

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

June 14, 2013

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

PSF No.: 12KD-004

Kauai

Set-Aside to the County of Kauai for Public Park and Ancillary Purposes; Issuance of an Immediate Construction and Management Right-of-Entry to the County of Kauai for Repair, Reconstruction and Maintenance of Existing Seawall Purposes, por. Kapaa Town Lots, 2<sup>nd</sup> Series, Kapaa, Kawaihau, Kauai, Tax Map Key: (4) 4-5-002:023.

APPLICANT:

County of Kauai

LEGAL REFERENCE:

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

LOCATION:

Portion of Government land located por. of Kapaa Town Lots, 2<sup>nd</sup> Series, Kapaa, Kawaihau, Kauai, identified by Tax Map Key: (4) 4-5-002:023, as shown on the attached maps labeled Exhibits A & B.

AREA:

Parcel is 0.55 acres, more or less. It is a sandy beach.

The construction and management right of entry is estimated to consist of 12,000 square feet, more or less.

ZONING:

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

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:

Vacant and unencumbered

CHARACTER OF USE:

Expansion of adjoining County of Kauai's Lihi Park and;

Right, privilege and authority to use, maintain, repair, replace and remove existing seawall over, under and across State-owned land.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

Gratis

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

With respect to the set-aside of the subject lands to the County of Kauai, this action before the Board is merely a transfer of management jurisdiction and does not constitute a use of State lands or funds, and therefore, this action is exempt from the provisions of Chapter 343, HRS, relating to environmental impact statements. Inasmuch as the Chapter 343 environmental requirements apply to Applicant's use of the lands, the Applicant shall be responsible for compliance with Chapter 343, HRS, as amended.

With respect to the repair of the Moanakai seawall, the Final Environmental Assessment for the subject project was published in the OEQC's Environmental Notice on January 8, 2012 with a finding of no significant impact (FONSI). See Exhibit 'C'.

DCCA VERIFICATION:

Not applicable. Applicant is a Government agency.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Provide survey maps and descriptions according to State DAGS standards and at applicant's own cost.
- 2) Obtain a Conservation District Use Permit (CDUP) for the project before undertaking any work, and then only in full compliance with the CDUP conditions.

REMARKS:

The unencumbered State parcel is adjacent to the County of Kauai's Lihi Park identified as Tax Map Key: (4) 4-5-002:001 under Governor's Executive Order No. 1187. See Exhibit A.

The County is requesting a set-aside for expansion of Lihi Park and reconstruction and maintenance of the Moanakai Seawall. See Exhibit 'D'.

The Moanakai Seawall was constructed in late 1992 in response to accelerated coastal erosion occurring as a result of the direct passing of Hurricane Iniki over the island of Kauai on September 11, 1992. Kauai was declared a federal disaster area by President George Bush on September 12, 1992 (FEMA-DR-961). The seawall was declared an emergency project and work to restore protection to the shoreline was completed immediately thereafter.

The Moanakai Seawall is partially on State lands identified as Tax Map Key: (4) 4-5-002:023, and partially on County of Kauai property within the right-of-way of Moanakai Road, see Exhibit B.

Nearly twenty years since its construction, the seawall is presently in poor condition with erosion occurring between the road and seawall in the form of sinkholes and undermining of the shoulder of the road. This condition poses a risk of shoreline erosion, damage to property, and the safety of vehicles, passengers, and users that traverse along Moanakai Road (i.e., pedestrians, joggers, bicyclists, fishermen, and sightseers).

Construction is estimated to begin in 2013. The anticipated project duration is 6 to 12 months.

Comments were solicited with respect to the set-aside for park and ancillary purposes to the County of Kauai from:

State Agencies:

DOH – Clean Water Br.	No objections
Aquatic Resources	Bioengineering, planting vegetation to prevent erosion to ocean
Historic Preservation	No response by suspense date
OCCL	No comments
OHA	No response by suspense date

County Agencies

County Planning	All necessary permits in place
Parks & Recreation	No objections
Public Works	Review w/ Planning Dept. on permits

The County will need a CDUP from the Board before it can undertake repair of the seawall. Staff has included an Applicant Requirement above that the County obtain the CDUP before commencing any reconstruction work on the seawall.

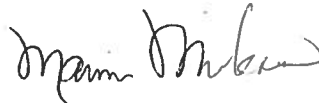
**RECOMMENDATION:** That the Board,

Subject to Applicant fulfilling the Applicant Requirements above:

1. Authorize the issuance of an immediate construction and management right-of-entry permit to the County of Kauai 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;
  - B. Applicant shall obtain a Conservation District Use Permit (CDUP) for the project before undertaking any work, and then only in full compliance with the CDUP conditions; and
  - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
  
2. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to County of Kauai 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; and
- D. 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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Marvin Mikasa  
Land Agent *WM*

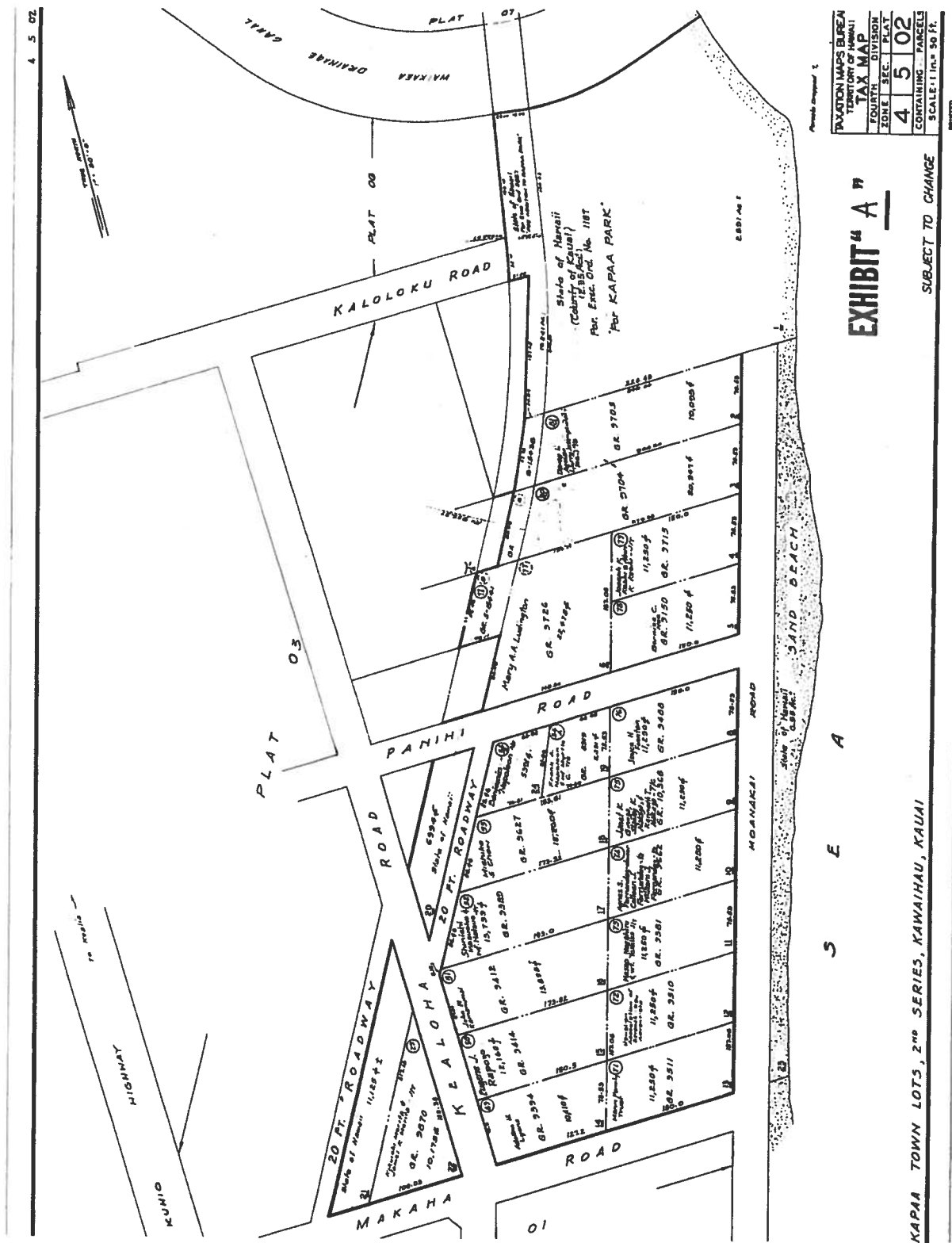
APPROVED FOR SUBMITTAL:



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William J. Aila, Jr., Chairperson





TAXATION MAPS BUREAU	
TERRITORY OF HAWAII	
COUNTY OF KAUAI	
DIVISION	
ZONE	SEC. PLAT
4	5 02
CONTAINING PARCELS	
SCALE: 1 in. = 50 ft.	
PRINTED	

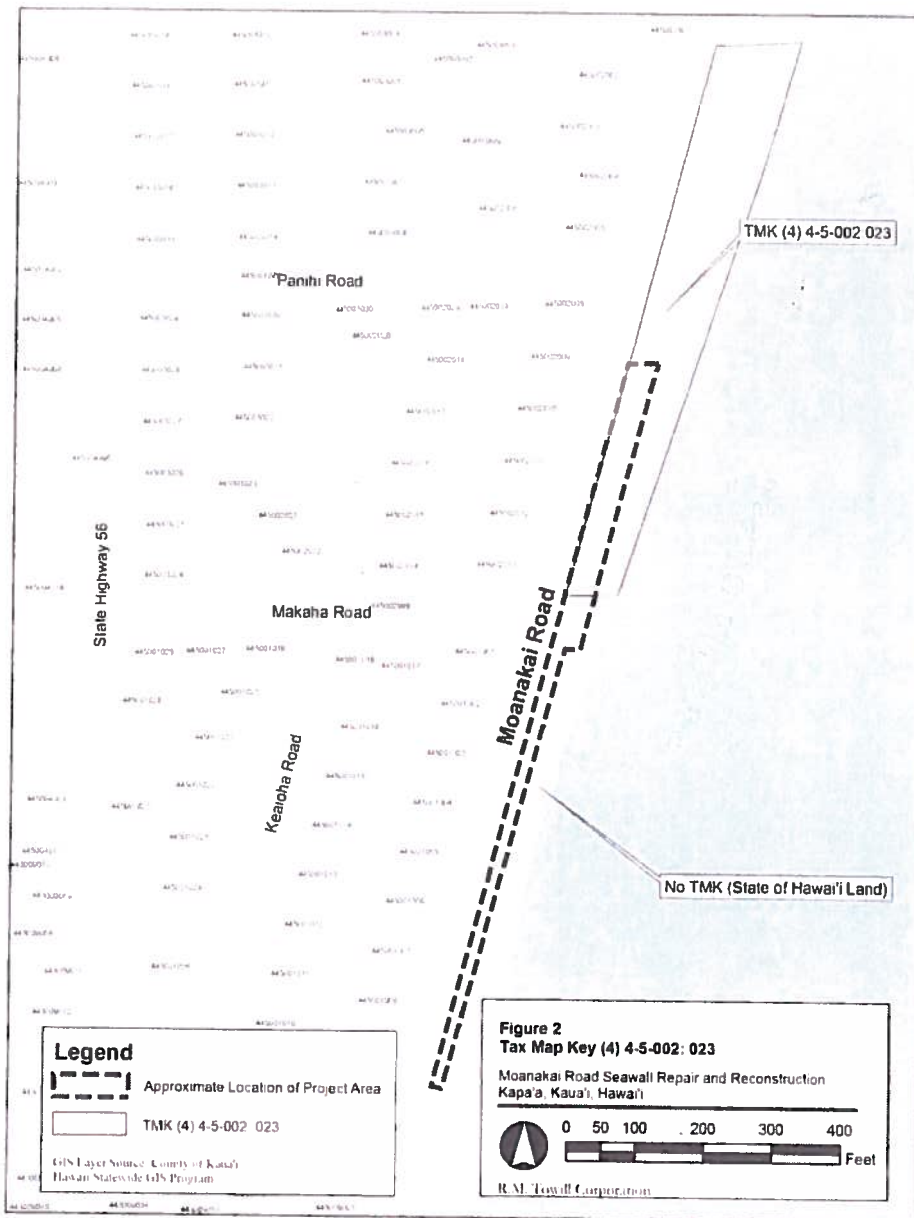
EXHIBIT "A"

SUBJECT TO CHANGE

KAPAA TOWN LOTS, 2<sup>ND</sup> SERIES, KAWAIHAU, KAUAI

*Moanakai Seawall Repair and Reconstruction*

*Kapa'a, Island of Kaua'i, Hawai'i*



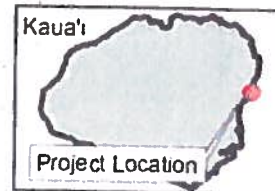
**EXHIBIT "B"**

The Environmental Notice  
Office of Environmental Quality Control  
January 8, 2012

**KAUA'I**

**6. Repair/Reconstruction of Moanakai Seawall Final EA (FONSI)**

**Island:** Kauai  
**District:** Kapa'a  
**TMK:** (4) 4-5-002. 023  
**Permits:** Conservation District Use Permit, Special Management Area Permit, Shoreline Setback Variance, Department of the Army Permit, Section 401 Water Quality Certification Permit, Coastal Zone Management Federal Consistency Determination Permit, NPDES Permit for Discharges Associated with Construction Stormwater, NPDES Permit for Construction Activity Dewatering Effluent



**Proposing/Determination**

**Agency:** County of Kauai, Department of Public Works, 4444 Rice Street, Suite 275, Līhu'e, Hawaii 96766. Contact: Larry Dill, (808) 241-4996  
**Consultant:** R. M. Towill Corporation, 2024 North King Street, Suite 200, Honolulu, Hawaii 96819-3494. Contact: Brian Takeda, (808) 842-1133  
**Status:** Finding of No Significant Impact (FONSI) determination

The proposed project involves the repair and reconstruction of the Moanakai Seawall to maintain the protection of the shoreline from further wave and stormwater related erosion. An Erosion Control Plan (ECP) will provide measures to control storm-water runoff from the project site. An NPDES permit for the discharge of construction related stormwater will be filed. A Best Management Practices (BMPs) Plan will be submitted to control and treat the discharge of pollutants into receiving waters. The direct impacts related to construction activities will be contained within the property and should not create any indirect, secondary or cumulative impacts within the property or to adjacent properties.

The proposed repair and reconstruction is not expected to result in significant adverse impacts to geology, soils, hydrology, stream flow, biological resources, air quality, natural hazards, cultural resources, socio-economics, or land uses. Minimal impacts may consist of minor traffic, noise and air quality disturbances to residents in the surrounding area of the site, however impacts will be temporary, and conditions will return to their previous state once construction is complete.

**EXHIBIT "c"**



**Bernard P. Carvalho, Jr.**  
Mayor



**Larry Dill, P.E.**  
County Engineer

**Gary K. Heu**  
Managing Director

**Lyle Tabata**  
Deputy County Engineer

**DEPARTMENT OF PUBLIC WORKS**  
**County of Kaua'i, State of Hawai'i**  
4444 Rice Street, Suite 275, Lihue, Hawai'i 96766  
TEL (808) 241-4992 FAX (808) 241-6604

December 24, 2012


State of Hawai'i  
Department of Land and Natural Resources  
3060 Eiwa Street, Room 208  
Lihue, Hawai'i, 96766  
**Attention: Marvin Mikasa**

Subject: Request for a Governor's Executive Order for Parcel 023 to be Issued to County of Kaua'i, TMK (4) 4-5-002:023


Dear Mr. Mikasa:

In response to your July 10, 2012 letter concerning our request for issuance of an easement for repair of the Moanakai Seawall we concur that it would be in the best interest of the County of Kaua'i and State of Hawai'i to have a Governor's Executive Order for parcel 023 issued to the County of Kaua'i. This would give the County of Kaua'i total control over this parcel to maintain the Moanakai Seawall and also allow expansion of Lihi Park (Governor's Executive Order No. 117, Kapa'a Park (Lihi Park), parcel 001). Please proceed with the Governor's Executive Order and an immediate Right-of-Entry for construction and management purposes.

Very truly yours,

  
**LARRY DILL, P.E.**  
Department of Public Works

APPROVED:

  
**BERNARD P. CARVALHO JR.**  
Mayor

DH  
cc: Building Division  
Parks & Recreation