

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

September 25, 2020

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

MAUI

Grant of Term, Non-Exclusive Easement to Maui Mixer, dba Na Mahi`ai `O Keanae for Auwai Maintenance Purposes, Keanae, Koolau, Hana, Maui, Tax Map Key: (2) 1-1-003:028; Issuance of Right of Entry to the State of Hawaii Department of Agriculture for Staging Area for Emergency Auwai Stabilization Project, Keanae, Koolau, Hana, Maui, Tax Map Key: (2) 1-1-003:092.

APPLICANT:

Maui Mixer, dba Na Mahi`ai `O Keanae, a domestic nonprofit corporation. (Applicant)

LEGAL REFERENCE:

Section 171-13 and 43.1, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government land located at Keanae, Koolau, Hana, Maui, identified by Tax Map Keys: (2) 1-1-003:028 and 092, as shown on the attached map labeled **Exhibit A**.

AREA:

305 square feet, more or less, for the easement.

ZONING:

State Land Use District:	Agriculture
County of Maui CZO:	Agriculture

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:

Tax Map Key (2) 1-1-003:028: Encumbered by Executive Order 4286 to the Department of Agriculture for agriculture purposes.

Tax Map Key (2) 1-1-003:092: Encumbered by Revocable Permit No. 7568 to William Latham for agriculture purposes.

CHARACTER OF USE:

Auwai Maintenance Purposes

TERM:

55 years.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

Gratis for right-of-entry and easement.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The Final Environmental Assessment for the subject project was published in the Office of Environmental Quality Control's The Environmental Notice on February 8, 2020 with a finding of no significant impact (FONSI).

DCCA VERIFICATION:

Place of business registration confirmed:	YES
Registered business name confirmed:	YES
Applicant in good standing confirmed:	YES

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

During the 2018 Session, the Legislature appropriated \$4.5 million in capital improvement project (CIP) funds for planning, design, and construction projects for irrigation and water delivery systems in East Maui to support agricultural activities, primarily focused on small farmers in East Maui to further the State's goals of food security and self-sufficiency. The Hawaii Department of Agriculture (DOA) is responsible for project selection and CIP fund administration. The Board previously approved a construction right of entry and a revocable permit for the long-term maintenance of the improvements for one of the projects at its meeting on July 10, 2020 under agenda item D-2. DOA intends to fund two additional projects, both of which also require dispositions from the Board to address long term maintenance of improvements constructed pursuant to the projects.

Like the previous project, this project involves the emergency stabilization of an auwai located on the subject parcel. This project proposes to stabilize one of the auwai banks just downstream of the diversion box (without touching the diversion box) for approximately 20 linear feet of an earthen berm with 2 foot tall concrete wall to match a similar concrete wall on the opposite site of the same ditch. Photos of the project are included as **Exhibit B**. The project proposes to improve the water delivery to actively cultivated loi kalo by reducing erosion, sedimentation and poor water temperature, benefitting downstream loi kalo farmers.

In this instance, the subject parcel is already under the management of DOA via Executive Order 4286, so no construction right of entry will be needed to conduct the stabilization project. However DOA has requested a right-of-entry for the adjacent property, Tax Map Key (2) 1-1-003:092, to establish a temporary staging area for the project. The property is currently encumbered by Revocable Permit 7568 to William Latham for agriculture purposes. DOA is working with the permittee to obtain written concurrence, which is required for the right-of-entry.

Although DOA will manage the stabilization project, DOA will not assume responsibility for the long-term maintenance of the improvements. The Applicant has offered to assume maintenance responsibilities for the improvements by requesting an easement. Applicant is a local non-profit entity whose goal is to improve the socio-economic conditions of the Keanae community, farmers, youth and their families. The Applicant is a 501(c)(3) tax exempt eleemosynary organization, which qualifies them to receive the easement at nominal consideration pursuant to Section 171-43.1, HRS, subject to the Board's approval.

The Applicant has implemented programs to increase cultural knowledge and vocation, support the sustainability of Keanae, and perpetuate taro farming for subsistence and cultural purposes. The Applicant has 3 taro farmers on its board of directors with extensive experience in taro farming and production, as well as diversified agriculture. In support of their mission, the Applicant has provided training, equipment and expertise to support families seeking to cultivate taro, as well as assistance in selling taro and other crops harvested. Furthermore, the Applicant's board members have historically

maintained the auwai on a volunteer basis and the Applicant has community support continue this activity.

Given the Applicant's non-profit status, expertise in taro cultivation and diversified agriculture, their activities in support of the community, and the importance of the auwai in supporting traditional and customary practices for subsistence use and cultural practices, staff recommends that the Board approve the easement at gratis.

RECOMMENDATION: That the Board:

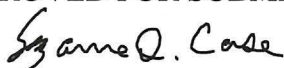
1. Authorize the issuance of a right-of-entry permit to the State of Hawaii, Department of Agriculture covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - a. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time;
 - b. Such other terms and conditions as may be prescribed by the Chairperson to serve the best interests of the State.
2. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a term non-exclusive easement to Maui Mixer, dba Na Mahi'ai 'O Keanae covering the subject area for auwai 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.

Respectfully Submitted,



Ian Hirokawa
Special Projects Coordinator

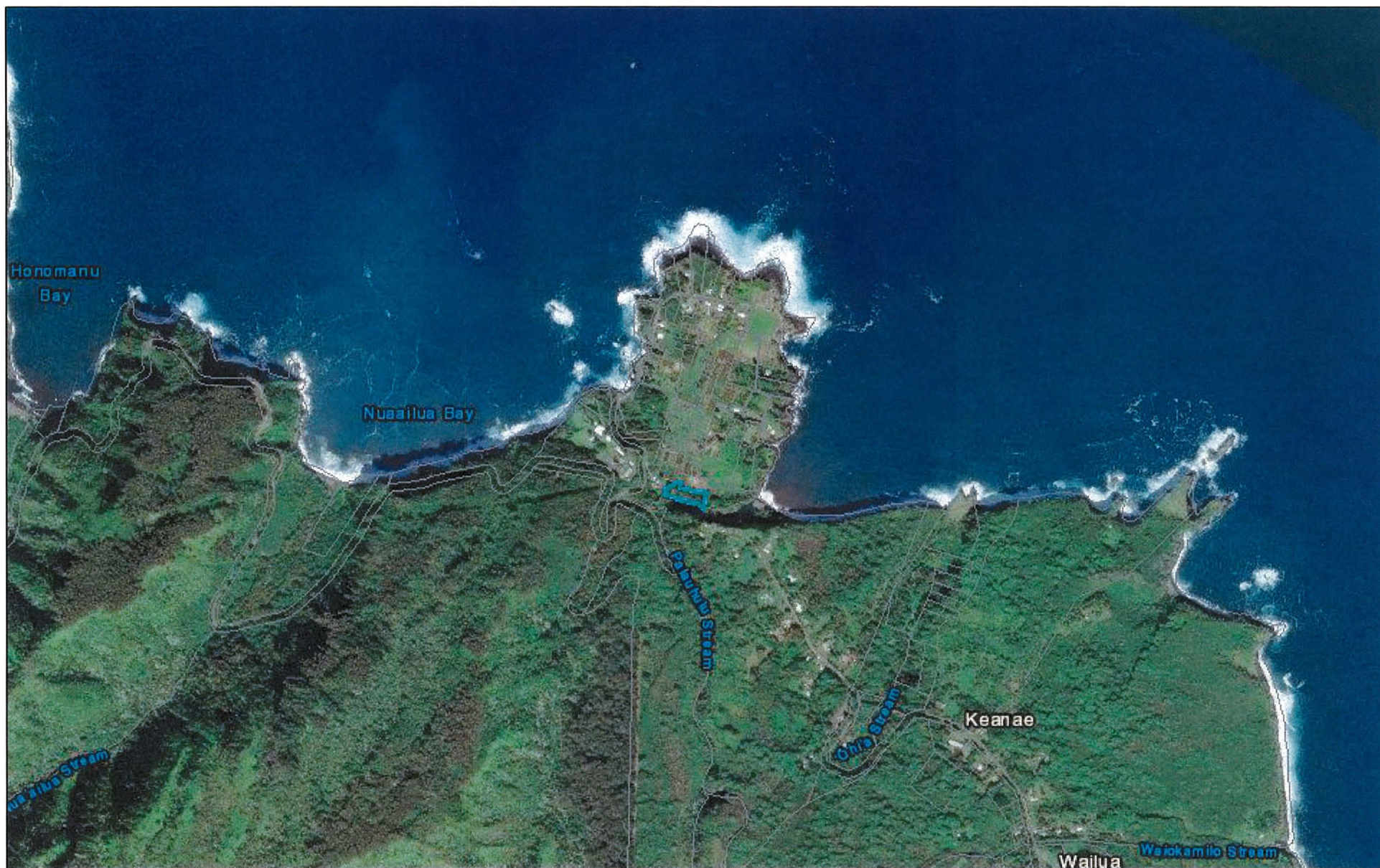
APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

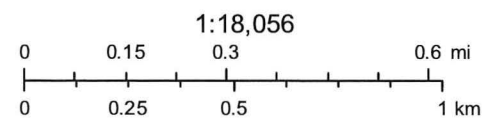
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Public Land Trust Information System



September 8, 2020

EXHIBIT A



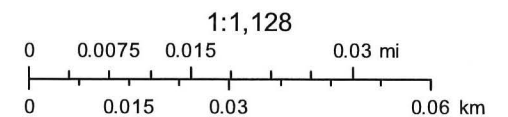
Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Public Land Trust Information System



September 8, 2020

EXHIBIT A



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

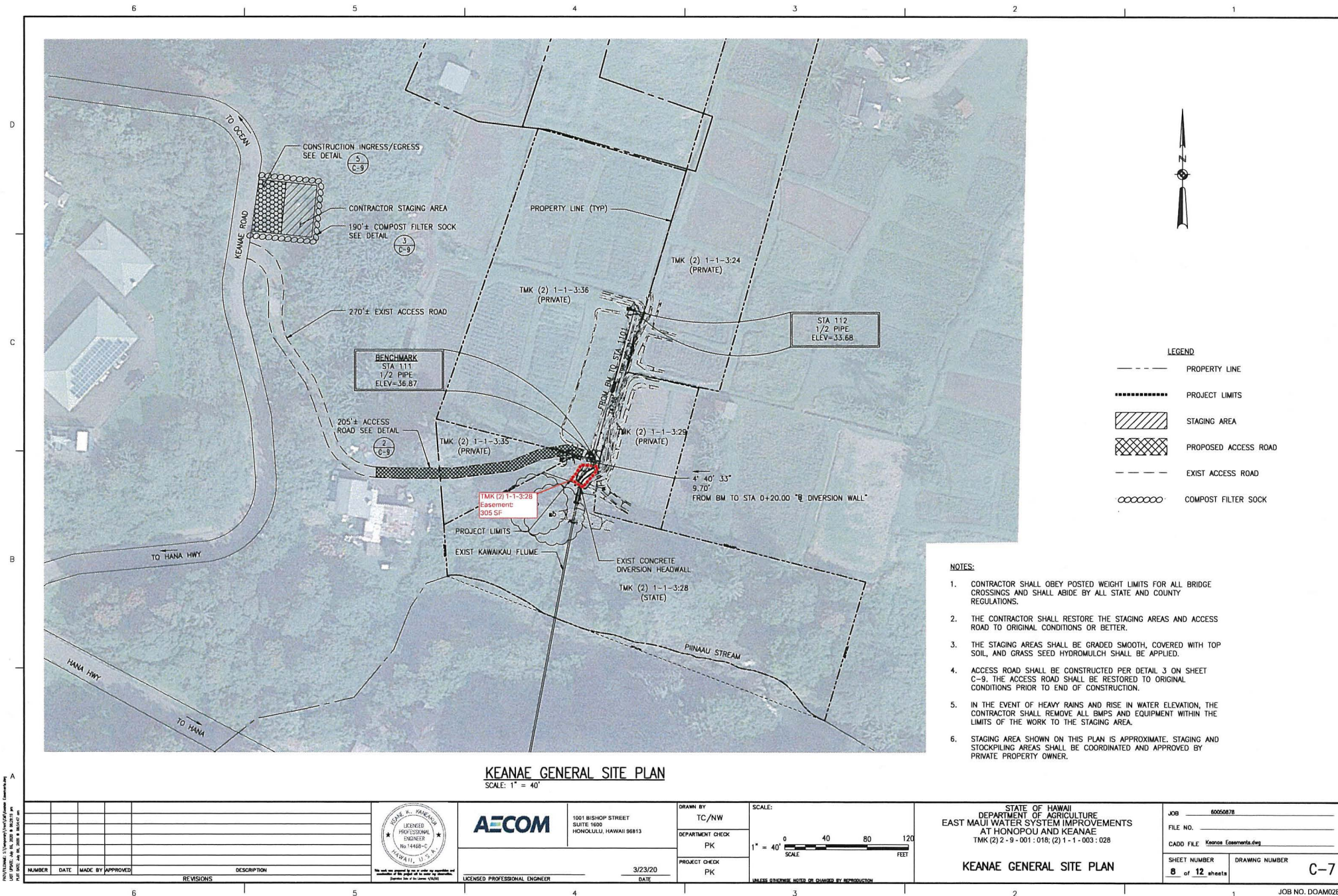


EXHIBIT A

A map of the Keanae area on Maui, Hawaii. The map shows residential lots with parcel numbers, roads including Keanae Road and Hana Highway 360, and streams like Pineapple Stream. A red dot marks the project location near lot 211003092. An inset map shows the location of Keanae on the island of Maui. A legend identifies symbols for the Project Location, State Routes, County Roads, and Streams. A scale bar indicates distances up to 1,000 feet, and a north arrow is present.

A photograph showing several narrow, concrete-lined irrigation channels or ditches running through a lush green field. Water is visible flowing in some of the channels. The surrounding vegetation includes various tropical plants and trees.

1. Existing irrigation channels

A photograph of a concrete diversion box or structure situated in a stream. Water is cascading over the structure, creating white foam. The stream is surrounded by dense tropical forest with many ferns and other plants.

2. Existing diversion box

EXHIBIT B