



STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

August 15, 2019

Ms. Suzanne D. Case, Chairperson  
Board of Land and Natural Resources  
Main Office, Kalanimoku Building  
1151 Punchbowl Street, Room 130  
Honolulu, Hawaii 96813

Dear Ms. Case:

Subject: Land Board Submittal to Board of Land and Natural Resources  
State of Hawaii, Honolulu, Hawaii.

OAHU

Acquisition of:

(1) Lands Together with Abutter's Rights of Vehicle Access; to the Department of Transportation, Highways Division, for Highway Purposes, Relating to Kamehameha Highway, Kaipapau Stream Bridge Replacement, Federal Aid Project No. BR-083-1(48), at Kaipapau, Koolauloa, Oahu, Hawaii, Re: Tax Map Key Nos.: (a) (1) 5-4-011: Portion of 004; (b) (1) 5-4-011-020; (c) (1) 5-4-018: Portions of 001 and 002; (d) (1) 5-4-018-003; and

(2) Temporary Construction Right-of-Entries to the Department of Transportation, Highways Division, for Highway Purposes, Relating to Kamehameha Highway, Kaipapau Stream Bridge Replacement, Federal Aid Project No. BR-083-1(48), at Kaipapau, Koolauloa, Oahu, Hawaii, Re: Tax Map Key Nos.: (a) (1) 5-4-011: Portion of 004; (b) (1) 5-4-018: Portions of 001 and 002; and

(3) Perpetual, Non-Exclusive Maintenance Easements to the Department of Transportation, Highways Division, for Highway Purposes, Relating to Kamehameha Highway, Kaipapau Stream Bridge Replacement, Federal Aid Project No. BR-083-1(48), at Kaipapau, Koolauloa, Oahu, Hawaii, Re: Tax Map Key Nos.: (a) (1) 5-4-011: Portion of 004; and (b) (1) 5-4-018: Portion of 002.

APPLICANT:

DEPARTMENT OF TRANSPORTATION, Highways Division (DOT).

LEGAL REFERENCE:

Sections 107-10, 171-30, and Chapter 264, Hawaii Revised Statutes, as amended.

**ITEM M-4**

LOCATION:

Lands and portion of lands relating to Kamehameha Highway, Kaipapau Stream Bridge Replacement, Federal Aid Project No. BR-083-1(48), situated at Kaipapau, Koolauloa, Oahu, Hawaii, identified by Tax Map Key Nos.: (1) 5-4-011: Portion of 004; (1) 5-4-011-020; (1) 5-4-018: Portions of 001 and 002; and (1) 5-4-018-003, as shown and described on the attached map labeled as Exhibit A.

AREA PARCELS:

OWNERSHIP

Parcel 1 (Rev. 1) = 1,035 square feet or 0.024 acre  
Together with Abutter's Right of Vehicle Access  
TMK No. (1) 5-5-011-004 (por.)

Mervyn Michio Kotake,  
Trustee, and Lynette Hung  
Fong Kotake, Trustee under  
Trust Instrument Dated  
October 16, 1996 (Apartment  
A); and Natividad Guerrero  
and Renee Lea Guerrero  
(Apartment B)

Parcel 2 (Rev. 1) = 243 square feet or 0.006 acre  
Together with Abutter's Right of Vehicle Access  
TMK No (1) 5-4-018-001 (por.)

Mitch Aliitia Afalava, Marvel  
Mililani Afalava, Teresa  
Aliitia Tanoai and Rita Sikika  
Afalava

Parcel 3 (Rev. 1) = 859 square feet or 0.020 acre  
TMK No. (1) 5-4-018-002 (por.)

Heirs of Nicholas Rodrigues  
Pao and The Estate of Mabel  
Gomes Pao

Parcel 5 (Rev. 2) = 6,474 square feet or 0.149 acre  
TMK No. (1) 5-4-018-003

William Pilialoha Lindsey Jr.  
and Tomacene Mealii  
Kaanaana-Lindsey

Parcel 6 = 5,959 square feet or 0.137 acre  
TMK: (1) 5-4-011-020

Bruce Jackson Nicholl and  
Sandra Lynn Hee Nicholl, as  
co-Trustees under the Bruce  
Jackson Nicholl and the  
Sandra Lynn Hee Nicholl  
Revocable Trust Dated  
January 28, 2000

AREA CONSTRUCTION PARCELS:

Construction Parcel C-1 (Rev. 1) = 8,248 square feet  
or 0.189 acre  
TMK No. (1) 5-4-018-001 (por.)

Mitch Aliitia Afalava, Marvel  
Mililani Afalava, Teresa  
Aliitia Tanoai and Rita Sikika  
Afalava

Construction Parcel C-3 (Rev. 2) = 9,201 square feet  
or 0.211 acre  
TMK No. (1) 5-4-011-004 (por.)

Mervyn Michio Kotake,  
Trustee, and Lynette Hung  
Fong Kotake, Trustee under  
Trust Instrument Dated  
October 16, 1996 (Apartment  
A); and Natividad Guerrero  
and Renee Lea Guerrero  
(Apartment B)

Construction Parcel C-5 (Rev. 2) = 11,075 square feet  
or 0.254 acre  
TMK No. (1) 5-4-018-002 (por.)

Heirs of Nicholas Rodrigues  
Pao and The Estate of Mabel  
Gomes Pao

AREA MAINTENANCE EASEMENTS:

Maintenance Easement 1 (Rev. 1) = 557 square feet  
or 0.013 acre  
TMK No. (1) 5-4-011-004 (por.)

Mervyn Michio Kotake,  
Trustee, and Lynette Hung  
Fong Kotake, Trustee under  
Trust Instrument Dated  
October 16, 1996 (Apartment  
A); and Natividad Guerrero  
and Renee Lea Guerrero  
(Apartment B)

Maintenance Easement 3 = 468 square feet  
or 0.011 acre  
TMK: No. (1) 5-4-011-004 (por.)

Mervyn Michio Kotake,  
Trustee, and Lynette Hung  
Fong Kotake, Trustee under  
the Trust Instrument Dated  
October 16, 1996 (Apartment  
A); and Natividad Guerrero  
and Renee Lea Guerrero  
(Apartment B)

Maintenance Easement 4 = 2,229 square feet  
or 0.051 acre  
TMK: (1) 5-4-018-002 (por.)

Heirs of Nicholas Rodrigues  
Pao and The Estate of Mabel  
Gomes Pao

ZONING:

TMK: (1) 5-4-011:004  
TMK: (1) 5-4-011:020  
TMK: (1) 5-4-018:001  
TMK: (1) 5-4-018:002  
TMK: (1) 5-4-018:003

R-5 Residential  
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CURRENT USE STATUS:

TMK: (1) 5-4-011-004

Mervyn Michio Kotake, Trustee, and Lynette Hung Fong Kotake, Trustee under Trust Instrument Dated October 16, 1996 (Apartment A); and Natividad Guerrero and Renee Lea Guerrero (Apartment B)

Residential and encumbered by Declaration of Condominium Property Regime, Document No. 1719180, amended by Document No. 1789037; Bylaws, Document No. 1719181, amended by Document No. 1789038 ; Trust Agreement, Document No. 2344102, amended by Document No. 3645913 (Apartment A); Trust Agreement, Document No. 2344103, amended by Document No. 3645914 (Apartment A); Mortgage in favor of Mortgage Electronic Registration Systems, Inc. as nominee for Quicken Loans, Inc. Document No. T-8325231 (Apartment B); Mortgage and Financing Statement in favor of Pentagon Federal Credit Union, Document No. T-8904014 (Apartment B).

TMK: (1) 5-4-011-020

Bruce Jackson Nicholl and Sandra Lynn Hee Nicholl, as co-trustees under the Bruce Jackson Nicholl and the Sandra Lynn Hee Nicholl Revocable Trust Dated January 28, 2000

Residential and encumbered by Declaration of Restrictive Covenants, Document No. 90-010251; Encroachment Agreement and License with Harold Tadao Okawa and Susan Harumi Okawa, husband and wife, Document No. T-8977135.

TMK: (1) 5-4-018-001

Mitch Aliitia Afalava, Marvel Mililani Afalava, Teresa Aliitia Tanoai and Rita Sikika Afalava

Residential and encumbered by the rights of the State of Hawaii in and to the bed of the stream or river lying below the highwater line, as shown in Warranty Deed, Document

No 3117919; Mortgage in favor of Hawaii State Federal Credit Union, Document No. T-9573189.

TMK: (1) 5-4-018-002

Heirs of Nicholas Rodrigues Pao and The Estate of Mabel Gomes Pao

Vacant and encumbered by Mortgage in favor of Bank of Hawaii, Document No 343031; the right of the State of Hawaii to an easement for the free flowage of water in, over and across the stream as clarified in Land Court Order 24192; Easement "E," 10 feet wide for storm drain purposes, Land Court Order 23269.

TMK: (1) 5-4-018-003

William Pilialoha Lindsey, Jr. and Tomacene Mealii Kaanaana-Lindsey

Residential and encumbered by Stipulated Judgement Lien in favor of the State of Hawaii (Civil No. 15-1-0900-05), Document No. T-9622371; Mortgage in favor of Wells Fargo Bank, N.A., Document No. 3722694 (With Notice of Mortgagee's Intention to Foreclose under Power of Sale, Document No. 2010-121160); Certificate of State Tax Liens, Document Nos. A-61280881 and A-61300433.

Current ownership is as noted on Exhibit A as follows (with notes re: interests to be acquired:

1. Parcel 1, (Rev. 1) Together with Abutter's Right of Vehicle Access, Construction Parcel C-3 (Rev. 2) and Maintenance Easements1 (Rev. 1) and 3: Mervyn Michio Kotake, Trustee, Lynette Hung Fong Kotake, Trustee under the Trust Instrument Dated October 16, 1996; and Natividad Guerrero and Renee Lea Guerrero (fee, temporary acquisition and maintenance easement)
2. Parcel 2 (Rev. 1) Together with Abutter's Right of Vehicle Access and Construction Parcel C-1 (Rev. 1): Mitch Aliitia Afalava, Marvel Mililani Afalava, Teresa Aliitia Tanoai and Rita Sikika Afalava (fee and temporary acquisition)
3. Parcel 3 (Rev. 1), Construction Parcel C-5 (Rev. 2) and Maintenance Easement 4: Heirs of Nicholas Rodrigues Pao and The Estate of Mabel Gomes Pao (fee, temporary acquisition and maintenance easement)
4. Parcel 5 (Rev. 2): William Pilialoha Lindsey Jr. and Tomacene Mealii Kaanaana-Lindsey (fee acquisition)

5. Parcel 6: Bruce Jackson Nicholl and Sandra Lynn Hee Nicholl, as co-trustees under the Bruce Jackson Nicholl and Sandra Lynn Hee Nicholl Revocable Trust Dated January 28, 2000 (fee acquisition)

#### COMPENSATION

The DOT determined compensation based on appraisal reports prepared by an independent appraiser dated August 16, 2016.

#### CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

Pursuant to the 2012 Hawaii Session Laws Act 218 and 2017 Hawaii Session Laws Act 48, the Kaipapau Stream Bridge Replacement Project is exempt from Chapter 343.

#### REMARKS:

The DOT proposes to replace Kaipapau Stream Bridge, located on Kamehameha Highway, State Route 83 in Kaipapau, Koolauloa, Oahu. The purpose is to replace the existing bridge with a new bridge structure to meet current state and federal bridge and roadway standards.

As of September 1, 2018, the Department of the Attorney General has mandated the DOT to obtain Board approval for all acquisitions in accordance with Section 171-30, Hawaii Revised Statutes.

#### RECOMMENDATION:

That the Board:

- A. Authorize the acquisition of the subject lands under the terms and conditions cited above which are by this reference incorporated herein and further subject to the following:
  1. The standard terms and conditions of the appropriate deed, as may be amended from time to time;
  2. Review and approval by the Department of the Attorney General; and
  3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interest of the State.
- B. Authorize the acquisition of the temporary construction right-of entries under the terms and conditions cited above which are by this reference incorporated herein and further subject to the following:
  1. The standard terms and conditions of the appropriate construction right-of-entry form, as may be amended from time to time;

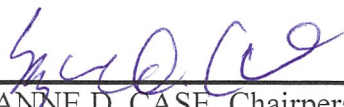
2. Review and approval by the Department of the Attorney General; and
  3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interest of the State.
- C. Authorize the acquisition of the perpetual, non-exclusive Maintenance Easements under the terms and conditions cited above which are by this reference incorporated herein and further subject to the following:
1. The standard terms and conditions of the appropriate perpetual easement form, as may be amended from time to time;
  2. Review and approval by the Department of the Attorney General; and
  3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interest of the State.
- D. Authorize the acquisitions even in the event of a change in the ownership of those parcels described herein and on the attached maps labeled collectively as Exhibit A, under the terms and conditions cited above which are by this reference incorporated herein.

Sincerely,



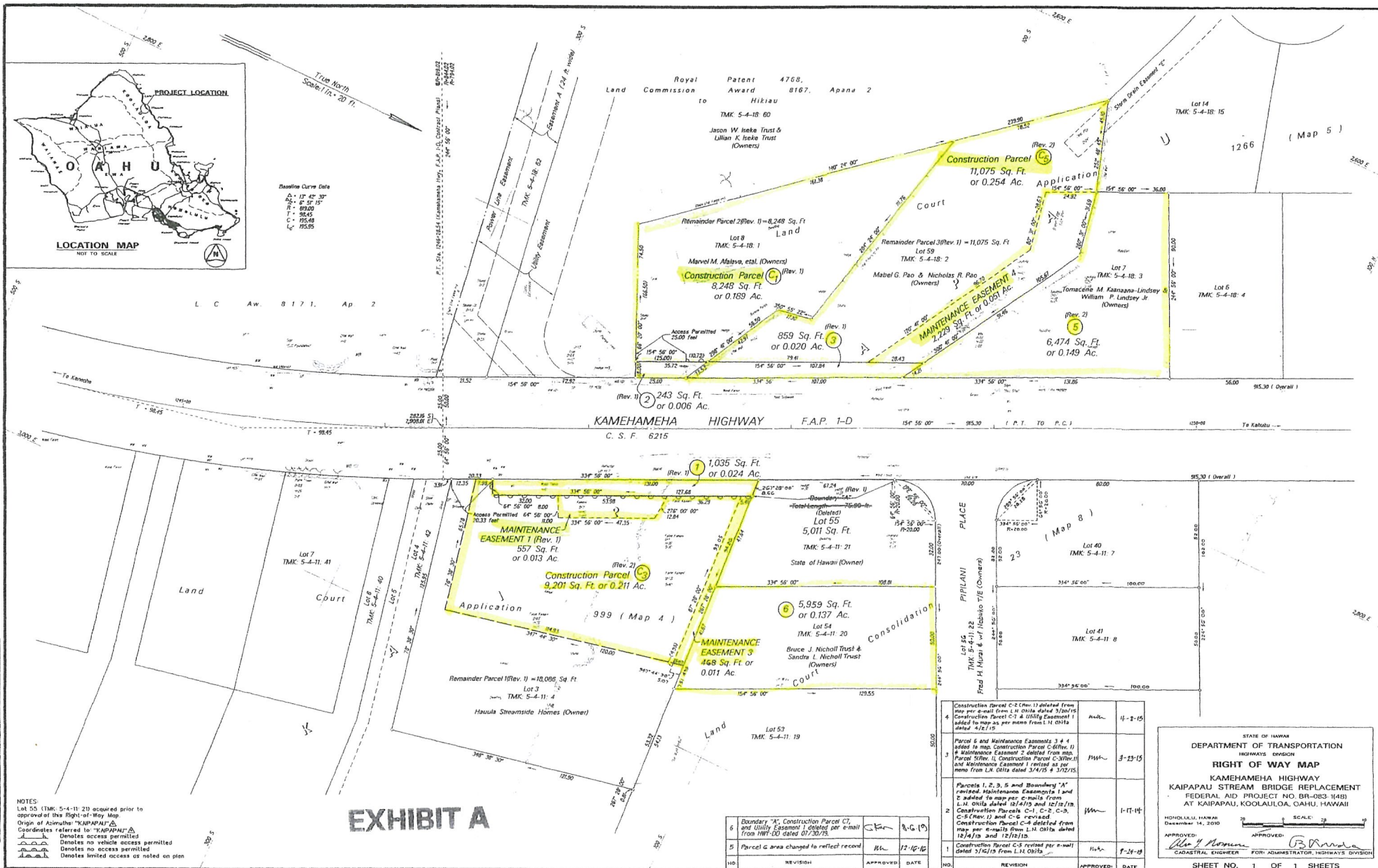
JADE T. BUTAY  
Director of Transportation

APPROVED FOR SUBMITTAL:

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SUZANNE D. CASE, Chairperson



TAX MAP KEY: 5-4-11 & 5-4-12

Man Showing Construction Parcels

27' x 36' x 53' 20"

D.L. 800