

STATE OF HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Forestry and Wildlife
Honolulu, Hawai'i 96813

November 8, 2013

Chairperson and Members
Board of Land and Natural Resources
State of Hawai'i
Honolulu, Hawai'i

Land Board Members:

SUBJECT: ACCEPTANCE OF TWO GRANT OF EASEMENTS FROM JOHN J. COGAN, TRUSTEE OF THE JOHN J. COGAN REVOCABLE LIVING TRUST IN FAVOR OF THE STATE OF HAWAI'I FOR ACCESS ACROSS A PORTION OF FOREST RIDGE WAY TO HONOLULU WATERSHED FOREST RESERVE, TAX MAP KEY: (1) 2-5-015: ADJACENT TO 014 & 018, HONOLULU, O'AHU.

SUMMARY:

This Board Submittal requests acceptance of two Grant of Easements in favor of the State of Hawai'i for public pedestrian access and emergency and maintenance access to the Honolulu Watershed Forest Reserve across a portion of Forest Ridge Way, Tax Map Key: (1) 2-5-015: adjacent to 014 & 018, Honolulu, O'ahu, which is in the process of being conveyed from the City and County of Honolulu to the John J. Cogan, Trustee of the John J. Cogan Revocable Living Trust.

LOCATION:

Portion of Forest Ridge Way situated at Honolulu, O'ahu, identified by Tax Map Key: (1) 2-5-015: adjacent to 014 & 018, as shown on the attached map (Exhibit A).

AREA:

2086 square feet, more or less.

ZONING:

State Land Use District:
City and County of Honolulu LUO:

Conservation
P-1

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:

Existing County road.

BACKGROUND:

In August 2011, the City and County of Honolulu adopted Resolution No. 11-180 (Exhibit B), approving the disposition of the subject area to the adjacent private land owner, John J. Cogan, Trustee of the John J. Cogan Revocable Living Trust, who owns both (1) 2-5-015:014 & 018. The City and County has accepted ownership and jurisdiction over the roadway, pursuant to Act 288, SLH 1993 and adoption of City County Resolution 93-287, CD-1, FD-1.

On February 10, 2012, under agenda Item D-3 (Exhibit C), the Board of Land and Natural Resources (Board) approved the issuance of a quitclaim deed (Exhibit D) for the aforementioned portion of Forest Ridge Way to the City and County of Honolulu, releasing and disclaiming the State's interest in the roadway, if any. This Board action also reserved "vehicular and pedestrian access easement (A-1) in favor of the Division of Forestry and Wildlife of the Department [of Land and Natural Resources.]"

DISCUSSION:

On October 15, 2013, the Division of Forestry and Wildlife (Division) received drafts of two easements from John J. Cogan, Trustee of the John J. Cogan Revocable Living Trust; A Grant of Easement for Emergency and Maintenance Access (Exhibit E); and a Grant of Easement for Public Pedestrian Access (Exhibit F). After consultation with the Department of the Attorney General, the Division is in favor of accepting both Grant of Easements, both of which are necessary to ensure that access is maintained for the management and protection of the watershed, native ecosystems, cultural resources, and to provide for public access to the Honolulu Watershed Forest Reserve.

Once the Board approves both easement documents, the City and County intends to execute and record both Grant of Easements and the quitclaim deed for the roadway from the City and County of Honolulu to John J Cogan, Trustee of the John J. Cogan Revocable Living Trust, simultaneously.

TERM OF GRANT OF EASEMENT:

The term of the Grant of Easement shall be in perpetuity and non-exclusive for the purposes of public pedestrian access and emergency and maintenance access to and from a portion of the Benefited Property and over and across the Burdened Property at the location shown on Exhibit A.

John J. Cogan, Trustee of the John J. Cogan Revocable Living Trust and each successor shall operate, maintain and repair the driveway and road improvements. These improvements shall not obstruct or unreasonable interfere with the defined uses of the Burdened Property.

A gate to limit access to other parties may be installed; provided that pedestrian access around such gate is possible at all times without a key. A key or other appropriate mechanism for operation of any gate will be provided the State of Hawai'i for emergency and maintenance access.

The Grant of Easement shall be appurtenant to and for the benefit of the Benefited Property and shall run with the land.

RECOMMENDATIONS:

That the Board:

1. Accept the Grant of Easement (Exhibit E) between John J. Cogan, Trustee of the John J. Cogan Revocable Living Trust for Emergency and Maintenance Access to the Honolulu Watershed Forest Reserve, in favor of State of Hawai'i, across a portion of Forest Ridge Way, Tax Map Key: (1) 2-5-015; adjacent to 014 & 018, Honolulu, O'ahu, further subject to the following:
 - a. Review and approval as to form 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.

2. Accept the Grant of Easement (Exhibit F) between John J. Cogan, Trustee of the John J. Cogan Revocable Living Trust for Public Pedestrian Access to the Honolulu Watershed Forest Reserve, in favor of State of Hawai'i, across a portion of Forest Ridge Way, Tax Map Key: (1) 2-5-015; adjacent to 014 & 018, Honolulu, O'ahu, further subject to the following:
 - a. Review and approval as to form 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,

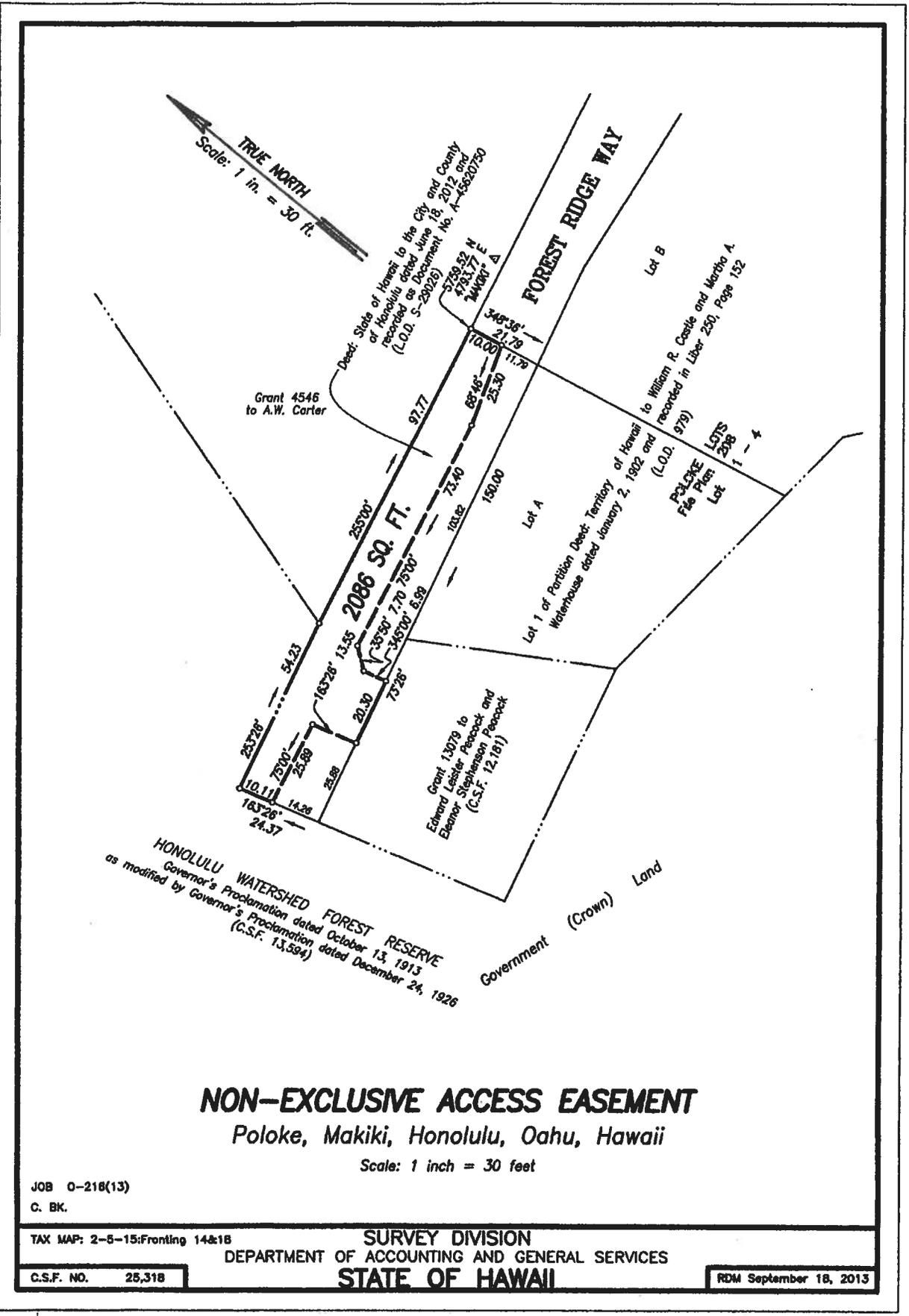


for Roger H. Imoto,
Administrator

APPROVED FOR SUBMITTAL:



WILLIAM J. AILA, JR., Chairperson
Board of Land and Natural Resources



Map Reduced Not To Scale
EXHIBIT "A"
Page 1 of 1



RESOLUTION

APPROVING THE ABANDONMENT AND SALE OF LOT 1, FOREST RIDGE WAY ROAD STUB ABUTTING 221 FOREST RIDGE WAY (TMK 2-5-015:14 AND 18), HONOLULU, OAHU, HAWAII, AREA 3,551 SQUARE FEET.

WHEREAS, Paragraph 16, Section 46-1.5, Hawaii Revised Statutes (HRS), as amended, authorizes the counties, under certain conditions, to dispose of real property as the interests of the inhabitants of the county may require; and

WHEREAS, Lot 1, with an area of 3,551 square feet, which is the road stub abutting 221 Forest Ridge Way (TMK 2-5-015:14 and 18), is surplus to the City's needs, and is shown outlined in red on the map designated as Exhibit "A", attached hereto and by reference made a part of this resolution; and

WHEREAS, the City accepted ownership and jurisdiction of Lot 1 pursuant to Act 288, SLH 1993 and adoption of City Council Resolution 93-287, CD-1, FD-1; and

WHEREAS, Lot 1 is a county highway as defined in Section 264-1 HRS; and

WHEREAS, said Section 264-1, HRS provides that all county highways once established shall continue until vacated, closed, abandoned, or discontinued by a resolution of the legislative body of the county wherein the county highway lies; and

WHEREAS, said Section 264-3 HRS provides that a county highway, before it is disposed of in any way, it shall be first offered to the abutters for a reasonable length of time and at a reasonable price; and

WHEREAS, Lot 1 was offered to the State of Hawaii, Department of Land and Natural Resources (DLNR), as the abutting property owner of TMK 2-5-019:9, and Darrell Welch, trustee, as the abutting property owner of TMK 2-5-014:28, and both abutting property owners were not interested in purchasing Lot 1; and

WHEREAS, Lot 1 will be sold subject to Easement A-1, which is a perpetual easement for pedestrian and vehicular access purposes in favor of the State, and Easement P-1, which is a perpetual easement for public pedestrian access purposes in favor of the City; and

WHEREAS, both Easements A-1 and P-1 have a total area of 2,086 square feet, and are shown colored in yellow on the attached Exhibit "A"; and

BFS-FOREST RIDGE WAY.R11



RESOLUTION

WHEREAS, Lot 1 will also be sold subject to Easement U-1, with an area of 158 square feet, for utility purposes in favor of the Hawaiian Electric Company, Inc. and Hawaiian Telcom; and

WHEREAS, the various City agencies, including the Department of Transportation Services, have no objections to the disposal of Lot 1; and

WHEREAS, the Director of Budget and Fiscal Services, with the concurrence of the Corporation Counsel, has recommended to the Council to sell Lot 1, pursuant to Sections 37-1.2, 37-1.4 and 37-1.6, Revised Ordinances of Honolulu 1990, as amended; and

WHEREAS, the Director of Budget and Fiscal Services has proposed and recommended the sale of Lot 1 by negotiated sale to John J. Cogan, Trustee of the John J. Cogan Revocable Living Trust, as the abutting property owner; and

WHEREAS, the minimum sale price of Lot 1 is \$48,000, based on an appraisal done by the Department of Design and Construction; and

WHEREAS, the sale price of \$48,000 will be deposited into the reserve for fiscal stability fund; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that Lot 1 is hereby abandoned as a public roadway effective as of the date of recordation of the deed of conveyance; and

BE IT FURTHER RESOLVED by the Council of the City and County of Honolulu that it approves the sale of said Lot 1, with an area of 3,551 square feet, as shown on the map attached as Exhibit "A"; and

BE IT FURTHER RESOLVED that the sale be in accordance with the recommendations of the Director of Budget and Fiscal Services, and/or designee and with all applicable laws; and

BE IT FURTHER RESOLVED by the Council of the City and County of Honolulu that it approves the sale price of \$48,000 be deposited in the reserve for fiscal stability fund; and

BFS-FOREST RIDGE WAY.R11



RESOLUTION

BE IT FURTHER RESOLVED that the Director of Budget and Fiscal Services, and/or designee, shall be authorized to sign the deed and other necessary documents; and

BE IT FINALLY RESOLVED that the Clerk be directed to transmit a certified copy of this resolution to the Director of Budget and Fiscal Services.

INTRODUCED BY:

Walter Davis (br)

DATE OF INTRODUCTION

JUN 20 2011
Honolulu, Hawaii

Councilmembers

Exhibit C

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

February 10, 2012

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

PSF No.:11od-210

OAHU

Quitclaim of State's Interests, if Any, in Forest Ridge Way to the City and County of Honolulu, Honolulu, Oahu, Tax Map Key: (1) 2-5-015;adjacent to 014 & 018.

APPLICANT:

City and County of Honolulu.

LEGAL REFERENCE:

Sections 171-95(a)(5) and 264-2, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Honolulu, Oahu, identified by Tax Map Key: (1) 2-5-015: adjacent to 014 & 018, as shown on the attached map labeled **Exhibit A1 and A2.**

AREA:

Lot 1 - 3,551 square feet, more or less.

ZONING:

State Land Use District: Conservation
City & County of Honolulu LUO: P-1

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:

Existing County road.

CONSIDERATION:

Not applicable.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule Sections 11-200-8(a)(1) & (4) and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated December 4, 1991, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 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 Class No. 4, that states "Minor alteration in the conditions of land, water, or vegetation." (See **Exhibit B**)

APPLICANT REQUIREMENTS:

None [City and county of Honolulu has provided the required map and description of the subject area.]

REMARKS:

The subject area (Lot 1) is at the end of the existing Forest Ridge Way, which 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.

Pursuant to the Resolution No. 11-180, the City Council approved the disposition of Lot 1 to the abutting private owner, who owns both (1) 2-5-015:014 & 018. By a letter dated November 8, 2011, the City requests the transfer of the subject area. A copy of the Resolution is attached as **Exhibit C**.

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. While ownership was transferred by operation of law pursuant to this statutory section, the counties have continued to dispute that they own the roads because they do not have paper title.

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, except when required for the purpose of disposal." (Emphasis added.)

As a result, it is staff'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. 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.

To enable the City to convey the fee title of the subject area to the abutting private owner 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 County already owns the road.

Previously, the City has inquired with the Department regarding any comment on the proposed sale to the abutting private owner. Division of Forestry and Wildlife request a vehicular easement for its maintenance vehicle and personnel into the forest reserve adjacent to the subject area. Easement A-1 containing 2,086 square feet is depicted on Exhibit C and authorization is requested accordingly.

Office of Conservation and Coastal Lands, Board of Water Supply, and Department of Facility Maintenance have no objections/comments to the request. Commission on Water Resource Management, Department of Planning and Permitting, and Office of Hawaiian Affairs have not responded as of the suspense date.

There are no other pertinent issues or concerns, and staff does not have any objection to the request

RECOMMENDATION: That the Board:

1. Determine the State does not own the subject property or any interest in it.
2. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, 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.

3. Subject to the Applicant fulfilling all of the Applicant requirements listed above authorize the quitclaim of interests, if any, the State may have in the subject roadway parcel to the City and County of Honolulu covering the 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. Reservation of vehicular and pedestrian access easement (A-1) in favor of the Division of Forestry and Wildlife of the Department;
 - 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.

Respectfully Submitted,



Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson

prepared by the Survey Division, Department of Accounting and General Services, State of Hawaii.

AND the reversions, remainders, rents, issues and profits thereof, and all of the estate, right, title, and interest of the Grantor, both at law and in equity, therein and thereto.

RESERVING TO THE STATE OF HAWAII, ITS SUCCESSORS AND ASSIGNS, THE FOLLOWING:

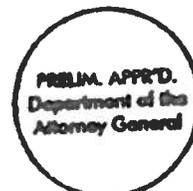
1. All minerals as hereinafter defined, in, on or under the land and the right, on its own behalf or through persons authorized by it, to prospect for, mine, and remove these minerals and to occupy and use so much of the surface of the ground as may be required for all purposes reasonably extending to the mining and removal of these minerals by any means whatsoever, including strip mining. "Minerals," as used herein, shall mean any or all oil, gas, coal, phosphate, sodium, sulphur, iron, titanium, gold, silver, bauxite, bauxitic clay, diaspore, boehmite, laterite, gibbsite, alumina, all ores of aluminum and, without limitation thereon, all other mineral substances and ore deposits, whether solid, gaseous, or liquid, including all geothermal resources, in, on, or under the land, fast or submerged; provided, that "minerals" shall not include sand, gravel, rock, or other material suitable for use and used in general construction in furtherance of the Grantee's permitted activities on the land and not for sale to others.

2. All surface and ground waters appurtenant to the land and the right on its own behalf or through persons authorized by it, to capture, divert, or impound the same and to occupy and use so much of the land as may be required in the exercise of this right reserved.

Provided, however, that as a condition precedent to the exercise of the rights reserved in Paragraphs 1 and 2, just compensation shall be paid to the Grantee for any of Grantee's improvements taken.

SUBJECT TO rights of native tenants and regulatory rights and ownership rights (if any) of the State of Hawaii established pursuant to state law including Chapter 6E, Hawaii Revised Statutes, over prehistoric or historic remains found in, on, or under the land.

AND the Grantee, for itself, its successors and assigns, covenants with the Grantor and its successors as follows:

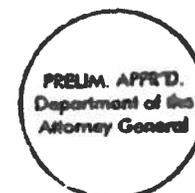


1. The use and enjoyment of the land conveyed shall not be in support of any policy which discriminates against anyone based upon race, creed, sex, color, national origin, religion, marital status, familial status, ancestry, physical handicap, disability, age or HIV (human immunodeficiency virus) infection.

2. The use of the land shall be in combination, consolidation, or otherwise with other abutting lands owned by the Grantee and shall be used in accordance with the appropriate zoning and subdivision ordinances of the City and County of Honolulu.

3. That should the roadways herein granted be vacated, closed, abandoned, or discontinued, disposal of same shall be in accordance with provisions of Section 264-3, Hawaii Revised Statutes.

TO HAVE AND TO HOLD the same together with all of the rights, easements, privileges and appurtenances thereunto belonging or in any ways appertaining or held and enjoyed therewith unto said Grantee, its successors and assigns, forever, except as noted herein.



STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 1st day of June, 2012,
before me appeared PETER B. CARLISLE, to me personally known,
who, being by me duly sworn, did say that he is the Mayor of the
CITY AND COUNTY OF HONOLULU, a municipal corporation, and that
the seal affixed to the foregoing instrument is the corporate
seal of said municipal corporation, and that the foregoing
instrument was signed and sealed in behalf of said municipal
corporation by authority of the City Council of said City and
County of Honolulu, and said PETER B. CARLISLE acknowledged said
instrument to be the free act and deed of said municipal
corporation.



Sharon T. Emoto
Notary Public, State of Hawaii

Sharon T. Emoto

My commission expires: 3/26/15

Date: undated # Pages: 8 (1 ckh)
Notary Name: Sharon T. Emoto First:
Description: Quitclaim Deed

Sharon T. Emoto 6/1/12





STATE OF HAWAII
SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
HONOLULU

C.S.F. No. 25,168

March 6, 2012

PORTION OF
THE GOVERNMENT (CROWN) LAND OF POLOKE
PARCEL A

Poloke, Makiki, Honolulu, Oahu, Hawaii

Being also a portion of Forest Ridge Way.

Being also a portion of Honolulu Watershed Forest Reserve, Governor's Proclamation dated October 13, 1913 and modified on December 24, 1926.

Beginning at the southeast corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "MAKIKI" being 5738.17 feet North and 4798.07 feet East, thence running by azimuths measured clockwise from True South:-

1. 73° 26' 150.00 feet along Lot A of the subdivision of Lot 1-4 of Poloke Lots, File Plan 208 and Grant 13079 to Edward Leister Peacock and Eleanor Stephenson Peacock;
2. 163° 26' 24.37 feet along the remainder of the Government (Crown) Land of Poloke;
3. 253° 26' 54.23 feet along the remainder of the Government (Crown) Land of Poloke;



- 4. 255° 00' 97.77 feet along Grant 4546 to A.W. Carter;
- 5. 348° 36' 21.79 feet along the remainder of Forest Ridge Way to the point of beginning and containing an AREA OF 3551 SQUARE FEET.

**SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII**

By: *Glenn J. Kodani*
Glenn J. Kodani
Land Surveyor ry

Compiled from map prepared by
ControlPoint Surveying, Inc.
Said map has been examined and
checked as to form and mathematical
correctness but not on the ground by
the Survey Division.



Return by Mail () Pickup (x) To:

Gino L. Gabrio
Cades Schutte LLP
1000 Bishop Street, Suite 1200
Honolulu, Hawaii 96813

This document contains _____ pages

Tax Map Key No.: (1) 2-5-015: adjacent to 014 & 018

GRANT OF EASEMENT
(Emergency and Maintenance Access)

This instrument made as of the _____ day of _____, 2013, by and between **JOHN J. COGAN**, Trustee of the John J. Cogan Revocable Living Trust under that certain unrecorded Trust Agreement dated October 4, 1985, as amended and restated, whose address is 221 Forest Ridge Way, Honolulu, Hawaii 96822, hereinafter called "**Grantor**" in favor of **STATE OF HAWAII**, by and through its **Board of Land and Natural Resources**, whose address is P.O. Box 621, Honolulu, Hawaii 96809, hereinafter called "**Grantee**".

A. **BACKGROUND.**

1. Grantor is the owner of certain real property (the "**Burdened Property**") more particularly described in Exhibit "A" attached hereto and made a part hereof.

2. Grantee is the owner of forest lands adjacent to and in the vicinity of the Burdened Property (the "**Benefited Property**") as generally shown as the "State of Hawaii Honolulu Watershed Forest Reserve" on the map attached hereto and made a part hereof as Exhibit "B."

3. Grantee has requested and Grantor has agreed to grant a perpetual non-exclusive easement for purposes of emergency access and forest management to and from a portion of the Benefited Property and over and across the Burdened Property at the location shown as Easement A-1 on the map attached hereto as Exhibit "C" and as Non-Exclusive Access Easement on the map attached hereto as Exhibit "D" and more particularly described in

Exhibit "E" attached hereto and made a part hereof (the "**Easement Area**"), which easement is appurtenant to and for the benefit of the Benefited Property, subject to the terms and conditions of this Grant of Easement.

B. **GRANT OF EASEMENT.** For good and valuable consideration, the receipt of which is hereby acknowledged, Grantor does hereby grant, bargain, sell and convey unto Grantee, a perpetual non-exclusive easement appurtenant to and for the benefit of the Benefited Property, on, over and across the Easement Area for purposes of emergency access of fire trucks and other emergency vehicles and for vehicles and pedestrian access as reasonably necessary for forest management, subject to the terms and conditions set forth below;

TO HAVE AND TO HOLD the same unto Grantee, and Grantee's successors and assigns, forever.

C. **AGREEMENTS WITH RESPECT TO EASEMENT AREAS.**

1. **Use.** Grantee shall use the easement granted hereby only for the purposes set out above for the benefit of the Benefited Property ("Permitted Use").

2. **Construction; Maintenance and Repair of Improvements.** Grantor shall operate, maintain and repair from time to time the driveway and road improvements ("**Road**") in the Easement Area to serve as a driveway for purposes of emergency access of fire trucks and other emergency vehicles and for vehicles and pedestrian access as reasonably necessary for forest management. As used in this Grant of Easement the term "**Grantor's Improvements**" shall mean the Road and other roadway and driveway improvements, including a gate, equipment, appurtenances and landscaping installed by Grantor in the Easement Area. All costs and expenses related to the construction, repair and maintenance of any of Grantor's Improvements installed in the Burdened Property by Grantor shall be borne by Grantor and each successor owner of the Burdened Property (Grantor and each such successor owner being called the "**Burdened Owner**"). Grantor's Improvements shall not obstruct or unreasonably interfere with Grantee's use of the Burdened Property. Grantor, its successors and assigns, shall be charged with the day-to-day care, maintenance, repair and restoration of the Grantor's Improvements.

3. **Key for Gate.** Grantor may install a gate to limit access to other parties; provided that pedestrian access around such gate shall be possible at all times without a key. Grantor will provide to Grantee a key or other appropriate mechanism for operation of any gate. It shall be the responsibility of Grantee to ensure that use of the key, or other appropriate mechanism, by Grantee or anyone claiming a right to use of the key through Grantee, shall be for the sole purpose of gaining access to the Benefited Property for a Permitted Use, and shall otherwise be consistent with the terms and conditions of this Grant of Easement.

4. **Binding Effect.** All the terms and conditions of this Grant of Easement shall inure to the benefit of and be binding upon the Burdened Owner and the Grantee. This Grant of Easement shall be appurtenant to and for the benefit of the Benefited Property and shall run with the land.

GRANTOR:

JOHN J. COGAN, Trustee as aforesaid

GRANTEE:

**STATE OF HAWAII, by and through its
Board of Land and Natural Resources**

WILLIAM J. AILA, JR., Chairperson

APPROVED AS TO FORM

**JULIE H. CHINA
Deputy Attorney General**

**Approved by the Board of Land and Natural
Resources at its meeting held on**

STATE OF HAWAII)
) SS:
CITY AND COUNTY OF HONOLULU)

On this _____ day of _____, 2013, before me personally appeared JOHN J. COGAN, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Notary Public, State of Hawaii

Printed Name: _____

My commission expires: _____

(Official Stamp or Seal)

NOTARY CERTIFICATION STATEMENT

Document Identification or Description:

Grant of Easement (Emergency and Maintenance Access)

Doc. Date: _____ or Undated at time of notarization.

No. of Pages: _____ Jurisdiction: First Circuit
(in which notarial act is performed)

Signature of Notary Date of Notarization and
Certification Statement

Printed Name of Notary

(Official Stamp or Seal)



STATE OF HAWAI'I
 SURVEY DIVISION
 DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
 HONOLULU

C.S.F. No. 25,168

March 6, 2012

PORTION OF
 THE GOVERNMENT (CROWN) LAND OF POLOKE
 PARCEL A

Poloke, Makiki, Honolulu, Oahu, Hawaii

Being also a portion of Forest Ridge Way.

Being also a portion of Honolulu Watershed Forest Reserve, Governor's Proclamation dated October 13, 1913 and modified on December 24, 1926.

Beginning at the southeast corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "MAKIKI" being 5738.17 feet North and 4798.07 feet East, thence running by azimuths measured clockwise from True South:-

1. 73° 26' 150.00 feet along Lot A of the subdivision of Lot 1-4 of Poloke Lots, File Plan 208 and Grant 13079 to Edward Leister Peacock and Eleanor Stephenson Peacock;
2. 163° 26' 24.37 feet along the remainder of the Government (Crown) Land of Poloke;
3. 253° 26' 54.23 feet along the remainder of the Government (Crown) Land of Poloke;

- 1 -

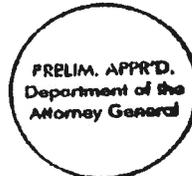
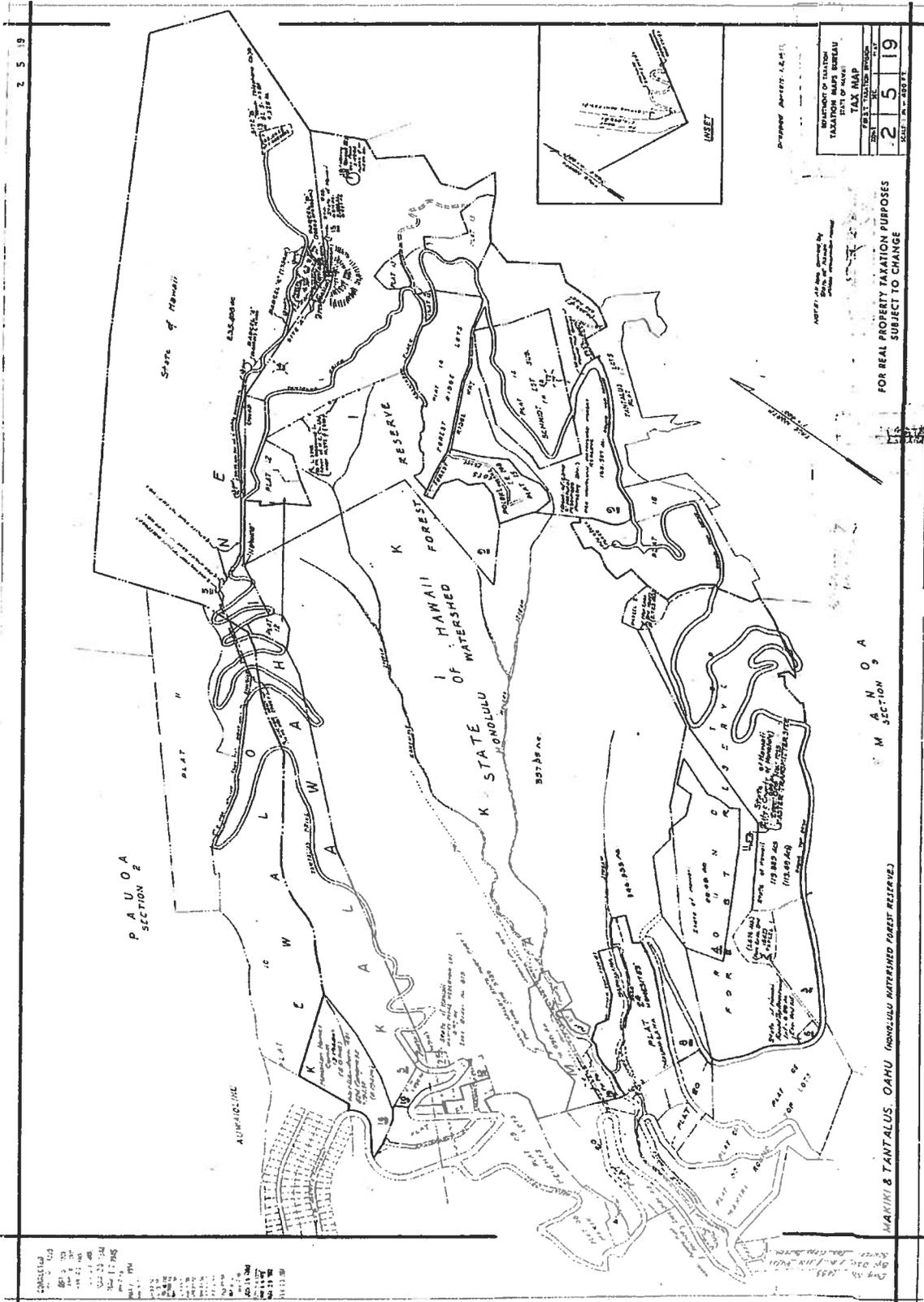
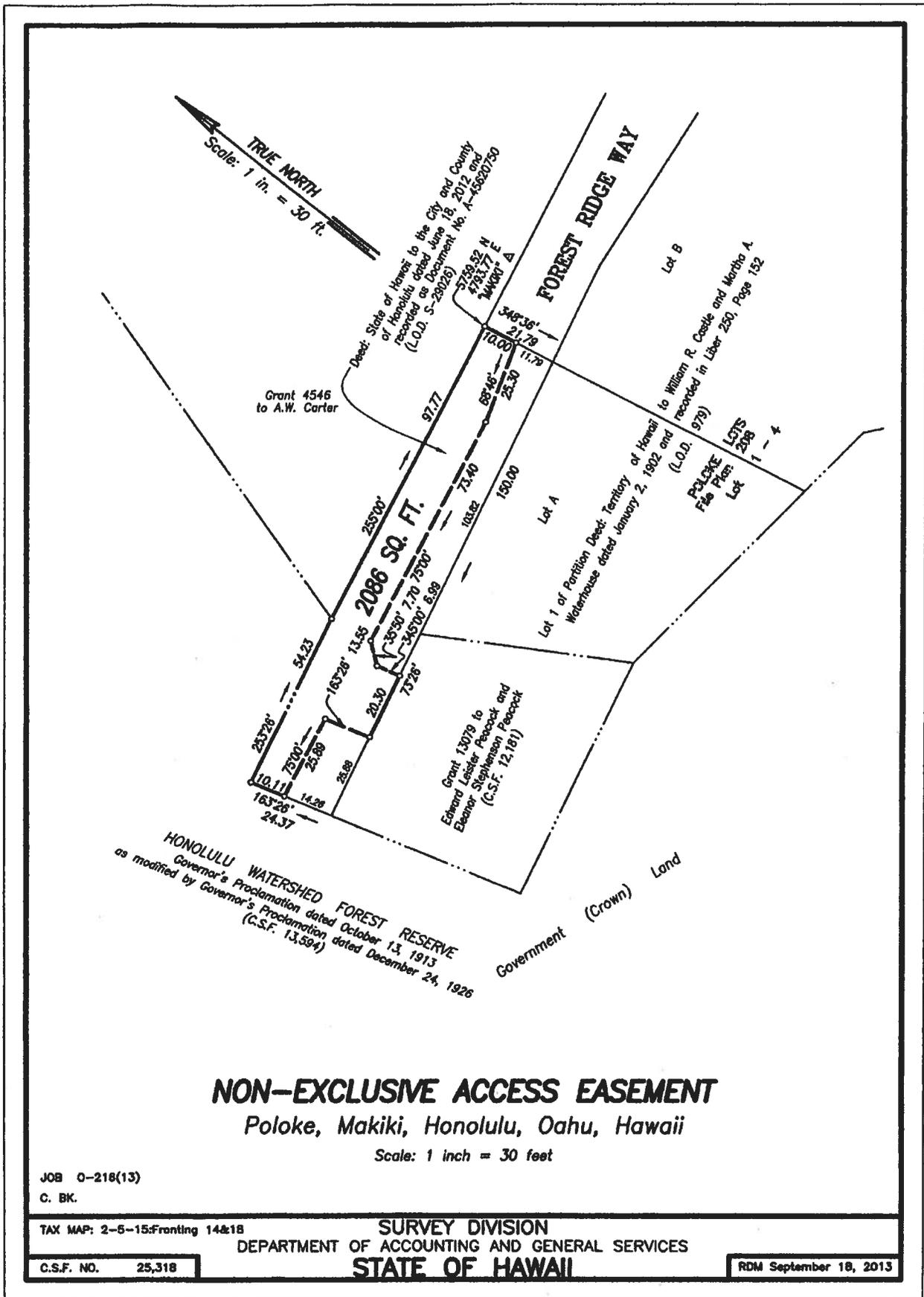


EXHIBIT "A"

EXHIBIT "B"



Map Reduced Not To Scale
EXHIBIT "B"
Page 1 of 1



Map Reduced Not To Scale
EXHIBIT "D"
Page 1 of 1

EXHIBIT "E"



STATE OF HAWAII
SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
HONOLULU

C.S.F. No. 25,318

September 18, 2013

NON-EXCLUSIVE ACCESS EASEMENT

Poloke, Makiki, Honolulu, Oahu, Hawaii

Being a portion of Deed: State of Hawaii to the City and County of Honolulu dated June 18, 2012 and recorded as Document No. A-45620750.

Beginning at the northeast corner of this easement and at the northwest corner of Forest Ridge Way, the coordinates of said point of beginning referred to Government Survey Triangulation Station "MAKIKI" being 5759.52 feet North and 4793.77 feet East, thence running by azimuths measured clockwise from True South:-

1. 348° 36' 10.00 feet along the west end of Forest Ridge Way;
2. 68° 46' 25.30 feet along the remainder of Deed: State of Hawaii to the City and County of Honolulu dated June 18, 2012 and recorded as Doc. No. A-45620750;
3. 75° 00' 73.40 feet along the remainder of Deed: State of Hawaii to the City and County of Honolulu dated June 18, 2012 and recorded as Doc. No. A-45620750;
4. 35° 50' 7.70 feet along the remainder of Deed: State of Hawaii to the City and County of Honolulu dated June 18, 2012 and recorded as Doc. No. A-45620750;
5. 345° 00' 6.99 feet along the remainder of Deed: State of Hawaii to the City and County of Honolulu dated June 18, 2012 and recorded as Doc. No. A-45620750;

- 1 -

- 6. 73° 26' 20.30 feet along Grant 13079 to Edward Leister Peacock and Eleanore Stephenson Peacock;
- 7. 163° 26' 13.55 feet along the remainder of Deed: State of Hawaii to the City and County of Honolulu dated June 18, 2012 and recorded as Doc. No. A-45620750;
- 8. 75° 00' 25.89 feet along the remainder of Deed: State of Hawaii to the City and County of Honolulu dated June 18, 2012 and recorded as Doc. No. A-45620750;
- 9. 163° 26' 10.11 feet along Honolulu Watershed Forest Reserve, Governor's Proclamation dated October 13, 1913 as modified by Governor's Proclamation dated December 24, 1926;
- 10. 253° 26' 54.23 feet along Honolulu Watershed Forest Reserve, Governor's Proclamation dated October 13, 1913 as modified by Governor's Proclamation dated December 24, 1926;
- 11. 255° 00' 97.77 feet along Grant 4546 to A.W. Carter to the point of beginning and containing an AREA OF 2086 SQUARE FEET.

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

By: Glenn J. Kodani
Glenn J. Kodani
Land Surveyor ry

Compiled from map and desc.
prepared by ControlPoint Surveying, Inc.
Said map and desc. have been examined
and checked as to form and mathematical
correctness but not on the ground by the
Survey Division.

Return by Mail () Pickup (x) To:

Gino L. Gabrio
Cades Schutte LLP
1000 Bishop Street, Suite 1200
Honolulu, Hawaii 96813

This document contains _____ pages

Tax Map Key No.: (1) 2-5-015: adjacent to 014 & 018

GRANT OF EASEMENT
(Public Pedestrian Access)

This instrument made as of the _____ day of _____, 2013, by and between **JOHN J. COGAN**, Trustee of the John J. Cogan Revocable Living Trust under that certain unrecorded Trust Agreement dated October 4, 1985, as amended and restated, whose address is 221 Forest Ridge Way, Honolulu, Hawaii 96822, hereinafter called "**Grantor**" and **STATE OF HAWAII**, by and through its **Board of Land and Natural Resources**, whose address is P.O. Box 621, Honolulu, Hawaii 96809, hereinafter called "**Grantee**".

A. **BACKGROUND.**

1. Grantor is the owner of certain real property (the "**Burdened Property**") more particularly described in Exhibit "A" attached hereto and made a part hereof.

2. Grantee is the owner of forest lands adjacent to and in the vicinity of the Burdened Property (the "**Benefited Property**") as generally shown as the "State of Hawaii Honolulu Watershed Forest Reserve" on the map attached hereto and made a part hereof as Exhibit "B".

3. Grantee has requested and Grantor has agreed to grant a perpetual non-exclusive easement for purposes of public pedestrian access to and from the Benefited Property and over and across the Burdened Property at the location shown as P-1 on the map attached hereto as Exhibit "C" and as Non-Exclusive Access Easement on the map attached hereto as Exhibit "D" and more particularly described in Exhibit "E" attached hereto and made a part

hereof (the “**Easement Area**”), which easement is appurtenant to and for the benefit of the Benefited Property, subject to the terms and conditions of this Grant of Easement.

B. **GRANT OF EASEMENT.** For good and valuable consideration, the receipt of which is hereby acknowledged, Grantor does hereby grant, bargain, sell and convey unto Grantee, and a perpetual non-exclusive easement appurtenant to and for the benefit of the Benefited Property, on, over and across the Easement Area for purposes of public pedestrian ingress and egress between the closest public access road and the Benefited Property, subject to the terms and conditions set forth below;

TO HAVE AND TO HOLD the same unto Grantee, and Grantee’s successors and assigns, forever.

C. **AGREEMENTS WITH RESPECT TO GRANT OF EASEMENT.**

1. **Use.** Grantee shall use the easement granted hereby only for the purposes set out above for the benefit of the Benefited Property (“Permitted Use”).

2. **Construction; Maintenance and Repair of Improvements.** Grantor shall operate, maintain and repair from time to time the driveway and road improvements (“**Road**”) in the Easement Area to serve as a public pedestrian access to and from the Benefited Property and the closest public access road. As used in this Grant of Easement the term “**Grantor’s Improvements**” shall mean the Road and other roadway and driveway improvements, including a gate, equipment, appurtenances and landscaping installed by Grantor in the Easement Area. All costs and expenses related to the construction, repair and maintenance of any of Grantor’s Improvements installed in the Burdened Property by Grantor shall be borne by Grantor and each successor owner of the Burdened Property (Grantor and each such successor owner being called the “**Burdened Owner**”). Grantor’s Improvements shall not obstruct or unreasonably interfere with Grantee’s use of the Burdened Property. Grantor, its successors and assigns, shall be charged with the day-to-day care, maintenance, repair and restoration of the Grantor’s Improvements.

3. **Key for Gate.** Grantor may install a gate to limit access to other parties; provided that pedestrian access around such gate shall be possible at all times without a key. Grantor will provide to Grantee a key or other appropriate mechanism for operation of any gate. It shall be the responsibility of Grantee to ensure that use of the key, or other appropriate mechanism, by Grantee or anyone claiming a right to use of the key through Grantee, shall be for the sole purpose of gaining access to the Benefited Property for a Permitted Use, and shall otherwise be consistent with the terms and conditions of this Grant of Easement.

4. **Binding Effect.** All the terms and conditions of this Grant of Easement shall inure to the benefit of and be binding upon the Burdened Owner and the Benefited Owner. This Grant of Easement shall be appurtenant to and for the benefit of the Benefited Property and shall run with the land.

GRANTOR:

JOHN J. COGAN, Trustee as aforesaid

GRANTEE:

**STATE OF HAWAII, by and through its
Board of Land and Natural Resources**

WILLIAM J. AILA, JR., Chairperson

APPROVED AS TO FORM

**JULIE H. CHINA
Deputy Attorney General**

**Approved by the Board of Land and Natural
Resources at its meeting held on**

STATE OF HAWAII)
) SS:
CITY AND COUNTY OF HONOLULU)

On this _____ day of _____, 2013, before me personally appeared JOHN J. COGAN, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Notary Public, State of Hawaii

Printed Name: _____

My commission expires: _____

(Official Stamp or Seal)

NOTARY CERTIFICATION STATEMENT

Document Identification or Description:

Grant of Easement (Public Pedestrian Access)

Doc. Date: _____ or Undated at time of notarization.

No. of Pages: _____ Jurisdiction: First Circuit
(in which notarial act is performed)

Signature of Notary

Date of Notarization and
Certification Statement

Printed Name of Notary

(Official Stamp or Seal)



STATE OF HAWAII
SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
HONOLULU

C.S.F. No. 25,168

March 6, 2012

PORTION OF
THE GOVERNMENT (CROWN) LAND OF POLOKE
PARCEL A

Poloke, Makiki, Honolulu, Oahu, Hawaii

Being also a portion of Forest Ridge Way.

Being also a portion of Honolulu Watershed Forest Reserve, Governor's
Proclamation dated October 13, 1913 and modified on December 24, 1926.

Beginning at the southeast corner of this parcel of land, the coordinates of
said point of beginning referred to Government Survey Triangulation Station "MAKIKI" being
5738.17 feet North and 4798.07 feet East, thence running by azimuths measured clockwise from
True South:-

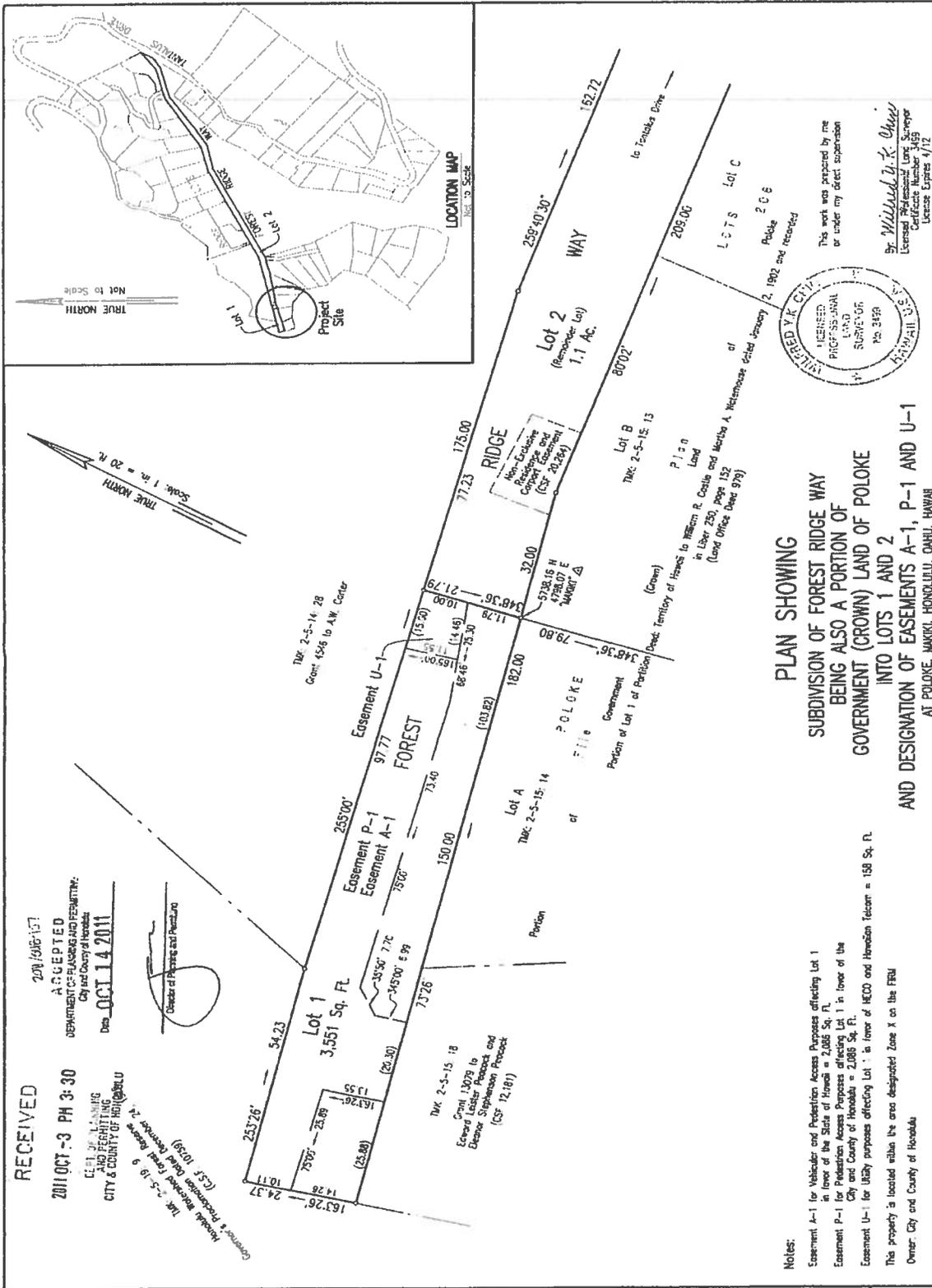
1. 73° 26' 150.00 feet along Lot A of the subdivision of Lot 1-4 of Poloke Lots,
File Plan 208 and Grant 13079 to Edward Leister
Peacock and Eleanor Stephenson Peacock;
2. 163° 26' 24.37 feet along the remainder of the Government (Crown)
Land of Poloke;
3. 253° 26' 54.23 feet along the remainder of the Government (Crown)
Land of Poloke;

- 1 -

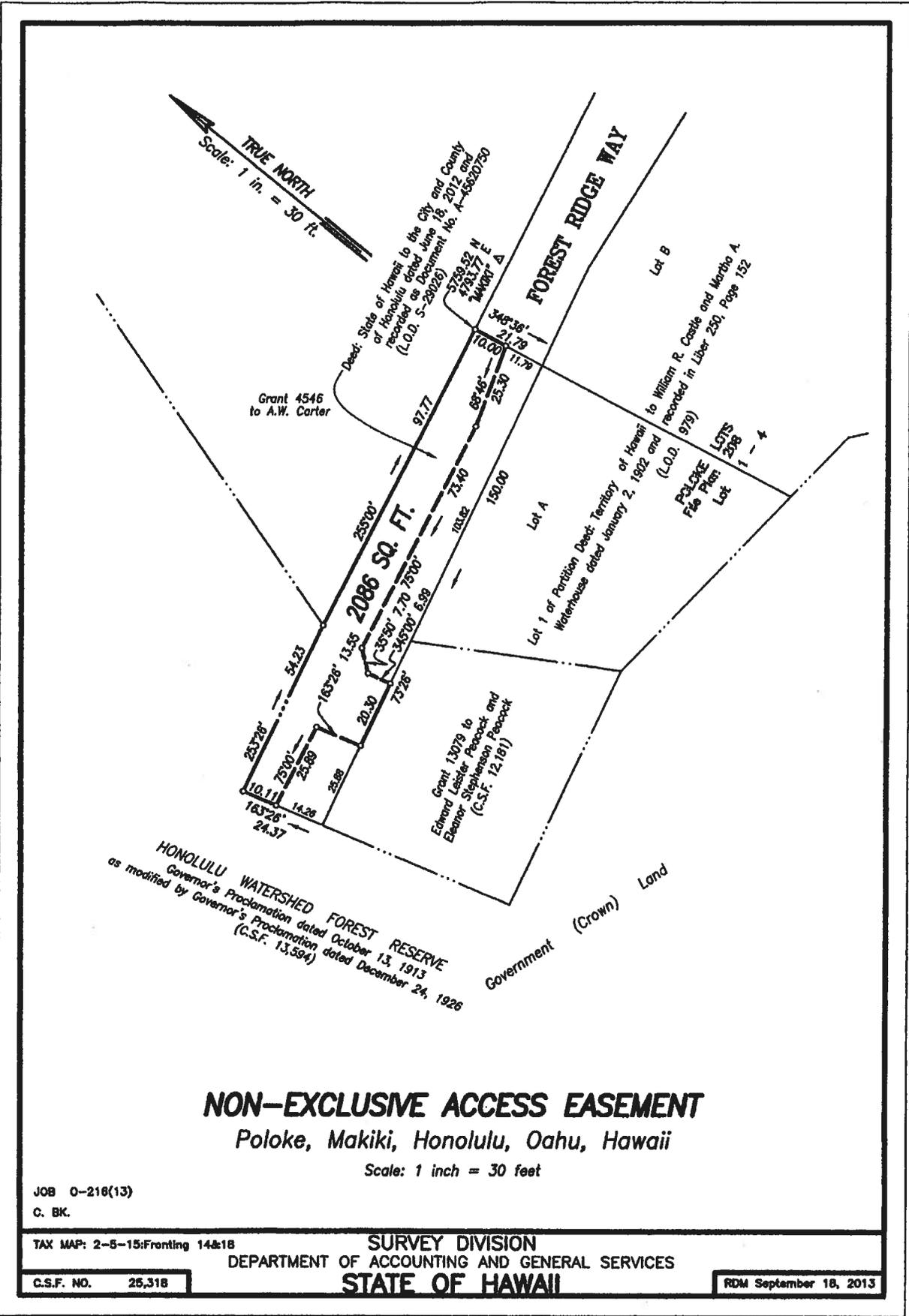
PRELIM. APPR'D.
Department of the
Attorney General

EXHIBIT "A"

EXHIBIT "A"
Page 1 of 2



Map Reduced Not To Scale
 EXHIBIT "C"
 Page 1 of 1



Map Reduced Not To Scale
EXHIBIT "D"
Page 1 of 1

EXHIBIT "E"



STATE OF HAWAII
SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
HONOLULU

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