

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

November 8, 2019

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

PSF No: 15HD-080

Hawaii

***Amend Prior Board Action of January 22, 2016, Item D-15, Cancellation of Governor's Executive Order No. 3398, the Bond Memorial Public Library, to the Department of Education for Library Site purposes, Kapaau, North Kohala, Hawaii; TMK: (3) 5-4-005:030.***

**The purpose of the amendment is to authorize the Chairperson to sign a Confirmation of Reversion document.**

**BACKGROUND:**

In 1928, Caroline S. Bond conveyed land to the Territory of Hawaii for the purposes of a Public Library. The deed included a reversion clause that if the Territory of Hawaii did not use the land for the express purpose of a Public Library, then ownership of the land would revert to Ms. Bond or her heirs, executors or assigns, **without** the need of further proceedings.

The Bond Memorial Public Library (BMPL) was built on the land and served the community until 2010 when the new North Kohala Public Library opened. The Hawaii State Public Library System (HSPLS) had no further need for the BMPL and requested cancellation of the executive order setting aside the land to HSPLS.

At its meeting of January 22, 2016, item D-15, the Board authorized the cancellation of the executive order and acknowledged receipt of notice from the heirs of Caroline S. Bond for reversion of the land (attached as Exhibit I).

**REMARKS:**

The Bond heirs are now seeking title insurance and are having problems with the title company accepting the chain of title. The title company is requiring that a recordable instrument be executed which transfers title from the State of Hawaii to the Bond heirs. The attorney representing the Bond heirs has drafted the attached "CONFIRMATION OF REVERSION" document (Exhibit B) for execution by Board. Counsel for the Bond heirs explains this document is satisfactory to the title company and will allow title insurance to issue.

Staff reviewed the original deed conveyance to the Territory from Caroline S. Bond (Exhibit B of Exhibit 1 attached) and notes that it does not require the State to execute the document requested by the Bond heirs. In fact, the deed provides that in the event the property is no longer used as a library, "said property shall immediately revert in me, my heirs, executors or assigns, without the necessity of any other or further proceedings whatsoever." At the same time, staff sees no downside to the State in executing the document as long as the Department of the Attorney General approves the form, and is therefore including a recommendation below for its execution.

RECOMMENDATION: That the Board:


1. Amend its prior Board action of January 22, 2016, under agenda item D-15 by adding a recommendation 2. which reads:

Authorize the Chairperson to execute a Confirmation of Reversion document memorializing the State's acknowledgement of the reversion of ownership of the Bond Memorial Public Library property to Caroline S. Bond, her heirs, executors or assigns subject to:

A. review and approval by the department of the Attorney General.

2. Except as amended hereby, all terms and conditions listed in its January 22, 2016 approval to remain the same.

Respectfully Submitted,

  
\_\_\_\_\_  
Candace Martin  
Land Agent

APPROVED FOR SUBMITTAL:

  
\_\_\_\_\_  
Suzanne D. Case, Chairperson

**EXHIBIT 1**

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

January 22, 2016

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

PSF No.: 15HD-080

Hawaii

**Cancellation of Governor's Executive Order No. 3398, the Bond Memorial Public Library, to the Department of Education for Library Site purposes, Kapaau, North Kohala, Hawaii; TMK: (3) 5-4-005:030.**

APPLICANT:

Hawaii State Public Library System, Department of Education, a governmental body.

LEGAL REFERENCE:

Section 171-11, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Kapaau, North Kohala, Hawaii identified by Tax Map Key: (3) 5-4-005:030, as shown on the attached map labeled Exhibit A.

AREA:

7,689 square feet, more or less.

ZONING:

State Land Use District: Urban  
County of Hawaii CZO: Village Commercial (CV-10)

TRUST LAND STATUS:

Section 5(a) lands of the Hawaii Admission Act  
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

APPROVED BY THE BOARD OF  
LAND AND NATURAL RESOURCES  
AT ITS MEETING HELD ON  
January 22, 2016

CURRENT USE STATUS:

Encumbered by Governor's Executive Order No. 3398 to the Department of Education for Library Site purposes.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

This action to cancel Governor's Executive Order No. 3398 is a housekeeping action. The property deed contains a reverter clause that in the event the property is no longer utilized as a public library and notice has been given, the property reverts to the grantor, the grantor's heirs, executors or assigns without further action. Therefore, the property has reverted to the grantor's heirs, executors or assigns and Chapter 343 has not been triggered.

REMARKS:

By deed dated February 24, 1928, Caroline S. Bond conveyed the subject parcel to the Territory of Hawaii for the purpose of a Public Library. The deed was made subject to the following conditions (see Exhibit B attached for a copy of the 1928 deed):

- (1) That a public library building be erected upon said property on or prior to July 1, 1929;*
- (2) That said building and property be used, on and after July 1, 1929, solely for public library purposes.*

*In the event that the Territory shall fail or neglect to fulfill said conditions, upon written notice of such breach being filed with the Territory through its Commissioner of Public Lands, title in said property shall immediately revert in me, my heirs, executors or assigns, without the necessity of any other or further proceedings whatsoever.*

Land Division files do not indicate when the library was constructed on the property, but there is no dispute that a public library known as the Bond Memorial Public Library (BMPL) operated on the site for many decades.

At its meeting of May 27, 1988, item F-5, the Land Board approved the set-aside of the parcel to the Department of Education, Hawaii State Public Library System (HSPLS), for library site purposes. The Board submittal mentions that HSPLS had been operating the BMPL (and other libraries throughout the State) without an executive order for the site.

BMPL was in use until about November 08, 2010 when the new North Kohala Public Library opened. By memorandum dated April 26, 2011, the State Librarian informed Land Division that the BMPL building was no longer needed by HSPLS and requested cancellation of the executive order.

Land Division required the completion of Phase 1 Environmental Site Assessment prior to cancellation of the executive order. The assessment was completed in March 2013. An



adjacent property owner had some concerns regarding the cesspool, but after further investigation it appears to be in compliance and the adjacent property owner has not provided documentation to the contrary.

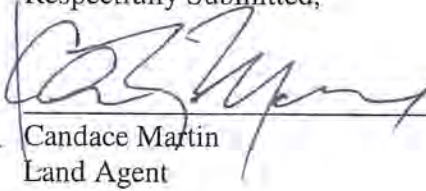
In accordance with the reversionary clause in the deed, notice has been given to the State that the property is no longer being used as a library, therefore the property has reverted to the grantor, grantor's heirs, executors or assigns.

Staff recommends a 60-day notice be given to the Department of Education to vacate the property and deliver the keys to Boyd Bond as the representative of the "Bond heirs".

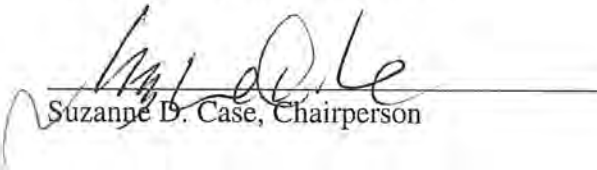
RECOMMENDATION: That the Board:

1. Approve of and recommend to the Governor issuance of an executive order canceling Governor's Executive Order No. 3398 subject to:
  - A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
  - B. Department of Education will vacate the property and deliver the keys to Boyd Bond within 60 days;
  - C. 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 executive order;
  - D. Review and approval by the department of the Attorney General; and
  - E. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

  
Candace Martin  
Land Agent

APPROVED FOR SUBMITTAL:

  
Suzanne D. Case, Chairperson

# EXHIBIT A

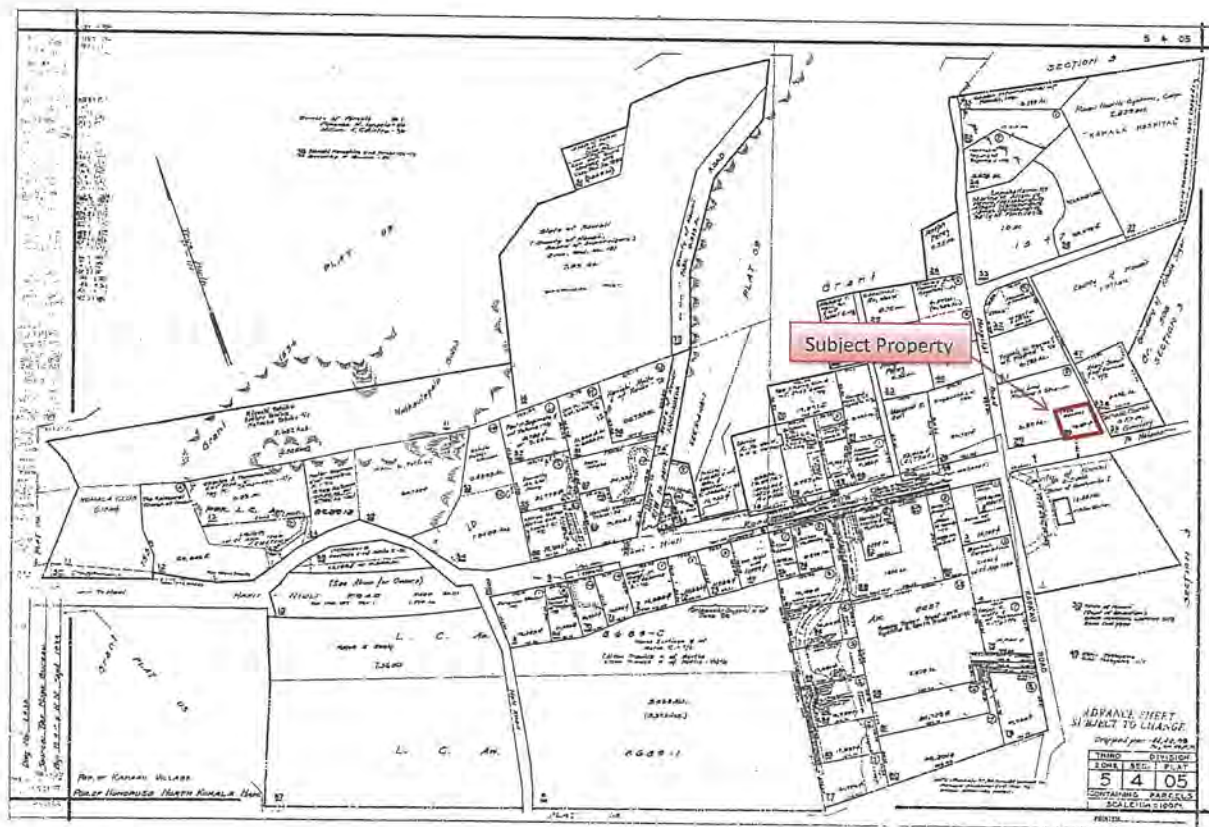
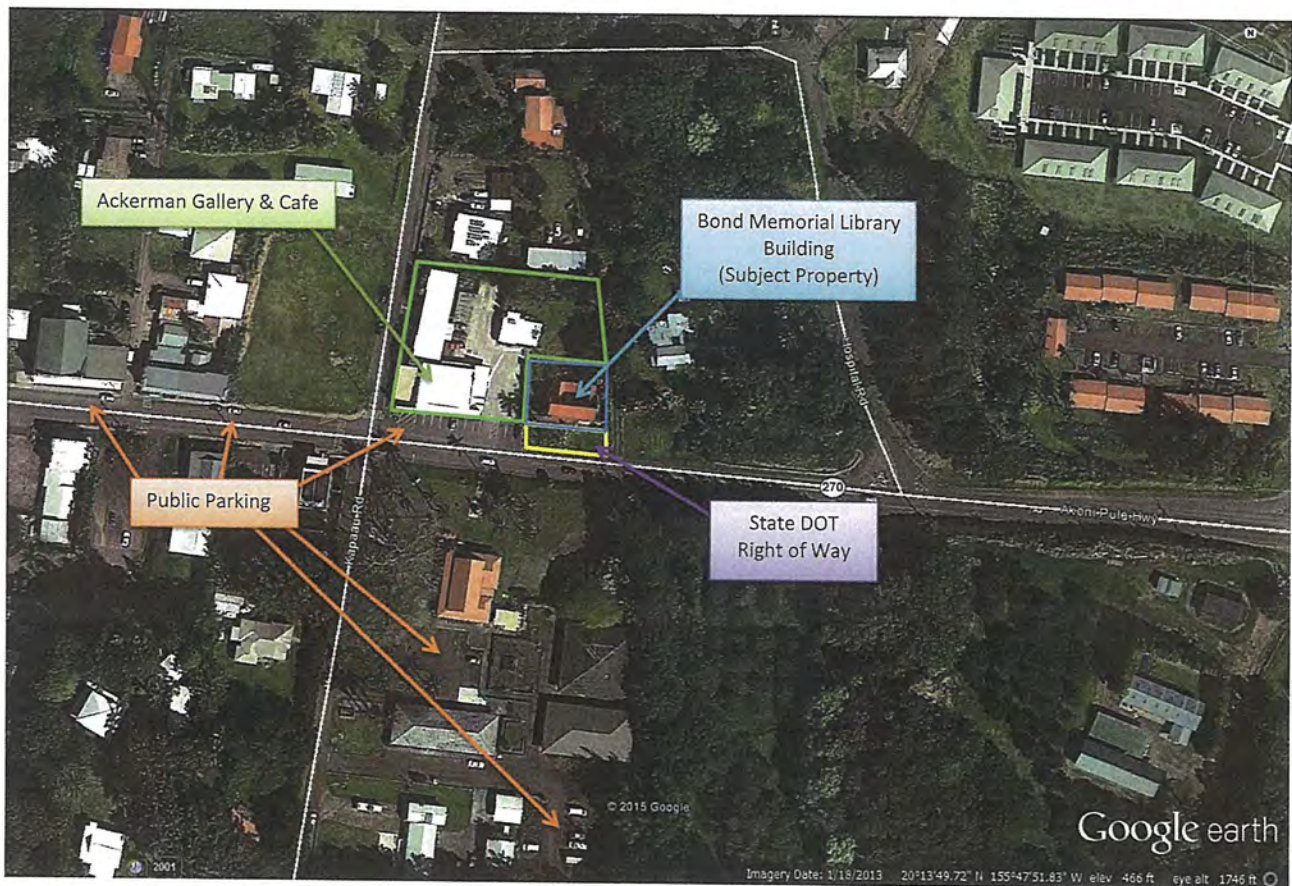


EXHIBIT A



## EXHIBIT A



KNOW ALL MEN BY THESE PRESENTS:

THAT I, CAROLINE S. BOND, spinster, of Kohala, County and Territory of Hawaii, in consideration of the sum of One Dollar (\$1.00) to me in hand paid, receipt whereof is hereby acknowledged, do hereby give, grant, bargain, sell and convey unto THE TERRITORY OF HAWAII that certain lot, situated in the Village of Kapaau, being a portion of R. P. Grant 1547 to H. W. Naihe, in the Land of Kapaau, North Kohala, County and Territory of Hawaii, and more particularly described as follows:

Beginning at the Southeast corner of this lot, on the West side of lane and the North side of Kohala Road, the co-ordinates of said point of beginning referred to Government Survey Trig. Station "Puu Kapu" being 1760.24 feet South and 389.70 feet West, as shown on Government Survey Registered Map No. 1705, and running by true azimuths:

- bssd*
1. 98 01' - 100 feet along the North side of Kohala Road;
  2. 180 <sup>15</sup>28' - 100 feet along remaining portion of Grant 1547 to Naihe;
  3. 279 15' - 90 feet along same;
  4. 354 24' - 100 feet along fence along West side of lane to the point of beginning.

AREA 9,302 SQUARE FEET.

TO HAVE AND TO HOLD the same unto The Territory of Hawaii, its successors and assigns forever; subject, however, to the following conditions:

(1) That a public library building be erected upon said property on or prior to July 1, 1929;

(2) That said building and property be used, on and after July 1, 1929, solely for public library purposes.

IN THE EVENT that the Territory shall fail or neglect to fulfill said conditions, upon written notice of such breach being filed with the Territory through its Commissioner of Public Lands, title in said

**EXHIBIT B**



property shall immediately revest in me, my heirs, executors or assigns, without the necessity of any other or further proceedings whatsoever. Provided, however, that in the event of such giving of notice and revesting of title, the Territory may within a period of one year from such notice remove any and all buildings, fixtures, or other improvements placed upon or attached to said property.

IN WITNESS WHEREOF, I have hereunto set my hand this 24th day of February, A. D. 1928.

Caroline S. Bond

This is to certify that the alteration on line seventeen (17), page one (1), so as to read "15" instead of "20" was made prior to the signing and execution hereof.

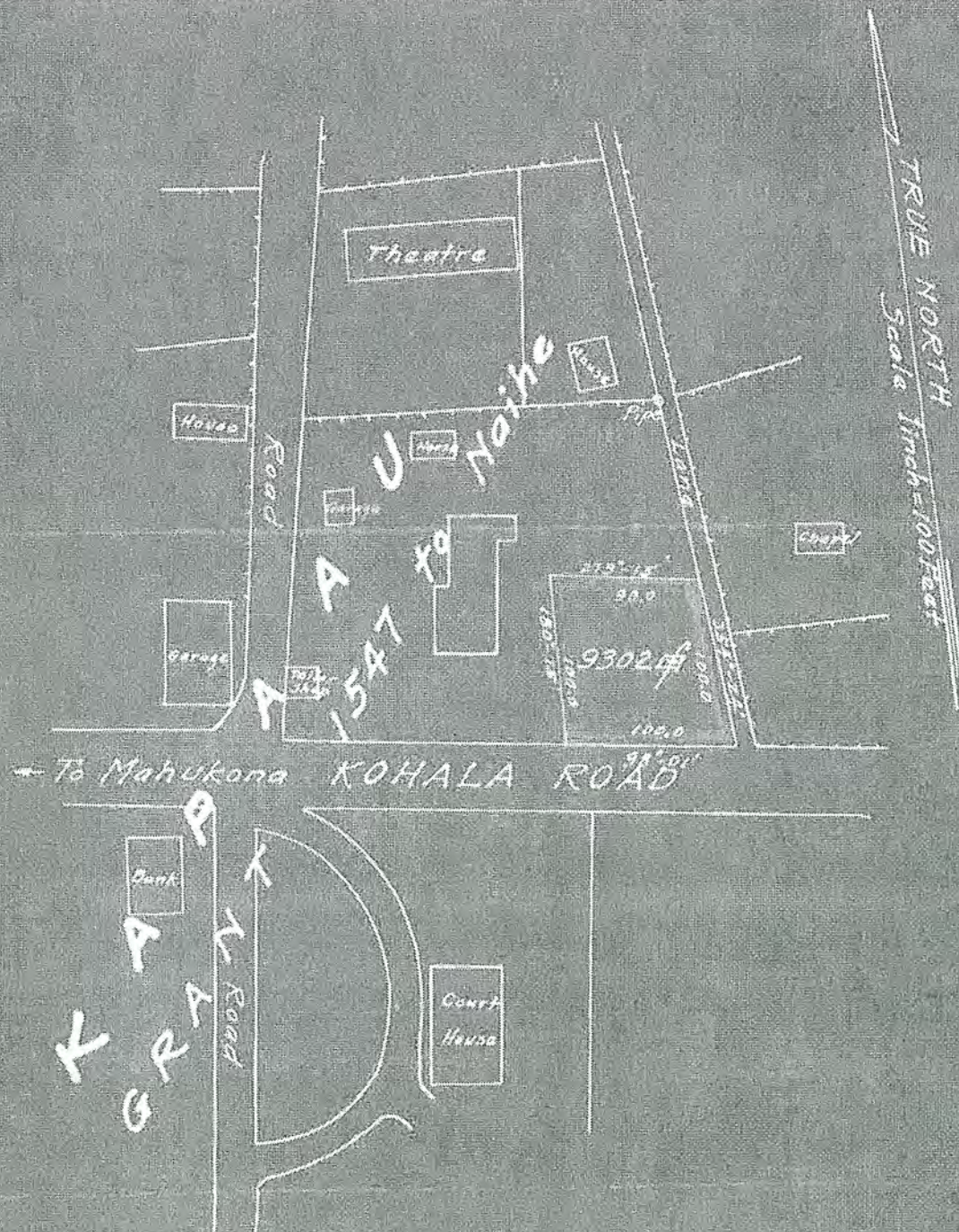
C. P. Mannatta  
Notary Public, Third Judicial  
Circuit, Territory of Hawaii.

TERRITORY OF HAWAII, )  
                                  ) SS  
COUNTY OF HAWAII.    )

On this 24th day of February, A. D. 1928, before me personally appeared CAROLINE S. BOND, to me known to be the person described in and who executed the foregoing instrument and acknowledged to me that she executed the same as her free act and deed.

C. P. Mannatta  
Notary Public, Third Judicial  
Circuit, Territory of Hawaii.





Carolyn S. Bond to Territory of Hawaii  
 PUBLIC LIBRARY LOT (Revised)  
 PORTION OF GRANT 1547 TO NAIHE  
 KAPAAU, NORTH KOHALA, HAWAII  
 Scale 1 inch = 100 Feet.



## EXHIBIT B

LAND COURT

REGULAR SYSTEM

AFTER RECORDATION, RETURN BY MAIL ( ) PICKUP ( X ):

WILLIAM C. BYRNS, ESQ.  
DENTONS US LLP  
1001 Bishop Street, Suite 1800  
Honolulu, Hawaii 96813

Total Pages: \_\_

TMK No. (3) 5-4-005:030

### CONFIRMATION OF REVERSION

THIS CONFIRMATION is executed on the \_\_\_\_\_ day of \_\_\_\_\_, 2019, effective January 22, 2016 (the "Effective Date") by the State of Hawai'i by and through its Department of Land and Natural Resources (the "State").

### RECITALS:

A. By deed (the "Library Deed") dated March 1, 1928, recorded in the Bureau of Conveyances of the State of Hawai'i (the "Bureau") in Book 925 at Page 389, Caroline S. Bond, as grantor ("Grantor"), conveyed to Territory of Hawai'i, as grantee, the property described therein (the "Property"), which is also described in Exhibit "A" attached hereto and made a part hereof.



B. The Library Deed expressly provided that the conveyance to the Territory of Hawai'i was subject to two conditions, as follows:

(1) That a public library building be erected upon said property on or prior to July 1, 1929;

(2) That said building and property be used, on or after July 1, 1929, solely for public library purposes.

C. The Library Deed also contained a reversionary clause as follows:

IN THE EVENT that the Territory shall fail or neglect to fulfill said conditions, upon written notice of such breach being filed with the Territory through its Commissioner of Public Lands, title in said property shall immediately revert in me, my heirs, executors or assigns, without the necessity of any other or further proceedings whatsoever.

D. The Bond Memorial Public Library (the "Bond Library") was operated on the Property for many decades.

E. On or about November 8, 2010, concurrent with the opening of the North Kohala Public Library, the Bond Library ceased operation as a public library.

F. The Board of Land and Natural Resources of the State of Hawai'i, at its January 22, 2016, meeting, confirmed the trigger of the reversionary clause, as follows:

In accordance with the reversionary clause in the deed, notice has been given to the State that the property is no longer being used as a library, therefore the property has reverted to the grantor, grantor's heir, executors or assigns.

G. The State vacated the Bond Library.

H. The State wishes to formally acknowledge in this Confirmation, which will be recorded in the Bureau, that pursuant to the reversionary clause in the

Library Deed, the Property has reverted, as of the Effective Date, to Grantor, her heirs, executors or assigns.

A G R E E M E N T :

NOW, THEREFORE, for Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby confirmed, the State hereby confirms that pursuant to the reversionary clause in the Library Deed, the Property reverted, on the Effective Date, to the Grantor, her heirs, executors and assigns.

IN WITNESS WHEREOF, the State of Hawai'i has executed this Confirmation as of the set forth above.

STATE OF HAWAII

By: DEPARTMENT OF LAND AND  
NATURAL RESOURCES

By: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF HAWAII                )  
COUNTY OF \_\_\_\_\_ ) SS.

I hereby certify, pursuant to *the Hawaii Administrative Rules*, Chapter 5-11, that on this \_\_\_\_ day of \_\_\_\_\_, 2019, before me personally appeared \_\_\_\_\_, to me satisfactorily proven, who being by me duly sworn or affirmed, did say that such person is the \_\_\_\_\_ of the DEPARTMENT OF LAND AND NATURAL RESOURCES; STATE OF HAWAII, and such person executed the foregoing CONFIRMATION OF REVERSION as the free act and deed of said company, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity, having \_\_\_\_ pages, and said document is dated \_\_\_\_\_, 2016.

[Notary Signature]

Notary Public, State of Hawaii

My commission expires: \_\_\_\_\_

[Notary Name Typed or Printed]



EXHIBIT "A"