

DAVID Y. IGE  
GOVERNOR



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

JADE T. BUTAY  
DIRECTOR

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

IN REPLY REFER TO:

Board of Land and  
Natural Resources  
State of Hawai'i  
Honolulu, Hawai'i

REQUEST APPROVAL FOR:

1) ACQUISITION OF PRIVATE LANDS; 2) ISSUANCE OF A TEMPORARY RIGHT-OF-ENTRY PERMIT TO THE DEPARTMENT OF TRANSPORTATION FOR MANAGEMENT PURPOSES; AND 3) SET ASIDE TO THE DEPARTMENT OF TRANSPORTATION FOR ADDITION TO LĪHU'E AIRPORT AT HANAMĀ'ULU, LĪHU'E, KAUA'I, TAX MAP KEY: (4) 3-7-002:001 (PORTION); AND

ISSUANCE OF A GRANT OF A PERPETUAL, NON-EXCLUSIVE EASEMENT AND TEMPORARY RIGHT-OF-ENTRY PERMIT TO VISIONARY LLC, A VIRGINIA LIMITED LIABILITY COMPANY, FOR ACCESS PURPOSES AT HANAMĀ'ULU, LĪHU'E, KAUA'I, TAX MAP KEY: (4) 3-5-001:158 (PORTION).  
KAUA'I

PRIVATE LANDOWNER:

Visionary LLC, a Virginia limited liability company.

CONTROLLING AGENCY:

Department of Transportation, Airports Division (DOTA).

LEGAL REFERENCE:

Sections 171-11, 171-13, 171-17, 171-30 and 261-4, Hawai'i Revised Statutes ("HRS"), as amended.

LOCATION:

Lot 1 (New Roadway): Privately owned lands of Visionary LLC, situated at Hanamā'ulu, Līhu'e, Kaua'i, State of Hawai'i, identified by Tax Map Key: (4) 3-7-002:001 (Portion), as shown on the attached map labeled Exhibit A.

Access Easement: Portion of Government lands situated at Hanamā'ulu, Līhu'e, State of Hawai'i, identified by Tax Map Key: (4) 3-5-001:158 (Portion), as shown on the attached map labeled Exhibit B.

**ITEM M-7**

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GRANT OF PERPETUAL, NON-EXCLUSIVE EASEMENT, VISIONARY LLC  
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AREA:

Lot 1 (New Roadway): Tax Map Key: (4) 3-7-002:001 (Portion), consisting of 3.663 acres, more or less.

Access Easement: Tax Map Key: (4) 3-5-001:158 (Portion), consisting of 5,000 square feet, more or less.

ZONING:

State Land Use: Urban  
County: Industrial

LAND TITLE STATUS:

Section 5(a), Hawai‘i Admissions Act: Non-Ceded  
DHHL, 30% entitlement lands Yes \_\_\_ No X

CURRENT USE STATUS:

Lot 1 (New Roadway): Vacant and unimproved land.

Access Easement: Land encumbered under Governor’s Executive Order No. 4614, dated October 28, 2019, setting aside 883.583 acres, more or less, designated as Līhu‘e Airport under the control and management of the Department of Transportation, Airports Division, State of Hawai‘i, for airport purposes.

CHARACTER OF USE:

Lot 1 (New Roadway): For airport and airport related purposes.

Access Easement: Right, privilege and authority to construct, use, maintain and repair a right-of-way over, under and across State-owned land for access purposes.

CONSIDERATION:

Lot 1 (New Roadway): To be determined by appraisal pursuant to Section 171-30, HRS.

Access Easement: To be determined by appraisal pursuant to Section 171-17, HRS.

CHAPTER 343, HRS – ENVIRONMENTAL ASSESSMENT:

The environmental impacts of the proposed acquisition and access easement were evaluated in the Līhu‘e Airport Improvements Final Environmental Impact Statement (FEIS), prepared by the State of Hawai‘i, Department of Transportation, Airports Division (DOTA), and published by

the Office of Environmental Quality Control in the November 23, 2007, issue of The Environmental Notice. DOTA has determined that the proposed action is consistent with the 2007 FEIS and no further assessment is necessary.

VISIONARY REQUIREMENTS:

1. Visionary shall be required to provide survey maps and descriptions, for Lot 1 (New Roadway) and Access Easement, according to State DAGS standards and at Visionary's own cost;
2. Obtain a title report for Lot 1 (New Roadway) at Visionary's own cost and subject to review and approval by DOTA; and
3. Obtain final subdivision approval for Lot 1 (New Roadway) from the Planning Department, County of Kaua'i, at Visionary's own cost.

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>X</u>	NO _____
Registered business name confirmed:	YES <u>X</u>	NO _____
Good standing confirmed:	YES <u>X</u>	NO _____

REMARKS:

DOTA has been in negotiations with Visionary LLC to finalize the purchase of Lots 2, 3 and 5 within Visionary LLC's proposed Ahukini Makai industrial subdivision located adjacent to Lihu'e Airport. Access to/from the Ahukini Makai subdivision consists of an interior roadway lot from Kapule Highway to Ahukini Road, Lot 1 (Roadway). During these negotiations, it was determined, that in the best interests of the State, and serving a public purpose, DOTA also acquire a portion of the roadway lot, now identified as Lot 1 (New Roadway), consisting of 3.663 acres, more or less, see attached Exhibit C.

Lot 1 (Roadway) initially provided full access from Kapule Highway to Ahukini Road. Due to concerns regarding airport security controls, road maintenance issues and competition with DOTA's airport lease lots, Visionary LLC agreed to convey a portion of Lot 1 (Roadway) to DOTA. The initial Lot 1 (Roadway) is now separated into two lots, Lot 49 (Roadway) and Lot 1 (New Roadway), with Visionary LLC conveying Lot 1 (New Roadway) to DOTA. Visionary LLC plans to convey Lot 49 (Roadway) to the County of Kaua'i at a later date, see attached Exhibit D.

The portion of Lot 1 (New Roadway) from Kauloku Place up to Lot 49 (Roadway) will remain unpaved, providing greater development potential for DOTA's Lots 2, 3 and 5. The portion of Lot 1 (New Roadway) from Ahukini Road up to and including Kauloku Place will be paved by Visionary, providing access to DOTA's lots and Visionary's Lot 1

(Remainder Lot), Lot 4 and Lot 47, see attached Exhibit D. Lot 49 (Roadway) will be paved providing access to Kapule Highway for Visionary's lots.

Visionary LLC has agreed to convey Lot 1 (New Roadway) to DOTA, subject to a reservation for access purposes to Visionary LLC's Lot 1 (Remainder Lot), Lot 4 and Lot 47.

In addition, due to DOTA's operational changes relating to the roadway, it has recently come to DOTA's attention that there is no recorded legal access to DOTA's Ahukini Road from Lot 1 (New Roadway). In discussions with Visionary LLC, DOTA proposes to issue a perpetual, non-exclusive easement for access purposes to Visionary LLC and its successors and assigns, for access to Visionary LLC's Lot 1 (Remainder Lot), Lot 4 and Lot 47, see attached Exhibit D.

Subject to an appraisal pursuant to Section 171-30, HRS, DOTA anticipates a value for the acquisition of Lot 1 (New Roadway) to be greater than the value for the access easement. The consideration for DOTA's acquisition of Lot 1 (New Roadway) will be offset against the access easement consideration, with any excess value for Lot 1 (New Roadway) deemed gratis and not owing by DOTA.

Applicant 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.

There are no other pertinent issues or concerns.

RECOMMENDATION: That the Board:

1. Authorize the acquisition of the subject private land by the DOTA, subject to the terms and conditions cited above which are by this reference incorporated herein, and further subject to the completion or issuance of the following items:
  - A. An appropriate conveyance document, as reviewed by the Department of the Attorney General and by the Department of Transportation; and,
  - B. Such other terms and conditions as may be prescribed by the Chairperson of the Board of Land and Natural Resources or the Director of Transportation to best serve the interests of the State.
2. Authorize the issuance of a management right-of-entry permit to DOTA, covering the subject area under the terms and conditions cited above, effective immediately upon the acquisition by DOTA, which are by this reference, incorporated herein and further subject to the following:

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- 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 of the Board of Land and Natural Resources or the Director of Transportation to best serve the interests of the State.
3. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject land to the DOTA, 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 executive order form, as may be amended from time to time;
  - B. 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 setting aside;
  - C. Review and approval by the Department of the Attorney General; and
  - D. Such other terms and conditions as may be prescribed by the Chairperson of the Board of Land and Natural Resources or the Director of Transportation to best serve the interests of the State.
4. Authorize the issuance of a perpetual, non-exclusive easement to Visionary LLC, a Virginia limited liability company, covering the subject area for access purposes, under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
  - A. An appropriate easement document, as reviewed and approved by the Department of the Attorney General and by the Department of Transportation;
  - 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 of the Board of Land and Natural Resources or the Director of Transportation to best serve the interests of the State.
5. Authorize the issuance of a right-of-entry permit to Visionary LLC, a Virginia limited liability company, covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:

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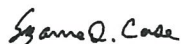
- A. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time;
- B. The right-of-entry permit shall remain in force until the grant of easement has been issued;
- C. Review and approval by the Department of the Attorney General; and
- D. Such other terms and conditions as may be prescribed by the Chairperson of the Board of Land and Natural Resources or the Director of Transportation to best serve the interests of the State.

Respectfully submitted,

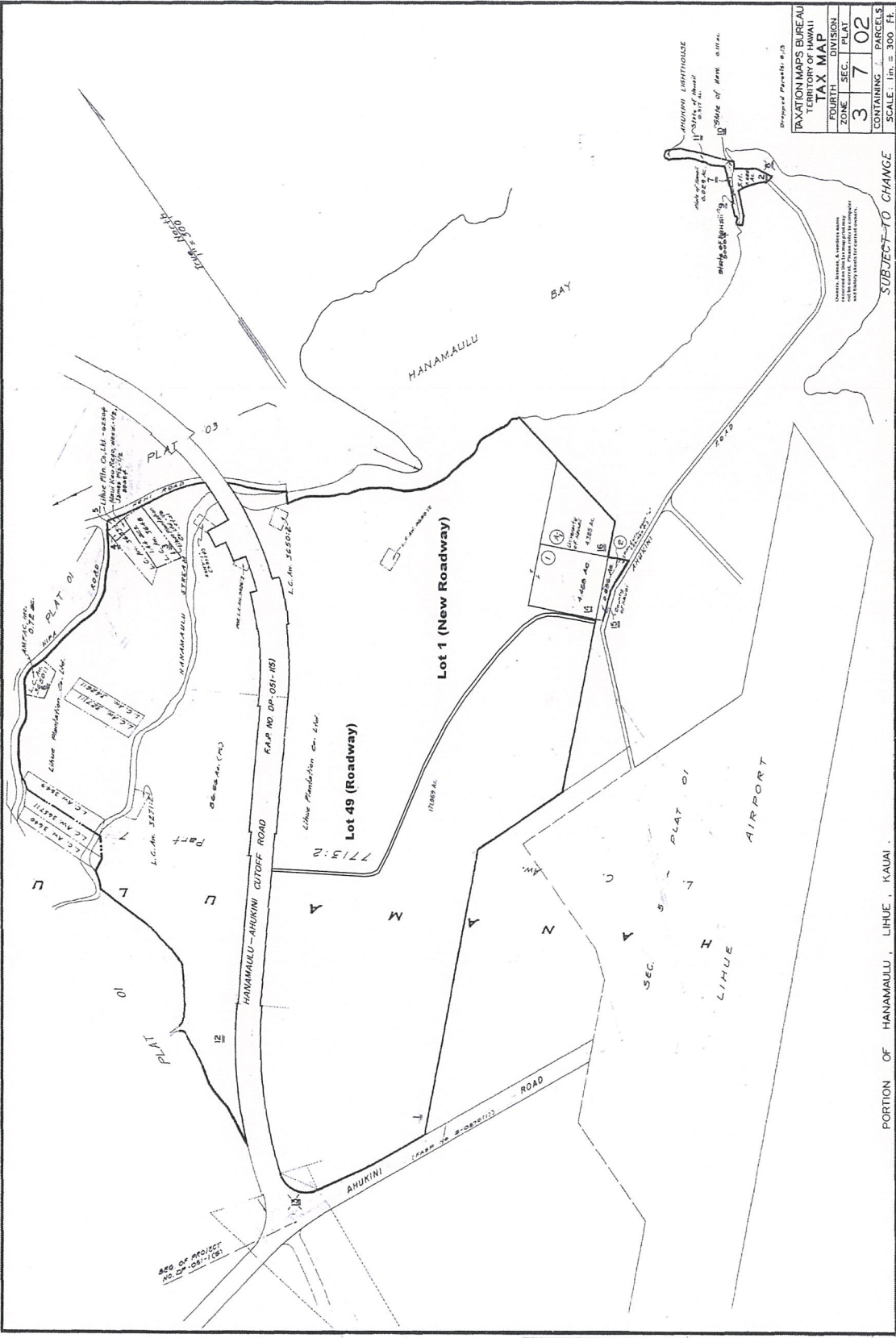


JADE T. BUTAY  
Director of Transportation

APPROVED FOR SUBMITTAL:



SUZANNE D. CASE  
Chairperson and Member



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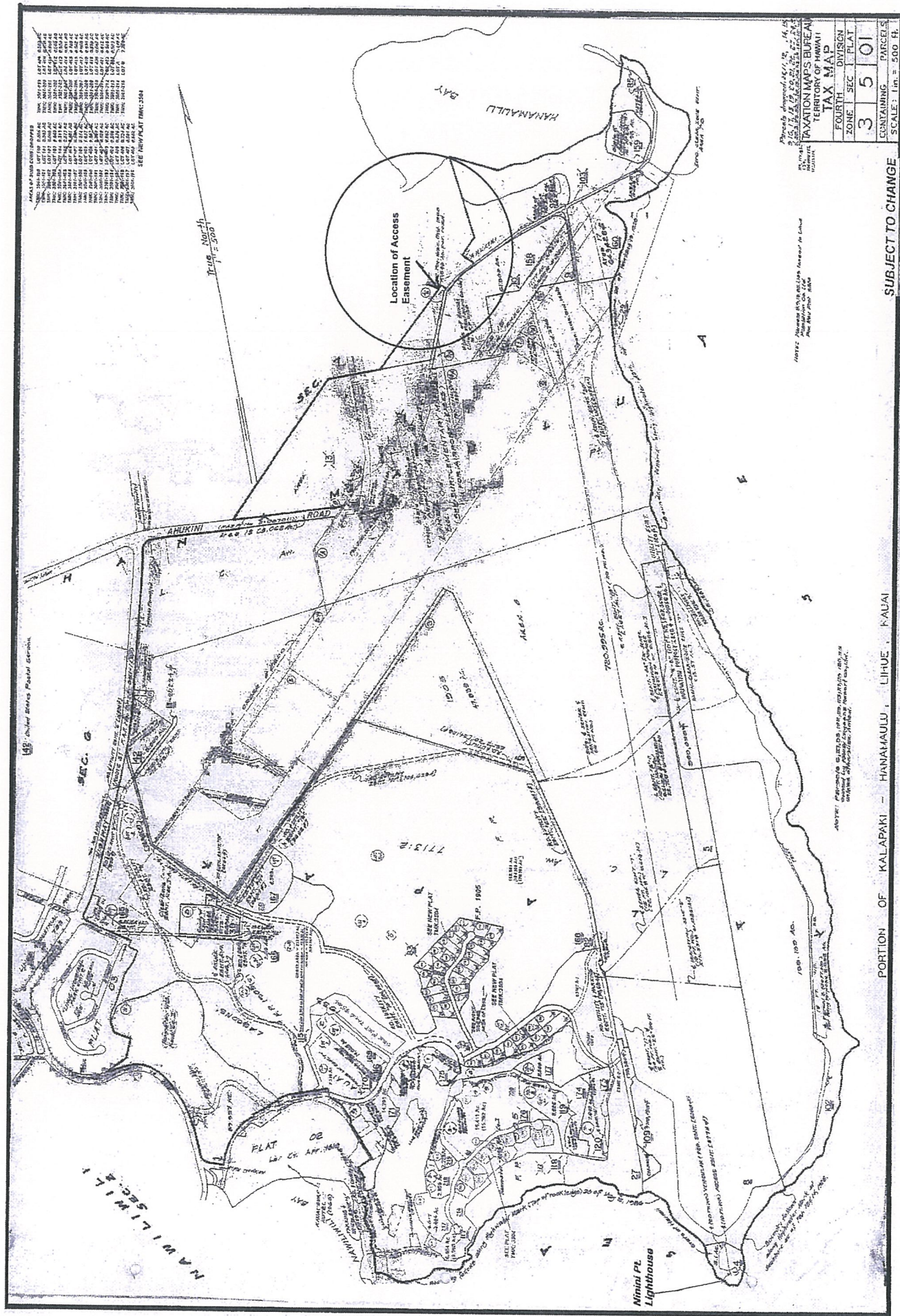
Dwg No.: 2565  
 Source: Tax Maps Bureau  
 By: H.N.G.S.L.C. Sept 1956.

TAXATION MAPS BUREAU		TERMINAL MAPS BUREAU	
TERRITORY OF HAWAII		TERRITORY OF HAWAII	
<b>TAX MAP</b>			
FOURTH	DIVISION	SECTION	PLAT
3	7	02	
CONTAINING PARCELS			SCALE: 1 in. = 300 ft.

SUBJECT TO CHANGE

EXHIBIT A

PORTION OF HANAMAULU, LIHUE, KAUAI.



SEE MAP PLAT, TRAC 204

1000 2001001	LOT 201	0.0000
1000 2001002	LOT 202	0.0000
1000 2001003	LOT 203	0.0000
1000 2001004	LOT 204	0.0000
1000 2001005	LOT 205	0.0000
1000 2001006	LOT 206	0.0000
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1000 2001009	LOT 209	0.0000
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1000 2001049	LOT 249	0.0000
1000 2001050	LOT 250	0.0000

TERMINAL MAPS BUREAU  
 TERRITORY OF HAWAII  
 TAX MAP  
 FOURTH DIVISION  
 ZONE SEC PLAT  
 3 5 01  
 CONTAINING PARCELS  
 SCALE: 1 in = 500 ft.

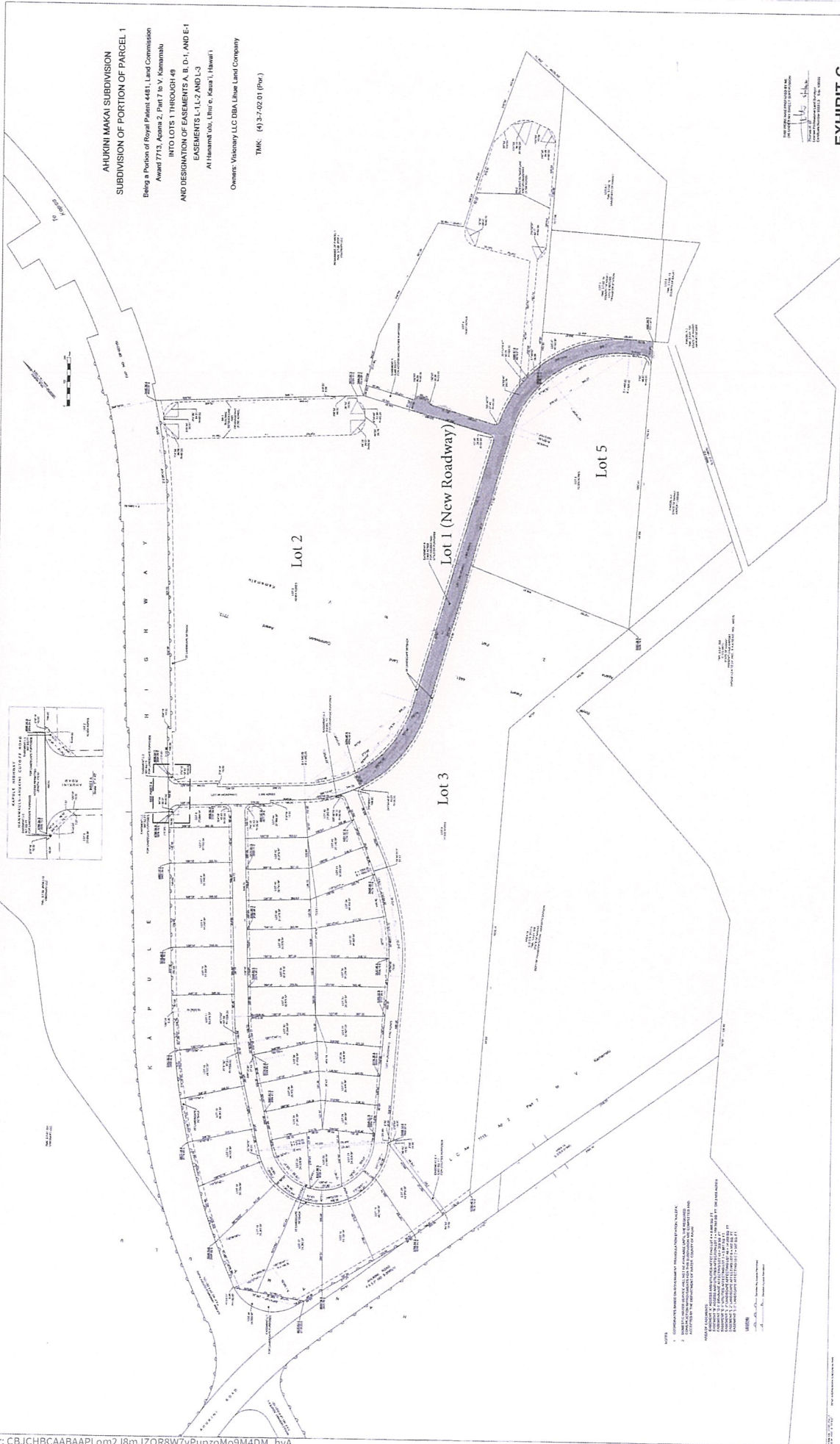
PORTION OF KALAPAKI - HANAULU, LIHUE, KAUAI

PORTION OF KALAPAKI - HANAULU, LIHUE, KAUAI

PORTION OF KALAPAKI - HANAULU, LIHUE, KAUAI

EXHIBIT B

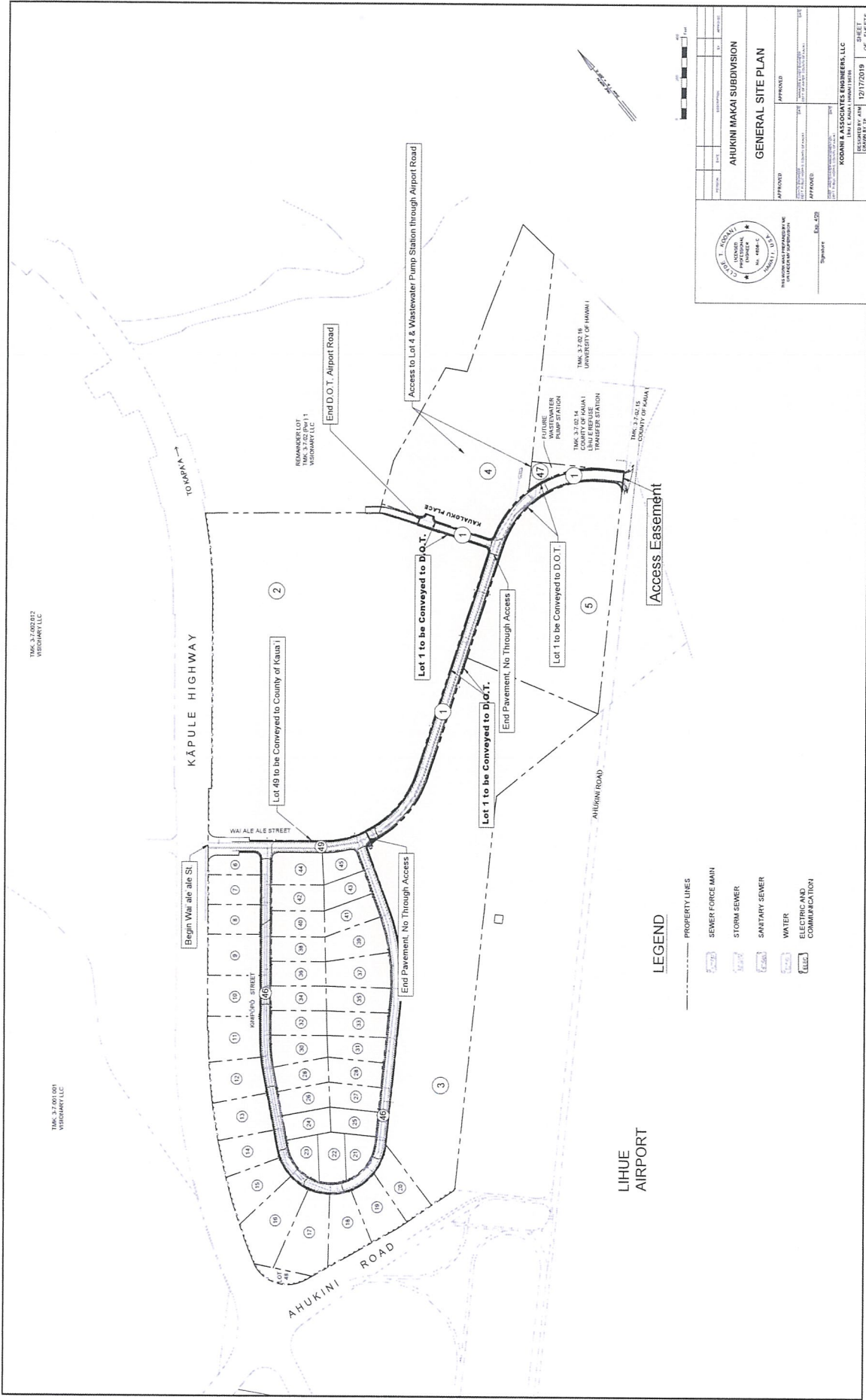




**AHUKINI MAKAI SUBDIVISION**  
**SUBDIVISION OF PORTION OF PARCEL 1**  
 Being a Portion of Royal Patent 4401, Land Commission  
 Award 7713, Akona 2, Part 7 to Y. Komarashi  
**INTO LOTS 1 THROUGH 49**  
**AND DESIGNATION OF EASEMENTS A, B, D-1, AND E-1**  
**EASEMENTS L-1, L-2 AND L-3**  
 At Hanalei, Kauai, Hawaii  
 Owners: Viceroy LLC DBA Lina Land Company  
 TMK: (4)3-7-0201 (Pw)

THE ENGINEER HAS CONDUCTED A VISUAL INSPECTION OF THE PROPERTY AND HAS FOUND THAT THE INFORMATION FURNISHED TO HIM BY THE OWNER IS TRUE AND CORRECT AND THAT THE PROPERTY IS CAPABLE OF BEING SUBDIVIDED AS SHOWN ON THIS PLAN.

**EXHIBIT C**



<b>AHUKINI MAKAI SUBDIVISION</b>	
<b>GENERAL SITE PLAN</b>	
APPROVED: _____	APPROVED: _____
PROJECT: AHUKINI MAKAI SUBDIVISION DRAWN BY: E. L. O. S. DATE: 12/17/2019	
ENGINEER: E. L. O. S. REGISTERED PROFESSIONAL ENGINEER LICENSE NO. 1486-C STATE OF HAWAII	
CLIENT: HONOLULU DEVELOPMENT ENGINEERS, LLC 1000 KALANOA'OLE DRIVE, SUITE 1000 HONOLULU, HI 96813	
SHEET NO. 12/17/2019 TOTAL SHEETS: 12	

EXHIBIT D