Partial Withdrawal of Land (Lot 1-B) from Governor’s Executive Order No. 2823 to Department of Education; Issuance of Immediate Right of Entry to County of Maui for Roadway, Walking and Bike Path, and Greenbelt Purposes and Improvements; and Sale of 1,681 sq. ft. Remnant (Lot 1-B) via Quit Claim Deed to County of Maui for Roadway Improvements, Kihei, Maui, TMK: (2) 2-2-002:043 por.

CONTROLLING AGENCY

Department of Education

APPLICANT

County of Maui

LEGAL REFERENCE:

Section 171-11 and 171-52, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Kihei, Maui identified by Tax Map Key: (2) 2-2-002:043 por, as shown on the attached map labeled Exhibit A.

AREA:

1,681 square feet, more or less.

ZONING:

State Land Use District: Urban
County of Maui CZO: Open Zone
TRUST LAND STATUS:

Acquired after 1959

CURRENT USE STATUS:

Governor’s Executive Order No. 2823 setting aside 25 acres to Department of Education for Kihei Elementary and Intermediate school purposes; and

Land Office Deed No. 28225 to Maui Electric Company, Ltd. for utility purposes.

PURPOSE OF SET ASIDE:

Roadway, walking and bike path, and greenbelt purposes and improvements.

CONSIDERATION:

One-time lump sum payment of fair market value to be determined by independent or staff appraiser, subject to review and approval by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

Not applicable. Subject lands are to be conveyed to abutting landowner. 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.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

1) Process and obtain subdivision at Applicant's own cost;
2) Obtain written concurrence from MECO in regards to this action’s effect upon LOD 28225 for utility purposes;
2) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost;
3) Obtain a title report to ascertain ownership, where necessary, at Applicant's own cost and subject to review and approval by the Department;
4) Pay for an appraisal to determine the one-time payment of fair market value for the remnant;
5) Consolidate the remnant with the Applicant's abutting property through the
REMARKS:

A remnant portion of public land is to be withdrawn from Executive Order 2823 to the Department of Education (DOE) for Kihei Elementary and Intermediate school. Signed concurrence was received from the Superintendent of the DOE, Ms. Kathryn Matayoshi, by letter dated August 12, 2014 (exhibit E). The remnant Lot 1-B is to be quit claimed by the State to the County of Maui to facilitate the implementation of the Kihei Greenway Phase 2 project (Exhibit B).

The Kihei Greenway Phase 2 project is a proposed paved pedestrian / bicycle path that is a continuation of the existing Kihei greenway which was part of the Piikea Avenue roundabout project. Proposed improvements on the land to be acquired include a paved path, landscaping & irrigation, signage, pavement markings, minor concrete work, and path lighting. All improvements shall improve access and utility of the area leading to greater opportunities for multi-modal transportation and increased health and safety. Staff strongly encourages support for these proposed uses of public lands.

Pursuant to section 171-52, HRS, a remnant is defined as "a parcel of land economically or physically unsuitable or undesirable for development or utilization as a separate unit by reason of location, size, shape, or other characteristics." Lot 1-B is an odd shape and consists of 1,681 sq. ft. and therefore meets the definition of a remnant (Exhibit C).

On November 20, 1997, under Item No. D-17, the Board authorized a similar withdrawal from EO 2823 in order to accommodate roadway improvements along East Lipoa street by the County of Maui. Furthermore, in 2002, the State quit claimed parcels A (8,800 sq. ft., CSF 22,754; and B (854 sq. f.t., CSF 22,755) to the County of Maui for said roadway improvements (exhibit D).

Following subdivision of Lot 1-B, the County of Maui shall purchase the fee and the State shall issue a quitclaim deed as needed pursuant to receipt of payment.

An immediate right of entry is to be issued and include language that said right would automatically terminate upon the conveyance of the fee interest of Lot 1-B to the County.

RECOMMENDATION: That the Board:

1. Find that the subject lands are economically or physically unsuitable or undesirable for development or utilization as a separate unit by reason of location, size, shape, or other characteristics and, therefore, by definition is a remnant pursuant to Chapter 171, HRS.
2. 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.

3. Authorize the subdivision and consolidation of the subject remnant by the Applicant.

4. Approve of and recommend to the Governor issuance of an executive order withdrawing 1,681 sq. ft. from the Governor's Executive Order No. 2823 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.

5. Subject to the Applicant fulfilling all of the Applicant Requirements listed above, authorize the sale of the subject remnant to County of Maui 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 deed or grant (remnant) 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.

6. Authorize the issuance of an immediate right-of-entry to the County of Maui covering the subject area for roadway improvement 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 right-of-entry form(s), 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,

Daniel Ornellas
District Land Agent

APPROVED FOR SUBMITTAL:

Carty S. Chang, Interim Chairperson
EXEMPTION NOTIFICATION

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

Project Title: Partial Withdrawal of Land (Lot 1-B) from Governor’s Executive Order No. 2823 to Department of Education; Issuance of Immediate Right of Entry to County of Maui for Roadway Improvements; and Sale of 1,681 sq. ft. Remnant (Lot 1-B) via Quit Claim Deed to County of Maui for Roadway Improvements TMK: (2) 2-2-002:043 por.

Project Location: Kihei, Maui

Project / Reference No.: 14MD-132

Project Description: Roadway Improvements, Kihei Greenway Phase 2, Pedestrain / Bicycle Path

Chap. 343 Trigger(s): Use of State Lands.

Exemption Class No. and Description: In accordance with the Department of Land and Natural Resources Department-wide Exemption List, approved by the Environmental Council and dated December 4, 1991, the subject project is considered to be exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, which 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” [HAR § 11-200-8(a)(1)], and Exemption Class No. 4, “Minor alteration in the conditions of land, water, or vegetation.”

Recommendation: It is anticipated that this project will probably have minimal or no significant adverse effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.

Carty S. Chang, Interim Chairperson

3/25/15

Date
KIHEI ELEMENTARY AND INTERMEDIATE SCHOOL

SUBDIVISION OF LOT 1 OF KIHEI ELEMENTARY AND INTERMEDIATE SCHOOL, GOVERNOR'S EXECUTIVE ORDER 2823 INTO LOTS 1-A AND 1-B

DONE AND EXECUTED ON AUGUST 20, 2013

OWNERS: STATE OF HAWAII
ADDRESS: HONOLULU, HI

SCALE: 1 IN. = 100 FT

Exhibit B
August 12, 2014

TO: The Honorable William J. Aila Jr., Chairperson
Department of Land and Natural Resources

FROM: Kathryn S. Matayoshi
Superintendent

SUBJECT: Concurrence on a Request to Remove Land from
Executive Order No. 2823, Tax Map Key: 2-2-002: por. 043

The Department of Education (DOE) has reviewed plans to remove a strip of 2,531 square feet from Executive Order No. 2823 which sets aside land for the campuses of Kihei Elementary and Lokelani Intermediate School to the DOE. The property to be removed is a strip along Liloa Drive which will be used by the County of Maui for a public bikeway. The County of Maui has agreed to install a fence along what becomes the school’s new boundary and to provide landscaping and maintenance along the boundary fence. The DOE believes that the bikeway will be beneficial to the area schools and the surrounding communities.

We appreciate your interest in DOE’s concurrence on this matter. If you have any questions, please call Heidi Meeker of the Facilities Development Branch at 377-8301.

KSM:HM:jmb

cc: Raymond L’Heureux, Assistant Superintendent, OSFSS
Alvin Shima, CAS, Baldwin/Kekaulike/Maui Complex Areas
Daniel Ornellas, District Land Agent, DLNR, Maui
David Goode, Director of Public Works, County of Maui