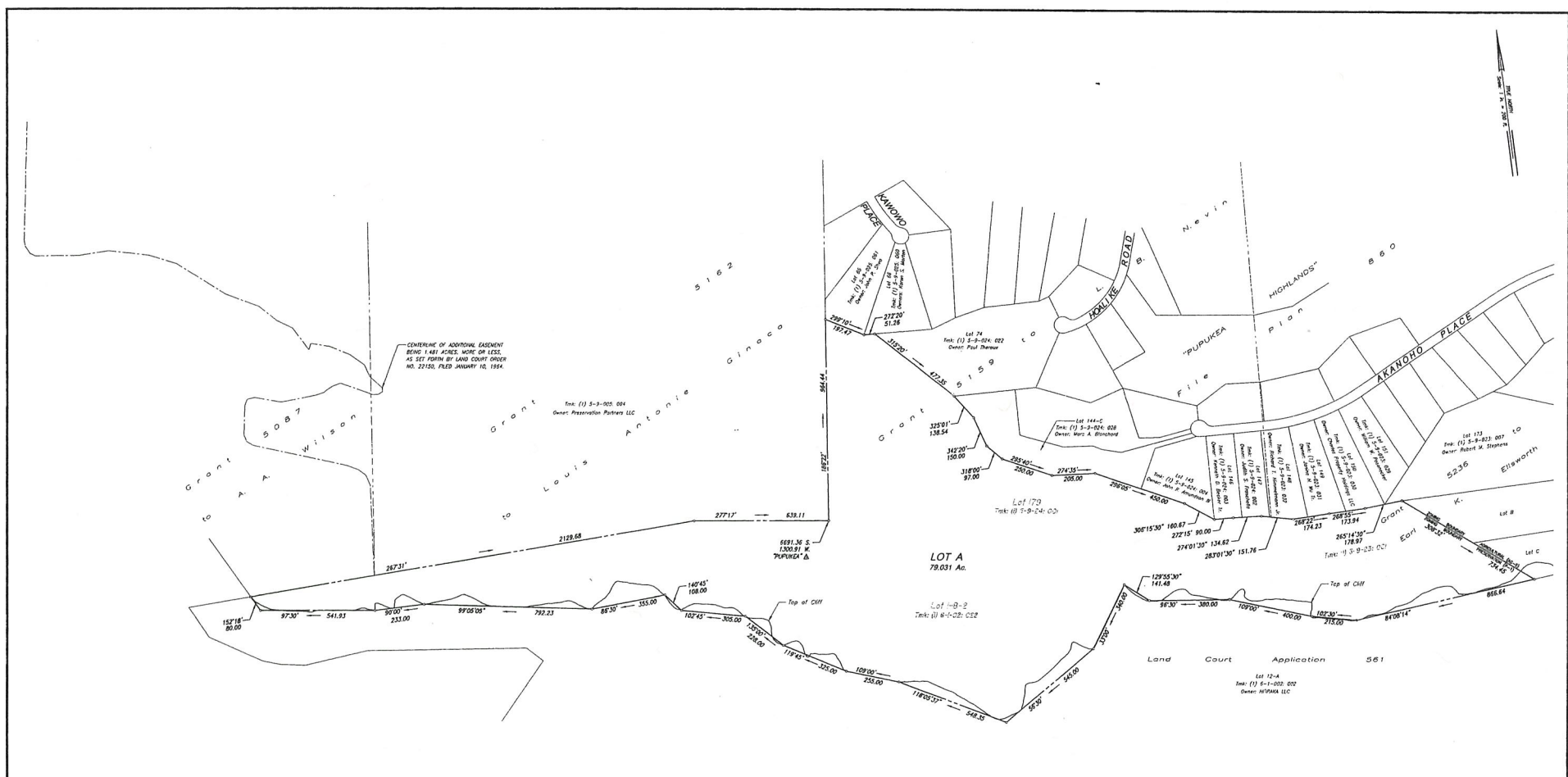
Suzanne D. Case, Chairperson



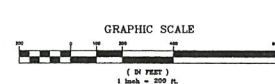
Before: 3 parcels and zoning.



After: Consolidation and resubdivision to establish 79-acre Conservation parcel.



MAP SHOWING
 LOT A
 OF THE CONSOLIDATION AND RESUBDIVISION OF
 LOT 179 OF FILE PLAN 860 AND
 LOT 1-B-2 OF LAND COURT APPLICATION 561 (MAP 8)
 BEING PORTIONS OF GRANT 5159 TO L. B. NEVIN AND
 GRANT 5236 TO EARL K. ELLSWORTH
 AT PUPUKA, KOOLAULOA, OAHU, HAWAII
 TAX MAP KEYS: (1) 5-9-23:001, 5-9-24:001 AND 6-1-02:002
 OWNER: A CHARITABLE FOUNDATION CORPORATION



- NOTES:
1. Azimuths and Coordinates are referred to Government Survey Triangulation Station "PUPUKA" A.
 2. Lot A is zoned P-1 Restricted Preservation District.
 3. Owners and addresses shown on map were taken from Department of Permitting and Planning, City & County of Honolulu Records.

ROBERT K. LEE
 LICENSED
 PROFESSIONAL
 LAND
 SURVEYOR
 NO. 5076
 HAWAII, U.S.A.

This work was prepared by me
 or under my direct supervision.

Robert K. Lee
 Licensed Professional Land Surveyor
 Certificate Number 5076

SEPTEMBER 14, 2017
 2151 N. KING STREET
 SUITE 300
 HONOLULU, HAWAII 96819



STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM
LAND USE COMMISSION
P.O. Box 2359
Honolulu, Hawaii 96804-2359
Telephone: 808-587-3822
Fax: 808-587-3827

September 26, 2005

RECEIVED
SEP 26 P 3:16
OFFICE OF ENVIRONMENTAL
QUALITY CONTROL

Ms. Genevieve Salmonson, Director
Office of Environmental Quality Control
235 South Beretania Street, Room 702
Honolulu, Hawaii 96813-2437

Dear Ms. Salmonson:

Subject: LUC Docket No. A05-758/A Charitable Foundation Corporation
Finding of No Significant Impact (FONSI) for Pupukea Ridge Preservation Project
Pupukea, Koolauloa and Waialua, Oahu, Hawaii
Tax Map Keys: 5-9-23: por. 1; 5-9-24: 1; and 6-1-02: por. 22

On September 8, 2005, the Land Use Commission, after reviewing the comments received during the 30-day public comment period that began on July 23, 2005, determined that the subject project will not have significant environmental effects and issued a FONSI.

We respectfully request the publication of this notice in the next available issue of The Environmental Notice.

We have enclosed a completed OEQC Publication Form, Project Summary (hard copy and diskette) and four copies of the Final Environmental Assessment.

A copy of the Commission's Order reflecting its action of September 8, 2005, will be provided to you under separate cover.

Please feel free to contact Bert Saruwatari of my office at 587-3822, should you require clarification or any further assistance.

Sincerely,


ANTHONY J. H. CHING
Executive Officer

Enclosures

c: Benjamin M. Matsubara, Esq. (w/o enclosures)
Rodney Funakoshi (w/o enclosures)

EXHIBIT "B"

BEFORE THE BOARD OF LAND AND NATURAL RESOURCES
STATE OF HAWAI'I
1151 Punchbowl Street, Room 130
Honolulu, Hawai'i 96813

A Charitable Foundation)	Agenda No. _____
)	
Donation of 79.031 Acres of Land at)	Meeting Date: July 27, 2018
Pupukea, in the Ko'olaupua and Waialua)	Time: 9:00 a.m.
Districts, Island of O'ahu, State of Hawai'i)	Place: 1151 Punchbowl Street, Rm 132
for a State Reserve Park)	
_____)	

**WRITTEN PUBLIC TESTIMONY OF DAVID S. DRUZ
ON BEHALF OF A CHARITABLE FOUNDATION
IN SUPPORT OF THE DONATION OF
LAND ON THE PUPUKEA RIDGE FOR A STATE PARK RESERVE**

Chair Case and members of the Board of Land Natural Resources. My name is David S. Druz. I have made the North Shore of Oahu my home for over 30 years. I am the president of A Charitable Foundation ("ACF"), a small nonprofit corporation which was organized in 1997 to promote activities in the public interest. ACF is a tax exempt organization described in §501(c)(3) of the Internal Revenue Code. A significant amount of ACF's activities and commitment of its funds have been in furtherance of the public interests of land and environmental protections on the North Shore of Oahu. I am presenting the following written testimony in support of ACF's donation of a 79.031 acre parcel of land ("Donation Property") on the Pupukea Ridge on the North Shore to the State of Hawai'i ("State" or "DLNR") for a State Park Reserve. The donation of the Donation Property is in furtherance of the public and charitable purposes of preserving the view planes, open space, recreational values, and the cultural, natural and historical values of the Pupukea Ridge.

For almost 18 years, ACF has been working on carrying out a plan and vision in cooperation and with the support of State and City and County of Honolulu departments and agencies and community organizations which involved:

- Acquiring 3 parcels of land, area 94.175 acres, at Pupukea, in the Ko'olaupua and Waialua Districts, Island of O'ahu, State of Hawai'i (TMK: 6-1-002:022; 5-9-023:001; and 5-9-024:001) ("Property");
- Meeting with State, City and County of Honolulu departments, agencies and commissions and various community organizations in connection with presenting the plan and obtaining their support of the plan to create an approximately 79 acre Conservation zoned parcel (now the Donation Property) and conveying the Donation Property to DLNR for a State Park Reserve;
- Petitioning and applying for land entitlements (land use, zoning and subdivision) including changing the Land Use District Boundary Amendment from "Agriculture" to "Conservation" and down zoning approximately 24 acres of the land from "Ag2" to "Preservation";
- Consolidating and resubdividing of the Property to create the Donation Property as a subdivided parcel of land, and
- Now donating the Donation Property to the State of Hawai'i, by its Department of Land and Natural Resources ("DLNR"), for a State Park Reserve.

The Property

The Property is situated along a ridge in Pupukea overlooking Waimea Valley, approximately 6.25 miles east of Hale'iwa town center on O'ahu's North Shore. There are several cultural sites located within the Pupukea and Waimea ahupuaa. Significantly, a State

park, *Pu'u o Mahuka Heiau*, which is on the National and State Historic Places and the largest *heiau* on O'ahu, is located nearby. It is believed to be a *Luakini Heiau* and may have some cultural significance to Wailua, Kauai. In a Memorandum to the BLNR dated January 27, 2011, K. Tiger Mills, Staff Planner, Office of Conservation and Coastal Lands, stated that the (Donated Property) "...provides a backdrop to interpret the Heiau in its setting adjacent to Waimea Valley." The Pupukea residential and agricultural communities are located to the North and East of the Property.

Between 1910 and the 1960s, the Property was part of a pineapple plantation. After the cultivation of pineapple ceased, the Property lay fallow and undeveloped. Ultimately, the Property and surrounding areas reverted to wilderness.

Access to and from the Donation Property is from Pupukea Road and through a 14-foot-wide perpetual easement running through an adjacent parcel of land (TMK: 5-9-005:004) which also provides access to/from the *Pu'u o Mahuka Heiau*.

A rendering of the Donation Property is attached as Exhibit "1."

Timeline of Events

It is important to discuss the timeline of events where it has taken almost 18 years to get to this point. The following is a general time line of certain events between 2001 through 2018:

<u>Date or Time Frame</u>	<u>Event</u>
2001	ACF began negotiations to obtain site control of the Property which encompassed 94.175 acres on the northern rim of Waimea Valley in Pupukea on O'ahu.

2001-2002	ACF met with DLNR to present ACF's plan to donate the Donation Property to DLNR for a State park reserve.
May 24, 2002	The Board of Land and Natural Resources met and approved the redesignation of a portion of the Property from the Limited Subzone to the General Subzone as a first step in facilitating the ultimate donation of 63 acres of the Pupukea Ridge to DLNR for a State park reserve. See: BLNR Memorandum of its May 24, 2002 Meeting (Item D-15)
May 23, 2003	Based on BLNR's May 24, 2002 approval, ACF purchased the Property.
2003 – 2005	ACF began the process of preparing to file a Petition for District Boundary Amendment to the Land Use Commission of the State of Hawai'i ("LUC") to, among other amendments, change the district boundary of a portion of the Donation Property from "Agriculture" to "Conservation" so that the entire Donation Property would be in "Conservation." ACF caused, among other requirements, a draft Environmental Assessment to be prepared and met with the North Shore Neighborhood Board, Sunset Beach Community Association, and residents of the Pupukea subdivision. ACF continued to meet with DLNR and the City departments and agencies having jurisdiction over the Property.

May 26, 2004	Phase I Environmental Site Assessment prepared by Masa Fujioka and Associates did not identify any environmental conditions affecting the Property.
March 15, 2005	ACF filed its Petition for District Boundary Amendment to the LUC, together with a draft Environmental Assessment, to reclassify a portion of the Property to "Conservation" for donation to DLNR as a State park reserve.
August 29, 2005	ACF filed a Final Environmental Assessment with the LUC.
September 8, 2005	The LUC approved the Final Environmental Assessment and issued a Finding of No Significant Impact ("FONSI").
October 25, 2005	The LUC filed its Findings Of Fact, Conclusions of Law, and Decision and Order Determining a Finding of No Significant Impact for a State Land Use District Boundary Amendment.
November 7, 2005	The City and County of Honolulu ("City and County") filed its Statement of Position of the Department of Planning and Permitting in Support of ACF's Petition.
August 29, 2005	ACF filed a Final Environmental Assessment with the LUC.
September 8, 2005	The LUC approved the Final Environmental Assessment and issued a Finding of No Significant Impact ("FONSI").
October 25, 2005	The LUC filed its Findings Of Fact, Conclusions of Law, and Decision and Order Determining a Finding of No Significant Impact for a State Land Use District Boundary Amendment.

November 7, 2005	The City and County of Honolulu ("City and County") filed its Statement of Position of the Department of Planning and Permitting in Support of ACF's Petition.
November 11, 2005	The Office of Planning of the State of Hawai'i filed its Statement of Position of the Office of Planning in Partial Support of the Petition. In connection therewith, ACF was informed that DLNR provided a letter to the Office of Planning in support of the amendment and donation of the Donation Property to DLNR for a State park reserve and an extension of the nearby <i>Pu'u o Mahuka Heiau</i> State Monument.
January 5, 2006	The LUC conducted and completed the hearing on ACF's Petition.
April 24, 2006	<p>The LUC entered its Findings of Fact, Conclusions of Law and Decision and Order the result of which placed all of the Donation Property in the State Land Use Conservation District.</p> <p>The LUC expressly found:</p> <p style="padding-left: 40px;">"The donation of Petition Area A to the DLNR for a State Park Reserve will preserve open space and protect the natural resources of the area."</p> <p>The LUC issued the following order:</p> <ol style="list-style-type: none"> 1. Conveyance of Lands for a State Park Reserve. Petitioner shall, upon receiving all necessary entitlements and governmental approvals, proceed with the consolidation, subdivision and conveyance of approximately 79.031 acres of land, which shall include Petition Area A and adjacent Conservation

	District land, ...to the DLNR for a State Park Reserve, to be kept in perpetuity for the public good in maintenance and preservation of the view planes, open space, recreational values, and the cultural, natural and historical values of the Pupukea Ridge.”
2006-2017	ACF spent the next 10 years seeking to obtain various entitlements including BLNR’s approval to amend Chapter 13-5 HAR for a Conservation District Subzone Designation to designate a portion of the Donation Property from undesignated Conservation District into the Resource Subzone and the City and County of Honolulu’s approval to change the zoning for the Property and consolidate and resubdivide the Property. The City required that ACF acquire access rights over Maulukua Road and construct a cul-de-sac at the end of Maulukua Road where it meets Property.
November 19, 2009	BLNR approved as to form a proposed amendments to Chapter 13-5 HAR for a Conservation District Subzone Designation involving the Donation Property and to hold a public hearing on the proposed amendment. See: Memorandum dated February 22, 2010 from Samuel J. Lemmo/Administrator Office of Conservation and Coastal Lands to Donna Kalama/Supervising Deputy Attorney General through Laura H. Thielen/Chair DLNR. (Approval from the Governor was granted on October 20, 2010. A public hearing was held on

	December 29, 2010. See below BLNR January 27, 2011 approval of amendment to Chapter 13-5 HAR.)
January 27, 2011	BLNR approved the amendment to Chapter 13-5 HAR for a Conservation District Subzone Designation to designate a portion of the Donation Property of undesignated Conservation District into the Resource Subzone. See: Amendment OA 09-01
March 28, 2011	Governor approved the amendment.
May 5, 2017	City's Department of Planning approved the Subdivision Map of the Property (2014/Sub 161)
February 2018	Phase I Environmental Site Assessment prepared by Masa Fujioka and Associates and submitted to DLNR did not identify any environmental conditions affecting the Property.
March 29, 2018	DLNR/State Parks staff conducted a site visit over the Donation Property.
2017-18	ACF continued to keep various community organizations informed of the status of the donation of the Donation Property.
May 25, 2018	The Sunset Beach Community Association submitted to DLNR a letter supporting ACF's donation of the Donation Property to DLNR.
May 29, 2018	The North Shore Community Land Trust submitted to DLNR a letter supporting ACF's donation of the Donation Property to DLNR.

May 31, 2018	<p>Senator Gil Riviere, Senator, District 23 (North and Windward Shores) submitted a letter supporting ACF's donation of the Donation Property to DLNR. Sen. Riviere's support sums up the community's support for the donation:</p> <p style="padding-left: 40px;">“I am mindful that for almost 15 years, A Charitable Foundation has been working and planning with the State to preserve this unique property for its view planes, open space, recreational values, and cultural, historical, and natural qualities. Having the land under State ownership will ensure the preservation of culturally significant sites such as <i>Pu'u o Mahuka Heiau</i>, and exceptional view corridors across the North Shore.”</p>
June 26, 2018	<p>North Shore Neighborhood Board met and took action to send a letter to DLNR supporting ACF's donation of the Donation Property to DLNR.</p>

Almost 18 years after ACF began the process of carrying out the plan and vision of acquiring the Donation Property and preempting development on the Pupukea Ridge by putting it in public hands for a State Park Reserve to ensure a clear view of the ridgeline from Waimea Beach Park and Waimea Valley and providing the State with land near the *Pu'u o Mahuka Heiau*, something the State has long sought, the Donation Property has received all necessary entitlements and governmental approvals, including consolidation and resubdivision of the Property to create the Donation Property as a subdivided parcel of land. ACF is prepared to donate the Donation Property to DLNR pursuant to a Deed which includes restrictions that track Hawai'i laws and rules governing the use of State lands in the Conservation District.

Donation of the Donation Property will serve to preserve and protect views and vistas, preserve and protect natural resources, and provide passive recreational opportunities for the

general public that are compatible with the natural environment and consistent with Hawai'i laws and policies, including but not limited to:

- Protecting native Hawaiian traditional and customary rights, including preservation of any archaeological or cultural aspects of the area as provided in Article XII, Section 7, of the Hawai'i State Constitution.
- Conserving and protecting Hawai'i's natural beauty and all natural resources as provided in Article XI, Section I., of the Hawai'i State Constitution;
- Goals, objectives, policies, and priority guidelines of the Hawai'i State Plan including State policies set forth in chapter 226, HRS;
- State Goals: set forth in §226-4, HRS;
- State Objectives: set forth in §§226-6, 226-7, 226-11, 226-12, 226-13, and 226-23, HRS;
- Policies set forth in the Conservation Lands Functional Plan; and
- Policies set forth in the Recreation Functional Plan.

It has taken substantial persistence and dedication to make the donation of the Donation Property to DLNR a reality. We would not be here today without the tremendous support of DLNR's prior and current staff. I would be remiss if I did not take this opportunity to request that the BLNR recognizes all of them, including current staff persons Curt E. Cottrell, Martha A. Yent, Malama Minn and Sang Pil Kim.

DATED: Hale'iwa, Hawaii, 7-6-18

A CHARITABLE FOUNDATION

By: David S. Druz
David S. Druz
Its: President



NORTH SHORE NEIGHBORHOOD BOARD NO. 27

c/o NEIGHBORHOOD COMMISSION • 530 SOUTH KING STREET ROOM 406 • HONOLULU, HAWAII 96813
PHONE (808) 768-3710 • FAX (808) 768-3711 • INTERNET: <http://www.honolulu.gov/nco>

July 11, 2018

Suzanne Case, Chair
Department of Land and Natural Resources
Kalanimoku Building
1151 Punchbowl Street
Honolulu, HI 96813

RE: A Charitable Foundation Land Dedication

Aloha Chair Case:

At the June 26, 2018 North Shore Neighborhood Board #27 meeting, the board moved and unanimously supported the following motion:

Regarding the dedication of a 79 acre of conservation zoned land on the North Waimea bluff from A Charitable Foundation to the State of Hawaii: It is the recommendation of the North Shore Neighborhood Board #27 that it reiterate and reconfirm its support for the dedication of conservation zoned land on the Northern Waimea bluff from A Charitable Foundation to the State of Hawaii. The goals of the project are to protect the view plain sensitive land on the ridge, preempt subsequent rezoning and development, and to create a community resource. Both of these objectives represent a considerable benefit to the community.

A Charitable Foundation has kept the Sunset Beach community informed of the progress since the start in 2001. The tenacity this project has required is laudable.

Please, at long last, vote to expedite the necessary approvals required to consummate this very generous gift to the community.

The North Shore community looks forward to the BLNR supporting this dedication of conservation land to the State of Hawaii and the permanent protection of this important view plain and protect it forever from development.

Malama aina,

Kathleen M. Pahinui
Chair, North Shore Neighborhood Board #27

EXHIBIT "D"



The Senate

STATE CAPITOL
HONOLULU, HAWAII 96813

May 31, 2018

Ms. Suzanne D. Case, Chairperson
Board of Land and Natural Resources
1151 Punchbowl Street
Honolulu, Hawai'i 96813

RECEIVED
LAND DIVISION
2018 JUN -4 AM 11:07
DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

Dear Chair Case and Members of the Board:

I wholeheartedly support A Charitable Foundation's donation of approximately 79 acres of land on the Pupukea Ridge to the State of Hawai'i in furtherance of the public good of preserving it in open space.

I am mindful that for almost 15 years, A Charitable Foundation has been working and planning with the State to preserve this unique property for its view planes, open space, recreational values, and cultural, historical, and natural qualities. Having the land under State ownership will ensure the preservation of culturally significant sites such as Pu'u o Mahuka Heiau, and exceptional view corridors across the North Shore.

Thank you, in advance, for your efforts to complete this transaction.

Sincerely,

Gil Riviere
Senator, District 23
Oahu's North and Windward Shores

*Sunset Beach Community Association
P.O. Box 471
Haleiwa HI 96712*

May 25, 2018

Suzanne Case, Director
Department of Land and Natural Resources
1151 Punchbowl St.
Honolulu HI 96813

Dear Ms. Case,

The Sunset Beach Community Association (SBCA) voted unanimously at its May 16, 2018 meeting to continue its support of A Charitable Foundation (AFC)'s effort to donate 79 acres of Conservation land in Pupukea to the State of Hawaii. A detailed description of the lot to be donated is as follows:

Lot A, 79.031 acres, more or less, described on the metes and bounds description and shown on the Department of Planning & Permitting, City and County of Honolulu's Subdivision Map File No. 2014/SUB-161 attached to that certain Affidavit recorded in the Bureau of Conveyances of the State of Hawaii on August 21, 2017 as Document No. A-64420258, being a portion of TMK Nos. (1) 5-9-023-001, 5-9-024-001 and 6-1-002-022 (portion).

The SBCA strongly encourages the DLNR to accept this donation so that subsequently the 79 acre parcel can be given to State Parks.

Sincerely,



Andrea Woods
Corresponding Secretary
Sunset Beach Community Association

cc Honorable Mayor Kirk Caldwell
 Malama Minn, DLNR
 City Councilmember Ernie Martin
 North Shore Neighborhood Board
 David Druz, A Charitable Foundation Group
 Senator Gil Riviere
 Representative Sean Quinlan



NORTH SHORE
COMMUNITY
LAND TRUST

May 29, 2018

Suzanne Case, Director
Department of Land and Natural Resources
1151 Punchbowl St.
Honolulu HI 96813

RECEIVED
LAND DIVISION
2018 JUN -1 AM 11:21
DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

Dear Ms. Case,

North Shore Community Land Trust (NSCLT) strongly supports A Charitable Foundation's (ACF's) long time effort to donate 79 acres of land in Pūpūkea overlooking Waimea Valley to the State of Hawai'i Department of Land and Natural Resources State Parks Division.* To accomplish this goal, ACF has invested substantial time and money over the past 20 years making this is a truly commendable act of charity that will benefit the public for generations to come. The 79 acres provides a great place for hiking and scenic views of the North Shore and the prohibition of buildings on the ridgeline ensures that the views up from Waimea Valley will not be obstructed.

In addition to NSCLT's support, ACF has had overwhelming public support throughout its effort to conserve and donate this land, evidenced most recently by the Sunset Beach Community Association's (SBCA's) unanimously support at its May 16, 2018 meeting.

NSCLT strongly encourages the DLNR to accept this donation so that subsequently the 79 acre parcel can be given to State Parks. NSCLT is also willing to partner with State Parks to help steward this important community resource.

Sincerely,

Doug Cole
Executive Director
North Shore Community Land Trust

Cc: Ms. Malama Minn, Department of Land and Natural Resources Land Division

*Lot A, 79.031 acres, more or less, described on the metes and bounds description and shown on the Department of Planning & Permitting, City and County of Honolulu's Subdivision Map File No. 2014/SUB-161 attached to that certain Affidavit recorded in the Bureau of Conveyances of the State of Hawaii on August 21, 2017 as Document No. A-64420258, being a portion of TMK Nos. (1) 5-9-023-001, 5-9-024-001 and 6-1-002-022 (portion).

P.O. Box 1179, Hale'iwa, HI 96712 – www.northshoreland.org

DRAFT 180726

LAND COURT SYSTEM

REGULAR SYSTEM

Return by Mail (X) Pickup () To:

Land Court () Regular (..) Double (X)

Total pages _____

TYPE OF DOCUMENT: Limited Warranty Deed

PARTIES TO DOCUMENT:

PROPERTY DESCRIPTION

DOCUMENT NO.

DOCUMENT NO.
TRANSFER CERTIFICATE OF
TITLE NO:

Tax Map Key No. (1) 5-9-023-001

5-9-024-001

6-1-002-022

5-9-005-004

LIMITED WARRANTY DEED

THIS LIMITED WARRANTY DEED made this _____ day of _____, 2018, by and between:

A Charitable Foundation Corporation

a Nevada nonprofit corporation,
P.O. Box 909
Haleiwa, Hawaii 96712
("Grantor")

and

State of Hawaii,

by its Board of Land and Natural Resources,
1151 Punchbowl Street
Honolulu, Hawaii 96813
("Grantee" or "State of Hawaii")

W I T N E S S E T H :

A. Grantor is the owner of that certain parcel of land situate at Pupukea, Koolauloa, Oahu, Hawaii, as more particularly described in Exhibit "A" attached hereto and made a part hereof (hereinafter referred to as the "Property").

B. Pursuant to that certain Declaration of Conditions ("Declaration of Conditions") dated June 1, 2006 and recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2006-105635, Grantor agreed to convey the Property to Grantee for a State park reserve, to be kept in perpetuity for the public good in maintenance and preservation of the view planes, open space, recreational values and the cultural, historical and natural resources of Pupukea Ridge.

C. In satisfaction of Condition No. 1 set forth in said Declaration of Conditions, Grantor is conveying to Grantee and the Grantee has agreed to accept the conveyance of the Property.

Grant of the Property

For and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00), and other valuable consideration, paid by the Grantee to the Grantor, the receipt whereof is hereby acknowledged, Grantor does hereby grant, bargain, sell and convey the Property unto the Grantee, the Grantee's successors and assigns.

AND the reversions, remainders, rents, income and profits thereof, and all of the estate, right, title, and interest of the Grantor, both at law and in equity, therein and thereto.

Together with additional easement being 1.481 acres, more or less, as set forth by

Land Court Order No. 22150, filed January 10, 1964, being more particularly described in Exhibit "A: attached hereto and incorporated by reference.

TO HAVE AND TO HOLD the same unto Grantee, as tenant in severalty, its successors and assigns, forever, together with all improvements, rights, easements, privileges and appurtenances thereunto belonging or in any ways appertaining or held and enjoyed therewith in fee simple unto said Grantee, the Grantee's successors and assigns, forever, free and clear of all liens and encumbrances except as described in Exhibit "A" attached hereto and made part hereof, which rights and restrictions shall run with the land and bind any of Grantee's successors in interest.

The Grantor, for itself, its successors and assigns, does hereby covenant and agree with Grantee, its successors and assigns, that Grantor is lawfully seised in fee simple and possessed of the above-described land, that Grantor has a good and lawful right and title to sell and convey the same as aforesaid, and Grantor has done or suffered no act or thing whereby such premises hereby granted are encumbered, except as aforesaid; that such premises are free and clear of liens and encumbrances made or suffered by Grantor except as aforesaid; and that Grantor will and their successors and assigns shall WARRANT AND DEFEND the same unto Grantee, its successors and assigns, forever, against the loss or claims and demands of all persons claiming by, through or under Grantor except as aforesaid.

AND, Grantee covenants that the Property is and shall be forever owned for the public good in the management, maintenance and preservation of the Property's scenic, view planes, open space, recreational values, and cultural, historical and natural resources and values of the Pupukea Ridge and restricted from any development or use that would impair or interfere with such resources and values. Structures, such as communication or other utility towers or poles, zip lines and wind turbines, are and shall be prohibited. Notwithstanding the foregoing, Grantee may construct improvements, such as maintenance structures and comfort stations, provided that such improvements do not detract from such resources and values and blend with the natural environment, do not exceed a height of 15 feet, are set back so that such improvements are not visible from Waimea Valley and Waimea Beach Park below and are constructed pursuant to a building permit(s) approved and issued by the City and County of Honolulu. Recreational use is and shall be restricted to traversing the Property by foot or on animals, such as horses, mules or donkeys. Dogs and public hunting are not and shall not be permitted on the Property provided that Grantee may conduct ungulate control and eradication of invasive animals. Except for motor vehicles necessary for Grantee to maintain the Property and to allow for a parking area for no more than 24 motor vehicles, no other motor vehicles, including motorcycles and all terrain vehicles, and non-motorized vehicles, such as bicycles, shall be permitted to be operated or used within the Property for any other use or purpose. Any activity on or use of the Property inconsistent with the foregoing covenant is and shall be prohibited. Notwithstanding the foregoing, Grantee shall have the right to grant easements and rights-of-way and the right to grant to any public utility or governmental authority such rights-of-way over, across and under said easements for lines and other transmission facilities and appurtenances only for water and electricity serving only the Property as a state park reserve and no other properties, and the right to enter for such purposes and to repair such facilities and to trim any trees in the way of such

lines; provided that any poles for electricity shall not exceed a height of 15 feet and shall not be visible from Waimea Valley and Waimea Beach Park below.

The foregoing covenant shall run with the land and with the title to the Property, in perpetuity, and shall apply to and be binding upon and inure to the benefit of the Grantee, its successors and assigns.

The Grantor shall be responsible for payment of all rollback or retroactive property taxes and their associated costs, and property taxes up to the date of execution of this Limited Warranty Deed.

AND, Grantor shall execute affidavits, representations and the like from time to time at Grantee's request concerning Grantor's best knowledge and belief regarding the presence of hazardous materials on the Property placed or released by Grantor.

AND, Grantor agrees to release, indemnify, defend, and hold Grantee harmless, from any damages and claims resulting from the release of hazardous materials on or about the Property occurring while Grantor was in possession of the Property, or elsewhere if caused by Grantor or persons acting through or under Grantor.

For the purpose of this limited warranty deed "hazardous material" shall mean any pollutant, contaminant, toxic substance, hazardous waste, hazardous material, hazardous substance, or oil, as all of the above are defined to or pursuant to the Resource Conservation and Recovery Act, as amended, the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, the Federal Clean Water Act, Chapter 128D, Hawaii Revised Statutes, as amended, or any other federal, state, or local law, regulation, ordinance, rule, or bylaw, whether existing as of the date hereof, previously enforced, or subsequently enacted.

This Instrument may be signed in counterparts, each of which will be considered as an original and which together will constitute one and the same Instrument.

IN WITNESS WHEREOF, Grantor and Grantee have executed these presents effective as of the day, month, and year first above written.

[The remainder of this page is blank. The following page is a signature page.]

A Charitable Foundation Corporation, a Nevada nonprofit corporation registered to do business as a foreign nonprofit corporation in the State of Hawaii

Date: _____

ACKNOWLEDGMENT/NOTARY CERTIFICATION

On this _____, 2018, in the First Circuit of the State of Hawaii, before me personally appeared David S. Druz, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed this _____-page Limited Warranty Deed dated _____, 2017, 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.

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Limited Warranty Deed
Grantor: A Charitable Foundation Corporation
Grantee: State of Hawaii

Approved by the Board of Land and Natural
Resources at its meeting held on:

STATE OF HAWAII

By: _____

Suzanne D. Case
Chairperson
Board of Land and Natural Resources
"Grantee"

APPROVED AS TO FORM, LEGALITY,
EXCEPTIONS AND RESERVATIONS:

Deputy Attorney General

Dated: _____

EXHIBIT "A"

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Lot 179 of the "Pupukea Highlands", as shown on File Plan Number 860; Lot 1-B-2, as shown on Map 8, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application Number 561 of Mary F. Van Valkenburg and others, having been deregistered and recorded in the Bureau of Conveyances of the State of Hawaii as Document No. A-63820674; Royal Patent Grant Number 880 to Kaeliwai; and Mahele Award Number 13 to Paalua) situate, lying and being at Pupukea, Koolauloa, City and County of Honolulu, State of Hawaii, being LOT A, as shown on map prepared by Robert K. Y. Lee, Land Surveyor, with Towill Shigeoka & Associates, Inc., dated May 2, 2017, approved by the City and County of Honolulu, 2014/SUB-161, on May 5, 2017, containing an area of 79.031 acres, more or less, and being more particularly described in AFFIDAVIT dated August 15, 2017, recorded as Document No. A-64420258.

Together with ADDITIONAL EASEMENT being 1.481 acres, more or less, as set forth by Land Court Order No. 22150, filed January 10, 1964, being more particularly described as follows:

A. A. Wilson by indenture dated October 27, 1911, has granted to the owners and tenants of the Ahupuaa of Waimea, their successors and assigns a perpetual right of way over the wagon road over Lot 14 at Pupukea Homesteads to connect said lands of the Ahupuaa of Waimea with Pupukea Government Road.

A portion of said wagon road passes over Lot 15 of Pupukea Homesteads, and Libby, McNeill & Libby of Honolulu, Limited, the owner of said Lot 15 by Grant of Easement dated December 25, A. D. 1923, granted a perpetual easement of right of way over so much of said wagon road as passes over said Lot 15--the center line of which is described in said grant by direct azimuth and distance.

That a description of said right of way as it exists upon the ground of said Lot 14 and as it was granted by azimuth and distance upon said Lot 15 is as follows:

Beginning at a point in the center line of 14 foot roadway, on the boundary between the land of Waimea and Grant 5087 to A. A. Wilson, the coordinates of said point of beginning referred to Government Survey Triangulation Station "WAIMEA" being 1317.25 feet south and 1960.37 feet east, and also the true azimuth and being 267° 31' 7.06 feet, and running by true azimuths, along the center line of said Lot 14 foot roadway, from the above described initial point as follows:

1.	185° 00'	438.00	feet;
2.	163° 30'	52.80	feet;
3.	134° 20'	44.00	feet;
4.	117° 40'	58.00	feet;
5.	109° 50'	453.00	feet;
6.	127° 16'	36.00	feet;
7.	165° 00'	35.00	feet;
8.	189° 00'	140.00	feet;
9.	207° 10'	32.00	feet;
10.	264° 10'	36.00	feet;
11.	287° 24'	127.00	feet;
12.	266° 20'	169.00	feet;
13.	259° 00'	38.40	feet;
14.	240° 50'	47.00	feet;
15.	255° 30'	44.00	feet;
16.	296° 54'	137.65	feet to the boundary between Grants 5087 and 5162; from this point on, for the next 6 courses, the center line of roadway runs through Lot 15 Grant 5162 to L. A. Ginaca;
17.	296° 54'	26.00	feet;
18.	273° 00'	25.80	feet;
19.	224° 00'	23.00	feet;
20.	181° 00'	17.80	feet;
21.	139° 57'	78.30	feet;

22. 162° 16'	20.00	feet to the boundary between Grants 5087 to A. A. Wilson and 5162 to L. A. Ginaca; thence from here on the center line runs through Lot 14 Grant 5087 to A. A. Wilson;
23. 162° 16'	40.10	feet;
24. 133° 09'	87.20	feet;
25. 119° 30'	100.00	feet;
26. 106° 50'	91.00	feet;
27. 125° 00'	31.00	feet;
28. 150° 40'	130.30	feet;
29. 122° 40'	83.70	feet;
30. 136° 11'	108.30	feet;
31. 117° 53'	170.00	feet;
32. 130° 20'	272.30	feet;
33. 114° 05'	138.50	feet;
34. 103° 53'	189.30	feet;
35. 88° 10'	142.00	feet;
36. 96° 51'	201.00	feet;
37. 122° 50'	27.00	feet;
38. 154° 30'	43.00	feet;
39. 177° 30'	27.00	feet to a point that is by true azimuth 223° 25' 30" and distant 751.10 feet from Waimea Triangulation Station;

40. 188° 48' 563.00

feet a little more or less to the south side of Main Government Road on the north side of Grant 5087 to A. A. Wilson and containing an area of 1.481 acres of which 1.42 acres are in Lot 14 and 0.061 acres in Lot 15.

Said above described parcel of land having been acquired by A CHARITABLE FOUNDATION CORPORATION, a Nevada non-profit corporation, as Tenant in Severalty, as follows:

1. By LIMITED WARRANTY DEED of FINANCE REALTY, LTD, a Hawaii corporation, formerly known as Finance Realty Company, Limited, as Trustee of the land trust known as the Pupukea land Trust dated April 3, 1986, dated May 23, 2003, recorded as Document No. 2003-107293; and
2. By LIMITED WARRANTY DEED of FINANCE ENTERPRISES, LTD, a Hawaii corporation, and KALANI HOLDINGS, LTD, a Hawaii corporation, dated May 23, 2003, filed as Land Court Document No. 2936207, recorded as Document No. 2003-107294.

SUBJECT TO:

1. Mineral and water rights of any nature.
2. The terms and provisions contained in the following:

INSTRUMENT : DECLARATION OF CONDITIONS

DATED : June 1, 2006

RECORDED : Document No. 2006-105635

3. The land has no recorded access to a public roadway.
4. Claims arising out of customary and traditional rights and practices, including without limitation those exercised for subsistence, cultural, religious, access or gathering purposes, as provided for in the Hawaii Constitution or the Hawaii Revised Statutes.