

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

May 25, 2012

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

PSF No.: 12HD-044

HAWAII

Grant of Term, Non-Exclusive Easement; Issuance of Immediate Management Right-of-Entry to the County of Hawaii for Nanawale Spigot Facility and Related Purposes, Kaniahiku, Puna, Hawaii, Tax Map Key: 3<sup>rd</sup>/ 1-4-001: portion of 004.

APPLICANT:

County of Hawaii (COH)

LEGAL REFERENCE:

Section 171-95, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Nanawale Forest Reserve situated at Kaniahiku, Puna, Hawaii identified by Tax Map Key: 3<sup>rd</sup>/ 1-4-001: portion of 004, as shown on the attached map labeled **Exhibit A**.

AREA:

0.1090 acres (4,749 square feet), more or less.

ZONING:

State Land Use District: Conservation  
County of Hawaii CZO: Conservation

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution:  
YES \_\_\_ NO x

CURRENT USE STATUS:

Encumbered under Governor's Executive Order No. 1666 to the Division of Forestry and Wildlife for the Nanawale Forest Reserve.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain, repair, replace and remove a public water spigot facility over, under and across State-owned land.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

Gratis

EASEMENT TERM:

Fifty-five (55) years.

ANNUAL RENT:

Gratis

RENTAL REOPENINGS:

Not applicable.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The Final Environmental Assessment for the subject project was published in the OEQC's Environmental Notice on April 23, 2006 with a finding of no significant impact (FONSI).

DCCA VERIFICATION:

Not applicable.  
As a government agency, Applicant 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;

REMARKS:

Subject parcel is currently encumbered under Governor's Executive Order No. 1666, dated January 17, 1955, to the Division of Forestry and Wildlife for Nanawale Forest Reserve.

By letter dated March 21, 2012, Mr. Warren H.W. Lee, Director of Public Works, County of Hawaii, requested an easement for the Nanawale Water Spigot Facility. During construction of the facility, an area located outside of the land identified in the survey map for the spigot site was inadvertently disturbed due to grading for the project. For reason unknown, a portion of the facility's parking area was constructed outside of the land set aside for the County's use. As a result, an easement is now required to address the encroachment into the forest reserve. The lands were previously cleared during a DLNR tree-trimming project, unrelated to the County's project. DOFAW confirms that the subject area was previously overgrown with albezia trees and no native forest was affected. Granting of the easement will permit the County to undertake weed control measures of the encroached area.

The County of Hawaii 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.

On 3/30/12, various governmental agencies and interest groups were solicited for comments. All respondents had no objections to the request.

AGENCIES	COMMENTS
<b>County of Hawaii:</b>	
Fire Department	No comments
Planning Department	No objections
Police Department	No objections
Public Works	No cresponse
Department of Water Supply	No objections
<b>State of Hawaii:</b>	
DLNR - DOFAW	No objections
DLNR - Historic Preservation	No response
DLNR - OCCL	No objections
<b>Other Agencies/ Interest Groups:</b>	
Office of Hawaiian Affairs	No response

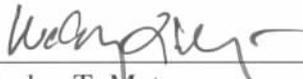
To date, the Division of Forestry and Wildlife has indicated that it has no objections to the request as the subject area within the forest reserve was previously disturbed and cleared years ago. There were no native forest affected by the construction of the spigot site and that measures to control weeds will be put in place by the county. (**Exhibit B**)

RECOMMENDATION: That the Board:

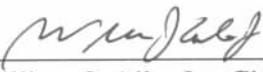
1. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a term, non-exclusive easement to the County of Hawaii covering the subject area for water spigot facility and related purposes under the terms and conditions cited above, which are by this 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. The easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key: (3) 1-5-004:001, 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 Grantee's successors or assigns of the insurance requirement in writing, separate and apart from this easement document;
  - 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 to best serve the interests of the State.
2. Authorize the issuance of an immediate management right-of-entry to the County of Hawaii, for maintaining, operating and use of the subject property, under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
  - A. The standard terms and conditions of the most current management right-of-entry form, as may be amended from time to time;
  - B. The term of this management right-of-entry shall commence upon date of this Land Board action and shall expire upon the execution of the grant of easement document; and

- C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

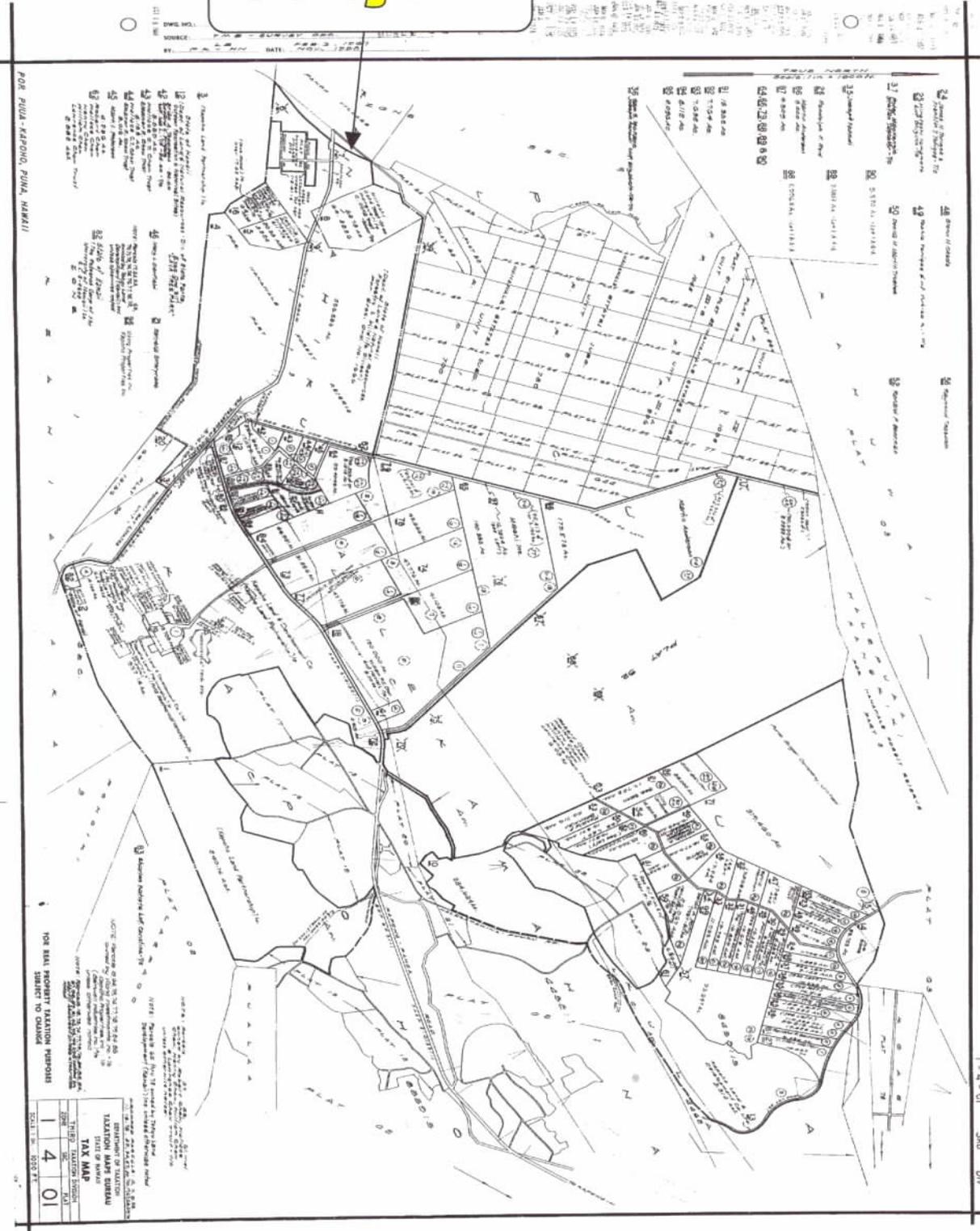
Respectfully Submitted,

  
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Wesley T. Matsunaga  
Land Agent

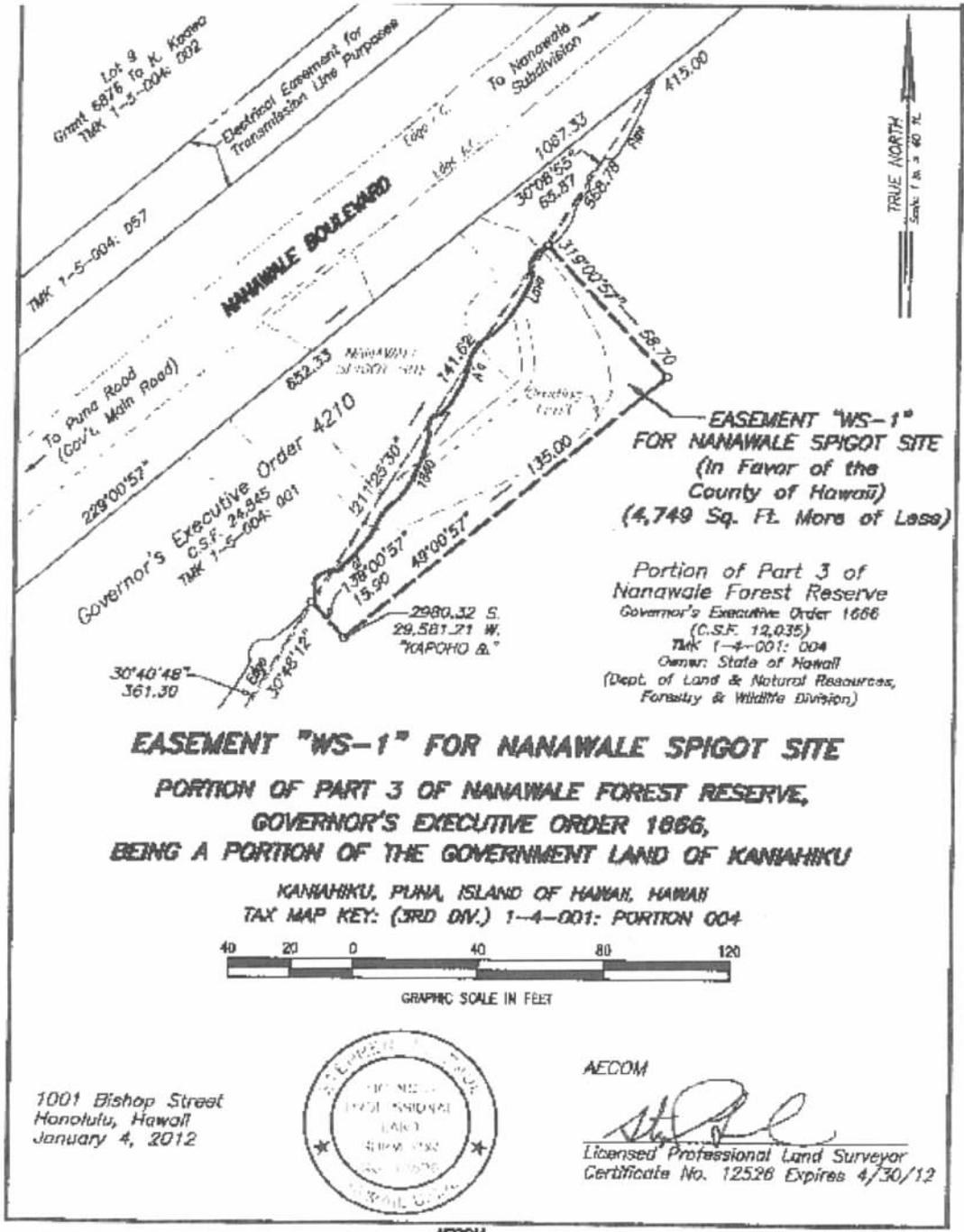
APPROVED FOR SUBMITTAL:

  
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William J. Aila, Jr., Chairperson

# Subject



# EXHIBIT A



**EXHIBIT A**

