

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

February 28, 2020

Ref. No.: EO 4566  
19KD-151

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

**KAUAI**

Consent to Lease State Lands Under Governor's Executive Order No. 4566 to the  
Kapaa Foursquare Church, dba: New Hope Kauai, Kapaa, Kawaihau, Kauai, Tax  
Map Keys: (4) 4-5-008:008 & 009.

CONTROLLING AGENCY (of subject executive order):

County of Kauai

APPLICANT (requesting lease):

Kapaa Foursquare Church, dba: New Hope Kauai

LEGAL REFERENCE:

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

ZONING:

State Land Use District: Urban  
County of Kauai CZO: Residential

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution:  
YES \_\_\_\_ NO x

CURRENT USE STATUS:

Governor's Executive Order No. 4566 to County of Kauai for Community needs and  
social services.

## **LEASE TERMS & CONDITIONS:**

### **LOCATION:**

Portion of Government lands of Kapaa Town Lots 2 & 3, First Series, situated at Kapaa, Kawaihau (Puna), identified by Tax Map Keys: (4) 4-5-008:008 and 009, as shown on the attached map labeled Exhibit A.

### **AREA:**

TMK: (4) 4-5-008:008: 0.3470 acre (15,120 s.f.), more or less.  
TMK: (4) 4-5-008:009: 0.1736 acre (7,560 s.f.), more or less.

### **CHARACTER OF USE:**

Community needs and social services related purposes consistent with the State of Hawaii's Governor's Executive Order No. 4566, approved November 9, 2018.  
(Exhibit D)

### **TERM:**

40 years.

### **COMMENCEMENT DATE:**

The first day of the month to be determined by the Chairperson.

### **RENT AMOUNT:**

\$1.00 per annum. First payment shall be due upon execution of this lease with each subsequent payment being due within the 30 days of January 1<sup>st</sup> of each subsequent year.

### **CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:**

The controlling agency shall be responsible for ensuring compliance with Chapter 343, HRS.

### **DCCA VERIFICATION:**

**Controlling Agency:** County of Kauai

Not applicable. The County of Kauai, a government entity, is not required to register with DCCA.

**Applicant:** New Hope Kauai

Place of business registration confirmed: YES x NO

Registered business name confirmed:	YES <u>x</u>	NO
Applicant in good standing confirmed:	YES <u>x</u>	NO

REMARKS:

The subject State property was previously encumbered under a sixty-five year lease identified as General Lease No. S-4436 to the Tenrikyo Taiheiyo Kyokai, a Hawaii nonprofit corporation, for church and allied purposes. Due to numerous defaults in the payment of rent and sewer charges, and for failure to provide the required liability insurance, at its meeting of May 22, 2015 (D-2), the Board of Land and Natural Resources (Board) approved the forfeiture of General Lease No. S-4436.

At its meeting of April 28, 2017, Item D-2, the Board approved a set aside to the County of Kauai for affordable housing purposes, for a portion of Kapaa Town Lots, Kawaihau, Kauai, Tax Map Key: (4) 4-5-008:008.

By letter dated August 15, 2017, the Honorable Mayor Bernard P. Carvalho Jr., sought to amend its prior request for a set-aside of the former Tenrikyo Church leasehold property, identified as TMK: (4) 4-5-008:008 & 009, from affordable housing purposes, to Community needs and social services. As a result, at its meeting of July 13, 2018, item D-1, the Board amended its action of April 28, 2017, item D-2 to change the intended use of the set-aside from affordable housing purposes to community needs and social services.

By letter dated October 31, 2019 (Exhibit B), Matthew M. Bracken, County Attorney, forwarded the Kauai District Land Office a copy of a lease agreement (Exhibit C) between the County of Kauai and the Kapaa Foursquare Church, dba: New Hope Kauai. The County requested that the Board review and approve the attached lease agreement between the County and the Church. Under the lease, the eleemosynary organization, the Kapaa Foursquare Church doing business as New Hope Kauai shall be authorized to renovate and maintain the buildings currently on the property. The buildings shall be used as a multiuse facility and provide much needed social and community services. This venue will be utilized for weddings, funerals, first birthday celebrations, as a counseling center, and for other community purposes as required under Governor's Executive Order No. 4566. (Exhibit D)

While one neighbor has been particularly vocal in their opposition to this lease, the County received a petition in support of this lease agreement signed by 737 community members.


RECOMMENDATION:

That the Board consent to the lease between the County of Kauai and Kapaa Foursquare Church, dba: New Hope Kauai, subject to any applicable conditions cited above which are by this reference incorporated herein and further subject to the following:


1. Review and approval by the Department of the Attorney General; and

2. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

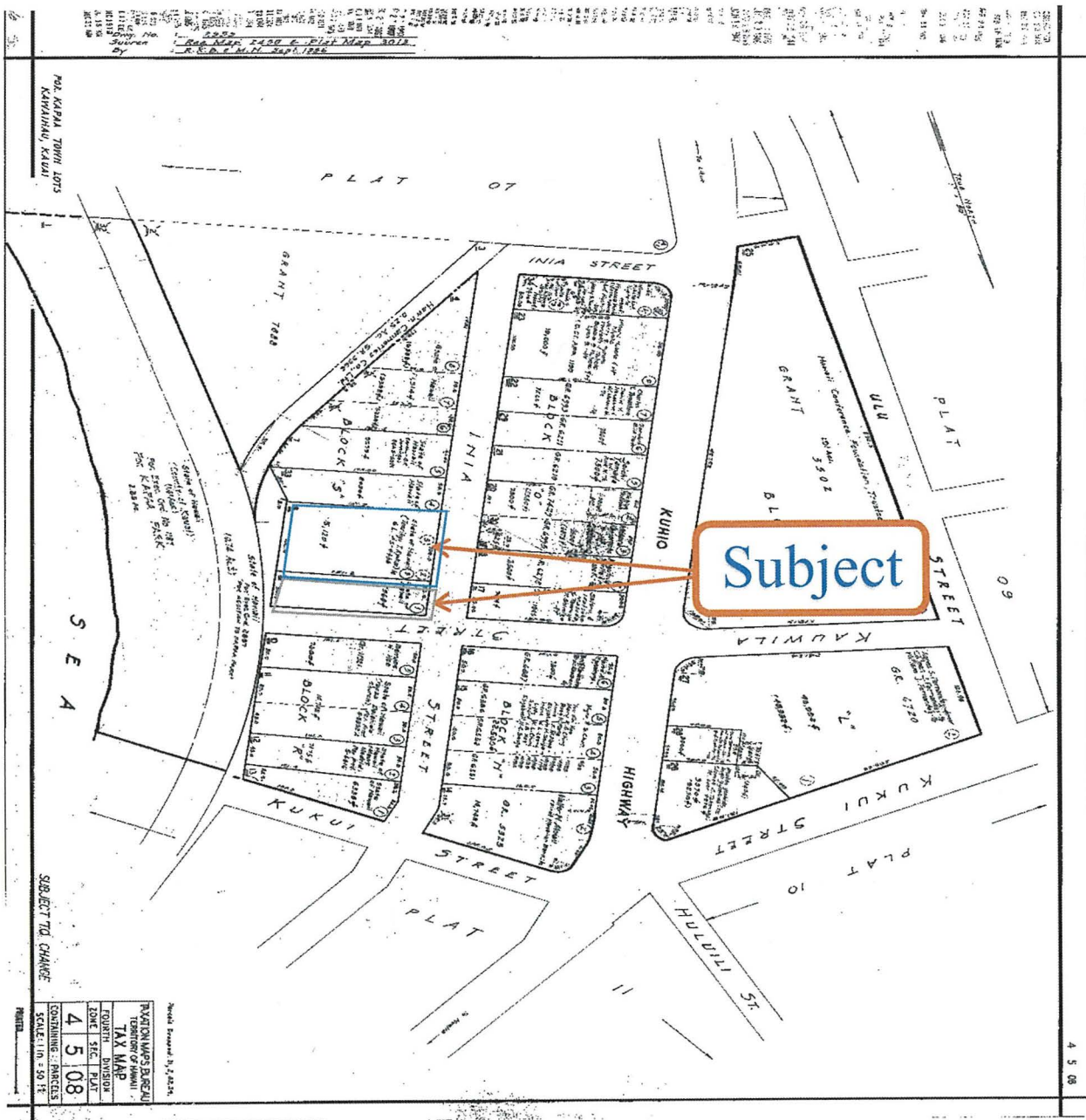
Respectfully Submitted,

  
\_\_\_\_\_  
Wesley T. Matsunaga  
District Land Agent

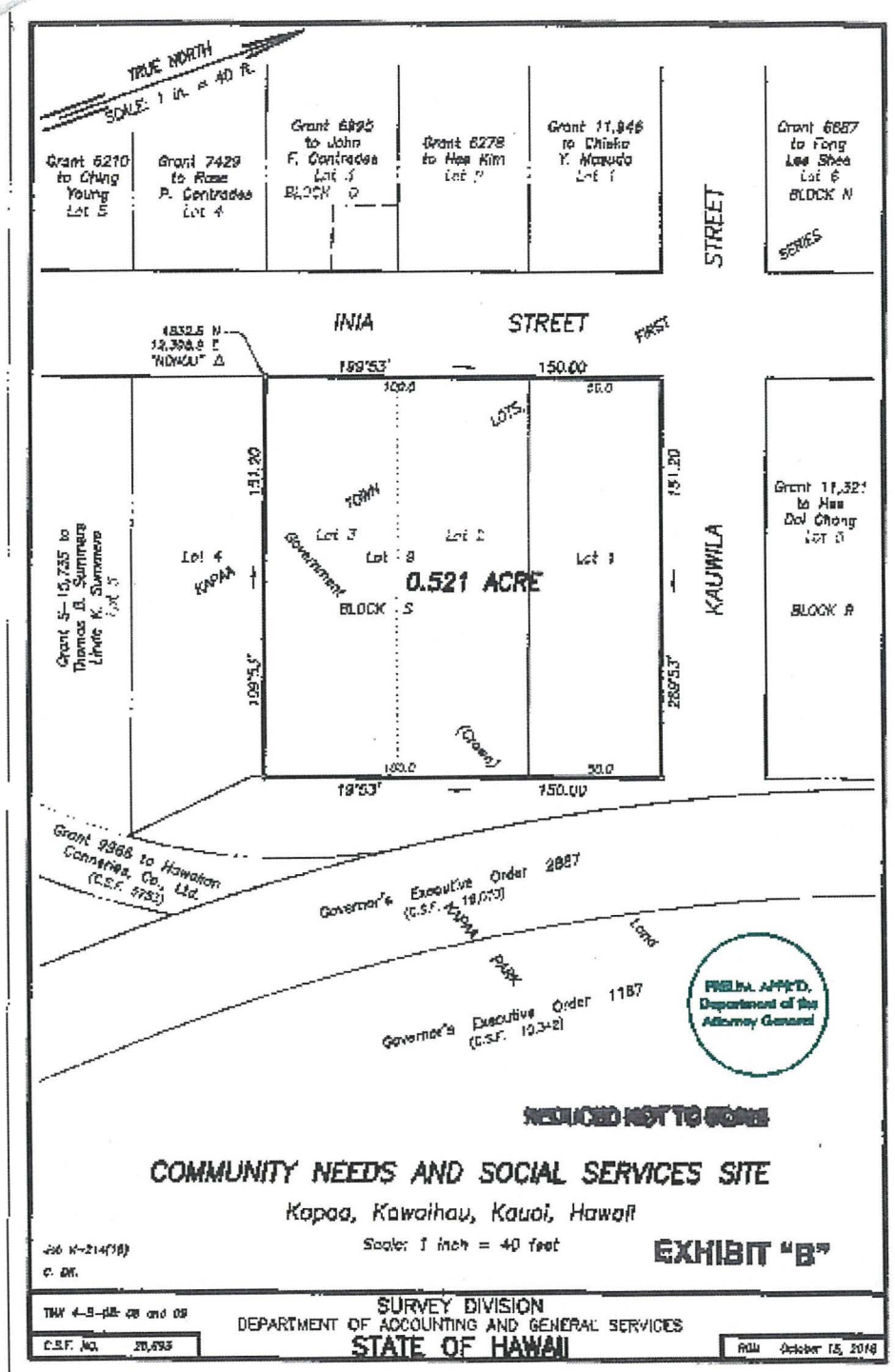
APPROVED FOR SUBMITTAL:

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





# EXHIBIT A



**EXHIBIT A**



OFFICE OF THE COUNTY ATTORNEY  
THE COUNTY OF KAUAI

DEREK S. K. KAWAKAMI, MAYOR  
MICHAEL A. DAHLIG, MANAGING DIRECTOR

MATTHEW M. BRACKEN  
COUNTY ATTORNEY

NICHOLAS R. COURSON  
FIRST DEPUTY

October 31, 2019

Suzanne D. Case  
Chairperson  
Board of Land and Natural Resources  
Post Office Box 621  
Honolulu, Hawai'i 96809

RECEIVED  
2019 NOV -4 AM 8:22  
DEPT. OF LAND  
& NATURAL RESOURCES  
STATE OF HAWAII

RE: Executive Order No. 4566 setting aside land for public purposes, specifically community needs and social services; Request for approval of Lease Agreement

Dear Ms. Case:

The County of Kaua'i is seeking the Board of Land and Natural Resource's approval of the attached Lease Agreement. On November 20, 2018, Lieutenant Governor Douglas S. Chin signed Executive Order Number 4566, which set aside land in Kapa'a, Kaua'i for community needs and social services related purposes. The County of Kaua'i requested this set aside to address community needs in the Kapa'a area. The land subject to the set aside ("property") is adjacent to the County of Kaua'i's multi use path. Unfortunately, the property has attracted crime and vandalism. The property sat unused for several years and due to the proximity to the ocean, the buildings have deteriorated significantly.

In an effort to address these concerns the County of Kaua'i has negotiated the attached lease agreement with an eleemosynary organization, Kapa'a Foursquare Church doing business as New Hope Kaua'i. New Hope has agreed to renovate and maintain the buildings currently on the property. The buildings will be used as a multiuse facility and provide much needed social and community services. This venue will be utilized for weddings, funerals, first birthday celebrations, as a counseling center, and for other community purposes as required by Executive Order 4566.

While one neighbor has been particularly vocal in their opposition to this lease, the County received a petition in support of this lease agreement signed by 737 community members. The County also received nearly one hundred letters in support of the attached lease agreement. These citizens expressed concerns with the current state of the property and emphasized how the property could be utilized to benefit the entire community.

The County drafted the attached lease agreement and New Hope has confirmed that they are agreeable to the terms of the lease. We respectfully request your approval to enter into this lease.

www.kauai.gov

4444 Rice Street Suite 220 • Lihu'e, Hawai'i 96766 • (808) 241-4930 (b) • (808) 241-6319 (f)  
An Equal Opportunity Employer



RECEIVED  
LAND DIVISION  
2019 NOV -7 AM 10:49

NOV 11 40:38

NOV 15 '19

DLNR KDLO RCV

Suzanne D. Case  
Page 2  
October 31, 2019

Please contact me if you have any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Matt Bracken".

Matthew M. Bracken  
County Attorney

cc: Michael A. Dahilig  
Pastor Matthew Higa

Attachments:  
Lease Agreement  
EO 4566

**EXHIBIT B**



AFTER RECORDATION, RETURN BY: [ X ] MAIL [ ] PICKUP

COUNTY OF KAUAI,  
DEPARTMENT OF FINANCE  
4444 Rice Street, Suite 280  
Lihue, Hawaii 96766

TYPE OF DOCUMENT: (Total Pages:\_\_\_ )

LEASE AGREEMENT

PARTIES TO DOCUMENT:

COUNTY OF KAUA'I ,  
DEPARTMENT OF FINANCE  
4444 Rice Street, Suite 280  
Lihu'e , Hawai'i 96766

KAPA'A FOURSQUARE CHURCH, dba NEW HOPE KAUA'I  
P.O. Box 279  
Kapa'a, Hawai'i 96746

PROPERTY Description:	:	LIBER/PAGE:
	:	
TMK No.: (4) 4-5-008:008 &	:	DOCUMENT NO.:
(4) 4-5-008:009	:	TRANSFER CERTIFICATE OF
	:	TITLE NO(S).:

**EXHIBIT C**

## LEASE AGREEMENT

This LEASE AGREEMENT ("Lease"), is made as of \_\_\_\_\_, by and between the COUNTY OF KAUAI, a political subdivision of the State of Hawai'i, having its principal office at 4444 Rice Street, Lihue, Hawaii 96766 ("**Lessor**") and KAPA'A FOURSQUARE CHURCH, dba NEW HOPE KAUAI a religious, charitable, benevolent, eleemosynary organization, having a mailing address at P.O. Box 279, Kapa'a Hawai'i 96746 ("**Lessee**" and, together with Lessor, collectively referred to herein as the "**Parties**").

In consideration of the rents, covenants, and agreements hereinafter set forth, the sufficiency of which is hereby acknowledged and agreed, Lessor and Lessee covenant, warrant, and agree as follows:

1. Definitions. For purposes of this Lease, the following terms shall have the following meanings:

**"Building"** shall mean the buildings situated at the Premises.

**"Building Systems"** shall mean the mechanical, electrical, plumbing, and life safety systems of the Building.

**"Extension Conditions"** shall mean, Lessor at its sole discretion may agree to extensions of this Lease provided: (a) Lessee gives Lessor written notice no less than three (3) month[s] prior to the commencement of the First Extension Term or Second Extension Term, as applicable, that Lessee is exercising the Extension Option.

**"Hazardous Materials"** shall mean any chemical, compound, material, substance, or other matter that: (a) is defined as a hazardous substance, hazardous material, or waste, or toxic substance under any Hazardous Materials Law; (b) is regulated, controlled, or governed by any Hazardous Materials Law or other laws; (c) is petroleum or a petroleum product; or (d) is asbestos, formaldehyde, radioactive material, drug, bacteria, virus, or other injurious or potentially injurious material (by itself or in combination with other materials).

**"Hazardous Materials Laws"** shall mean any and all federal, state or local laws, ordinances, rules, decrees, orders, regulations, or court decisions relating to hazardous substances, hazardous materials, hazardous waste, toxic substances, environmental conditions on, under, or about the Premises, the Building, or the Property, or soil and ground water conditions, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), the Resource Conservation and Recovery Act (RCRA), the Hazardous Materials Transportation Act, any other law or legal requirement concerning hazardous or toxic substances, and any amendments to the foregoing.

**"Lessor's Address for Notices"** shall mean 4444 Rice Street Suite 235, Lihue, Hawai'i 96746, with a copy to the County Attorney at 4444 Rice Street Suite 220 Lihue, Hawai'i 96746.

"**Lease Commencement Date**" shall mean the date this Lease is executed by all parties.

"**Lease Expiration Date**" shall mean the last day of the month in which occurs the fortieth (40<sup>th</sup>) anniversary of the Lease Commencement Date, as same may be extended pursuant to Section 3 hereof, or such earlier date on which the Term shall sooner end pursuant to any of the terms, covenants, or conditions of this Lease or pursuant to law.

"**Permitted Use**" shall mean community needs and social services related purposes consistent with the with State of Hawai'i Executive Order No. 4566, approved November 19, 2018 and incorporated into this Lease by reference.

"**Premises**" shall mean the location known as Lots 1, 2, and 3, Block S, Kapa'a Town Lots, First Series, Kapa'a, Kawaihau (Puna), Kaua'i, Hawai'i, being a portion of the Government (Crown) Land of Kapa'a, containing an area of 0.521 acre, and more particularly described in Exhibit "A" an shown on the map marked Exhibit "B," both of which are attached hereto and made a part hereof.

"**Property**" shall mean the Building together with all other improvements that may hereafter be constructed on the parcel as shown in Exhibit "B."

"**Lessee's Address for Notices**" shall mean P.O. Box 279, Kapa'a Hawai'i 96746.

"**Term**" shall mean a term of forty (40) years commencing on the Lease Commencement Date and ending on the Lease Expiration Date.

2. Premises.

(a) Lessor hereby leases to Lessee, and Lessee hereby rents from Lessor, the Premises for the Term.

3. Term.

(a) The Term shall commence on the date that this Lease is executed Lease Commencement Date and shall expire on the Lease Expiration Date.

(b) Lessee is granted the option ("**Extension Option**") to extend the initial Term of this Lease for an additional term of ten (10) years ("**First Extension Term**") provided all of the Extension Conditions are met.

(c) Lessee is granted an additional Extension Option to extend the Term of this Lease for an additional term of ten (10) years ("**Second Extension Term**") provided all of the Extension Conditions are met.

4. Fixed Rent. Lessee shall pay the fixed rent of one dollar (\$1.00) per calendar year. The first one dollar (\$1.00) rental payment is due upon execution of this lease and will

cover the 2020 calendar year and any period prior to 2020. Each subsequent payment is due within thirty 30 days of January 1 of each subsequent year. Fixed rent payments are due without notice or demand.

5. Utility Services. Lessee shall pay when due all charges, duties and rates for water, sewer, gas, refuse collection or any other charges, as to which said premises, or any part thereof, or any improvements thereon or which the Lessor or Lessee in respect thereof may during said term become liable, whether assessed to or payable by the Lessor or Lessee.

6. Use of Premises; Compliance with Laws; Hazardous Materials.

(a) The Premises shall be used only for the Permitted Use.

(b) Lessee, and Lessee's contractors, agents, servants, employees, attorneys, invitees, and licensees (collectively "**Lessee Parties**"), at Lessee's sole cost and expense, shall comply with and shall cause all Lessee Parties to comply with all applicable laws, ordinances, rules, and regulations of governmental and quasi-governmental authorities, including, without limitation, the Americans with Disabilities Act of 1990, as amended by the Americans with Disabilities Act Amendments Act of 2008 (and the regulations promulgated thereunder) applicable to the Premises or the use or occupancy of the Premises.

(c) Lessee shall not cause or permit any Hazardous Materials to be generated, used, released, stored, or disposed of in or about the Premises, the Building, or the Property; provided, however, Lessee may use and store reasonable quantities of cleaning and office supplies and other similar materials as may be reasonably necessary for Lessee to conduct normal operations in the Premises. Lessee shall indemnify and hold Lessor, its employees, and agents, harmless from and against any damage, injury, loss, liability, charge, demand, or claim based on or arising out of the presence or removal of, of failure to remove, Hazardous Materials generated, used, released, stored or disposed of by Lessee or any Lessee Party in or about the Premises, the Building or the Property, whether before or after the Lease Commencement Date.

7. Alterations.

(a) Lessee may make or allow to be made any demolition, alterations, additions, or improvements in or to the Premises (collectively, "**Alterations**").

(b) Lessee agrees that all such work shall be done at Lessee's sole cost and expense and in a good and skillful manner, that the structural integrity of the Building shall not be impaired, and that no liens shall attach to all or any part of the Premises, the Building, or the Property by reason thereof. Lessee shall obtain, at its sole expense, all permits required for such work.

(c) Unless otherwise elected by Lessor as hereinafter provided, all Alterations made by Lessee shall become the property of Lessor and shall be surrendered to Lessor on or before the Lease Expiration Date. Notwithstanding the foregoing, movable



equipment, trade fixtures, personal property, furniture, or any other items that can be removed without material harm to the Premises will remain Lessee's property (collectively, "**Lessee Owned Property**") and shall not become the property of Lessor but shall be removed by Lessee, at its sole cost and expense, not later than the Lease Expiration Date.

(d) Following the initial alterations, Lessee, at its expense, shall keep the Premises, Building, Building Systems, and the Property in good repair and condition.

8. Insurance.

(a) Lessee shall procure at its cost and expense, and keep in effect during the Term, insurance coverage for all risks of physical loss or damage insuring the full replacement value of Alterations and all items of Lessee Owned Property. Lessor shall not be liable for any damage or damages of any nature whatsoever to persons or property caused by explosion, fire, theft or breakage, vandalism, falling plaster, by sprinkler, drainage or plumbing systems, or air conditioning equipment, by the interruption of any public utility or service, by steam, gas, electricity, water, rain, or other substances leaking, issuing, or flowing into any part of the Premises, by natural occurrence, acts of the public enemy, riot, strike, insurrection, war, court order, requisition, or order of governmental body or authority, or by anything done or omitted to be done by any Lessee, occupant or person in the Building, it being agreed that Lessee shall be responsible for obtaining appropriate insurance to protect its interests.

(b) Lessee shall procure at its cost and expense, and maintain throughout the Term, comprehensive commercial general liability insurance applicable to the Premises with a minimum combined single limit of liability of two million dollars (\$2,000,000) per occurrence, statutory worker's compensation insurance at Hawai'i statutory limits, and employer's liability insurance with a minimum limit of one million dollars (\$1,000,000) covering all of Lessee's employees. Such liability insurance shall include, without limitation, products and completed operations liability insurance, fire, and legal liability insurance, and such other coverage as Lessor may reasonably require from time to time. During the Lease Term at Lessor's request, Lessee shall increase such insurance coverage to a level that is commercially reasonably required by Lessor.

(c) Lessee's insurance shall be issued by companies authorized to do business in the State of Hawai'i. Lessee shall have the right to provide insurance coverage pursuant to blanket policies obtained by Lessee if the blanket policies expressly afford the coverage required by this Section 8. All insurance policies required to be carried by Lessee under this Lease (except for worker's compensation insurance) shall: (i) name Lessor, and any other reasonable number of parties designated by Lessor as additional insureds; (ii) as to liability coverages, be written on an "occurrence" basis; (iii) provide that Lessor shall receive ninety (90) days' notice from the insurer before any cancellation or change in coverage; and (iv) contain a provision that no act or omission of Lessee shall affect or limit the obligation of the insurer to pay the amount of any loss sustained. Each such policy shall contain a provision that such policy and the coverage evidenced thereby shall be primary and non-contributing with respect to any policies carried by Lessor.

Lessee shall deliver reasonably satisfactory evidence of such insurance to Lessor on or before the date Lessee first enters or begins alteration of the Premises, and thereafter at least ninety (90) days before the expiration dates of expiring policies. Notwithstanding the foregoing, if any such insurance expires without having been renewed by Lessee, Lessor shall have the option, in addition to Lessor's other remedies to procure such insurance for the account of Lessee, immediately and without notice to Lessee, and the cost thereof shall be paid to Lessor. The limits of the insurance required under this Lease shall not limit Lessee's liability.

9. Indemnification.

(a) Lessee shall indemnify, defend, and hold Lessor harmless from and against any and all claims, losses, costs, liabilities, damages, and expenses including, without limitation, penalties, fines, and reasonable attorneys' fees, to the extent incurred in connection with or arising from the use or occupancy or manner of use or occupancy of the Premises or any injury or damage caused by Lessee, Lessee Parties, or any person occupying the Premises through Lessee.

(b) The terms of this Section 9 shall survive the expiration or sooner termination of this Lease.

10. Assignment and Subletting.

(a) Neither Lessee nor any sublessee or assignee of Lessee, directly or indirectly, voluntarily or by operation of law, shall sell, assign, encumber, mortgage, pledge, or otherwise transfer or hypothecate all or any part of the Premises or Lessee's leasehold estate hereunder (each such act is referred to as an "**Assignment**"), or sublet the Premises or any portion thereof or permit the Premises to be occupied by anyone other than Lessee (each such act is referred to as a "**Sublease**"), without Lessor's prior written consent in each instance, which consent may be withheld or granted in Lessor's sole discretion. Any Assignment or Sublease that does not comply with this Section shall be void.

(b) No consent by Lessor to any Assignment or Sublease by Lessee, and no specification in this Lease of a right of Lessee to make any Assignment or Sublease, shall relieve Lessee of any obligation to be performed by Lessee under this Lease, whether arising before or after: (i) the Assignment or Sublease; or (ii) any extension of the Term (pursuant to exercise of an option granted in this Lease). The consent by Lessor to any Assignment or Sublease shall not relieve Lessee or any successor of Lessee from the obligation to obtain Lessor's express written consent to any other Assignment or Sublease. No Assignment or Sublease shall be valid or effective unless the assignee or sublessee or Lessee shall deliver to Lessor a fully executed counterpart of the Assignment or Sublease and an instrument that contains a covenant of assumption by the assignee or agreement of the sublessee, reasonably satisfactory in substance and form to Lessor.

11. Lessee's Default. Each of the following events shall be an "**Event of Default**" hereunder:

(a) Lessee's failure to pay when due any installment of Rent and such failure continues for a period of ninety (90) days after the due date without any notice or demand being required.

(b) Lessee's failure to perform or observe any other covenant, condition, or other obligation of Lessee and such failure continues for a period of ninety (90) days after Lessor gives Lessee written notice thereof.

(c) The Premises become vacant and abandoned for greater than one hundred and eighty (180) days. Non-use in connection with initial alterations, demolition, reconstruction and clearing of the property does not constitute abandonment or vacancy.

(d) At Lessor's option, the occurrence of any of the following:

(i) the appointment of a receiver to take possession of all or substantially all of the assets of Lessee or the Premises;

(ii) an assignment by Lessee for the benefit of creditors;

(iii) the filing of any voluntary petition in bankruptcy by Lessee, or the filing of any involuntary petition by Lessee's creditors, which involuntary petition remains undischarged for a period of three hundred sixty five (365) days;

(iv) the attachment, execution, or other judicial seizure of all or substantially all of Lessee's assets or the Premises, if such attachment or other seizure remains undismissed or undischarged for a period of one hundred eighty (180) days after the levy thereof; or

(v) the occurrence of any of the foregoing with respect to any guarantor of Lessee's obligations under this Lease.

12. Lessor's Remedies. Upon the occurrence of an Event of Default by Lessee that is not cured by Lessee within the applicable grace periods specified in Section 11 above, Lessor shall have the rights and remedies available to Lessor at law or in equity.

13. Subordination. This Lease is subject to and subordinate at all times to the State of Hawai'i's ownership of the property. The property was placed under the control and management of the County of Kaua'i by the State of Hawai'i Executive Order No. 4566, approved November 19, 2018. This Lease is subject to the terms of Executive Order No. 4566, incorporated by reference.

14. End of Term. No later than the Lease Expiration Date, Lessee shall remove its Owned Property (except as otherwise provided herein) and will peaceably yield up the Premises in broom clean condition.

15. Taxes. Lessee shall be responsible for and pay when due all taxes, rates, and any other assessment on the Property for the duration of the Lease.

16. Notices. All notices or other communications required hereunder shall be in writing and shall be deemed duly given: (a) when delivered in person (with receipt therefor); (b) on the next business day after deposit with a recognized overnight delivery service; or (c) on the third (3rd) business day after being sent by certified or registered mail, return receipt requested, postage prepaid, to addresses of Lessor and Lessee set forth in Section 1, provided, however, that after the Lease Commencement Date, all notices to Lessee may, at Lessor's option, be sent to the Premises. A party's refusal to accept delivery of any notice or communication sent by the other party shall not render such notice ineffective. Notwithstanding the foregoing, all bills, statements, invoices, consents, requests, or other communications from Lessor to Lessee with respect to Rent may be sent to Lessee by regular United States mail.

17. Inspection. Lessor, its agents, employees, and independent contractors shall have the right to enter the Premises upon not less than forty eight (48) hours' notice to: (i) inspect the Premises; (ii) post notices of nonresponsibility; (iii) determine whether Lessee is complying with its obligations under this Lease; and (vi) alter, improve, or repair the Premises or any other portion of the Building. Notwithstanding the foregoing, Lessor shall not be required to provide prior notice to Lessee in the event of an emergency. Except to the extent caused by Lessor's gross negligence or willful misconduct, Lessee waives any claim for damages for any injury or inconvenience to or interference with Lessee's use of the Premises, any loss of occupancy or quiet enjoyment of the Premises, any right to abatement of Rent, or any other loss occasioned by Lessor's exercise of any of its rights under this Section 17. To the extent reasonably practicable, any entry shall occur during normal business hours.

18. Miscellaneous Provisions.

(a) The use of the Premises shall not be in support of any policy, which discriminates against anyone based upon race, religion, color, national origin, sex, sexual orientation, gender identity, age, marital status, pregnancy, parenthood, disability, political affiliation, or in any other manner prohibited by County, State and or Federal law.

(b) The Lessee shall keep the premises and improvements in a strictly clean, sanitary and orderly condition and free from trash, inflammable matter and other objectionable matter. Furthermore, the Lessee shall not commit, suffer or permit or allow others to commit any waste, nuisance, strip or unlawful, improper or offensive use of the premises.

(c) If any provision of this Lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each provision of this Lease shall remain in effect and shall be enforceable to the full extent permitted by law.

(d) The Lessor has the right to withdraw from this Lease, portions of the property for road and easement widening, relocation or construction.



(e) The terms of this Lease (including, without limitation, the Exhibits and Schedules to this Lease) are intended by the parties as a final expression of their agreement with respect to such terms as are included in this Lease and may not be contradicted by evidence of any prior or contemporaneous agreement, arrangement, understanding, or negotiation (whether oral or written). The parties further intend that this Lease constitute the complete and exclusive statement of its terms, and no extrinsic evidence whatsoever may be introduced in any judicial proceeding involving this Lease. Neither Lessor nor Lessor's agents have made any representations or warranties with respect to the Premises, the Building, the Property, or this Lease except as expressly set forth herein. The language in all parts of this Lease shall in all cases be construed as a whole and in accordance with its fair meaning and not construed for or against any party by reason of such party having drafted such language.

(f) Each party represents and warrants that it has the authority to enter into this Lease.

(g) The Laws of the State of Hawai'i shall govern the validity, performance, and enforcement of this Lease. Lessee hereby agrees to personal jurisdiction and venue in the Fifth Judicial Circuit of the State of Hawai'i .

(h) This Lease may only be amended, modified, or supplemented by an agreement in writing duly executed by both Lessor and Lessee.

(i) LESSOR AND LESSEE KNOWINGLY, INTENTIONALLY, AND VOLUNTARILY WAIVE TRIAL BY JURY IN ANY ACTION OR PROCEEDING BROUGHT BY EITHER PARTY AGAINST THE OTHER IN ANY MATTER ARISING OUT OF THIS LEASE, THE RELATIONSHIP OF LESSOR AND LESSEE, LESSEE'S USE OR OCCUPANCY OF THE PREMISES, OR ANY CLAIM OF INJURY OR DAMAGE.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have executed this Lease as of the date first above written.

**LESSOR:**

COUNTY OF KAUAI, a political subdivision  
of the State of Hawaii

By \_\_\_\_\_

Name: BLANCHE R. MATSUYAMA

Title: DIRECTOR OF FINANCE

**LESSEE:**

KAPA'A FOURSQUARE CHURCH dba NEW  
HOPE KAUAI

By \_\_\_\_\_

Name: MATTHEW HIGA

Title: SENIOR PASTOR

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
COUNTY ATTORNEY

APPROVED:

\_\_\_\_\_  
SUSAN CASE, CHAIR  
BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAI'I            )  
  ) SS.  
COUNTY OF KAUAI         )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me appeared BLANCHE R. MATSUYAMA, to me personally known, who, being by me duly sworn, did say that she is the Director of Finance of the COUNTY OF KAUAI, a political subdivision of the State of HAWAI'I, and executed the foregoing LEASE AGREEMENT dated \_\_\_\_\_, 20\_\_\_\_, which document consists of \_\_\_\_\_ pages; by the authority of its Charter; and that said Director of Finance acknowledged said instrument to be the free act and deed of said COUNTY OF KAUAI.

\_\_\_\_\_  
Name of Notary:  
Notary Public, Fifth Judicial Circuit,  
State of Hawai'i

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

STATE OF HAWAI'I            )  
  ) SS.  
COUNTY OF KAUAI         )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me appeared MATTHEW HIGA, to me personally known, who, being by me duly sworn, did say that he is the Senior Pastor of KAPA'A FOURSQUARE CHURCH, dba NEW HOPE KAUAI, executed the foregoing LEASE AGREEMENT dated \_\_\_\_\_, 20\_\_\_\_, which document consists of \_\_\_\_\_ pages; as his free act and deed, and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.

\_\_\_\_\_  
Name of Notary:  
Notary Public, Fifth Judicial Circuit,  
State of Hawai'i.  
My commission expires: \_\_\_\_\_

**EXHIBIT C**





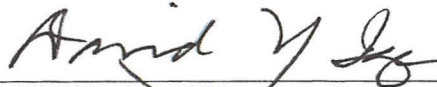
"B," both of which are attached hereto and made parts hereof, said exhibits being respectively, a survey description and survey map prepared by the Survey Division, Department of Accounting and General Services, State of Hawaii, both being designated C.S.F. No. 25,693 and dated October 15, 2018.

SUBJECT, HOWEVER, to the condition that upon cancellation of this executive order or in the event of non-use or abandonment of the premises or any portion thereof for a continuous period of one (1) year, or for any reason whatsoever, the County of Kauai shall, within a reasonable time, restore the premises to a condition satisfactory and acceptable to the Department of Land and Natural Resources, State of Hawaii.

SUBJECT, FURTHER, to disapproval by the Legislature by two-thirds vote of either the Senate or the House of Representatives or by majority vote of both, in any regular or special session next following the date of this Executive Order.

This executive order does not authorize the recipient of the set aside to sell or exchange or otherwise relinquish the State of Hawaii's title to the subject public land.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Hawaii to be affixed. Done at the Capitol at Honolulu this 19th day of November, 2018.

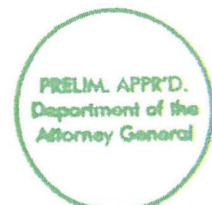


DAVID Y. IGE  
Governor of the State of Hawaii

APPROVED AS TO FORM:

  
COLIN J. LAU  
Deputy Attorney General

Dated: 11/16/18

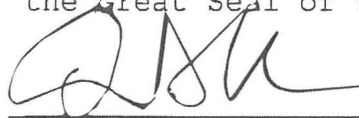


STATE OF HAWAII

Office of the Lieutenant Governor

THIS IS TO CERTIFY That the within is a true copy of  
Executive Order No. 4386 setting aside land for public  
purposes, the original of which is on file in this office.

IN TESTIMONY WHEREOF, the Lieutenant  
Governor of the State of Hawaii, has  
hereunto subscribed his name and caused  
the Great Seal of the State to be affixed.



DOUGLAS S. CHIN

Lieutenant Governor of the State of Hawaii

DONE in Honolulu, this 20th day of  
November, A.D. 2018

**EXHIBIT D**





STATE OF HAWAII  
SURVEY DIVISION  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
HONOLULU

C.S.F. No. 25,693

October 15, 2018

COMMUNITY NEEDS AND SOCIAL SERVICES SITE

Kapaa, Kawaihau, Kauai, Hawaii

Being a portion of the Government (Crown) Land of Kapaa.

Being also Lots 1 and 9, Block S of Kapaa Town Lots, First Series.

Beginning at the southwest corner of this parcel of land, at the northwest corner of Lot 4, Block S of Kapaa Town Lots, First Series and on the east side of Inia Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "NONOU" being 4832.5 feet North and 12,396.9 feet East, thence running by azimuths measured clockwise from True South:-

1. 199° 53' 150.00 feet along the east side of Inia Street;
2. 289° 53' 151.20 feet along the south side of Kauwila Street;
3. 19° 53' 150.00 feet along remainder of Government (Crown) Land of Kapaa;





C.S.F. No. 25,693

October 15, 2018

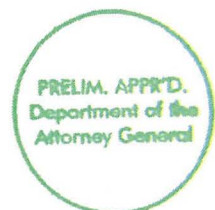
4. 109° 53'

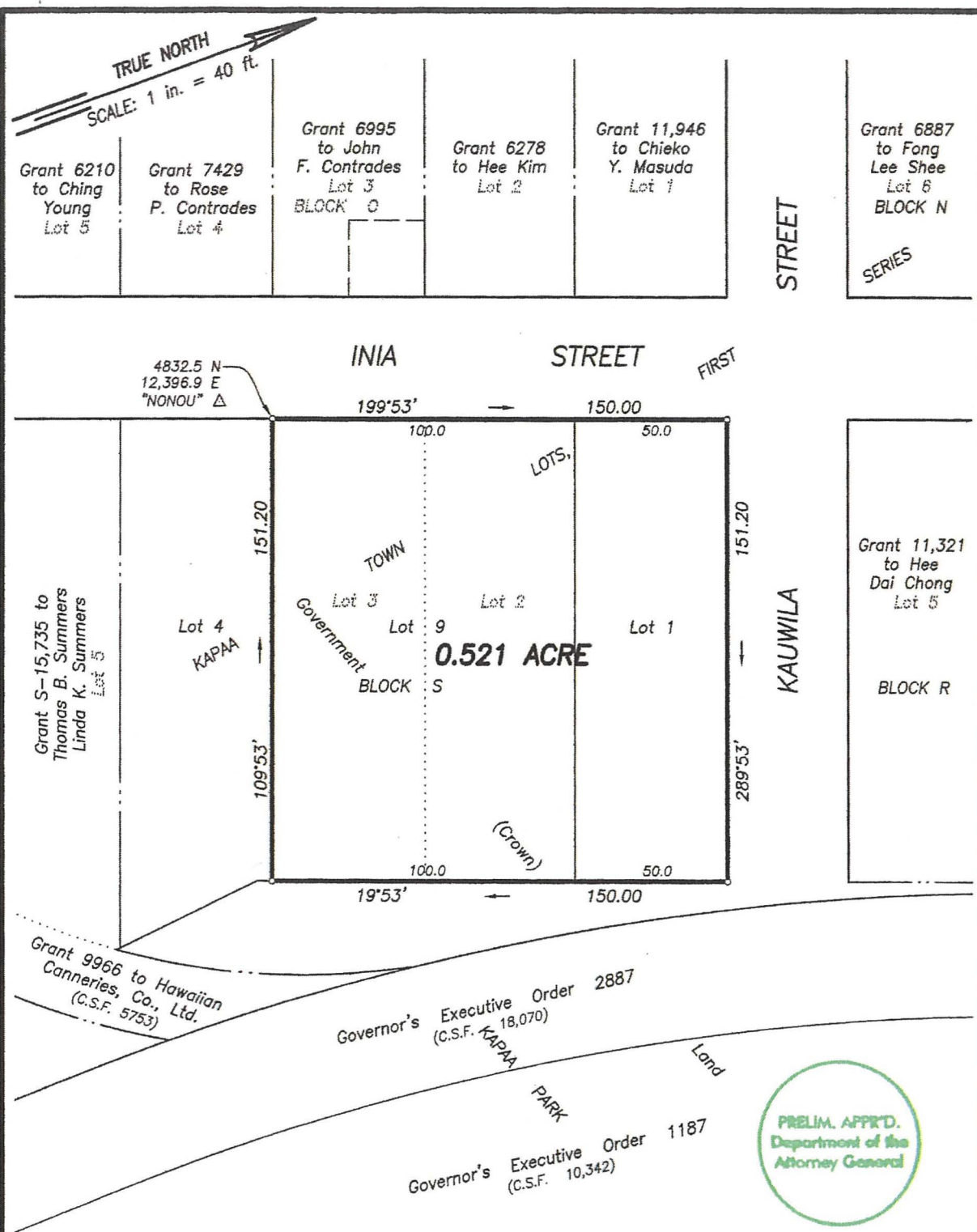
151.20 feet along Lot 4, Block S of Kapaa Town Lots,  
First Series to the point of beginning and  
containing an AREA OF 0.521 ACRE.

SURVEY DIVISION  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
STATE OF HAWAII

By: *Gerald Z. Yonashiro*  
Gerald Z. Yonashiro  
Land Surveyor rk

Compiled from Kauai File  
Carton 5-B and other Gov't.  
Survey Records.





REDUCED NOT TO SCALE

# COMMUNITY NEEDS AND SOCIAL SERVICES SITE

Kapaa, Kawaihau, Kauai, Hawaii

Job K-214(18)  
C. BK.

Scale: 1 inch = 40 feet

EXHIBIT "B"

TMK 4-5-08: 08 and 09

SURVEY DIVISION  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
STATE OF HAWAII

EXHIBIT D

C.S.F. NO. 25,693

RDM October 15, 2018