

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

ISSUANCE OF A RIGHT-OF-ENTRY PERMIT FOR
ACCESS PURPOSES OVER LĀNA'I AIRPORT
LĀNA'I RESORTS, LLC
TAX MAP KEY NO: (2) 4-9-002: 041 (PORTION)

LĀNA'I

APPLICANT:

Lāna'i Resorts, LLC (Lāna'i Resorts), a Hawai'i limited liability company, doing
business as Pūlama Lāna'i.

LEGAL REFERENCE:

Section 171-55, Hawai'i Revised Statutes (HRS), as amended.

LOCATION:

Portion of Lāna'i Airport (LNY), Island of Lāna'i, identified by Tax Map Key: 2nd
Division, 4-9-002:041 (portion), see attached Exhibit A.

AREA:

2.89 acres, more or less (see Exhibits B and B-1).

ZONING:

State Land Use: Urban
County: Airport District

ITEM M-21

BLNR – ISSUANCE OF A RIGHT-OF-ENTRY PERMIT FOR ACCESS PURPOSES OVER
LĀNA‘I AIRPORT, LĀNA‘I RESORTS, LLC
Page 2

LAND TITLE STATUS:

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

CURRENT USE STATUS:

Land encumbered under Governor’s Executive Order No. 4568, dated November 30, 2018, setting aside 507.795 acres designated as Lāna‘i Airport to be under the control and management of the State of Hawai‘i, Department of Transportation (DOT) for airport purposes.

CHARACTER OF USE:

Roadway access and utility purposes (overhead electrical transmission lines).

TERM:

The term commences on June 20, 1996, the date of the Dedication Deed for Lot 13-B that was conveyed to the State of Hawai‘i, by and through the Department of Transportation, recorded as Document No. 2412777. The term shall continue in full force and effect until it is terminated by DOT in its sole discretion, and upon giving a one-year prior written notice.

CONSIDERATION:

Gratis.

CHAPTER 343, HRS – ENVIRONMENTAL ASSESSMENT:

The Miki Basin Industrial Park Final Environmental Assessment (FEA), pursuant to HRS, Chapter 343, received a Finding of No Significant Impact (FONSI) determination from the Land Use Commission (LUC); the LUC is the Approving Agency in this Applicant Action by Lāna‘i Resorts. The DOT reviewed the FEA and supports the LUC FONSI determination for this action.

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:

- A. In August 1991, DOT and Dole Food Company (DOLE), previous landowner to Lāna‘i Resorts, entered into a Land Transfer Agreement (LTA), whereby DOLE would donate approximately 416 acres for the expansion of Lāna‘i Airport (LNY). The LTA provided that DOT would obtain all land use boundary amendment approvals, identify metes and bounds, and obtain county and State Land Court approvals for the subdivision of the approximately 416 acres.
- B. As set forth by Land Court Order 113246 dated September 1, 1993, DOLE designated Easement 4 (access and utility purposes) on Map 5 of Land Court Consolidation 170.
- C. In June 1994, DOT’s consultant prepared subdivision maps and obtained county approvals for subdivision of DOLE’s Lot 13. Maps were prepared based on previously prepared Map 5 of Land Court Consolidation 170, without a ground survey. Easement 4 was situated outside of the anticipated LNY boundary as shown on Map 6 of Land Court Consolidation 170.
- D. In September 1994, by Deed, Lot 12 (Tax Map Key No. (2) 4-9-002:050), together with non-exclusive easement for road and utility purposes over Easement 4, now known as Miki Road, was conveyed to Maui Electric Company, Limited (MECO) by the original landowner, DOLE.
- E. In June 1996, Castle and Cooke, Inc., successor landowner to DOLE, donated Lots 13-B through 13-G, consisting of approximately 416 acres to DOT for LNY expansion. The dedication deed did not identify Easement 4 as an encumbrance affecting DOT’s Lot 13-B.
- F. In August 1999, DOT completed a ground survey of LNY boundary, which showed that a portion of Easement 4 crosses the boundary of DOT’s Lot 13-B, see Exhibit B.
- G. Subsequently, we learned that MECO encroached outside of Easement 4 to erect support poles to certain existing utility poles, see Exhibit B-1. This action was quickly taken in January of 2017 to correct damage caused by a severe windstorm that had weakened certain existing poles and caused a power outage on the entire island.
- H. Lāna‘i Resorts is currently processing approval for a 500 feet runway extension for LNY.

BLNR – ISSUANCE OF A RIGHT-OF-ENTRY PERMIT FOR ACCESS PURPOSES OVER
LĀNA‘I AIRPORT, LĀNA‘I RESORTS, LLC

Page 4

- I. Following completion of the 500 ft. runway extension as described above, DOT will conduct a master plan update, and the results will help DOT re-evaluate the options of resolving the present encroachment of Easement 4 on LNY property. At that time, the FAA will be consulted.
- J. Applicant requests to delay the relocation of Easement 4 to outside LNY until such time that DOT determines the need to extend the aircraft runway and the right-of-entry area is necessary for LNY’s Runway Protection Zone. Applicant will be fully responsible to return the right-of-entry area to its original land condition, free of hazardous materials, and in accordance to additional but reasonable specification(s) made by DOT.
- K. Pending DOT’s re-evaluation, Lāna‘i Resorts requests issuance of a right-of-entry permit for the subject area for the purpose of continuing its use of Easement 4 and encroachment area that crosses through LNY.
- L. Lāna‘i Resorts acknowledges and agrees that it is fully responsible for the right-of-entry area for any and all use by both authorized and unauthorized users and action occurring on/over/through/under said area and will indemnify the DOT and the SOH.
- M. Errors pertaining to the location of Easement 4 on Land Court maps will be corrected by the State of Hawai‘i, DAGS, Land Survey Division.
- N. The DOT has informed the Federal Aviation Administration (FAA) of the DOT’s need to issue a right-of-entry permit to Lāna‘i Resorts to use Miki Road for the express purpose as described in this submittal. The FAA commented that it does not have any objections to the DOT executing an instrument to address the current use of Miki Road, and acknowledges that the information obtained from the master plan update would help in the decision-making process to resolve the encroachment issue.

RECOMMENDATION: That the Board:

Approve the issuance of a right-of-entry permit to Lāna‘i Resorts covering the subject area under the terms and conditions that addresses the remarks cited above, which are by this reference incorporated herein and further subject to the following:

- 1. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time;
- 2. Review and approval by the Department of the Attorney General; and

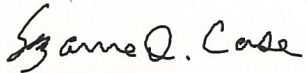
3. Such other terms and conditions as may be prescribed by the Chairperson or the Director of Transportation to best serve the interests of the State.

Respectfully submitted,

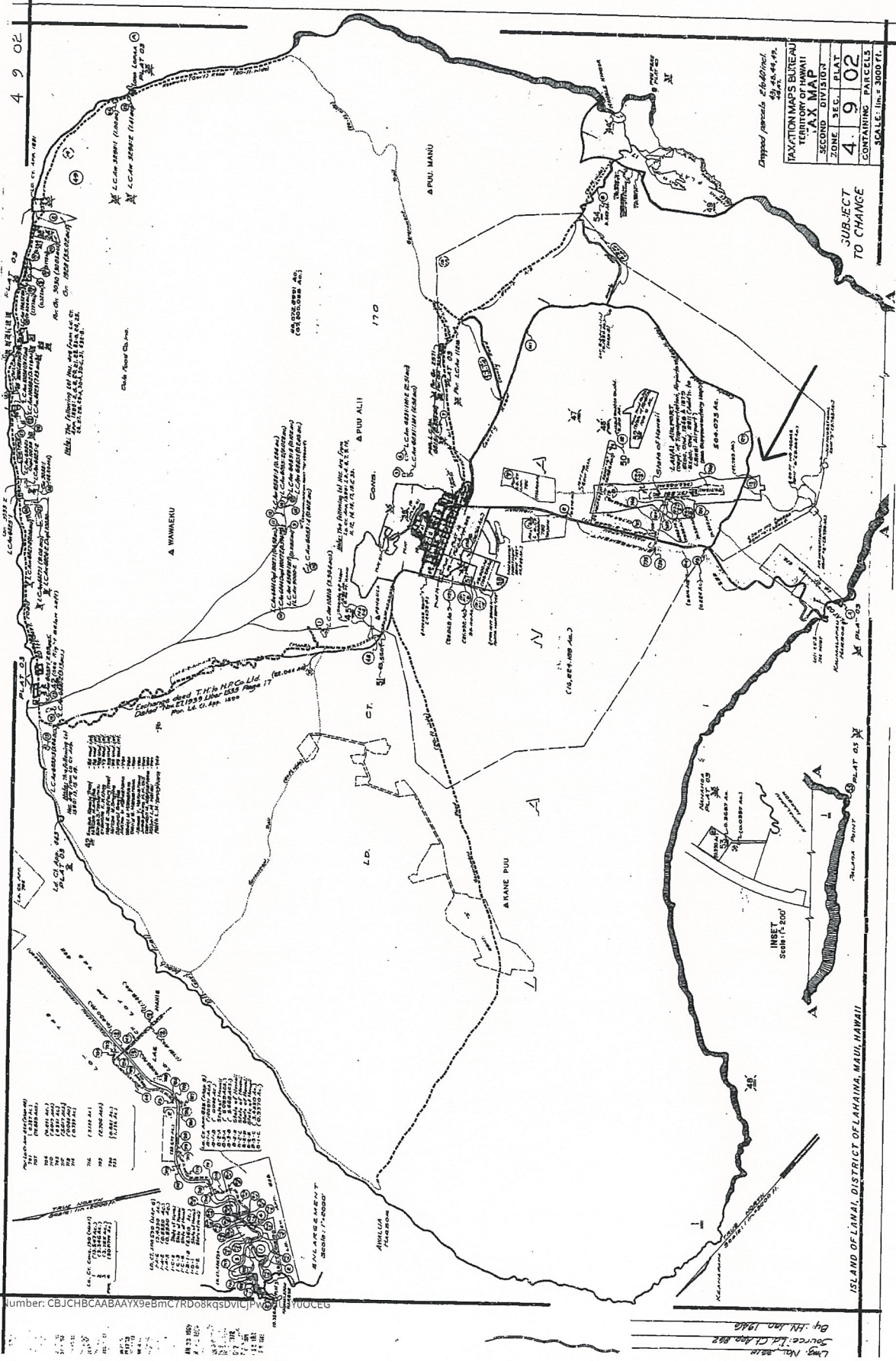


JADE T. BUTAY
Director of Transportation

APPROVED FOR SUBMITTAL:



SUZANNE D. CASE
Chairperson and Member



Original records 264/1000
 29.26.44.45
 TAXATION MAPS BUREAU
 TERRITORY OF HAWAII
 'A' MAP
 SECOND DIVISION
 ZONE SEC. PLAT
 4 9 02
 CONTAINING PARCELS
 SCALE: 1 in. = 3000 ft.

SUBJECT
 TO CHANGE

Lot No.	Area (Ac.)	Owner
1	0.00	
2	0.00	
3	0.00	
4	0.00	
5	0.00	
6	0.00	
7	0.00	
8	0.00	
9	0.00	
10	0.00	
11	0.00	
12	0.00	
13	0.00	
14	0.00	
15	0.00	
16	0.00	
17	0.00	
18	0.00	
19	0.00	
20	0.00	
21	0.00	
22	0.00	
23	0.00	
24	0.00	
25	0.00	
26	0.00	
27	0.00	
28	0.00	
29	0.00	
30	0.00	
31	0.00	
32	0.00	
33	0.00	
34	0.00	
35	0.00	
36	0.00	
37	0.00	
38	0.00	
39	0.00	
40	0.00	
41	0.00	
42	0.00	
43	0.00	
44	0.00	
45	0.00	
46	0.00	
47	0.00	
48	0.00	
49	0.00	
50	0.00	
51	0.00	
52	0.00	
53	0.00	
54	0.00	
55	0.00	
56	0.00	
57	0.00	
58	0.00	
59	0.00	
60	0.00	
61	0.00	
62	0.00	
63	0.00	
64	0.00	
65	0.00	
66	0.00	
67	0.00	
68	0.00	
69	0.00	
70	0.00	
71	0.00	
72	0.00	
73	0.00	
74	0.00	
75	0.00	
76	0.00	
77	0.00	
78	0.00	
79	0.00	
80	0.00	
81	0.00	
82	0.00	
83	0.00	
84	0.00	
85	0.00	
86	0.00	
87	0.00	
88	0.00	
89	0.00	
90	0.00	
91	0.00	
92	0.00	
93	0.00	
94	0.00	
95	0.00	
96	0.00	
97	0.00	
98	0.00	
99	0.00	
100	0.00	

INSET
 SCALE 1"=100'

ISLAND OF LANAI, DISTRICT OF LANAI, MAUI, HAWAII



ADVERSE DIVISION
STATE OF HAWAII

R.M. TOWELL CORPORATION
1911 KALANIANA'OHU DRIVE
HONOLULU, HAWAII 96813



This work was prepared by me
under my direct supervision
and I am a duly Licensed Professional Engineer
under the laws of the State of Hawaii
License No. 1000
410 Kalia Road, Suite 411
Honolulu, Hawaii 96815
R.M. TOWELL
REGISTERED PROFESSIONAL ENGINEER

DESIGN: DRAWN: CHECK: APPROVED:

KEY PLAN / NOTES:

NO. DATE REVISIONS

PROJECT TITLE:
LANAI AIRPORT
At Kailua, Kamoku,
Island of Lanai, Hawaii



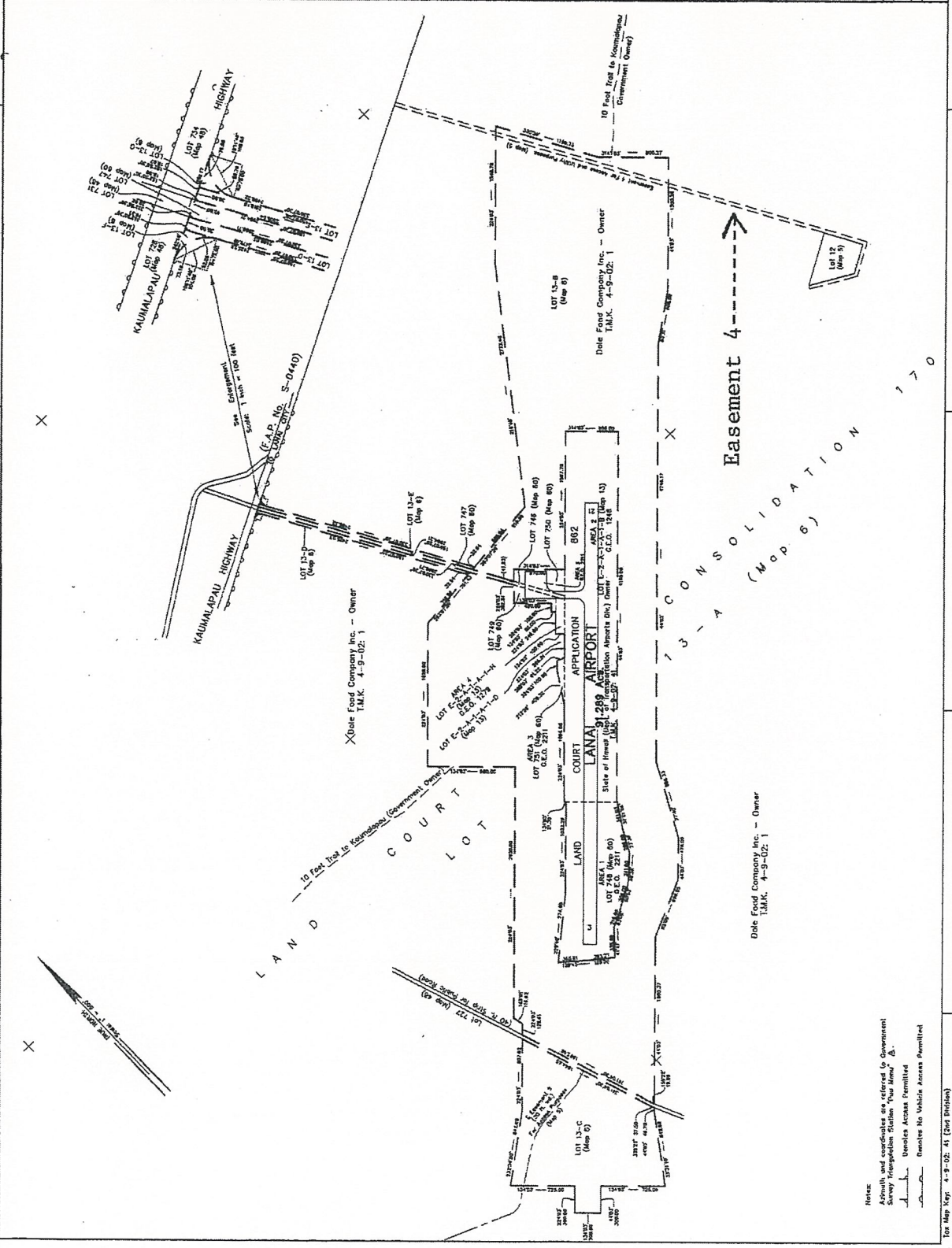
PROJECT NO.:

AS1011-12

SHEET TITLE:

Boundary Map
(Exhibit A)

DATE: June 2001
SHEET 1
DWG. NO.: OF 1 SHEET



Notes:
Adequacy and coordinates are referred to Government
Survey Triangulation Station "Puu Anaha" A.
Unless Access Permitted
Denotes No Vehicle Access Permitted

Top Map No. 4-9-02: 41 (2004 Edition)

**Lanai Airport and Easement 4 Area
as of September 26, 2019**

2.05 Easement 4 por.
0.84 Encroachment by MECO
 2.89 Acres, more or less

