

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

December 13, 2019

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

PSF No.:19KD-138

KAUAI

Grant of Term, Non-Exclusive Easement to the County of Kauai (COK) for the Ahukini to Lydgate Bike and Pedestrian Shared-Use Path Project; Issuance of Management and Construction Right-of-Entry to COK for the Ahukini to Lydgate Bike and Pedestrian Shared-Use Path Project, Portion of Kalapaki, Hanamaulu, Lihue, Kauai, Tax Map Key: (4) 3-5-001:159 por.

APPLICANT:

County of Kauai (COK), Department of Public Works.

LEGAL REFERENCE:

Sections 171-13, -55 and 95, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government land located seaward of Kalapaki, Hanamaulu, Lihue, Kauai, identified by Tax Map Key: (4) 3-5-001:159 por., as shown on the attached map labeled Exhibit A.

AREA:

Right of Entry (ROE): 4.93 acres, more or less.
Easement: 1.03 acres or 45,000 square feet, more or less.

ZONING:

State Land Use District: Agriculture, Conservation
County of Kauai CZO: Open

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

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

CURRENT USE STATUS:

Unencumbered

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain and repair a bike and pedestrian shared use path, under and across State-owned land for access (sidewalk and pathways) purposes.

COMMENCEMENT DATE OF EASEMENT:

To be determined by the Chairperson.

EASEMENT TERM:

Thirty-five (35) years.

RIGHT-OF ENTRY TERM:

Right of entry will be valid up until the State issues the easement.

RIGHT-OF ENTRY AND EASEMENT CONSIDERATION:

Gratis.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The Final Environmental Assessments for the subject project was published by the Office of Environmental Quality Control's The Environmental Notice on July 8, 2016 for the Ahukini to Lydgate Park portion of the bike and pedestrian path use with a finding of no significant impact (FONSI).

DCCA VERIFICATION:

Not applicable. The Applicant is a government and is not required to register with DCCA.

APPLICANT REQUIREMENTS:

Applicant shall be required to provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost for the easement.

REMARKS:

The subject parcel was acquired by the State of Hawaii under Land Office Deed 28636, Final Order of Condemnation in the Circuit Court of the Fifth Circuit Civil No. 93-0358 on December 9, 1993.

Kauai's ocean and coastline are frequently visited areas for recreational activities and gatherings, however many of the popular coastline sites in the project area are not easily accessible. The popularity of these areas creates a need to improve existing pathways or create new pathways to provide Kauai residents and visitors with alternative transportation modes to access the shoreline. Ke Ala Hele Makalae or "the path that goes by the coast" describes the scenic multi-use path that runs along the east side of Kauai and will eventually follow the Kauai east coast from Nawiliwili to Anahola. Once complete, the path will extend approximately 20 miles along Kauai's eastern shore with connections to Lihue's town center.

The whole endeavor has been segmented into six phases. The first two phases, Lydgate Beach Park and the Kapaa-Kealia areas, are complete. Most of the third phase is also complete. The requested ROE and easement are needed in order to begin scheduling construction of the fourth phase (Lydgate Park to Hanamaulu).

The COK Department of Public Works is proposing to conduct land clearing activities in order to survey and construct a 10-12-foot-wide multi-use path for bicyclists, pedestrians, and other users. This path will begin at Ahukini Point and will end by connecting with an existing path to the north at Lydgate Park, covering approximately 6.7 miles. Other improvements associated with this project include three comfort stations, restoration and use of two historical bridges, parking lot improvements at Marine Camp, and improvements to the entranceway and lower parking lot at the Wailua Golf Course. The path will provide an alternative transportation route for the bicyclists and pedestrians besides Kuhio Highway. This alternative route would provide shoreline accessibility to a variety of users of differing ages and skill levels.

The subject parcel is also necessary for the completion of phase five planned for the path which will extend to Nawiliwili.

For the construction of the bike and pedestrian path, OCCL is preparing a Special

Management Area Permit pending shoreline certification.

COK has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

Various government agencies and interest groups were contacted during the environmental assessment process. Respondents had no objections to the request.

The County of Kauai concurs with the proposed use of State lands currently under the County's jurisdiction.

RECOMMENDATION: That the Board:

1. Subject to the Applicant fulfilling all of the Applicant's requirements listed above, authorize the issuance of a term, non-exclusive easement to COK covering the subject area for construction, use and maintenance purposes 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 term easement document form, as may be amended from time to time;
 - B. Review and approval by the Department of the Attorney General; and
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

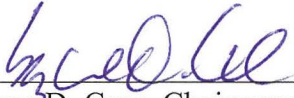
2. Grant an immediate right-of-entry to the County of Kauai, its consultants, contractors, and/or persons acting for or on its behalf, over portions of TMK: (4) 3-5-001:159 under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
 - A. The standard terms and conditions of the most current management and construction right-of-entry form, as may be amended from time to time;
 - B. The right-of-entry permit is effective upon due execution by the parties and shall terminate upon issuance of the grant of easement document; and
 - C. The Department of Land and Natural Resources reserves the right to impose additional terms and conditions at any time if it deems necessary while this right-of-entry is in force.

Respectfully Submitted,



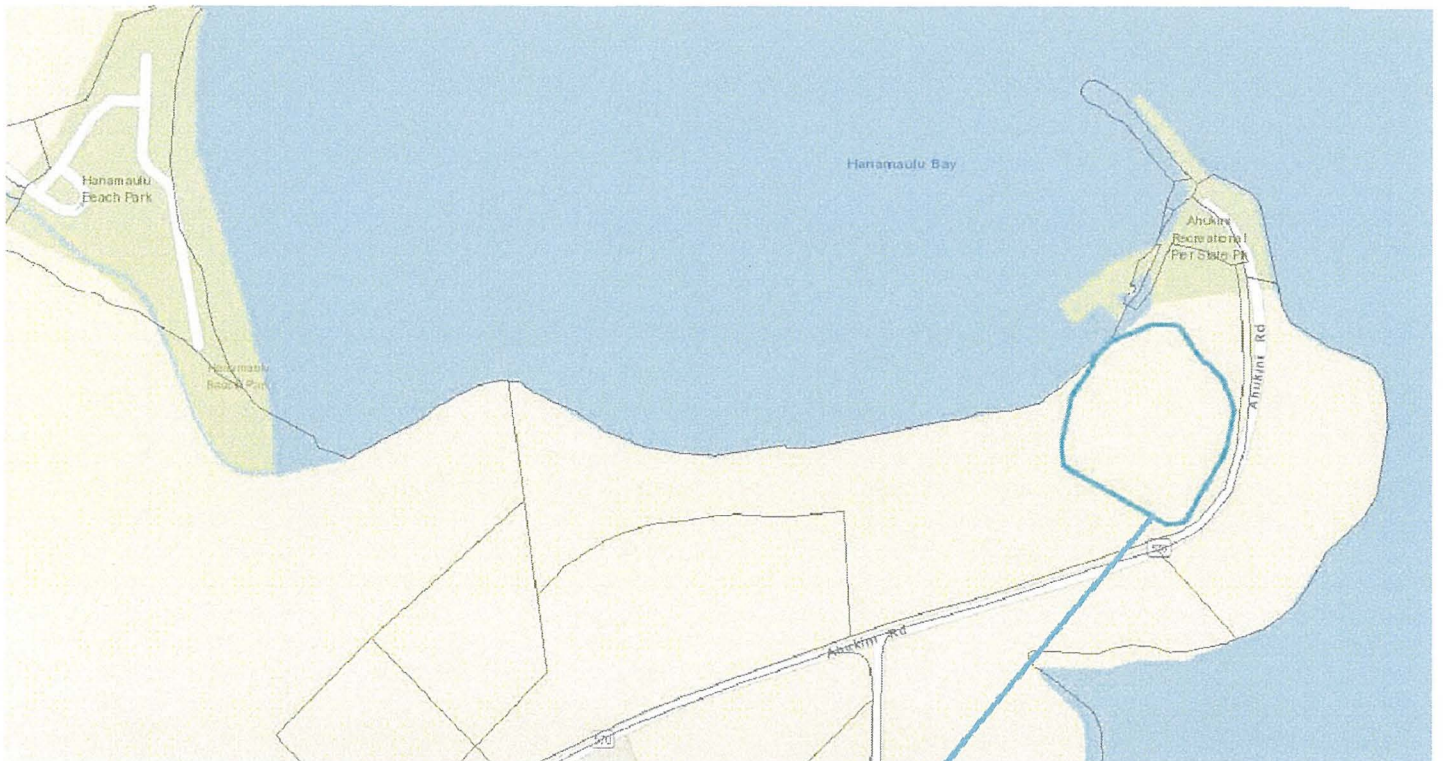
Alison Neustein
Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson





SUBJECT TMK: (4) 3-5-001:159



EXHIBIT A