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

September 28, 2012

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

PSF No. 11MD-202
Maui

Consent to Assign Grant of Perpetual, Non-Exclusive Easement LOD No. S-27747, Walter Charles Schachter and Sara Catherine Harrold (also known as Sara Catherine Harrold-Schachter) Assignor, to Terry J. Korpi and Terry L. Korpi, Assignee, Ualapue, Molokai, Hawaii, Tax Map Key: (2) 5-6-002:Por. 026; Amendment of Grant of Easement LOD S-27747 to Allow Easement to Run with the Land Identified as Tax Map Key No.: (2) 5-6-002:021, also situate at Ualapue, Molokai, Hawaii

APPLICANT:

Walter Charles Schachter and Sara Catherine Harrold (also known as Sara Catherine Harrold-Schachter), as Assignor, to Terry J. Korpi and Terry L. Korpi, husband and wife, Tenants by the Entirety, as Assignee.

LEGAL REFERENCE:

Section 171-36(a)(5), Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Ualapue, Molokai, identified by Tax Map Key: (2) 5-6-002:Por. of 026, consisting of approximately 10,651 square feet, as shown on the attached map labeled Exhibit A.

AREA:

10,651 square feet, more or less.

Refer to Metes and Bounds description and CSF map number 19,171 easement at the subject location labeled as Exhibit B.

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
CHARACTER OF USE:

Right, privilege, and authority to construct, use, maintain, and repair a roadway for access and utility purposes.

TERM OF LEASE:

In perpetuity.

CONSIDERATION:

One-time payment of $1,700.00 was made upon execution of Grant of Easement LOD S-27747 on May 2, 1989. No monetary consideration will be paid for the assignment of easement.

DCCA VERIFICATION:

Assignor and Assignees are individual landowners and as such not required to register with DCCA.

REMARKS:

At its meeting of March 27, 1981, under item F-12, the Board of Land and Natural Resources approved a perpetual, non-exclusive easement for roadway ingress-egress purposes. Grant of Easement No. LOD S-27747 to Henry Bush was executed on May 2, 1989.

Pursuant to a Land Board meeting of October 28, 1994, this board approval allowed for conveyance of the parcel over which the easement traverses to the Department of Hawaiian Home Lands (DHHL). Land Patent No. S-15,867 was issued to DHHL, reserving LOD S-27747 to the State of Hawaii.

By the Land Board actions of October 8, 2004, under Item D-10 and amended June 24, 2005 item D-6, a Consent to the Assignment of Easement of LOD No. S-27747 was approved. The Consent to Assignment from Henry Bush to Walter Schachter and Sara Catherine Harrold (also referred to as Sara Catherine Harrold-Schachter) was completed on April 1, 2009.

The Schachters have sold their property at Tax Map Key: (2) 5-6-002:021, which is benefitted by the easement, to Terry J. and Terry L. Korpi. By application the Korpis have made a request for Consent to Assignment of the Grant of Easement LOD No. S-27747. A warranty deed no. 11-188702 dated November 24, 2011 confirms this sale and transfer of the benefitted property.

The language of LOD S-27747 requires the Board’s approval prior to an assignment of the easement and is not updated to that of the most current easement instrument. Staff is therefore recommending that LOD S-27747 be amended to state that the easement will run with the land at Tax Map Key: (2) 5-2-002:021, provided that the assignor notifies the State of the assignment and also notifies the assignee of the insurance requirement in writing. This will eliminate the
need for Board action of future consents to assignment.

The applicants have 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.

RECOMMENDATION:

That the Board:

A. Consent to the assignment of Grant of Easement No. LOD S-27747 from Walter Schachter and Sara Catherine Harrold (also known as Sara Catherine Harrold-Schachter), as Assignor, to Terry J. Korpi and Terry L. Korpi, as Assignee, subject to the following:

1. The standard terms and conditions of the most current consent to assignment form, as may be amended from time to time;

2. Review and approval by the Department of the Attorney General; and

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

B. Authorize the amend of Grant of Non-Exclusive Easement No. LOD S-27747, under terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:

1. The easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key: (2) 5-2-002:021, 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 Grantor of such transaction in writing, and the Grantee shall notify the Grantor’s successors or assigns of the insurance requirement in writing, separate and apart from this easement document;

2. Authorize the subject request to be applicable in the event of a change in the ownership of the abutting parcel described as Tax Map Key: (2) 5-2-002:021, provided the succeeding owner has not had a lease, permit, easement or other disposition of State lands terminated within the last five (5) years due to non-compliance with such terms and conditions.

3. Review and approval by the Department of the Attorney
General; and

4. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interest of the State.

Respectfully Submitted,

[Signature]

Larry Pacheco, Land Agent

APPROVED FOR SUBMITTAL:

[Signature]

William J. Aila, Jr., Chairperson
STATE OF HAWAII
SURVEY DIVISION
DEPT. OF ACCOUNTING AND GENERAL SERVICES
HONOLULU

PERPETUAL NON-EXCLUSIVE EASEMENT
FOR ACCESS AND UTILITY PURPOSES
Over and Across Lot 1 of Ualapue Pasture Lots

Ualapue, Molokai, Hawaii


Beginning at the southeast corner of this easement, the
southwest corner of R.P. 3871, L.C. Av. 4177, Apana 1 to Kualualu and
on the north side of a 20-foot Road, the coordinates of said point of
beginning referred to Government Survey Triangulation Station "MANAWAI"
being 2,979.44 feet North and 1,044.83 feet East, thence running by
azimuths measured clockwise from True South:

1. 72° 45' 20.03 feet along the north side of a 20-foot Road;

2. 166° 08' 30" 116.56 feet along the remainder of Lot 1 of
Ualapue Pasture Lots;

3. 68° 50' 130.51 feet along the remainder of Lot 1 of
Ualapue Pasture Lots;

4. 77° 00' 139.98 feet along the remainder of Lot 1 of
Ualapue Pasture Lots;

5. 73° 15' 124.35 feet along the remainder of Lot 1 of
Ualapue Pasture Lots;

6. 163° 15' 20.00 feet along the remainder of Lot 1 of
Ualapue Pasture Lots;

7. 253° 15' 125.00 feet along R.P. 6070, L.C. Av. 3821,
Apana 3 to Puupuu;

8. 257° 00' 139.20 feet along R.P. 3874, L.C. Av. 3840,
Apana 3 to Paluhi;

9. 248° 50' 151.80 feet along R.P. 3874, L.C. Av. 3840,
Apana 3 to Paluhi;

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10. 346° 08' 30" 138.10 feet along R.F. 3871, L.C. Aw. 4177, Apana 1 to Kualualu to the point of beginning and containing an AREA of 10,651 SQUARE FEET.

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

By: Stanley Hasegawa
Stanley Hasegawa
Land Surveyor

Compiled from CSF 16,417 and other Gov't Survey records.