

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

October 24, 2014

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

PSF No.: 14KD-166

Kauai

Quitclaim Conveyance of Board of Land and Natural Resources' Interest, if Any, in Lehia Lane to Department of Hawaiian Home Lands, Issuance of Immediate Right-of-Entry Permit to Department of Hawaiian Home Lands, Wailua, Lihue, Kauai, Tax Map Key: (4) 3-9-006:025.

APPLICANT:

Department of Hawaiian Home Lands ("DHHL")

LEGAL REFERENCE:

Sections 171-55, 171-95(a)(5) and 264-2, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Wailua, Lihue, Kauai, identified by Tax Map Key: (4) 3-9-006:025, as shown on the attached map labeled Exhibit A.

AREA:

0.385 acre, more or less.

ZONING:

State Land Use District: Urban  
County of Kauai CZO: Hotel & Resort

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act  
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES

CURRENT USE STATUS:

Direct access to two (2) parcels of land which were conveyed from Board of Land and Natural Resources (“BLNR”) to DHHL pursuant to Act 14, Special Session Laws of Hawaii, 1995 and the 16,518-acre Settlement Agreement between BLNR and DHHL, for access and use, maintenance, repair and replacement of existing utility lines, landscaping and other improvements.

TERM OF RIGHT-OF-ENTRY:

Commences upon approval by the Board of Land and Natural Resources and execution of the Right-of-Entry Permit by the Chairperson and DHHL, and terminates when the Quitclaim Deed is recorded in the Bureau of Conveyances.

CONSIDERATION:

Gratis.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule Sections 11-200-8(a)(1) & (4) and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Counsel and dated December 4, 1991, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states “Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing” and Class No. 4, that states “Minor alteration in the conditions of land, water, or vegetation.” See Exhibit B.

DCCA VERIFICATION:

Not applicable. Applicant is a government agency.

APPLICANT REQUIREMENTS:

DHHL shall be required to:

- 1) Process and pay for any and all costs associated with effectuating the land transfer, including but not limited to any and all costs associated with any county subdivision that may be required; and
- 2) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

DHHL received two (2) parcels of State land at Wailua, Lihue, Kauai, identified by Tax Map Key Nos. (4) 3-9-006:016 and 020, a total of 10.36 acres, as part of the Act 14, Special Session Laws of Hawaii, 1995 and the 16,518-acre Settlement Agreement with the State of Hawaii, Board of Land and Natural Resources (Board). Copies of the Land Patent Grant No. S-16,037 and Quitclaim Deed covering these parcels, both dated July 2, 2012, are attached as Exhibit C.

Along with the land transfer, DHHL assumed the three (3) general leases to Aloha Beach Resort – Nomura CDO, LLC, a Delaware limited liability company, (“ABR”), who owns and operates the Aloha Beach Resort. The three leases are General Lease Nos. S-3831, S-3840, and S-4647. ABR sold the Aloha Beach Resort to Aloha Beach Hotel Partners, LLC, a Delaware limited liability company (“ABHP”) and the General Leases covering the DHHL parcels were assigned to ABHP. As part of the transaction due diligence, ABHP discovered that certain existing utility lines, landscaping and other improvements comprising portions of the Aloha Beach Resort are located on Lehia Lane, as shown on the survey map attached hereto as Exhibit D.

Lehia Lane is a dead-end roadway which is surrounded by and serves as the sole means of direct access to the two (2) parcels of land which were conveyed to DHHL. A copy of the Tax Map is attached as Exhibit A.

To assure that ABHP has guaranteed access and to resolve a potential encroachment issue, DHHL is requesting that an immediate right-of-entry permit be granted and that the 0.385-acre parcel be considered for land transfer to DHHL as part of the Act 14 settlement.

There is a longstanding disagreement between the State and the counties regarding ownership of certain roads deemed “roads in limbo”. The Public Lands statute excludes “land being used for roads and streets” from the description of the types of lands over which the BLNR has jurisdiction. HRS Section 171-2. Other statutes and acts provide that any public road that is not a State highway is a county highway. See HRS Sections 264-1, et seq.; Act 288 Session Laws of Hawaii 1993. While ownership has been transferred by operation of law pursuant to these statutory sections, the counties have continued to dispute that they own these roads because they do not have paper title.

Accordingly, the subject land may not be under the Board’s jurisdiction, however to prevent this jurisdictional issue from causing a title or access problem for DHHL and its lessee, staff is recommending below that the Board approve the quitclaim conveyance of the roadway parcel and the issuance of the requested immediate right-of-entry permit to the extent the Board has any right, title or interest in and to the land.

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. To the extent it has any right, title or interest in and to the subject land, approve the conveyance of 0.385 acre, more or less of Lehia Lane, identified in Exhibit A, to the Department of Hawaiian Homelands under 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 quitclaim deed (roads) 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.
3. Authorize the issuance of an immediate right-of-entry permit to Department of Hawaiian Home Lands 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 terms and conditions of the most current right-of-entry permit, 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.

Respectfully Submitted,

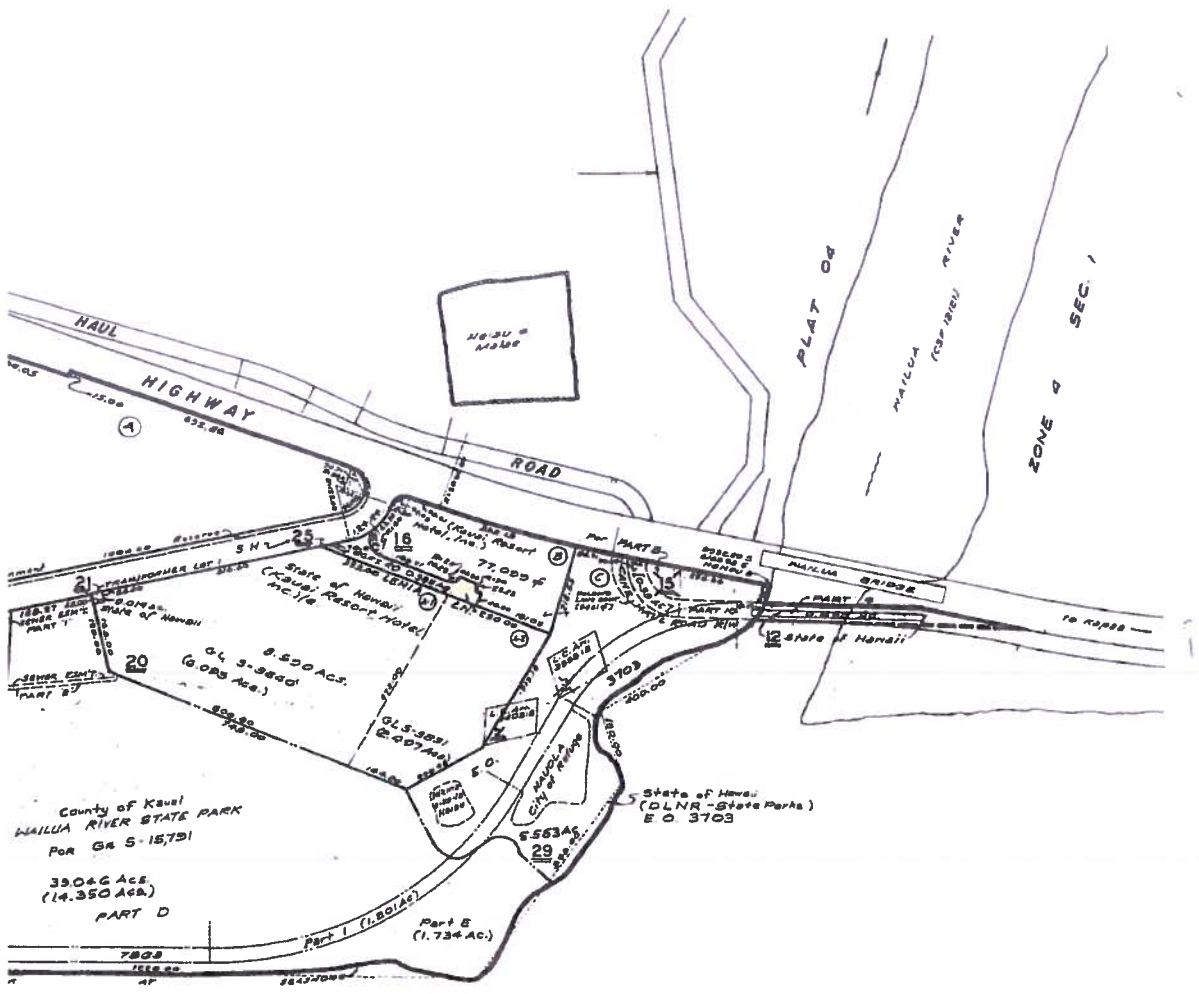
  
\_\_\_\_\_  
Marvin Mikasa  
Acting District Land Agent

APPROVED FOR SUBMITTAL:

  
\_\_\_\_\_  
William J. Aila, Jr., Chairperson







A

Parcels Dropped: 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100

DEPARTMENT OF TAXATION		
TAXATION MAPS BUREAU		
STATE OF HAWAII		
TAX MAP		
FOURTH TAXATION DIVISION		
ZONE	SEC	PL
3	9	06
SCALE 1 IN. = 200 FT.		

FOR REAL PROPERTY TAXATION PURPOSES  
 SUBJECT TO CHANGE

**EXHIBIT "A"**





**STATE OF HAWAII**  
**DEPARTMENT OF LAND AND NATURAL RESOURCES**  
**LAND DIVISION**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

## **EXEMPTION NOTIFICATION**

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

**Project Title:** Quitclaim Conveyance of Board of Land and Natural Resources' Interest, if Any, in Lehia Lane to Department of Hawaiian Home Lands, Issuance of Immediate Right-of-Entry Permit to Department of Hawaiian Home Lands

**Project / Reference No.:** 14KD-166

**Project Location:** Wailua, Lihue, Kauai, Tax Map Key: (4) 3-9-006:025.

**Project Description:** Quitclaim conveyance of Lehia Lane and Issuance of ROE.

**Chap. 343 Trigger(s):** Transfer of State's interest, in any, in roadway lot.

**Exemption Class No.:** In accordance with Hawaii Administrative Rule, Section 11-200-8(a)(1)(4) and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated December 4, 1991, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No.1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing" and Class No.4, that states "Minor alteration in the conditions of land, water, or vegetation".

The quitclaim conveyance of the State's interest, if any, in the subject roadway lot will not change the use of the land. It will continue to be used as a roadway for access and utilities to adjoining lands of the Department of Hawaiian Homelands.

**EXHIBIT B**



Recommendation:

It is recommended that the Board find that this request will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.

  
\_\_\_\_\_  
William J. Aila, Jr., Chairperson

10/12/14  
\_\_\_\_\_  
Date



STATE OF HAWAII  
BUREAU OF CONVEYANCES  
RECORDED

July 10, 2012 10:45 AM  
Doc No(s) A-45741082



1 1/1 CGG  
B-32080939

/s/ NICKI ANN THOMPSON  
REGISTRAR

LAND COURT SYSTEM )  
Return by Mail ( ) Pickup (✓) To: )  
REGULAR SYSTEM )

**DEPT. OF LAND AND NATURAL RESOURCES  
LAND DIVISION**

Total Number of Pages: 11  
Tax Map Key Nos. (4)3-9-006:016 & Por. 020

LAND PATENT GRANT NO. S-16,037

PATENTOR: STATE OF HAWAII  
PATENTEE: DEPARTMENT OF HAWAIIAN HOME LANDS  
Post Office Box 1879  
Honolulu, Hawaii 96805

BY THIS PATENT the State of Hawaii, in conformity with the laws of the State of Hawaii relating to public lands, pursuant to the approval by the Board of Land and Natural Resources on October 28, 1994, April 9, 1998, September 25, 1998, August 27, 2004, September 24, 2004, October 14, 2005, and October 28, 2010, and acting pursuant to Section 171-95(a)(1), Hawaii Revised Statutes, makes known to all men that it does this day grant and confirm unto the DEPARTMENT OF HAWAIIAN HOME LANDS, by its HAWAIIAN HOMES COMMISSION, STATE OF HAWAII, whose address is Post Office Box 1879, Honolulu, Hawaii 96805, hereinafter referred to as the "Patentee," for good and valuable consideration, the receipt whereof is hereby acknowledged, all of the land situate at Wailua, Lihue, Kauai, Hawaii, designated "Portion of the Government (Crown) Land of Wailua, Parcel 1,"

417505\_1 DOC

**EXHIBIT "C"**



containing an area of 10.304 acres, reserving to the State of Hawaii, its successors and assigns, Perpetual Non-Exclusive Utility Easements E-1, E-2 and E-3, all more particularly described in Exhibit "A" and delineated on Exhibit "B," both of which are attached hereto and made parts hereof, said exhibits being respectively, a survey description and survey map prepared by the Survey Division, Department of Accounting and General Services, State of Hawaii, designated as C.S.F. No. 25,070 and dated April 14, 2011, and further referenced as Tax Map Key Nos.(4) 3-9-006:016 and por. 020.

SUBJECT, HOWEVER, to the following:

1. Unrecorded General Lease No. S-4647 dated August 26, 1980, and by mesne assignment said general lease was assigned to Aloha Beach Resort - Nomura CDO, LLC, a Delaware limited liability company, by that certain Commissioner's Assignment of Ground Leases executed June 29, 2009, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2009-099720, consent thereto given by the State of Hawaii, Board of Land and Natural Resources by instrument recorded aforesaid as Document No. 2011-056455, executed May 5, 2010, affecting Parcel 016.
2. Unrecorded General Lease No. S-3831 dated May 18, 1964, and by mesne assignment said general lease was assigned to Aloha Beach Resort - Nomura CDO, LLC, a Delaware limited liability company, by that certain Commissioner's Assignment of Ground Leases executed June 29, 2009, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2009-099720, consent thereto given by the State of Hawaii, Board of Land and Natural Resources by instrument recorded aforesaid as Document No. 2011-056455, executed May 5, 2010, affecting Parcel 020.
3. Unrecorded General Lease No. S-3840 dated July 6, 1964, and by mesne assignment said general lease was assigned to Aloha Beach Resort - Nomura CDO, LLC, a Delaware limited liability company, by that certain Commissioner's Assignment of Ground Leases executed June 29, 2009, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2009-099720, consent thereto given by the State of Hawaii, Board of Land and Natural Resources by instrument recorded aforesaid as Document No. 2011-056455, executed May 5, 2010, affecting Parcel 020.

AND THE PATENTEE, for itself, its successors and assigns, covenants with the State of Hawaii, and its successors as follows:

1) The Patentee acknowledges and is fully aware that a comprehensive search of title covering the lands conveyed herein has not been completed by Patentor and agrees that the lands conveyed herein may be subject to additional encumbrances, known or unknown, recorded or unrecorded.

2) Non-warranty. The Patentor does not warrant the conditions of the lands conveyed herein, and the Patentee accepts said lands "as is."

3) Hold-harmless. In case the Patentor shall, without any fault on its part, be made a party to any litigation commenced by or against the Patentee as a result of (a) the issuance of this patent or a challenge to the validity thereof, or (b) the conveyance of the lands herein (other than eminent domain or quiet title proceedings), the Patentee shall defend and hold the Patentor harmless from and against any claim or demand for loss, liability, or damage, to the extent that funds have been authorized and appropriated by the Legislature for such purpose, and the funds have been allocated by the executive budget process.

TO HAVE AND TO HOLD said granted land unto the said DEPARTMENT OF HAWAIIAN HOME LANDS, by its HAWAIIAN HOMES COMMISSION, STATE OF HAWAII, its successors and assigns forever, subject, however, to the reservations, conditions and covenants herein set forth.

IN WITNESS WHEREOF, the State of Hawaii, by its Board  
of Land and Natural Resources, has caused the seal of the  
Department of Land and Natural Resources to be hereunto affixed  
and this Patent to be duly executed this 2nd day of  
July, 2012.

Approved by the Board  
of Land and Natural  
Resources at its  
meetings held on  
October 28, 1994,  
April 9, 1998,  
September 25, 1998,  
August 27, 2004,  
September 24, 2004,  
October 14, 2005, and  
October 28, 2010.

STATE OF HAWAII

By [Signature]  
WILLIAM J. AILA, JR.  
Chairperson  
Board of Land and  
Natural Resources

PATENTOR

APPROVED AS TO FORM:

[Signature]  
PAMELA K. MATSUKAWA  
Deputy Attorney General

DEPARTMENT OF HAWAIIAN HOME  
LANDS, STATE OF HAWAII

By [Signature]  
JOBIE M. K. MASAGATANI  
CHAIRPERSON Chairman Designate  
HAWAIIAN HOMES COMMISSION

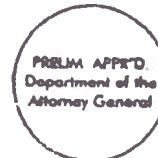
Dated: 5/31/12

PATENTEE

APPROVED AS TO FORM:

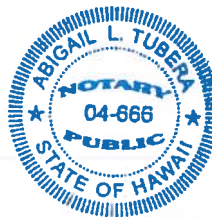
[Signature]  
Deputy Attorney General

Dated: 6/14/12



STATE OF HAWAII )  
 ) SS.  
CITY & COUNTY OF HONOLULU )

On this 25th day of June, 2012, before me appeared Jobie M. K. Masagatani, to me personally known, who, being by me duly sworn, did say that she is the Chairman Designate of the Hawaiian Homes Commission and the person who executed the foregoing instrument and acknowledged to me that she executed the same freely and voluntarily for the use and purposes therein set forth.

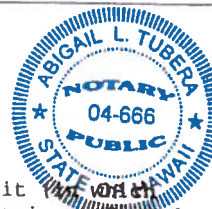


*Abigail L. Tubera*  
\_\_\_\_\_  
Notary Public, State of Hawaii

Print Name: Abigail L. Tubera

My commission expires: November 21, 2012

NOTARY CERTIFICATION STATEMENT	
Document Identification or Description:	
Land Patent Grant No. S-16,037	
Undated at time of notarization.	
No. of Pages: 11	Jurisdiction: First Circuit (in which notarial act is performed)
<i>Abigail L. Tubera</i> _____ Signature of Notary	<i>6/25/12</i> _____ Date of Notarization and Certification Statement
Abigail L. Tubera _____ Print Name of Notary	





STATE OF HAWAI'I  
SURVEY DIVISION  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
HONOLULU

C.S.F. No. 25,070

April 14, 2011

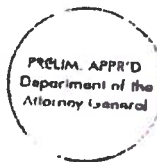
PORTION OF  
THE GOVERNMENT (CROWN) LAND OF WAILUA

PARCEL 1

Wailua, Lihue, Kauai, Hawaii

Beginning at the north corner of this parcel of land, at the west corner of Wailua River State Park (Lydgate Area), Governor's Executive Order 3703 and on the southeast side of Kuhio Highway, the coordinates of said point of beginning referred to Government Survey Triangulation Station "NONOU" being 6347.86 feet South and 5965.86 feet East, thence running by azimuths measured clockwise from True South:-

- |    |              |  |
|----|--------------|--|
| 1. | 300° 00' 15" | 218.55 feet along Wailua River State Park (Lydgate Area), Governor's Executive Order 3703; |
| 2. | 313° 30'     | 192.36 feet along Wailua River State Park (Lydgate Area), Governor's Executive Order 3703; |
| 3. | 0° 30'       | 55.38 feet along L.P. 8202, L.C. Aw. 3403, Ap. 2 to Pahio;                                 |
| 4. | 287° 30'     | 92.40 feet along L.P. 8202, L.C. Aw. 3403, Ap. 2 to Pahio;                                 |
| 5. | 344° 00'     | 205.48 feet along Wailua River State Park (Lydgate Area), Governor's Executive Order 3703; |
| 6. | 36° 00'      | 745.00 feet along Wailua River Park (Lydgate Area);  |

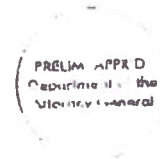




C.S.F. No. 25,070

April 14, 2011

7. 91° 30' 30" 165.00 feet along Wailua River Park (Lydgate Area);
8. 181° 30' 30" 25.00 feet along Transformer Lot 1;
9. 91° 30' 30" 25.00 feet along Transformer Lot 1;
10. 181° 30' 30" 515.00 feet along the east side of Leho Drive;
11. 215° 00' 393.97 feet along the southeast side of Lehia Lane;
12. 125° 00' 40.00 feet along the northeast end of Lehia Lane;
13. Thence along the northwest side of Lehia Lane on a curve to the right with a radius of 20.00 feet, the chord azimuth and distance being:  
80° 00' 28.28 feet;
14. 35° 00' 40.00 feet along the northwest side of Lehia Lane;
15. Thence along the northwest side of Lehia Lane on a curve to the right with a radius of 20.00 feet, the chord azimuth and distance being:  
350° 00' 28.28 feet;
16. 35° 00' 169.71 feet along the northwest side of Lehia Lane;
17. Thence along the northwest side of Lehia Lane on a curve to the right with a radius of 40.00 feet, the chord azimuth and distance being:  
92° 14' 67.27 feet;
18. Thence along the northeast side of Leho Drive on a curve to the left with a radius of 138.02 feet, the chord azimuth and distance being:  
136° 26' 15" 62.23 feet;
19. Thence along the northeast side of Leho Drive on a curve to the right with a radius of 30.00 feet, the chord azimuth and distance being:  
168° 24' 30" 42.43 feet;
20. 213° 24' 30" 75.61 feet along the southeast side of Kuhio Highway;



C.S.F. No. 25,070

April 14, 2011

21. Thence along the southeast side of Kuhio Highway on a curve to the left with a radius of 3060.00 feet, the chord azimuth and distance being:  
210° 17' 50"                      332.15 feet to  
the point of beginning and containing an  
AREA OF 10.304 ACRES.

RESERVING to the State of Hawaii, its successors and assigns, Perpetual Non-Exclusive Utility Easements E-1, E-2 and E-3 as shown on plan attached hereto and made a part hereof and more particularly described as follows:

EASEMENT E-1

Beginning at the west corner of this easement and on the southeast side of Kuhio Highway, the coordinates of said point of beginning referred to Government Survey Triangulation Station "NONOU" being 6687.74 feet South and 5763.27 feet East, thence running by azimuths measured clockwise from True South:-

1. 213° 24' 30"                      5.00 feet along the southeast side of Kuhio Highway;
2. 303° 24' 30"                      10.00 feet;
3. 33° 24' 30"                        5.00 feet;
4. 123° 24' 30"                      10.00 feet to the point of beginning and containing an AREA OF 50 SQUARE FEET.

EASEMENT E-2

Beginning at the west corner of this easement and on the southeast side of Kuhio Highway, the coordinates of said point of beginning referred to



C.S.F. No. 25,070

April 14, 2011

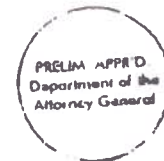
Government Survey Triangulation Station "NONOU" being 6568.94 feet South and  
5840.44 feet East, thence running by azimuths measured clockwise from True South:-

1. Along the southeast side of Kuhio Highway on a curve to the left with a radius of  
3060.00 feet, the chord azimuth and  
distance being:  
211° 53' 59.5" 5.00 feet;
2. 301° 54' 6.00 feet;
3. 31° 54' 5.00 feet;
4. 121° 54' 6.00 feet to the point of beginning and containing an  
AREA OF 30 SQUARE FEET.

EASEMENT E-3

Beginning at the west corner of this easement and on the southeast  
side of Kuhio Highway, the coordinates of said point of beginning referred to  
Government Survey Triangulation Station "NONOU" being 6358.84 feet South and  
5960.19 feet East, thence running by azimuths measured clockwise from True South:-

1. Along the southeast side of Kuhio Highway on a curve to the left with a radius of  
3060.00 feet, the chord azimuth and  
distance being:  
207° 22' 14.5" 5.00 feet;
2. 297° 22' 14" 16.00 feet;
3. 27° 22' 14" 5.00 feet;



C.S.F. No. 25,070

April 14, 2011

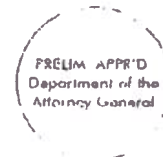
4. 117° 22' 14"

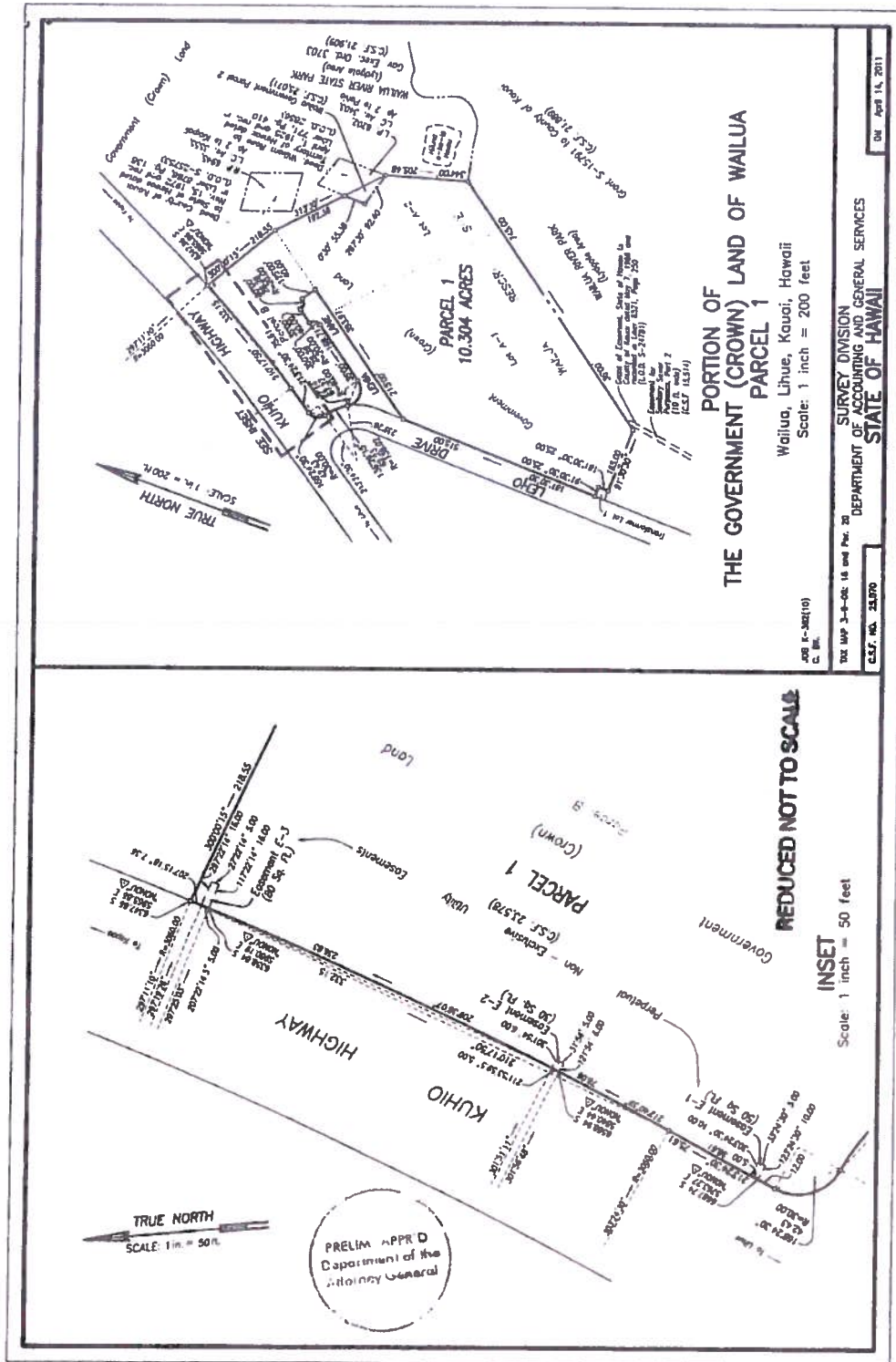
16.00 feet to the point of beginning and containing an  
AREA OF 80 SQUARE FEET

SURVEY DIVISION  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
STATE OF HAWAII

By: Glenn J. Kodani  
Glenn J. Kodani  
Land Surveyor ry

Compiled from CSFs 23481,  
23482, 23483, 23578 and other  
Govt. Survey Records.





NO  
C



STATE OF HAWAII  
BUREAU OF CONVEYANCES  
RECORDED

July 10, 2012 10:45 AM

Doc No(s) A-45741081



1 1/1 CGG  
B-32090938

/s/ NICKI ANN THOMPSON  
REGISTRAR

LAND COURT SYSTEM )  
Return by Mail ( ) Pickup (✓) To: )  
REGULAR SYSTEM

**DEPT. OF LAND AND NATURAL RESOURCES  
LAND DIVISION**

LOD No. 29,010 Total Number of Pages: 7  
Tax Map Key No. (4)3-9-006:Por. 020

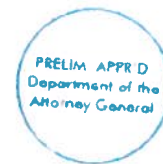
QUITCLAIM DEED

KNOW ALL MEN BY THESE PRESENTS:

THAT, effective as of the 2<sup>nd</sup> day of July,  
20 12, the STATE OF HAWAII, hereinafter referred to as the  
"Grantor," by its Board of Land and Natural Resources, acting  
pursuant to Section 171-95(a)(5), Hawaii Revised Statutes, for  
good and valuable consideration, the receipt whereof is hereby  
acknowledged, does hereby remise, release and forever quitclaim  
unto the DEPARTMENT OF HAWAIIAN HOME LANDS, by its HAWAIIAN HOMES  
COMMISSION, STATE OF HAWAII, whose address is Post Office Box  
1879, Honolulu, Hawaii 96805, hereinafter referred to as the  
"Grantee," its successors and assigns, all of its right, title,  
interest, claim and demand in and to that certain parcel of land  
situate at Wailua, Lihue, Kauai, Hawaii, being "Wailua Government  
Parcel, Parcel 2," containing an area of 2,447 square feet, more  
particularly described in Exhibit "A" and delineated on Exhibit  
"B," both of which are attached hereto and made parts hereof,  
said exhibits being respectively, a survey description and survey  
map designated C.S.F. No. 25,071 and dated April 14, 2011,  
prepared by the Survey Division, Department of Accounting and  
General Services, State of Hawaii, and further designated as Tax  
Map Key No. (4)3-9-006:Por. 020.

417548\_1.DOC

**EXHIBIT "C"**



SUBJECT, HOWEVER, to the following:

1. Unrecorded General Lease No. S-3831 dated May 18, 1964, and by mesne assignment said general lease was assigned to Aloha Beach Resort - Nomura CDO, LLC, a Delaware limited liability company, by that certain Commissioner's Assignment of Ground Leases executed June 29, 2009, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2009-099720, consent thereto given by the State of Hawaii, Board of Land and Natural Resources by instrument recorded aforesaid as Document No. 2011-056455, executed May 5, 2010, affecting Parcel 020.

AND the Grantee for itself, its successors and assigns, covenants with the Grantor and its successors as follows:

1. The Grantee acknowledges and is fully aware that a comprehensive search of title covering the lands conveyed herein has not been completed by Grantor and agrees that the lands conveyed herein may be subject to additional encumbrances, known and/or unknown, recorded and/or unrecorded.

2. Non-warranty. The Grantor does not warrant the conditions of the lands conveyed herein, and the Grantee accepts said lands "as is."

3. Hold-harmless. In case the Grantor shall, without any fault on its part, be made a party to any litigation commenced by or against the Grantee as a result of (a) the issuance of this quitclaim deed or a challenge to the validity thereof, or (b) the conveyance of the lands herein (other than eminent domain and/or quiet title proceedings), the Grantee shall defend and hold the Grantor harmless from and against any claim or demand for loss, liability, or damage, to the extent that funds have been authorized and appropriated by the Legislature for such purpose, and the funds have been allocated by the executive budget process.

TO HAVE AND TO HOLD the same together with all of the rights, easements, privileges and appurtenances thereunto belonging or in anywise appertaining or held and enjoyed therewith unto said Grantee, its successors and assigns, forever except as noted herein.



IN WITNESS WHEREOF, the STATE OF HAWAII, the Grantor herein, by its Board of Land and Natural Resources, has caused the seal of the Department of Land and Natural Resources to be hereunto affixed and these presents to be duly executed this 24<sup>th</sup> day of July, 20 12, and the DEPARTMENT OF HAWAIIAN HOME LANDS, by its HAWAIIAN HOMES COMMISSION, the Grantee herein, has caused these presents to be executed this 25<sup>th</sup> day of June, 20 12, both effective as of the day, month, and year first above written.

Approved by the Board of Land and Natural Resources at its meetings held on October 28, 1994, April 9, 1998, September 25, 1998, August 27, 2004, September 24, 2004, October 14, 2005, and October 28, 2010.

STATE OF HAWAII

By [Signature]  
WILLIAM J. AILA, JR.  
Chairperson  
Board of Land and  
Natural Resources

AM

GRANTOR

APPROVED AS TO FORM:

[Signature]  
PAMELA K. MATSUKAWA  
Deputy Attorney General

Dated: 5/31/12

DEPARTMENT OF HAWAIIAN HOME LANDS,  
STATE OF HAWAII

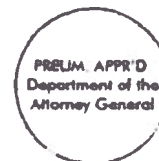
By [Signature]  
JOSE M. K. MASAGATANI  
~~CHAIRPERSON~~ Chairman Designate  
HAWAIIAN HOMES COMMISSION

GRANTEE

APPROVED AS TO FORM:

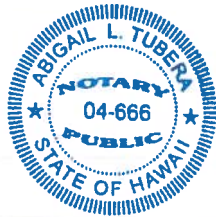
[Signature]  
[Signature]  
Deputy Attorney General

Dated: 6/14/12



STATE OF HAWAII )  
 ) SS.  
CITY & COUNTY OF HONOLULU )

On this 25th day of June, 2012, before me appeared Jobie M. K. Masagatani, to me personally known, who, being by me duly sworn, did say that she is the Chairman Designate of the Hawaiian Homes Commission and the person who executed the foregoing instrument and acknowledged to me that she executed the same freely and voluntarily for the use and purposes therein set forth.



*Abigail L. Tubera*

Notary Public, State of Hawaii  
Print Name: Abigail L. Tubera  
My commission expires: November 21, 2012

<u>NOTARY CERTIFICATION STATEMENT</u>	
Document Identification or Description: Quitclaim Deed	
Undated at time of notarization.	
No. of Pages: 7	Jurisdiction: First Circuit of Hawaii (notarial act is performed)
<i>Abigail L. Tubera</i>	<i>6/25/12</i>
Signature of Notary	Date of Notarization and Certification Statement
Abigail L. Tubera Print Name of Notary	





STATE OF HAWAII  
SURVEY DIVISION  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
HONOLULU

C.S.F. No. 25,071

April 14, 2011

WAILUA GOVERNMENT PARCEL

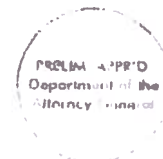
PARCEL 2

Wailua, Lihue, Kauai, Hawaii

Being a portion of Land Patent 8202, Land Commission Award 3403, Apana 2 to Pahio conveyed to the Territory of Hawaii by William Rose by deed dated April 1, 1925 and recorded in Liber 771, Page 410 (Land Office Deed 2856).

Beginning at the east corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "NONOU" being 6672.73 feet South and 6382.30 feet East, thence running by azimuths measured clockwise from True South:-

1. 107° 30' 92.40 feet along the Government (Crown) Land of Wailua;
2. 180° 30' 55.38 feet along the Government (Crown) Land of Wailua;



**EXHIBIT "A"**

C.S.F. No. 25,071

April 14, 2011

3. 313° 30'

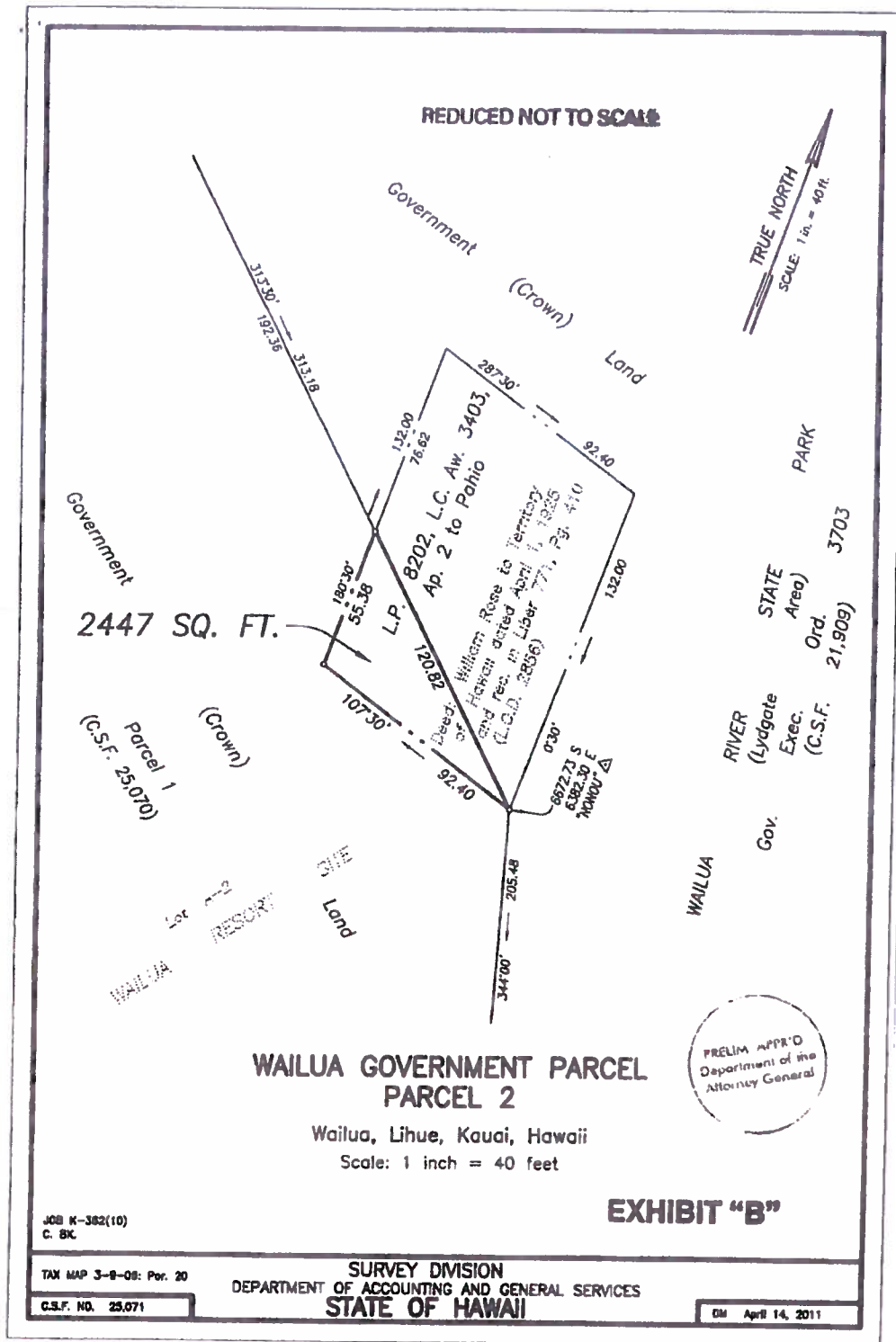
120.82 feet along Wailua River State Park (Lydgate  
Area), Governor's Executive Order 3703  
to the point of beginning and containing an  
AREA OF 2447 SQUARE FEET.

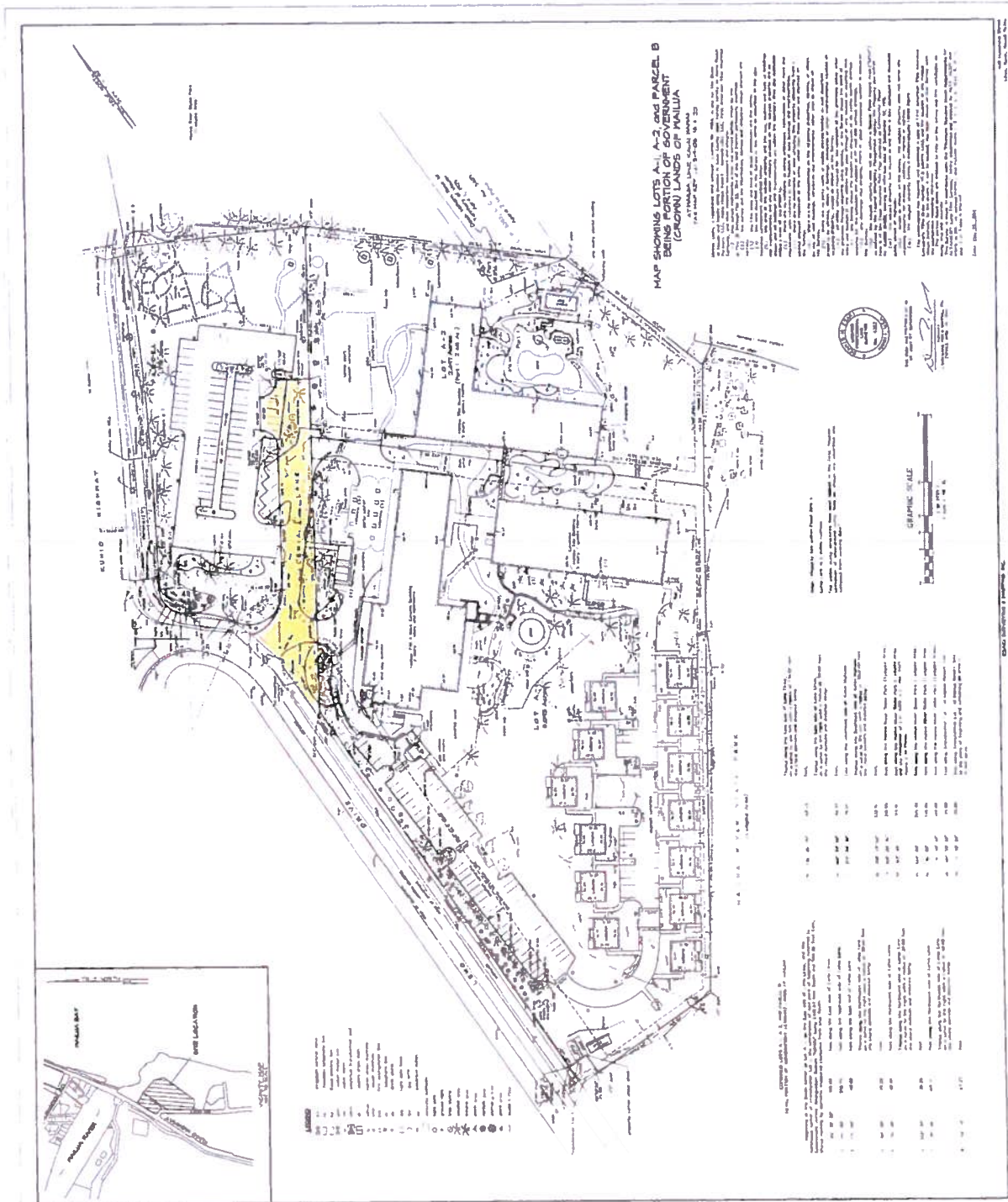
SURVEY DIVISION  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
STATE OF HAWAII

By: Glenn J. Kodani  
Glenn J. Kodani  
Land Surveyor ry

Compiled from CSFs 21909, 23482  
and other Govt. Survey Records.







**EXHIBIT "D"**