

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

January 11, 2019

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

PSF No. 18MD-088  
Maui

*Amend Prior Board action of September 28, 2018, Agenda Item D-3, Cancellation of Governor's Executive Order No. 3586 and Reset Aside to Hawaii Housing Finance and Development Corporation ("HHFDC"); Issuance of Management Right-of-Entry to HHFDC for the Development of a Mixed-Use Project Consisting of Multi-Family Affordable Rental Housing, Office Space/Civic Center, Parking, New Maui Bus Hub and Other Incidental Uses Purposes; Kahului, Maui, Tax Map Key: (2) 3-7-004:003.*

The purposes of the amendment are to: (i) consent after the fact to the Department of Accounting and General Services' ("DAGS") issuance of a Right-of-Entry ("ROE") permit to the County of Maui ("County") for site investigation and planning purposes as the land is currently set aside to DAGS under Executive Order ("EO") No. 3586, and (ii) consent to HHFDC's issuance of a ROE permit to the County for site investigation and planning purposes, after EO No. 3586 is cancelled and the land is reset aside to HHFDC.

BACKGROUND:

At its meeting of September 28, 2018, under agenda item D-3 (**Exhibit 1**), the Board of Land and Natural Resources ("Board") approved the cancellation of Governor's Executive Order No. 3586 and reset aside to the Hawaii Housing Finance and Development Corporation ("HHFDC") and the issuance of a management Right-of-Entry ("ROE") permit to HHFDC for the development of a mixed-use project at Kahului, Maui, TMK: (2) 3-7-004:003 ("Property").

The Property is currently set aside to the Department of Accounting and General Services ("DAGS") for Kahului Civic Center purposes, and is currently utilized for the Department of Education's adult education program and lawnmower operations center.

Pursuant to Senate Concurrent Resolution No. 145, S.D.1, from the 2017 legislative session, DAGS and HHFDC executed a Memorandum of Understanding to optimize development of the Property with a mixed-use project, including multi-family affordable rental housing, parking, office space and consideration of DAGS' civic center needs in Kahului. Also, the County of Maui ("County") expressed interest in relocating its bus

transit hub to a portion of the Property because it must vacate its current location by January 31, 2020.

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

In accordance with Section 11-200-8, Hawaii Administrative Rules (“HAR”), and the Exemption List for the Department of Land and Natural Resources reviewed and concurred by the Environmental Council on June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, Item No. 51. See **Exhibit 2**.

REMARKS:

Because of the deadline of January 31, 2020 to relocate the County’s bus hub, DAGS issued a ROE permit for site investigation and planning purposes to the County on October 4, 2018. (See **Exhibit 3**). The prior Board action of September 28, 2018, Agenda Item D-3 did not contemplate the issuance of an ROE by DAGS to the County for the project. Hawaii Revised Statutes, Section 171-11, requires Board consent to any license or permit longer than 14 days on land set aside to an agency by executive order. Accordingly, as a housekeeping measure, staff is requesting after-the-fact consent for DAGS’ issuance of the ROE permit to the County. The County would like to utilize approximately 0.66 acre or 28,600 sq. ft. of the Property, along Vevau Street for its new bus hub, as shown on the attached map labeled **Exhibit 4**.

After EO No. 3586 is cancelled and reset aside to HHFDC, it is requesting consent to issue an ROE permit to the County for site investigation and planning purposes for the County’s new bus hub.

Staff solicited comments on the proposed exemption from agencies listed below with the results indicated:

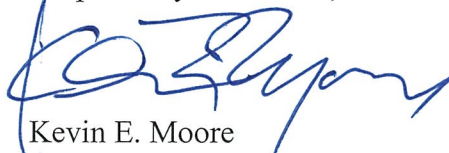
Agency	Comment
DLNR – SHPD	See <b>Exhibit 5</b> .
DLNR – Engineering	No comments.
DLNR – DOFAW	No response by suspense date.
DLNR – CWRM	No response by suspense date.
DAGS – Public Works	No comments.
County of Maui – Planning	No response by suspense date.
County of Maui – Public Works	No objections.
County of Maui – Transportation	No response by suspense date.
County of Maui – Housing and Human Concerns	No response by suspense date.
Office of Hawaiian Affairs	No response by suspense date.

Staff has no issues with this amendment and supports its approval.

RECOMMENDATION:

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. Amend its prior Board action of September 28, 2018, under agenda item D-3 to: (i) consent after the fact to the Department of Accounting and General Services' issuance of a right-of-entry permit to the County of Maui for site investigation and planning purposes as the land is currently set aside to DAGS under Executive Order No. 3586, and (ii) consent to HHFDC's issuance of a ROE permit to the County for site investigation and planning purposes, after EO No. 3586 is cancelled and the land is reset aside to HHFDC.
3. Affirm that, except as amended hereby, all terms and conditions listed in the Board's September 28, 2018 approval to remain the same.

Respectfully Submitted,



Kevin E. Moore  
Assistant Administrator

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson



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

September 28, 2018

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

PSF No. 18MD-088  
Maui

Cancellation of Governor's Executive Order No. 3586 and Reset Aside to Hawaii Housing Finance and Development Corporation ("HHFDC"); Issuance of Management Right-of-Entry to HHFDC for the Development of a Mixed-Use Project Consisting of Multi-Family Affordable Rental Housing, Office Space/Civic Center, Parking, New Maui Bus Hub and Other Incidental Uses Purposes; Kahului, Maui, Tax Map Key: (2) 3-7-004:003

CONTROLLING AGENCY:

Department of Accounting and General Services ("DAGS").

APPLICANT:

Hawaii Housing Finance and Development Corporation ("HHFDC").

LEGAL REFERENCE:

Sections 171-11 and -55, Hawaii Revised Statutes ("HRS"), as amended.

LOCATION:

Government lands situated at Kahului, Maui, identified by Tax Map Key: (2) 3-7-004:003, as shown on the attached maps labeled **Exhibits A-1 & A-2**.

AREA:

5.572 acres, more or less.

ZONING:

State Land Use District: Urban  
County of Maui, CZO: B-2 Business – Community

**Exhibit 1**

APPROVED BY THE BOARD OF  
LAND AND NATURAL RESOURCES  
AT ITS MEETING HELD ON  
September 28, 2018 *wa*



TRUST LAND STATUS:

Section 5(a) lands of the Hawaii Admission Act

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

CURRENT USE STATUS:

Governor's Executive Order No. 3586 setting aside 5.572 acres, more or less, to DAGS for Kahului Civic Center purposes.

PURPOSE OF SET ASIDE:

Development of a mixed-use project consisting of multi-family affordable rental housing, office space/civic center, parking, new Maui bus hub and other incidental uses purposes.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Section 11-200-8, Hawaii Administrative Rules ("HAR") and the Exemption List for the Department of Land and Natural Resources reviewed and concurred by the Environmental Council on June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, Item No. 43. See **Exhibit B**.

Inasmuch as the Chapter 343 environmental requirements apply to Applicant's use of the lands, the Applicant shall be responsible for compliance with Chapter 343, HRS, as amended.

APPLICANT REQUIREMENTS:

Applicant shall be required to process and obtain subdivision or condominium property regime approval, if required, at Applicant's own cost.

REMARKS:

On May 20, 1993, Governor's Executive Order No. 3586 was executed setting aside the land designated as Tax Map Key: (2) 3-7-004:003 ("Parcel 3") to DAGS for Kahului Civic Center purposes. Parcel 3 is currently being utilized for the Department of Education's adult education program and lawnmower operations center.

Pursuant to Senate Concurrent Resolution No. 145, S.D. 1, from the 2017 legislative session (copy attached as **Exhibit C**), DAGS and HHFDC executed a Memorandum of Understanding ("MOU") on February 1, 2018, to optimize development of Parcel 3 with a mixed-use project, including multi-family affordable rental housing, parking,

consideration of DAGS' civic center needs in Kahului, and the County's requirement to vacate its bus hub at the adjacent Queen Kaahumanu Center by January 31, 2020 ("the Project"). The County has expressed interest in relocating its bus hub to Parcel 3.

Although the MOU defined DAGS' and HHFDC's respective roles and responsibilities in pursuing the Project, the County is not party to this MOU. Staff has been informed that DAGS, HHFDC and the County ("the Parties") are currently drafting another MOU to delineate the Parties' respective roles and responsibilities in development of the Project, which was approved by the HHFDC Board on June 14, 2018.

The County's parcel located at 70 South High Street, Wailuku, Maui, designated as Tax Map Key: (2) 3-4-013:014 ("Parcel 14"), located adjacent to DAGS's Wailuku Civic Center, also known as the State Office Building ("SOB"), is an essential component of the Project. The County indicated that Parcel 14 may be available for long-term lease to DAGS for a complementary use with the SOB, subject to County Council approval. The Parties are considering including Parcel 14 as part of the office space/civic center and parking portion of the Project.

HHFDC requests a management right-of-entry for the planning and development of the new Maui bus hub, pending the issuance of the new executive order. The HHFDC Board approved the set aside and management right-of-entry of Parcel 3 on June 14, 2018.

Staff solicited comments on the proposed exemption from agencies listed below with the results indicated:

Agency	Comment
DLNR – SHPD	No response by suspense date.
DLNR – Engineering	No comments.
DLNR – DOFAW	No response by suspense date.
DLNR – CWRM	No response by suspense date.
DLNR – State Parks	No comments.
County of Maui – Planning	No objections.
County of Maui – Public Works	No response by suspense date.
County of Maui – Transportation	In support of the Project.
County of Maui – Housing & Human Concerns	No objections / No comments.
Office of Hawaiian Affairs	No response by suspense date.

There are no other pertinent issues or concerns, and staff does not have any objections to this request.



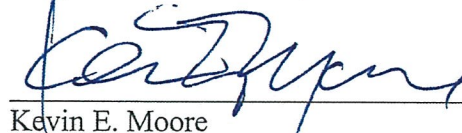
RECOMMENDATION: That the Board:

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. Approve of and recommend to the Governor issuance of an executive order canceling Governor's Executive Order No. 3586 and subject 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.
3. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to Hawaii Housing Finance and Development Corporation, 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.
4. Authorize the issuance of a management right-of-entry permit to Hawaii Housing Finance and Development Corporation covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:



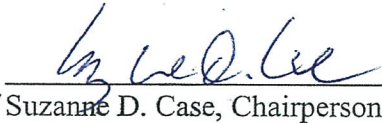
- A. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time; and
- B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

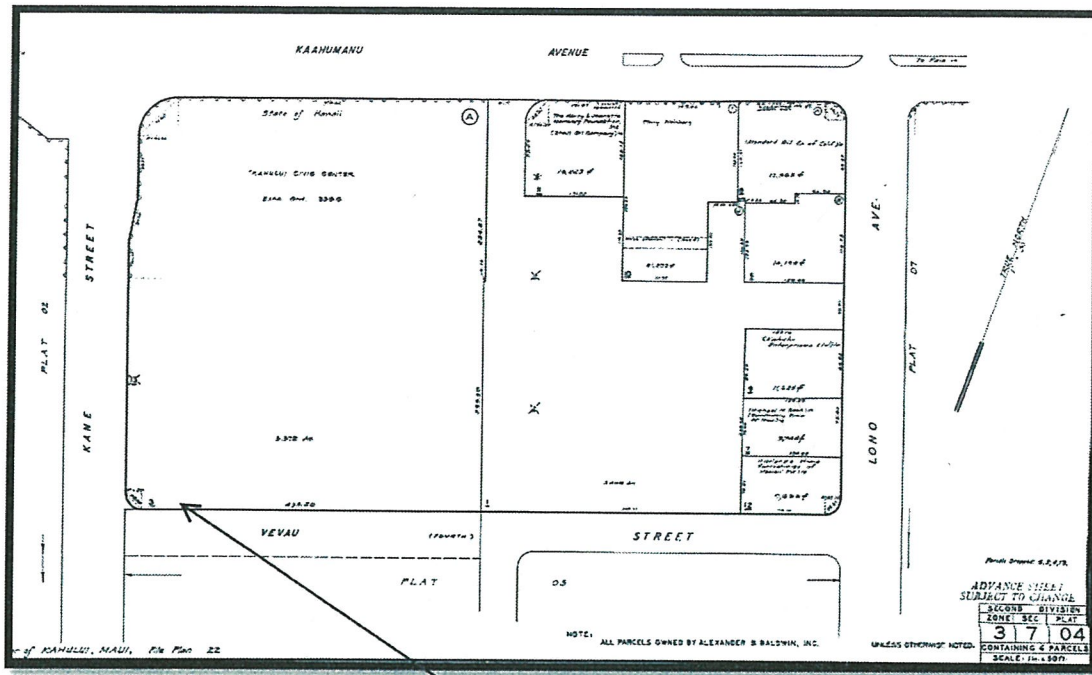


Kevin E. Moore  
Assistant Administrator

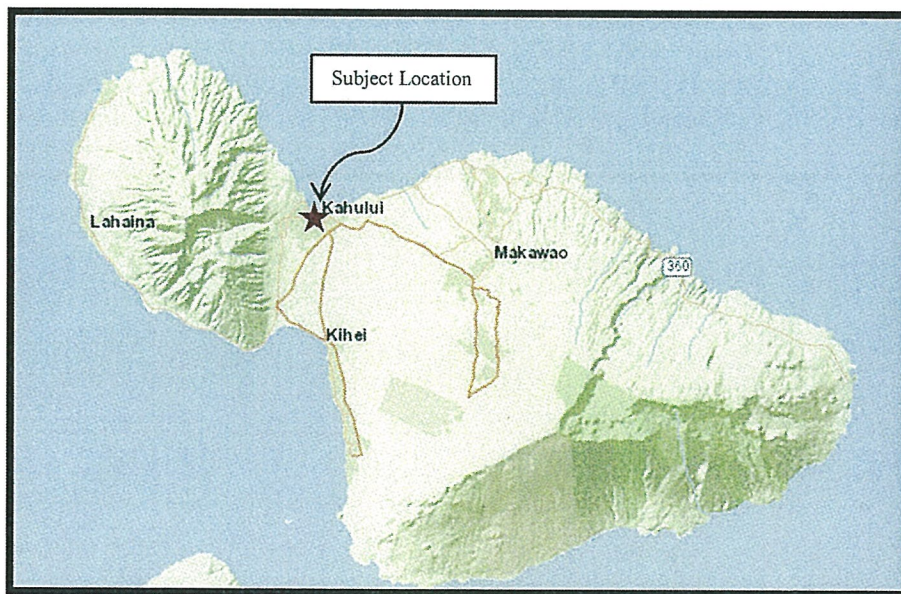
APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

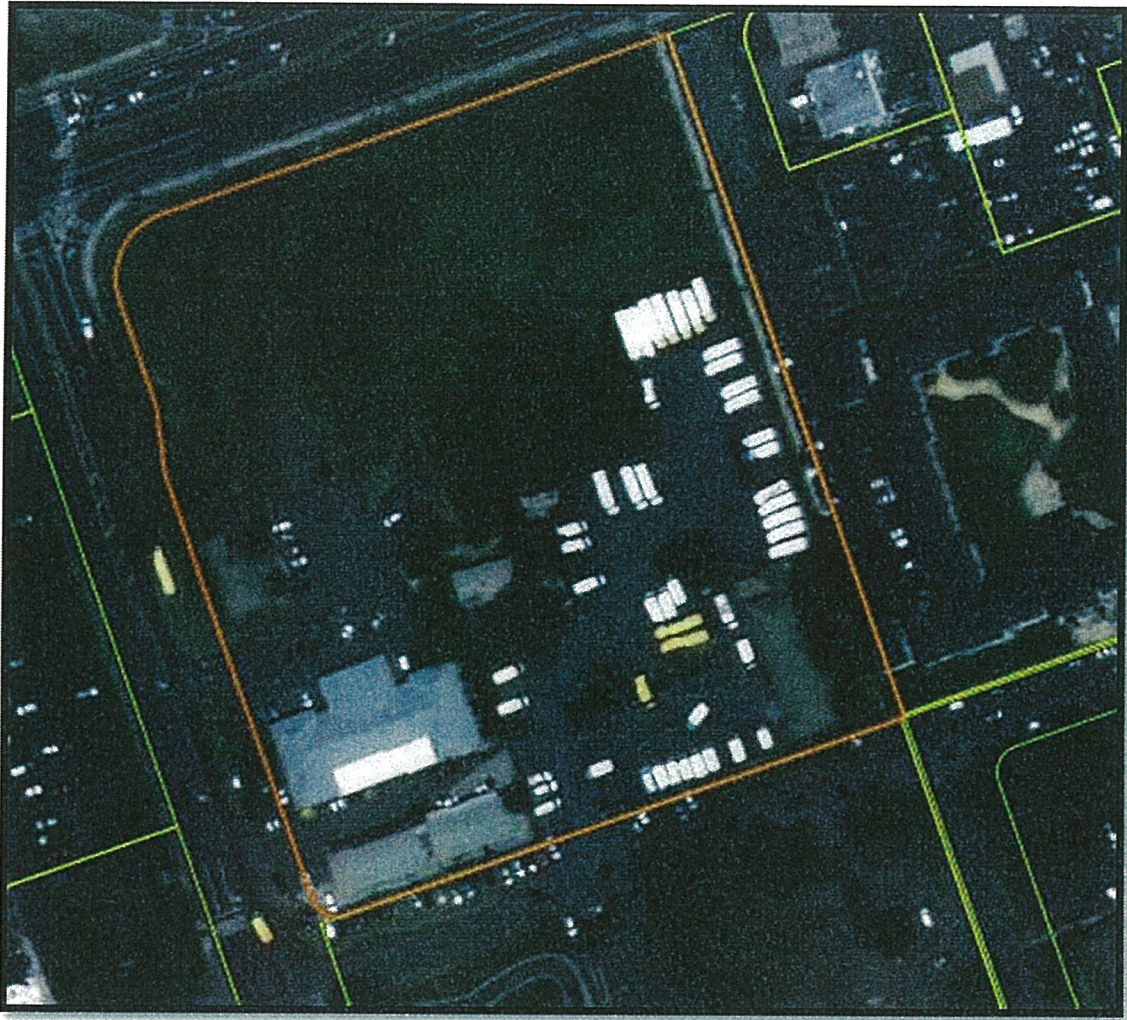


TMK: (2) 3-7-004:003



**Exhibit A-1**





TMK: (2) 3-7-004:003

**Exhibit A-2**



### EXEMPTION NOTIFICATION

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

Project Title:	Cancellation of Governor's Executive Order No. 3586 and Reset Aside to Hawaii Housing Finance and Development Corporation ("HHFDC"); Issuance of Management Right-of-Entry to HHFDC for the Development of a Mixed-use Project Consisting of Multi-family Affordable Rental Housing, Office Space/Civic Center, Parking, New Maui Bus Hub and Other Incidental Uses Purposes
Project / Reference No.:	PSF No. 18MD-088
Project Location:	Kahului, Wailuku, Maui, TMK: (2) 3-7-004:003
Project Description:	Cancellation of Governor's Executive Order No. 3586 and Reset Aside to Hawaii Housing Finance and Development Corporation ("HHFDC"); Issuance of Management Right-of-Entry to HHFDC
Chap. 343 Trigger(s):	Use of State Land and Funds
Exemption Class No.:	In accordance with Hawaii Administrative Rules 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. 43, that states "transfer of management authority over state-owned lands, such as setting aside of state lands to or from other government agencies through a Governor's executive order."
Cumulative Impact of Planned Successive Actions in Same Place Significant?	No. This action pertains to a transfer of management authority from the Department of Accounting and General Services to the Hawaii Housing Finance and Development Corporation. Staff believes that the transfer request will involve negligible expansion or change in use of the subject area beyond previously existing.

**Exhibit B**

Actions may have  
Significant Impact on  
Particularly Sensitive  
Environment?

No, there will be no significant impact to any particularly sensitive environment.

Analysis:

The proposed transfer of management authority from one government agency to another agency through a Governor's executive order will result in no significant impact to the natural, environmental and/or cultural resources in the area, and the action should be found to be exempt from the preparation of an environmental assessment. Inasmuch as the Chapter 343 environmental requirements apply to HHFDC's use of the lands, HHFDC shall be responsible for compliance with Chapter 343, HRS, as amended.

Consulted Parties:

The agencies below were consulted on the propriety of the HRS Chapter 343 exemption, and expressed no opposition to the exemption:

Agency	Comment
DLNR – SHPD	No response by suspense date
DLNR – Engineering	No comments
DLNR – DOFAW	No response by suspense date
DLNR - CWRM	No response by suspense date
DLNR – State Parks	No comments
County of Maui – Planning	No objections
County of Maui – Public Works	No response by suspense date
County of Maui – Transportation	In support of the Project
County of Maui – Housing & Human Concerns	No objections / No comments
Office of Hawaiian Affairs	No response by suspense date

Declaration:

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.

THE SENATE  
TWENTY-NINTH LEGISLATURE, 2017  
STATE OF HAWAII

S.C.R. NO. 145  
S.D. 1

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## SENATE CONCURRENT RESOLUTION

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REQUESTING THE DEVELOPMENT OF A COLLABORATIVE PLAN TO BEST  
LEVERAGE STATE AND COUNTY FUNDS TO BUILD AFFORDABLE HOUSING  
PROJECTS AND AN EXPLORATION OF THE FEASIBILITY OF  
TRANSFERRING A PARCEL OF LAND IN KAHULUI, MAUI, TO THE  
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION.

1 WHEREAS, the lack of affordable housing has been one of  
2 Hawaii's most significant and challenging social problems, with  
3 home prices and rental costs for Hawaii's residents continuing  
4 to escalate; and  
5

6 WHEREAS, a shortage of affordable workforce housing  
7 compounds the problem with traffic congestion, as growing  
8 numbers of families are unable to find reasonably priced housing  
9 near their workplaces; and  
10

11 WHEREAS, increased construction of affordable workforce  
12 housing supports the goals of the counties and the State to  
13 address Hawaii's affordable housing crisis; and  
14

15 WHEREAS, the counties and the State have administrative and  
16 funding resources through which they are able to develop or  
17 encourage the development of affordable workforce housing; and  
18

19 WHEREAS, the Hawaii Housing Finance and Development  
20 Corporation is a statewide agency tasked with developing  
21 affordable housing and has the proven record and resources in  
22 the planning, development, construction, and financing of  
23 affordable housing, as well as the existing relationships needed  
24 to engage in public-private partnerships to build more  
25 affordable housing; and  
26

27 WHEREAS, identification and transfer of underutilized or  
28 state-owned and county-owned lands for the benefit of or to the  
29 Hawaii Housing Finance and Development Corporation for building

2017-2283 SCR145 SD1 SMA.doc



1

**Exhibit C**



Page 2

S.C.R. NO. 145  
S.D. 1

1 mixed-use affordable housing projects facilitate the development  
2 and implementation of a collaborative affordable housing plan;  
3 now, therefore,  
4

5 BE IT RESOLVED by the Senate of the Twenty-ninth  
6 Legislature of the State of Hawaii, Regular Session of 2017, the  
7 House of Representatives concurring, that the Hawaii Housing  
8 Finance and Development Corporation is requested to develop a  
9 collaborative plan to best leverage the various affordable  
10 housing funds of the State and each county to build affordable  
11 housing projects; and  
12

13 BE IT FURTHER RESOLVED that the Hawaii Housing Finance and  
14 Development Corporation is requested to work with the  
15 appropriate government agencies to identify and fund the  
16 necessary infrastructure improvements needed for the  
17 construction of affordable housing projects; and  
18

19 BE IT FURTHER RESOLVED that the Hawaii Housing Finance and  
20 Development Corporation, Department of Accounting and General  
21 Services, and County of Maui are requested to work together to:  
22

23 (1) Explore the feasibility of transferring a parcel of  
24 land located at 153 West Kaahumanu Avenue, Kahului,  
25 Hawaii, identified as tax map key number 370040030000,  
26 to the Hawaii Housing Finance and Development  
27 Corporation for the purpose of developing a mixed-use  
28 rental housing project that includes consideration of  
29 the Department of Accounting and General Services  
30 Civic Center needs in Kahului and Wailuku, Hawaii; and  
31

32 (2) Enter into a memorandum of understanding, if  
33 appropriate, to execute the transfer; and  
34

35 BE IT FURTHER RESOLVED that the Hawaii Housing Finance and  
36 Development Corporation is requested to examine the potential of  
37 a unified affordable housing approval process to streamline the  
38 regulatory requirements for building affordable housing projects  
39 on all islands in the State; and  
40

41 BE IT FURTHER RESOLVED that certified copies of this  
42 Concurrent Resolution be transmitted to the Governor, Executive



Page 3

S.C.R. NO. 145  
S.D. 1

- 1 Director of the Hawaii Housing Finance and Development
- 2 Corporation, Comptroller, Interim Executive Director of the
- 3 Hawaii Community Development Authority, Mayor of each county,
- 4 and Chairperson of each county council.



January 11, 2019

**EXEMPTION NOTIFICATION:**

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

Project Title: Amend Prior Board action of September 28, 2018, Agenda Item D-3, *Cancellation of Governor's Executive Order No. 3586 and Reset Aside to Hawaii Housing Finance and Development Corporation ("HHFDC"); Issuance of Management Right-of-Entry to HHFDC for the Development of a Mixed-Use Project Consisting of Multi-Family Affordable Rental Housing, Office Space/Civic Center, Parking, New Maui Bus Hub and Other Incidental Uses Purposes; Kahului, Maui, Tax Map Key: (2) 3-7-004:003.*

The purpose of the amendment is to: (i) consent after the fact to the Department of Accounting and General Services' ("DAGS") issuance of a Right-of-Entry ("ROE") permit to the County of Maui ("County") for site investigation and planning purposes as the land is currently set aside to DAGS under Executive Order ("EO") No. 3586, and (ii) consent to HHFDC's issuance of a ROE permit to the County for site investigation and planning purposes, after EO No. 3586 is cancelled and the land is reset aside to HHFDC.

Project / Reference No.: PSF No. 18MD-088

Project Location; Kahului, Wailuku, Maui, TMK: (2) 3-7-004:003

Project Description: Consent to HHFDC's issuance of a ROE permit to the County of Maui for site investigation and planning purposes.

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

Exemption Class No.: In accordance with Hawaii Administrative Rules 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-

**Exhibit 2**



entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing.”

Cumulative Impact of  
Planned Successive  
Actions in Same Place  
Significant?

No. The proposed request for the right-of-entry permit in the area will have no cumulative impacts to the environment.

Actions may have  
Significant Impact on  
Particularly Sensitive  
Environment?

No. The action proposed will have no significant impact to particularly sensitive environment.

Analysis:

There are no known significant impacts to the natural and environmental resources in the area. As such, staff believe that the request would involve negligible or no expansion or change in sue of the subject are beyond that previously existing.

Consulted Parties:

The agencies below were consulted on the propriety of HRS Chapter 343 exemption, and expressed no opposition to the exemption.

Agency	Comment
DLNR – SHPD	See <b>Exhibit 5</b> .
DLNR – Engineering	No comments.
DLNR – DOFAW	No response by suspense date.
DLNR – CWRM	No response by suspense date.
DAGS – Public Works	No comments.
County of Maui – Planning	No response by suspense date.
County of Maui – Public Works	No objections.
County of Maui – Transportation	No response by suspense date.
County of Maui – Housing and Human Concerns	No response by suspense date.
Office of Hawaiian Affairs	No response by suspense date.

Declaration:

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.

DAVID Y. IGE  
GOVERNOR



RODERICK K. BECKER  
COMPTROLLER

AUDREY HIDANO  
DEPUTY COMPTROLLER

STATE OF HAWAII  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
P.O. BOX 119, HONOLULU, HAWAII 96810-0119

(P)1560.8

OCT 4 2018

Mr. Don Medeiros, Director  
Department of Transportation  
County of Maui  
2145 Kaohu Street, Suite #102  
Wailuku, Hawaii 96793

Dear Mr. Medeiros:

Subject: Right of Entry for State Property  
Kahului Civic Center  
Tax Map Key (2) 3-7-004:003

Pursuant to the authority granted to me by the Governor under Executive Order No. 3586, I am granting the County of Maui (COM) Department of Transportation and their respective agents, contractors, consultants and/or persons acting for or on their behalf, a right-of-entry (ROE) to the State land identified as TMK: (2) 3-7-004:003, subject to the following terms and conditions:

1. This ROE shall be effective from October 1, 2018, through completion of the tasks outlined in item 2.
2. This ROE shall be for the purposes of conducting site investigations, surveys, soil inspections, geotechnical drilling, and other planning and design related work as may be necessary. Usage other than as prescribed shall not be allowed and may be cause for immediate termination of this ROE, at the discretion of the State of Hawaii, Department of Accounting and General Services (DAGS).
3. This ROE shall be limited to areas identified on the attached site plan labeled as Exhibit A, and those areas necessary for traffic control purposes. All work shall be coordinated with:  
Mr. Wade Shimabukuro, DAGS Maui District, at (808) 873-3026  
Ms. Christine Kinimaka, DAGS Planning Branch, at (808) 586-0500
4. COM shall require that its contractors, consultants, and/or persons acting for or on its behalf, to indemnify, defend, and hold harmless the State, DAGS, and their officers, employees, and agents from and against all liability, loss, damage, cost, and expense, including all attorneys' fees and all claims, suits, and demands therefore, arising out of or resulting from the acts or omissions of the COM's contractors, consultants, and agents, or

**Exhibit 3**

subcontractors under this ROE. The duty to defend shall not apply to the City's contractors, consultants, and others who are licensed under Hawaii Revised Statutes Chapter 464. The provisions of this paragraph shall remain in force and effect notwithstanding the expiration or early termination of this ROE.

5. COM shall ensure that its contractors, consultants, if any, and/or persons acting for or on its behalf, shall procure, at their own expense, and maintain during the entire period of this ROE, from an insurance company or companies licensed to do business in the State of Hawaii, a policy or policies of comprehensive public liability insurance, in the amount acceptable to DAGS (\$1,000,000 per incident/\$2,000,000 aggregate) insuring the State of Hawaii against all claims for personal injury, death, and property damage; said policy shall cover the entire ROE area in the control of or use by COM and/or its contractors, consultants and/or persons acting for or on its behalf in the exercise of this ROE.
6. COM, its contractors, consultants and/or persons acting for or on its behalf in the exercise of this ROE, shall comply with all applicable statutes, ordinances, rules and regulations of the Federal, State, and County governments relative to the rights granted herein.
7. COM, its contractors, consultants and/or persons acting for or on its behalf in the exercise of this ROE, shall not cause or permit to escape, disposal or release of any hazardous materials except as permitted by law. COM, its contractors, consultants and/or persons acting for or on its behalf in the exercise of this ROE, shall not allow the storage or use of such materials in any manner not sanctioned by law or by the highest standards prevailing in the industry for the storage and use of such materials, nor allow to be brought onto the ROE area or premises any such materials except to use in the ordinary course of business for COM, its contractors, consultants and/or persons acting for or on its behalf, and then only after written notice is given to DAGS of the identity of such materials and upon DAGS' consent, which consent may be withheld at DAGS' sole and absolute discretion. If any lender or governmental agency shall ever require testing to ascertain whether or not there has been any release of hazardous materials by COM, its contractors, consultants and/or persons acting for or on its behalf, then COM, its contractors, consultants and/or persons acting for or on its behalf shall be responsible for the cost thereof. In addition, COM, its contractors, consultants and/or persons acting for or on its behalf shall execute affidavits, representations and the like from time to time at DAGS' request concerning COM, its contractors, consultants and/or persons acting for or on its behalf best knowledge and belief regarding the presence of hazardous materials on the ROE area or premises placed or released by COM, its contractors, consultants and/or persons acting for or on its behalf.
8. COM, its contractors, consultants and/or persons acting for or on its behalf agree to indemnify, defend, and hold harmless the State, DAGS, and their officers, employees,



and agents, from any damages and claims resulting from the release of hazardous materials on the ROE area or premises occurring while COM, its contractors, consultants and/or persons acting for or on its behalf is/are in possession, or elsewhere if caused by COM, its contractors, consultants and/or persons acting for or on its behalf, as determined by a court of competent jurisdiction, subject to approval by the Maui County Council. These covenants shall survive the expiration or earlier termination of this ROE.

For purposes of this ROE, "hazardous material" shall mean any pollutant, toxic substance, hazardous waste, hazardous material, hazardous substance, or oil as defined in 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, or any other Federal, State, or local environmental law, regulation, ordinance, rule, or by-law, whether existing as of the date hereof, previously enforced, or subsequently enacted.

9. COM, its contractors, consultants and/or persons acting for or on its behalf shall maintain and employ debris, pollution and contamination control measures, safeguards and techniques to prevent debris, pollution or contamination to the ocean waters, streams or waterways resulting from COM, its contractors, consultants and/or persons acting for or on its behalf use, maintenance, repair and operation of the ROE area or premises, and shall take immediate corrective action in the event of such pollution or contamination, and shall immediately clean the ROE area or premises and its surrounding waters of such pollutant or contaminant and restore to DAGS' satisfaction the areas affected by such pollution or contamination, all at COM, its contractors, consultants and/or persons acting for or on its behalf own cost and expense.
10. COM, its contractors, consultants and/or persons acting for or on its behalf in the exercise of this ROE, shall use appropriate precautions and measures to minimize inconveniences to surrounding residents, landowners, lessees and the public in general.
11. COM, its contractors, consultants, and/or persons acting for or on its behalf in the exercise of this ROE, shall be responsible for cleaning and restoring the area or premises to its original condition or a condition satisfactory to DAGS prior to termination of this ROE permit.
12. In the event any unanticipated sites or remains such as shell, bone or charcoal deposits, human burials, rock or coral alignments, paving or walls are encountered by COM, its contractors, consultants and/or persons acting for or on its behalf in the exercise of this ROE, COM, its contractors, consultants and/or persons acting for or on its behalf shall stop work and contact the State Historic Preservation Division in Honolulu at 692-8015 immediately.

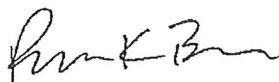
Mr. Don Medeiros, Director  
(P)1560.8  
Page 4

13. DAGS reserves the right to impose additional, but responsible terms and conditions at any time it deems necessary while this ROE permit is in force.

If you concur with the above terms and conditions, please acknowledge and return a signed copy of this letter to me.

If you have any questions, your staff may call Mr. David DePonte of the Public Works Division, Planning Branch, at 586-0492.

Sincerely,



RODERICK K. BECKER  
Comptroller

c: Mr. Russell Tsuji, DLNR-LAND  
Mr. Wade Shimabukuro, DAGS Maui

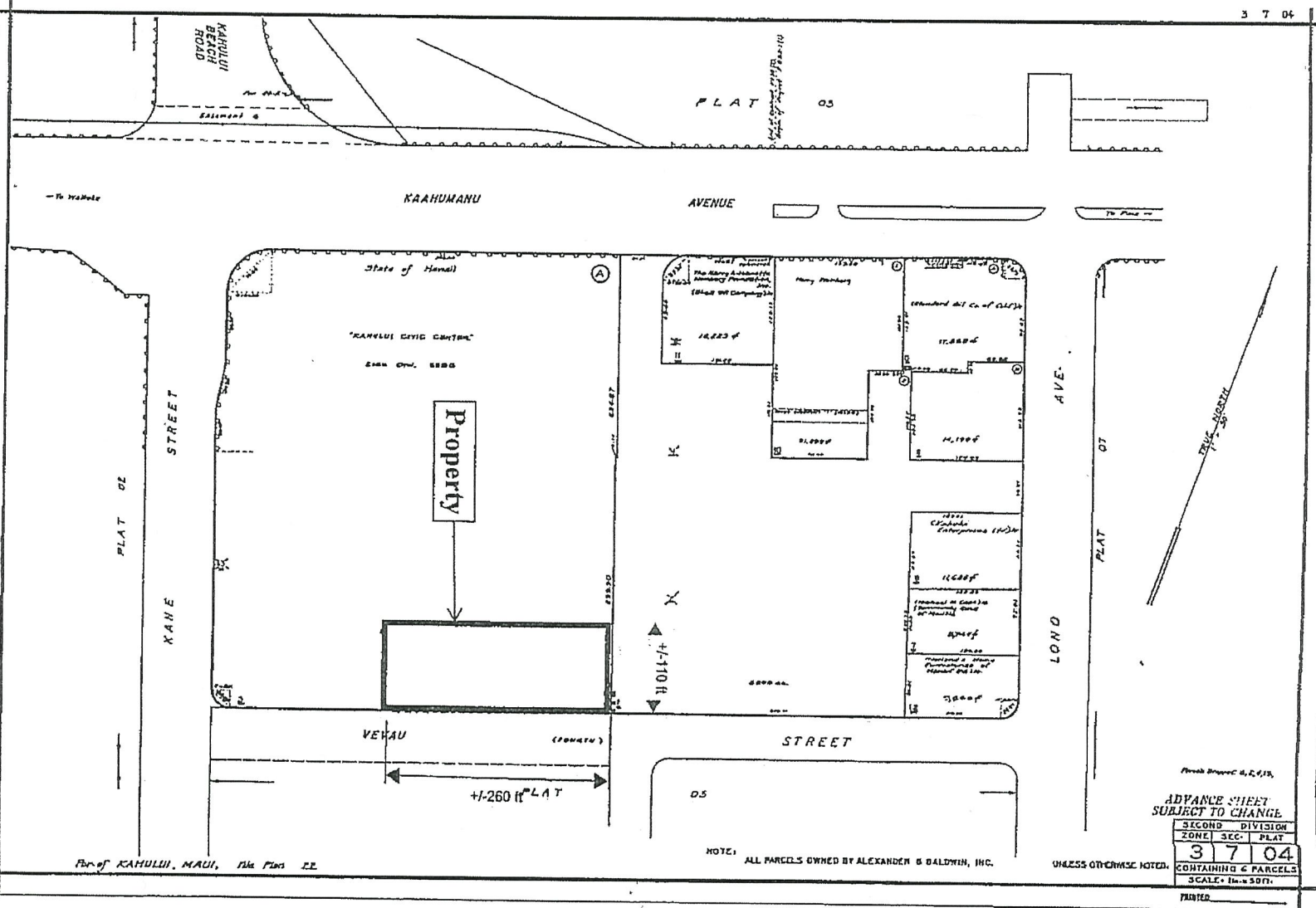
ACCEPT:

By: Don Medeiros  
Don Medeiros, Director  
Department of Transportation, County of Maui

Date: Oct 4, 2018

EXHIBIT A

Day to the 1955  
of the 1955  
Survey of the 1955







DAVID Y. IGE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

STATE HISTORIC PRESERVATION DIVISION  
KAKUHIHEWA BUILDING  
601 KAMOKILA BLVD, STE 555  
KAPOLEI, HAWAII 96707

SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA  
FIRST DEPUTY

JEFFREY T. PEARSON, P.E.  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

November 15, 2018

Lydia Morikawa, Special Projects & Development Specialist  
Land Division, Department of Land and Natural Resources  
P.O. Box 621  
Honolulu, HI 96809  
Email: [Lydia.M.Morikawa@hawaii.gov](mailto:Lydia.M.Morikawa@hawaii.gov)

IN REPLY REFER TO:  
Log No. 2018.02651  
Doc No. 1811GC09  
Archaeology

Dear Ms. Morikawa

**SUBJECT: Chapter 6E-8 Historic Preservation Review –  
Amend Prior Board Action of September 28, 2018, Item D-3 Cancellation of Governor's  
Executive Order No 3586 and Reset Aside to Hawaii Housing Finance and Development  
Corporation (HHFDC); Issuance of Right-of-Entry to HHFDC for the Development of a  
Mixed-Use Project Consisting of Multi-Family Affordable Housing, Rental Housing, Office  
Space/Civic Center, Parking, New Maui Bus Hub and Other Incidental Uses  
Ref No.: PSF 18MD-088, LD-lm  
Wailuku Ahupua'a, Pū'ali Komohana District, Island of Maui  
TMK: (2) 3-7-004:003**

This letter provides the State Historic Preservation Division's (SHPD's) review comments regarding the subject proposal. SHPD received this submittal on November 8, 2018. The submittal indicates that the purpose for these amendments is to: (1) consent after-the-fact to the Department of Accounting and General Services' (DAGS') issuance of a Right-of-Entry (ROE) to the County of Maui (County) for site investigation and planning purposes as the land is currently set aside to DAGS under Executive Order (EO) No. 3586; and (2) consent to HHFDC's issuance of a ROE permit to the County for site investigation and planning purposes, after EO No. 3586 is cancelled and the land is reset aside to HHFDC. The present project area is the 5.527-acre property owned by the State of Hawaii, identified as TMK: (2) 3-7-004:003.

This submittal indicates that on September 30, 2018, under agenda item D-3, the Board of Land and Natural Resources (BLNR) approved the cancellation of EO No. 3586 and reset aside to the HHFDC and approved issuance of a management ROE permit to HHFDC for the development of a mixed-use project. Currently, the property is set aside to DAGS for Kahului Civic center purposes and is currently utilized for the State Department of Education's (DOE's) adult education program and lawnmower operations center. During the 2017 State Legislative Session, DAGS and HHFDC executed a Memorandum of Understanding (MOU) to optimize development of this State-owned property with a mixed-use project, including multi-family affordable rental housing, parking, office space and consideration of DAGS's civic center needs. Additionally, the County expressed interest in relocating its bus transit hub to a portion of the property. The County must vacate its current location by January 31, 2020.

In a letter dated August 30, 2018, SHPD made a determination of no historic properties affected for the proposed demolition of two dilapidated wooden structures on the Maui Community School Adult Building campus (Log No. 2018.01945, Doc. No.1808KN12). Additionally, SHPD records indicates this parcel has not been surveyed for historic properties, and that no historic properties have been identified. The USDA identifies the soils within the present project area as puuone sand (PZUE) (Foote et al. 1972).

Based on the information provided, SHPD has no objections to the above actions.

**Exhibit 5**

Lydia Morikawa  
November 15, 2018  
Page 2

**SHPD** requests the opportunity to review and comment on future permit applications involving ground disturbing activities. The permit process may continue.

Please contact Dr. Susan A. Lebo, Archaeology Branch Chief, at [Susan.A.Lebo@hawaii.gov](mailto:Susan.A.Lebo@hawaii.gov) or at (808) 692-8019 for any questions regarding archaeological resources or this letter.

Aloha,

*Susan A. Lebo*

Signed For  
Alan S. Downer, PhD  
Administrator, State Historic Preservation Division  
Deputy State Historic Preservation Officer