

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

June 12, 2015

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

PSF No.: 08HD-104

Hawai'i

Issuance of Right-of-Entry Permit for Access and Maintenance Purposes
to the County of Hawaii, Department of Public Works, Onto
Unencumbered State Lands at Makaula-Ooma-1st, North Kona, Hawaii,
Tax Map Key: (3) 7-3-010: Portions of 033, 042, 044, 045.

APPLICANT:

County of Hawaii, Department of Public Works.

LEGAL REFERENCE:

Sections 171-11, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of at Makaula-Ooma-1st, North Kona, Hawaii,
Tax Map Key: (3) 7-3-010: Portions of 033, 042, 044, 045, as shown on the
attached maps labeled Exhibit A.

AREA:

14.75 acres, more or less.

ZONING:

State Land Use District: Urban
County of Hawaii CZO: Ag-5a

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:

Unencumbered State Land

CHARACTER OF USE:

Roadway purposes.

TERM OF RIGHT-OF-ENTRY:

Roadway was constructed by Palamanui, LLC (Palamanui), and is scheduled to be turned over to the County of Hawaii, Department of Public Works (County). This right-of-entry will terminate upon acceptance of the roadway by the County.

CONSIDERATION:

Gratis. Right-of-entry involves a government agency.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The Final Environmental Assessment for the subject project was published in the OEQC Environmental Notice on August 8, 2008 with a finding of no significant impact (FONSI).

DCCA VERIFICATION:

Not applicable, applicant is a government agency.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

Provide maps indicating location of roadway.

REMARKS:

At its meeting of August 22, 2008, Item D-4, the Board of Land and Natural Resources approved, 1) a set aside to the County of Hawaii, Department of Water Supply for waterline and reservoir purposes, 2) a set aside to the Department of Public Works for roadway purposes, 3) issuance of a construction and management right-of-entry, Makaula-Ooma 1st, North Kona, Hawaii, Tax Map Key: (3) 7-3-010: Portion of 033, 042, 044 & 045. Exhibit B.

A new permanent facility for the University of Hawaii Center at West Hawaii (UHCWH) is being developed on a portion of State land (TMK: 7-3-010:042) consisting of approximately 73 acres. The facility will include a Library/Learning Center, Food Service Building, Operations and Maintenance Building, Instructional Support/Director Building, Student Services Building, Continuing Education Building and General Instruction classrooms.

Located adjacent to future UHCWH site is the Palamanui Development. Palamanui LLC is in the process of developing its 725 acres parcel (tmk: 7-2-5:1). The Palamanui Development will consist of single and multi-family residential units, University residential facilities, health facilities, research and development facilities, mixed commercial development, a small hotel, archaeological preserves, cave and lava tube preserves, a dry forest preserve, passive and active parks, open space and parking areas are planned.

Palamanui agreed to develop and provide some of the infrastructure and buildings for UHCWH. With Board of Regents' approval the parties entered into a Memorandum of Understanding to consult and discuss joint development opportunities for the adjacent properties with Palamanui providing initial infrastructure for UHCWH.

As part of the improvement agreement, Palamanui proposed to construct the Mid-level Connector Road¹. It will provide access and utility corridor to Palamanui and UHCWH. The Road will run from Kaiminani Drive to Palamanui. Due to archaeological sites, the Road had to be realigned. The Road will consist of two (2) 12-foot lanes with the possibility to expand to four (4) lanes in the future. Upon completion, the County Engineer will conduct an inspection. If accepted, the State will then issue an executive order to the County at which time the road will become a portion of the Ane Keohokalole Highway (mid-level connector road). Most of the construction has been completed and the County is scheduled to take control of the roadway in 2016.

The university is scheduled to open the campus for the upcoming fall semester and is requesting a right-of-entry to the County of Hawaii (Exhibit C) to begin municipal bus service to the campus property. In order to accommodate this request and allow access to the new campus, the Department of Land and Natural Resources will grant a right-of-entry the County of Hawaii, Department of Public Works (DPW), onto unencumbered State lands at Makaula-Ooma-1st, North Kona, Hawaii-Tax Map Key: (3) 7-3-010: Portions of 033, 042, 044, 045 (future roadway). The purpose of this right-of-entry is to allow public access to the University of Hawaii Center at West Hawaii until such time that the roadway is conveyed to the County.

The right-of-entry shall be effective the date of this Board meeting, and shall terminate upon execution of the Governor's Executive Order.

¹ Staff notes that the original 120-foot north-south road right-of-way was created only on paper and not laid out (TMK: 7-3-010:045). No field survey was done.

RECOMMENDATION: That the Board

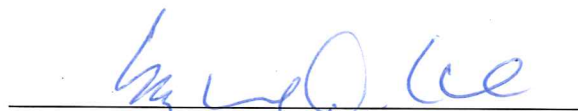
1. Authorize the issuance of a right-of-entry permit to the County of Hawaii covering the subject areas under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current right-of-entry permit 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,



Gordon C. Heit
District Land Agent

APPROVED FOR SUBMITTAL:

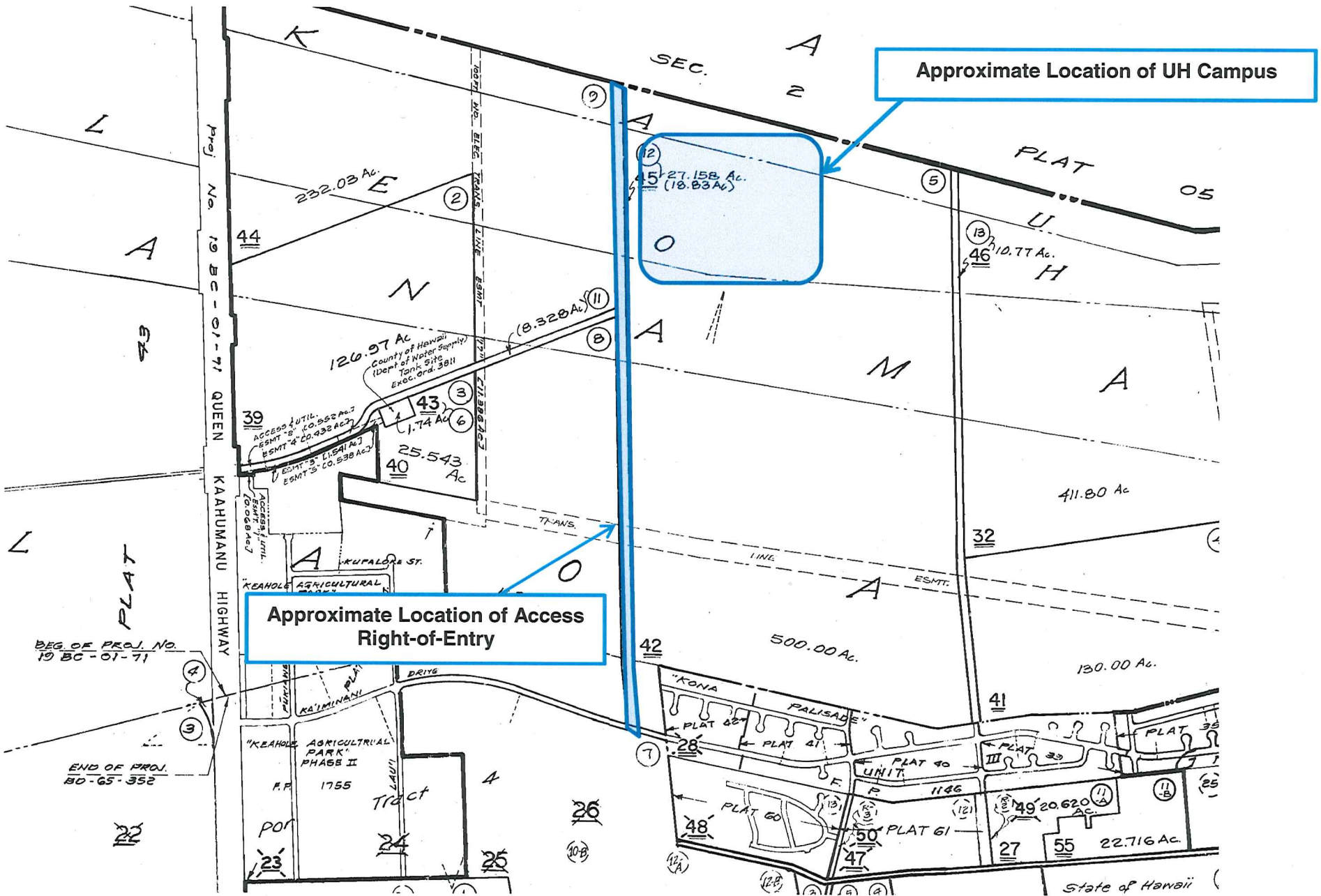


Suzanne D. Case, Chairperson



EXHIBIT A

TMK: (3) 7-3-010:045



OF PARCEL Nos. 2, 3, 5, 8, 9, 11 & 12
 OF HAWAII COUNTY SUBDIVISION MAP No. 7159 & H. S. S.

Into Lot Nos. 1-A Through 1-H
 And Road Lot Nos. 1 and 2

At Makaula-Ooma 1st, North Kona,
 County, Island and State of Hawaii

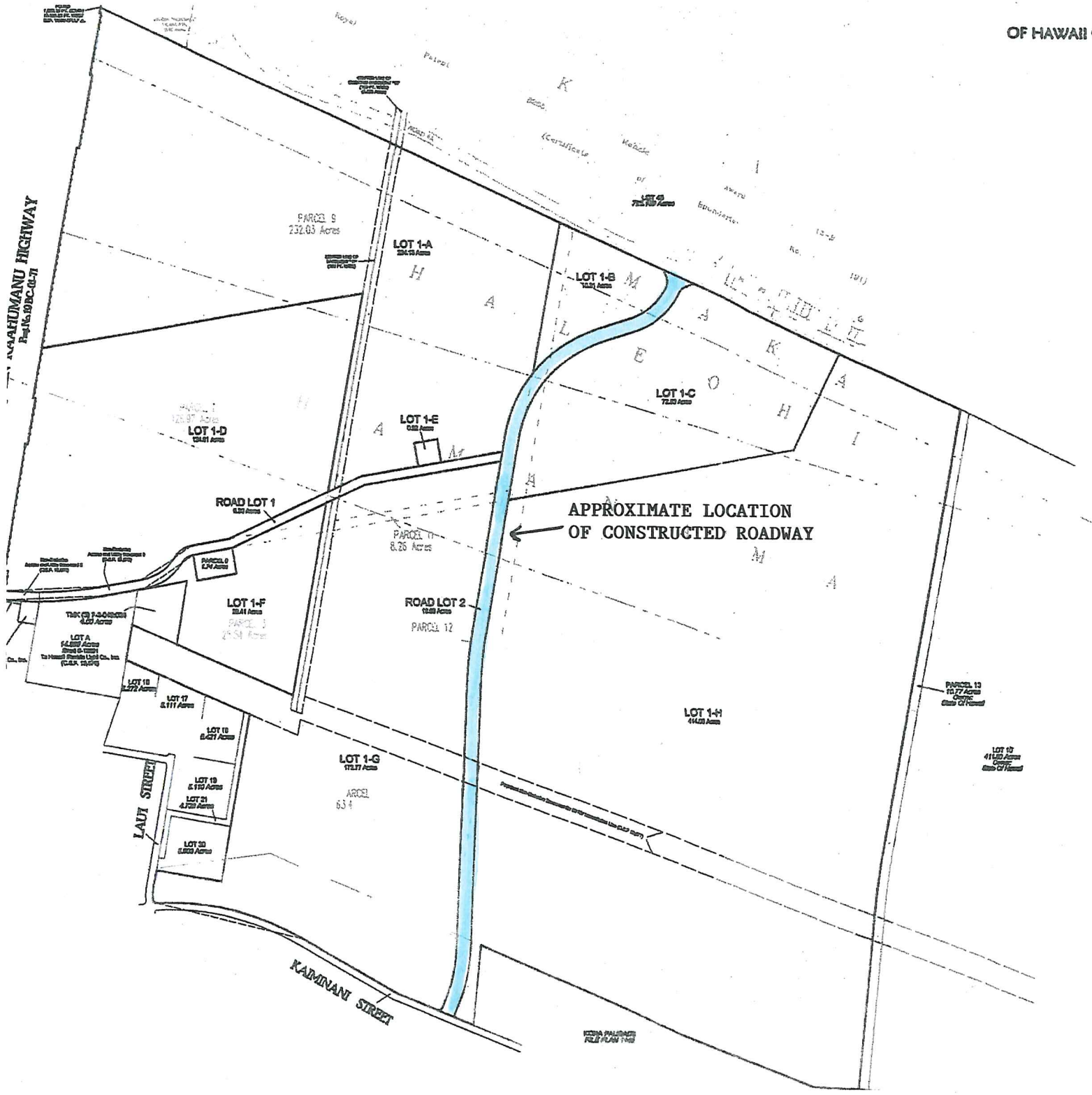


EXHIBIT A

PREPARED FOR:
 PALMANN LLC
 Attn: Roger Harris
 OMAHA

EXHIBIT B

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

August 22, 2008

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

PSF No.: 08HD-103
104
HAWAII

Set Aside to County of Hawaii, Department of Water Supply for Waterline and Reservoir Purposes and the Department of Public Works for Roadway Purposes; Issuance of a Construction and Management Right-of-Entry, Makaula-Ooma-1st, North Kona, Hawaii, Tax Map Keys: (3) 7-3-10: Portions of 33, 42, 44 and 45

APPLICANT:

County of Hawaii, Department of Water Supply and the Department of Public Works.

LEGAL REFERENCE:

Section 171-11, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands of Makaula-Ooma-1st, North Kona, Hawaii, identified by Tax Map Keys: (3) 7-3-10: Portion of 33, 42, 44 and 45, as shown on the attached map labeled Exhibit A.

AREA:

30 acres, more or less.

ZONING:

State Land Use District: Urban
County of Hawaii CZO: AG-5a

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act.

DHHL entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

Vacant and unencumbered.

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON
August 22, 2008 *DLK*

D-4

PURPOSE:

Roadway, waterline and reservoir purposes.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The Final Environmental Assessment for the subject project was published in the OEQC Environmental Notice on August 8, 2008 with a finding of no significant impact (FONSI).

REMARKS:

A new permanent facility for the University of Hawaii Center at West Hawaii (UHCWH) has been proposed on a portion of State land (TMK: 7-3-10:42) consisting of approximately 73 acres. The facility will include a Library/Learning Resource Center, Food Service Building, Operations and Maintenance Building, Instructional Support/Director Building, Student Services Building, Continuing Education Building and General Instruction classrooms.

Located adjacent to the future UHCWH site is the Palamanui, LLC (Palamanui), Development. Palamanui is in the process of developing its 725-acre parcel (TMK: 7-2-5:1). The Palamanui Development will consist of single and multi-family residential units, University residential facilities, health facilities, research and development facilities, mixed commercial development, a small hotel, archaeological preserves, cave and lava tube preserves, a dry forest preserve, passive and active parks, open space and parking areas.

Palamanui will develop and provide some of the infrastructure and a 20,000 square-foot building complex for UHCWH. The Board of Regents approved a Memorandum of Understanding between UHCWH and Palamanui to consult and discuss joint development opportunities for the adjacent properties with Palamanui providing initial infrastructure for UHCWH.

The same infrastructure will also allow the Department of Hawaiian Homes Lands to develop its lands that are in close proximity to the proposed infrastructure.

Palamanui is proposing to construct a 16-inch underground waterline and a 343-foot elevation reservoir. The waterline will start at the existing County of Hawaii Keahole water tanks, extend mauka through open land, where it will intersect and run within the future Main Street Collector Road right-of-way, then connect to existing mauka and makai waterlines. The waterline will initially provide water to UHCWH and Palamanui. Palamanui will construct a 10-foot wide service/access road for use by the Department of Water Supply. The proposed reservoir will be constructed along the proposed alignment for the waterline and mauka of the existing Keahole water tanks. Capacity is 1 million gallons. Upon completion the waterline and reservoir will be set aside to the County of Hawaii, Department of Water Supply by governor's executive order.

Palamanui is also proposing to construct the Main Street Collector

Road. It will provide an access and utility corridor to Palamanui and UHCWH. The Road will run from Kaiminani Drive to Palamanui. Due to archaeological sites, the Road had to be realigned. The Road will consist of two (2) 12-foot lanes with the possibility to expand to four (4) lanes in the future. Upon completion the Road will be set aside to the County of Hawaii, Department of Public Works by governor's executive order.

Staff notes that the original 120-foot wide road right-of-way was created only on paper and not laid out. No field survey was done.

The cost of the waterline, 343-foot elevation reservoir and Main Street Collector Road is approximately \$6 million. Construction will start at the end of 2008 and should be completed within eighteen (18) months.

The proposed use of State lands will not only benefit the UHCWH, but later other users of adjacent State-owned lands.

Comments on this project were included in the Final Environmental Assessment.

There are no pertinent issues or concerns.

Staff is also recommending the issuance of a construction and management right-of-entry permit to Palamanui.

RECOMMENDATION: That the Board

1. Approve of and recommend to the Governor the issuance of governor's executive orders setting aside the subject lands to the County of Hawaii, Department of Water Supply and the Department of Public Works 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 executive order form, as may be amended from time to time.
 - b. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside.
 - c. Review and approval by the Department of the Attorney General.
 - d. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

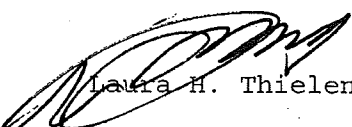
2. Authorize the issuance of a right-of-entry permit to Palamanui to enter upon the subject State lands at Makaula-Ooma, North Kona, Hawaii, for construction and management of the Main Street Collector Road, 16-inch underground water pipeline, one million gallon 343-foot elevation reservoir and 20,000 square-foot UHCWH complex and additional lands for access and staging areas as necessary identified by Tax Map Keys: (3) 7-3-10: Portions of 33, 42, 44 and 45, subject to the following:
 - a. Palamanui shall act on behalf of the State in processing the Main Street Collector Road, the 16-inch underground water pipeline, the one million gallon 343-foot elevation reservoir, and the 20,000 square-foot UHCWH complex for final subdivision approval with the County of Hawaii at its own cost and expense.
 - b. Palamanui shall construct the Main Street Collector Road, the 16-inch underground water pipeline, the one million gallon 343-foot elevation reservoir, and the 20,000 square-foot UHCWH complex at its own cost and expense.
 - c. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time.
 - b. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Gary Martin
Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson



Disclaimer: This graphic has been prepared for general planning purposes only.

LEGEND

- Proposed New Water Tank
- Proposed 16" Waterline
- Proposed Road and Utility Alignment

FIGURE 3

Aerial Photograph
**Palamanui Waterline,
 343-foot Elevation Reservoir, and
 Main Street Collector Road Extension**

Palamanui, LLC

Island of Hawai'i

Source: Google Earth - 2014
 Lynch Hawaii Development, LLC
 Mitsunaga & Associates, Inc.
 Riehm Ownby Planners Architects
 SWA

EXHIBIT "A"



NOT TO SCALE



EXHIBIT C

University of Hawai'i Center
West Hawai'i



UNIVERSITY of HAWAII®
HAWAII
COMMUNITY COLLEGE

2015 APR 21 10 13

RECEIVED
LAND DIVISION
HILO, HAWAII

Tuesday, April 21, 2015

To: Gordon Heit, District Land Agent
Department of Land and Natural Resources
75 Aupuni Street, Room #204
Hilo, HI 96720

Re: Right of entry for Hawaii County to run bus service on road to University of Hawaii, Hawaii Community College - Palamanui

Dear Sir,

I am writing on behalf of Hawaii Community College to request a *right of entry* be issued for Hawaii County buses to service the new Campus at Palamanui when it opens this Fall (2015).

The bus route will use the private road from Kaiminani Drive to the Campus site. This road has been built by the University of Hawaii System and lies across DLNR land. Prior to providing bus service, the County requires an indemnifying Memorandum of Understanding between the University and the County until such time as the road is dedicated to the County. Dedication is expected in the near future, but not in time for the opening of the Campus (move-in to commence approximately June 2015.)

The County had also requested that DLNR, as current landholder must be a party to this interim memorandum. After discussing the matter with you, I am acting on your advice that the best way forward would be to request that DLNR grant right of entry to Hawaii County for bus service, and that the right of entry document, once issued, could be attached to the MOU between UH and Hawaii County.

Please let me know if you require any further information to action this request.

Sincerely,

A handwritten signature in blue ink that reads 'K. Martin Fletcher'.

K. Martin 'Marty' Fletcher
Director, University of Hawaii Center West Hawaii