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

July 12, 2024

Board of Land and Natural Resources State of Hawaii Honolulu, Hawaii Ref: 240D-048

<u>OAHU</u>

Quitclaim of State's Interests, if any, in 30-foot Road in Lualualei as Remnant to the City and County of Honolulu; Lualualei, Waianae, Oahu; TMK: (1) 8-7-008: road.

### APPLICANT:

City and County of Honolulu (the "City").

#### LEGAL REFERENCE:

Sections 171-6, -13, -52, -95(a), and Sections 264-1 and -2 Hawaii Revised Statutes ("HRS"), as amended, and Act 288 Session Laws of Hawaii (SLH) 1993.

#### LOCATION:

Portion of Government Land of Lualualei, Waianae, Oahu; TMK: (1) 8-7-008: road, as shown on Exhibit A1 to A3.

### <u>AREA</u>:

1.237 acres, more or less.

### ZONING:

State Land Use District:UrbanCity & County of Honolulu LUO:R-5

### 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:

Vacant and unencumbered.

### CONSIDERATION:

Not applicable.

### 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 which states, "Transfer of title to land". The subject request 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 (Exhibit B).

### APPLICANT REQUIREMENT:

None. Applicant already provided the map and legal description of the requested area.

### REMARKS:

As shown on Exhibit A3, there is a 30-foot road connecting Farrington Highway to the mauka property boundary of the private parcel identified as TMK (1) 8-7-008:076 (Parcel 76). For the purpose of this submittal, the entire 30-foot road was planned to be subdivided into Lots A, B, and C as outlined on Exhibit A3.

The owner of this private parcel is developing a housing project containing about 86 affordable single family house lots and will provide technical assistance to 86 very low and low-income families to build their houses under the team self-help housing method. As part of the housing project, the developer wants to use a portion of the 30-foot road (Lot C) as the outer loop of the project's road network. The developer plans to build out Lot C to meet county standards for a roadway lot, and upon completion, to dedicate the road improvement to the City. Accordingly, the City will be receiving a fully developed and dedicated road from the developer at no expense to the City's taxpayers.

In addition to Lot C, the City asks for a quitclaim deed or other transfer document to transfer the entire 30-foot road to the City.<sup>1</sup> See City's request letter dated April 25, 2024 is attached as **Exhibit C**.

<sup>&</sup>lt;sup>1</sup> Staff confirmed with the writer of City's request (Exhibit C) that the request pertains to the entire 30-foot road, notwithstanding the developer of Parcel 76 will only improve Lot C of the subject road.

Roads and highways are outside the definition of public lands as defined in Chapter 171, HRS. Further, pursuant to Section 264-2, HRS, the ownership of all "public highways" (roads, alleys, streets, ways, lanes, bikeways, and bridges in the State, opened, laid out, or built by the government) are owned either by the State for state highways under the jurisdiction of the Department of Transportation or the county for all other public highways.

It has been Land Division's position, which is supported by the Department of the Attorney General, that the Board does not have any jurisdiction over county highways as defined in Section 264-1, HRS.

The subject 30-foot road is a county highway as defined in Section 264-1, HRS. The City has accepted ownership and jurisdiction of the subject area pursuant to Act 288, SLH 1993 and adoption of City Council Resolution 93-287, CD-1, FD-1.

Act 288, SLH 1993, stated in its preamble "In consideration of the State waiving its right to have the proceeds from the sale of county public highways remitted to the State, the counties shall acknowledge ownership and jurisdiction of all disputed public highways within their respective counties, as defined in section 264-1, HRS, without the necessity of conveyancing documents transferring title from the State to the respective counties, <u>except</u> when required for the purpose of disposal." (Emphasis added.)

As a result, it is the division's practice that formal documentation (i.e., quitclaim deeds) be issued on roads owned by the counties under Section 264-2, HRS, only when the county is going to subsequently dispose of any real property interests (fee conveyance or any interests less than fee) in at least a portion of the road to a third party.<sup>2</sup> In all other cases, the State's position is that the fee simple interest in the road was passed to the counties by operation of law and documentation is unnecessary. This policy provides for the chain of title and enables subsequent real estate transactions to occur. This policy should not be misconstrued to mean or imply that the State does not assert that the roads being quitclaimed are already owned by the applicable county.

Pursuant to Section 171-52, HRS, the term "remnant" means a parcel of land economically or physically unsuitable or undesirable for development or utilization as a separate unit by reason of location, size, shape, or other characteristics.

The subject area is economically and physically unsuitable for development or utilization as anything other than a road.

Additionally, pursuant to Section 171-95(a)(5), HRS, the Board may:

Execute quitclaim deeds to the governments and agencies, with or without

<sup>&</sup>lt;sup>2</sup> Staff notes that there will be no disposition/transfer of Lot C to the developer of Parcel 86. However, staff does not have any objection to proceed the quitclaim deed as mentioned in the submittal in light of an upcoming dedication of road improvement from the developer to the City.

consideration, releasing any claim to the property involved made upon disputed legal or equitable grounds, whenever the board in its discretion deems it beneficial to the State.

A quitclaim conveyance of the road remnants is appropriate in this case because, as noted above, pursuant to Sections 171-2 and 264-1 and -2, HRS, land being used and roads and streets are excluded from the definition of public lands under Chapter 171, HRS, and are deemed to be county or State highways instead.

To enable the City to work with the developer of Parcel 76 regarding the housing project mentioned above, staff is recommending the issuance of a quitclaim deed. The form of the deed has been approved by the Department of the Attorney General and contains specific wording that the State is releasing and disclaiming any interest since it is our assertion that the City already owns the road.

Hawaii Housing Finance and Development Corporation (HHFDC) supports the request noting that the private developer of the housing project will obtain a loan of \$7.6 million from HHFDC for the development. Department of Planning and Permitting and Department of Facility Maintenance do not have objection to the subject request. Board of Water Supply, Division of Forestry and Wildlife, State Historic Preservation Division, and Department of Transportation, Highways Division have not responded to the request for comments before the deadline.

There are no other pertinent issues or concerns, and staff recommends the Board authorize the transfer of the land by the requested quitclaim deed as described above.

### **<u>RECOMMENDATION</u>**: 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, 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.
- 2. Determine the State does not own the subject property or any interest in it.
- 3. Determine that executing a quitclaim deed to the City and County of Honolulu is beneficial to the State and authorize the quitclaim of interests, if any, the State may have in the subject roadway parcel to the City covering the relevant 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 quitclaim deed (roads) 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,

Barry Cheung

RT

Barry Cheung District Land Agent

APPROVED FOR SUBMITTAL:

Dawn N. S. Chang, Chairperson 🛌



## TMK (1) 8-7-008: road

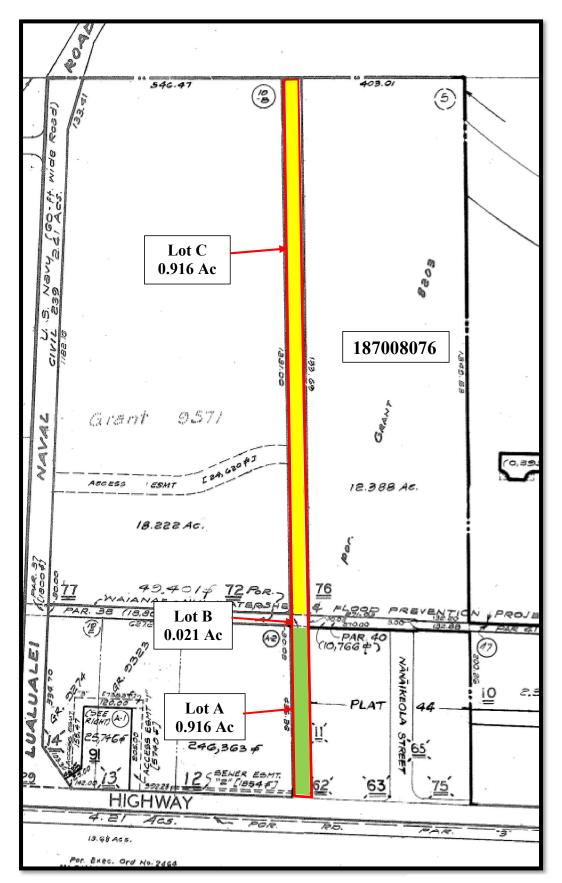
# **EXHIBIT A1**



# TMK (1) 8-7-008: road

# **EXHIBIT A2**

# **EXHIBIT A3**



## **EXEMPTION NOTIFICATION**

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200.1, HAR

Project Title:	Quitclaim to the City and County of Honolulu over road.
Reference No.:	PSF 240D-048
Project Location:	Lualualei, Waianae, Oahu, TMK (1) 8-7-008: road.
Project Description:	Quitclaim to the City and County of Honolulu over road.
Chap. 343 Trigger(s):	Use of State Land
Exemption Class No.:	In accordance with HAR § 11-200.1-15 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on by the Environmental Council and dated 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 which states, "Transfer of title to land".
Cumulative Impact of Planned Successive Actions in Same Place Significant?	No, the proposed request does not involve any expansion or change of use from the previous situation and the general land uses in the area.
Action May Have Significant Impact on Particularly Sensitive Environment?	There is no known sensitive environment in the area, and it is heavily impacted by other uses in this area. Based on the analysis below, staff believes there would be no significant impact to sensitive environment.
Consulted Parties:	Agencies as noted in the submittal.
Analysis:	The proposed use does not involve any expansion or change of use from the previous situation, and staff does not anticipate any major improvement. Therefore, staff believes the subject request has no significant effect on the environment.

# EXHIBIT B

Recommendation:	It is recommended that the Board find that this request will
	probably have minimal or no significant effect on the
	environment and is presumed to be exempt from the preparation
	of an environmental assessment.

### DEPARTMENT OF LAND MANAGEMENT KA 'OIHANA HO'OKELE 'ÄINA CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 3RD FLOOR • HONOLULU, HAWAI'I 96813 PHONE: (808) 768-4277 • FAX: (808) 768-4296 • WEBSITE: <u>honolulu.gov/dlm</u>

RICK BLANGIARDI MAYOR *MEIA* 



April 25, 2024

Ms. Dawn N.S. Chang, Chairperson Board of Land and Natural Resources And Members of the commission on Water Resources Management State of Hawai'i Department of Land and Natural Resources P.O. Box 621 Honolulu, Hawai'i 96809 Attention: Barry Cheung, District Land Agent

Dear Ms. Chang:

### SUBJECT: Request for Transfer of Fee Title of 30-Foot Road Lot

The Self-Help Housing Corporation of Hawaii ("<u>Developer</u>") is developing the Nanaikeola Self-Help Housing Project (the "<u>Project</u>") located on a 12.388-acre parcel of land in Nanakuli, Oahu, Hawaii, and denoted as TMK 8-7-008:076. The Project will contain approximately 86 affordable single family house lots and provide technical assistance to 86 very low- and low-income families to build their own houses under the team self-help housing method. Homes will be one or two story, three or four bedroom fee simple houses for prices in the range of \$390,000. Affordable housing projects, like the Project, are of highest priority to the City.

Developer wishes to incorporate a portion of a parcel of land (being portions of the land(s) described in and covered by Government (Crown) Lands of Waianae) situate, lying and being at Lualualei, Waianae, City and County of Honolulu, Island of Oahu, State of Hawaii, said portion being designated as a Lot C of the 30-Foot Road lot, bearing Tax Map Key (1) 8-7-008-\_\_\_, into the Project as the outer loop of the Project's road network. Lot C is shown on the map and description attached hereto as <u>Exhibit "A</u>" (the "Lot"). As documented by a letter from Developer to the City's Department of Planning and Permitting ("<u>DPP</u>") dated April 11, 2024 (attached hereto as <u>Exhibit "B</u>"; "the <u>Developer's Letter</u>"), Developer has agreed to build out the Lot to meet County standards for a roadway lot, and upon completion, to dedicate the Lot



HOPE PO'O

CATHERINE A. TASCHNER

DIRECTOR

PO'O

KEITH SUZUKA DEPUTY DIRECTOR Dawn N.S. Chang, Chairperson April 25, 2024 Page 2

improvements to the City. Accordingly, the City will be receiving a fully developed and dedicated road from Developer, at no expense to the City's taxpayers.

In order to document and ensure the City's clear and unambiguous legal title to the Lot in this special situation where the Lot will be fully developed and dedicated by Developer at no expense to the City's taxpayers, the City hereby requests a quitclaim deed or other transfer document from the State, conveying all of the State's right, title and interest in and to the Lot to the City.

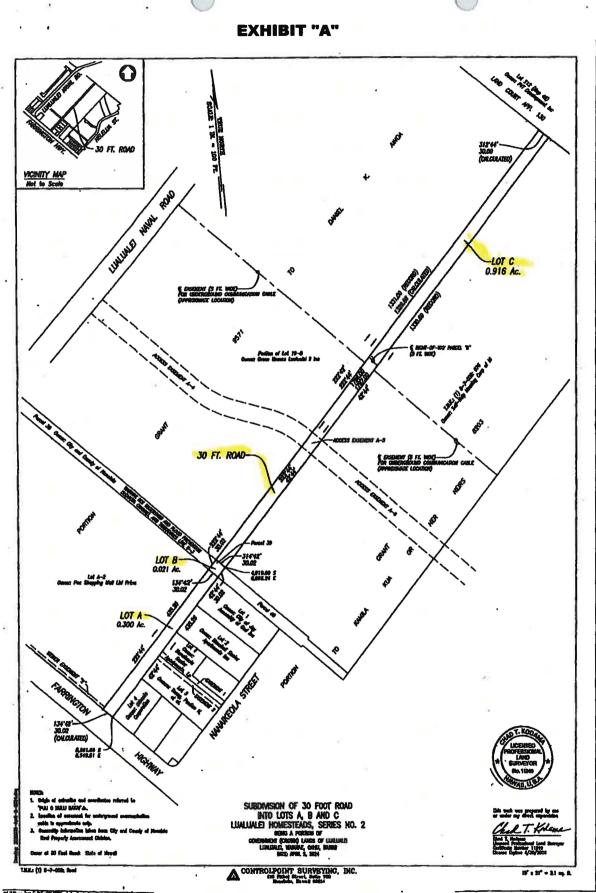
Enclosed for your use in preparing the quitclaim deed or other transfer document are the legal description for the 30-Foot Road lot, together with a survey map of the same (see Exhibit "C").

Should you have any questions, please feel free to contact Keith Suzuka, Deputy Director of the City's Department of Land Management, at (808) 768-4291.

Sincerely Keith Suzuka Deputy Director

Attachment(s) Exhibit "A" Lot C Exhibit "B" Nanaiekeola to DPP re BLNR transfer letter Exhibit "C" 30 Ft Road Description and Road Map

cc: Duane Pang, Deputy Corporation Counsel Michael D. Formby, Managing Director



Bein	g a portio	n of 30 Foot	Road, Lualualei Homes	steads, Series 2
Being also a portion of the Government (Crown) Lands of Lualualei				
Situa	ated at Lu	alualei. Waia	nae, Oahu, Hawaii	
Chai Surv	<b>nnel and 1</b> ey Triang	Tributaries, th ulation Statio	e coordinates of said p	ast corner of Parcel 39. Line U-3, Ulehawa oint of beginning referred to Government Al" being 4,919.90 feet South and 6,865.24 feet e from true South:
1.	13 <b>4°</b>	42'	30.02 feet	along the Northeasterly side of Parcel 39, Line U-3, Ulehawa Channel and Tributaries, being also remainder of 30 Foot Road;
2.	<b>222°</b>	44'	1329.66 feet	along the Southeasterly side of Portion of Lot 19-B, being also a portion of Grant 9571 to Daniel K. Ainoa;
3.	312°	44'	30.00 feet	along the Southwesterly side of Lot 212 (Map 48) of Land Court Application 130;
4.	42°	44'		along the Northwesterly side of Parcel 76 of T.M.K.: (1) 8-7-008, being also a portion of Grant 8203 to Kamila Kua or her heirs to the point of beginning and containing an area of 0.916 Ac.
			* LICENSED PROFESSIONAL LAND SURVEYOR No. 11249	
		•	All, U.S.	Chal T. Kahama
April 2, 2024 Honolulu, Hawaii Tax Map Key: (1) 8-7-008 Roadway			Roadway	Chad T. Kodama Licensed Professional Land Surveyor Certificate Number 11249 Exp. 04/30/2026

ControlPoint Surveying, Inc. 615 Piikol Street, Suite 700 Honolulu Hawali 96814

Lot C

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**EXHIBIT "B"** 



## SELF-HELP HOUSING CORPORATION OF HAWAII

1427 Dillingham Blvd., Suite 305 • Honolulu, Hawaii 96817 Mailing Address: P.O. Box 19009 • Honolulu, Hawaii 96817 Telephone: (808) 842-7111 • Fax: (808) 842-7896

April 11, 2024

Ms. Dawn Takeuchi Apuna, Director Dept. of Planning & Permitting 650 S. King St., 7th Floor Honolulu, Hawaii 96813

Dear Ms. Takeuchi Apuna:

### Subject: <u>Nanaikeola Self-Help Housing Subdivision-File No. 2023/SUB 181</u> <u>Transfer, Build-Out, and Dedication of Crown Lualualei Road</u>

Aloha! In order to satisfy item #3 of the Department of Planning & Permitting letter dated January 26, 2024 regarding the Nanaikeola Self-Help Housing Subdivision, the Self-Help Housing Corporation of Hawaii (SHHCH) has been working with Duane Pang of the Corporation Counsel, Keith Suzuka of the Department of Land Management (DLM), and Barry Cheung of the Department of Land and Natural Resources (DLNR) to have a portion of the Crown Lualualei road remnant (denoted by TMK (1) 8-7-008: ) transferred by the State of Hawaii to the City and County of Honolulu for use as the outer roadway loop after improvement of the subdivision. SHHCH had its consultant, Control Point Surveying, prepare the attached survey map ("Survey Map"). The Self-Help Housing Corporation of Hawaii hereby commits to the Department of Planning & Permitting that it will improve the portion of the Crown Lualualei road remnant designated on the Survey Map as "Lot C" in order to comply with City Subdivision Rules and Regulations, and Traffic Review requirements to be acceptable for ownership and maintenance by the City and County of Honolulu. Although SHHCH will utilize Lot C of the Crown Lualualei road as the outer loop of its road network for the Nanaikeola Self-Help Subdivision, upon improvement it will be dedicated to the City and County of Honolulu for ownership and maintenance. As SHHCH will pay for the improvement of Lot C of the Crown Lualualei road as noted on the attached exhibit, there will be no cost to the taxpayers.

Upon improvement of the approximately 86 lot Nanaikeola Self-Help Housing Subdivision, the Self-Help Housing Corporation of Hawaii will provide technical assistance to 86 very low and low income families to build their own houses for approximately \$390,000 fee simple. In this manner SHHCH, in partnership with the City and County of Honolulu, and the State Department of Land and Natural Resources, will be providing affordable housing to 86 low income families on Oahu by re-purposing the abandoned infrastructure of the Crown Lualualei road remnant. SHHCH is utilizing approximately 14 feet of its own property to build out to a standard road of 44'.

The Self-Help Housing Corporation of Hawaii greatly appreciates the efforts of the City and County of Honolulu, all its own consultants, and the Department of Land and Natural Resources staff to secure a portion of the Crown Lualualei road remnant for use in the Nanaikeola Self-Help Housing Subdivision.

Please let me know if additional information is needed. Thank you very much.

Sincerely,

C la

Claudia Shay Executive Director

Cc: Keith Suzuka, Deputy Director Dept. of Land Management

> Jon Muraoka, P.E. Fukunaga & Associates

			LOT		
Being a portion of 30 Foot Road, Lualualei Homesteads, Series 2					
			Government (Crown) La	nds of Lualualei	
			nae, Oahu, Hawaii		
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1.	134°	42'	30.02 feet	along the Northeasterly side of Farrington Highway;	
2.	222°	44'	435.26 feet	along the Southeasterly side of Lot A-2, being also a portion of Grant 9571 to Daniel K. Ainoa;	
3.	314°	42'	30.02 feet	along the Southwesterly side of Parcel 39, Line U-3, Ulehawa Channel and Tributaries, being also remainder of 30 Foot Road;	
4.	42°	44'	435.26 feet	along the Northwesterly side of Lots 1, 2, 4, 5 and Lot 4, being also a portion of Grant 8203 to Kamila Kua or her heirs to the point of beginning and containing an area of 0.300 Ac.	
Hone	2, 2024 olulu, Haw Map Key:	/aii (1) 8-7-008	LICENSED PROFESSIONAL LAND SURVEYOR No. 11249	Chad T. Kodama Chad T. Kodama Licensed Professional Land Surveyor Certificate Number 11249 Exp. 04/30/2026	

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ControlPoint Surveying, Inc. 615 Piikoi Street, Suite 700 Honolulu Hawaii 96814

### LOT B

Being a portion of 30 Foot Road, Lualualei Homesteads, Series 2

Being also Parcel 39, Line U-3, Ulehawa Channel and Tributaries

Being also a portion of the Government (Crown) Lands of Lualualei

Situated at Lualualei, Waianae, Oahu, Hawaii

Beginning at the East corner of this lot, on the Westerly side of Parcel 40, Line U-3, Ulehawa Channel and Tributaries, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU O HULU MAKAI" being 4,919.90 feet South and 6,865.24 feet East and running by azimuths measured clockwise from true South:

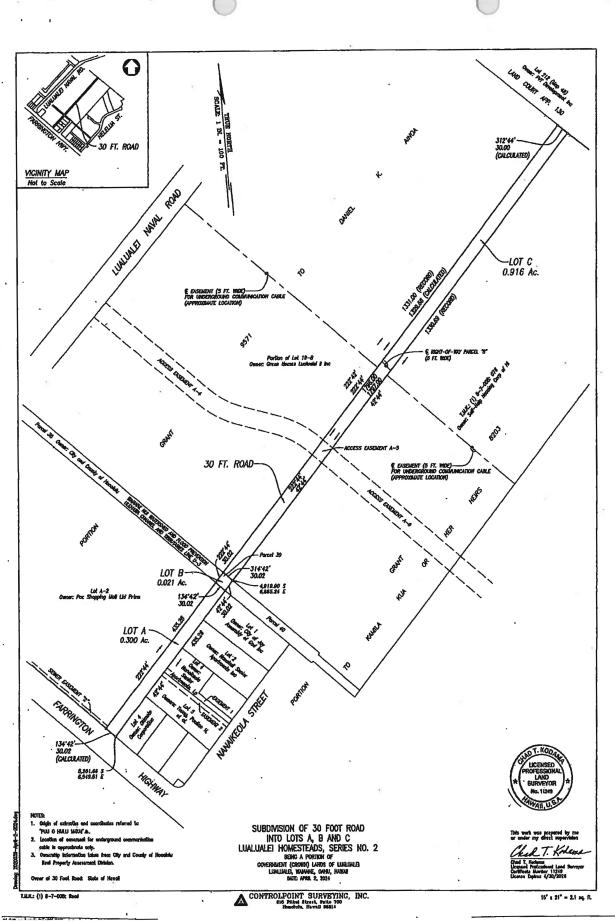
1.	42°	44'	30.02 feet	along the Northwesterly side of Parcel 40, Line U-3, Ulehawa Channel and Tributaries, being also portion of Grant 8203 to Kamila Kua or her heirs;
2.	134°	42'	30.02 feet	along the remainder of 30 Foot Road;
3.	222°	44'	30.02 feet	along the Southeasterly side of Parcel 38, Line U-3, Ulehawa Channel and Tributaries, being also a portion of Grant 9571 to Daniel K. Ainoa;
4.	314°	42'	30.02 feet	along the remainder of 30 Foot Road to the point of beginning and containing an area of 0.021 Ac. Chad T. Kadama
Hone	2, 2024 blulu, Hav Map Key:		-008 Roadway	Chad T. Kodama Licensed Professional Land Surveyor Certificate Number 11249 Exp. 04/30/2026

ControlPoint Surveying, Inc. 615 Piikoi Street, Suite 700 Honolulu Hawaii 96814 .

			LOI	T C
Beir	ig a portio	n of 30 Foot F	load, Lualualei Homes	steads, Series 2
Beir	ig also a p	ortion of the C	Bovernment (Crown) L	ands of Lualualei
Situ	ated at Lu	alualei, Waian	ae, Oahu, Hawaii	
Cha Surv	nnel and 7 vey Triang	Fributaries, the ulation Statior	e coordinates of said p	ast corner of Parcel 39. Line U-3, Ulehawa point of beginning referred to Government Al" being 4,919.90 feet South and 6,865.24 feet e from true South:
1.	134°	42'	30.02 feet	along the Northeasterly side of Parcel 39, Line U-3, Ulehawa Channel and Tributaries, being also remainder of 30 Foot Road;
2.	222°	44'	1329.66 fee	along the Southeasterly side of Portion of Lot 19-B, being also a portion of Grant 9571 to Daniel K. Ainoa;
3.	312°	44'	30.00 feel	along the Southwesterly side of Lot 212 (Map 48) of Land Court Application 130;
4.	42°	44'		along the Northwesterly side of Parcel 76 of T.M.K.: (1) 8-7-008, being also a portion of Grant 8203 to Kamila Kua or her heirs to the point of beginning and containing an area of 0.916 Ac.
Hon	2, 2024 olulu, Haw Map Key:	vaii (1) 8-7-008 R	CHAD T. KODANA LICENSED PROFESSIONAL LAND SURVEYOR No. 11249	Chad T. Kabama Chad T. Kodama Licensed Professional Land Surveyor Certificate Number 11249 Exp. 04/30/2026

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ControlPoint Surveying, Inc. 615 Pilkoi Street, Suite 700 Honolulu Hawaii 96814



### **30-Foot Road**

Being a 30 Foot Road Reserve, Lualualei Homesteads, Series No. 2

Being also a portion of the Government (Crown) Lands of Lualualei

Situated at Lualualei, Waianae, Oahu, Hawaii

Beginning at the South corner of this lot, on the Northeasterly side of Farrington Highway, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU O HULU MAKAI" being 5,261.66 feet South and 6,549.51 feet East and running by azimuths measured clockwise from true South:

1.	134°	42'	30.02 feet	along the Northeasterly side of Farrington Highway;
2.	222°	44'	1794.94 feet	along the Southeasterly side of Lot A-2, Parcel 38, Line U-3, Ulehawa Channel and Tributaries and Portion of Lot 19-B, being also a portion of Grant 9571 to Daniel K. Ainoa;
3.	312°	44'	30.00 feet	along the South side of Lot 212 (Map 48) of Land Court Application 130;
4.	42°	44'	1795.97 feet	along the Northwesterly side of Parcel 76, T.M.K.: (1) 8-7-008, Parcel 40, Line U-3, Ulehawa Channel and Tributaries and Lots 1, 2, 4, 5 and Lot 4, being also a portion of Grant 8203 to Kamila Kua or her heirs to the point of beginning and containing an area of

1.237 Ac.



April 12, 2024 Honolulu, Hawaii Tax Map Key: (1) 8-7-008 Roadway

had T. Kadama Chad T. Kodama

Chad T. Kodama Licensed Professional Land Surveyor Certificate Number 11249 Exp. 04/30/2026

ControlPoint Surveying, Inc. 615 Piikoi Street, Suite 700 Honohulu Hawaii 96814

