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

June 22, 2012

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

PSF No. 11KD-145

Kauai

Amend Prior Board Action of January 13, 2012, Item D-4, To Add an Immediate Construction Right of Entry to the Grant of Perpetual, Non-Exclusive Easement to Kauai Island Utility Cooperative (KIUC) for Access and Utility Purposes Over Governor's Executive Order No. 97 to the County of Kauai, for Wailua Park Purposes, por. of Wailua, Lihue, Kauai, Tax Map Key: (4) 3-9-002:portion of 004.

BACKGROUND:

At its meeting on January 12, 2012, under Agenda Item D-4, the Board approved the grant of easement to the KIUC for access and utility purposes on State land identified as Tax Map Key No.: (4) 3-9-002:004 (por.), also known as Wailua "Lydgate" Park. The land is currently under the management jurisdiction of the County of Kauai, set aside for park purposes by Governor's Executive Order No. 97. This site is also the location of the Wailua Municipal Golf Course. The purpose of the easement is to upgrade power transmission to the golf course club house, as well as offices, a retail shop, restaurant, starter's booth and a separate golf course barn. Currently, power is supplied by an original "direct buried" feeder line, and is intended to be replaced by two thirty-five foot poles with anchors and overhead lines.

The County of Kauai, Parks and Recreation Division recently received a report from KIUC that this feeder line should be replaced immediately. The corrosion and surrounding pipeline is in worse condition than originally believed. If this power line fails, it would take several weeks to replace, thus losing valuable revenue to the County of Kauai. Therefore, given the time sensitive nature of this situation, staff advises that the Board approve an immediate construction right of entry to KIUC prior to the execution of the easement in order to timely resolve the issue. Given that KIUC will compensate the State for the fair market value for the easement, staff recommends that this right of entry be provided gratis.

RECOMMENDATION: That the Board:

1. Amend its prior Board action of January 13, 2012, under agenda item D-4 by authorizing an immediate construction right-of-entry to KIUC for replacement of

underground electrical feeder line covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:

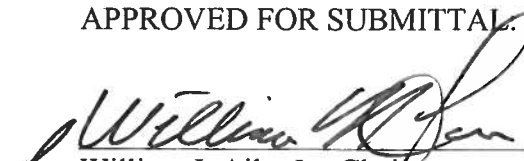
- A. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time; and
 - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
2. All terms and conditions listed in its January 13, 2012 approval to remain the same.

Respectfully Submitted,



Marvin Mikasa
Acting District Land Agent

APPROVED FOR SUBMITTAL.



William J. Aila, Jr., Chairperson

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

January 13, 2012

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

PSF No.: 11KD-145

Kauai

Grant of Perpetual, Non-Exclusive Easement to Kauai Island Utility Cooperative (KIUC) for Access and Utility Purposes Over Governor's Executive Order No. 97 to the County of Kauai, for Wailua Park Purposes, por. of Wailua, Lihue, Kauai, Tax Map Key: (4) 3-9-002:portion of 004.

CONTROLLING AGENCY:

County of Kauai, Department of Parks & Recreation

APPLICANT:

Kauai Island Utility Cooperative, a consumer cooperative association formed pursuant to the provisions of Chapter 412-C, Hawaii Revised Statutes.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Wailua situated at por. of Wailua, Lihue, Kauai, identified by Tax Map Key: (4) 3-9-002:portion of 004, as shown on the attached maps labeled Exhibits 'A', 'B' & 'C'.

AREA:

1,050 square feet, more or less.

ZONING:

State Land Use District: Conservation
County of Kauai CZO: Open

EXHIBIT " 1 "

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON
January 13, 2012

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:

Encumbered by Governor's Executive Order No. 97 to the County of Kauai, for Wailua Park Purposes. See Exhibit 'D'.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain, repair, replace and remove electrical transmission lines, poles, guy wires and anchors over, under and across State-owned land.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

One-time payment to be determined by independent or staff appraisal establishing fair market rent, subject to review and approval by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 3 that states "Construction and location of single, new small facilities or structures and the alteration and modification of same and installation of new, small, equipment and facilities and alteration and modification of same, including, but not limited to: (d) water, sewer, electrical, gas, telephone, and other essential public utility services extensions to service such structures or facilities", attached as Exhibit 'E'.

DCCA VERIFICATION:

Place of business registration confirmed: YES
Registered business name confirmed: YES
Applicant in good standing confirmed: YES

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Pay for an appraisal to determine one-time payment.

REMARKS:

Governor's Executive Order No. 97 to the County of Kauai was issued on April 30, 1921 for Wailua Park purposes and is now known as Wailua "Lydgate" Park. This is the site of the Wailua Munciple Golf Course.

Currently, power to the golf course clubhouse supplies electricity to the offices, retail shop, restaurant, starters booth and a separate golf cart barn.

KIUC determined that given the state of the current power lines, power maybe lost permanently in a future storm. The existing electrical feeder line is an original "direct buried" line installed in the 1960's.

Two (2) 35' poles with anchors and overhead lines will be the most cost effective choice.

Applicant 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.

Comments were solicited from:

State Agencies:

DOFAW	No comments or concerns See Exhibit 'F'
DOH	No environmental health concerns
Historic Preservation	No response by suspense date
OCCL	Construction area lies within the Limited subzone of the Conservation District, a CDUA application is necessary See Exhibit 'G'
OHA	No objections

County Agencies

County Planning	No response by suspense date
Parks & Recreation	No response by suspense date
Public Works	No flood plain requirements
Dept. of Water	Submit construction drawings for review & approval - no conflict w/ existing water facilities

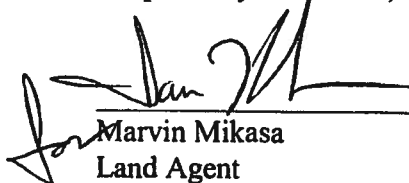
Such use has resulted in no known significant impacts, whether immediate or cumulative, to the natural, environmental and/or cultural resources in the area. As such, staff believes that the proposed use would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

This overhead electrical transmission line, poles, etc. will require KIUC to obtain access and utility easement over Governor's Executive Order No. 97.


RECOMMENDATION: 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, 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. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a perpetual non-exclusive easement to Kauai Island Utility Cooperative covering the subject area for access and utility 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 perpetual easement document form, as may be amended from time to time;
 - B. Review and approval by the Department of the Attorney General; and
 - C. Require the County of Kauai, Parks & Recreation Division to file a Conservation District Use Application with the Office of Conservation and Coastal Lands (OCCL);
 - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

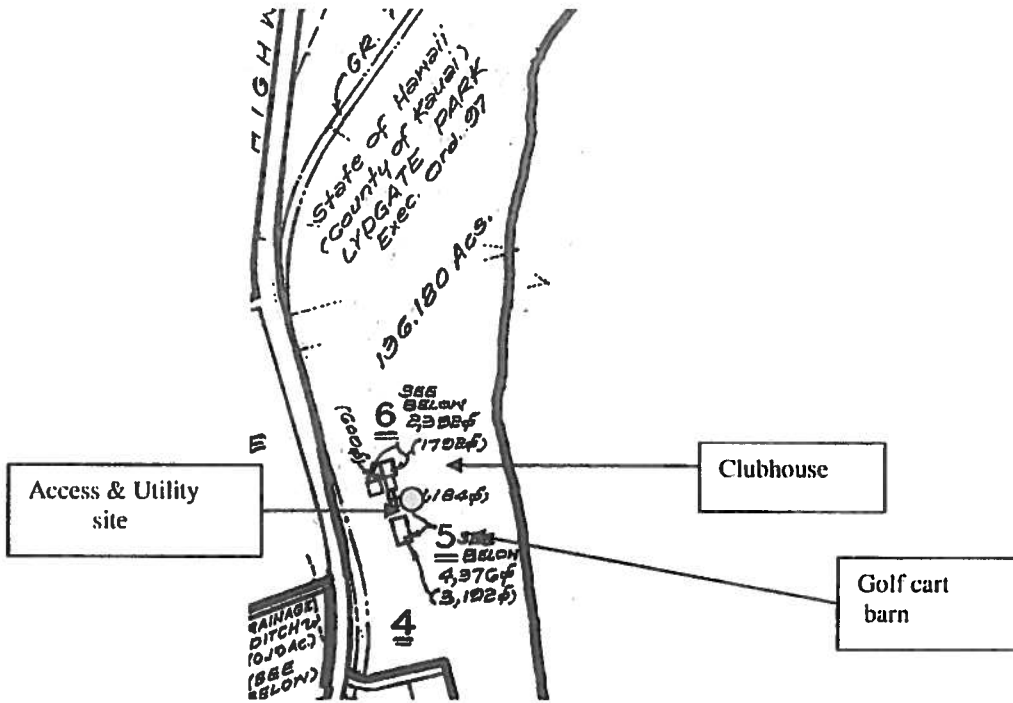

Marv Mikasa
Land Agent

APPROVED FOR SUBMITTAL:

For 

William J. Aila, Jr., Chairperson

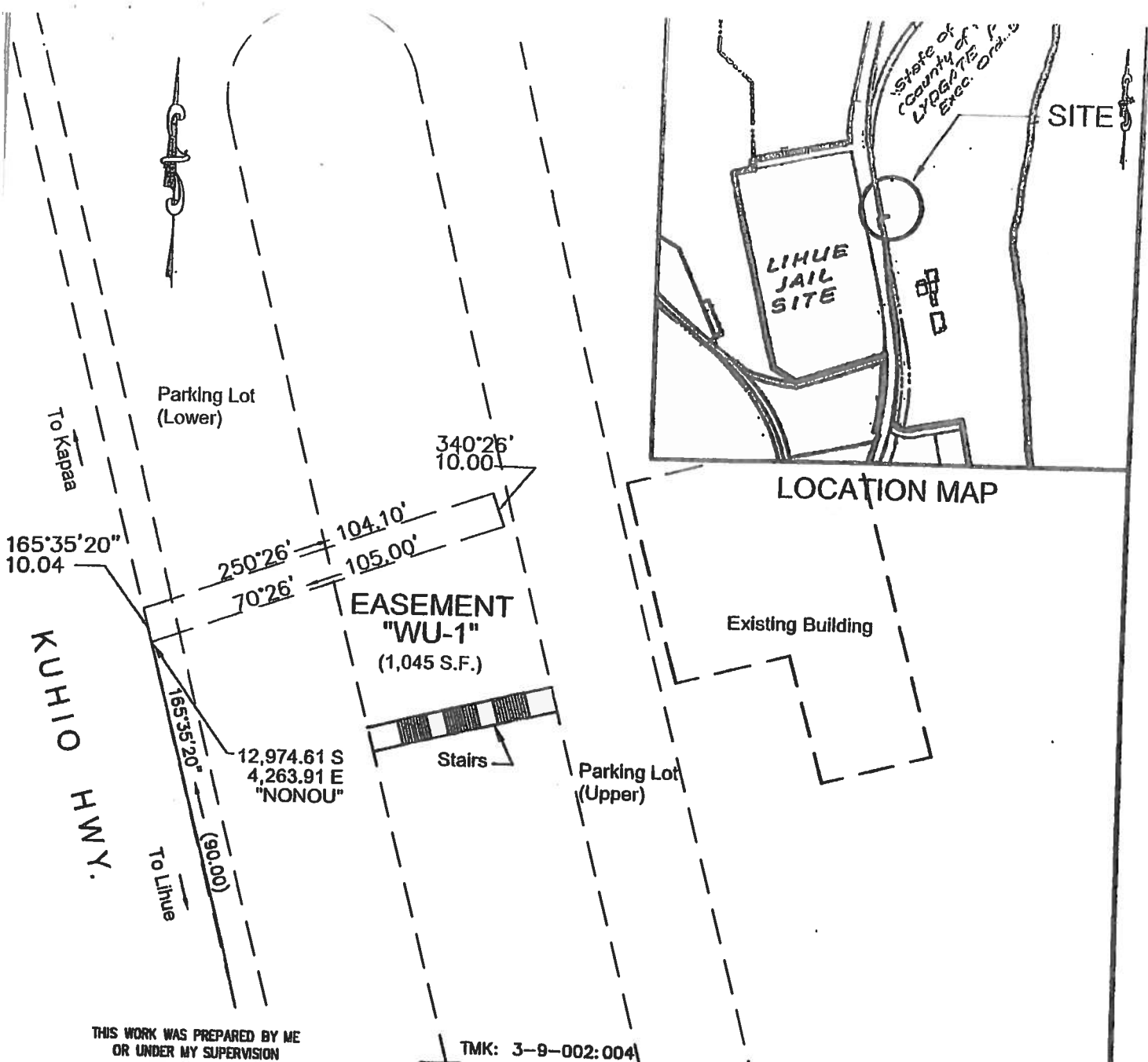
W



TMK: (4) 3-9-002:portion of 004

Wailua Municipal Golf Course

EXHIBIT 'A'



THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION

TMK: 3-9-002:004



LICENSED PROFESSIONAL SURVEYOR
 CERTIFICATE NO. 4973
 LIHUE, KAUAI, HAWAII
 Exp. 4/2012

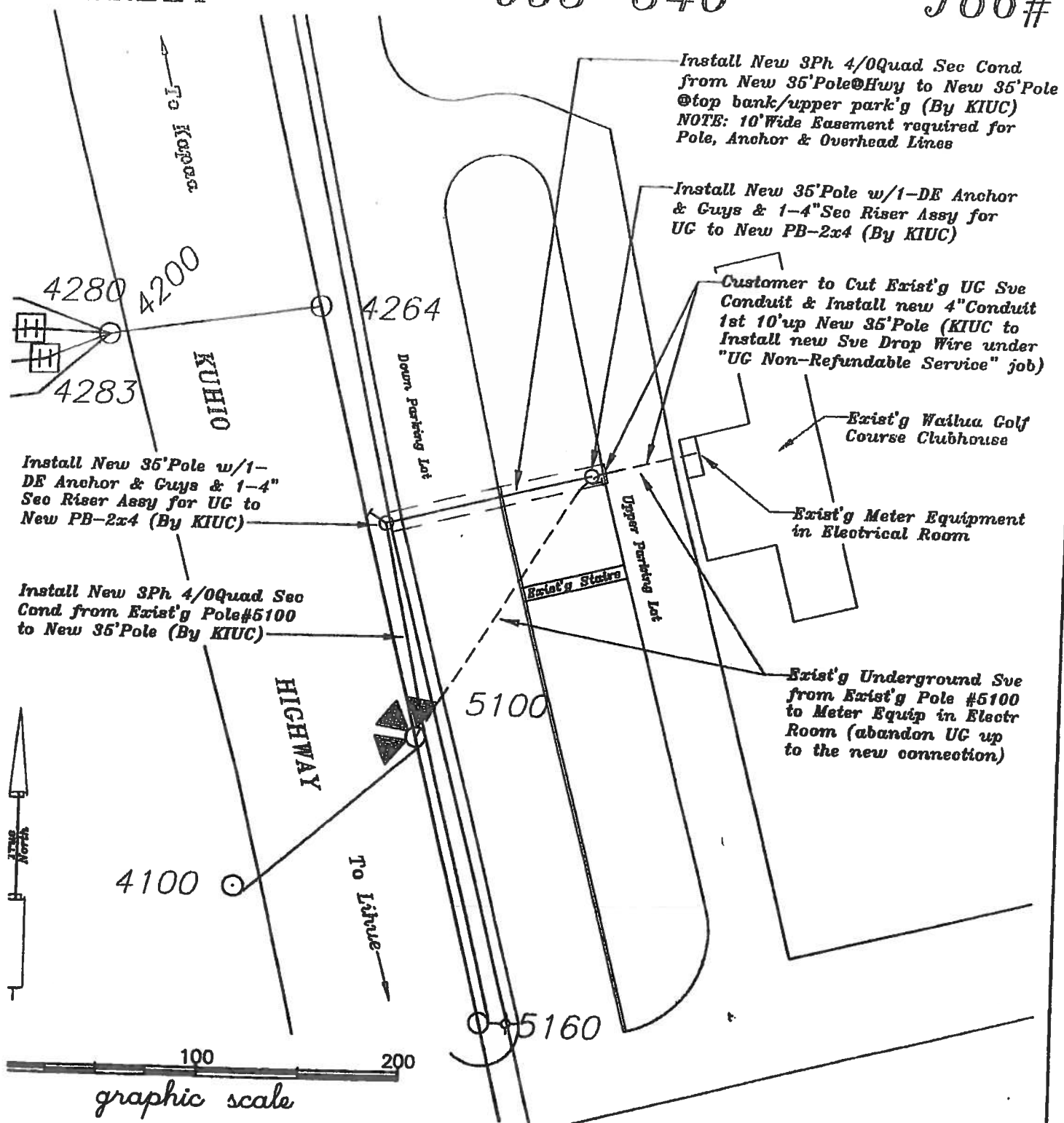
COUNTY OF KAUAI DEPARTMENT OF PUBLIC WORKS			
DESIGNATION OF EASEMENT "WU-1" within WAILUA GOLF COURSE Executive Order #97 Lihue, Kauai, Hawaii			
SCALE: 1" = 40'		DATE: 3/28/11	
DRAWN BY:	F.B.	C.B.	MAP NO.
TRACED BY:			SHEET 1
CHECKED BY:			OF 1 SHEETS
APPROVED _____			
COUNTY ENGINEER			

EXHIBIT "B"

TOWN STREET

MAP NO.
095-540

Job#
Job#



KAUAI ISLAND UTILITY COOPERATIVE

WAILUA GOLF COURSE- OPTION#3 (OH LINE EXTENSION)

Drawn by: C.T.	Revisions	Dates	Date: October 25, 2010
Checked by: FP			File No. 03-05-302CT
Approved by: FP	Prelim. Approval: Public Works Dept.	Water Dept.	Job No. G317
J-8-02-4		State DOT	J.P. No. K10-J
			Sheet No. 1 of 1

EXHIBIT "C"

Setting Aside Land for Public Purposes

J. C. J. McCarthy, Governor of the Territory of Hawaii, by virtue of the authority vested in me by the last paragraph of Section 5 of the Act of Congress approved May 27, 1910, entitled "An Act to Amend an Act Entitled 'An Act to Provide a Government for the Territory of Hawaii,' approved April Thirtieth, Nineteen Hundred," and every other authority me hereunto enabling, do hereby order that the following described land be and the same is hereby set aside for public purposes, to-wit, for

a public park to be under the jurisdiction and control of the Board of Supervisors of the County of Maui and to be known as the [illegible] Park.

WHEREAS

There are certain pieces of land of [illegible] in the [illegible] of [illegible] County of Maui, and [illegible] and [illegible] of [illegible]

[illegible text block]

[illegible text block]

- 16. 308° 18' 819.6 feet along same;
- 17. 207° 15' 1607.0 feet along same to an iron pipe in top of structure;
- 18. 123° 25' 2004.8 feet along stonewall to pipe;
- 19. 220° 24' 470.8 feet;
- 20. 207° 20' 461.0 feet;
- 21. 102° 21' 413.7 feet along stonewall;
- 22. 107° 22' 291.8 feet along stonewall;
- 23. 122° 13' 291.2 feet along stonewall;
- 24. 102° 20' 297.2 feet along stonewall;
- 25. 100° 22' 280.2 feet along stonewall;
- 26. 102° 22' 212.5 feet along stonewall;
- 27. 100° 22' 188.9 feet along stonewall;
- 28. 304° 26' 688.2 feet along stonewall;
- 29. 100° 22' 104.5 feet to an iron pipe in top of wall;
- 30. 127° 18' 548.2 feet along wall to an iron pipe in top of wall;
- 31. 210° 01' 607.6 feet along south side of Government Road to the point of beginning.

AREA 100.0 ACRES MORE OR LESS.

Accepting and reserving therefrom the abelian Terminal Ry. Co., Inc. right-of-way across this land, as shown on plan hereto attached and upon a part hereof.

Also, accepting and reserving therefrom all L.O. Awards, Grants or other conveyances on the part of the Government of Hawaii, which may be situated within and above described tract.

Beginning at a point on top of roadside wall, from which "Lanaila" Trip Station is by true south and distance 208° 10' 42.2 feet, and running by true azimuth:

- 1. 090° 20' 222.1 feet along southeast side of Government Road;
- 2. 220° 46' 212.7 feet along same;
- 3. 220° 28' 122.5 feet along south sidewalk;
- 4. 220° 22' 122.4 feet to wall; thence along wall along highway in all the windings, the street corners and distances being:-
- 5. 07° 22' 21.2 feet;
- 6. 00° 00' 272.8 feet;
- 7. 70° 00' 220.0 feet to the southeast side of Government Road;
- 8. 200° 20' 177.2 feet along same to the point of beginning.

AREA 4.22 ACRES MORE OR LESS.

This order is made upon the express condition that if the said pieces or parcels of land heretofore described and hereby set apart for public park purposes shall at any time cease to be used for such purposes the same shall revert to the Territory of Hawaii and the right of use thereof by the County of Maui for such purposes shall thereupon cease.

In Witness Whereof, I have hereunto set my hand and caused the Great Seal of the Territory of Hawaii to be affixed.

Done at the Capitol at Honolulu this 30th day of

APRIL, Nineteen Hundred and Twenty-one.

By the Governor,
Curtis P. Iaukea,
Secretary of Hawaii.



Territory of Hawaii.
Office of the Secretary.

This is to Certify That the within is a true copy of Executive Order No. 97, setting
aside land for public purposes, the original of which is on file in this office.

In Testimony Whereof, the Secretary of the Territory of Hawaii, has
hereunto subscribed his name and caused the Great Seal of the
Territory to be affixed.

DONE in Honolulu, this 30th day of April
A. D. 1921

Charles P. Iaukea

Executive Order No. 97

Setting Aside Land for Public

Purposes

Land 124.6 Acres, Waialua, Lihue,
Kauai.

Purpose Public Park

Date April 30, 1921,



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

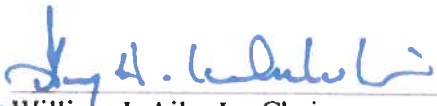
December 14, 2011

EXEMPTION NOTIFICATION

regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title:	Grant of Perpetual, Non-Exclusive Easement to Kauai Island Utility Cooperative (KIUC) for Access and Utility Purposes over Governor's Executive Order No. 97 to the County of Kauai, for Park Purposes
Project / Reference No.:	11KD-145
Project Location:	Por. of Wailua, Lihue, Kauai Tax Map Key: (4) 3-9-002:portion of 004
Project Description:	Grant of Utility Easement
Chap. 343 Trigger(s):	Use of State lands through the issuance of easement
Exemption Class No. and Description:	In accordance with the Division of Land Management Environmental Impact Statement Exemption List, approved by the Environmental Council and dated April 28, 1986, the subject project is considered to be exempt from the preparation of an environmental assessment pursuant to Exemption Class No.3 that states: "Construction and location of single, new small facilities or structures and the alteration and modification of same and installation of new, small, equipment and facilities and alteration and modification of same, including, but not limited to: (d) water, sewer, electrical, gas, telephone, and other essential public utility services extensions to service such structures or facilities"
Recommendation:	The Board is recommended to find that it is anticipated this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.

EXHIBIT "E"

WJ
For


William J. Aila, Jr., Chairperson

Date

We have no comments or concerns. This proposed action, to install two new 35' poles and a powerline, is covered under the federal ESA incidental take permit and draft HCP as well as the draft HCP currently in review under the state endangered species law (HRS 195D). However, because of the specific location of the proposed line, no take of listed species is expected.

Scott Fretz, PhD
Wildlife Program Manager
Hawaii Department of Land and Natural Resources
Division of Forestry and Wildlife
1151 Punchbowl Street, Room 325
Honolulu, Hawaii 96813
Phone (808) 587-4187
Cell (808) 227-3403
FAX (808) 587-0160
email: Scott.Fretz@hawaii.gov

EXHIBIT " F "

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR WATER

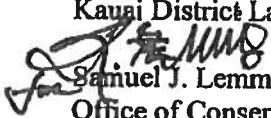
AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAILOAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF:OCCL:TM

Correspondence: KA 12-47

MEMORANDUM

TO: Marvin Mikasa, Land Agent
Kauai District Land Office

FROM:  Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands

SEP 16 2011

SUBJECT: Perpetual, Non-Exclusive Easement to KIUC for Access and Utility Purposes
Located at Lydgate Park, Wailua, Lihue, Kauai, TMK: (4) 3-9-002: portion of 004

The Office of Conservation and Coastal Lands (OCCL) has reviewed the draft Board submittal regarding the subject matter. The OCCL notes the subject area lies within the Limited subzone of the Conservation District.

The proposed placement of two 35' poles with anchors and overhead lines is an identified land use pursuant to the Hawaii Administrative Rules, §13-5-22, P-9, Structures Existing (C-1) Demolition, removal, or alteration of existing structures, facilities and equipment. The decision to allow, modify or deny the application will be at the discretion of the Chairperson. Therefore this land use would require the filing of a Conservation District Use Application for a Departmental permit.

Should you have any questions regarding this memorandum, contact Tiger Mills of our Office at (808) 587-0382.

EXHIBIT "G"