

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

October 28, 2022

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

GL S-4373  
PSF 22MD-071  
Maui

Amend Grant of Easement S-4373, Haleakala Waldorf School, formerly known as Haleakala School, Inc., Grantee; Kealahou 3 and 4, Kula, Maui, Tax Map Key: (2) 2-3-037:011 por.

The purpose of amending the document is to 1) allow the easement to "Run with the Land," and be assignable without the written consent of the Board of Land and Natural Resources, and 2) update the minimum liability insurance required under the easement to \$1,000,000.00 for each occurrence and \$2,000,000.00 aggregate.

APPLICANT:

Haleakala Waldorf School, formerly known as Haleakala School, Inc., an Internal Revenue Code Section 501(c)(3) charitable organization.

LEGAL REFERENCE:

Sections 171-6 and -13, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government Lands of the State of Hawaii situated at Kealahou 3 and 4, Kula, Maui, as shown on Exhibits A and B further identified as a portion of Tax Map Key: (2) 2-3-037:011.

AREA:

3,986 Square Feet, more or less.

ZONING:

|                          |             |
|--------------------------|-------------|
| State Land Use District: | Rural       |
| County of Maui CZO:      | Agriculture |

Access and Utility Easement to  
Haleakala Waldorf School  
(Formerly known as Haleakala School, Inc.)

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act  
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO X

CURRENT USE STATUS:

Encumbered under General Lease S-4570 to Haleakala Waldorf School (formerly known as Haleakala School, Inc.), an Internal Revenue Code Section 501(c)(3) charitable organization, for a term of sixty-five (65) years commencing November 1, 1977, and expiring on October 31, 2042, for school and school-related purposes.

CHARACTER OF USE:

Non-exclusive easement and right of way to construct, re-construct, use, maintain, and repair roadway.

TERM OF EASEMENT:

Fifty-five (55) years commencing April 12, 1973 and expiring on April 11, 2028.

DCCA VERIFICATION:

|   |       |    |
|---|-------|----|
| Place of business registration confirmed: | YES X | NO |
| Registered business name confirmed:       | YES X | NO |
| Good standing confirmed:                  | YES X | NO |

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules (HAR) § 11-200.1-15 and -16 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on by the Environmental Council on November 10, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to General Exemption Type 1, that states, “Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing,” and Part 1, Item 37, “Transfer of title to land.” The subject request is a de minimis action that will probably have minimal or no significant effect on the environment and should be declared exempt from the preparation of an environmental assessment and the requirements of § 11-200.1-17, HAR, as a de minimis action.

Access and Utility Easement to  
Haleakala Waldorf School  
(Formerly known as Haleakala School, Inc.)

REMARKS:

On April 12, 1973, the Board approved the issuance of Grant of Easement S-4373 to William C. Cole and Heather M. Cole, husband, and wife, as tenants by the entirety (Coles), over and across a portion of government lands encumbered by General Lease S-4570 issued to Haleakala Waldorf School, formerly known as Haleakala School Inc. (Haleakala). The lease premises are located at Kealahou 3 and 4, Kula, Maui, further identified as Tax Map Key (2) 2-3-037:011 (Parcel 11). Subsequently, Mr. and Mrs. Cole sold their abutting private property benefitting from the easement, designated as Tax Map Key: (2) 2-3-037:013 (Parcel 13), to Haleakala.

On August 12, 1988, under Agenda Item F-1-d (Exhibit D), the Board approved the assignment of Grant of Easement S-4373 from the Coles to Haleakala.

Grant of Easement S-4373 is an older term easement instrument that requires the Board's approval prior to assignment of the easement. Staff is recommending that paragraph 6 of Grant of Easement S-4373 be amended to state that the easement will "run with the land" (Parcel 13), provided that grantee notify the Department of the transfer and notify subsequent assignees of the insurance requirement in writing. Staff is additionally recommending that paragraph 8 be updated to set the minimum liability insurance required under the easement at \$1,000,000.00 for each occurrence and \$2,000,000.00 aggregate. These changes will eliminate the need for Board action on future consents to assignment and bring the easement in line with the terms and conditions currently used by the Department of the Attorney General in drafting such instruments.

RECOMMENDATION:

That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1-15 and -16, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment as a de minimis action.
2. Replace paragraph 6 of the easement with the following: "The easement shall run with the land shall inure to the benefit of the real property described as Tax Map Key: (2) 3-037:013, provided however: (1) it is specifically understood and agreed that the easement shall immediately cease to run with the land upon the expiration or other termination or abandonment of the easement; and (2) if and when the easement is sold, assigned, conveyed, or otherwise transferred, the Grantee shall notify the Grantor of such transaction in writing, and shall notify Grantee's successors or assigns of the insurance requirement in writing, separate and apart from the easement document."

Access and Utility Easement to  
Haleakala Waldorf School  
(Formerly known as Haleakala School, Inc.)

3. Update paragraph 8 of the easement with the current insurance provision, including the requirement of coverage in an amount of at least \$1,000,000.00 per occurrence and \$2,000,000.00 aggregate, and naming the State of Hawaii as Additional insured. The insurance shall cover the entire easement including all grounds and all roadways or sidewalks on or adjacent to the easement in the use or control of the Grantees.
4. Review and approval by the Department of the Attorney General; and
5. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

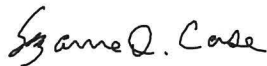
Respectfully Submitted,



Ebony V. Butihi  
Documentation Specialist

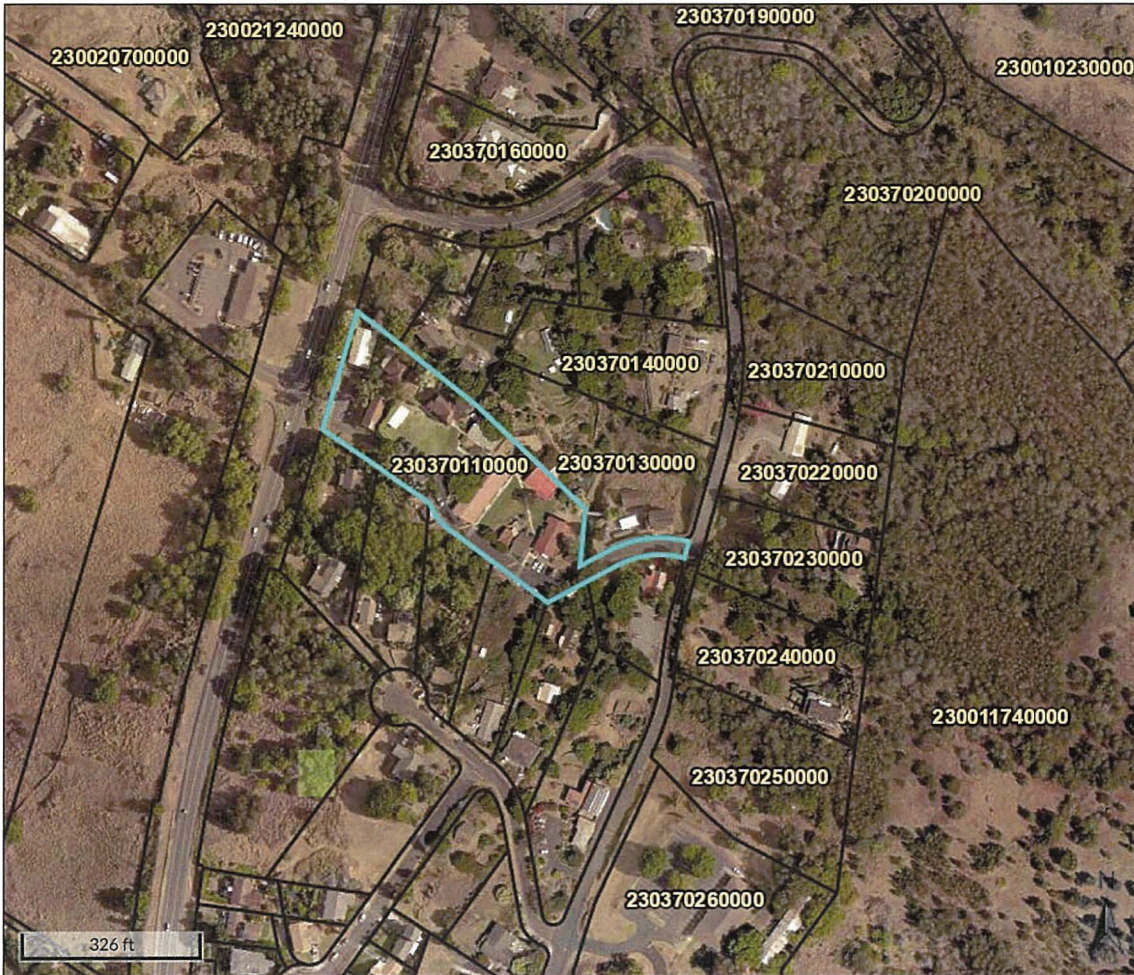
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APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson





Overview



Legend

 Parcels

|           |              |                        |                   |                     |             |              |       |        |      |
|-----------|--------------|------------------------|-------------------|---------------------|-------------|--------------|-------|--------|------|
| Parcel ID | 230370110000 | Situs/Physical Address | 4160 LOWER KULARD | Assd Land Value     | \$545,400   | Last 2 Sales |       |        |      |
|           |              | Mailing Address        | STATE OF HAWAII   | Assd Building Value | \$1,077,100 | Date         | Price | Reason | Qual |
| Acreage   | 2.426        |                        |                   | Total Assd Value    | \$1,622,500 | 12/31/2006   | 0     | n/a    | U    |
| Class     | AGRICULTURAL |                        |                   | Exempt Value        | \$1,622,500 | 10/11/1993   | 0     | n/a    | U    |
|           |              |                        |                   | Taxable Value       | \$0         |              |       |        |      |

Brief  
Tax Description n/a

(Note: Not to be used on legal documents)

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Developed by  **Schneider**  
GEOSPATIAL



STATE OF HAWAII

SURVEY DIVISION

DEPT. OF ACCOUNTING AND GENERAL SERVICES  
HONOLULU

January 20, 1972

C.S.F. No. 16,531

NON-EXCLUSIVE EASEMENT  
30-FEET WIDE  
FOR ACCESS PURPOSES

Kealahou 3 and 4, Makawao (Kula), Maui, Hawaii

Being a portion of Royal Patent 7453,  
Land Commission Award 8452, Apana 21  
to Keohokalole (Parcel 2) conveyed by  
Alexa G. Zabriskie and Robert G. Von  
Tempsky to Territory of Hawaii by deed  
dated February 17, 1942 and recorded  
in Liber 1689, pages 391-400 (Land  
Office Deed 7099).

Beginning at the northeast corner of this parcel of land and  
on the west side of Kula Highway, the coordinates of said point of begin-  
ning referred to Government Survey Triangulation Station "KIKALAPUU" being  
6,053.84 feet South and 398.31 feet East, as shown on Government Survey  
Registered Map 2849, thence running by azimuths measured clockwise from  
True South:-

1. 15° 30' 30.00 feet along the west side of Kula Highway;
2. Thence along the west side of Kula Highway and along Lot 12 of Kealahou  
Subdivision (File Plan 829), on a curve  
to the left with a radius of 160.00  
feet, the chord azimuth and distance being:  
83° 45' 118.58 feet;
3. 152° 00' 30.00 feet along the remainder of R.P. 7453,  
L.C.Award 8452, Apana 21 to Keohokalole;
4. Thence along Lot 6 of Kealahou Subdivision (File Plan 829), and along  
the west side of Kula Highway, on a curve  
to the right with a radius of 190.00 feet,  
the chord azimuth and distance being:  
263° 45' 140.81 feet,  
to the point of beginning and containing  
an AREA OF 3,986 SQUARE FEET.

SURVEY DIVISION  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
STATE OF HAWAII

Compiled from F.P. 829,  
CSF 9583 and Dept. Trans.,  
Cadastral Map of Lower Kula Road.

By: James C. Crystal, Jr.  
James C. Crystal, Jr.  
Land Surveyor

EXHIBIT B





EXHIBIT B

SURVEY DIVISION  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
STATE OF HAWAII

January 20, 1972 J.C.

DOCUMENT FOR APPROVAL BY THE BOARD OF LAND AND NATURAL RESOURCES

CONSENT

August 12, 1988

ASSIGNMENT OF GRANT OF EASEMENT:

MAUI

WILLIAM C. COLE and HEATHER M. COLE, husband and wife, as Tenants by the Entirety, as Assignors; HALEAKALA SCHOOL, INC., a Hawaii eleemosynary corporation, as Assignee.

Grant of Easement No. S-4373 for a term of fifty-five (55) years commencing April 12, 1973 and expiring on April 11, 2028 for a non-exclusive easement 30-feet wide for access purposes.

LOCATION:

Portion of Government Land of Kealahou 3 and 4, situate at Makawao (Kula), Maui, Hawaii, identified as Non-Exclusive Easement 30 Feet Wide for Access Purposes (C.S.F. No. 16,531) as shown outlined in red on map labeled Land Board Exhibit "A" appended to the basic file.

TAX MAP KEY NO.:

2-3-37:Por. 11.

AREA:

3,986 Square Feet

LAND TITLE STATUS:

Subsection 5(b) lands

STATUS:

Encumbered under General Lease No. S-4570 to Haleakala School, Inc., an eleemosynary corporation, for a term of sixty-five (65) years commencing November 1, 1977 and expiring on October 31, 2042 for school and school-related purposes.

CHARACTER OF USE:

To construct, reconstruct, use, maintain and repair roadway.

ASSIGNMENT CONSIDERATION:

\$1.00

REMARKS:

Upon a lump sum payment of \$273.00 in 1973, the Assignors were granted the subject easement for the purpose of providing access to their abutting property identified by Tax Map Key No. 2-3-37:13.

Mr. and Mrs. Cole have recently sold their abutting property to Haleakala School, Inc. Therefore, they requested that the subject easement be assigned to Haleakala School, Inc.

ITEM F-1-d

EXHIBIT C



ASSIGNMENT OF GRANT OF EASEMENT: (continued)

WILLIAM C. COLE and HEATHER M. COLE, Assignors; HALEAKALA SCHOOL, INC., Assignee

RECOMMENDATION:

That the Board consent to the assignment of Grant of Easement No. S-4373 from WILLIAM C. COLE and HEATHER M. COLE, as Assignors, to HALEAKALA SCHOOL, INC., a Hawaii eleemosynary corporation, as Assignee, subject to the following terms and conditions:

1. Provisions of Section 171-21, Hawaii Revised Statutes, as amended, relating to rights of holders of security interest.
  2. Review and approval of the consent form by the Department of the Attorney General.
  3. Such other terms and conditions as may be prescribed by the Chairperson.
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