

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

March 28, 2014

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

PSF No: 12KD-078
Kauai

Amend Prior Board Action of October 12, 2012, Item D-1, To Add an Immediate Construction Right of Entry to the Withdrawal from Governor's Executive Order No. 2380 to the Department of Accounting and General Services and Reset Aside to County of Kauai, Department of Public Works for Sidewalk and Parking Modifications, por. of Lihue Town, Lihue, Kauai, Tax Map Key: (4) 3-6-005:011.

BACKGROUND:

At its meeting on October 12, 2012, under Item D-1, the Board approved withdrawal from Governor's Executive Order No. 2380 to the Department of Accounting and General Services and Reset Aside to County of Kauai, Department of Public Works for sidewalk and parking modifications. This project will improve Hardy Street for pedestrian and vehicular traffic.

The County of Kauai, Department of Public Works anticipates to start construction in the spring of 2014, ahead of schedule. This places the timeline ahead of the final subdivision approval due in the summer of 2014, thus this request for an immediate construction right-of-entry. Staff recommends that this right of entry be provided gratis as applicant is another government agency.

RECOMMENDATION: That the Board:

1. Amend its prior Board action of October 12, 2012, under agenda item D-1 by authorizing an immediate construction right-of-entry to County of Kauai, Department of Public Works for sidewalk and parking modifications 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 October 12, 2012 approval to remain the same.

Respectfully Submitted,



Marvin Mikasa
Acting District Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson



AMENDED

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

October 12, 2012

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

PSF No.:12KD-078

Kauai

Withdrawal from Governor's Executive Order No. 2380 to the Department of Accounting and General Services and Reset Aside to County of Kauai, Department of Public Works for Sidewalk and Parking Modifications, por. of Lihue Town, Lihue, Kauai, Tax Map Key: (4) 3-6-005:011

CONTROLLING AGENCY (of subject executive order):

Department of Accounting and General Services

APPLICANT (requesting set aside):

County of Kauai, Department of Public Works

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Kalapaki situated at por. of Lihue Town, Lihue, Kauai identified by Tax Map Key: (4) 3-6-005:011, as shown on the attached map labeled Exhibit A.

AREA:

0.05 acre, more or less.

ZONING:

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

As Amended
APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES *Dr*
AT ITS MEETING HELD ON
October 12, 2012

TRUST LAND STATUS:

Section 5(a) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

Governor's Executive Order No. 2380 setting aside 1.538 acres to Department of Accounting and General Services for Lihue State Office Building Lot purposes.

PURPOSE OF SET ASIDE:

Sidewalk and Parking Modifications purposes. See Exhibit B.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

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.

County of Kauai is declaring compliance with Chapter 343, HRS with their Comprehensive Exemption List for the County for Kauai, Department of Public Works, dated November 17, 1999 under Exemption Class 3, item 74 and Exemption Class 4, item 5, Public Works Department. See Exhibit C.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Provide survey maps and descriptions according to DAGS Survey Division standards.

REMARKS:

The subject land is currently encumbered under Governors Executive order No. 2380 to the Department of Accounting and General Services for the Lihue State Office Building purposes.

The Department of Accounting and General Services (DAGS) requests, on behalf of the County of Kauai, Department of Public Works (PW) that the Board authorize the withdrawal of 0.05 acres of land located at the Lihue State Office Building Lot, along Hardy Street for access, management and maintenance of the land and improvements. See Exhibit D.

Staff concurs that this transfer will relieve DAGS of management, maintenance and liability responsibilities due to the proposed County improvements, while providing the County with the freedom to oversee the land and improvements without DAGS intervention. The State, through BLNR, will retain ownership of the land.

Comments were solicited from:

State Agencies:

DAGS	No response by suspense date
DOH	Community Noise, Air Pollution and Solid Waste Management Controls
Historic Preservation	No response by suspense date
OHA	No response by suspense date

County Agencies


County Planning	No response by suspense date
Public Works Dept.	No response by suspense date
Dept. of Water	No response by suspense date

RECOMMENDATION: That the Board:

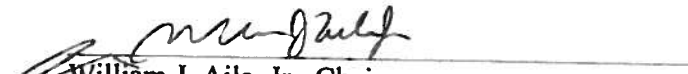
1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Approve of and recommend to the Governor issuance of an executive order withdrawing 0.05 acre from the Governor's Executive Order No. 2380 and subject 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.
3. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to County of Kauai, 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; and
- D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,


Marvin Mikasa
Land Agent

APPROVED FOR SUBMITTAL:


William J. Aila, Jr., Chairperson

Land Board Meeting: October 12, 2012; D-1: Approved as amended:

Approved as amended. The Board amended Applicant Requirements section on page two of the submittal to add a second requirement to read as follows:

- 2) Process and obtain subdivision approval at Applicant's own cost.

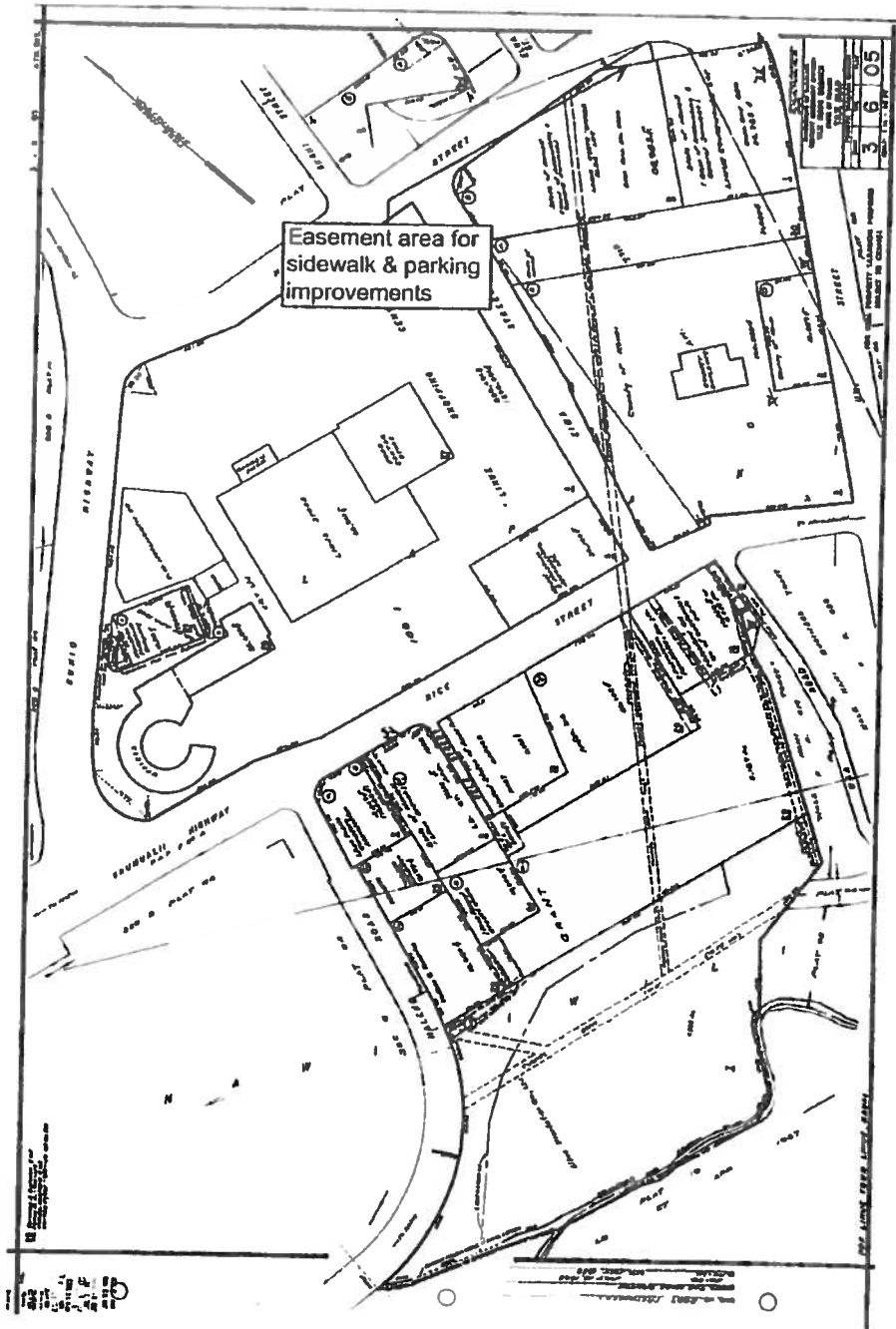


EXHIBIT "A"

INDEX TO DRAWINGS	
SHEET NO	DESCRIPTION
1	TITLE SHEET
2	TYPICAL SECTIONS
3-9	ROADWAY PLANS

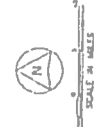
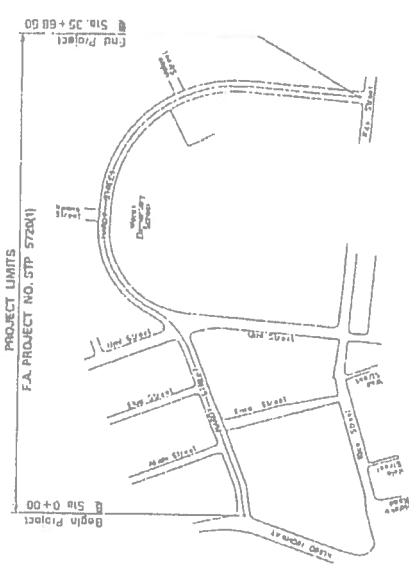
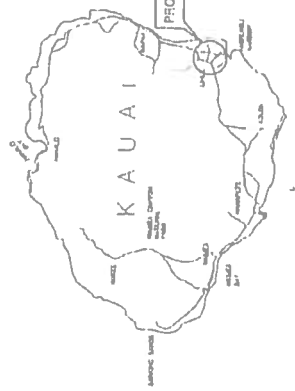
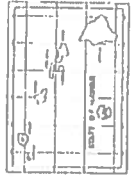
COUNTY OF KAUAI
 DEPARTMENT OF PUBLIC WORKS
 BUILDING DIVISION
 LIHUE, KAUAI, HAWAII

PLANS FOR
HARDY STREET IMPROVEMENTS
 FEDERAL-AID PROJECT NO. STP05720(1)

ISLAND OF KAUAI

CONCEPTUAL PLANS
 SUBJECT TO CHANGE

REV. NO.	DATE	BY	CHKD.	DESCRIPTION

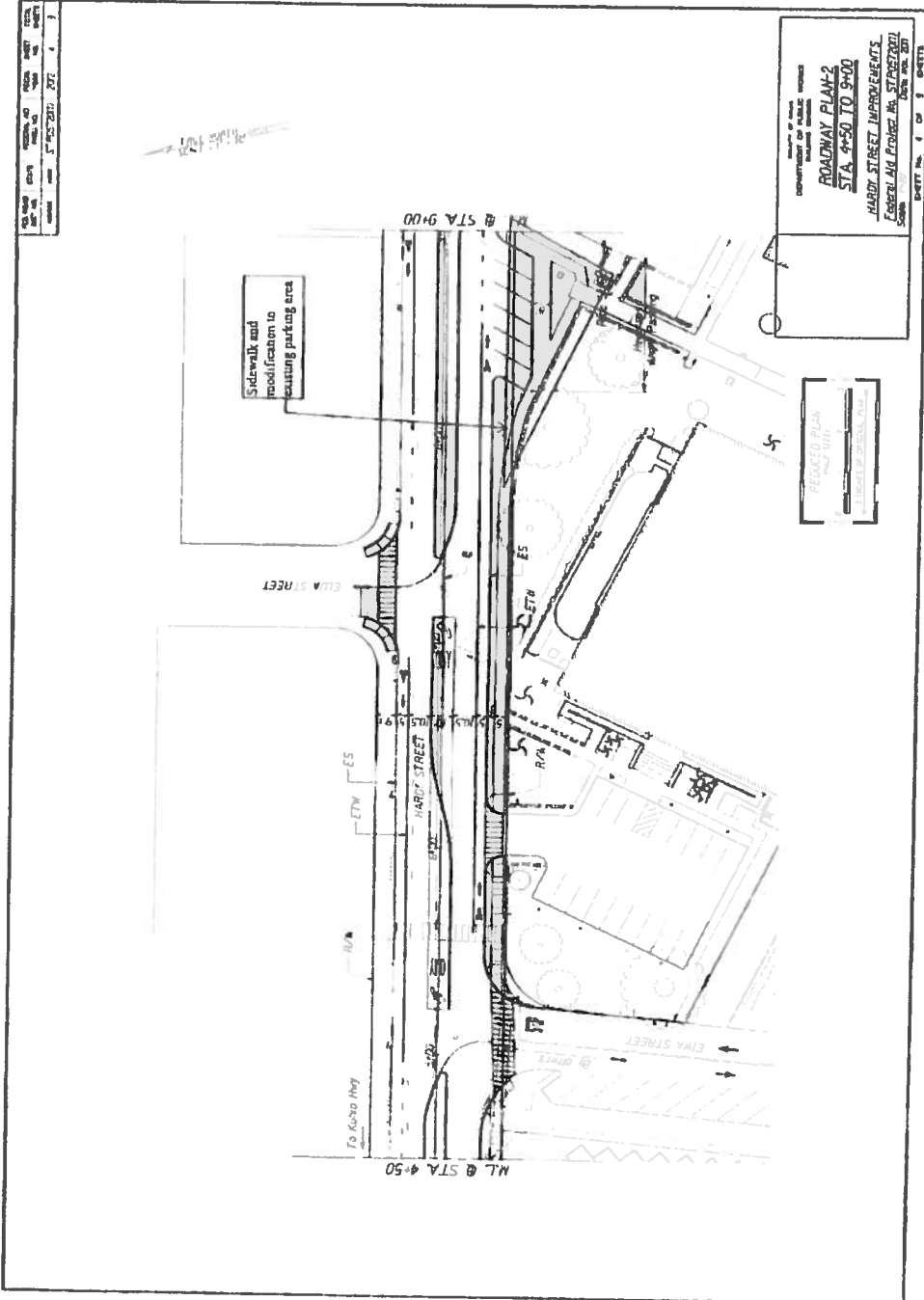


RECORDED PLAN
 NO. 1142
 1 SHEET OF SHEETS 104

DEPARTMENT OF TRANSPORTATION
 STATE OF HAWAII
 APPROVED: _____
 DIR. OF TRANSPORTATION DATE

DESIGNED BY: P. H. & E. V. 2/11/42
 DRAWN BY: P. H. & E. V. 2/11/42
 CHECKED BY: P. H. & E. V. 2/11/42
 DATE: 2/11/42

EXHIBIT "B"



4

EXHIBIT "B"

**COMPREHENSIVE EXEMPTION LIST
FOR THE
COUNTY OF KAUAI
DEPARTMENT OF PUBLIC WORKS**

DATED: NOVEMBER 17, 1999

Department of Public Works, County of Kauai is comprised of the following Divisions and Sections:

Parks and Recreation Division
Building Division
Engineering Division
Waste Water Management Division
Road Construction and Maintenance Division
Solid Waste Management Section

Department of Public works will obtain SMA Permits for all applicable work within the Special Management Area.

Department of Public Works will submit to the Kauai Historic Preservation Review Commission for review and comment any exempt activity proposed on property listed or eligible for listing on the Federal or State Registers of Historic Places, or listed on the County of Kauai Planning Department's "County Historic Resources List." The Department of Public Works will comply with Federal, State and County laws, ordinances, policies for decisions relating to proposed activities on said properties.

Department of Public Works will provide public notice and/or hold public informational meetings on all major projects even if the project is exempt from preparing an environmental assessment. The notice and/or meeting shall discuss the pertinent features of the project and solicit public comment. Major projects are projects such as substantial repair and/or replacement of bridges or structures, highway safety improvements, and drainage improvements.

Pursuant to Section 11-200-8(a) Hawaii Administrative Rules, the following types of action shall generally be declared exempt by the Department of Public Works from requirements regarding preparation of an environmental assessment.

EXEMPTION CLASS #3:

Construction and location of single, new, small facilities or structures and the alteration and modification of the same and installation of new, small, equipment and facilities and the alteration and modification of same, including, but not limited to: (A) Single-family residences less than 3,500 square feet not in conjunction with the building of two or more such units; (B) Multi-unit structures designed for not more than four dwelling units if not in conjunction with the building of two or more such structures; (C) Stores, offices, and restaurants designed for total occupant load of 20 persons or less per structure, if not in conjunction with the building of two or more such structures; and (D) Water, sewage, electrical, gas, telephone, and other essential public utility services extension to serve such structure or facilities; accessory or appurtenant structures including garages, carports, patios, swimming pools, and fences; and, acquisition of utility easements.

1. Fencing, curbing, walls, and gates
2. Extensions, modifications, or additions to existing buildings
3. Essential utilities, including, but not limited to, wastewater systems, drainage systems, water systems, electrical systems, communication systems, and irrigation systems
4. Construction of new pavement including, but not limited to, driveways, parking lots, walkways, and bikeways
5. Retaining walls, except within the shoreline area
6. Equipment installations including, but not limited to, pumps; motors; electrical transformers, cabinets, panels, and vaults; power, light, and telephone pole systems; irrigation controllers; telephone stations; and lifts provided for handicapped accessibility
7. Comfort facilities in existing parks
8. Benches and picnic tables

- b. the extension of an existing sewer main together with a lateral to serve unsewered lots;
 - c. the construction of additional laterals or the replacement of existing laterals to accommodate other utility lines or to facilitate connections from house sewer on the premise to laterals;
64. Sewer lateral extension, involving the extension of an existing later to a new property line for rod improvement projects or for existing laterals that were inadvertently installed short of the property line
 65. Installation of new traffic and pedestrian control devices—traffic signals, signs, pavement markers, striping
 66. Installation of new and upgrading of existing street lighting system
 67. Installation of traffic and pedestrian safety measures—guardrails, escape ramps, sidewalks
 68. Construction of emergency generator shed and installation of generator within existing sewage pump station or treatment plant site
 69. Minor modifications and additions to existing sewage treatment plan or disposal facility or building complex consistent with and within master planned capacity and as described in a previously accepted EIS prepared under Chapter 343, HRS
 70. Installation of sprinkler systems
 71. Pavilions, comfort stations and picnic shelters
 72. Storm drainage system repair and replacement
 73. Acquisition of lands for drainage purposes where there is a natural, existing drainage watercourse
 74. Acquisition of lands that do not include homes and businesses, especially for upgrading substandard curvatures and intersections for roadway improvements

EXEMPTION CLASS #4:

Minor alterations in the conditions of land, water, or vegetation.

1. Landscaping alongside roadways, around buildings, and within existing parks (i.e., trees, shrubs, grass, ground covers, and community gardening planting)
2. Clearing, grubbing, or grading within existing parks, roadways or county lands
3. Removal of insignificant trees which endanger life or property
4. Construction of seepage drains/detention basins where ponding occurs on County lands
5. Regrading road shoulders and installation of pedestrian/bike sidewalk-bikepath
6. Landscaping of park lands

EXEMPTION CLASS #5

Basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource

1. Basic data collection, research, experimental management, and resource evaluation activities necessary within existing parks which do not result in a serious or major disturbance to an environmental resource including, but not limited to, archaeological surveys, reconnaissance, testing, or data recovery
2. Biological and ecological study and survey
3. Chemical and bacteriological laboratory analysis
4. Coliform bacteria decay rate

NEIL ABERCROMBIE
GOVERNOR



DEAN H. SEKI
COMPTROLLER

STATE OF HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
P O BOX 119 HONOLULU HAWAII 96810-0119

MAY 10 2012

(P)1099 2

Mr. Douglas Haigh
Department of Public Works
County of Kauai
4444 Rice Street
Lihue, Kauai 96766

Dear Mr. Haigh:

Subject: Parking and Sidewalk Modifications at
TMK: (4) 3-6-05:011 for Hardy Street Improvements
Federal-Aid Project No. STP-05720 (1) (Project)
Kaua'i, Hawai'i

Thank you for your letter on the subject project. The Department of Accounting and General Services (DAGS) supports the intent of the project to improve Hardy Street for pedestrian and vehicular traffic. The following are our recommendations for the execution and the final disposition of improvements proposed for the State of Hawaii property along Hardy Street:

1. As an alternative to the Property Adjustment Agreement (PAA) you have proposed, DAGS recommends that the management and maintenance of the State of Hawaii property identified in Exhibit A attached to your letter be transferred to the County of Kauai (County) via a Governor's Executive Order (EO). If you concur with this recommendation, DAGS will submit and process a written request asking the Board of Land and Natural Resources (BLNR) approve recommending to the Governor the issuance of EOs, setting aside lands to the County of Kauai for access, management and maintenance of the land and improvements. This transfer will relieve DAGS of management, maintenance and liability responsibilities due to the proposed County improvements, while providing the County the freedom to oversee the land and improvements without DAGS' intervention. The State, through BLNR, will retain land ownership.
2. To process the proposed EO transfer, the County will need to provide a general property description to be included with DAGS' written request to the DLNR. The County will then need to submit a surveyed metes and bounds description and subdivide the affected property, implementing any necessary zoning changes commensurate with the proposed improvements.

EXHIBIT "D"

Mr. Douglas Haigh
(P)1099.2
Page 2

3. We understand the project is planned for execution in 2013 and this should provide ample time to execute the EO transfer, which will likely be approved subject to subdivision of the affected property. If unforeseen delays occur that will jeopardize subdivision in time for the planned construction schedule, DAGS will prepare a conditional Right-of-Entry (ROE) to grant the County access to the project area for purposes of completing the design and construction of the roadway improvements, or until the subdivision is completed, whichever is sooner.
4. Please indicate your agreement with the Items 1 through 3 above by signing below and returning the signed letter.

If you have any questions, please call me at 586-0400 or have your staff call Mr. Ralph Morita of the Public Works Division at 586-0500.

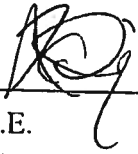
Sincerely,



DEAN H. SEKI
State Comptroller

Concur

Do Not Concur



Larry Dill, P.E.
County Engineer

5-24-12

Date

c: Mr. Stanley Doi, DAGS Kauai District Office
Mr. Russell Tsuji, DLNR Land Division