

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

May 24, 2024

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

OAHU

Grant of Two Term, Non-Exclusive Easements and Immediate Construction and Management Right of Entry to State of Hawaii, Department of Transportation for Drainage Basin Purposes, Honouliuli, Ewa, Oahu Tax Map Key: (1) 9-1-017:097; and

Authorize the Chairperson to Enter Into a Memorandum of Agreement between the Department of Land and Natural Resources and the Department of Transportation Regarding the Future Modification and Relocation of the Drainage Basins and Approval of Access Points Serving Tax Map Key (1) 9-1-017:097.

APPLICANT:

State of Hawaii, Department of Transportation Highways Division (DOT-H)

LEGAL REFERENCE:

Section 171-95, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government land located Honouliuli, Ewa, Oahu, identified by Tax Map Key: (1) 9-1-017:097, as shown on the attached map labeled **Exhibit A**.

AREA:

Easement 1 (Basin E): approximately 8500 square feet, more or less.  
Easement 2 (Basin F): approximately 5100 square feet, more or less.

Total area of approximately 13,600 square feet more or less.

ZONING:

State Land Use District: Urban  
City & County of Honolulu LUO: Agricultural

TRUST LAND STATUS:

Acquired after 1959.

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

Encumbered by Right of Entry to Department of Transportation, Highways Division for staging/laydown area for Farrington Highway widening from Kapolei Golf Course to Fort Weaver Road, Project No. 7101A-01-20.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain, repair, replace and remove drainage basins over, under and across State-owned land.

TERM:

10 years.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

Gratis.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The Final Environmental Assessment for the subject project was published in the Environmental Review Program's The Environmental Notice on September 23, 2020 with a finding of no significant impact (FONSI).

DCCA VERIFICATION:

Not applicable. The Applicant as a government agency is not required to register with DCCA.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

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

REMARKS:

At its meeting on October 23, 2020, under agenda item D-9, the Board approved the Department's draft East Kapolei Strategic Master Development Plan for four State owned parcels adjacent and in close proximity to the Keone`ae Rail Station in East Kapolei, including the subject parcel of this request, Tax Map Key (1) 9-1-017:097 (Parcel 97). Parcel 97 is approximately 36.37 acres and is located adjacent to the Keone`ae Rail Station. Planned uses for this parcel include mixed uses such as rental housing, commercial, retail, office and hotel. The parcel will also serve as the site for the rail station park and ride, and bus turnaround. The mauka boundary of parcel 97 is adjacent to Farrington Highway, where the DOT-H is commencing a widening project to increase capacity on Farrington Highway to facilitate multiple developments in the region.

To assist with the project, the Chairperson previously approved a right of entry to DOT-H to provide a portion of Parcel 97 to be used by DOT-H's contractors as a staging area. In subsequent discussions with DOT-H staff, Department staff was informed that DOT-H planned to place two drainage basins on Parcel 97 along Farrington Highway. The drainage basins are intended to capture runoff resulting from the additional paved surfaces created by the widening of Farrington Highway. Upon review of the size and locations of the drainage basins, staff was concerned that the drainage basins could impact the Department's ability to effectively develop the impacted areas for the intended purposes. A design map showing the size and location of the drainage basins is attached as **Exhibit B**.

Drainage Basin E is approximately 8500 square feet and situated at the northwest corner of Parcel 97 near the intersection of Farrington Highway and Kualakai Parkway. This portion of Parcel 97 is physically separated from the remainder of the parcel by Kalo'i Gulch, creating a standalone area of approximately 2.6 acres, more or less. Due to its location, the Department intends to develop that area for commercial purposes. However, the proposed size and location of the drainage basin may impact the development potential as it is located along desirable frontage space along Farrington Highway. Additionally, the drainage basin may impair access to the area from Farrington Highway.

Drainage Basin F is approximately 5100 square feet, located to the east, and is situated adjacent to the proposed intersection that would serve as the entry into the development area on Parcel 97 from Farrington Highway. Although there are no immediate development plans for the impacted area, staff is concerned that since the drainage basin would be above ground and located at an entry point to the development area, the size and design of the drainage basin may negatively affect the aesthetic value of the area.

Staff informed DOT-H of the concerns but also acknowledges that the widening project is critical to facilitating the Department's and other development projects in the region.

Therefore, staff is agreeable to recommend Board approval of the easements provided that DOT-H commit to future actions to mitigate the impact of the drainage basins on the subject parcel and approve additional access points serving Parcel 97. However, staff also believes that the Department should not have to shoulder the burden of a project that benefits multiple public and private developments at the expense of the Department's project.

Regarding the mitigation activities, the Department requested that DOT-H relocate Basin E to the makai corner of the subject area bordered by Kaloι Gulch, including installing underground pipes. This would allow the area fronting Farrington Highway to be utilized more effectively for development purposes. For Basin F, the Department requested that it be modified to a subsurface basin to minimize the aesthetic impacts to the subject area. Due to budgetary and scheduling concerns, DOT-H informed staff that the drainage basins cannot be re-designed and modified at the initial construction. DOT-H requested to proceed with constructing the drainage basins as currently designed and agreed to implement the proposed mitigation actions upon receipt of future funding. In order to memorialize this agreement, the Department requests that the Board authorize the Chairperson to enter into a Memorandum of Agreement, with a sample draft attached as **Exhibit C**.

In addition to the modifications to the drainage basins, the Department requested that DOT-H approve additional access points to Parcel 97 from Kualakai Parkway and Farrington Highway. The first access point would be from Farrington Highway to the area impacted by Basin E located at the corner of Farrington Highway and Kualakai Parkway.<sup>1</sup> The second access point would be from Parcel 97 to Kualakai Parkway as a right in, right out limited to city buses to serve the bus turnaround. This was identified by the City Department of Transportation Services (DTS) as being the optimal alternative to facilitate the operations bus turnaround serving the park and ride. The final access point would be a pedestrian bridge over Kaloι Gulch connecting the park and ride to the Keone`ae Rail Station. All of the access points would require the use of land and airspace under the jurisdiction of DOT, so staff will work with DOT on the required land dispositions that will be brought back to the Board for approval at a later date. The proposed locations of the various access points are identified in **Exhibit D**.

Finally, in order to avoid delay and expediate construction of the drainage basins, staff is recommending that the Board approve the issuance of a construction and management right of entry to DOT-H pending executing of the formal easement documents.

**RECOMMENDATION:** That the Board:

1. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of two term, non-exclusive easements to the State of Hawaii, Department of Transportation, covering the subject area for drainage basin

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<sup>1</sup> There is an existing vehicular access way connecting Parcel 97 to Farrington Highway that is located on land under DOT-H jurisdiction. However, staff would be open to an alternative location that provides access to the subject area from Farrington Highway.

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.
2. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of an immediate construction and management right of entry to the State of Hawaii, Department of Transportation, covering the subject area for drainage basin 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 right-of-entry form, as may be amended from time to time; and
  - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
3. Authorize the Chairperson to enter into a Memorandum of Agreement between the Department of Land and Natural Resources and the Department of Transportation regarding the future modification and relocation of the drainage basins and approval of access points serving Tax Map Key (1) 9-1-017:097, under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
- A. Review and approval by the Department of the Attorney General; and
  - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



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Ian Hirokawa  
Special Projects Coordinator

APPROVED FOR SUBMITTAL:



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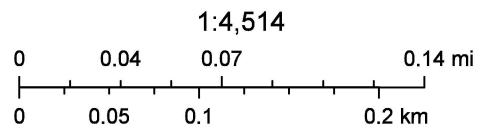
Dawn N. S. Chang, Chairperson

RT

# Public Land Trust Information System



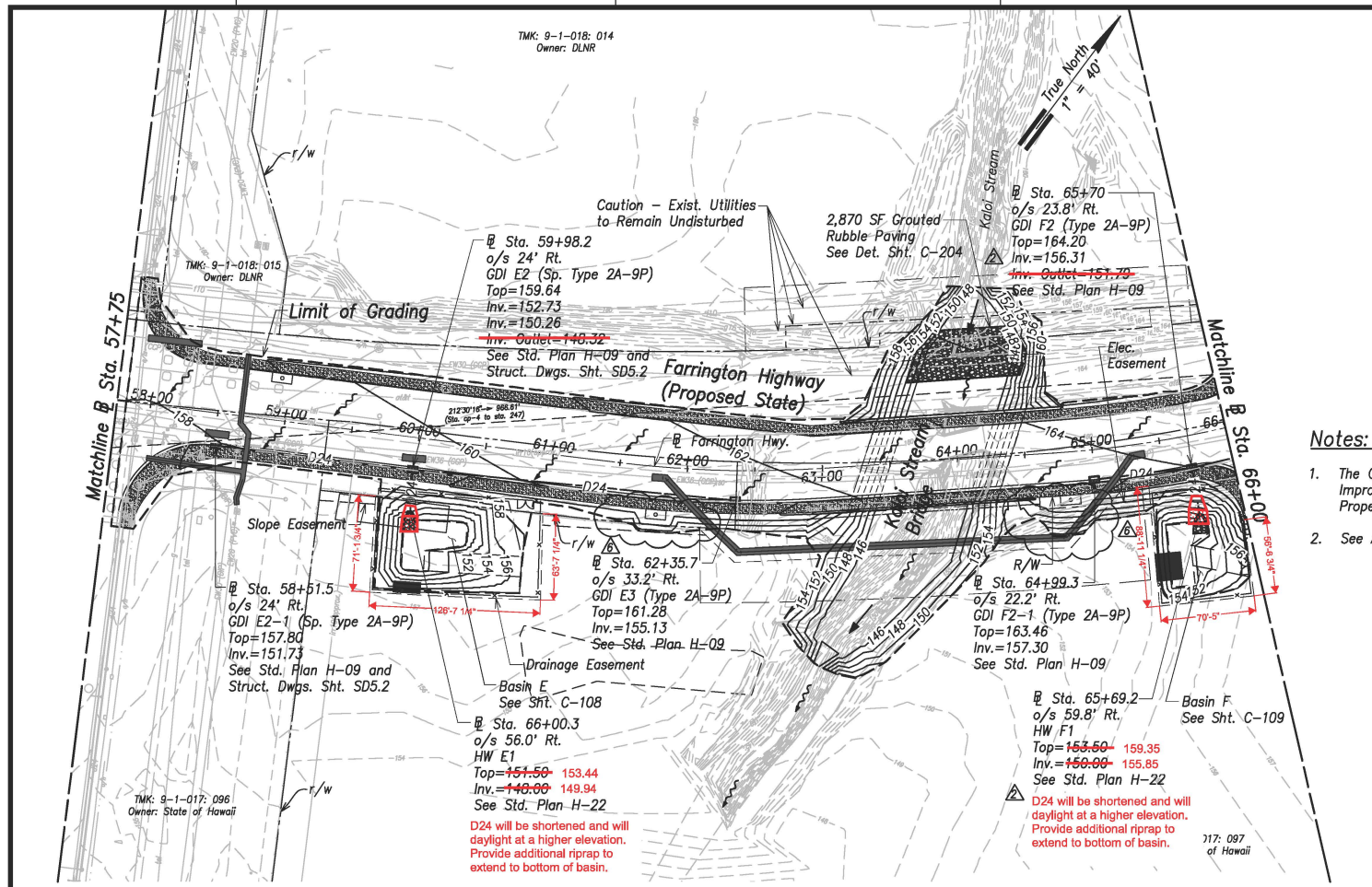
April 17, 2024



## EXHIBIT A

Resource Mapping Hawaii, Maxar, Esri, HERE, Garmin

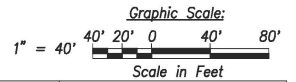
FED. ROAD DIST. NO.	STATE	PROJ. NO.	FISCAL YEAR	SHEET NO.	TOTAL SHEETS
HAWAII	HAW.	7101A-01-20	2021	C.O. ADD. 93	787



- Notes:**
- The Contractor Shall Construct/Phase Drainage Improvements to Avoid Flooding Adjacent Properties and Washout of Roadway.
  - See Access to Farm Lots notes on sheet C-3

**Legend:**

--- 70 ---	Ground Contour
— 100 —	Finished Grade Contour
- - - 70 - - -	Finished Grade Contour (Under Bridge)
- - - - -	Limit of Grading
~ ~ ~	Existing Flow
←	Proposed Flow



**Grading and Drainage Plan -- (Sta. 57+75 to Sta. 66+00)**  
 Scale: 1" = 40'

**EXHIBIT B**

DESIGNED BY	DATE
CHECKED BY	
APPROVED BY	
DATE	

**CRIG W. L. LIU**  
 LICENSED PROFESSIONAL ENGINEER  
 No. 9328-C  
 HAWAII, U.S.A.  
 THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION AND CONSTRUCTION OF THIS PROJECT WILL BE UNDER MY OBSERVATION.  
 April 30, 2024  
 EXPIRATION DATE OF THE LICENSE

06/09/23	Revised grading and add elec boxes
06/08/22	Revised HW F1 and GDI F2
DATE	REVISION
STATE OF HAWAII DEPARTMENT OF TRANSPORTATION HIGHWAYS DIVISION <b>Grading and Drainage Plan</b> <b>Sta. 57+75 to Sta. 66+00</b> FARRINGTON HIGHWAY WIDENING Kapolei Golf Course Road to Fort Weaver Road Project No. 7101A-01-20 Scale: As Shown Date: April 2022 SHEET No. C-92 OF 787 SHEETS	

**MEMORANDUM OF AGREEMENT  
BETWEEN THE STATE OF HAWAII DEPARTMENT OF LAND AND  
NATURAL RESOURCES AND THE STATE OF HAWAII DEPARTMENT  
OF TRANSPORTATION**

This Agreement, executed on this \_\_\_\_\_ day of \_\_\_\_\_, 2024, and effective as of the date of the last execution, by and between the DEPARTMENT OF LAND AND NATURAL RESOURCES, STATE OF HAWAII, whose principal place of business and business address is 1151 Punchbowl Street, Honolulu, Hawaii 96813 (hereinafter the “DLNR”) and the DEPARTMENT OF TRANSPORTATION, STATE OF HAWAII, whose principal place of business and post office address is 869 Punchbowl Street, Honolulu, Hawaii 96813 (hereinafter “DOT”).

RECITALS

WHEREAS, DLNR is responsible for managing lands owned by the State of Hawaii (hereinafter the “STATE”) for the benefit of the public, providing long-term income generation in support of natural, cultural, historical and recreational resource protection and management, and meeting the STATE’S affordable housing objectives;

WHEREAS, DOT is responsible for providing a safe efficient, accessible and sustainable intermodal transportation system that ensures the mobility of people and goods, and enhances and/or preserves economic prosperity and quality of life;

WHEREAS, DOT is responsible for the Farrington Highway Widening Kapolei Golf Course to Fort Weaver Road Project No. 7101A-01-20 (“Farrington Highway Widening Project”), which will facilitate multiple public and private developments in the region, including DLNR’s East Kapolei Transit Oriented Development Project (“East Kapolei TOD Project”);

WHEREAS, the Farrington Highway Widening Project requires non-exclusive easements over a portion of STATE land along Farrington Highway, bearing Tax Map Key 9-1-017:097 (hereinafter the “Property”), to install and accommodate two drainage basins designated as Basins E and F, sized at 8500 square feet and 5100 square feet, respectively, located along the area of the Property fronting Farrington Highway;

WHEREAS, the Board of Land and Natural Resources, at its meeting on October 23, 2020, under agenda item D-9, approved the Department’s draft East Kapolei Strategic Master Development Plan, with planned uses for the Property including mixed uses such as rental housing, commercial, retail, office and hotel, rail station park and ride, and bus turnaround;



WHEREAS, the currently planned size and location of the drainage basins may impact DLNR's ability to develop the Property for the intended purposes; and

WHEREAS, DLNR has requested, and DOT has agreed to perform certain future modification actions to the Basins E and F for the purpose of mitigating the impact of the drainage basins on the Property.

NOW THEREFORE, in consideration of the foregoing premises and the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, DLNR and DOT enter into this Memorandum of Agreement (hereinafter the "MOA") regarding the proposed conveyance of two non-exclusive easements affecting the Property to DOT drainage basin purposes, for the use by DOT for the Farrington Highway Widening Project, and covenant and agree as follows:

1. FUTURE MODIFICATION OF DRAINAGE BASINS

At a time determined by DLNR, DOT shall be responsible for modifying Basins E and F for the purpose of mitigating the impact of Basins E and F on the development potential of the Property. Basin E shall be relocated to a different area of the Property as determined by DLNR, and Basin F shall be converted to subsurface chambers. DOT will be responsible for all costs of the future modifications including the provision of any additional infrastructure required to accommodate the modified drainage basins. A preliminary design for the modifications is attached as **Exhibit A**.

2. DOT APPROVAL OF FUTURE ACCESS POINTS FOR THE PROPERTY

DOT agrees to provide all necessary approvals to accommodate three additional access points serving the Property that require the use of land under DOT jurisdiction described as follows:

- a) Vehicular access to the property from Farrington Highway situated between the intersection of Farrington Highway and Kualakai Parkway on the West and western boundary of Kaloi Gulch on the East;
- b) Right In/Right Out from Kualakai Parkway serving the bus turnaround and limited to city buses operating under the management of the City and County of Honolulu, Department of Transportation;
- c) Pedestrian access from the park and ride facility to the Keone'ae Rail Station via a connecting bridge over Kaloi Gulch.

A map showing the location of the access points is attached as **Exhibit B**.

3. SUBDIVISION.

In the event subdivision approval is required for the easements, DOT shall be required to pay for all costs and expenses associated with the subdivision approval process and the recordation of all conveyance documents.

4. CHAPTER 343, HAWAII REVISED STATUTES  
DOT shall be responsible for compliance with Chapter 200.1, Hawaii Administrative Rules and Chapter 343, Hawaii Revised Statutes for all actions undertaken under this Agreement.
5. ASSIGNABILITY.  
DLNR and DOT, and their assigns, shall not have the right to assign or otherwise transfer this MOA, without the prior written consent of DLNR and DOT, which consent shall not be unreasonably withheld or delayed.
6. AMENDMENT  
This MOA shall not be altered, amended, modified, or otherwise changed, in any respect or particular whatsoever, except by writing duly executed by both DLNR and DOT. DLNR and DOT hereby acknowledge and agree that they shall make no claim at any time that this MOA has been orally altered or modified in any respect whatsoever.
7. CONSTRUCTION.  
DLNR and DOT have participated jointly in the negotiation and drafting of this MOA. In the event an ambiguity or question of intent or interpretation arises, this MOA shall be construed as if drafted jointly by both DLNR and DOT, and no presumption or burden of proof shall arise favoring or disfavoring either DLNR or DOT by virtue of the authorship of any of the provisions of this MOA.
8. NO REPRESENTATIONS.  
DLNR and DOT, nor anyone acting on their behalf, has relied on any representations, statements, or opinions of any other party or their representatives in entering into and executing this MOA, other than as expressly set forth herein.
9. APPLICABLE LAW.  
This MOA shall be applied, interpreted and construed in accordance with the laws of the State of Hawaii, including but not limited to the validity of this MOA, the interpretation or construction of any of its terms, or any alleged breach of its provisions.
10. BINDING EFFECT.  
Upon its execution by DLNR and DOT, this MOA shall become binding and enforceable according to its terms. The rights and obligations of each Party named in this MOA shall bind and inure to the benefit of each party and their respective successors and assigns.
11. COOPERATION.  
DLNR and DOT shall cooperate with each other in every way and exercise their best efforts in carrying out the transactions contemplated herein, obtaining all required approvals, authorizations, and clearances, and executing and delivering in

recordable form all documents, instruments, or copies thereof or other information deemed reasonably necessary or useful by each other.

12. ENTIRE AGREEMENT.

This MOA embodies the entire agreement of DLNR and DOT, and supersedes all other agreements or understandings with respect to the subject matter hereof that may ever have existed between DLNR and DOT.

13. COUNTERPARTS; FACSIMILE COPIES.

This MOA may be executed in counterparts, each of which shall, for all purposes, be deemed to be an original and all of which shall constitute but one and the same document. Further, DLNR and DOT agree that when this MOA is executed by any party, a facsimile or electronic copy of that party's signature shall be deemed to be an original signature for any and all purposes.

[Remainder of page intentionally left blank; signatures appear on next page.]

DRAFT

IN WITNESS WHEREOF, DLNR and the DOT have executed this MOA as of the date first above written.

Approved by the Board of Land and Natural Resources at its meeting held on \_\_\_\_\_.

Approved as to form:

\_\_\_\_\_  
Deputy Attorney General

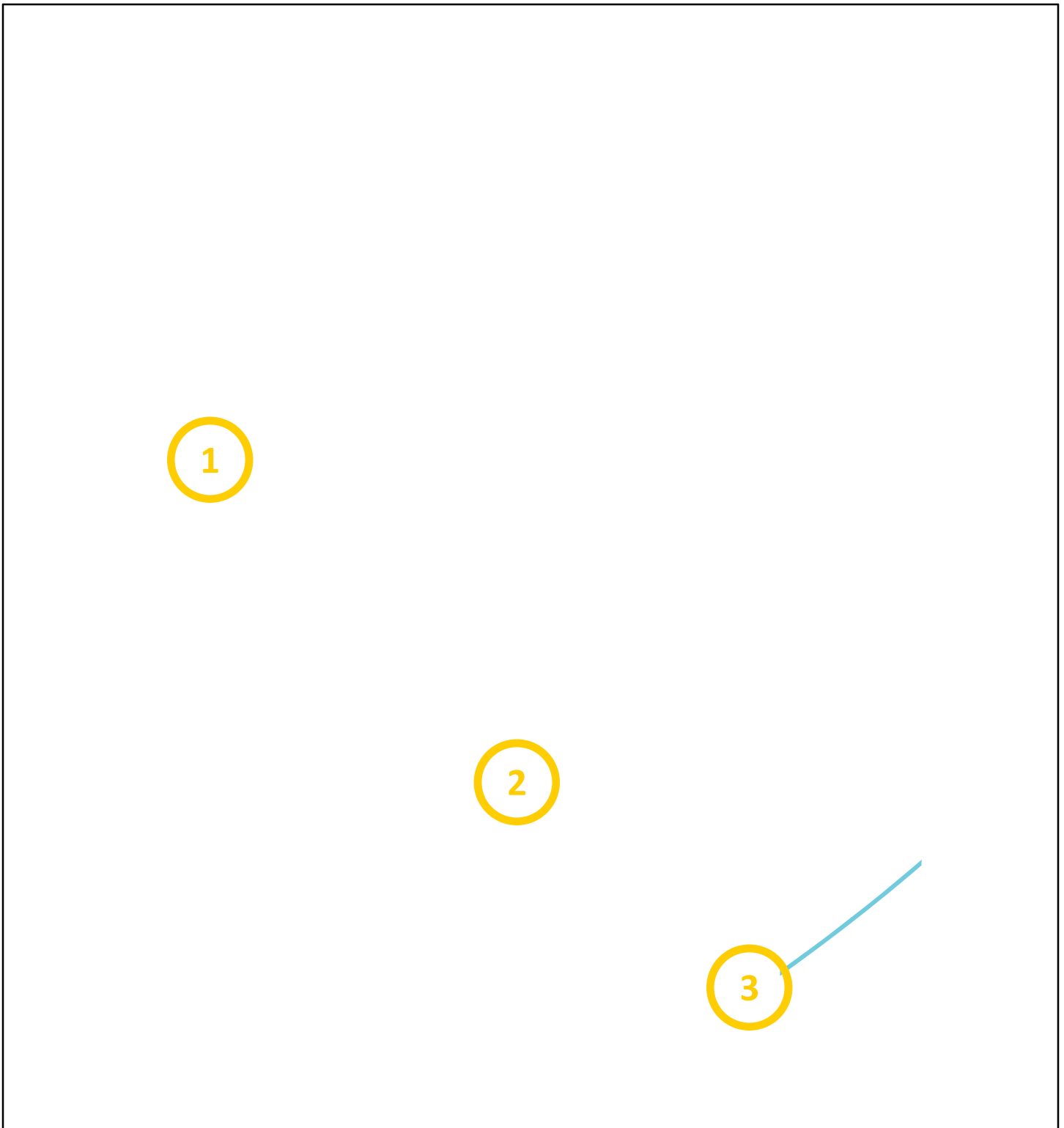
\_\_\_\_\_  
DAWN N. S. CHANG, Chairperson  
Board of Land and Natural Resources

Approved as to form:

\_\_\_\_\_  
Deputy Attorney General

\_\_\_\_\_  
EDWIN H. SNIFFEN, Director  
Department of Transportation

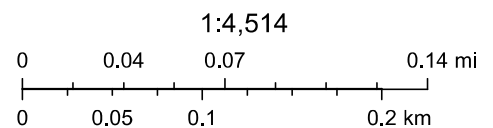
# Public Land Trust Information System



April 17, 2024

## LEGEND

1. Access from Farington Hwy. to portion of parcel slated for future retail/commercial development.
2. Bus restricted right-in/right-out onto Kualakai Parkway.
3. Bridge type connection structure over Kaloi Gulch from Keoneae Station to the Park and Ride/Bus Transit Terminal area.



Resource Mapping Hawaii, Maxar, Esri, HERE, Garmin

## EXHIBIT D

Disclaimer: Locations shown on map are approximate.

The content within the PLTIS, including maps and data, has been collected from multiple city, county, and state sources, and may not have been prepared