

DAVID Y. IGE
GOVERNOR



JADE T. BUTAY
DIRECTOR

Deputy Directors
LYNN A.S. ARAKI-REGAN
DEREK J. CHOW
ROSS M. HIGASHI
EDWIN H. SNIFFEN

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

IN REPLY REFER TO:

February 25, 2020

Ms. Suzanne D. Case, Chairperson
Department of Land 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
Lahaina, Maui, State of Hawaii

MAUI

Acquisition of:

(1) Fee simple parcels to the Department of Transportation, Highways Division, for Highway Purposes, Relating to Honoapiilani Highway Realignment, Phase IA, Project No. NH-030-1(35), at Lahaina, Maui, State of Hawaii, Tax Map Key No: (2) 4-5-21: Portions of 003

APPLICANT:

DEPARTMENT OF TRANSPORTATION, Highways Division (DOT).

LEGAL REFERENCE:

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

LOCATION:

Portions of land relating to Honoapiilani Highway Realignment, Phase IA, Project No. NH-030-1(35), at Lahaina, Maui, State of Hawaii, as shown and described on the enclosed maps labeled collectively as Exhibit A.

Item M-3

AREA:

<u>Fee Simple Parcels:</u>	<u>Tax Map Key Nos.:</u>
Right-of-Way Parcel 34 (Rev. 1) = 60,152 square feet	(2) 4-5-21:003
Right-of-Way Parcel 35 (Rev. 1) = 122,166 square feet	(2) 4-5-21:003
Right-of-Way Parcel 36 (Rev. 1) = 123,701 square feet	(2) 4-5-21:003
Right-of-Way Parcel 37 (Rev. 1) = 16,006 square feet	(2) 4-5-21:003
Right-of-Way Parcel 38 (Rev. 1) = 348,016 square feet	(2) 4-5-21:003
Right-of-Way Parcel 39 (Rev. 1) = 162,329 square feet	(2) 4-5-21:003
Right-of-Way Parcel 40 (Rev. 1) = 96,478 square feet	(2) 4-5-21:003

ZONING:

Tax Map Key No. (2) 4-5-21:003 Agricultural

CURRENT USE STATUS:

Tax Map Key No. (2) 4-5-21:003 Vacant and encumbered by encumbrances that will not be affected by the project.

Current ownership is as noted on Exhibit A as follows:

<u>Fee Simple Parcels:</u>	<u>Tax Map Key Nos.:</u>
Right-of-Way Parcel 34 (Rev. 1) = State of Hawaii, Hawaii Housing Finance and Development Corporation	(2) 4-5-21:003
Right-of-Way Parcel 35 (Rev. 1) = State of Hawaii, Hawaii Housing Finance and Development Corporation	(2) 4-5-21:003
Right-of-Way Parcel 36 (Rev. 1) = State of Hawaii, Hawaii Housing Finance and Development Corporation	(2) 4-5-21:003
Right-of-Way Parcel 37 (Rev. 1) = State of Hawaii, Hawaii Housing Finance and Development Corporation	(2) 4-5-21:003
Right-of-Way Parcel 38 (Rev. 1) = State of Hawaii, Hawaii Housing Finance and Development Corporation	(2) 4-5-21:003
Right-of-Way Parcel 39 (Rev. 1) = State of Hawaii, Hawaii Housing Finance and Development Corporation	(2) 4-5-21:003
Right-of-Way Parcel 40 (Rev. 1) = State of Hawaii, Hawaii Housing Finance and Development Corporation	(2) 4-5-21:003

COMPENSATION:

The acquisition of the fee simple parcels was gratis and compensation was not required.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

A Chapter 343, Hawaii Revised Statutes Final Environmental Assessment and Finding of No Significant Impact for the proposed action was published by the State of Hawaii, Office of Environmental Quality Control on December 23, 2015.

REMARKS:

The project responds to a number of regional and local conditions affecting long-term transportation and land use planning in this region, such as shoreline erosion and coastal hazards, projected future increase of congestion within the project corridor, and overall long-range transportation planning. Overall, the primary purpose is to provide benefits towards preservation of the State highway system for coastal hazards while also providing enhanced capacity between Central Maui and West Maui.

The DOT completed the construction of Honoapiilani Highway Realignment, Phase 1A, Federal Aid Project No. NH-030-1(35) on March 14, 2013 with the enclosed Revocable Right of Entry dated April 17, 2009, but did not finalize its formal conveyance. 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.

Ms. Suzanne D. Case, Chairperson
February 25, 2020
Page4

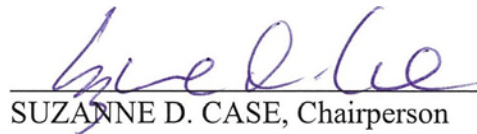
B. Authorize the acquisition even in the event of a change in the ownership of those parcels described herein and on the enclosed maps labeled collectively as Exhibit A, under the terms and conditions cited above which are by this reference incorporated herein.

Sincerely,

A stylized handwritten signature in black ink, appearing to read 'Jade T. Butay'.

JADE T. BUTAY
Director of Transportation

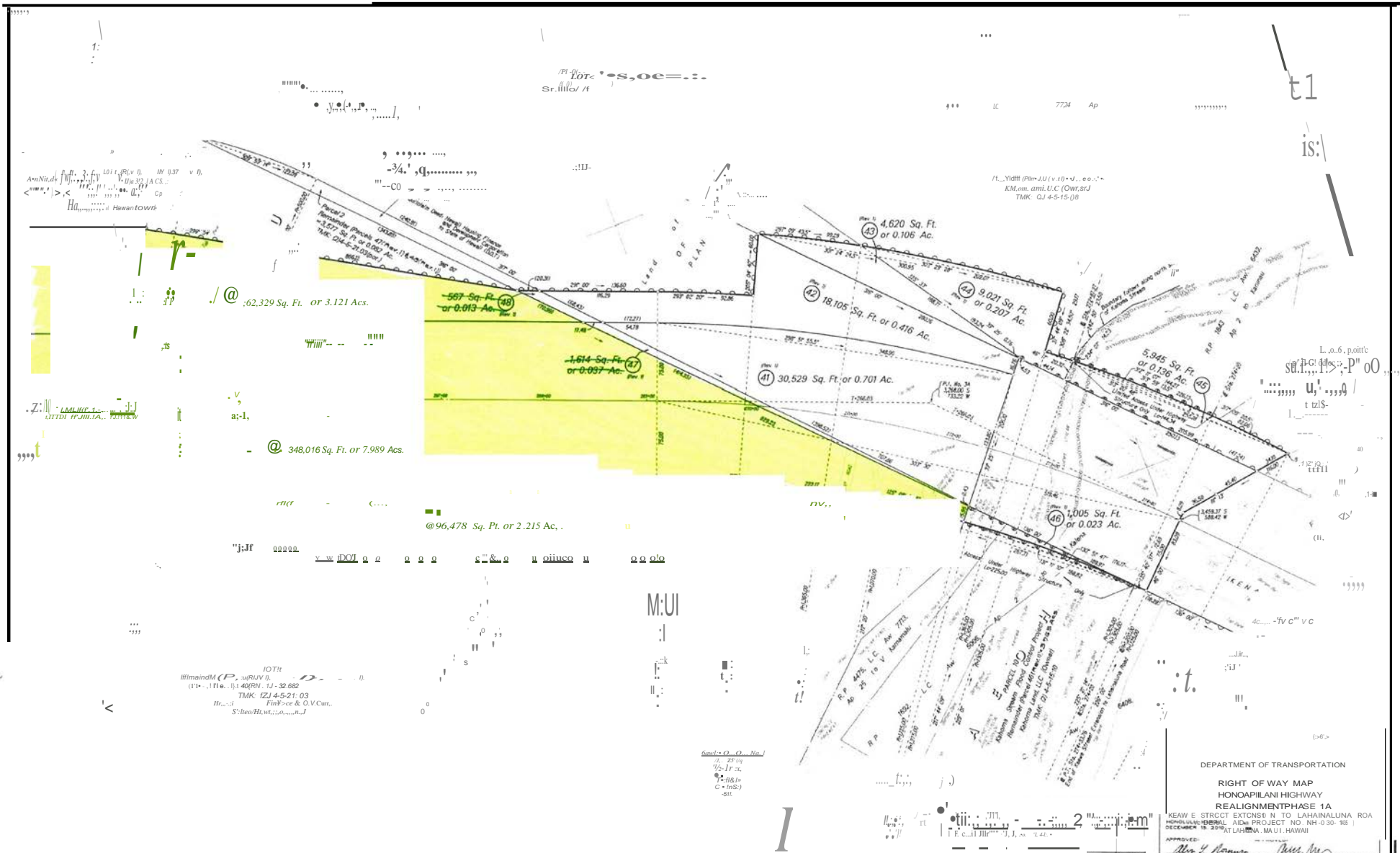
APPROVED FOR SUBMITTAL:

A handwritten signature in blue ink, appearing to read 'Suzanne D. Case', written over a horizontal line.

SUZANNE D. CASE, Chairperson

Enclosures





DATE: 11/18/2014
 DRAWN BY: J. H. HARRIS
 CHECKED BY: J. H. HARRIS
 SCALE: AS SHOWN

NOTES:
 1. THIS MAP IS A PART OF THE RIGHT OF WAY MAP FOR THE REALIGNMENT OF PHASE 1A OF THE KEAW E STREET EXTENSION N TO LAHAINALUNA ROAD, HONOLULU, HAWAII. THE PROJECT NUMBER IS NH-030-183. THE PROJECT WAS COMPLETED ON DECEMBER 18, 2014 AT LAHAINALUNA, MAUI, HAWAII.

Scale: 1" = 40' ±
 1/2" = 17' ±
 1/4" = 8' ±
 C = 1/8" ±
 SII

DEPARTMENT OF TRANSPORTATION
 RIGHT OF WAY MAP
 HONOAPIILANI HIGHWAY
 REALIGNMENT PHASE 1A
 KEAW E STREET EXTENSION N TO LAHAINALUNA ROAD
 HONOLULU, HAWAII. PROJECT NO. NH-030-183
 DECEMBER 18, 2014 AT LAHAINALUNA, MAUI, HAWAII

APPROVED:
 [Signature] [Signature]
 CADASTRAL ENGINEER FOR ADMINISTRATOR, HAWAIIAN DIVISION OF LAND AND NATURAL RESOURCES

SHEET NO. 4A OF 14 SHEETS

NOTES:
 1. THIS MAP IS A PART OF THE RIGHT OF WAY MAP FOR THE REALIGNMENT OF PHASE 1A OF THE KEAW E STREET EXTENSION N TO LAHAINALUNA ROAD, HONOLULU, HAWAII. THE PROJECT NUMBER IS NH-030-183. THE PROJECT WAS COMPLETED ON DECEMBER 18, 2014 AT LAHAINALUNA, MAUI, HAWAII.

0.1" = 1' ±
 0.05" = 0.6' ±

PROVED: [Signature] DATE: 11/18/2014

0.1" = 1' ±
 0.05" = 0.6' ±

NOTED ON: P.H. 78.6

3 : 15 : 20 :
1 : 5 : 10 :
Pif'W, .."

ATLANTA, MAUI, HAWAII

.....
1 : 15 : 20 :
5 : 10 : 15 :
20 : 25 : 30 :
35 : 40 : 45 :
50 : 55 : 60 :
65 : 70 : 75 :
80 : 85 : 90 :
95 : 100 :

LINDA LINGLE
GOVERNOR



COPY

KAREN SEDDON
EXECUTIVE DIRECTOR

STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
6TT QUEEN STREET, SUITE 300
Honolulu, **Hawaii** 96813
FAX: (808) 587-0600

09:DEV/0

REVOCABLE RIGHT OF ENTRY

PROJECT: Villages of Leiali'i
LOCATION: Lahaina, Maui, Hawaii
TMK (2) 4-5-021: portion of 003

A right-of-entry (the "Right of Entry") dated **April 17, 2009**, but effective as of **April 17, 2009**, is granted by the **HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION ("HHFDC")** to the **DEPARTMENT OF TRANSPORTATION, STATE OF HAWAII**, whose mailing address is 869 Punchbowl Street, Honolulu, Hawaii, 96813, its employees, officers, agents, representatives, invitees, and its Contractors, including their subcontractors and suppliers (hereinafter collectively "Permittee") onto and over the unimproved property of the proposed Lahaina By-Pass Highway, Phase 1A in the vicinity of Kahoma Stream on Tax Map Key (2) 4-5-21: portion of 003 within the Villages of Leiali'i project, Lahaina, Maui, Hawaii, as shown on the map marked Exhibit "A," which is attached and incorporated by reference (the "Property"), for the following purpose-

- Engineering, planning studies and construction for the Lahaina By-Pass Highway,

from the effective date of this Right of Entry until **December 31, 2009**, subject to the following conditions:

1. Except for the construction of the proposed Phase 1A of the Lahaina By-Pass Highway, upon vacating the Property, Permittee shall restore the Property to a condition as similar as reasonably possible to that which existed prior to the Permittee's entry to the Property.
2. Permittee shall accept the Property in "AS IS" condition.
3. Permittee shall cause its contractors to assume all responsibility for its actions or omissions in connection with this Right of Entry.
4. At all times during the term of this Right of Entry, Permittee shall keep the Property in a safe, clean, sanitary and orderly condition, and shall not

c, Ai1ACH, N1€NT A ”

Revocable Right of Entry to the Department of Transportation
Villages of Leialii, TMK (2) 4-5-21: portion of 003
Page2

- make, permit, or suffer any waste, strip, spoil, nuisance, or unlawful, improper or offensive use of the Property.
5. Permittee shall be responsible for clearing and removing all materials and debris generated during and resulting from Permittee's activity within the Property.
 6. Permittee shall ensure that any materials stored in and upon the Property shall not contain any hazardous or toxic material or substance as such terms have been, or may be, defined by any federal, state, county or municipal laws, ordinances, rules and regulations.
 7. Permittee shall observe and comply with all laws, ordinances, rules and regulations of the federal, state or county governments affecting the Property.
 8. Permittee's activities shall in no way be outside the scope contemplated under this Right of Entry, and upon written notification of violation by HHFDC, Permittee shall promptly remove all of Permittee's property and personnel from the Property.
 9. Permittee shall vacate the Property upon termination or expiration of this Right of Entry.
 10. This Right of Entry cannot be assigned, sold or transferred by Permittee.
 11. This Right of Entry may be terminated by written notification to Permittee at any time.
 12. This Right of Entry is non-exclusive. HHFDC may permit entry on the Property to other persons. Permittee shall work cooperatively with other persons granted use of the Property by HHFDC.
 13. This Right of Entry is subject to easements and conditions for entry by others. Should any of the other permittees be affected detrimentally by Permittee under this Right of Entry, all costs incurred for any damages or repairs shall be borne by Permittee.
 14. Except for the construction of the proposed Phase 1A of the Lahaina Bypass Highway, there shall be no construction on the Property which will

alter or detrimentally affect the Property, without prior written approval by HHFDC.

15. Permittee shall, at its sole cost and expense, undertake and be responsible for all necessary maintenance, upgrades, and repair of any and all improvements constructed on the Property under this Right of Entry. This provision shall survive termination of this Right of Entry.
16. Permittee shall cause its contractors to assume sole and complete liability for and shall indemnify, defend and hold the State of Hawaii and HHFDC harmless from and against any loss, liability, claim or demand for property damage, personal injury, and death arising out of any act or omission of Permittee's contractors under this Right of Entry.
17. Permittee shall cause its contractors to maintain insurance acceptable to HHFDC throughout the term of this Right of Entry. The policy or policies of insurance shall provide the following limits and coverages:

Coverage

Minimum Policy Limits

Commercial General
Liability and Automobile
Insurance

Permittee's contractors' commercial general liability and automobile liability insurance shall contain broad form property damage and bodily injury coverage of a combined single limit of not less than \$1,000,000 per occurrence arising out of or in connection with the performance of the work under this Right of Entry

Workers' Compensation

As required by Hawaii laws

Insurance shall be in force on the first day of the term of this Right of Entry. Each insurance policy required by this Right of Entry shall contain the following four provisions:

- a. It is agreed that any insurance maintained by the State of Hawaii shall apply in excess of and not contribute with insurance provided by this policy.

Revocable Right of Entry to the Department of Transportation
Villages of Leiali'i, TMK (2) 4-5-21: portion of 003
Page4

- b. The State of Hawaii is added as an insured party and loss payee for operations performed on the Property under this Right of Entry.
- c. If a general aggregate limit is used, the general aggregate limit shall apply separately to this Right of Entry.
- d. This insurance shall include a cross liability or severability of interest provision.

All insurance described herein shall be primary and cover the insured for all work to be performed under this Right of Entry, all work performed incidental thereto or directly or indirectly connected therewith, including work performed outside the work area and all change order work.

Permittee agrees to deposit with HHFDC, on or before the effective date of this Right of Entry, certificates of insurance necessary to satisfy HHFDC that the insurance provisions of this Right of Entry have been complied with. Permittee further agrees to keep such insurance in effect and the certificates therefor on deposit with HHFDC during the entire term of this Right of Entry. The certificates of insurance shall refer to this Right of Entry.

HHFDC shall retain the right at any time to review and approve coverage, form, and amount of the insurance required by this Right of Entry. If, in the reasonable opinion of HHFDC, the insurance provisions in this Right of Entry do not provide adequate protection for HHFDC, HHFDC may require the Permittee to obtain insurance sufficient in coverage, form, and amount to provide adequate protection. HHFDC's requirements shall be reasonable but shall be designed to assure protection from and against the kind and extent of the risks which exist at the time a change in insurance is required, provided that such additional insurance or coverage is available.

HHFDC shall notify the Permittee in writing of any changes in the insurance requirements desired by HHFDC. If the Permittee does not deposit copies of insurance policies with HHFDC incorporating such changes requested by HHFDC within 60 days of receipt of such notice, Permittee shall be in default and this Right of Entry shall terminate without further notice to the Permittee and HHFDC shall be entitled to all legal remedies.


- 18. Permittee shall provide a copy of any studies undertaken by Permittee under this Right of Entry to HHFDC.

Revocable Right of Entry to the Department of Transportation
Villages of Leialii, TMK (2) 4-5-21: portion of 003
Pages

19. HHFDC reserves the right to impose additional terms and conditions, if it deems them necessary.

Attachments

APPROVED AS TO FORM:


Deputy Attorney General
4-14-09

HAWAII HOUSING FINANCE AMO
DEVELOPMENT CORPORATION

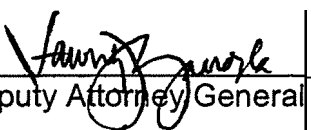
By: 
Executive Director
Its Executive Director

Dated: APR 17 2009

"HHFDC"


ACCEPTED AND AGREED:

APPROVED AS TO LEGALITY,
FORM, EXCEPTIONS, AND
RESERVATIONS:


Deputy Attorney General

Dated: HAR 23 2009

DEPARTMENT OF
TRANSPORTATION


Brennon T. Morioka, Ph.D., P.E.
Its Director

Dated: 4-1-09

"Permittee"

c:\lei\2009\roe dot 1/6/09

