

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS
HAWAIIAN HOMES COMMISSION MEETING/WORKSHOP AGENDA
Courtyard by Marriott Kahului Airport – Haleakala Room, 532 Keolani Place, Maui, Hawai‘i 96732,
and Zoom Meeting ID: 609 754 2925
Monday, October 16, 2023, at 9:30 a.m. to be continued, if necessary, on
Tuesday, October 17, 2023, at 9:30 a.m.
Livestream available at www.dhhl.hawaii.gov/live

Note: Commission Meeting Packets will be available at dhhl.hawaii.gov by Wednesday, October 11, 2023.

I. ORDER OF BUSINESS

- A. Roll Call
- B. Approval of Agenda
- C. Approval of Minutes:
 - a. September 17, 2023 Special Meeting – Ka‘ū, Hawaii
 - b. September 18 & 19, 2023 Regular Meeting
- D. Public Testimony on Agendized Items – see information below

Public testimony on any item **relevant to this agenda** may be taken at this time, or a testifier may wait to testify when the agenda item is called for discussion. Pursuant to section 92-3, Hawaii Revised Statutes, and section 10-2-11(c), Hawaii Administrative Rules, the Chair of the Commission has the authority to impose reasonable conditions to ensure an orderly and efficient meeting.

II. ITEMS FOR DECISION MAKING

A. CONSENT AGENDA

Homestead Services Division

- D-2 Approval of Consent to Mortgage (see exhibit)
- D-3 Ratification of Loan Approvals (see exhibit)
- D-4 Approval of Streamline Refinance of Loans (see exhibit)
- D-5 Approval of Homestead Application Transfers / Cancellations (see exhibit)
- D-6 Approval to Certify Applications of Qualified Applicants for the Month of September 2023 (see exhibit)
- D-7 Approval of Assignment of Leasehold Interest (see exhibit)
- D-8 Approval of Amendment of Leasehold Interest (see exhibit)
- D-9 Approval to Issue Non-Exclusive Licenses for Rooftop Photovoltaic Systems for Certain Lessees (see exhibit)
- D-10 Request for Additional Time Extension in the Matter of Commission Designation of Successor - **CARL DANA O**, Agricultural Lease No. 6930, Lot No. 2, Maku‘u, Hawaii
- D-11 Commission Designation of Successor – **MERLE M. UU**, Agricultural Lease No. 3729, Lot No. 74, Ho‘olehua, Molokai
- D-12 Commission Designation of Successor – **MARY PUAMAIA TOLEFSON**, Residential Lease No. 3207, Lot No. 20G, Kalama‘ula, Moloka‘i
- D-14 Approval of Supplemental Dwelling Unit (SDU) for Certain Leases (see exhibit)

B. REGULAR AGENDA

Homestead Services Division

- D-13 Approval of the Rescission of Residential Lease No. 10315, Lot No. 96-B, Keokea-Waiohuli, Maui; and Approval of the Reinstatement of **IRENE L. MINA** to the Maui Island Wide Wait List with the Application Date of January 17, 1986

Office of the Chairman

- C-1 Approval of Lease Awards: Nanakuli Residential Lot, Waianae, Oahu; Kakaina Residential Subdivision Vacant Lot, Waimanalo, Oahu; Kaumana Residential Subdivision Vacant Lot, Hilo, Hawaii (see exhibit)
- C-2 Reinstatement of General Leasing Policy Under Hawaiian Homes Commission Act § 204 (2)

Land Development Division

- E-1 Approval of a Finding of No Significant Impact (FONSI) determination based on the Final Environmental Assessment (EA) for the Villages of Leiali'i, Village 1-B Subdivision Project; Wahikuli, District of Lahaina, Maui Island; TMK Nos. (2)4-5-021:007 (por.), 010(por.), 014(por.), 020, 021(por.), (2) 4-5-036:109, 110,112 (por.), and Honoapi'ilani Highway Right-of-Way(por.)
- E-2 Authorize the Chairman to Negotiate and Execute the Transfer of Approximately 403 acres, including various improvements within the Villages of Leiali'i from Hawaii Housing Finance and Development Corporation to the Department of Hawaiian Home Lands, various Tax Map Key parcels, Wahikuli, Lahaina, Maui, Hawaii.

Land Management Division

- F-1 Approval of Annual Renewal of Right of Entry Permits, Maui and Lanai Islands (see exhibit)
- F-2 Approval to Second Amendment to Right of Entry Permit No. 690, Pa'upena Community Development Inc., Waiohuli-Keokea, Maui, TMK (2) 2-2-034:026 (portion & :028 (portion)
- F-3 Approval to Issue a License Agreement to Ka 'Ohana O Kahikinui, Inc., Kahikinui, Island of Maui, TMK (2) 1-9-001:003(por.)
- F-4 Approval to Issuance of a General Lease to Waiohuli Hawaiian Homesteaders Association, Inc., a 501(c)(3) non-profit, Waiohuli-Keokea, Island of Maui, TMK Nos. (2) 2-2-028:181(portion), (2) 2-2-002:014 (portion)
- F-5 Approval to Issue Right-of-Entry Permits to Lease Properties, LLC Shafter Flats Industrial Subdivision, Moanalua Kai, Island of Oahu, TMK (1) 1-1-064:019 & :020
- F-6 Authorization to Enter Into a Sale of Lease at Public Auction for Industrial Purposes, Parcel 3, Kalaeloa, Island of Oahu, TMK: (1) 9-1-013:001
- F-7 Authorization to Enter Into a Sale of Lease at Public Auction for Resort/Commercial Purposes, Wailua, Island of Kauai, TMK: (4) 3-9-006:009
- F-8 Authorization to Enter Into a Sale of Lease at Public Auction for Commercial/Industrial Purposes, Waiakea, Island of Hawaii, TMK No. (3) 2-1-012:070
- F-9 Approval to Issuance of License Extension, License No. 851, Kūkulu Kumuhana O Anahola (KKOA), Ulupono Anahola (Thrive Anahola) Community Center and Agricultural and Youth Training Center, Anahola, Island of Kauai, TMK (4) 4-8-003:019(por.)

Administrative Services Office

H-1 Ratification of Emergency Purchases for Leali'i Homestead

III. EXECUTIVE SESSION

The Commission anticipates convening an executive meeting pursuant to Section 92-5(a)(4), HRS, to consult with its attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities on the following matters:

1. Reinstatement of General Leasing Policy Under Hawaiian Homes Commission Act § 204 (2)

IV. ITEMS FOR INFORMATION/DISCUSSION

A. REGULAR ITEMS

Homestead Services Division

D-1 HSD Status Reports

A.-Homestead Lease and Application Totals and Monthly Activity Reports

B.-Delinquency Reports

C.-DHHL Guarantees for FHA Construction Loans

Land Development Division

E-3 For Information Only – Maui Projects Update

E-4 For Information Only – Implementation Progress Report for Act 279, Session Laws of Hawaii 2022, as of October 6, 2023

B. WORKSHOPS

Planning Office

G-1 For Information Only – Lessons Learned from Kulia I Ka Nu'u Program and Other Homestead Community Development Pilot Programs

G-2 For Information Only – Status Update on Plan Implementation in the Maui Region

G-3 For Information Only – Maui Water Issues and Projects Update (DHHL Water Use Initiatives)

V. ANNOUNCEMENTS AND RECESS

1. Video of the Hawaiian Homes Commission Limited Meeting of Sunday, October 15, 2023, will be posted on the Department of Hawaiian Home Lands' website no later than October 16, 2023.
2. DHHL Community Meeting October 16, 2023- Maui Waena Intermediate School Cafeteria, 795 Onehee Ave., Kahului, Hawaii, 96732

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS
HAWAIIAN HOMES COMMISSION MEETING/WORKSHOP AGENDA

Courtyard by Marriott Kahului Airport – Haleakala Room, 532 Keolani Place, Maui, Hawai‘i 96732,
and Zoom Meeting ID: 609 754 2925

Tuesday, October 17, 2023, at 9:30 a.m.

Livestream available at www.dhhl.hawaii.gov/live

I. ORDER OF BUSINESS

- A. Roll Call
- B. Public Testimony on Agendized Items - see information below

Public testimony on any item **relevant to this agenda** may be taken at this time, or a testifier may wait to testify at the time the agenda item is called for discussion. Pursuant to section 92-3, Hawaii Revised Statutes, and section 10-2-11(c), Hawaii Administrative Rules, the Chair of the Commission has the authority to impose reasonable conditions to ensure an orderly and efficient meeting.

II. ITEMS FOR INFORMATION/DISCUSSION

A. GENERAL AGENDA

Requests to Address the Commission

- J-1 Kahaunani Mahoe-Theone – Foreclosure and Lease Cancellation Prevention
- J-2 Lexy Gorgonio, Chelsea Enos, Troy Hanohano – Kanaka Anti Displacement Fund
- J-3 Blossom Feiteira – Various Maui Concerns
- J-4 Kekoa Enomoto – Pā‘upena Community Development Corporation
- J-5 J. Alohalani Smith – Wākiu Community Development Corporation
- J-6 Noelani Paresa - Pā‘upena Updates
- J-7 Mahealani Wendt – Ke‘anae and Wailuanui
- J-8 Bo Kahui – La‘i‘Ōpua
- J-9 Terri Napeahi – Keaukaha Action Network - Geothermal
- J-10 Jessie Wallace – Relocations
- J-11 Charlita Mahoe – Ahupua‘a O Nanakuli
- J-12 Allen Cardines Jr. – Neighborhood Security Watch
- J-13 Ainaaloha Ioane – Mālama Ka ‘Āina, Hana Ka ‘Āina
- J-14 Robin Kealiinohomoku – Various Concerns
- J-15 Kapua Keliikoa-Kamai – Beneficiary Consultation Process and Act 279
- J-16 Sherilyn Wahinekapu – Lease Concerns

III. ANNOUNCEMENTS AND ADJOURNMENT

- A. Next Regular HHC Meeting –November 20 & 21, 2023, , Kapolei, Oahu
- B. Next DHHL Community Meeting – November 19, 2023, Lāna‘i High and Intermediate School Cafeteria.
- C. Adjournment

Kali Watson, Chairman
Hawaiian Homes Commission

COMMISSION MEMBERS

Randy K. Awo, Maui
Sanoë Marfil, O‘ahu
Pauline N. Namu‘o, O‘ahu
Michael L. Kaleikini, East Hawai‘i

Zachary Z. Helm, Moloka‘i
Makai Freitas, West Hawai‘i
Dennis L. Neves, Kaua‘i
Walter Kaneakua, O‘ahu

If you need an auxiliary aid/service or other accommodation due to a disability, contact Michael Lowe at 620-9512 or michael.l.lowe@hawaii.gov as soon as possible, preferably by October 13, 2023. If a response is received after that, we will try to obtain the auxiliary aid/service or accommodation, but we cannot guarantee that the request will be fulfilled. Upon request, this notice is available in alternate formats.

Public Testimony on Agendized Items can be provided either as (1) in person at the meeting location by filling out a form at the reception table, (2) written testimony mailed to *Commission Testimony, P.O. Box 1879, Honolulu, HI, 96815*, or emailed to *DHHL.icro@hawaii.gov* by October 13, 2023, or (3) live, oral testimony online by joining the Zoom meeting and relabeling your profile to include the agenda item you wish to testify on. Please keep your computer muted and your camera off until you are called. You will need a computer with internet access, a video camera, and a microphone to participate. Testimony may be limited to three (3) minutes per person.

Disruption of Interactive Technology – If all participating Commissioners cannot maintain audiovisual communication and a quorum is lost, the meeting will automatically be recessed for 30 minutes. During that time, an attempt to restore audiovisual communication will be made. If such an attempt to restore is unsuccessful within 30 minutes, all Commissioners, public members, staff, and other interested individuals shall log on again to the Zoom link on this Notice, whereby audio communication will be established for all participants, and the meeting will continue. If reconvening the meeting is impossible because audio and visual communication cannot be re-established, the meeting will be terminated.

ITEM C-1 EXHIBIT

APPROVAL OF LEASE AWARD NANAKULI RESIDENTIAL LOT, WAIANAE, OAHU

<u>NAME</u>	<u>APPL DATE</u>	<u>LOT NO</u>	<u>TAX MAP KEY</u>	<u>LEASE NO</u>
ROBERT F. SWOPE	11/10/1988	54	(1) 8-9-010-056	13046

APPROVAL OF LEASE AWARD KAKAINA RESIDENTIAL SUBDIVISION VACANT LOT,
WAIMANALO, OAHU

<u>NAME</u>	<u>APPL DATE</u>	<u>LOT NO</u>	<u>TAX MAP KEY</u>	<u>LEASE NO</u>
LOUANNA P. KAIO-ALMONY	06/02/1975	6	(1) 4-1-041-006	13047

APPROVAL OF LEASE AWARD KAUMANA RESIDENTIAL SUBDIVISION VACANT LOT, HILO,
HAWAII

<u>NAME</u>	<u>APPL DATE</u>	<u>LOT NO</u>	<u>TAX MAP KEY</u>	<u>LEASE NO</u>
SALLY A. ISHIKAWA	09/11/1987	3	(3) 2-5-005-154	13048

ITEM D-2 EXHIBIT

APPROVAL OF CONSENT TO MORTGAGE

LESSEE	LEASE NO.	AREA
AIPOALANI, Beverly A.	12365	Kanehili, Oahu
BAUTISTA, Dwayne K.	12100	Kaupea, Oahu
DISTAJO, Alex K.	2932A	Nanakuli, Oahu
ILAE , James-Ian K.	12691	Kaupuni, Oahu
JOHNSON, Edith L.	13007	Kakaina, Oahu
LOKETI, Lisa L.	10160	Anahola, Kauai
MEDINA, Katherine L. M.	12983	Kakaina, Oahu
MOKIAO, Robert A. S.	3370	Nanakuli, Oahu
SHIM, Timothy Ah-Loe	7686	Waiohuli, Maui
TIOGANGCO, Daylan J. K.	10942	Piihonua, Hawaii

ITEM D-3 EXHIBIT

RATIFICATION OF LOAN APPROVALS

LESSEE	LEASE NO.	AREA
KANOHO, Harry K.	12996	Anahola, Kauai
NEFALAR, John K.	13018	Lanai City, Lanai

ITEM D-4 EXHIBIT

APPROVAL OF STREAMLINE REFINANCE OF LOANS

LESSEE	LEASE NO.	AREA
EVANGELISTA, Kainoa	12694	Waianae, Oahu
YOUNG, Chanel K.	12700	Waianae, Oahu

ITEM D-5 EXHIBIT

APPROVAL OF HOMESTEAD APPLICATION TRANSFERS / CANCELLATIONS

APPLICANT	AREA
AKIMSEU, Gary K.	Hawaii IW Agr
BOYD, Jessie Mary A.K.	Hawaii IW Res
CARVALHO-YUEN, Victoria K.	Panaewa Area / Hawaii IW Agr
COLLINS, Marie Ann	Kauai IW Agr to Hawaii IW Agr
COLLINS, Marie Ann	Kauai IW Res to Hawaii IW Res
DELA CRUZ, Domingo	Hawaii IW Res to Oahu IW Res
ELI, Geraldine U.	Oahu IW Res
HOLOMALIA, Al N.	Oahu IW Res to Hawaii IW Res
HORSWILL, Healani A.	Oahu IW Res to Hawaii IW Res
ILI, Joni M.M.F.	Kauai IW Agr to Hawaii IW Agr
ILI, Joni M.M.F.	Maui IW Res to Oahu IW Res
KAHALEWAI, Sharleen I.	Hawaii IW Agr
KAHEE, Hannah L.	Hawaii IW Agr
KAIWI, Wayne	Oahu IW Agr to Hawaii IW Pas
KANALULU, Jerome N., Sr.	Maui IW Agr to Oahu IW Agr
KANALULU, Jerome N., Sr.	Maui IW Res to Oahu IW Res
KANEALII, Aloysius R.K.	Hawaii IW Res to Maui IW Res
KAPULE, James K.	Oahu IW Res
KAULUPALI, Brian K.	Hawaii IW Agr
KEKOA, Kevin James	Kauai IW Res to Hawaii IW Res
KELIIKOA, Wayne K.	Keaukaha / Waiakea Area / Hawaii IW Res
KELLY, Wadsworth D.	Molokai IW Agr
KUALAAU, Wendell L.A.	Hawaii IW Agr
KUPAU, Ann F.	Hawaii IW Agr
MOKULEHUA, John	Hawaii IW Agr to Kauai IW Agr
MOKULEHUA, John	Oahu IW Res to Kauai IW Res
MONTEZ, Mary J.U.	Oahu IW Res
NOAH, Noble K., Jr.	Maui IW Res
OTSUKA, Dell H.	Hawaii IW Agr
PACYAU, Daniel	Hawaii IW Res
PALAMA, Lena K.C.	Kauai IW Res
PALEA, Fredrick L.	Hawaii IW Agr
PERRY, Solomon K., Jr.	Hawaii IW Agr
PIEPER, Edward J.J.	Hawaii IW Res
SAN JOSE, Francisco K.	Hawaii IW Agr
SANBORN, Randolph	Waimanalo Area / Oahu IW Res
SEALES, Charlotte L.M.	Panaewa Area / Hawaii IW Agr
THOMAS, Lowell K.	Lanai IW Res to Hawaii IW Res
WAGNER, Gail S.M.	Hawaii IW Agr
WHITNEY, Delbert A.	Panaewa Area / Hawaii IW Agr
WOODARD, James W.M.K.	Oahu IW Res
WRIGHT, Brenda S.	Hawaii IW Agr

* IW = Islandwide

ITEM D-6 EXHIBIT

QUALIFIED HOMESTEAD APPLICANTS FOR APPROVAL

APPLICANT	AREA
BUSH, Henry K.	Maui IW Agr
HANOHANO-MATSUDA, Toni L.	Maui IW Agr
HANOHANO-MATSUDA, Toni L.	Maui IW Res
HARRIS, Richard Jr.	Hawaii IW Agr
HARRIS, Richard Jr.	Hawaii IW Res

* IW= Islandwide

ITEM D-7 EXHIBIT

APPROVAL OF ASSIGNMENT OF LEASEHOLD INTEREST

LESSEE	LEASE NO.	AREA
GASTON, Lila Ann	8006	Puukapu, Hawaii
LUCAS, Iris G.	1672	Hoolehua, Molokai
PATRICIO, Robin P.	2818-A	One Alii, Molokai

ITEM D-8 EXHIBIT

APPROVAL OF AMENDMENT OF LEASEHOLD INTEREST

LESSEE	LEASE NO.	AREA
NAEHU, Alvin K.	118	Hoolehua, Molokai

ITEM D-9 EXHIBIT

**APPROVAL TO ISSUE A NON-EXCLUSIVE LICENSE FOR ROOFTOP PHOTOVOLTAIC
SYSTEMS FOR CERTAIN LESSEES**

LESSEE	LEASE NO.	AREA
ADAMS, Chanda K.	1794	Nanakuli, Oahu
AUWELoa, William H.	5958	Waihehu Kou, Maui
FARLEY, Chris S.	6646	Waiahole, Oahu
HOYLE-KAMAKAHI, Davrie K.	12110	Kaupe'a, Oahu
KALILIMOKU, Oriana L.	12452	Kauluokahai, Oahu
KALUA, Dennison M.	12363	Kauluokahai, Oahu
KANEHE, Carol A.	5478	Anahola, Kauai
NANIHO, Barbara K.	11776	Kanehili, Oahu
MAGILL, Ricky L., Jr.	11265	Kumuhau, Oahu
NAHOOIKAIIKA, Roxanne N.	8165	Paukukalo, Maui
OKUDA, Dorinda R.K.H.	9770	Makuohai, Oahu
PARK, Michael K.	12542	Lalamilo, Hawaii
PAULINE, Marsha L.	4796	Waiakea, Hawaii Island
SANTOS, Kinohi O.	11204	Kumuhau, Oahu
SIMAO, Jaime K.W.	11275	Kumuhau, Oahu
WAN, William A.	12829	Kauluokahai, Oahu
YANAGAWA, Hilareylane	9657	Keaukaha, Hawaii Island

ITEM D-14 EXHIBIT

APPROVAL OF SUPPLEMENTAL DWELLING UNIT (SDU) FOR CERTAIN LEASES

LESSEE	LEASE NO.	AREA
RODRIGUES, Harry F. , Jr.	10339	Waiohuli, Maui
SHISHIDO, Lee Ann U.F.	3162	Kewalo, Oahu

ITEM F-1 EXHIBIT

ANNUAL RENEWAL OF RIGHT OF ENTRY PERMITS,

NO.	ACRE	USE	PERMITTEE	LOCATION	TMK	Date Started
493	6.820	Community	Waiohuli Hawaiian Homesteaders Association	Kula	(2) 2-2-002:056(P)	10/1/2005
496	69.00	Community	Keokea Homestead Farm Lot Association	Keokea	(2) 2-2-002:055	2/8/2010
510	25.00	Pastoral	Alton & Joelle Aoki	Lanai City	(2) 4-9-002:057(P)	7/1/2006

* Denotes Beneficiary

Hawaiian Homes Commission
Meeting
October 16 & 17, 2023

C ITEMS

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

October 16, 2023

TO: Chairman and Members, Hawaiian Homes Commission

THROUGH: Paula Aila, Acting Administrator,
Contact & Awards Division



FROM: Michelle Hitzeman, HALE Manager /Project Lead
Moana Freitas, Case Management Specialist
Contact & Awards Division

SUBJECT: Approval of Lease Award

RECOMMENDED MOTION/ACTION

Approve the awards of Department of Hawaiian Home Lands Residence Lot Leases to the applicants listed below for ninety-nine (99) years, subject to the purchase of the existing improvements on the lot by way of a loan or cash.

DISCUSSION

Nanakuli Residential Lot – Waianae, Oahu

<u>NAME</u>	<u>APPL DATE</u>	<u>LOT NO</u>	<u>TAX MAP KEY</u>	<u>LEASE NO</u>
ROBERT F. SWOPE	11/10/1988	54	(1) 8-9-010-056	13046

Kakaina Residential Subdivision – Vacant Lot, Waimanalo, Oahu

<u>NAME</u>	<u>APPL DATE</u>	<u>LOT NO</u>	<u>TAX MAP KEY</u>	<u>LEASE NO</u>
LOUANNA P. KAIO-ALMONY	06/02/1975	6	(1) 4-1-041-006	13047

Kaumana Residential Subdivision – Vacant Lot, Hilo, Hawaii

<u>NAME</u>	<u>APPL DATE</u>	<u>LOT NO</u>	<u>TAX MAP KEY</u>	<u>LEASE NO</u>
SALLY A. ISHIKAWA	09/11/1987	3	(3) 2-5-005-154	13048

Hawaiian Homes Commission
Meeting
October 16 & 17, 2023

D ITEMS

HOMESTEAD SERVICES DIVISION AGENDA

October 16, 2023

DIV.	ITEM NO.	SUBJECT
	D-1	HSD Status Reports Exhibits: A - Homestead Lease & Application Totals and Monthly Activity Reports B - Delinquency Report C - DHHL Guarantees for FHA Construction Loans
ODO/APPL. LOANS		
LOANS	D-2	Approval of Consent to Mortgage (see exhibit)
	D-3	Ratification of Loan Approvals (see exhibit)
	D-4	Approval of Streamline Refinance of Loans (see exhibit)
APPL	D-5	Approval of Homestead Application Transfers / Cancellations (see exhibit)
	D-6	Approval to Certify Applications of Qualified Applicants for the Month of September 2023 (see exhibit)
DO	D-7	Approval of Assignment of Leasehold Interest (see exhibit)
	D-8	Approval of Amendment of Leasehold Interest (see exhibit)
	D-9	Approval to Issue Non-Exclusive Licenses for Rooftop Photovoltaic Systems for Certain Lessees (see exhibit)
EHDO	D-10	Request for Additional Time Extension in the Matter of Commission Designation of Successor - CARL DANA O , Agricultural Lease No. 6930, Lot No. 2, Makuu, Hawaii
MOLO DO	D-11	Commission Designation of Successor – MERLE M. UU , Agricultural Lease No. 3729, Lot No. 74, Hoolehua, Molokai
	D-12	Commission Designation of Successor – MARY PUAMAIA TOLEFSON , Residential Lease No. 3207, Lot No. 20G, Kalamaula, Molokai
MAUI DO	D-13	Rescind the Amendment to Lease – IRENE L. MINA , Lease No. 10315, Lot No. 96-B, Keokea – Waiohuli, Maui
MAUI DO	D-14	Approval of Supplemental Dwelling Unit (SDU) for Certain Lessees

Sample Footer 12pt. Times New Roman
(Without Exhibit)


ITEM NO. D-1

(With Exhibit)

ITEM NO. D-1
EXHIBIT A

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

October 16, 2023

TO: Chairman and Members, Hawaiian Homes Commission
From: Juan Garcia, HSD Administrator 
SUBJECT: **Homestead Services Division Status Reports**

RECOMMENDED MOTION/ACTION

NONE

DISCUSSION

The following reports are for information only:

- Exhibit A: Homestead Lease & Application Totals and Monthly Activity Reports
- Exhibit B: Delinquency Report
- Exhibit C: DHHL Guarantees for FHA Construction Loans

October 16, 2023

SUBJECT: Homestead Lease and Application Totals and Monthly Activity Reports

LEASE ACTIVITY REPORT

Month through September 30, 2023

	As of 8/31/23	Add	Cancel	As of 9/30/23
Residential	8,494	2	0	8,496
Agricultural	1,090	14	0	1,104
Pastoral	413	0	0	413
Total	9,997	16	0	10,013

The cumulative number of Converted Undivided Interest Lessees represents an increase of 553 families moving into homes. Their Undivided Interest lease was converted to a regular homestead lease.

	As of 8/31/23	Converted	Rescinded/ Surrendered/ Cancelled	As of 9/30/23
Undivided	755	0	0	755

Balance as of 9/30/2023

Awarded	1,434
Relocated to UNDV	7
Rescinded	123
Surrendered	6
Cancelled	4
Converted	553
Balance to Convert	755

Lease Report For the Month Ending September 30, 2023

	----- RESIDENCE -----				----- AGRICULTURE -----				----- PASTURE -----				----- TOTAL LEASES -----			
	Last Month	Add	Cancel	TOTAL	Last Month	Add	Cancel	TOTAL	Last Month	Add	Cancel	TOTAL	Last Month	Add	Cancel	TOTAL
OAHU																
Kakaina	37	0	0	37	0	0	0	0	0	0	0	0	37	0	0	37
Kalawahine	90	0	0	90	0	0	0	0	0	0	0	0	90	0	0	90
Kanehili	400	0	0	400	0	0	0	0	0	0	0	0	400	0	0	400
Kapolei	173	0	0	173	0	0	0	0	0	0	0	0	173	0	0	173
Kauluokahai	151	0	0	151	0	0	0	0	0	0	0	0	151	0	0	151
Kaupea	323	0	0	323	0	0	0	0	0	0	0	0	323	0	0	323
Kaupuni	19	0	0	19	0	0	0	0	0	0	0	0	19	0	0	19
Kewalo	248	0	0	248	0	0	0	0	0	0	0	0	248	0	0	248
Kumuahu	50	0	0	50	0	0	0	0	0	0	0	0	50	0	0	50
Lualualei	149	0	0	149	30	0	0	30	0	0	0	0	179	0	0	179
Malu'ohai	225	0	0	225	0	0	0	0	0	0	0	0	225	0	0	225
Nanakuli	1,043	0	0	1,043	0	0	0	0	0	0	0	0	1,043	0	0	1,043
Papakolea	64	0	0	64	0	0	0	0	0	0	0	0	64	0	0	64
Princess Kahanu Estates	269	0	0	269	0	0	0	0	0	0	0	0	269	0	0	269
Waiahole	0	0	0	0	17	0	0	17	0	0	0	0	17	0	0	17
Waianae	420	0	0	420	12	0	0	12	0	0	0	0	432	0	0	432
Waimanalo	714	0	0	714	2	0	0	2	0	0	0	0	716	0	0	716
TOTAL	4,375	0	0	4,375	61	0	0	61	0	0	0	0	4,436	0	0	4,436
MAUI																
Hikina	31	0	0	31	0	0	0	0	0	0	0	0	31	0	0	31
Kahikinui	0	0	0	0	0	0	0	0	75	0	0	75	75	0	0	75
Keokea	0	0	0	0	64	0	0	64	0	0	0	0	64	0	0	64
Leialii	103	0	0	103	0	0	0	0	0	0	0	0	103	0	0	103
Paukukalo	178	0	0	178	0	0	0	0	0	0	0	0	178	0	0	178
Waiehu 1	39	0	0	39	0	0	0	0	0	0	0	0	39	0	0	39
Waiehu 2	109	0	0	109	0	0	0	0	0	0	0	0	109	0	0	109
Waiehu 3	113	0	0	113	0	0	0	0	0	0	0	0	113	0	0	113
Waiehu 4	98	0	0	98	0	0	0	0	0	0	0	0	98	0	0	98
Waiohuli	590	0	0	590	0	0	0	0	0	0	0	0	590	0	0	590
TOTAL	1,261	0	0	1,261	64	0	0	64	75	0	0	75	1,400	0	0	1,400
EAST HAWAII																
Discovery Harbour	2	0	0	2	0	0	0	0	0	0	0	0	2	0	0	2
Kamaoa	0	0	0	0	0	0	0	0	25	0	0	25	25	0	0	25
Kaumana	46	0	0	46	0	0	0	0	0	0	0	0	46	0	0	46
Keaukaha	471	1	0	472	0	0	0	0	0	0	0	0	471	1	0	472
Kurtistown	3	0	0	3	0	0	0	0	0	0	0	0	3	0	0	3
Makuu	0	0	0	0	120	0	0	120	0	0	0	0	120	0	0	120
Panaewa	13	1	0	14	260	14	0	274	0	0	0	0	273	15	0	288
Piihonua	17	0	0	17	0	0	0	0	0	0	0	0	17	0	0	17
Pueo	0	0	0	0	12	0	0	12	0	0	0	0	12	0	0	12
University Heights	4	0	0	4	0	0	0	0	0	0	0	0	4	0	0	4
Waiakea	285	0	0	285	0	0	0	0	0	0	0	0	285	0	0	285
TOTAL	841	2	0	843	392	14	0	406	25	0	0	25	1,258	16	0	1,274
WEST HAWAII																
Honokaia	0	0	0	0	0	0	0	0	24	0	0	24	24	0	0	24
Humuula	0	0	0	0	0	0	0	0	5	0	0	5	5	0	0	5
Kamoku	0	0	0	0	0	0	0	0	16	0	0	16	16	0	0	16
Kanirohale	224	0	0	224	0	0	0	0	0	0	0	0	224	0	0	224
Kawaihae	192	0	0	192	0	0	0	0	1	0	0	1	193	0	0	193
Laiopua	274	0	0	274	0	0	0	0	0	0	0	0	274	0	0	274
Lalamilo	30	0	0	30	0	0	0	0	0	0	0	0	30	0	0	30
Nienie	0	0	0	0	0	0	0	0	21	0	0	21	21	0	0	21
Puukapu/Waimea/Kuhio VII	118	0	0	118	110	0	0	110	218	0	0	218	446	0	0	446
Puupulehu	33	0	0	33	0	0	0	0	0	0	0	0	33	0	0	33
TOTAL	871	0	0	871	110	0	0	110	285	0	0	285	1,266	0	0	1,266
KAUAI																
Anahola	545	0	0	545	46	0	0	46	0	0	0	0	591	0	0	591
Hanapepe	47	0	0	47	0	0	0	0	0	0	0	0	47	0	0	47
Kekaha	117	0	0	117	0	0	0	0	0	0	0	0	117	0	0	117
Puu Opae	0	0	0	0	0	0	0	0	1	0	0	1	1	0	0	1
TOTAL	709	0	0	709	46	0	0	46	1	0	0	1	756	0	0	756
MOLOKAI																
Hoolehua	152	0	0	152	345	0	0	345	21	0	0	21	518	0	0	518
Kalamaula	166	0	0	166	70	0	0	70	3	0	0	3	239	0	0	239
Kapaakea	47	0	0	47	0	0	0	0	3	0	0	3	50	0	0	50
Moomomi	0	0	0	0	3	0	0	3	0	0	0	0	3	0	0	3
One Alii	27	0	0	27	0	0	0	0	0	0	0	0	27	0	0	27
TOTAL	392	0	0	392	418	0	0	418	27	0	0	27	837	0	0	837
LANAI																
Lanai	44	0	0	44	0	0	0	0	0	0	0	0	44	0	0	44
TOTAL	44	0	0	44	0	0	0	0	0	0	0	0	44	0	0	44
STATEWIDE TOTAL	8,493	2	0	8,495	1,091	14	0	1,105	413	0	0	413	9,997	16	0	10,013

		09/01/23 Totals	Adds	Deletes	10/01/23 Totals
OAHU					
	113 NANAKULI (RES)	155	0	1	154
	123 PAKOLEA/KEWALO (RES)	64	0	0	64
	133 WAIMANALO (RES)	520	0	0	520
	143 WAIANAE (RES)	135	0	0	135
	191 OAHU ISLAND-WIDE (AG)	4,121	14	7	4,128
	193 OAHU ISLAND-WIDE (RES)	10,563	28	12	10,579
		=====	=====	=====	=====
	TOTAL FOR OAHU	15,558	42	20	15,580
MAUI					
	213 PAUKUKALO (RES)	50	0	0	50
	221 KULA (AG)	4	0	0	4
	222 KULA (PAS)	5	0	0	5
	291 MAUI ISLAND-WIDE (AG)	4,794	3	2	4,795
	292 MAUI ISLAND-WIDE (PAS)	645	0	2	643
	293 MAUI ISLAND-WIDE (RES)	3,898	3	6	3,895
		=====	=====	=====	=====
	TOTAL FOR MAUI	9,396	6	10	9,392
HAWAII					
	313 KEAUKAHA/WAIAKEA (RES)	66	0	1	65
	321 PANAEWA (AG)	16	0	3	13
	333 KAWAIHAE (RES)	16	0	0	16
	341 WAIMEA (AG)	11	0	0	11
	342 WAIMEA (PAS)	46	0	0	46
	343 WAIMEA (RES)	44	0	0	44
	391 HAWAII ISLAND-WIDE (AG)	7,376	12	22	7,366
	392 HAWAII ISLAND-WIDE (PAS)	1,983	1	4	1,980
	393 HAWAII ISLAND-WIDE (RES)	5,909	11	8	5,912
		=====	=====	=====	=====
	TOTAL FOR HAWAII	15,467	24	38	15,453
KAUAI					
	511 ANAHOLA (AG)	3	0	0	3
	512 ANAHOLA (PAS)	20	0	0	20
	513 ANAHOLA (RES)	40	0	0	40
	523 KEKAHA (RES)	8	0	0	8
	532 PUU OPAE (PAS)	7	0	0	7
	591 KAUAI ISLAND-WIDE (AG)	2,312	1	3	2,310
	592 KAUAI ISLAND-WIDE (PAS)	312	1	0	313
	593 KAUAI ISLAND-WIDE (RES)	1,686	2	1	1,687
		=====	=====	=====	=====
	TOTAL FOR KAUAI	4,388	4	4	4,388
MOLOKAI					
	613 KALAMAULA (RES)	3	0	0	3
	621 HOOLEHUA (AG)	17	0	0	17
	622 HOOLEHUA (PAS)	1	0	0	1
	623 HOOLEHUA (RES)	7	0	0	7
	633 KAPAAKEA (RES)	6	0	0	6
	643 ONE ALII (RES)	1	0	0	1
	691 MOLOKAI ISLAND-WIDE (AG)	1,121	2	2	1,121
	692 MOLOKAI ISLAND-WIDE (PAS)	201	0	0	201
	693 MOLOKAI ISLAND-WIDE (RES)	800	1	1	800
		=====	=====	=====	=====
	TOTAL FOR MOLOKAI	2,157	3	3	2,157
LANAI					
	713 LANAI (RES)	70	0	0	70
		=====	=====	=====	=====
	TOTAL FOR LANAI	70	0	0	70
GRAND TOTAL		=====	=====	=====	=====
		47,036	79	75	47,040
		=====	=====	=====	=====

DELINQUENCY REPORT - STATEWIDE

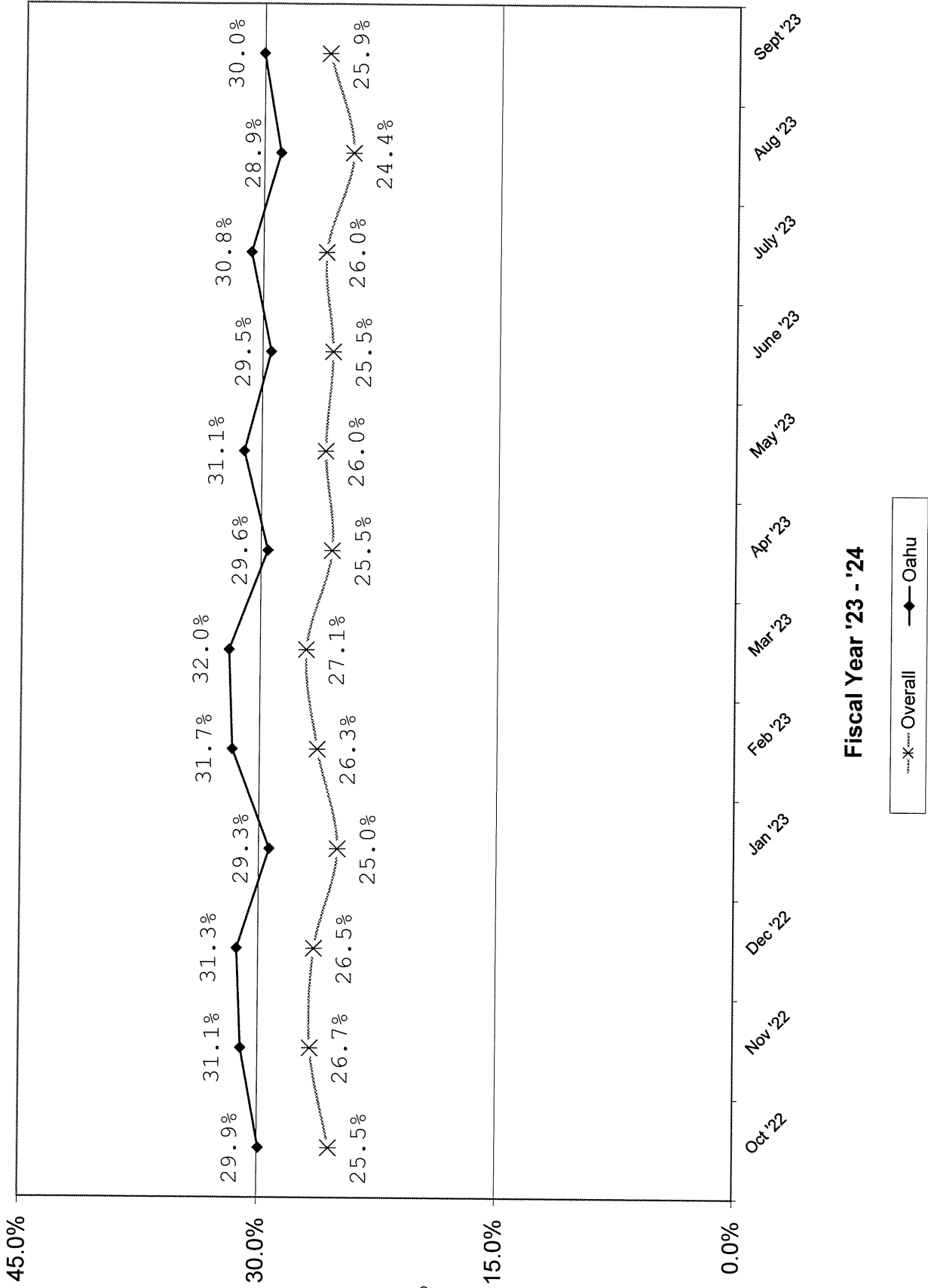
October 16, 2023
(\$Thousands)

DIRECT LOANS OAHU	Total Outstanding			Total Delinquency			30 Days (low)			60 Days (Medium)			90 Days (High)			180 Days (Severe)			% of Totals 9/30/2023	
	(000s)			(000s)			(000s)			(000s)			(000s)			(000s)				
	No.	Amt.		No.	Amt.		No.	Amt.		No.	Amt.		No.	Amt.		No.	Amt.		No.	\$
	372	35,824		109	10,759		22	1,735		11	1,357		11	1,224		65	6,443		29.3%	30.0%
EAST HAWAII	193	11,479		58	4,043		6	506		3	22		7	387		42	3,129		30.1%	35.2%
WEST HAWAII	76	8,068		12	1,066		3	318		2	202		3	189		4	357		15.8%	13.2%
MOLOKAI	79	6,802		17	717		3	188		1	33		4	72		9	424		21.5%	10.5%
KAUAI	92	7,167		10	803		4	315		1	142		0	0		5	346		10.9%	11.2%
MAUI	111	15,283		32	4,504		6	832		6	742		6	670		14	2,261		28.8%	29.5%
TOTAL DIRECT	923	84,624		238	21,892		44	3,893		24	2,497		31	2,542		139	12,959		25.8%	25.9%
	100.0%	100.0%		25.8%	25.9%		4.8%	4.6%		2.6%	3.0%		3.4%	3.0%		15.1%	15.3%			
Advances (including RPT)	244	5,741		244	5,741		0	0		0	0		244	5,741					100%	100%
DHHL LOANS & Advances	1,167	90,365		482	27,632		44	3,893		24	2,497		275	8,282		139	12,959		41.3%	30.6%
LOAN GUARANTEES as of June 30, 2023																				
SBA	2	67		0	0		0	0		0	0		0	0					0.0%	0.0%
USDA-RD	274	35,831		43	6,613		0	0		0	0		43	6,613					15.7%	18.5%
Habitat for Humanity	32	893		16	429		0	0		0	0		16	429					50.0%	48.0%
Maui County	5	74		0	0		0	0		0	0		0	0					0.0%	0.0%
Nanakuli NHS	1	7		1	7		0	0		0	0		1	7					100.0%	100.0%
City & County	10	204		10	204		0	0		0	0		10	204					100.0%	100.0%
FHA Interim	6	1,366		0	0		0	0		0	0		0	0					0.0%	0.0%
OHA	1	6		1	6		0	0		0	0		1	6					100.0%	100.0%
TOTAL GUARANTEE	331	38,448		71	7,259		0	0		0	0		71	7,259					21.5%	18.9%
PMI Loans	119	16,016		5	907		2	312		2	314		1	281					4.2%	5.7%
HUD REASSIGNED for Recovery	120	12,464		94	10,746		2	120		0	0		4	324		88	10,303		78.3%	86.2%
FHA Insured Loans	2,937	537,684		204	33,310		0	0		0	0		204	33,310					6.9%	6.2%
TOTAL INS. LOANS	3,176	566,164		303	44,963		4	432		2	314		209	33,915		88	10,303		9.5%	7.9%
OVERALL TOTALS(EXC Adv/RPT's)	4,430	689,236		612	74,114		48	4,325		26	2,811		311	43,715		227	23,262		13.8%	10.8%
ADJUSTED TOTALS	4,674	694,977		856	79,855		48	4,325		26	2,811		555	49,456		227	23,262			11.5%

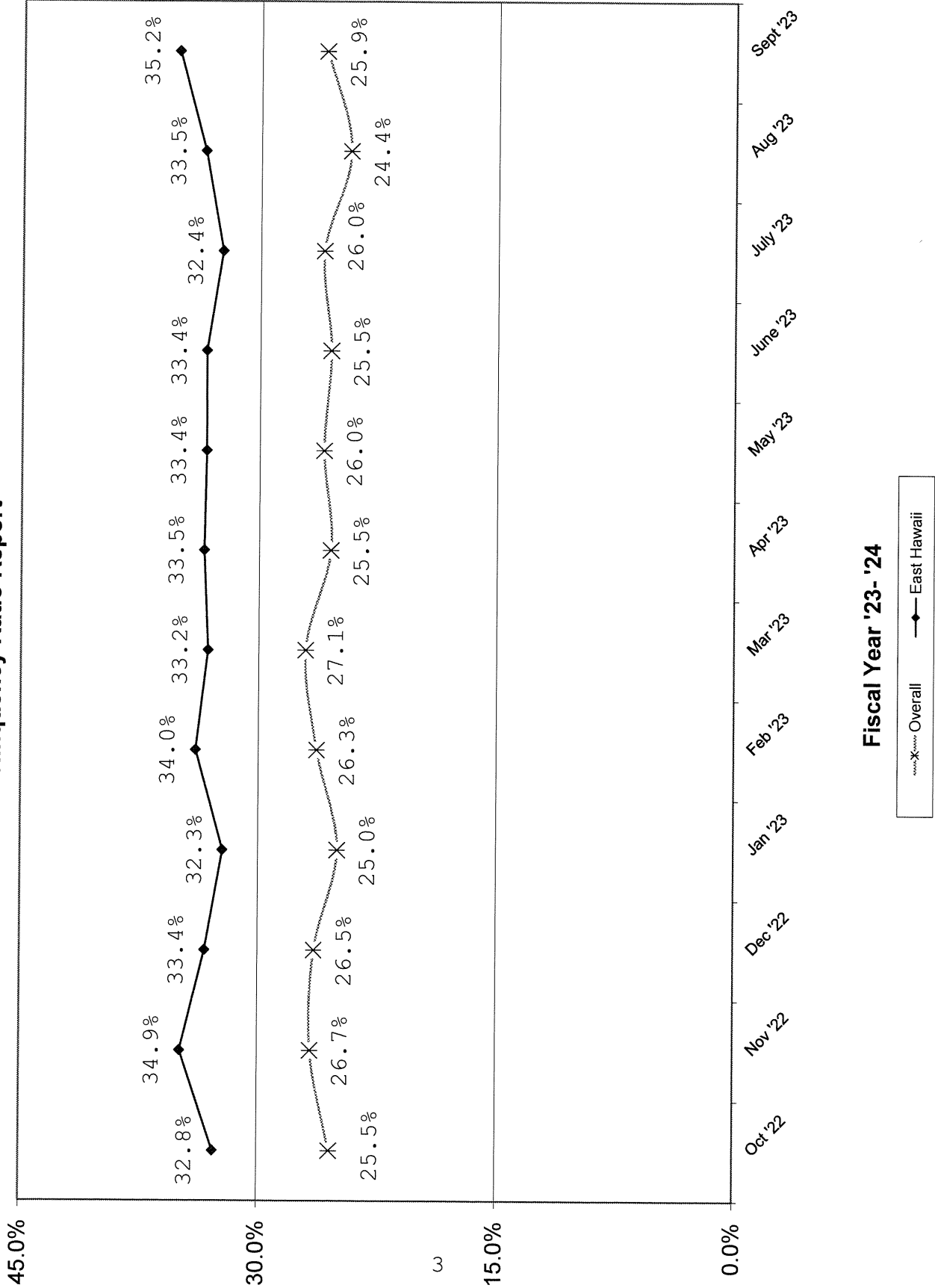
Note: HUD 184A loan program has 666 loans, with a total outstanding principal balance of \$128,639,724 as of June 30, 2023. 53 Loans, totaling \$5,837,337 are delinquent.

The deferred interest for 457 loans comes out to \$1,974,466.85 as of 9/30/2023.

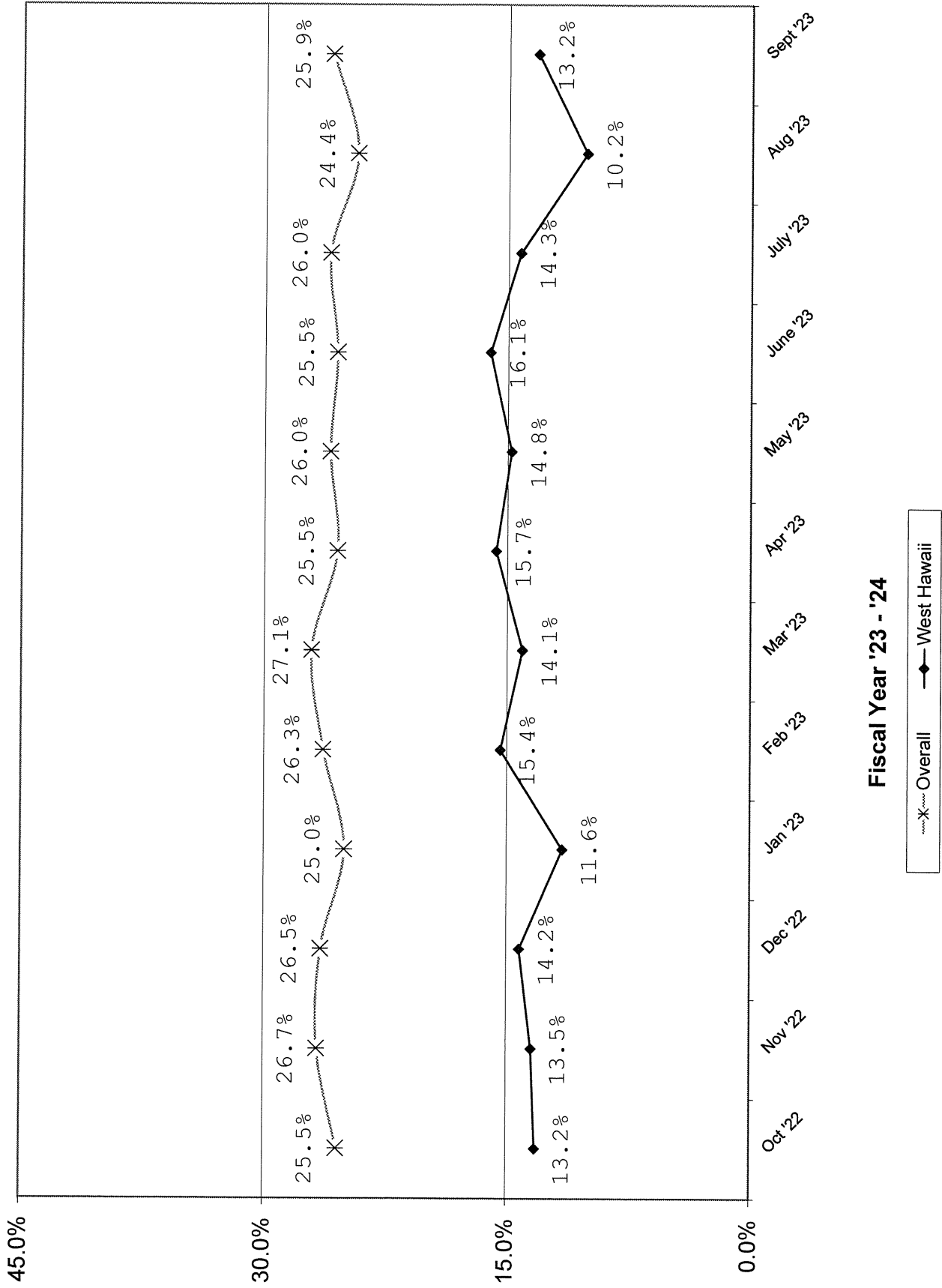
**OAHU
Direct Loans
Delinquency Ratio Report**



EAST HAWAII **Direct Loans** **Delinquency Ratio Report**



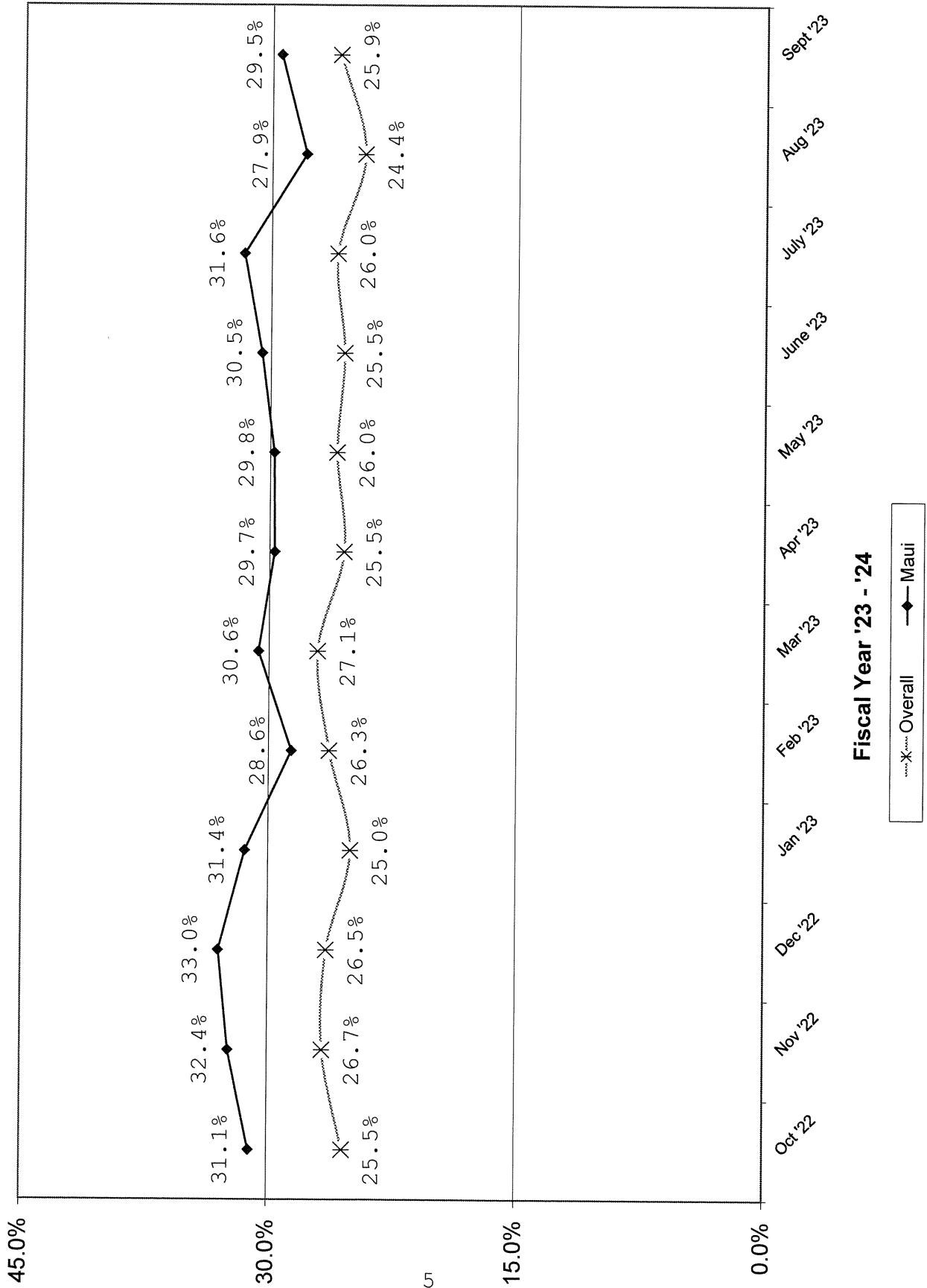
WEST HAWAII
Direct Loans
Delinquency Ratio Report



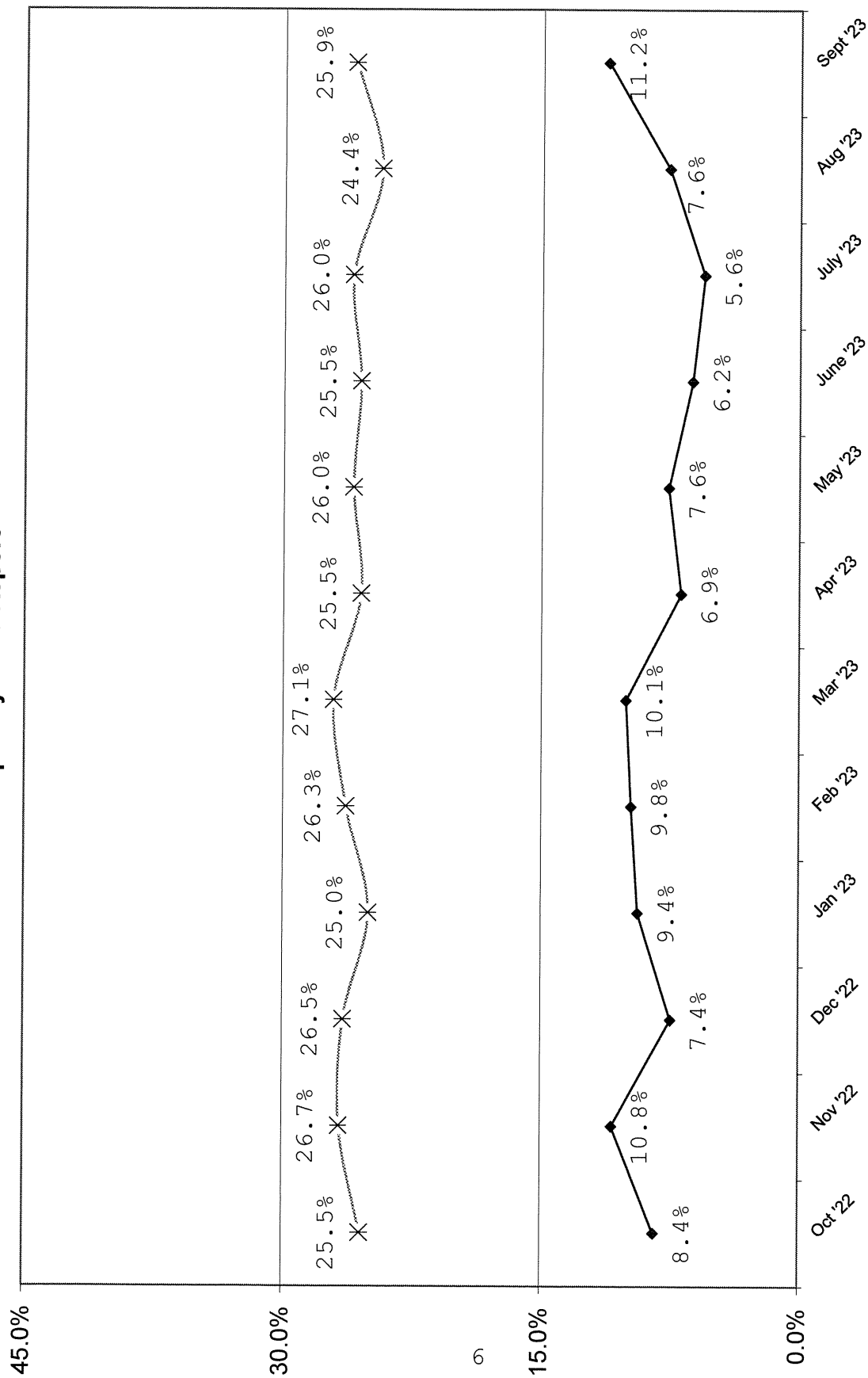
Fiscal Year '23 - '24

.....x..... Overall —◆— West Hawaii

MAUI
Direct Loans
Delinquency Ratio Report



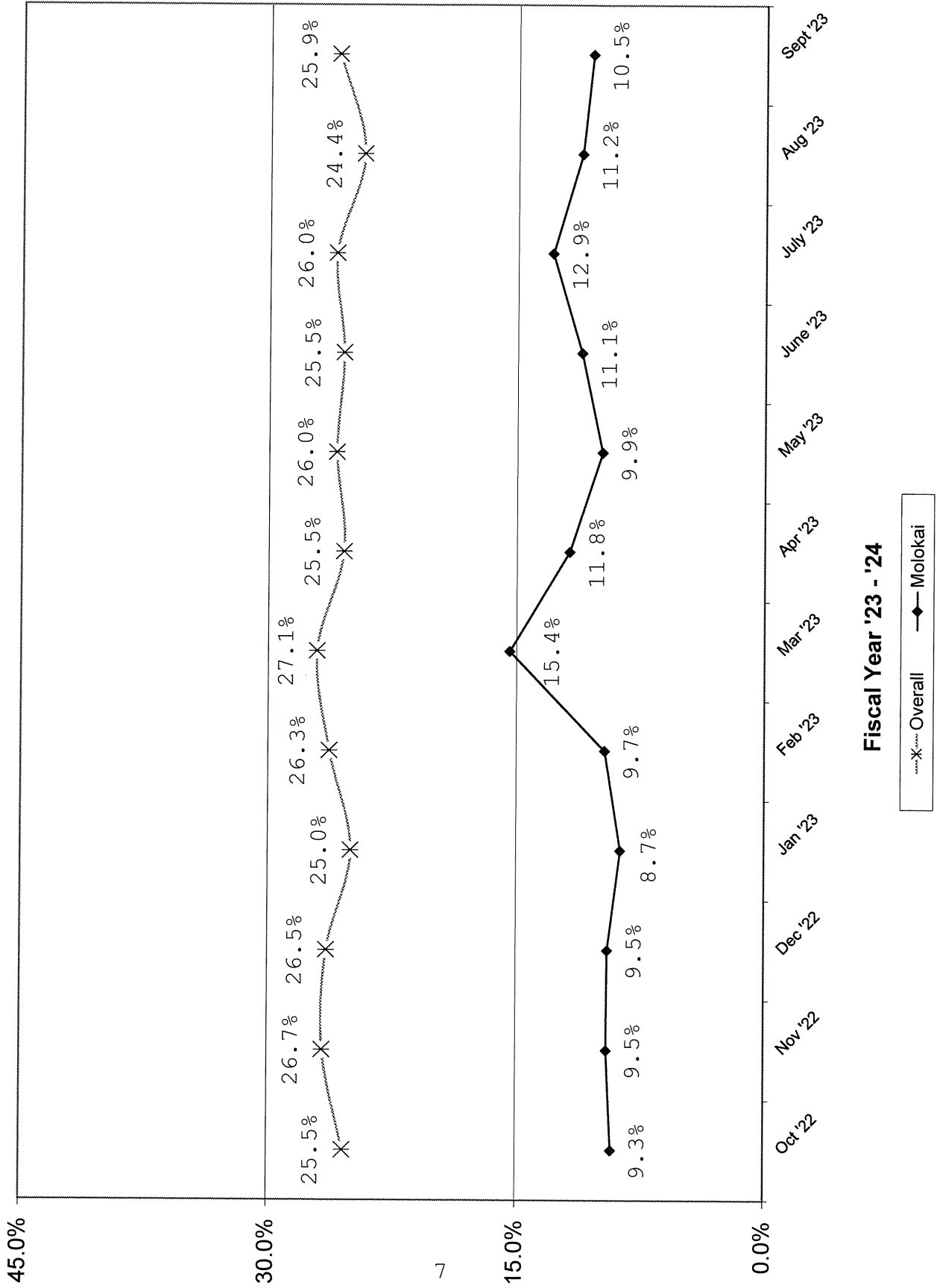
KAUAI Direct Loans Delinquency Ratio Report



Fiscal Year '23 - '24

Overall Kauai

MOLOKAI
Direct Loans
Delinquency Ratio Report



October 16, 2023

SUBJECT: **DHHL Guarantees for FHA Construction Loans**

DISCUSSION: The Department issues guarantees to FHA lenders during the construction period of a home, as FHA does not insure the loan until the home is completed. The loan term for these loans do not exceed fifteen (15) months from the date of loan signing. The following FHA Interim Construction loans were issued guarantees:

*Note: FHA loans are insured by the U.S. Department of Housing and Urban Development (HUD) and do not impact the State's guaranty ceiling.

<u>LEASE NO.</u>	<u>AREA</u>	<u>LESSEE</u>	<u>Loan Amount</u>	<u>Date Approved</u>
7238	Kawaihae	Lehano, Eugene K.	\$258,750	9/25/23

	<u>No.</u>	<u>Balance</u>
FY Ending 6/30/23	5	\$ 1,681,571
Previous Months	1	\$ 385,250
This Month	<u>1</u>	<u>285,750</u>
FY '23-'24 to date	2	\$ 671,000

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

October 16, 2023

TO: Chairman and Members, Hawaiian Homes Commission

THROUGH: Juan Garcia, HSD Administrator
Homestead Services Division

~~for~~ FROM: Dean Oshiro, Loan Services Manager

SUBJECT: **Approval of Consent to Mortgage**

RECOMMENDED MOTION/ACTION

To approve the following consents to mortgages for Federal Housing Administration (FHA) insured loans, Department of Veterans Affairs (VA) loans, United States Department of Agriculture, Rural Development (USDA, RD) guaranteed loans, United States Housing and Urban Development (HUD 184A) guaranteed loans and Conventional (CON) loans insured by private mortgage insurers.

DISCUSSION

<u>PROPERTY</u>	<u>LESSEE</u>	<u>LENDER</u>	<u>LOAN AMOUNT</u>
<u>OAHU</u>			
Kaupuni Lease No. 12691 TMK: 1-8-5-037:005	ILAE, James-Ian K. (Purchase) FHA	SecurityNational Mortgage Co.	\$ 479,799
Kakaina Lease No. 12983 TMK: 1-4-1-041:009	MEDINA, Katherine L. M. (Cash Out Refi) FHA	SecurityNational Mortgage Co.	\$ 545,000
Nanakuli Lease No. 3370 TMK: 1-8-9-004:137	MOKIAO, Robert A. S. (Cash Out Refi) FHA	Guild Mortgage	\$ 93,420

OAHU

Nanakuli Lease No. 2932A TMK: 1-8-9-003:061	DISTAJO, Alex K. (Cash Out Refi) FHA	HomeStreet Bank	\$ 260,000
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Kanehili Lease No. 12365 TMK: 1-9-1-152:158	AIPOALANI, Beverly A. (Rate Term Refi) FHA	Bank of Hawaii	\$ 275,000
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Kakaina Lease No. 13007 TMK: 1-4-1-041:036	JOHNSON, Edith L. (One Step Construction) FHA	HomeStreet Bank	\$ 385,098
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Kaupea Lease No. 12100 TMK: 1-9-1-140:014	BAUTISTA, Dwayne K. (Cash Out Refi) FHA	HomeStreet Bank	\$ 463,000
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MAUI

Waiohuli Lease No. 7686 TMK: 2-2-2-028:167	SHIM, Timothy Ah-Loe (Assumption) FHA	HomeStreet Bank	\$ 292,808
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KAUAI

Anahola Lease No. 10160 TMK: 4-4-8-020:029	LOKETI, Lisa L. (Cash Out Refi) HUD 184A	Bank of Hawaii	\$ 250,000
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HAWAII

Piihonua Lease No. 10942 TMK: 3-2-3-025:067	TIOGANGCO, Daylan J. K. (Cash Out Refi) FHA	HomeStreet Bank	\$ 325,600
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<u>RECAP</u>	<u>NO.</u>	<u>FHA</u> <u>AMOUNT</u>	<u>NO.</u>	<u>VA</u> <u>AMOUNT</u>
FY Ending 6/30/23	167	\$ 58,188,156	9	\$ 2,325,526
Prior Months	36	\$ 12,475,996	10	\$ 1,900,130
This Month	9	3,119,725	0	0
Total FY '23-'24	45	\$ 15,595,721	10	\$ 1,900,130

		<u>HUD 184A</u> <u>AMOUNT</u>		<u>USDA-RD</u> <u>AMOUNT</u>
FY Ending 6/30/23	23	\$ 8,018,714	3	\$ 1,081,858
Prior Months	1	\$ 227,250	0	\$ 0
This Month	1	250,000	0	0
Total FY '23-'24	2	\$ 477,250	0	\$ 0

ITEM NO. D-2

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

October 16, 2023

TO: Chairman and Members, Hawaiian Homes Commission

THROUGH: Juan Garcia, HSD Administrator
Homestead Services Division

FROM: Dean Oshiro, Loan Services Branch Manager

SUBJECT: **Ratification of Loan Approvals**

RECOMMENDED MOTION/ACTION

To ratify the approval of the following loan previously approved by the Chairman, pursuant to section 10-2-17, Ratification of Chairman's action, of the Department of Hawaiian Home Lands Administrative Rules.

<u>LESSEE</u>	<u>LEASE NO. & AREA</u>	<u>LOAN TERMS</u>
Nefalar, John K.	13018, Lanai	NTE \$227,000 @ 4% interest per annum, NTE \$1,084 monthly, repayable over 30 years.

Loan Purpose: Purchase existing improvements in conjunction
with a new lease award.

<u>LESSEE</u>	<u>LEASE NO. & AREA</u>	<u>LOAN TERMS</u>
Kanoho, Harry K.	12996, Anahola	<p>Loan #1: NTE \$488,000 @ 4% interest per annum, interest only payments, one-year term.</p> <p>Loan #2: NTE \$488,000 @4% interest per annum, NTE \$2,330 monthly repayable over 30 years.</p>

Loan Purpose: Loan #1: Interim Construction Loan to construct a 4 bedroom, 2 bath home.

 Loan #2: Permanent take out loan to fully amortize Loan #1.

<u>REFINANCE</u>	<u>NO.</u>	<u>LOAN AMOUNT</u>
FY Ending 6/30/23	14	\$ 1,732,825
Prior Months	3	234,800
This Month	<u>0</u>	<u>-0-</u>
Total FY '23-'24	3	\$ 234,800

<u>REPAIR</u>	<u>NO.</u>	<u>LOAN AMOUNT</u>
FY Ending 6/30/23	0	\$ -0-
Prior Months	0	-0-
This Month	<u>0</u>	<u>-0-</u>
Total FY '23-'24	0	\$ -0-

<u>HOME CONSTRUCTION</u>	<u>NO.</u>	<u>LOAN AMOUNT</u>
FY Ending 6/30/23	3	\$ 1,028,750
Prior Months	1	459,075
This Month	<u>1</u>	<u>488,000</u>
Total FY '23-'24	2	\$ 947,075

<u>FARM</u>	<u>NO.</u>	<u>LOAN AMOUNT</u>
FY Ending 6/30/23	0	\$ -0-
Prior Months	0	-0-
This Month	<u>0</u>	<u>-0-</u>
Total FY '23-'24	0	\$ -0-

<u>TRANSFER WITH LOAN</u>	<u>NO.</u>	<u>LOAN AMOUNT</u>
FY Ending 6/30/23	1	\$ 143,000
Prior Months	0	-0-
This Month	<u>0</u>	<u>-0-</u>
Total FY '23-'24	0	\$ -0-

<u>AWARD</u>	<u>NO.</u>	<u>LOAN AMOUNT</u>
FY Ending 6/30/23	3	\$ 524,500
Prior Months	1	182,000
This Month	<u>1</u>	<u>227,000</u>
Total FY '23-'24	2	\$ 409,000


<u>OTHER</u>	<u>NO.</u>	<u>LOAN AMOUNT</u>
FY Ending 6/30/23	0	\$ -0-
Prior Months	0	-0-
This Month	<u>0</u>	<u>-0-</u>
Total FY '23-'24	0	\$ -0-


STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

October 16, 2023

TO: Chairman and Members, Hawaiian Homes Commission

THROUGH: Juan Garcia, HSD Administrator 
Homestead Services Division

FROM: Dean Oshiro, Loan Services Branch Manager 

SUBJECT: **Approval of Streamline Refinance of Loans**

RECOMMENDED MOTION/ACTION

To approve the refinancing of loans from the Hawaiian Home General Loan Fund.

DISCUSSION

The following lessees have met the "Streamline/Interest rate reduction loan" criteria, which was approved by the Hawaiian Homes Commission at its August 19, 2013 meeting. This criteria includes twelve (12) consecutive monthly payments, borrower's current interest rate is higher than the current DHHL interest rate, current with their Homeowners Insurance, Real Property Tax, Lease Rent, county sewer/refuse fees, and does not have any advances made by DHHL on the borrowers behalf.

HSD's recommendation for approval is based on actual payment history, over the past twelve (12) months and the review of the above-mentioned criteria. Streamline/Interest Rate Loan refinancing will provide lessees a chance to simply reduce their interest rate and payments without DHHL having to credit and/or income qualify the borrower.

The following lessee(s) has met the aforementioned criteria and is recommended for Streamline/Interest rate reduction loan refinance program:

<u>LESSEE</u>	<u>LEASE NO. & AREA</u>	<u>REFINANCING LOAN TERMS</u>
Young, Chanel K.	12700, Waianae	NTE \$166,200 @4% interest per annum, NTE \$794 monthly, repayable over 30 years.

Loan Purpose: Refinance Contract of Loan No. 18619.
Original loan amount of \$208,050 at
4.437% per annum, \$1,047 monthly,
repayable over 30 years. A Contested
Case Hearing was held on December 15,
2015 for this account.

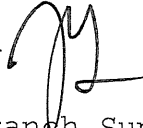

Evangelista, Kainoa	12694, Waianae	NTE \$210,000 @4% interest per annum, NTE \$1,003 monthly, repayable over 30 years.
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Loan Purpose: Refinance Contract of Loan No. 18612.
Original loan amount of \$260,393 at
4.075% per annum, \$1,255 monthly,
repayable over 30 years. A Contested
Case Hearing was held on June 19, 2017
for this account.

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

October 16, 2023

TO: Chairman and Members, Hawaiian Homes Commission
THROUGH: Juan Garcia, HSD Administrator 
FROM: Nicole F. Bell, Application Branch Supervisor 
Homestead Services Division
SUBJECT: **Approval of Homestead Application Transfers/Cancellations**

RECOMMENDED MOTION/ACTION

To approve the transfers and cancellations of applications from the Application Waiting Lists for reasons described below:

DISCUSSION

1. Requests of Applicants to Transfer

OAHU ISLANDWIDE AGRICULTURAL LEASE LIST

KAIWI, Wayne	05/09/2017	HAWAII	PAS	05/31/2023
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OAHU ISLANDWIDE RESIDENTIAL LEASE LIST

HOLOMALIA, Al N.	08/09/2012	HAWAII	RES	05/26/2023
HORSWILL, Healani A.	08/30/2005	HAWAII	RES	06/02/2023
MOKULEHUA, John	11/28/1995	KAUAI	RES	09/14/2023

MAUI ISLANDWIDE AGRICULTURAL LEASE LIST

KANALULU, Jerome N., Sr.	06/23/2006	OAHU	AGR	05/19/2023
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MAUI ISLANDWIDE RESIDENTIAL LEASE LIST

ILI, Joni M.M.F.	03/24/2009	OAHU	RES	05/05/2023
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KANALULU, Jerome N., Sr.	06/23/2006	OAHU	RES	05/19/2023
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HAWAII ISLANDWIDE AGRICULTURAL LEASE LIST

MOKULEHUA, John	11/28/1995	KAUAI	AGR	09/14/2023
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HAWAII ISLANDWIDE RESIDENTIAL LEASE LIST

DELA CRUZ, Domingo	01/31/2005	OAHU	RES	06/08/2023
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KANEALII, Aloysius R.K.	09/27/2007	MAUI	RES	05/16/2023
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KAUAI ISLANDWIDE AGRICULTURAL LEASE LIST

COLLINS, Marie Ann	05/12/2014	HAWAII	AGR	05/15/2023
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ILI, Joni M.M.F.	03/24/2009	HAWAII	AGR	05/05/2023
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KAUAI ISLANDWIDE RESIDENTIAL LEASE LIST

COLLINS, Marie Ann	05/12/2014	HAWAII	RES	05/15/2023
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KEKOA, Kevin James	11/19/1982	HAWAII	RES	05/24/2023
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LANAI ISLANDWIDE RESIDENTIAL LEASE LIST

THOMAS, Lowell K.	08/02/2013	HAWAII	RES	05/23/2023
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2. Deceased Applicants

MAUI ISLANDWIDE RESIDENTIAL LEASE LIST

NOAH, Nobel K., Jr.	Applicant's date of death occurred while the 12/06/1997 amendment of the HAR section 10-3-8 was in effect. This version of the rule precedes the current 10/26/1998 amendment, which allows for qualified successors to participate in the Public Notice process. Remove application dated 05/30/1990.
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MOLOKAI ISLANDWIDE AGRICULTURAL LEASE LIST

KELLY, Wadsworth D.

PN 2022

09/06/2006

3. Awards of Leases

WAIMANALO AREA / OAHU ISLANDWIDE RESIDENTIAL LEASE LIST

SANBORN, Randolph

Assigned Residential Lease #12835,
Lot 90 in Kau'luokaha'i, Oahu dated
06/26/2019. Remove application
dated 12/08/1961.

OAHU ISLANDWIDE RESIDENTIAL LEASE LIST

ELI, Geraldine U.

Assigned Residential Lease #3301,
Lot 233B in Nanakuli, Oahu dated
12/19/2022. Remove application
dated 12/20/1993.

KAPULE, James K.

Assigned Residential Lease #12981,
Lot 37 in Kakaina, Oahu dated
11/30/2022. Remove application
dated 10/27/2005.

MONTEZ, Mary J.U.

Assigned Residential Lease #12834,
Lot 88 in Ka'uluokaha'i, Oahu dated
06/28/2019. Remove application
dated 05/13/1981.

WOODARD, James W.M.K.

Assigned Residential Lease #13013,
Lot 108 in Waianae, Oahu dated
08/10/2023. Remove application
dated 11/09/2022.

PANAWEA AREA / HAWAII ISLANDWIDE AGRICULTURAL LEASE LIST

CARVALHO-YUEN, Victoria K.	Assigned Agricultural Lease #13042, Lot 185-P in Panaewa, Hawaii dated 09/07/2023. Remove application dated 09/02/1977.
SEALES, Charlotte L.M.	Assigned Agricultural Lease #13040, Lot 185-M in Panaewa, Hawaii dated 09/07/2023. Remove application dated 10/02/1975.
WHITNEY, Delbert A.	Assigned Agricultural Lease #13038, Lot 185-K in Panaewa, Hawaii dated 09/07/2023. Remove application dated 03/04/1976.

HAWAII ISLANDWIDE AGRICULTURAL LEASE LIST

AKIMSEU, Gary K.	Assigned Agricultural Lease #13029, Lot 185-A in Panaewa, Hawaii dated 09/07/2023. Remove application dated 12/05/1978.
KAHALEWAI, Sharleen I.	Assigned Agricultural Lease #13041, Lot 185-N in Panaewa, Hawaii dated 09/07/2023. Remove application dated 05/07/1981.
KAHEE, Hannah L.	Assigned Agricultural Lease #13037, Lot 185-J in Panaewa, Hawaii dated 09/07/2023. Remove application dated 05/14/1980.
KAULUPALI, Brian K.	Assigned Agricultural Lease #13035, Lot 185-G in Panaewa, Hawaii dated 09/07/2023. Remove application dated 09/09/1981.

KUALAAU, Wendell L.A.

Assigned Agricultural Lease #13044,
Lot 185-R in Panaewa, Hawaii dated
09/07/2023. Remove application
dated 09/16/1980.

KUPAU, Ann F.

Assigned Agricultural Lease #13034,
Lot 185-F in Panaewa, Hawaii dated
09/14/2023. Remove application
dated 12/26/1980.

OTSUKA, Dell H.

Assigned Agricultural Lease #13031,
Lot 185-C in Panaewa, Hawaii dated
09/07/2023. Remove application
dated 03/18/1981.

PALEA, Fredrick L.

Assigned Agricultural Lease #13036,
Lot 185-H in Panaewa, Hawaii dated
09/07/2023. Remove application
dated 02/10/1982.

PERRY, Solomon K., Jr.

Assigned Agricultural Lease #13039,
Lot 185-L in Panaewa, Hawaii dated
09/07/2023. Remove application
dated 08/25/1978.

SAN JOSE, Francisco K.

Assigned Agricultural Lease #13033,
Lot 185-E in Panaewa, Hawaii dated
09/07/2023. Remove application
dated 09/26/1980.

WAGNER, Gail S.M.

Assigned Agricultural Lease #13043,
Lot 185-Q in Panaewa, Hawaii dated
09/07/2023. Remove application
dated 07/10/1980.

WRIGHT, Brenda S.

Assigned Agricultural Lease #13030,
Lot 185-B in Panaewa, Hawaii dated
09/07/2023. Remove application
dated 06/05/1978.

KEAUKAHA / WAIAKEA AREA / HAWAII ISLANDWIDE RESIDENTIAL LEASE LIST

KELIIKOA, Wayne K.	Assigned Residential Lease #12984, Lot 63-A-2 in Keaukaha, Hawaii dated 08/31/2023. Remove application dated 06/04/1974.
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HAWAII ISLANDWIDE RESIDENTIAL LEASE LIST

BOYD, Jessie Mary A.K.	Assigned Residential Lease #10819, Lot 113 in Laiopua, Hawaii dated 01/16/2018. Remove application dated 07/21/2006.
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PACYAU, Daniel	Assigned Residential Lease #11396, Lot 17210 in Kaupea, Oahu dated 03/06/2018. Remove application dated 03/27/2002.
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PIEPER, Edward J.J.	Assigned Residential Lease #13014, Lot 81 in Kaumana, Hawaii dated 06/30/2023. Remove application dated 03/30/1987.
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KAUAI ISLANDWIDE RESIDENTIAL LEASE LIST

PALAMA, Lena K.C.	Assigned Residential Lease #7230, Lot 68 in Kawaihae, Hawaii dated 12/02/2021. Remove application dated 01/20/2010.
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4. Native Hawaiian Qualification

NONE FOR SUBMITTAL

5. Voluntary Cancellation

NONE FOR SUBMITTAL

6. Successorship

NONE FOR SUBMITTAL

7. Additional Acreage

NONE FOR SUBMITTAL

8. HHC Adjustments

NONE FOR SUBMITTAL


Last Month's Transaction Total	21
Last Month's Cumulative FY 2023-2024 Transaction Total	138
Transfers from Island to Island	15
Deceased	2
Cancellations:	
Awards of Leases	25
NHQ	0
Voluntary Cancellations	0
Successorship	0
Additional Acreage	0
HHC Adjustments	0
This Month's Transaction Total	42
This Month's Cumulative FY 2023-2024 Transaction Total	180


STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

October 16, 2023

TO: Chairman and Members, Hawaiian Homes Commission

THROUGH: Juan Garcia, HSD Administrator 

FROM: Nicole F. Bell, Application Branch Supervisor 
Homestead Services Division

SUBJECT: **Approval to Certify Applications of Qualified Applicants for the month of September 2023**

RECOMMENDED MOTION/ACTION

To approve the certification of applications of qualified applicants for the month of September 2023. The Department has verified the native Hawaiian blood quantum requirement of each applicant according to section 10-3-2 of the Hawaii Administrative Rules.

DISCUSSION

At its October 2020 regular meeting, the Hawaii Homes Commission adopted the recommendation of the HHC Investigative Committee on the Native Hawaiian Qualification Process to recall to the HHC, pursuant to Hawaii Administrative Rules § 10-2-16(a), the authority to accept the Native Hawaiian Quantum (NHQ) determination for an individuals as a function requiring the exercise of judgement or discretion. The recommendation included a process to implement the Commission's review and acceptance of NHQ determinations. These applicants have been deemed by the Department to have met the native Hawaiian blood quantum requirement through the kumu 'ohana process.

MAUI ISLANDWIDE AGRICULTURAL LEASE LIST

BUSH, Henry K.	05/25/2023
HANOHANO-MATSUDA, Toni L.	05/26/2023

MAUI ISLANDWIDE RESIDENTIAL LEASE LIST

HANOHANO-MATSUDA, Toni L.	05/26/2023
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HAWAII ISLANDWIDE AGRICULTURAL LEASE LIST

HARRIS, Richard Jr.

07/11/2023

HAWAII ISLANDWIDE RESIDENTIAL LEASE LIST

HARRIS, Richard Jr.

07/11/2023


Previous Cumulative Total for Current FY	102
Current Month's Total	5
Fiscal Year Total: July 2023-June 2024	107

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

October 16, 2023

TO: Chairman and Members, Hawaiian Homes Commission

THROUGH: Juan Garcia, Administrator
Homestead Services Division 

FROM: Ross K. Kapeliela, Acting ODO Supervisor
Homestead Services Division

SUBJECT: **Approval of Assignment of Leasehold Interest**

RECOMMENDED MOTION/ACTION

1. To approve the assignment of the leasehold interest, pursuant to Section 208, Hawaiian Homes Commission Act, 1920, as amended, and subject to any applicable terms and conditions of the assignment, including but not limited to the approval of a loan.

2. To approve and accept that the transferees are of no less than the required 25% or 50% Hawaiian ancestry as appropriate pursuant to Section 208, Hawaiian Homes Commission Act, 1920, as amended.

DISCUSSION

Three (3) assignments of lease.

1. Lessee Name: Lila Ann Gaston
Pas. Lease No. 8006, Lot No. 31
Lease Date: 2/1/1991
Area: Puukapu, Hawaii
Property Sold & Amount: No, N/A
Improvements: Perimeter fencing & Shed 16 X 16

Transferee Name: Lila-Ann H. Takushi
Relationship: Daughter
Loan Assumption: No
Applicant: No

Reason for Transfer: "Giving lease to relative."

2. Lessee Name: Iris G. Lucas
Agr. Lease No. 1672, Lot No. 35B-1, 35B-2 & 164
Lease Date: 12/22/1948
Area: Hoolehua, Molokai
Property Sold & Amount: No, N/A
Improvements: 4 bedroom, 1 bath dwelling

Transferee Name: Kraig K. Lucas
Relationship: Son
Loan Assumption: No
Applicant: No

Reason for Transfer: "Giving lease to relative."

3. Lessee Name: Robin P. Patricio
Res. Lease No. 2818-A, Lot No. 11
Lease Date: 1/7/1954
Area: One Alii, Molokai
Property Sold & Amount: No, N/A
Improvements: 3 bedroom, 1 bath dwelling & 3 bedroom, 1 bath dwelling

Transferee Name: William E. Lucas & Iris G. Lucas
Relationship: Brother & Sister-in-law
Loan Assumption: No
Applicant: Yes, Molokai IW Res., 4/25/1980 (Iris)

Reason for Transfer: "Giving lease to relatives."

Assignments for the Month of October '23	3
Previous FY '23 - '24 balance	<u>28</u>
FY '23 - '24 total to date	31
Assignments for FY '22 - '23	179

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

October 16, 2023

TO: Chairman and Members, Hawaiian Homes Commission
THROUGH: Juan Garcia, Administrator
Homestead Services Division
FROM: Ross K. Kapeliela, Acting ODO Supervisor
Homestead Services Division
SUBJECT: **Approval of Amendment of Leasehold Interest**

RECOMMENDED MOTION/ACTION

To approve the amendment of the leasehold interest listed below.

DISCUSSION

One (1) amendment of lease.


1. Lessee: Alvin K. Naehu
Agr. Lease No.: 118
Lot No., Area, Island: 38-A, Hoolehua, Molokai
Amendment: To amend the lease title and lessor name, to update the property description, to incorporate the currently used terms, conditions, and covenants to the lease, and to extend the lease term to an aggregate term of 199 years.
(Transfer Through Successorship)

Amendments for the Month of October '23	1
Previous FY '23 - '24 balance	<u>17</u>
FY '23 - '24 total to date	18
Amendments for FY '22 - '23	88

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

October 16, 2023

TO: Chairman and Members, Hawaiian Homes Commission

THROUGH: Juan Garcia, Administrator 
Homestead Services Division

FROM: Ross K. Kapeliela, Acting ODO Supervisor
Homestead Services Division

SUBJECT: **Approval to Issue a Non-Exclusive License for Rooftop
Photovoltaic Systems for Certain Lessees**

RECOMMENDED MOTION/ACTION

To approve the issuance of a non-exclusive license to allow the Permittee to provide adequate services related to the installation, maintenance, and operation of a photovoltaic system on the premises leased by the respective Lessees.

The non-exclusive license is necessary as the Lessee can not issue his/her own licenses.

DISCUSSION

Seventeen (17) non-exclusive licenses.

1. Lessee: Chanda K. Adams
Res. Lease No.: 1794
Lot No., Area, Island: 238, Nanakuli, Oahu
Permittee: Sunrun Installations Services, Inc.
2. Lessee: William H. Auwelo
Res. Lease No.: 5958
Lot No., Area, Island: 31, Waiehu Kou, Maui
Permittee: Sunnova Sunsafe

3. Lessee: Chris S. Farley
Agr. Lease No.: 6646
Lot No., Area, Island: 28, Waiohole, Oahu
Permittee: Sunrun Installations Services, Inc.
4. Lessee: Davrie K. Hoyle-Kamakahi
Res. Lease No.: 12110
Lot No., Area, Island: 16956, Kaupea, Oahu
Permittee: Sunrun Installations Services, Inc.
5. Lessee: Oriana L. Kalilimoku
Res. Lease No.: 12452
Lot No., Area, Island: 81, Kauluokahai, Oahu
Permittee: Sunrun Installations Services, Inc.
6. Lessee: Dennison M. Kalua
Res. Lease No.: 12363
Lot No., Area, Island: 64, Kauluokahai, Oahu
Permittee: Sunrun Installations Services, Inc.
7. Lessee: Carol A. Kanehe
Agr. Lease No.: 5478
Lot No., Area, Island: 6, Anahola, Kauai
Permittee: Sunrun Installations Services, Inc.
8. Lessee: Barbara K. Naniho
Res. Lease No.: 11776
Lot No., Area, Island: 18565, Kanehili, Oahu
Permittee: Sunrun Installations Services, Inc.
9. Lessee: Ricky L. Magill, Jr.
Res. Lease No.: 11265
Lot No., Area, Island: 10, Kumuhau, Oahu
Permittee: Sunrun Installations Services, Inc.
10. Lessee: Roxanne N. Nahooikaika
Res. Lease No.: 8165
Lot No., Area, Island: 15, Paukukalo, Maui
Permittee: Sunrun Installations Services, Inc.

11. Lessee: Dorinda R. K. H. Okuda
Res. Lease No.: 9770
Lot No., Area, Island: 13672, Maluohai, Oahu
Permittee: Sunrun Installations Services, Inc.
12. Lessee: Michael K. Park
Res. Lease No.: 12542
Lot No., Area, Island: 29, Lalamilo, Hawaii
Permittee: Sunrun Installations Services, Inc.
13. Lessee: Marsha L. Pauline
Res. Lease No.: 4796
Lot No., Area, Island: 9, Waiakea, Hawaii
Permittee: Sunrun Installations Services, Inc.
14. Lessee: Kinohi O. Santos
Res. Lease No.: 11204
Lot No., Area, Island: 30, Kumuhau, Oahu
Permittee: Sunrun Installations Services, Inc.
15. Lessee: Jaime K. W. Simao
Res. Lease No.: 11275
Lot No., Area, Island: 40, Kumuhau, Oahu
Permittee: Sunrun Installations Services, Inc.
16. Lessee: William A. Wan
Res. Lease No.: 12829
Lot No., Area, Island: 70, Kauluokahai, Oahu
Permittee: Solar Tech Industries
17. Lessee: Hilareylane Yanagawa
Res. Lease No.: 9657
Lot No., Area, Island: 56-C, Keaukaha, Hawaii
Permittee: Sunrun Installations Services, Inc.

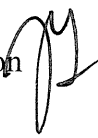
Non-Exclusive License for the Month of October '23	17
Previous FY '23 - '24 balance	<u>38</u>
FY '23 - '24 total to date	55

Non-Exclusive License for FY '22 - '23	102
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STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

October 16, 2023

TO: Chairman and Members, Hawaiian Homes Commission

THROUGH: Juan Garcia, Administrator, Homestead Services Division
James Du Pont, Acting District Operations Manager 

FROM: Olinda L. Fisher, East Hawaii District Office Supervisor
Homestead Services Division

SUBJECT: **Request for Additional Time Extension in the Matter of Commission Designation of Successor, Carl Danao, Agricultural Lease No. 6930, Lot No. 2, Makuu, Hawaii**

RECOMMENDED MOTION/ACTION

To approve the extension of the Deadline for an additional 152 days to July 31, 2023, for Camille Kuuleialoha Danao (Camille) to sign all necessary documents associated with her successorship interest in and to Agricultural Lease No. 6930, Lot No. 2, Makuu, Hawaii, for the remaining term of the lease.

DISCUSSION

On October 17, 2022, the Hawaiian Homes Commission approved the selection of Camille to succeed to her late father's, Carl Danao, Department of Hawaiian Home Lands Agricultural Lot Lease No. 6930, Lot No. 2, located in Makuu, Hawaii. See Exhibit A.

The Commission's selection of Camille stipulated that her right and interest in the lease does not vest until Camille has signed that: (i) Transfer Through Successorship of Lease; (ii) Lease Addendum; and such necessary and appropriate instruments; and that if Camille did not sign all such documents on or before December 31, 2022 (the Deadline) that the Commission's selection of Camille as successor would be automatically revoked.

The Commission also authorized the Department to extend the Deadline up to 60 days for good cause. The Department's extension of 60 days extended the Deadline to March 1, 2023. However, Camille did not sign the necessary documents until July 29, 2023.


The Department respectfully requests approval of its recommendation.

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

October 17, 2022

TO: Chairman and Members, Hawaiian Homes Commission

THRU: Juan Garcia, Administrator 
Homestead Services Division

FROM: Olinda L. Fisher, EHDO District Supervisor
Homestead Services Division

SUBJECT: **Commission Designation of Successor - CARL DANAOK, Agricultural Lease No. 6930, Lot No. 2, Makuu, Hawai'i**

RECOMMENDED MOTION/ACTION

1. To approve the designation of Camille Kuuleialoha Danao (Camille) as successor to Agricultural Lease No. 6930, Lot No. 2, Makuu, Hawaii (Lease) for the remaining term of the Lease;

2. To approve and accept that Camille is of no less than the required 25% Hawaiian ancestry and therefore is a qualified successor pursuant to Section 209 of the Hawaiian Homes Commission Act, 1920, as amended;

3. To stipulate that Camille's rights and interest in the Lease does not vest until Camille has signed that: (i) Transfer Through Successorship of Lease; (ii) Lease Addendum; and such necessary and appropriate instruments; and that if Camille does not sign all such documents on or before **December 31, 2022** (the Deadline) that the Commission's selection of Douglas as successors is automatically revoked;

4. To authorize the Department to extend the Deadline up to 60 days for good cause; and

5. To declare that if Camille's selection as successors is revoked; then under Section 209 (a) of the Hawaiian Homes Commission Act, as amended, "the lease shall resume its status as unleased Hawaiian home lands the department is

EXHIBIT A

authorized to lease the land to a native Hawaiian as provided by the Act.”;

DISCUSSION

By way of the Department of Hawaiian Home Lands Assignment of Lease and Consent to Lease No. 6930, dated August 11, 1989, Carl Danao (Decedent) received the Lease.

On September 7, 2020, the Decedent passed away and the Department received a death certificate on June 29, 2021. The decedent did not designate a successor.

In compliance with Administrative Rule 10-3-63, the Department published legal notices in the Honolulu Star Advertiser, the Garden Isle, the Hawaii Tribune Herald, West Hawaii today, and The Maui News on December 6, 13, 20 and 27, 2021, to notify all interested, eligible and qualified heirs of the Decedent, to submit their successorship claims to the lease.

The Department received one successorship claim from the Decedent's daughter, Camille, who is deemed eligible for successorship to the Lease.

Pursuant to Section 209 of the Hawaiian Homes Commission Act of 1920, as amended (Act), when a lessee designates an ineligible successor, the commission is authorized to terminate this lease or to continue the lease by designating a successor. Section 209 states in part that the department may select from only the following qualified relatives of the decedent:

1. Husband or wife; or
2. If there is no husband or wife, then the children; or
3. If there is no husband, wife, or child, then the grandchildren; or
4. If there is no husband, wife, child, or grandchild, then the brothers or sisters; or
5. If there is no husband, wife, child, grandchild, brother, or sister, then from the following relatives of the lessee who are native Hawaiian: father and mother, widows or widowers of the

children, widows or widowers of the brothers and sisters, or nieces and nephews.

There are no improvements to the property.


There are no outstanding loans, and the real property tax is current and lease rent is delinquent in the amount of \$18.

The Department requests approval of its recommendation.

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

October 16, 2023

TO: Chairman and Members, Hawaiian Homes Commission

THROUGH: Juan Garcia, Administrator, Homestead Services Division
James Du Pont, Acting District Operations Manager 

FROM: David Bush, Acting Molokai District Supervisor
Homestead Services Division

SUBJECT: **Commission Designation of Successor**
Merle M. U'u, Agriculture Lease No.3729,
Lot No. 74, Hoolehua, Molokai

RECOMMENDED MOTION/ACTION

1. To approve the designation of Ronette M. Castro (Ronette), as successor, to Agriculture Lease No. 3729, Lot No. 74, Hoolehua, Molokai for the remaining term of the Lease;

2. To approve and accept that Ronette, is no less than the required 25% Hawaiian ancestry and therefore is a qualified successor pursuant to Section 209 of the Hawaiian Homes Commission Act of 1920, as amended;

3. To stipulate that Ronette's rights and interest in the Lease does not vest until Ronette has signed that: (i) Transfer Through Successorship of Lease; (ii) Lease Addendum; and such necessary and appropriate instruments; and that if Ronette does not sign all such documents on or before **December 31, 2023** (the Deadline) that the Commission's selection of Ronette as a successor is automatically revoked;

4. To authorize the Department to extend the Deadline up to 60 days for good cause;

5. To declare that if Ronette's selection as a successor is revoked; then under Section 209 (a) of the Hawaiian Homes Commission Act, as amended, "the lease shall resume its status as unleased Hawaiian home lands the department is authorized to lease the land to a native Hawaiian as provided by the Act."

6. To amend the lease title, to update property description, to incorporate the currently used terms, covenants, and conditions to the lease.

DISCUSSION

John U'u was the lessee to Hawaiian Homes Commission Residence Lot Lease No. 3729 to Residence Lot No. 74 in Ho'olehua, Molokai, Hawai'i. On September 19, 2002, John designated his wife, Merle U'u, as the sole primary successor to his interest in the Lease through a Designation of Successor to DHHL Homestead Leasehold Interest form.

John past away on July 12, 2019 and DHHL received his death certificate on August 30, 2019. On September 23, 2019, Merle signed the Successorship to Lease Response Form. Merle passed away on August 3, 2020 without signing the Transfer Through Successorship form.

In the Commission's *Findings of Fact, Conclusions of Law[,] and Decision and Order* issued on August 25, 2022 in the case of *Castro v. State of Hawaii, Department of Hawaiian Home Lands*, the Commission ordered DHHL to formalize the transfer of lease from John to Merle and to authorize the public notice process outlined in Section 10-3-63, Hawaii Administrative Rules, to determine the successor to Merle's interest in the lease.

In compliance with Section 10-3-63, Hawaii Administrative Rules, DHHL published public notices in the Honolulu Star Advertiser, Hawaii Tribune Herald, West Hawaii Today, Maui News, and The Garden Island newspapers on December 7, 14, 21, and 28, 2022 to notify all of Merle's interested, eligible and qualified heirs to submit their successorship claim to the Lease.

Pursuant to Section 209 of the Hawaiian Homes Commission Act, 1920, as amended (Act), where a lessee passed away and failed to specify a successor or successors as approved by the department, the Commission is authorized to terminate the Lease or to continue the Lease by designating a successor. Section 209 states, in part, that the department may select from only the following qualified relatives of the decedent:

1. Husband or wife; or

2. If there is no husband or wife, then the children;
or
3. If there is no husband, wife, or child, then the
grandchildren; or
4. If there is no husband, wife, child, or grandchild,
then the brothers or sisters; or
5. If there is no husband, wife, child, grandchild,
brother, or sister, then from the following
relatives of the lessee who are native Hawaiian:
father and mother, widows or widowers of the
children, widows or widowers of the brothers and
sisters, or nieces and nephews.

Family members who can succeed to Merle's lease include parents, siblings, a surviving spouse of her sibling, a surviving or a niece or nephew who is 50% native Hawaiian and eighteen years or older. Other family members who may succeed to the lease are children, grandchildren, or a spouse who is at least 25% Native Hawaiian and eighteen years or older.

On January 26, 2023, the Department received a successorship claim from the Merle's daughter, Ronette, who Ronette was determined to be at least 25% Hawaiian ancestry and was thus eligible to succeed to the Lease.

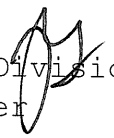
Improvements to the homestead lot consist of a 4-bedroom and 2-bath house. The Lease rent account reports a credit balance of \$10.00. The water utility charges to the Department and County of Maui real property taxes are current. County of Maui real property tax assessment value the home at \$188,200. As of June 2023, there is no outstanding mortgage.

The Department requests approval of its recommendation.

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

October 16, 2023

TO: Chairman and Members, Hawaiian Homes Commission

THROUGH: Juan Garcia, Administrator, Homestead Services Division
James Du Pont, Acting District Operations Manager 

FROM: David Bush, Acting Molokai District Supervisor
Homestead Services Division

SUBJECT: **Commission Designation of Successor**
Mary Puamaia Tollefson, Residential Lease No.3207,
Lot No. 20G, Kalamaula, Molokai

RECOMMENDED MOTION/ACTION

1. To approve the designation of Samuel Kekahau. Tollefson, Jr. (Samuel) and Sharlene Mary Tollefson (Sharlene), as co-successor, to Residential Lease No. 3207, Lot No. 20G, Kalamaula, Molokai for the remaining term of the Lease;

2. To approve and accept that Samuel and Sharlene, are no less than the required 25% Hawaiian ancestry and therefore are qualified successors pursuant to Section 209 of the Hawaiian Homes Commission Act of 1920, as amended;

3. To stipulate that Samuel and Sharlene's rights and interest in the Lease does not vest until Samuel and Sharlene have signed that: (i) Transfer Through Successorship of Lease; (ii) Lease Addendum; and such necessary and appropriate instruments; and that if Samuel and Sharlene do not sign all such documents on or before **December 31, 2023** (the Deadline) that the Commission's selection of Samuel and Sharlene as a co-successor is automatically revoked;

4. To authorize the Department to extend the Deadline up to 60 days for good cause;

5. To declare that if Samuel and Sharlene's selection as a co-successor is revoked; then under Section 209 (a) of the Hawaiian Homes Commission Act, as amended, "the lease shall resume

its status as unleased Hawaiian home lands the department is authorized to lease the land to a native Hawaiian as provided by the Act."

6. To update property description and to extend the term to an aggregate term of 199 years.

DISCUSSION

Mary Puamaia Tollefson (Decedent) succeeded to the Lease on June 19, 2007.

On July 20, 2010, the Decedent designed her son, Chris Kalani Tollefson (Chris), as successor to the Lease.

On August 15, 2011, the Decedent passed away.

On September 29, 2011, the Department received the Decedent's death certificate.

On June 4, 2012, the Department received from Chris a signed statement confirming he no longer wishes to pursue with his successorship interest in the Lease.

In compliance with Administrative Rule 10-3-63, the Department published legal ads in the Honolulu Star Advertiser, and the Molokai Dispatch newspapers on July 25, August 1, 8, and 15, 2012, to notify all interested, eligible and qualified heirs of the Decedent, to submit their successorship claim to the Lease.

The department received from Samuel a successorship claim, dated June 19, 2012, and from Sharlene a successorship claim dated August 20, 2012.

Samuel and Sharlene have been determined to be at least 25% Hawaiian ancestry and thus eligible for successorship to their late mother's leasehold interest.

Timothy Tollefson submitted to the Department a successorship claim, dated July 31, 2012. However, on September 1, 2022, the department received from Timothy a signed statement confirming he no longer wishes to pursue his successorship claim to his late mother's leasehold interest.

Pursuant to Section 209 of the Hawaiian Homes Commission Act of 1920, as amended (Act), where a lessee passed away and failed to specify a successor or successors as approved by the department, the Commission is authorized to terminate the Lease or to continue the Lease by designating a successor. Section 209 states in part that the department may select from only the following qualified relatives of the decedent:

1. Husband or wife; or
2. If there is no husband or wife, then the children; or
3. If there is no husband, wife, or child, then the grandchildren; or
4. If there is no husband, wife, child, or grandchild, then the brothers or sisters; or
5. If there is no husband, wife, child, grandchild, brother, or sister, then from the following relatives of the lessee who are native Hawaiian: father and mother, widows or widowers of the children, widows or widowers of the brothers and sisters, or nieces and nephews.

Improvements to the homestead lot consist of a 3-bedroom and 1-1/2-bath house, with an assessment value of \$86,300 by the County of Maui real property tax office. County of Maui real property taxes are current.

There is no outstanding debt attached to the house.

The lease rent account reports a credit balance of \$34 and the water utility charges to the Department are paid current.

The Department requests approval of its recommendation.

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS


October 16, 2023

TO: Chairman and Members, Hawaiian Homes Commission

THROUGH: Juan Garcia, Administrator, Homestead Services Division
James Du Pont, Acting District Operations Manager

FROM: Toni Eaton, Maui Homestead District Supervisor
Homestead Services Division

SUBJECT: **Approval of the Rescission of Residential Lease No. 10315, Lot No. 96-B, Keokea-Waiohuli, Maui; and Approval of the Reinstatement of Irene L. Mina to the Maui Island Wide Wait List with the Application Date of January 17, 1986**



RECOMMENDED MOTION/ACTION

1. To approve the rescission of Residential Lease No. 10315, Lot No. 96-B, Keokea-Waiohuli, Maui;
2. To approve the reinstatement of Irene L. Mina's original place on the Maui island wide wait list with the application date of January 17, 1986.

DISCUSSION

Mina submitted a completed application for a DHHL residential lot on the Maui island-wide waiting list on January 17, 1986. DHHL awarded Undivided Interest Lease No. 10315 in the Keokea-Waiholui Subdivision to her on June 23, 2005. DHHL executed an Amendment to Lease on May 30, 2023 to update the lot description to reflect an improved residential lot.

At its August 2023 Commission meeting, Mina requested to "rescind my lease that I signed on May 11, 2023, and get back to my original rank number waitlist for the Pu'unani Residential homesteads in Waikapu." Mina attended the Waiohuli Undivded Interest residential offerings on June 17, 2017, where she selected her lot. Between 2017 to present Mina has been working

with the Contact and Awards Division in the construction of her house.

Mina now seeks to obtain another residential award. She wants "to be able to cancel my lease and not lose my place for lottery selection for the Waikapu offering on Maui." Mina also alleges that DHHL did not inform her of the requirements for lot construction. For example, she claims that DHHL did not inform her of the process of obtaining a water meter on her land because of the low water pressure; her architect had to redraft plans to sustain winds up to 135 miles per hour to follow Maui County building standards; and that she was not informed of the required size of residential homestead lots. She reported that she spent approximately \$20,000 for the building permit process with Maui County. She also claims that she was not informed of the groundbreaking or the development of the Pu'unani homestead awards that occurred on May 24, 2023, when she signed her Lease Addendum.¹

In March 2010, the Commission approved DHHL's recommendation to relocate Waiohuli Residential Undivided Interest lessees who are financially qualified to either purchase or construct their own homes to another lot on the island of Maui. This means Waiohuli Undivided Interest lessees will have priority over Maui island wide residential applicants to select a residential lot in the Pu'unani subdivision. There are currently 260 Waiohuli Undivided Interest lessees that will have an option to select one of the 160 planned residential lots in the Pu'unani subdivision. There are 182 applicants on the Maui island wide application lists with an application of January 17, 1986 or earlier.


¹The Commission accepted the Pu'unani Homestead Subdivision Final Environmental Assessment Finding of No Significant Impact on October 20, 2020.


STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

October 16, 2023

TO: Chairman and Members, Hawaiian Homes Commission

THROUGH: Juan Garcia, Administrator
Homestead Services Division 

FROM: Ross K. Kapeliela, Acting ODO Supervisor 
Homestead Services Division

SUBJECT: **Approval of Supplemental Dwelling Unit (SDU) for
Certain Lessees**

RECOMMENDED MOTION/ACTION

To approve the Supplemental Dwelling Unit of the leasehold interest listed below.

DISCUSSION

Two (2) supplemental dwelling unit lease.

1. Lessee: Harry F. Rodrigues, Jr.
Res. Lease No.: 10339
Lot No., Area, Island: 146, Waiohuli, Maui
Intended use: Ohana
2. Lessee: Lee Ann U. F. Shishido
Res. Lease No.: 3162
Lot No., Area, Island: 125, Kewalo, Oahu
Intended use: Ohana

Supplemental dwelling unit for the Month of October '23	2
Previous FY '23 - '24 balance	<u>0</u>
FY '23 - '24 total to date	2

Supplemental dwelling unit for FY '22 - '23	1
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Hawaiian Homes Commission
Meeting
October 16 & 17, 2023

E ITEMS

STATE OF HAWAI'I
DEPARTMENT OF HAWAIIAN HOME LANDS

October 16-17, 2023

To: Chairman Kali Watson and Members, Hawaiian Homes Commission

From: Stewart Matsunaga, Land Development Division Administrator
Neil Nugent, Engineer V, Design and Construction Branch  CFN

Subject: Approval of a Finding of No Significant Impact (FONSI) determination based on the Final Environmental Assessment (EA) for the Villages of Leiali'i, Village 1-B Subdivision Project; Wahikuli, District of Lahaina, Maui Island; TMK Nos. (2)4-5-021:007 (por.), 010(por.), 014(por.), 020, 021(por.), (2)4-5-036:109, 110, 112(por.), and Honoapi'ilani Highway Right-of-Way(por.)

RECOMMENDED MOTION/ACTION:

That the Hawaiian Homes Commission (HHC) approve a Finding of No Significant Impact (FONSI) determination based on the Final Environmental Assessment (EA) for the Villages of Leiali'i, Village 1-B Subdivision Project.

The preliminary Final Environmental Assessment (EA) was previously distributed to Commission members for review.

BACKGROUND:

The State of Hawai'i, Department of Hawaiian Home Lands (DHHL) proposes to construct the Villages of Leiali'i, Village 1-B (Village 1-B) subdivision and related improvements in Lahaina, Maui, Hawai'i. The proposed Village 1-B subdivision is anticipated to be built on land identified by Tax Map Key (TMK) (2)4-5-021:020, an approximately 51-acre area of land owned by the DHHL located north of Leiali'i Parkway and the existing DHHL Villages of Leiali'i, Village 1-A (Village 1-A) subdivision. See **Exhibit 1**. Both Village 1-A and Village 1-B lands were acquired by DHHL from the Housing Finance and Development Corporation (HFDC) (predecessor to the current Hawai'i Housing Finance and Development Corporation (HHFDC)) in the early 2000's. It is noted that HHFDC still owns the lands mauka of Village 1-A and Village 1-B, which has been planned for a separate master planned community, also referred to as the Villages of Leiali'i.

The Draft EA prepared for the project was published in the December 23, 2022 edition of The Environmental Notice with an Anticipated Finding of No Significant Impact (AFNSI).

It is noted that due to the tragic wildfires in August of 2023, the community of Lahaina and Maui have experienced immeasurable loss and devastation. Approximately 2,200, mostly residential structures, including two homes in Village 1-A were destroyed. DHHL is committed to providing homesteads to beneficiaries and acknowledges the urgency in housing native Hawaiian families in Lahaina.

PROJECT DESCRIPTION:

The proposed Village 1-B consists of 181 single-family homes. Access to the subdivision will be provided from Leiali‘i Parkway. The new housing units will be made available to DHHL native Hawaiian beneficiaries. The proposed project will be developed in two (2) increments. Increment 1 will consist of 86 single-family units and Increment 2 will consist of 95 single-family units, for a total of 181 homes. **See Exhibit 2.** Parking will be provided in attached garages. While the development of 181 single-family homes is assessed in this EA as the preferred alternative in response to beneficiary preferences, it is noted that an alternative development program consisting of a mix of up to 250 single-family and multi-family units has also been studied.

In order to develop the proposed subdivision, the following offsite improvements are required, and will also be developed as part of the proposed action:

- Development of two (2) new offsite retention basins mauka of Village 1-B, on lands owned by HHFDC
- Adjustment of the outlet drainage pipes in the existing retention basin mauka of Village 1-A, on lands owned by HHFDC, and enlargement of the basin
- Grading and development of drainage interceptor ditches mauka of Village 1-B, on lands owned by HHFDC
- Roadway improvements to Leiali‘i Parkway and Honoapi‘ilani Highway
- Roadway repairs to existing portions of Leiali‘i Parkway

The drainage improvements discussed above will be located on TMK (2)4-5-021:021, owned by HHFDC. Refer to **Exhibit 1.** The proposed improvements along Leiali‘i Parkway include widening of Leiali‘i Parkway from two (2) lanes to four (4) lanes, restriping, removal and replacement of the existing trees in the median and north shoulder above the Lahaina Civic Center, relocation of the traffic signals at the intersection with Honoapi‘ilani Highway, which may involve the relocation of existing traffic signals within Wahikuli Wayside Park (TMK (2)4-5-021:007(por.)), and any needed repairs and improvements as required for future licensure of the roadway to the County of Maui. Restriping along Honoapi‘ilani Highway is also being proposed. In addition, due to the widening of Leiali‘i Parkway, reconfiguration of the access driveway to the Lahaina Post Office will also be required. It is noted that Leiali‘i Parkway is encompassed by four (4) TMKs, identified as (2)4-5-036:109 and 110, owned by the DHHL, and (2)4-5-036:112 and (2)4-5-021:010, which are owned by the State. Honoapi‘ilani Highway is a State of Hawai‘i, Department of Transportation (HDOT) owned highway. Refer to **Exhibit 2.**

FINAL ENVIRONMENTAL ASSESSMENT SUMMARY:

The project will involve the use of state lands and funds, which triggers Chapter 343, Hawai‘i Revised Statutes (HRS) environmental review requirements. As such, a Final EA has been prepared to assess the technical characteristics and potential environmental impacts of the proposed project, as well as advance findings and mitigation measures relative to the project.

The following sections highlight key environmental impact considerations and mitigation measures from the Final EA analysis:

- Surrounding Land Uses

The Department of Hawaiian Home Lands (DHHL) Villages of Leiali'i Village 1-A subdivision is located across from Leiali'i Parkway and south of the proposed Village 1-B project site. Mauka and east of the proposed Village 1-B project site are lands owned by the Hawai'i Housing Finance and Development Corporation (HHFDC) and are planned for future residential development as part of HHFDC's Villages of Leiali'i Master Plan. The Lahaina Civic Center and Lahaina Post Office are located makai and west of the Village 1-B project site. Vacant agricultural lands are located to the north of the proposed subdivision.

- Climate

Replacement of vegetative surfaces with hardscapes such as roadways and housing units may cause a slight increase in ambient air temperatures. To address what is referred to as "heat island" effect, landscape design, and a planting plan will be employed to provide shading. Although Lahaina's climate is relatively uniform year-round, its location on the leeward coast results in drier conditions. Extreme weather conditions such as hurricanes and high winds can cause damage to life and property. As such, DHHL will consider disaster resilient design features, such as fire-retardant building materials, to mitigate potential impacts from extreme weather events.

- Topography and Soil Characteristics

According to the U.S. Department of Agriculture Soil Conservation Service (1972), soils underlying the project site belong to the Waiakoa-Keahua Molokai association. The Waiakoa-Keahua-Molokai association is characterized by nearly level to moderately steep, well drained soils located on uplands, consisting mostly of weathered material from basic igneous rock, while the upper profile is influenced by volcanic ash. The project site will be graded to collect runoff in retention basins and drainage systems within the project site. Efforts will be made to maintain a balance between excavation and embankment (cut and fill) quantities to reduce the import and/or export of earthwork materials. In addition, the grading of the onsite and offsite work will be phased with the site development. The initial phase of work will include grading related to the offsite detention basins mauka of the subdivision area. Material from excavation of the detention basins will be used as fill material for grading work within Increment 1. Increment 2 construction will occur subsequent to the completion of Increment 1.

- Agricultural Lands

The project area was previously in commercial agricultural cultivation for sugar cane from around the late 19th Century to mid-20th Century. Although the project area has historically been utilized for agricultural cultivation, it has not been actively cultivated for many years. The project area is adjacent to existing urban development and has been identified for future urban use by the Maui Island Plan and West Maui Community Plan. On the island of Maui, approximately 70,714 acres of the total land area of the island are within the ALISH "Prime" Designation, this represents approximately 15 percent of the island. As such, the use of 51 acres, or 0.07 percent of the "Prime" designated agricultural land on Maui is not considered a substantial adverse impact in the context of the overall

Prime designated lands on Maui. Significant adverse impacts to agricultural productivity in the region are not anticipated as a result of the proposed action.

- Streams and Wetlands

According to the United States Department of the Interior, Fish and Wildlife Service, National Wetland Inventory Map, there is an unnamed gulch that runs through portions of the proposed retention basins. A Waters of the U.S. Assessment was prepared for the gulch, which reported that the gulch is characterized as an ephemeral intermittent stream that only runs briefly 2 to 3 times a year following major rainfall events. Most of the land where the channel runs was formerly part of a large sugar cane plantation, but is now fallow. The assessment found the gulch to be an ephemeral aquatic resource that has no nexus with the Pacific Ocean Traditional Navigable Water. Development of the project and the related offsite improvements will not impact the historical alignment of the unnamed gulch. As such, it is not anticipated that the proposed improvements would adversely impact this feature. The U.S. Army Corps of Engineers (USACE) has confirmed that a Department of the Army permit is not required for this project.

- Flood and Tsunami Hazards

The Flood Insurance Rate Map (FIRM) for this area of the island designates the Village 1-B subdivision as being within Zone X (unshaded) and such, is not subject to the Flood Hazard District Ordinance, Chapter 19.62 of the Maui County Code. Lands along Honoapiʻilani Highway are designated as Flood Zone VE and Flood Zone A. Zone X (unshaded) indicates an area of minimal flooding and has no restrictions placed on development. Flood Zone VE represents an area subject to inundation by the 1-percent-annual-chance flood event with additional hazards due to storm-induced velocity wave action while Flood Zone A designates areas subject to inundation by the 1-percent-annual-chance flood event where no Base Flood elevation has been determined. The proposed dwelling units will be located in Flood Zone X.

A majority of the Village 1-B subdivision is located in the Safe Zone in regards to a tsunami threat. A small portion of the site along the makai boundary is located within the Extreme Tsunami Evacuation Zone and portions of the roadway and drainage improvements are located within the Tsunami Evacuation Zone. Though a portion of the Village 1-B subdivision is located within the Extreme Tsunami Evacuation Zone, no homes are proposed in this portion of the site. Work within Flood Zone VE and Flood Zone A, as well as the Tsunami Evacuation Zone and Extreme Tsunami Evacuation Zone, will be limited to non-habitable, offsite roadway and drainage improvements. No adverse impacts related to the flood and tsunami hazard zones are anticipated during the implementation of the project.

- Sea Level Rise

A 3.2-foot rise in sea level is projected for the Hawaiian Islands by the mid to latter half of the 21st Century based on the findings of the Hawaii Sea Level Rise Vulnerability and Adoption Report that was prepared in 2017 by the Hawaii Climate Change Mitigation and Adoption Commission. The sea level rise mapping tool developed as part of this report utilizes three (3) different models to predict how climate change will affect coastal

lands throughout Hawai‘i. The Village 1-B subdivision is located outside of the 3.2-foot sea level rise exposure area. Portions of the offsite improvements are located within the 3.2-foot sea level rise exposure area; however, these improvements are minimal in scope and nonhabitable in nature.

- Flora and Fauna

The Biological Resources Survey Report prepared for the project summarized that the vegetation within the area of the project primarily consists of non-native species that are of no special interest or concern. No federally Endangered or Threatened plant species were found in the project area, nor were any found that are candidates for such status. No special plant habitats were found here. The survey found that the area is dominated by two (2) species that were abundant: buffelgrass (*Cenchrus ciliaris*) and koa haole (*Leucaena leucocephala*), which together made up more than 95 percent of the total biomass. Two (2) indigenous native species were found: the koali kuahulu and the ‘uhaloa. Both of these native species are common and not of conservation concern. Although no rare, threatened or endangered species were seen during the survey, the U.S. Fish and Wildlife Service and the State of Hawai‘i Department of Land and Natural Resources, Department of Forestry and Wildlife was consulted and the project will implement the following mitigation measures:

- While not seen during the survey, the biological resources survey report, recommended mitigation measures to protect endangered or threatened native species that may occur in the project area including the nēnē goose (*Branta sandvicensis*), the ‘ōpe‘ape‘a or Hawaiian hoary bat, and native seabirds including the ‘ua‘u or Hawaiian darkrumped petrel (*Pterodroma sandwichensis*) and the ‘a‘o or Newell’s shearwater (*Puffinus newelli*).
- The endemic and endangered nēnē goose was not seen in the project area. It is known to frequent the margins of reservoirs and ditches where they feed and rest. There is none of this habitat in or around the project area. However, should they show up, they will not be approached, fed or disturbed until they leave on their own accord. If nests are found, the U.S. Fish and Wildlife Service (USFWS) will be contacted for guidance. Should nēnē be observed during the breeding season from September through April, the area will be surveyed for the presence of nests. The ‘ōpe‘ape‘a was not detected during the survey, however, USFWS will be consulted on how to proceed with project activities so that these bats will not be adversely affected.
- Removing plants less than one (1) meter in height or during the dry time of the year will be avoided, as practicable, and any removed plants will be checked thoroughly for the presence of Blackburn’s sphinx moth (*Manduca blackburni*) eggs and larvae
- The DOFAW noted the potential of attracting vulnerable birds to areas that may host non-native predators such as cats, rodents, and mongooses. To minimize the risk to vulnerable seabirds, project contractors will be instructed to minimize predator presence and remove cats, place bait stations for rodents and mongoose, and provide covered trash receptacles, as feasible. In addition, the DHHL will

advise the Villages of Leiali'i Homestead Association that pet cats should be kept indoors.

- Thorough cleaning of equipment, materials and personnel will be employed to mitigate potential introduction of invasive species.
- The USFWS noted that the threatened green sea turtle (*Chelonia mydas*) may be present in or near the project area. Other mitigation measures such as shielded lighting and avoiding nighttime work during sea turtle nesting and hatching season from mid-April through September will be implemented as applicable. Should sea turtles be observed during construction, all mechanical or construction work activity will cease within 100 feet until the turtle voluntarily leaves the area.
- Should the State endangered Hawaiian Monk Seal be observed within 100 meters of the project area, all nearby construction operations will cease until the seal has departed on its own accord.
- The DOFAW noted the potential of attracting vulnerable birds to areas that may host non-native predators such as cats, rodents, and mongooses. To minimize the risk to vulnerable seabirds, project contractors will be instructed to minimize predator presence and remove cats, place bait stations for rodents and mongoose, and provide covered trash receptacles, as feasible. In addition, the DHHL will advise the Villages of Leiali'i Homestead Association that pet cats should be kept indoors.

- Wildfire Hazard

Organizations such as DOFAW and the Hawai'i Wildfire Management Organization (HWMO) have identified wildfires as an increasingly common hazard to communities and native ecosystems due to dry climatic conditions, non-native invasive species and increased commercial residential development and more people living in close proximity to wildland areas. In Hawai'i, wildfire has also been correlated to drought conditions; wildfire history data show an increase in ignition and the areas burned during the warmer drier months of summer. The State's Fire Management Program is part of the Watershed Protection and Management Section of DOFAW. DOFAW's Fire Management Program continues to be at the forefront of wildfire and all other risk-management training throughout the State, despite the fact that DOFAW personnel are primarily natural resource managers and not full-time wildland firefighters. DOFAW identifies Communities at Risk from wildfires (CARs) within the Wildland-Urban Interface (WUI) based on vegetation type, climatic regimes and history of wildfires.

The area in Lahaina is located within the WUI and a high risk ranking for wildfires. the recent and tragic wildfires in Lahaina have underscored the destructive ability of wildfire and the importance of wildfire prevention measures. DHHL will work with contractors and beneficiaries to implement guidance and best practices for wildfire prevention.

In recognition of Lahaina's wildfire risk, hazard mitigation measures to reduce vegetative fuel for wildfires include, but are not limited to, vegetation control, regular trimming of tree canopies, removal of leaf litter, planting of drought-tolerant, fire-resistant plants away from power lines, and removal of highly flammable materials such as scrap wood, firewood, and combustible furniture. In addition, construction materials and methods may be utilized to reduce wildfire-caused ignitions of residences and structures including noncombustible building materials. It is also noted that DHHL will maintain a 50-foot area mauka of Village 1-A and Village 1-B to be free from vegetation for fire and rodent control. Utility lines will be installed underground.

- Air Quality, Greenhouse Gas Emissions and Noise

Emissions and noise from construction equipment and other vehicles involved in construction activities may temporarily affect the ambient air quality and noise within the immediate vicinity. These effects, however, can be mitigated by proper maintenance of construction equipment and vehicles. Equipment mufflers or other noise attenuating equipment may also be utilized. A program of BMPs will be implemented during construction to mitigate potential for dust related impacts, including but not limited to, utilizing dust barriers, water wagons and/or sprinklers to control dust, and watering graded areas upon the completion of daily construction activities. The proposed action will involve short-term consumption of fuel for construction equipment, vehicles, and machinery during the construction period. This usage is not anticipated to be substantial or excessive within the context of the action's benefits over the lifetime of the project. It is noted that air quality in Lahaina may be impacted by the recent wildfire tragedy. The U.S. Environmental Protection Agency and State of Hawai'i Department of Health have been monitoring air quality levels in the recovery response to the wildfires. DHHL will ensure that the air quality levels are safe prior to beneficiary occupancy for Village 1-B.

After the project is completed, use of the proposed facilities may result in increased motor vehicle traffic to the project area. The project is anticipated to generate 139 (179) new vehicle trips during the morning (evening) peak hours of traffic, respectively. Statewide, vehicle-related fuel consumption for commercial, industrial, and residential sectors is a less significant contributor to total Green House Gas (GHG) emissions than emissions attributable to electricity consumption (Hawai'i Department of Health, 2021), and this contribution is anticipated to continue to decrease due to ongoing reduction in vehicle emission standards as well as increased utilization of hybrid and electric vehicles.

- Hazardous Materials

Due to the previous agricultural activity in the area, a Phase 2 Environmental Site Assessment (ESA) was conducted involving multi-increment (MI) soil sampling from a total of 51 decision units (DU) in the project area in accordance with the State of Hawai'i Department of Health (DOH) Technical Guidance Manual (TGM). The soil samples were then tested for Total Petroleum Hydrocarbons (TPH), organochlorine pesticides and total arsenic analysis. Results of the testing indicated that a majority of the soil samples had contaminants below the DOH environmental action level (EAL) and is unlikely to result in adverse health effects. All soil samples were within acceptable concentrations of

contaminants with the exception of DU16 which contained concentrations of TPH Residual Range Organics (RRO) higher than the applicable EAL. Based on the results of the soil sampling, the DOH has been notified of the findings of the investigation. In addition, the following recommendations will be followed:

- Remove impacted soils from the shallow interval of DU16, dispose of them at an acceptable landfill, conduct confirmation sampling to demonstrate that RRO no longer remains at this DU at concentrations greater than the EALs, and work with DOH to obtain a no further action (NFA) determination, OR
- Work with DOH to develop an environmental hazard evaluation and environmental hazard management plan to manage impacted soils onsite and obtain an NFA determination with institutional controls.

The contaminated soils underlying DU16 will be removed or an environmental hazard management plan will be prepared prior to construction to ensure the project contains acceptable levels of contaminants that are unlikely to result in adverse health effects. Additionally, because of the recent wildfires, many household or commercial items containing hazardous materials such as batteries and pesticides were burned and released into the surrounding environment. The County of Maui will work with the U.S. Environmental Protection Agency to ensure proper assessment and removal of hazardous materials in impacted areas.

- Scenic and Open Space Resources

The proposed action involves the construction of 181 single-family homes. These homes will be compatible with the surrounding character of the Lahaina area, especially the neighboring DHHL Villages of Leiali'i Village 1-A development and the future Villages of Leiali'i Development by HHFDC. The homes will not exceed two (2) stories in height. Furthermore, landscaping is incorporated into the project plans to reduce impacts from the development on open space and scenic resources.

- Archaeological and Historic Resources

Community consultation and background research conducted as part of the CIA identified the following cultural practices within the greater Wahikuli ahupua'a:

1. Agricultural practices
2. Plant gathering
3. Fishing
4. *Limu* gathering
5. Burial practices

No ongoing cultural practices were identified within the project site during community consultation. However, the project is located in the general vicinity of ongoing cultural practices, as noted above.

Four (4) impacts to ongoing cultural practices were identified within the project vicinity during community consultation for this CIA. Consultation identified a number of concerns related to the environment and the broader community:

1. Impacts to ocean and marine resources from sedimentation due to construction activities
2. Impacts to ocean and marine resources from sewage
3. Impacts to beach access from increased density and traffic
4. Impacts to freshwater resources

The CIA proposed mitigation measures and considerations to promote and preserve cultural beliefs, practices, and resources of Native Hawaiians and other ethnic groups. The CIA recommendations and responses, where appropriate, are provided:

1. Edwin “Ekolu” Lindsey III expressed concern that sedimentation from construction activities could impact the ocean and marine resources. He also mentioned that sewage may potentially have “negative impacts to the ocean and resources.” He asked, “Do we have the capacity?”

To mitigate pollution from construction activity, temporary BMPs, such as silts fences, storm drain inlet protection, sediment traps, berms, and soil stabilization will be utilized to prevent sediment and runoff from flowing to the ocean or nearby waters. Permanent drainage improvements will include catch basins, drain inlets, manholes, drain lines, and detention basins to control runoff from the project in the future. In order to treat and manage future wastewater flows from the project, new gravity sewer lines will be constructed to connect to the existing sewer manholes in Leiali‘i Parkway. DHHL is coordinating with the County Department of Environmental Management to secure wastewater service to the Village 1-B subdivision.

2. Mr. Lindsey stated that the proposed project will result in “increased density” and “increased traffic,” and stated that he is worried about the impact the increase in traffic will have on “all the kids and beach access”.

A Traffic Impact Analysis Report (TIAR) was conducted for the proposed project to identify impacts on traffic conditions from the project and potential mitigation measures. Beach and shoreline will be maintained throughout construction implementation of the project.

3. Mr. Lindsey also expressed his concern regarding “water resources.” He asked, “Is there enough?” pointing out that, “We are struggling to have stream flow, let alone more drinking water.”

As previously mentioned, the CWRM designated the Lahaina Aquifer Sector Area (ASA) as a Surface and Ground Water Management Area. DHHL has continued coordination with the DWS and CWRM to ensure the project’s proposed potable water usage is within the sustainable yield limits. Separately, CWRM is in the process of amending the interim instream flow standards (IFS) for the Honokōwai surface water hydrologic in order to restore stream flow.

4. *Mr. Lindsey stated that “Mitigation projects will be necessary” to address the potential impacts that the increase in population density and traffic will have on beach access.*

Leiali‘i Parkway, intersecting with Honoapi‘ilani Highway provides access to Wahikuli Beach Park. DHHL proposes improvements along Leiali‘i Parkway which include widening of Leiali‘i Parkway from two (2) lanes to four (4) lanes, restriping and relocation of the traffic signals at the intersection with Honoapi‘ilani Highway to help mitigate impacts from increases in traffic.

5. *CSH recommends that, as part of the project’s environmental review process, that any potential effect of increased traffic and population density on beach access imposed by the proposed project be reviewed and, if appropriate, mitigated.*

The proposed project will be reviewed to ensure that the project does not restrict or inhibit access to the beach. Proposed roadway improvements are described in the “Roadways” Section of this report.

6. *Project construction workers and all other personnel involved in the construction and related activities of the project should be informed of the possibility of inadvertent cultural finds, including human remains. In the event that any potential historic properties are identified during construction activities, all activities will cease and the SHPD will be notified pursuant to HAR §13-280-3. In the event that iwi kūpuna (ancestral remains) are identified, all earth moving activities in the area will stop, the area will be cordoned off, and the SHPD and Police Department will be notified pursuant to HAR §13-300-40. In addition, in the event of an inadvertent discovery of human remains, the completion of a burial treatment plan, in compliance with HAR §13-300 and HRS §6E-43, is recommended.*

7. *In the event that iwi kūpuna and/or cultural finds are encountered during construction, project proponents should consult with cultural and lineal descendants of the area to develop a reinternment plan and cultural preservation plan for proper cultural protocol, curation, and long-term maintenance.*

Archaeological investigations were undertaken and documentation, including an HRS, Chapter 6E consultation package was prepared and submitted to the State Historic Preservation Division (SHPD). SHPD determined that an archaeological inventory survey (AIS) is required for the project. The AIS was conducted and submitted to the SHPD by Cultural Surveys Hawai‘i in June 2022. The AIS documented three (3) historic properties within the project area including State Inventory of Historic Places (SIHP) No. 50-50- 03-08886, an asphalt-paved road and former plantation railroad corridor, SIHP No. 50-50-03-08887 is a portion of the existing Lahaina, Kaanapali & Pacific (LK&P) railroad that was established as a tourist attraction in 1969. SIHP No. 50-50-03-08888 is an asphalt-paved road that was used for historic commercial agricultural operations and formerly labeled as “Main Industrial Road”. The AIS stated the identified historic properties would be impacted by project-related ground disturbance and recommended an “effect, with agreed upon mitigation commitments”. No further work was recommended for SIHP Nos. -08886, -08887, and -08888. The AIS sufficiently documented the three (3) sites and as such, no

further historic preservation work was recommended. However, the AIS recommended that archaeological monitoring be completed during all ground altering activities. An Archaeological Monitoring Plan (AMP) was prepared and accepted by the SHPD. Archaeological monitoring will be undertaken for all construction-related ground altering activities in accordance with the AMP. Following all monitoring activities, an Archaeological Monitoring Report will be prepared and submitted to SHPD.

- Socioeconomic Environment

The Villages of Leiali'i Village 1-B project will provide new housing units to meet the housing shortage on Maui. New homes will be made available for DHHL native Hawaiian beneficiaries. The Villages of Leiali'i project will provide short-term construction related employment and services. From a long-term perspective, the project will provide much-needed affordable housing in close proximity to employment locations in West Maui. The proposed housing will serve native Hawaiians seeking a primary residence and will not be for transient populations. Affordable housing reduces the portion of incomes residents must pay for rent, providing them with more disposable income. Significant adverse economic impacts are not anticipated.

- Public Services

The proposed project is adjacent to an urbanized area in Lahaina that is within existing service areas for fire protection, police and medical services. The proposed project will meet requirements of the Fire Code, as established in Chapter 16.04C of the Maui County Code. Also, in accordance with fire protection requirements of the Fire Code, fire hydrants will be designed and installed in conjunction with the project. Coordination with the Maui Police Department and Department of Fire and Public Safety will ensure that proposed improvements at the Leiali'i Parkway and Honoapi'ilani Highway intersection, as well as a potential increase in traffic through the area for residents residing in the Village 1-B subdivision, do not affect the ability of emergency service vehicles to enter and exit the district stations within the Lahaina Civic Center.

The project site is located within the West Maui Impact Fee District, which was designated pursuant to Chapter 302A-1604, Hawai'i Revised Statutes (HRS). DHHL will work with the State of Hawai'i Department of Education (DOE) on an Educational Contribution Agreement for the Village 1-B project.

- Recreational Facilities

Coordination with the Department of Parks and Recreation will ensure that the proposed improvements along the Leiali'i Parkway and Honoapi'ilani Highway intersection, as well as a potential increase in traffic through the area for residents residing in the Village 1-B subdivision, do not significantly impact public access to the Lahaina Civic Center, or the Waikeolu Wayside Park, located at the intersection of Leiali'i Parkway and Honoapi'ilani Highway. In addition, DHHL will provide pedestrian connectivity from Village 1-B to the Lahaina Civic Center, which will increase access and encourage alternative modes of transportation to nearby recreational opportunities.

It is noted that the project area is within the West Maui Greenway Plan area. The West Maui Greenway Plan was developed by the Maui Metropolitan Planning Organization and published in September 2022. The West Maui Greenway is a planned 25-mile multi-use trail through West Maui which would connect Ukumehame to Lipoa Point. Development of the Greenway is dependent on securing funding for the environmental review, design and construction. The West Maui Greenway's Segment 3 mauka alignment cuts through the middle of Village 1-B. DHHL has assessed the feasibility of the preferred alignment and notes that if incorporated, the preferred mauka alignment of the Greenway would result in a reduction of lots, thus not allowing the DHHL to optimally fulfill its mission of providing housing opportunities to its beneficiaries. It is noted that the project does not preclude the development of Alternative A of the West Maui Greenway Segment 3.

- Roadway and Airports Infrastructure

The Traffic Impact Analysis Report (TIAR) prepared for the project selected the year 2030 to reflect the project completion year. The Base Year 2030 scenario represents the traffic conditions within the study area without implementation of the project. The TIAR accounted for development of future phases of the Lahaina Bypass Road (LBR), which is a major bypass road parallel and mauka to Honoapi'ilani Highway that is expected to be completed in five (5) total phases to address regional traffic congestion within Lahaina. So far, three (3) of the five (5) phases have been constructed. The Base Year 2030 scenario assumes that the LBR is extended further north from its current terminus at Keawe Street to Kaka'alaneo Drive, with a midway LBR connection to Honoapi'ilani Highway via a Kā'anapali Connector Road at some point south of Kā'anapali Parkway.

Upon completion of the project, all study intersections are forecast to operate with similar LOS as Base Year 2030 traffic conditions, with or without completion of the LBR extension. Without the LBR extension, various movements will continue to operate over-capacity similar to the Base Year 2030 Without LBR 1C scenario. With the LBR 1C, all study intersections will improve from the Base Year 2030 Without LBR 1C scenario and all previously identified overcapacity conditions will improve and operate below capacity due to traffic volume reductions on Honoapi'ilani Highway. All through movements will operate adequately or below capacity. Regionally, along Honoapi'ilani Highway, traffic generated by the project will increase by approximately 20 to 75 vehicles per direction per peak hour, which translates to a 1.3 percent increase in traffic in the Kā'anapali region and 2.2 percent increase in traffic in Lahaina Town when compared to the Base Year 2030. Due to generally low traffic increases as a result of the project the majority of movement vehicular delays generally increased minimally by 1 to 6 seconds. The following roadway improvements were recommended by the TIAR:

Honoapi'ilani Highway/Leiali'i Parkway

- Lengthen the southbound left-turn lane to provide a minimum 300-foot storage length (exclusive of taper and deceleration length).

In addition to the above, as part of the project, the DHHL is also proposing to widen Leiali'i Parkway with the following modifications. It is noted that these improvements are not based on project traffic increases as discussed within the TIAR and are not a requirement

of previous land use conditions or agency agreements. However, these improvements are being made in planning for eventual licensure of Leiali'i Parkway to the County of Maui:

- Maintain two (2) westbound lanes along Leiali'i Parkway but restripe to delineate separate lanes from Honoapi'ilani Highway to Ka'aahi Street.
- Widen eastbound lanes along Leiali'i Parkway to provide one (1) exclusive left-turn lane into Ka'aahi Street and one (1) through lane continuing further up Leiali'i Parkway from Honoapi'ilani Highway to Ka'aahi Street.
- Provide a new crosswalk across Ka'aahi Street on the north leg of its intersection with Leiali'i Parkway.
- Upgrade the northeast and southeast curb ramps at the Honoapi'ilani Highway/Leiali'i Parkway intersection and lengthen the marked crosswalk across Leiali'i Parkway to accommodate the widening.

DHHL will meet with the State of Hawai'i Department of Transportation for the acceptance of the TIAR. In addition, due to the project's proximity to the Kapalua Airport, applicable permits from the Federal Aviation Administration (FAA) will be obtained.

- Water System

The proposed project's water source will draw from the Honokōwai aquifer system in the Lahaina Aquifer Sector Area (ASA). The lots in Increment 1 below elevation 130 feet amsl will be supplied by the existing Lahaina water system, which is provided water from the 1.5- MG Wahikuli Reservoir that is supplied by groundwater wells and treated surface water. Currently, the primary source of water is treated water from the Mahinahina Surface Water Treatment Facility (M-WTF) in Honokōwai. However, the DWS is developing two (2) wells above the M-WTF, collectively called the West Maui Source Development project, which will be able to contribute water to DWS's water system. Since there is no existing reservoir in the UPZ that would be able to service the Increment 2 lots above elevation 130 feet, a new offsite storage reservoir is required and will be developed as part of a separate regional water system improvements project in Lahaina. The proposed project's water source will draw from the Honokōwai Aquifer System in the Lahaina Aquifer Sector Area (ASA). According to the County of Maui Water Use Development Plan (WUDP), the Honokōwai Aquifer System has a sustainable yield of six (6) mgd and there is approximately 3.053 mgd pumped from the Honokōwai Aquifer System. Reservations have been made for the DHHL's potable and non-potable water needs in West Maui as a public trust purpose.

Water for Increment 2 of the project will be provided by DHHL's Honokōwai Water System Improvements Project, which is a separate and distinct regional infrastructure effort that will also provide water to other West Maui developments, such as the DHHL's Honokōwai Lands and HHFDC's Villages of Leiali'i project. The Honokōwai Water System Improvements Project is the subject of separate Chapter 343, HRS environmental review process.

In addition to the DWS water system, the HHFDC owns the Wahikuli Irrigation Well which supplies non-potable water and services to Leiali'i Parkway. The capacity of the well for irrigation use is 120,000 gpd. Village 1-B will require approximately 74,600 gpd of non-potable water for irrigation and the Leiali'i Parkway widening will require an additional 250 gpd for irrigation of planters and the median. The total non-potable water demand would be 74,850 gpd and would be within the anticipated maximum irrigation use of 120,000 gpd from the Wahikuli Irrigation Well.

- Drainage System

The project drainage improvements will include catch basins, drain inlets, manholes, drain lines, and detention basins. Runoff will be collected by catch basins or drain inlets along the roadways and then be conveyed via underground piping to one (1) of four (4) proposed onsite detention basins. In addition to onsite detention basins, two (2) new offsite detention basins will be installed to manage the runoff from areas mauka of the project. An existing offsite detention basin will also be expanded and will utilize the same existing outlet drain lines, proposed basins and will instead flow down the road to an existing offsite vegetated swale for water quality treatment.

The proposed stormwater management system will reduce peak flows and provide water quality treatment to meet the County of Maui stormwater quality standards. The project will incorporate detention basins as a BMP for stormwater treatment. The basins will retain the required Water Quality Design Volume (WQDV), allowing suspended particles to settle and water to infiltrate. An appropriate maintenance plan will be developed during the design phase of the project and will include requirements for removal of accumulated sediments and debris, maintaining vegetation, and inspection.

It is noted that a portion of the proposed Village 1-B subdivision and the area of the roadway improvements are located within the Special Management Area (SMA) for the island of Maui. The DHHL has determined that it is not subject to county zoning and SMA permitting requirements pursuant to the Hawai'i Homes Commission Act, 1920. This determination was submitted to the County of Maui, Department of Planning via letter, dated August 29, 2022. The Planning Department concurred with DHHL's determination via Draft EA comment letter, dated January 18, 2023. It is noted that a portion of the offsite roadway improvements within the SMA and shoreline setback area being proposed as part of the proposed project will be located on lands not owned by DHHL. As such, DHHL will comply with SMA and shoreline setback permitting requirements for the proposed roadway improvements occurring on lands owned by the State of Hawai'i and HHFDC.

DHHL PLANNING SYSTEM CONSISTENCY:

1. General Plan

The updated DHHL General Plan was adopted by the Hawaiian Homes Commission (HHC) in November 2022. The General Plan sets the vision and establishes goals and policies to guide the discussions and decision-making of the HHC. The General Plan guides DHHL plans, programs, and policies through year 2040, Guiding principles were also developed based on beneficiary consultation and input. The guiding principles are broad themes that articulate the key values

important to beneficiaries. DHHL, and the Hawaiian Home Lands Trust. The proposed project is in consonance with the following guiding principles, goals and policies of the DHHL General Plan.

Guiding Principles

- *‘Auamo Kuleana: Acknowledge the shared kuleana of the Department, beneficiaries, State, federal and county agencies, Hawaiian serving organizations, and all of Hawai‘i toward fulfilling the mission of the Hawaiian Home Lands Trust. Foster trust, communication, and transparency among all parties to work toward the Vision.*
- *Returning Hawaiians to the Land: Actively facilitate returning native Hawaiians to their lands to support self-sufficiency and self-determination. Maintain a primary focus on using and acquiring lands suitable for development of homesteads. Explore and expand opportunities for beneficiaries to restore their relationship with and use Trust lands and resources.*
- *Homestead Choice and Diversity: Offer a variety of homesteading opportunities to meet diverse beneficiary needs and desires. Explore creative models and innovative ideas for getting Hawaiians onto the land and cultivating healthy, thriving beneficiary communities.*

LAND USE PLANNING

Goals

- *Utilize Hawaiian Home Land for uses most appropriate to meet the needs and desires of the beneficiary population.*
- *Encourage a balanced pattern of growth into urban and rural growth centers.*
- *Protect life and property from the effects of natural hazards and climate change on Hawaiian home lands.*

Policies

- *Provide space for and designate a balanced mixture of appropriate land uses, economic opportunities, and community services in a Native Hawaiian-friendly environment.*
- *Prioritize the development of homestead communities in areas with suitable development conditions that are close to jobs, transportation, infrastructure, and services.*
- *Assess vulnerability of populations, resources, and infrastructure across Hawaiian home lands to climate change and natural hazards and conduct climate resilience and adaptation planning in high vulnerability areas.*
- *Maintain fire breaks adjacent to residential homestead communities in high*

wildfire risk areas through participation in Fire Wise programs and partnerships with DLNR, Fire Departments, and private landowners.

INFRASTRUCTURE GOALS, POLICIES

Goal:

- *Provide and maintain infrastructure for homestead communities within resource limitations*

Policy:

- *Design infrastructure to County standards and license systems to the Counties whenever possible for development within Residential, Commercial, and Industrial areas.*

HOUSING

Goal:

- *Increase the number of housing opportunities awarded each year.*
- *Provide a mix of housing opportunities that reflect the needs and desires of native Hawaiian beneficiaries.*

Policies:

- *Prioritize housing for beneficiaries before considering other uses of Trust lands.*
- *Provide a variety of residential types that match beneficiary needs in terms of housing products (owner-builder, turnkey, self-help, etc.), types of housing units (single family, multifamily, kupuna housing, rental, etc.) and financing.*
- *Ensure the availability of a range of housing types and affordability to accommodate persons and families of all income levels and in locations that are convenient to employment and public and private facilities.*

2. Maui Island Plan

Because the lands on which the proposed subdivision will be developed were acquired by the DHHL following adoption of the MIP, they are not yet designated by the MIP for a specific use. Acquiring these lands is consistent with the DHHL MIP goal to secure additional lands to meet the beneficiary demand for residential homesteads. The proposed project is in consonance with the Maui Island Plan's policies related to increasing the delivery of residential homesteads to beneficiaries each year.

3. Villages of Leiali‘i-Honokōwai Regional Plan

The Villages of Leiali‘i and Honokōwai Regional Plan identified the Village 1-B area as a future homestead area for up to 253 lots with a minimum lot size of 5,000 square feet to be accessed by Leiali‘i Parkway. The Villages of Leiali‘i and Honokōwai Regional Plan also identified improvements to the Leiali‘i Parkway and Honoapi‘ilani Highway intersection as a priority project in order to serve future residents of Village 1-B, but also the mauka Villages of Leiali‘i lands to be developed by the HHFDC. In this regard, the proposed project is in alignment with the goals and project identified in the Villages of Leiali‘i and Honokōwai Regional Plan.

FINDING OF NO SIGNIFICANT IMPACT:

The “Significance Criteria”, Hawai‘i Administrative Rules (HAR), Title 11, Chapter 200.1-13, Environmental Impact Statement Rules, were reviewed and analyzed to determine whether the proposed project will have significant impacts to the environment.

1. Irrevocably commit a natural, cultural, or historic resource.

The proposed project commits approximately 51 acres of vacant land long envisioned for residential development for implementation of the project. There are no threatened or endangered species or critical habitats in the project area. Consultation has been initiated with the SHPD pursuant to Chapter 6E, HRS. An AIS was prepared and submitted to the SHPD in June 2022. Three (3) historic sites were documented in the AIS and no further historic preservation work was recommended for the sites. However, as recommended by the AIS, an AMP was prepared and accepted by SHPD for implementation in association with ground altering activities at the site. The CIA found that there are no ongoing traditional cultural practices within the project site. Mitigation measures in the form of BMPs will be implemented to prevent sedimentation and pollution to nearby freshwater and marine resources and access to the beach and marine resources will be maintained. Furthermore, should any potential historic properties be identified during construction activities, all activities will cease and the SHPD will be notified pursuant to Section 13-280-3, HAR.

2. Curtail the range of beneficial uses of the environment.

The proposed action will be implemented adjacent to existing residential developments of a similar nature, and the commitment of land resources required for the proposed action will not curtail the range of beneficial uses of the environment. The subdivision site, although designated for agricultural use by Maui County Zoning and partially designated as “Prime” agricultural lands by the Agricultural Lands of Importance to the State of Hawai‘i (ALISH), has not been in agricultural production for some time. On the island of Maui, approximately 70,714 acres of the total land area of the island are within the ALISH “Prime” Designation, this represents approximately 15 percent of the island. As such, the use of 51 acres, or 0.07 percent, of the “Prime” designated lands on Maui for residential housing is not considered a substantial adverse impact in the context of the overall Prime designated lands on Maui. The proposed use of the site for development of a new subdivision is compatible with surrounding residential uses.

3. **Conflict with the State's environmental policies or long-term environmental goals established by law.**

The proposed action does not conflict with the policies and guidelines of Chapter 343, HRS. An EA is being carried out to ensure the proposed project will not have significant adverse impacts on the environmental resources. While this project may cause adverse construction-related impacts, based on the analysis conducted in this EA, the adverse impacts are not anticipated to be significant.

Where mitigation measures are required due to potential impacts attributed to the project, DHHL will implement those applicable measures to further reduce adverse impacts.

4. **Have a substantial adverse effect on the economic welfare, social welfare, or cultural practices of the community and State.**

The proposed action will have a beneficial effect on the local economy during the short and long term. As previously discussed, positive economic and social impacts are anticipated as a result of the project, including construction-related jobs, real property assessment revenues, and contribution of water, wastewater, and educational assessment fees. Mitigation in the form of construction BMPs will be implemented to prevent impacts to traditional cultural practices identified within the Wahikuli ahupua'a, such as marine and freshwater fishing. In addition, access to the beach and marine resources will be maintained. As previously discussed, an AIS was prepared for the project and submitted to the SHPD, and archaeological monitoring will be undertaken in accordance with a SHPD-approved AMP. In addition, the project will provide residential leases to native Hawaiian beneficiaries. Therefore, implementation of the proposed action will be beneficial to the overall social welfare of native Hawaiian beneficiaries on Maui.

5. **Have a substantial adverse effect on public health.**

The project is not anticipated to result in long-term air or noise impacts. Furthermore, the proposed action is not anticipated to create significant direct or indirect foreseeable greenhouse gas (GHG) emissions, and does not fall within the threshold of mandatory GHG reporting. As such, no adverse impact to public health or welfare is anticipated as a result of the proposed action. It is noted that the Phase 1 ESA) prepared for the project did note the presence of recognized environmental conditions resulting from the former agricultural use, a previous fueling station, and previously demolished structures and, therefore, recommended that soil sampling be conducted. As such, a Phase 2 ESA involving soil sampling and testing was conducted revealing a majority of the project area contained acceptable levels of contaminants not likely to cause adverse health impacts. One area sampled contained higher levels of TPH contaminants. The contaminated soil will be properly removed and disposed of or properly managed in coordination with the DOH to prevent adverse health impacts from the contaminants.

6. **Involve adverse secondary impacts, such as population changes or effect on public facilities.**

The proposed project will provide needed additional residential lots in Lahaina, Maui for DHHL beneficiaries. While some residents of this new community may

come from off island, most are expected to relocate from other areas on Maui. As such, the project is not anticipated to involve substantial secondary impacts due to population change.

Secondary impacts on public facilities are not anticipated. The DHHL will provide the necessary onsite and offsite infrastructure to support the proposed project. No substantial changes or effects on public facilities are expected with project implementation.

While DHHL does not need to comply with State or County land use plans and regulations for the development of the subdivision, it is noted that this development is in line with County long-range development and population growth projections.

7. Involve a substantial degradation of environmental quality.

No substantial degradation of environmental quality resulting from the action is anticipated. BMPs and appropriate erosion control measures will be utilized during the construction period. Drainage system improvements will be constructed in accordance with applicable regulatory design standards to ensure that surface runoff will not have an adverse effect on adjacent or downstream properties.

Any potential short-term impacts to air and noise quality during the construction phase of the project will be mitigated through employing BMPs. In the long term, the project will not adversely impact air quality and ambient noise.

8. Be individually limited but cumulatively have substantial adverse effect upon the environment or involves a commitment for larger actions.

The proposed action is limited to the development of the proposed residential subdivision and related offsite improvements. The project is not a necessary precedent for a larger project; or a commitment to some larger project. The Hawai'i Housing Finance and Development Corporation (HHFDC) has proposed a master plan development mauka and south of Village 1-B. While HHFDC's Villages of Leiali'i project is a separate and distinct action from the Village 1-B project, the proposed HHFDC development has been considered in the context of impact analysis conducted for this EA. For example, the TIAR included the traffic counts from proposed development within the HHFDC Villages of Leiali'i project in its Base Year 2030 traffic counts while regional planning for water source includes demands from the project. As previously noted, HHFDC and DHHL are in discussions regarding a potential transfer of HHFDC's Villages of Leiali'i lands. The transfer agreement has not been finalized. Should the agreement be executed, DHHL would assess the previously prepared plans for the Villages of Leiali'i and prepare a revised plan to be in line with DHHL's mission. Because future DHHL development of the Villages of Leiali'i is entirely speculative at this time and DHHL's development program for the lands is unknown, additional analysis of the cumulative impacts cannot be conducted at this time. Nevertheless, potential cumulative impacts of the HHFDC Villages of Leiali'i project and the Village 1-B project have been analyzed.

The proposed project will stand on its own and is not a trigger for any other development. The cumulative impacts of the proposed project, together with other

reasonably foreseeable actions, will include increased population and infrastructural demands, but this will not have a considerable effect on the environment. The DHHL will provide the necessary infrastructure to serve the proposed project. Drainage, wastewater, water, and roadway improvements will be designed to meet applicable local, State, and Federal regulations. The engineering and traffic reports prepared for the proposed project have assessed potential impacts and designed infrastructure systems in the context of future planned regional growth. It is noted that Increment 1 of the proposed subdivision will be able to be serviced by the existing County of Maui, Department of Water Supply system. However, water for Increment 2 of the subdivision will be provided by planned water source and distribution system improvements currently being pursued by the DHHL. These improvements will also provide service to HHFDC's planned development at the Villages of Leiali'i as the improvements are planned to be integrated into the DWS' system for eventual dedication to the County. These improvements are the subject of a separate HRS, Chapter 343 EA being prepared by DHHL. However, these improvements are considered a separate and distinct project from both the DHHL's and HHFDC's overall Villages of Leiali'i developments as they constitute a larger, regional infrastructure improvement project. Given the foregoing, the proposed project is not anticipated to cumulatively have considerable effect upon the environment, nor does it involve a commitment or larger actions.

9. Have a substantial adverse effect on a rare, threatened, or endangered species, or its habitat.

A Flora and Fauna Survey report was prepared to ensure that any sensitive terrestrial flora/fauna biological resources within the project site would be identified and provided adequate protection. No rare, threatened, or endangered species of flora, fauna, avifauna, or important habitats were identified on the affected properties. The project site is located adjacent to existing residential developments of a similar nature. The project is not anticipated to substantially affect rare, threatened, or endangered species, or its habitat.

10. Have a substantial adverse effect on air or water quality or ambient noise levels.

Construction activities will result in short-term air quality and noise impacts. Dust control measures, such as regular watering and sprinkling, and installation of dust screens will be implemented to minimize wind-blown emissions. In the short term, noise impacts will occur primarily from construction equipment. Equipment mufflers or other noise attenuating equipment, as well as proper equipment and vehicle maintenance, will be used during construction activities. Construction noise impacts will be mitigated through compliance with the provisions of the DOH Administrative Rules Title 11, Chapter 46, "Community Noise Control". These rules require a noise permit if the noise levels from construction activities are expected to exceed the allowable levels set forth in the Chapter 46 rules.

From the long-term perspective, the proposed project is not anticipated to significantly impact ambient air or noise quality in the region.

As such, with implementation of foregoing mitigation measures, the proposed project is not anticipated to detrimentally affect air or water quality or ambient noise levels.

11. **Have a substantial adverse effect on or be likely to suffer damage by being located in an environmentally sensitive area such as a flood plain, tsunami zone, sea level rise exposure area, beach, erosion-prone area, geologically hazardous land, estuary, fresh water, or coastal waters.**

The proposed subdivision is located in Flood X (unshaded). This designation denotes an area of low flood risk and minimal flooding with no development restrictions. Portions of Honoapiʻilani Highway roadway improvements are located in Flood Zone VE and Flood Zone A. However, these improvements are limited to roadway restriping and relocation of existing traffic signals. The majority of the project site is located outside of the Tsunami Evacuation Zone; however, a small portion is located within the Extreme Tsunami Evacuation Zone, however no new homes are proposed in this area. In addition, the proposed homes are not located within the 3.2-foot sea level rise exposure area.

Drainage improvements will be designed to mitigate runoff in accordance with County drainage and stormwater quality rules and regulations. During construction, recommended BMPs will be implemented for erosion and sedimentation control to minimize potential impacts to water quality.

12. **Have a substantial adverse effect on scenic vistas and viewplanes, day or night, identified in county or state plans or studies.**

The proposed project involves the development of low-rise single-family and multi-family homes. In the context of the surrounding land uses, which includes the Lahaina Civic Center, Lahaina Post Office, Village 1-A, and HHFDC lands proposed for development, the proposed action is not anticipated to have a significant adverse impact upon the scenic and open space resources of the area.

13. **Require substantial energy consumption or emit substantial greenhouse gasses.**

The proposed project will involve the commitment of fuel for construction equipment, vehicles, and machinery during construction and maintenance activities. Coordination with Hawaiian Electric Company, Ltd. (HECO) will be undertaken during the electrical plans preparation phase of work to ensure all operational parameters are addressed for the proposed project. The project will incorporate energy saving, sustainable features, including the use of solar water heating systems on all homes.

In the context of the GHG Reporting Program (25,000 metric tons of CO₂ EQ), the relative effects GHG emissions is not considered significant for this proposed project.

In summary, the project site is situated adjacent to existing residential uses of a similar nature, and in close proximity to recreational resources and services in Lahaina. This project will be developed in an area with existing infrastructure systems, and concurrently with required infrastructure system and drainage improvements. The proposed project is not anticipated to have a significant adverse impact on the surrounding physical, cultural

and socioeconomic environments. Based on the foregoing analysis, it is anticipated that the proposed action qualifies for a Finding of No Significant Impact (FONSI) determination.

FINAL EA PUBLICATION:

EVENT	DATE
Informational Briefing on Final EA to HHC	October 16-17, 2023
Publication of Final EA	November 8, 2023

RECOMMENDATION:

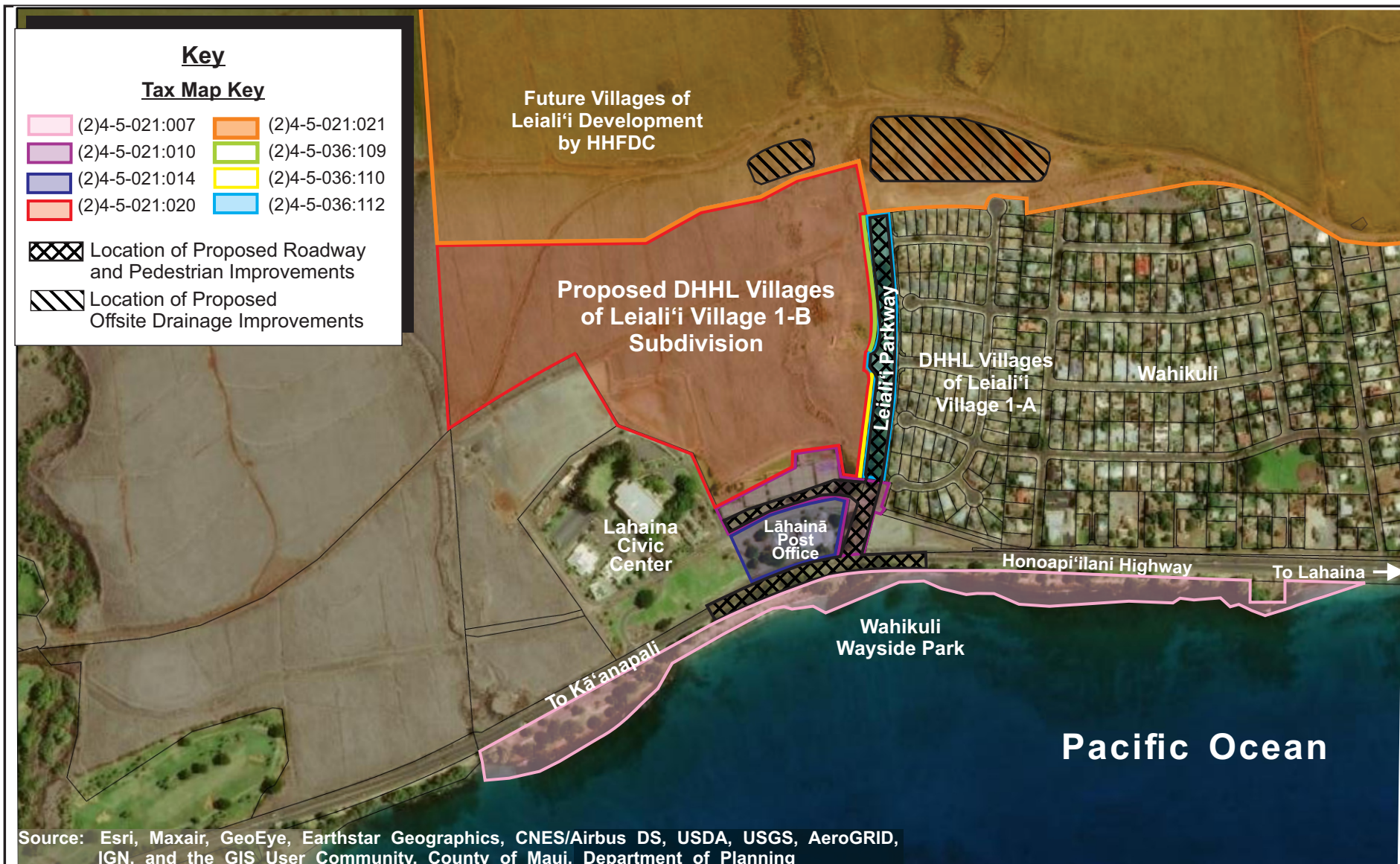
DHHL staff respectfully requests issuance of a FONSI determination based on the Final EA presented herein, as recommended.

LIST OF EXHIBITS:

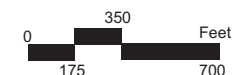
- Exhibit A.** Project Location Map
Exhibit B. Conceptual Subdivision Site Plan

EXHIBIT A.

Project Location Map



DHHL Villages of Leialii Village 1-B Property Location Map



Prepared for: State of Hawai'i, Department of Hawaiian Home Lands

 MUNEKIYO HIRAGA

EXHIBIT B.

Conceptual Subdivision Site Plan

Future Villages of
Leiali'i Development
by HHFDC

**Proposed DHHL
Villages of
Leiali'i Village 1-B
Subdivision**

Source: Austin, Tsutsumi & Associates, Inc.

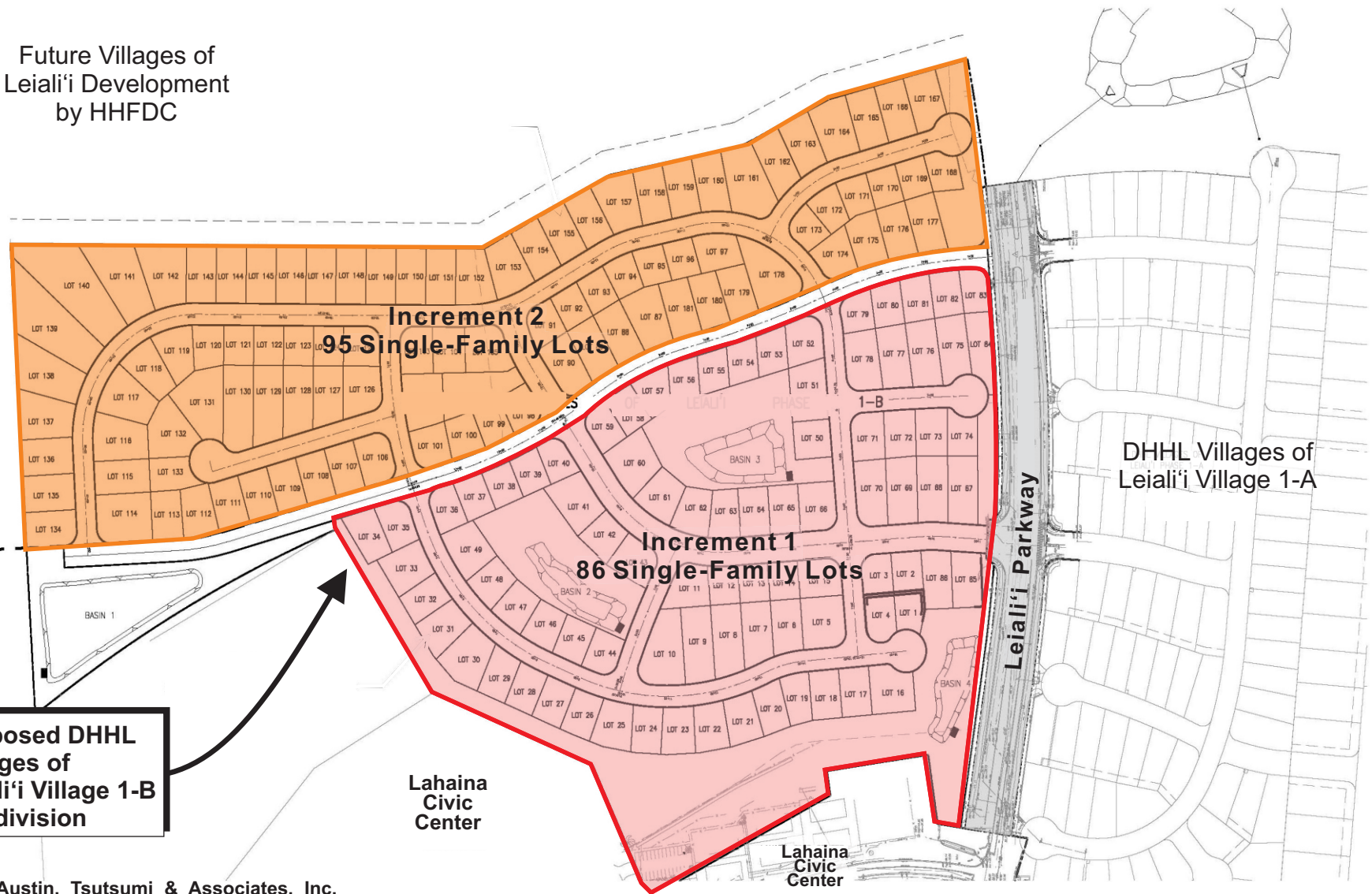
DHHL Villages of Leiali'i Village 1-B **Conceptual Site Plan** **Single-Family Units Alternative**

NOT TO SCALE



Prepared for: State of Hawai'i, Department of Hawaiian Home Lands


 **MUNEKIYO HIRAGA**



STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

October 16-17, 2023

To: Chairman and Members, Hawaiian Homes Commission

From: Stewart Matsunaga, Administrator, Land Development Division
Neil Nugent, Engineer V, Design and Construction Branch (FN) 

Subject: Authorize the Chairman to Negotiate and Execute the Transfer of Approximately 403 acres, including various improvements within the Villages of Leiali'i from Hawaii Housing Finance and Development Corporation to the Department of Hawaiian Home Lands, various Tax Map Key parcels, Wahikuli, Lahaina, Maui, Hawaii.

RECOMMENDED ACTION:

Authorize the Chairman to negotiate and execute the subject land transfer.

DISCUSSION:

1. The Draft of Transfer Agreement for Villages of Leiali'i, which contains the description of property to be transferred from HHFDC to DHHL is attached as Exhibit A. Pages 1 and 2 of Exhibit A include DHHL staff concerns, including construction of schools and a wastewater treatment facility.
2. The intent of the HHFDC Transfer Agreement is for DHHL to assume the role as landowner and to provide Homestead programs for DHHL Beneficiaries on the approximately 403 acres, which would take on the status of "available lands."
3. DHHL requires land on each county to provide homestead options for DHHL Beneficiaries. The transfer of Leiali'i lands to DHHL provides an opportunity for further homestead programs on Maui.
4. DHHL does not currently have funding appropriated for new homestead development at the subject 403 acres at the Villages of Leiali'i. DHHL will be responsible for initiating Chapter 343 environmental compliance for a new masterplan of the subject area.
5. The Lahaina Wildfire devastation and its impact on replacement housing is uncertain. The use of State lands on Maui to address replacement housing is uncertain.

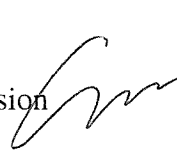
RECOMMENDATION:

Authorize the Chairman to negotiate and execute the subject land transfer.

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

November 21, 2022

To: Chairman and Members, Hawaiian Homes Commission

From: Stewart Matsunaga, Acting Administrator, Land Development Division 

Subject: For Information Only
Transfer of Approximately 403 acres, including various improvements within the Villages of Leialii from Hawaii Housing Finance and Development Corporation to the Department of Hawaiian Home Lands, various Tax Map Key parcels, Wahikuli, Lahaina, Maui, Hawaii.

RECOMMENDED ACTION:

None—For Information Only

DISCUSSION:

- 1) In December 2004 a transfer agreement was executed between Department of Land and Natural Resources, Department of Hawaiian Home Lands (DHHL) and Hawaii Community Development Corporation of Hawaii, now Hawaii Housing Finance and Development Corporation (HHFDC) conveying Village 8 of Villages of Kapolei, Villages of Laiopua, Waiahole Valley Agricultural Park Subdivision and Residential Subdivision, and Villages 1A (25 acres) and 1B (51 acres) of Villages of Leialii. In accordance with the Transfer Agreement, Villages 1A and 1B of the Villages of Leialii were conveyed to DHHL by quitclaim deed.
- 2) Under the implementation of a development agreement with developer, Dowling Company, DHHL funded the construction of site improvements, while Dowling Company financed the construction of houses on 104 lots within Village 1A. By 2007 104 beneficiaries occupied DHHL's first homestead in West Maui.
- 3) As a condition of the transfer agreement for Village 1B, DHHL is responsible to construct Honoapiilani Highway and Leialii Parkway improvements to improve the ingress and egress through the County of Maui Lahaina Civic Center. DHHL is currently in the planning and environmental compliance phase for Honoapiilani Highway and Leialii Parkway improvements. A Draft Environmental Assessment is expected to be completed in Spring 2023. Engineering designs are being prepared for approximately 250 homestead leases, including the development of multi-family housing. Additional offsite water transmission and storage infrastructure are being designed to be able to fully occupy Village 1B.
- 4) Discussions on a potential transfer of undeveloped land within HHFDC's Villages of Leialii first started in January 2002 between HHFDC and DHHL. In February 2022, HHFDC staff submitted drafts of a transfer agreement, modeled after the transfer

agreement for Villages 1A and 1B. In March 2022, HHFDC's Board of Directors further discussed the proposed transfer. Blossom Feiteira, beneficiary advocate testified in support of the proposed transfer of the 400+ acres to Hawaiian home lands.

- 5) The Draft of Transfer Agreement for Villages of Leialii, which contains the description of property to be transferred from HHFDC to DHHL is attached as Exhibit A.
- 6) DHHL staff continue to review the transfer conditions and have concerns with several issues, including conditions imposed by the Land Use Commission on HHFDC's current Villages of Leialii Master Plan for the provision of land for schools and County of Maui Department of Environmental Management's requirement to construct a private wastewater treatment facility for HHFDC's affordable rental project adjacent to Keawe Street. DHHL will follow-up with the Department of the Attorney General on whether DHHL would be subject to any of the conditions imposed by the LUC on HHFDC, as well as follow up with the County of Maui to determine if DHHL is able to connect the HHFDC development and future DHHL developments to the Lahaina Wastewater Treatment Plant.
- 7) When there is clarity and resolution of the issues above and other conditions proposed by HHFDC, DHHL will propose appropriate actions to the HHC for consideration.

RECOMMENDATION:

For Information only

2/11/22

TRANSFER AGREEMENT
VILLAGES OF LEIALI'I

This AGREEMENT, made this _____ day of _____, 2022, by the **HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION**, a public body and body corporate and politic of the State of Hawaii, whose principal place of business and post office address is 677 Queen Street, Suite 300, Honolulu, Hawaii 96813 (hereinafter referred to as "**Grantor**") and the **DEPARTMENT OF HAWAIIAN HOME LANDS**, State of Hawaii, whose principal place of business and post office address is P.O. Box 1879, Honolulu, Hawaii 96805 (hereinafter referred to as "**Grantee**").

WITNESSETH

WHEREAS, Grantor is the master developer of the Villages of Leialii' ("Leiali'i") pursuant to a Memorandum of Understanding with the Department of Land and Natural Resources ("**DLNR**") dated January 4, 1983, and Section 10-13.6 and 171-18.5, Hawaii Revised Statutes ("**HRS**").

WHEREAS, Grantor acquired title in fee simple to approximately 544 acres makai of the proposed Lahaina Bypass Highway ("**Bypass Highway**") from DLNR by Land Patent Grant No. S-15,792 ("**Phase A**"). DLNR is the landowner of approximately 584 acres of Leiali'i mauka (east) of the Bypass Highway ("**Phase B**"). See attached **Exhibit A-2**.

WHEREAS, Grantor paid Grantee \$8,360,406.60 for Phase A and tendered a check of \$5,573,604.40 to the Office of Hawaiian Affairs ("**OHA**"), who refused acceptance of the check. Grantee endorsed its check and paid it back to Grantor for Grantor's Keystone property, now known as Princess Kahanu Estates.

WHEREAS, on April 8, 2005, Grantor conveyed Villages 1A and 1B to Grantee by Quitclaim Deed¹ pursuant to a Transfer Agreement dated December 30, 2004, as amended. Village 1A include Tax Map Key Nos. (2) 4-5-036: 001 to 111 (portion of). Village 1B includes Tax Map Key No. (2) 4-5-021: 020. On April 8, 2005, Grantor conveyed an access easement over a portion of Leiali'i Parkway to Grantee by Grant of Non-Exclusive Easement.²

WHEREAS, on February 21, 2018, Grantor issued a 65-year Ground Lease to the County of Maui for Tax Map Key Nos. (2) 4-5-021: 018 and 019 for any purpose

¹ Recorded at the State of Hawaii Bureau of Conveyances as Document No. 2005-070368.

² Lot 116 of File Plan 2135; recorded at the Bureau of Conveyances as Document No. 2005-070369.

permitted by law, including public parking, base yard, and expansion of County facilities.³

WHEREAS, on May 11, 2020, Grantor executed a Quitclaim Deed to the State of Hawaii Department of Transportation for the dedication of Keawe Street Extension and a portion of Phase 1A of the Bypass Highway traversing Leialii.⁴

WHEREAS, on November 16, 2021, Grantor executed a 75-year Ground Lease to A0703 West Maui, L.P. for Tax Map Key No. (2) 4-5-021: 041 for the Kaiaulu O Kūku'ia family rental housing project.⁵

NOW, THEREFORE, the parties hereby agree as follows:

1. PURPOSE. Transfer of the remaining undeveloped property at Leialii owned in fee simple by Grantor as described herein and in **Exhibits A-1, A-2, A-3, A-4, B, C, and D** attached hereto and made a part hereof.
2. PROPERTY DESCRIPTION. Grantor is fee simple owner of the real property described in **Exhibit A-1** and shown in **Exhibits A-3 and A-4** attached (herein described as "**Property**").

The Property shall be transferred to Grantee "AS IS," without any express warranties or representations, other than as described in this Agreement. Grantor shall incur no liability or expenditures in connection with the transfer of the Property to Grantee, the Property's development, and the Property's operation.

Transfer of the Property shall include all obligations and commitments relating to the Property made by Grantor as of the date of this Agreement, unless otherwise provided in this Agreement. Grantor's good faith estimate of all encumbrances, obligations and commitments relating to the Property are listed on the attached **Exhibits B and C**.

3. PROPERTY CONVEYED. Grantor shall convey its interest in the Property to the Grantee and Grantee shall accept the Property as may be conveyed from time to time by Grantor pursuant to the terms of this Agreement by quitclaim deed, vesting title, free and clear of encumbrances except those set forth in the attached Exhibit B.
4. TRANSFER PRICE. The total transfer price for the Property is Gratis.

³ Recorded at the Bureau of Conveyances as Document No. A-66330557.

⁴ Recorded at the Bureau of Conveyances as Document No. A-74430518.

⁵ Recorded at the Bureau of Conveyances as Document No. A-80180216.

5. APPROVALS REQUIRED:

- a. This Agreement shall be approved and ratified by the Board of Directors of the Hawaii Housing Finance and Development Corporation; the Hawaiian Homes Commission and the Governor prior to the execution by each party's authorized designated representative. Grantee shall be responsible for obtaining the written approval of the Governor.
- b. Grantee shall obtain written consent from OHA for the transfer of the Property to Grantee. Any payments that may be assessed by OHA for the Property shall be paid by Grantee.

6. RECORDATION OF THE TRANSFER. The Grantor shall be responsible for the recordation of the transfer of the Property with the State of Hawaii Bureau of Conveyances.

7. ADDITIONAL TERMS. Specific Additional Terms for transfer of the Property to Grantee shall be specified in the attached **Exhibit C**.

8. INFORMATION PROVIDED HEREUNDER. Grantee acknowledges receipt of the documents referenced herein and listed in the attached **Exhibit D**. Grantor does not warrant the accuracy nor completeness of the information provided hereunder.

9. CLAUSE OR PROVISIONS CONTRARY TO HAWAIIAN HOMES COMMISSION ACT. In the event any clause or provision in this Agreement is found to be contrary to the Hawaiian Homes Commission Act, 1920, and or any clause or provision is such where it may put the Hawaiian Homes Commission in such a position where it would violate its Fiduciary responsibility to the Native Hawaiians, such clause or provision shall be removed from the Agreement without canceling or altering the intent of the Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned have executed these presents as of the day and year first written above.

Approved as to Form:

HAWAII HOUSING FINANCE AND
DEVELOPMENT CORPORATION

Deputy Attorney General
Representing Grantor

By _____
Its Executive Director

Approved as to Form:

DEPARTMENT OF HAWAIIAN HOME
LANDS

Deputy Attorney General
Representing Grantee

By _____
Its Chair
Hawaiian Homes Commission

APPROVED BY THE GOVERNOR

GOVERNOR DAVID Y. IGE

End of Transfer Agreement

2/11/22

EXHIBIT A-1
PROPERTY TRANSFERRED
VILLAGES OF LEIALI'I – TRANSFER TO DHHL

- | | | |
|------|---|-------------------------------------|
| I. | Tax Map Key No. (2) 4-5-021: 021
Lot 5-B, Subdivision Plan Approved 4/6/20 | 366.436 Acres |
| II. | Tax Map Key No. (2) 4-5-021: 003
Remainder of Lot 5, Subdivision Plan Approved 4/6/20 | 32.682 Acres |
| III. | Portion of Leiali'i Parkway
Lot 116, File Plan 2135 (134,045 square feet) | <u>3.077 Acres</u>
402.195 Acres |
| IV. | Tax Map Key No. (2) 4-5-021: 013 ¹ | <u>1.580 Acres</u>
403.775 Acres |
| V. | Non-potable irrigation well (Well No. 6-5440-01) as described in Exhibit C,
Paragraph 13. | |
| VI. | Wahikuli Well 1 (State Well No. 6-5439-01) and Wahikuli Well 2 (State Well No.
6-5439-02) as described in Exhibit C, Paragraph 14. | |

End of Exhibit A-1

¹ If Grantor receives fee simple title from DLNR as described in Exhibit C, Paragraph 8.e.

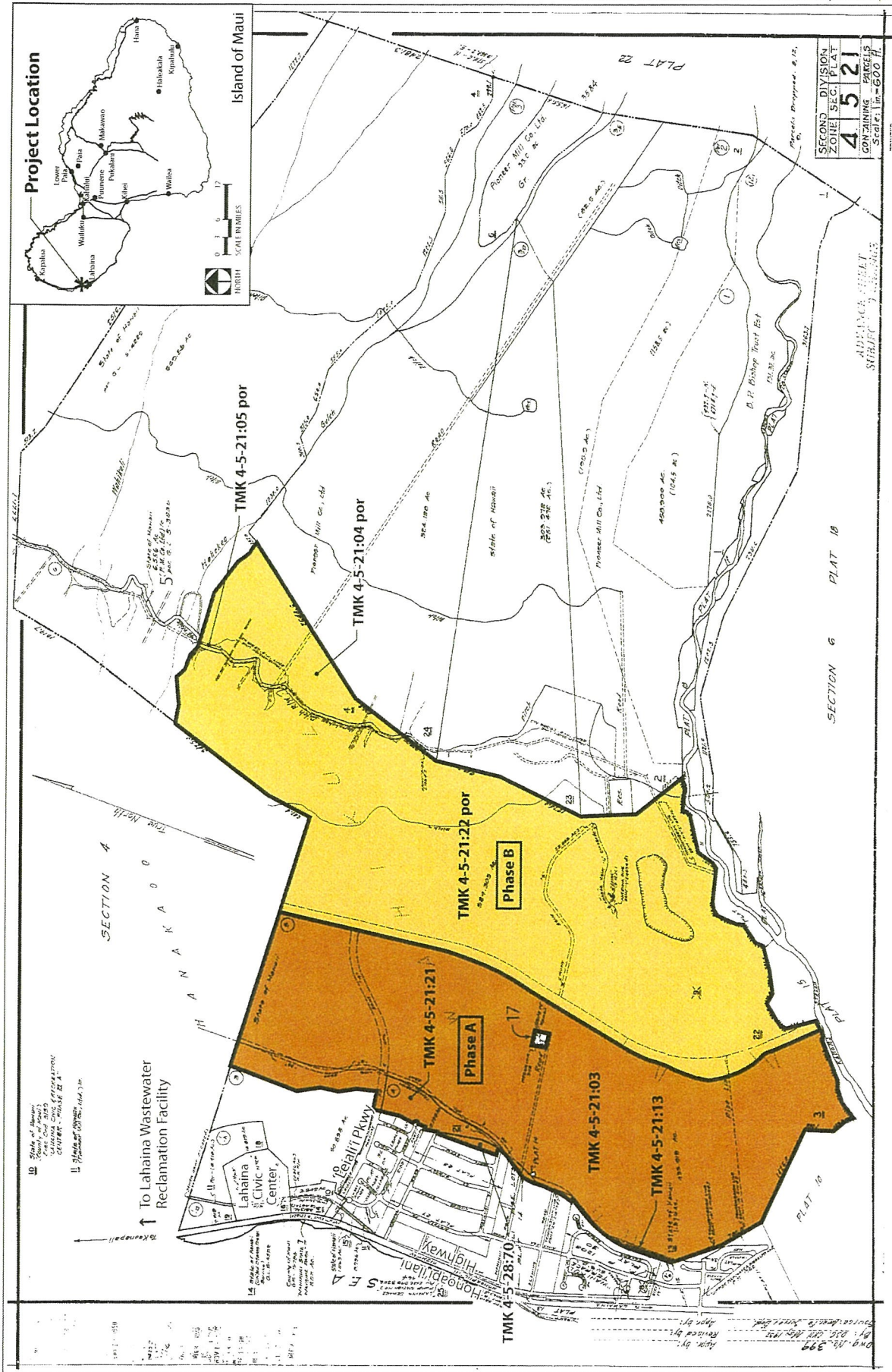


EXHIBIT A-2

Figure 2a
SITE MAP WITH TAX MAP KEYS

Villages of Leialii
September 2009

EXHIBIT "A"

2/11/22

EXHIBIT B
ENCUMBRANCES
VILLAGES OF LEIALI'I – TRANSFER TO DHHL

- I. Restrictions and encumbrances described in Land Patent Grant No. S-15,792.
- II. Encumbrances listed in title report dated March 8, 2021 for TMK (2) 4-5-021: 021 (Rev. 11/15/21).
- III. Encumbrances listed in title report dated October 13, 2016 for TMK (2) 4-5-036: 112 for Lot 116, File Plan 2135.
- IV. Encumbrances listed in title report dated _____ for TMK (2) 4-5-021: 003. (Proposal for title report requested.)
- V. Encumbrances listed in title report dated March 23, 2020 for TMK (2) 4-5-021: 013.
- VI. Grant of Non-Exclusive Easement, Leiali'i Parkway (Portion) to DHHL dated April 8, 2005 for Lot 116, File Plan 2135 (Leiali'i Parkway).

End of Exhibit B

EXHIBIT C
TERMS AND CONDITIONS
VILLAGES OF LEIALI'I – TRANSFER TO DHHL

1. Closing costs

Grantee shall pay for any closing costs required to effectuate this transfer that is not otherwise provided in this Agreement.

2. Water credits

Grantee acknowledges that there are no existing water credits for the Property.

3. Sewer capacity

Grantee acknowledges that there is no existing capacity reserved for the Property at the Lahaina Wastewater Reclamation Facility.

4. Compliance with conditions of Land Use Commission Decision and Order

The Property is subject to the Land Use Commission Decision and Order #A89-652 dated May 18, 1990 ("Decision and Order"). Grantor shall provide written notification to the Land Use Commission that the Property has been transferred to Grantee. Grantee shall comply with the conditions imposed by the Decision and Order, including Condition No. 21, requiring the annual filing with the Land Use Commission, the Office of Planning, and the County of Maui Planning Department on the status of the development of the Property and Grantee's progress in complying with the conditions imposed by the Decision and Order.

5. Environmental Impact Statement

The Villages of Leiali'i Affordable Housing Final Environmental Impact Statement (October 2012) was published in The Environmental Notice by the State Office of Environmental Quality Control on October 23, 2012 ("Leiali'i Final EIS"). The Governor of the State of Hawaii approved the Leiali'i Final EIS on December 7, 2012 and notice of the Governor's approval was published in The Environmental Notice on December 23, 2012.

6. Archaeological sites

Condition 1 to the Land Use Commission Decision and Order identifies mitigation requirements for previously identified historic sites at Villages of Leiali'i. Grantor has negotiated a process for satisfying mitigation requirements for historic properties at Leiali'i as described in Grantor's memorandum to the State Historic Preservation

Division (SHPD) dated February 19, 2021 ("HHFDC-SHPD Memo"). Grantee shall comply with the HHFDC-SHPD Memo, unless Grantee negotiates an alternative process with SHPD. The process is summarized as follows:

- a. Grantee will complete mitigation requirements for the previously-identified historic sites at Leiali'i. This will include re-describing the previously identified features, documenting the features to SHPD's current standards, and preparation of mitigation plan(s) with preservation and data recovery components. The scope of work for re-describing the previously-identified features will be coordinated with and approved by SHPD prior to the commencement of fieldwork. Please note that this requirement includes all previously-identified historic sites, including those that may be located on lands outside the Property being conveyed to Grantee (i.e., Phase B lands mauka of the By-Pass Highway).
- b. For specific on-site projects, Grantee will consult with SHPD on a project-by-project basis as soon as practicable when the on-site project is contemplated to determine whether an archaeological inventory survey or other archaeological work will be required for the on-site project area.
- c. Grantee acknowledges SHPD's suggestion to consult and coordinate on a regular basis on these and other projects on Maui as necessary.

Grantee acknowledges that Grantor has procured Aina Archaeology to prepare a preservation plan for previously-identified historic sites at Leiali'i. Work is on-going. Grantor will turn over a copy of this report to Grantee after completion by Aina Archaeology.

Grantee acknowledges receipt of the following archaeological reports done for the Kuku'ia Project (defined below):

- Review of Historic Preservation Documentation and Known Cultural Concerns for Phase A of the Villages of Leiali'i Affordable Housing Project, Aina Archaeology (4/8/19);
- Archaeological Inventory Survey for Kaiaulu O Kuku'ia Apartment Project at the Villages of Leiali'i, Scientific Consultant Services, Inc. (July 2021); and
- Archaeological Monitoring Plan for Kaiaulu O Kuku'ia Apartment Project at the Villages of Leiali'i, Scientific Consultant Services, Inc. (August 2021).

In the event any unanticipated sites or remains such as shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings or walls are encountered, Grantee and/or its contractors shall stop work and contact SHPD and comply with preservation requirements.

7. Memorandum of Understanding with Grantee for the Financing of Honokowai Well Improvements

Grantee shall assume Grantor's obligations under the Memorandum of Understanding ("MOU") with Grantee dated March 31, 2017 to finance the first \$10 million of the Honokowai Well improvements for Grantor and Grantee projects at the Villages of Leiali'i.

8. Kaiaulu o Kūku'ia Apartments

Grantor is in the process of developing the 200-unit Kaiaulu o Kūku'ia Apartments affordable family rental project at Leiali'i, north of the Keawe Street Extension at Tax Map Key No. (2) 4-5-021: 041 ("Kuku'ia Project"). A 75-year Ground Lease has been executed with the developer, A0703 West Maui, L.P. ("Kuku'ia Developer"), dated November 16, 2021, and recorded at the State of Hawaii Bureau of Conveyances as Document No. A-80180216 ("Ground Lease"). Commencement of construction is targeted for April 2022. Development of the Kuku'ia Project required commitments and obligations on the landowner of other lands at Leiali'i, including but not limited to the following ("Kuku'ia Obligations"):

- a. The Kuku'ia Project is connected to the County of Maui sewer system pursuant to a Memorandum of Understanding, Sewer Connection for Keawe Street Apartments with the County of Maui dated April 15, 2020 ("Sewer Agreement"). The Sewer Agreement requires that at the time that the next project is developed at Leiali'i, a private sewage treatment facility will be developed at Leiali'i, and the next project and all future projects at Leiali'i will be connected to such private treatment facility. The Kuku'ia Project shall also be disconnected from the County system and connected to the private sewage treatment facility at Leiali'i. Grantee shall assume Grantor's obligations under this Sewer Agreement, which includes the disconnection of the Kuku'ia Project from the County system and re-connection to the private sewage treatment facility at Leiali'i.
- b. As part of the Kuku'ia Project, the Kuku'ia Developer will be subdividing and dedicating Kuku'ia Street and constructing it to County standards. Kuku'ia Street is subject to a Grant of Non-Exclusive Access and Utility Easement dated January 29, 2021 and recorded at the State of Hawaii Bureau of Conveyances as Document No. A-80180214 ("Kuku'ia Access Easement"). In the event Kuku'ia Street is dedicated to the County, the Kuku'ia Access Easement is automatically terminated. Grantee agrees to allow Grantor and the Kuku'ia Developer to continue their efforts to develop and subdivide the Property for Kuku'ia Street and dedication to the County. Kuku'ia Street will not be transferred to Grantee as part of the Property. In the event that Kuku'ia Street is not dedicated, and Grantee proposes additional development at Leiali'i that requires access over Kuku'ia Street, Grantor reserves the right to provide access by granting Grantee a non-exclusive easement or by conveying Kuku'ia Street in fee simple, subject

to the Kuku'ia Access Easement, to Grantee, at Grantor's discretion.

- c. Resolution 20-11 adopted by the Maui County Council on February 7, 2020, approved certain exemptions for the Kuku'ia Project pursuant to Section 201H-38, Hawaii Revised Statutes ("HRS"). Item #4 of Exhibit "B" of Resolution 20-11 requires that the Kuku'ia Developer, in coordination with the County, must make best efforts to provide a second access road to the project site. The Grantor and the Kuku'ia Developer are pursuing efforts to construct to County standards, subdivide and dedicate to the County an extension of Kuku'ia Street to a connection, first, to Fleming Road, and in the alternative, to Wahikuli Road, as a secondary access for the Kuku'ia Project. Grantee agrees to allow Grantor and the Kuku'ia Developer to continue their efforts to develop, subdivide and dedicate to the County the Property for a secondary access from Kuku'ia Street to either Fleming Road or Wahikuli Road. In the event this secondary access is not dedicated to the County for any reason, Grantor does not plan to have it operated as a private road under an access easement. In the event that this secondary road is subdivided but not dedicated, the road will be transferred to Grantee.
- d. The makai (western) edge of the Kuku'ia Project is subject to a 35' setback easement described in Grant of Non-Exclusive Access Easement, Kapunakea Street Extension, dated January 29, 2021, and recorded at the Bureau of Conveyances as Document No. A-80180213 ("Setback Easement") required by the County Department of Planning during the 201H exemption and subdivision approval processes for the Kuku'ia Project. The Setback Easement allows for a potential future 60' Right-of-Way ("ROW") roadway, together with remnant parcel Tax Map Key No. (2) 4-5-021: 013 ("DLNR Remnant Parcel"), along the makai (western) edge of the Kuku'ia Project, from any extension of Kapunakea Street to the Kuku'ia Project at the south end, to the Leiali'i Property to the north. Grantee acknowledges that pursuant to the Setback Easement, should Grantee need or desire to develop a 60' ROW roadway along the makai edge of the Kuku'ia Project within the easement area, Grantee shall be responsible for holding the Kuku'ia Project harmless against any damages to the Kuku'ia Project and for the maintenance of the easement area.
- e. On July 9, 2020, Grantor's Board of Directors approved a request to DLNR for the DLNR Remnant Parcel for a future 60' ROW roadway along the makai (western) edge of the Kuku'ia Project pursuant to County requirements. On July 15, 2020, Grantor requested DLNR for the DLNR Remnant Parcel. On September 11, 2020, the Board of Land and Natural Resources approved Grantor's request for the DLNR Remnant Parcel. On January 22, 2021, Grantor forwarded to DLNR the legal description and survey map as requested. If the fee simple title to the DLNR Remnant Parcel is transferred to Grantor, Grantor will convey the property to Grantee.

- f. The Property is subject to a Grant of Non-Exclusive Easement, Mauka Detention Basin, dated January 29, 2021, and recorded at the Bureau of Conveyances as Document No. A-80180215 for a mauka detention basin for the Kuku'ia Project ("Detention Basin Easement"). Grantee acknowledges that pursuant to the Detention Basin Easement, there shall be no drainage discharge into the easement area or the Kuku'ia Project drainage system such that the Kuku'ia Project's peak flow rate for a 100-year, 24-hour storm event does not exceed approximately 230 cfs at the triple 5-foot by 2.67-foot box culvert at Keawe Street for discharge into Kahoma Stream per the master plan as described in the Leialii Final EIS. Grantee shall share in the prorated cost of the operation and maintenance of the drainage system of the Kuku'ia Project that is impacted by any drainage discharge of the next project on the Property that directly discharges into the easement or the Kuku'ia Project drainage system, based upon the number of units in Grantee's next project and the Kuku'ia Project.
- g. The makai (western) edge of the Kuku'ia Project is subject to a Grant of Non-Exclusive Easement, Onsite Drainage and Utility Easement dated January 29, 2021, and recorded at the Bureau of Conveyances as Document No. A-80180212 for drainage and utilities from development at the Property ("Onsite Drainage and Utility Easement"). Grantee acknowledges that pursuant to the Onsite Drainage and Utility Easement, there shall be no drainage discharge into the easement area or the Kuku'ia Project drainage system such that the Kuku'ia Project's peak flow rate for a 100-year, 24-hour storm event does not exceed approximately 230 cfs at the triple 5-foot by 2.67-foot box culvert at Keawe Street for discharge into Kahoma Stream per the master plan as described in the Leialii Final EIS. In the event that the next project on the Property discharges drainage into the Kuku'ia Project drainage system, Grantee shall share in the prorated cost of the operation and maintenance of the drainage system of the Kuku'ia Project, based upon the number of units in Grantee's next project and the Kuku'ia Project.
- h. During the entitlement process for the Kuku'ia Project, Grantor submitted to the County Department of Planning, a letter dated March 2, 2020 on the District Boundary Amendment Compliance Report for Villages of Leialii (Docket No. A89-652) for Subdivision File No. 4.1018. The letter included the following comments to conditions in the Decision and Order that may impact future development at the Property and at Leialii:
- (1) Condition No. 3. If the golf course is not developed, Grantee will take appropriate action with the Land Use Commission to address compliance with conditions relating to the golf course.
 - (2) Condition No. 8. Should Grantee decide to proceed with further development of Leialii, Grantee will coordinate with the Department of Education ("DOE") on an Educational Contribution Agreement as required

by Condition No. 8. Grantee acknowledges DOE's comment letter dated November 6, 2019 requesting an Educational Contribution Agreement to implement Condition No. 8 and Grantor's response letter to DOE dated November 13, 2019.

- (3) Condition No. 20. Provides that the Setback Easement will be designated along the west edge of the Kuku'ia Project to allow future extension of Kapunakea Street northward, should such extension be necessary for future development at Leiali'i.

Grantee shall comply with Grantor's representations in its letter to the County Department of Planning for the subdivision of the project site for the Kuku'ia Project.

i. Alternate Plan for Leiali'i

The Leiali'i Final EIS provides for a roadway connection at Wahikuli Road makai (west) of the Property. The Grantor and the Kuku'ia Developer are pursuing efforts to construct to County standards, subdivide and dedicate to the County an extension of Kuku'ia Street to a connection, first, to Fleming Road, and in the alternative, to Wahikuli Road, as a secondary access for the Kuku'ia Project. In an EIS Determination of the connection at Fleming Road in lieu of Wahikuli Road as discussed in the Leiali'i Final EIS, the County Department of Planning submitted a comment letter dated September 29, 2020, which included the comment that development patterns being pursued at Leiali'i are deviating from the site plans illustrated in the Leiali'i Final EIS, notably Figures 2-12 a, b, and c, and in that context, a proposed alternate plan should be put forward in a comprehensive manner by Grantee before future extensive development at Leiali'i. Grantee acknowledges the County's suggestions for an alternate plan and will comply with its requirements before future development at Leiali'i.

j. Right-of-Entry to the Kuku'ia Developer for Maintenance of the Kuku'ia Project

Section 2.h. of Exhibit "B" to the Ground Lease provides for the lessee of the Ground Lease to be responsible for the monthly trimming of weeds and vegetation on the undeveloped portions of the adjacent Property for a distance of 50 feet from the boundary of the Kuku'ia Project for fire and rodent control for protection of the Kuku'ia Project, until such time that the adjacent lands are developed. Grantee acknowledges that Grantor has granted a right-of-entry over Grantor's adjacent land for the purpose provided in this subsection until revoked in writing by Grantor or such land is developed by Grantor. Grantee acknowledges and agrees with the right-of-entry to the lessee of the Ground Lease for the purpose provided in the Ground Lease.

10. Waterline Easement to the Department of Water Supply

On January 8, 2009, Grantor's Board of Directors approved a 15-foot wide easement to the Department of Water Supply ("DWS") for a new 8" waterline along Easement A and B of Executive Order No 2189 at Tax Map Key No. (2) 4-5-021: 021, near Tax Map Key No. (2) 4-5-014: 058. Easement A and B and Executive Order No. 2189 would be cancelled and Tax Map Key No. (2) 4-5-014: 058 returned to the State of Hawaii Department of Land and Natural Resources ("DLNR"). The new waterline was completed on or about June 30, 2009 and a final Nonexclusive Waterline Easement executed by Grantor was submitted to DWS on January 26, 2012 but DWS has not processed the easement. Conveyance of the Property shall be subject to Grantee's conveyance of this easement to DWS if requested by DWS.

11. Subdivision and Conveyance of Parcels 8 and 9 to the County and the State of Hawaii Department of Transportation

On October 11, 2012, Grantor's Board of Directors approved the fee simple conveyance of Parcels 8 (0.147 acres) and 9 (1.859 acres) at Tax Map Key No. (2) 4-5-021: 003 to the County and the State of Hawaii Department of Transportation ("DOT"), for Kahoma Stream Flood Control Project and Phase 1A of the Bypass Highway, respectively. Parcels 8 and 9 are designated on File Plan 2132 as Proposed Kahoma Stream Right of Way. On April 1, 2013, DOT indicated that they would subdivide out the portion of Parcel 9 within the ROW of Phase 1A of the Bypass Highway but not the rest of Parcels 8 and 9 after DOT completes the subdivision of its parcel under the Bypass Highway. On April 17, 2013, the County indicated that they would administratively re-subdivide Parcels 8 and 9 after DOT completes the subdivision of its parcel under the Bypass Highway. Conveyance of the Property shall be subject to Grantee's conveyance of Parcels 8 and 9 to the County and DOT, respectively, subject to legislative approval pursuant to Section 171-64.7, HRS.

12. Set Aside to the DLNR Division of Fish and Wildlife and Management Right of Entry to HHFDC

On August 14, 2009, the Board of Land and Natural Resources approved the set aside of Tax Map Key No. (2) 4-5-021: 004 to the Division of Fish and Wildlife ("DOFAW") for their off-highway vehicle park (subject to withdrawal of lands south of Hahakea Gulch for development of Leiali'i). The same action approved a management right of entry to Grantor over the portion of Leiali'i mauka of the Bypass Highway (including all of Tax Map Key No. (2) 4-5-021: 022). Grantor executed DLNR's management right of entry for the mauka lands dated September 3, 2009 ("Management Right of Entry"). After conveyance of the Property to Grantee, Grantor will seek to terminate the Management Right of Entry.

13. Irrigation Well

Grantee has been operating an irrigation water well (Well No. 6-5440-01) located

mauka (east) of Village 1A at Tax Map Key No. (2) 4-5-021: 021 under a right of entry agreement ("ROE") from Grantor. Grantee acknowledges that this irrigation water well is subject to the requirements of the Pump Installation Permit issued by the State of Hawaii Commission on Water Resource Management ("CWRM") dated September 29, 1993 and under its ROE from Grantor, Grantee has agreed to be responsible for compliance with the requirements of CWRM, including the regular reporting of water usage from this well. Transfer of the Property to Grantee includes the transfer of Grantor's interest in this well to Grantee and Grantee shall be responsible for compliance with CWRM requirements including the regular reporting of water usage from this well.

14. Wahikuli Wells 1 and 2

In the early 1990's Grantor drilled exploration wells Wahikuli Well 1 (State Well No. 6-5439-01) on land formerly owned by an affiliate of Pioneer Mill Company, LLC, Tax Map Key No. (2) 4-5-021: 002, and Wahikuli Well No. 2 (State Well No. 6-5439-02) on DLNR land, Tax Map Key No. (2) 4-5-021: 023. Transfer of the Property to Grantee includes transfer of Grantor's interest in these wells to Grantee and Grantee shall be responsible for compliance with CWRM requirements including the regular reporting of water usage from these wells. Grantee acknowledges that Grantor has no legal access to Wahikuli Well 1 on private land and that Grantor has not been submitting monthly water usage reports to CWRM for this well.

15. Subject to Transfer Agreement for Villages 1A and 1B

This Agreement shall be subject to the Transfer Agreement between Grantor and Grantee dated December 30, 2004, as amended, for the transfer of Villages 1A and 1B at Leiali'i.

16. On-site and off-site infrastructure

Grantee agrees to assume all costs and expenses related to on-site and off-site infrastructure required for development of the Property, including planning, design, permit fees and utility charges.

17. Maintenance

Grantee shall be responsible for the repair and maintenance of the Property.

18. No Grantor financing

Grantee understands and agrees that it shall be responsible for securing financing for development and construction of all improvements on or off the Property. Grantor makes no commitment to lend or to grant money for this work.

19. Assumption of responsibility

Grantee shall assume all responsibility for its actions and omissions in the acquisition, planning, design, construction, and occupancy of the Property.

20. Observance of laws, ordinances, and regulations

Grantee, its officers, agents, assigns, employees, consultants and/or contractors, or persons acting for or on its behalf, shall comply with all applicable laws, statutes, ordinances, rules and regulations of the Federal, State and County of Maui governments.

21. Information provided by Grantor

Information provided herein and under this Agreement are obtained from available Grantor resources on a best-efforts basis. Grantor shall not be responsible for the accuracy of the information provided herein, or the absence of any other relevant information not provided hereunder.

GENERAL PROVISIONS

22. Amendments, waiver

This Agreement can only be changed by an instrument in writing signed by Grantor and Grantee. The terms of this Agreement may not be waived, modified, or in any way changed by implication, through conduct, correspondence, or otherwise, unless such waiver, modification, or change shall be specifically agreed to in writing by Grantor and Grantee. Any waiver in whole or in part to any of the terms and conditions hereunder, shall be specific and not general. Each waiver shall only apply to specific conditions and circumstances.

23. Binding effect of Agreement

This Agreement shall be binding upon and inure to the benefit of Grantor, its successors and assigns, and upon and to Grantee, its successors and assigns.

24. Gender and number

The use of any pronoun in reference to Grantor and Grantee shall be construed to mean the singular or plural, the masculine, feminine or neuter, as the instrument and context may require.

25. No party deemed drafter

The parties agree that neither Grantor nor Grantee shall be deemed to be the drafter of this Agreement and in the event this Agreement is ever construed by a court of law, such court shall not construe this Agreement or any provision hereof against any party as the drafter of this Agreement.

26. Counterparts

This Agreement may be executed in any number of counterparts. Each such counterpart hereof shall be deemed to be an original instrument but all such counterparts together shall constitute but one Agreement.

27. Invalidity of provision

If any provision of this Agreement as applied to any party or to any circumstances shall be adjudged by a court of competent jurisdiction to be void or unenforceable for any reason, the same shall in no way effect any other provision under circumstances different from those adjudicated by the court, or the validity or enforceability of this Agreement as a whole.

End of Exhibit C

file: x:\c:\leialii\2022\exh c – dhhl trans agmt vol

2/11/22

EXHIBIT D
DOCUMENTS REFERENCED AND PROVIDED HEREUNDER
VILLAGES OF LEIALI'I – TRANSFER TO DHHL

- I. Land Patent Grant No. S-15,792.
- II. Title report dated March 8, 2021 for TMK (2) 4-5-021: 021 (Rev. 11/15/21).
- III. Title report dated October 13, 2016 for TMK (2) 4-5-036: 112 for Lot 116, File Plan 2135.
- IV. Title report dated _____ for TMK (2) 4-5-021: 003. (Proposal for title report requested.)
- V. Title report dated March 23, 2020 for TMK (2) 4-5-021: 013.
- VI. Grant of Non-Exclusive Easement, Leiali'i Parkway (Portion) to DHHL dated April 8, 2005 for Lot 116, File Plan 2135 (Leiali'i Parkway).
- VII. Land Use Commission Decision and Order #A89-652 dated May 18, 1990.
- VIII. Leiali'i Final EIS (October 2012).
- IX. The Environmental Notice of the State Office of Environmental Quality Control ("OEQC") dated October 23, 2012.
- X. Governor's approval of the Leiali'i Final EIS dated December 7, 2012.
- XI. The Environmental Notice of OEQC dated December 23, 2012.
- XII. Grantor memorandum to SHPD dated February 19, 2021. Review of Historic Preservation Documentation and Known Cultural Concerns for Phase A of the Villages of Leiali'i Affordable Housing Project, Aina Archaeology (4/8/19). Archaeological Inventory Survey for Kaiaulu O Kuku'ia Apartment Project at the Villages of Leiali'i, Scientific Consultant Services, Inc. (Final July 2021). Archaeological Monitoring Plan for Kaiaulu O Kuku'ia Apartment Project at the Villages of Leiali'i, Scientific Consultant Services, Inc. (Final August 2021).
- XIII. Memorandum of Understanding between Grantor and Grantee dated March 31, 2017 for the financing of Honokowai Well for projects at Leiali'i.
- XIV. Ground Lease for the Kuku'ia Project dated November 16, 2021.
- XV. Sewer Agreement for the Kuku'ia Project dated April 15, 2020.

- XVI. Grant of Non-Exclusive Access and Utility Easement for Kuku'ia Street, Kaiaulu o Kuku'ia dated January 29, 2021.
- XVII. Resolution 20-11 for the Kuku'ia Project adopted on February 7, 2020.
- XVIII. Grant of Non-Exclusive Access Easement, Kapunakea Street Extension dated January 29, 2021 for the 35' setback easement along the makai edge of the Kukuia Project.
- XIX. Grantor's Board approval of a request to DLNR for the DLNR Remnant Parcel, Tax Map Key No. (2) 4-5-021: 013, dated July 9, 2020.
- XX. Board of Land and Natural Resources ("BLNR") approval dated September 11, 2020 of the fee simple conveyance of the DLNR Remnant Parcel to Grantor.
- XXI. Legal description and survey map of the DLNR Remnant Parcel.
- XXII. Grant of Non-Exclusive Easement, Mauka Detention Basin, dated January 29, 2021, for the Kuku'ia Project.
- XXIII. Grant of Non-Exclusive Easement, Onsite Drainage and Utility Easement dated January 29, 2021 for drainage and utilities from the next project at the Property.
- XXIV. Grantor's letter to the County Department of Planning dated March 2, 2020 on the District Boundary Amendment Compliance Report for Villages of Leiali'i (Docket No. A89-652) for Subdivision File No. 4.1018.
- XXV. DOE's letter to Grantor dated November 6, 2019 and Grantor's letter to DOE dated November 13, 2019 regarding Condition No. 8 of the LUC Decision and Order for an Education Contribution Agreement for Leiali'i.
- XXVI. County Department of Planning's letter dated September 29, 2020 providing comments to an EIS Determination for a proposed secondary roadway connection to Fleming Road for the Kuku'ia Project.
- XXVII. Grantor's Board approval dated January 8, 2009 for an easement to the Department of Water Supply for an 8" waterline along Easement A and B of Executive Order No. 2189.
- XXVIII. Grantor's Board approval dated October 11, 2012 approving the conveyance of Parcels 8 and 9 of File Plan 2132 to the County and DOT for the Kahoma Stream Flood Control Project and Phase 1A of the Bypass Highway.
- XXIX. File Plan 2132.

XXX. File Plan 2135.

XXXI. Subdivision Plan for File No. 4.1018 approved on April 6, 2020.

XXXII. BLNR approval dated August 14, 2009 for a management-right-of-entry to Grantor over Leiali'i mauka of the Bypass Highway.

XXXIII. DLNR's management-right-of-entry to Grantor dated September 3, 2009 for Leiali'i mauka of the Bypass Highway.

XXXIV. Pump Installation Permit issued by the State of Hawaii Commission on Water Resource Management dated September 29, 1993 for the non-potable well (Well No. 6-5440-01).

XXXV. Transfer Agreement between Grantor and Grantee dated December 30, 2004 for the transfer of Villages 1A and 1B at Leiali'i.

XXXVI. Amendment No. 1 to Transfer Agreement between Grantor and Grantee dated May 2, 2006 for the transfer of Villages 1A and 1B at Leiali'i.

End of Exhibit D



HAWAIIAN HOME LANDS

HAWAIIAN HOMES COMMISSION • DEPARTMENT OF HAWAIIAN HOME LANDS

Maui Projects Update

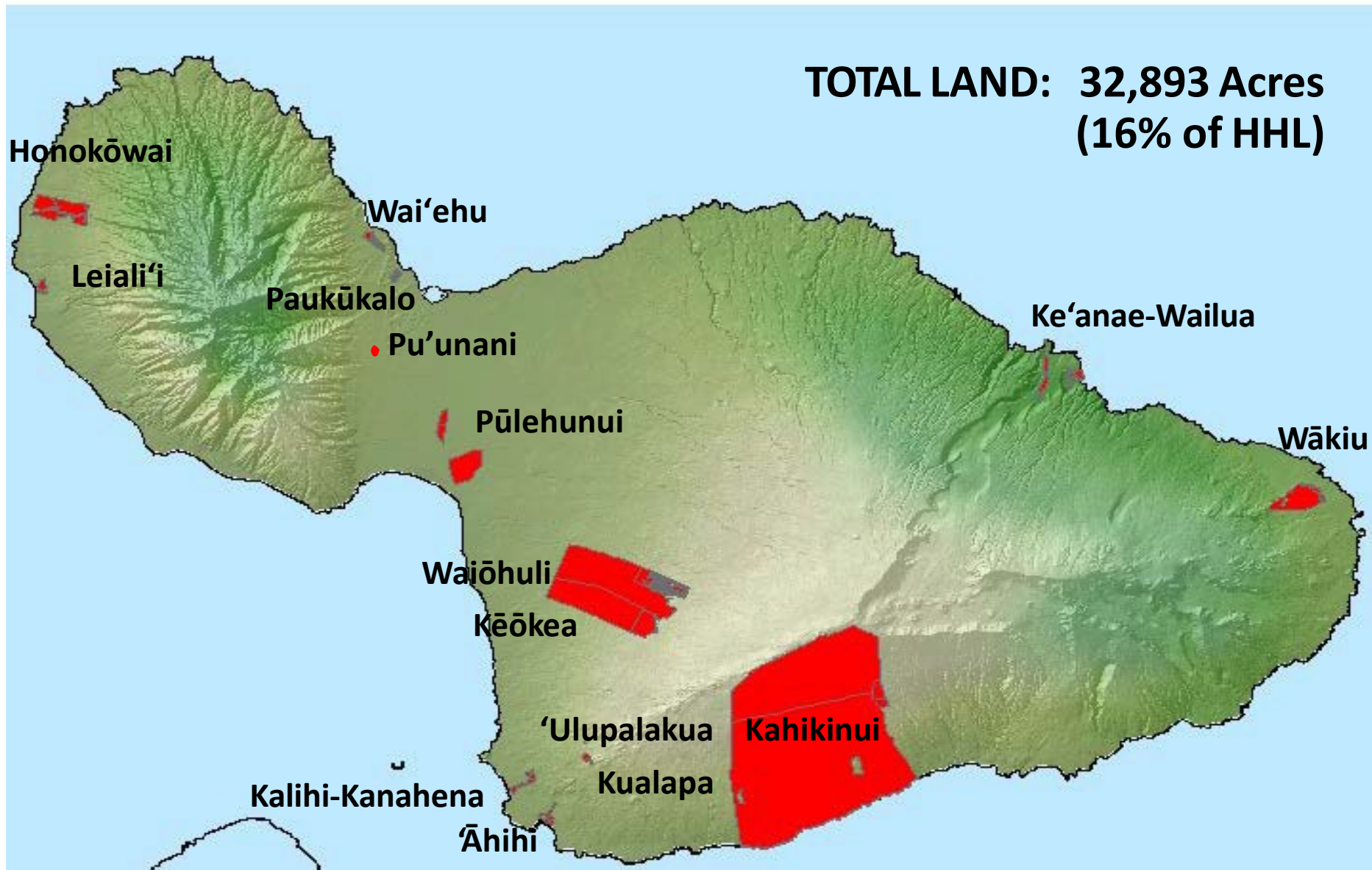
LAND DEVELOPMENT DIVISION

Item E-3 (FOR INFORMATION ONLY)

October 16-17, 2023



Island of Maui



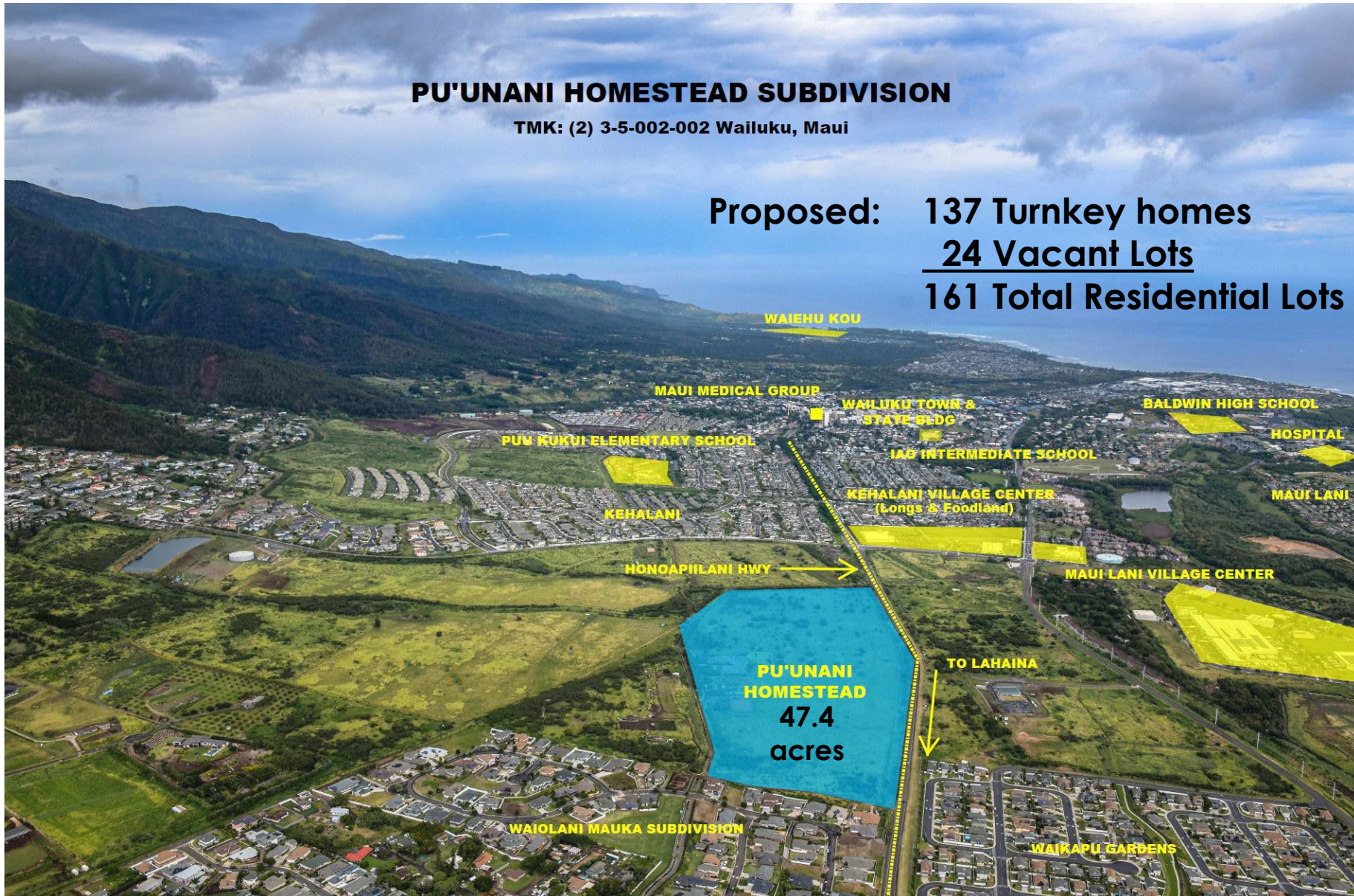


Pu'unani Homestead Subdivision

PU'UNANI HOMESTEAD SUBDIVISION

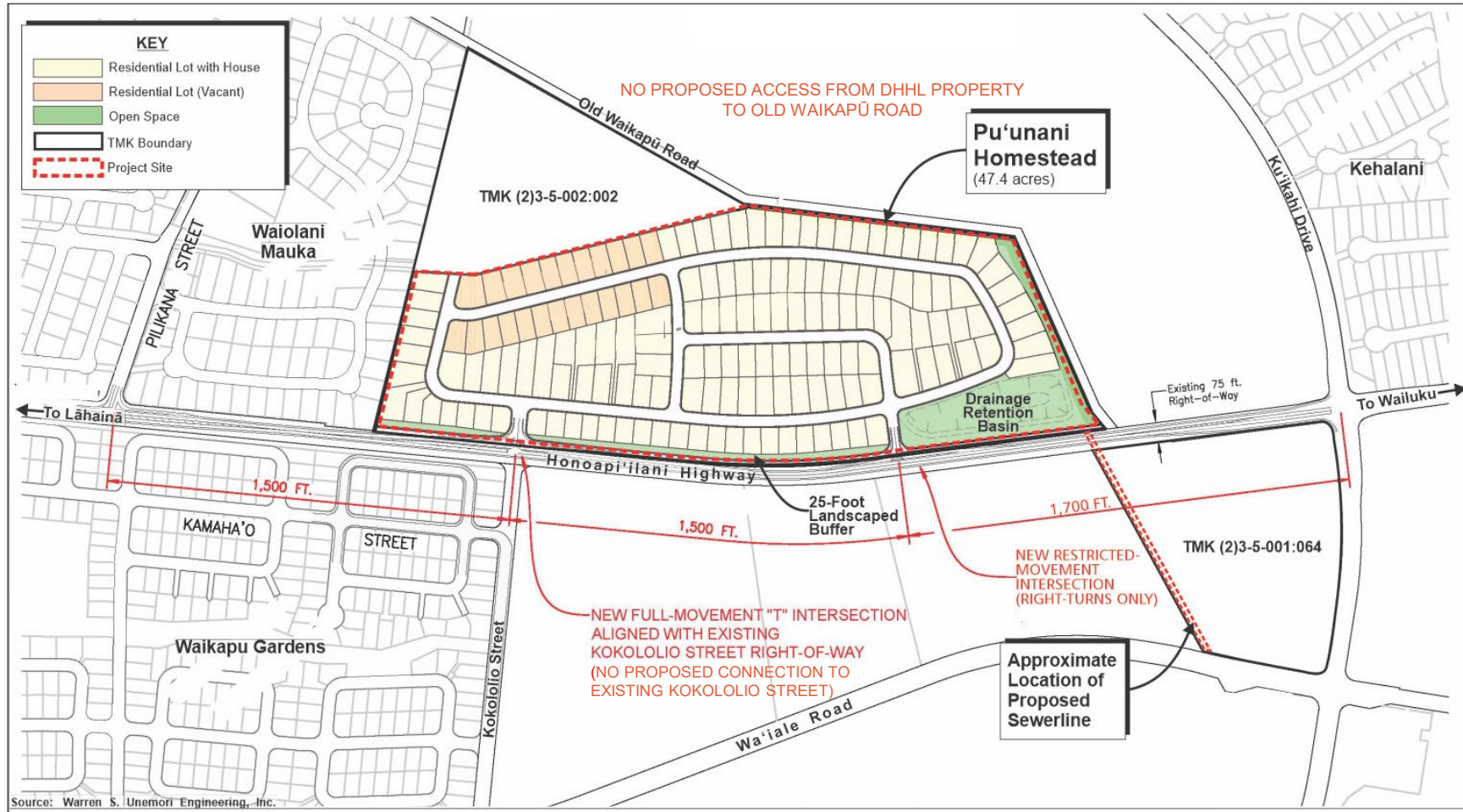
TMK: (2) 3-5-002-002 Wailuku, Maui

Proposed: 137 Turnkey homes
24 Vacant Lots
161 Total Residential Lots





Pu'unani Homestead Site Plan



- Environmental Assessment Complete – Fall 2020
- Water allocation approved in early 2022
- Sitework Construction cost of \$17.2M from ACT 279, SLH 2022
- **Sitework Construction Broke Ground – May 24, 2023**
- Begin Home Construction – Summer 2024
- Housing Completion – Spring 2026



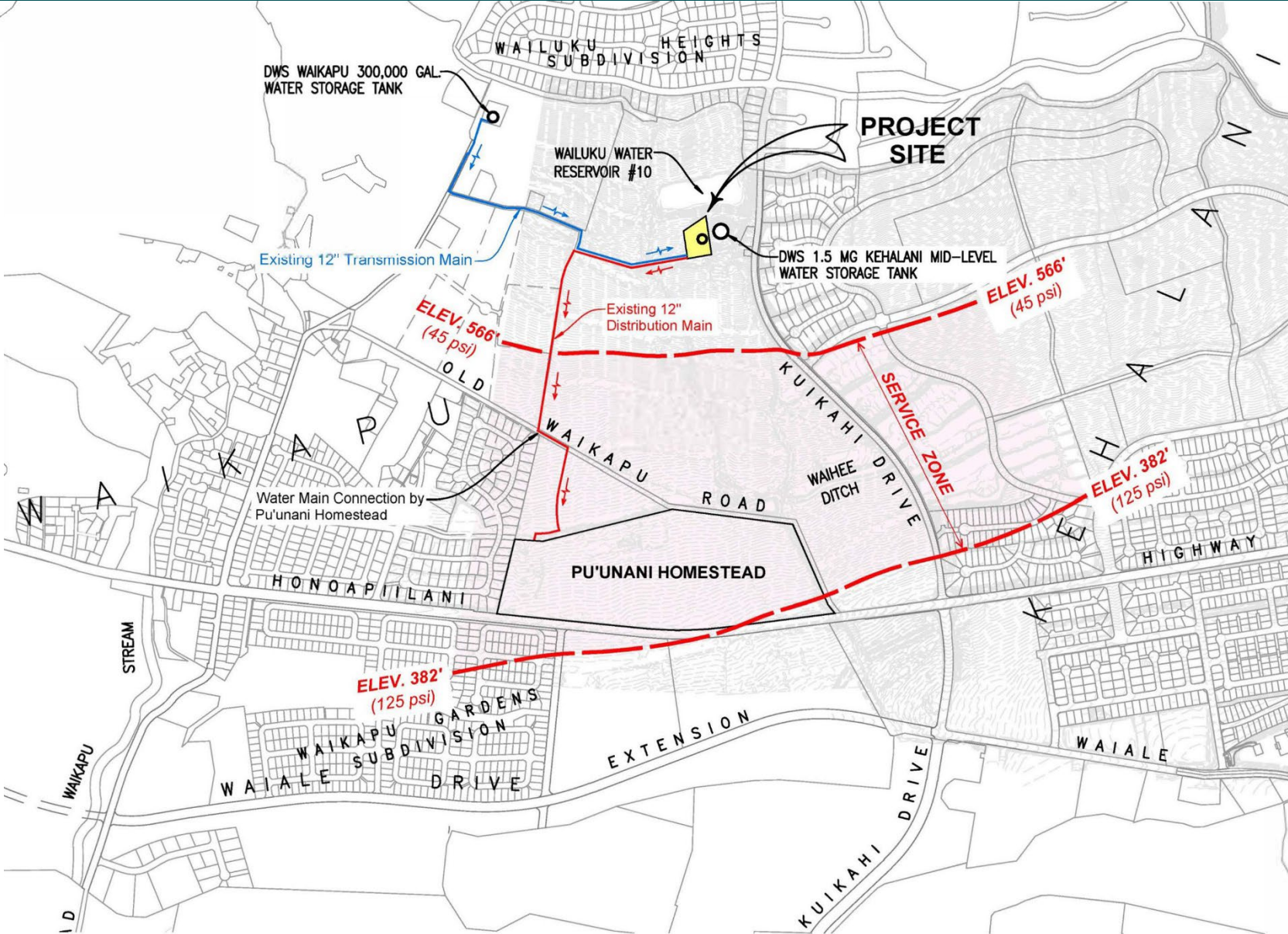
Pu'unani Homestead Offsite Water Tank

Final EA
challenge
period ended
November 7,
2022

No challenges
filed

Construction
plans approved
by the County
Department of
Water Supply

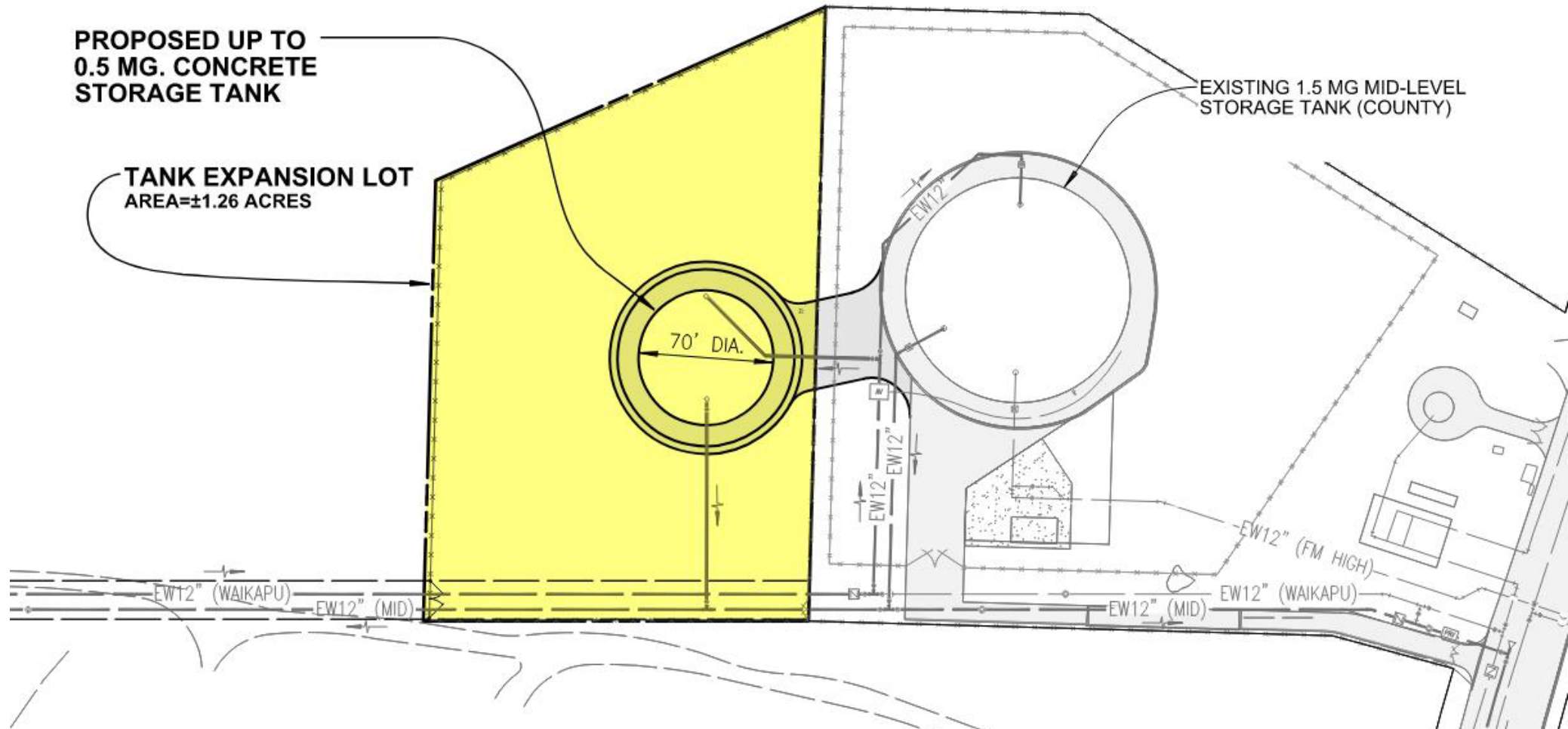
Grading permit
approved by
the County





PRELIMINARY SITE PLAN – WATER TANK

Construction subject to approval of the County building permit. Approximately \$6,300,000 funding from ACT 279, SLH 2022.





PŪLEHUNUI REGIONAL INFRASTRUCTURE MASTER PLAN



Figure 1-2:
Aerial Photograph
PŪLEHUNUI REGIONAL
INFRASTRUCTURE MASTER PLAN



DESIGN AND CONSTRUCTION OF REGIONAL WASTEWATER COLLECTION SYSTEM

LEGISLATIVE CIP:

\$ 4,000,000	PLANNING AND DESIGN
\$17,500,000	CONSTRUCTION
\$ 3,000,000	ADDTL CONSTRUCTION

CONSTRUCTION OF COLLECTOR SYSTEM:

\$12,711,045	ALPHA CONSTRUCTION
--------------	--------------------

Notice to Proceed subject to approval by County WWRD

DHHL responsibilities end at the Maui Humane Society

NEW COUNTY OF MAUI CENTRAL MAUI WASTEWATER TREATMENT FACILITY (CMWTF)

CMWTF will accept wastewater flows from State properties

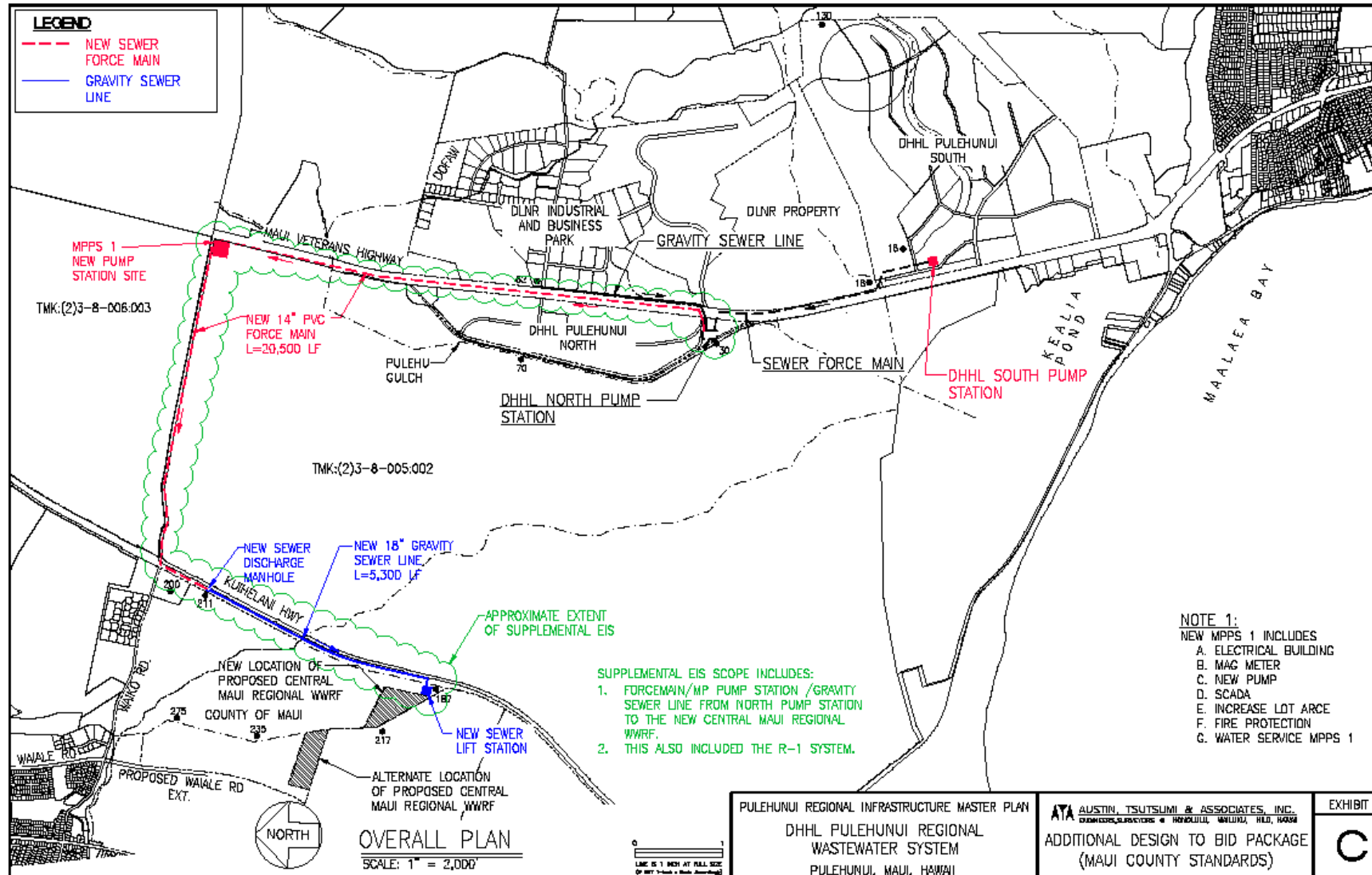
Private wastewater package plant no longer required

County to provide wastewater transmission to CMWTF

County proposes to return R-1 water to State properties

Hawaii Community Development Authority marshalling regional infrastructure development

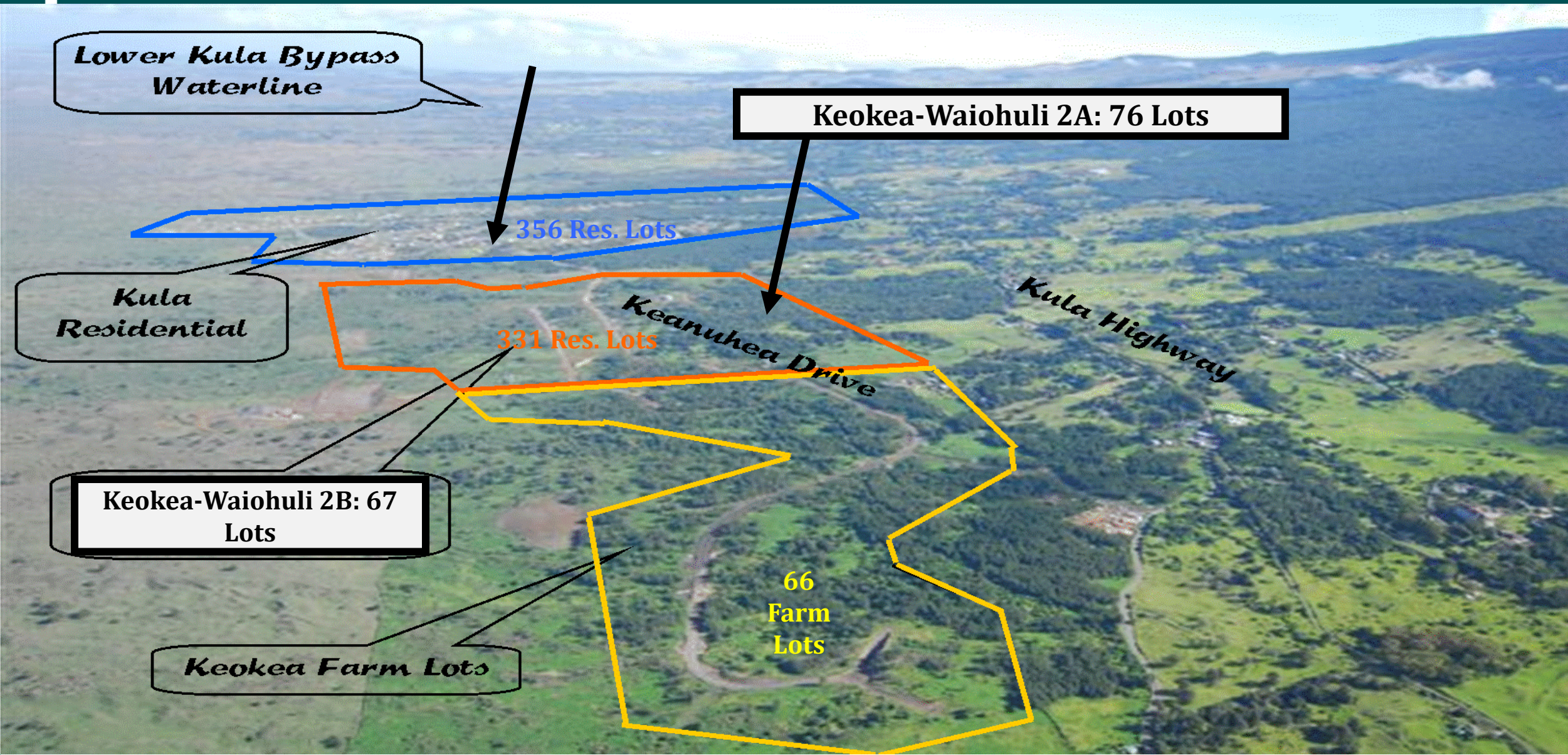
ADDITIONAL WASTEWATER SYSTEM TO CMWTF



- Supplemental EIS needed for force main and recycle water (R-1) lines from DHHL North pump station to new County of Maui Wastewater Treatment Facility

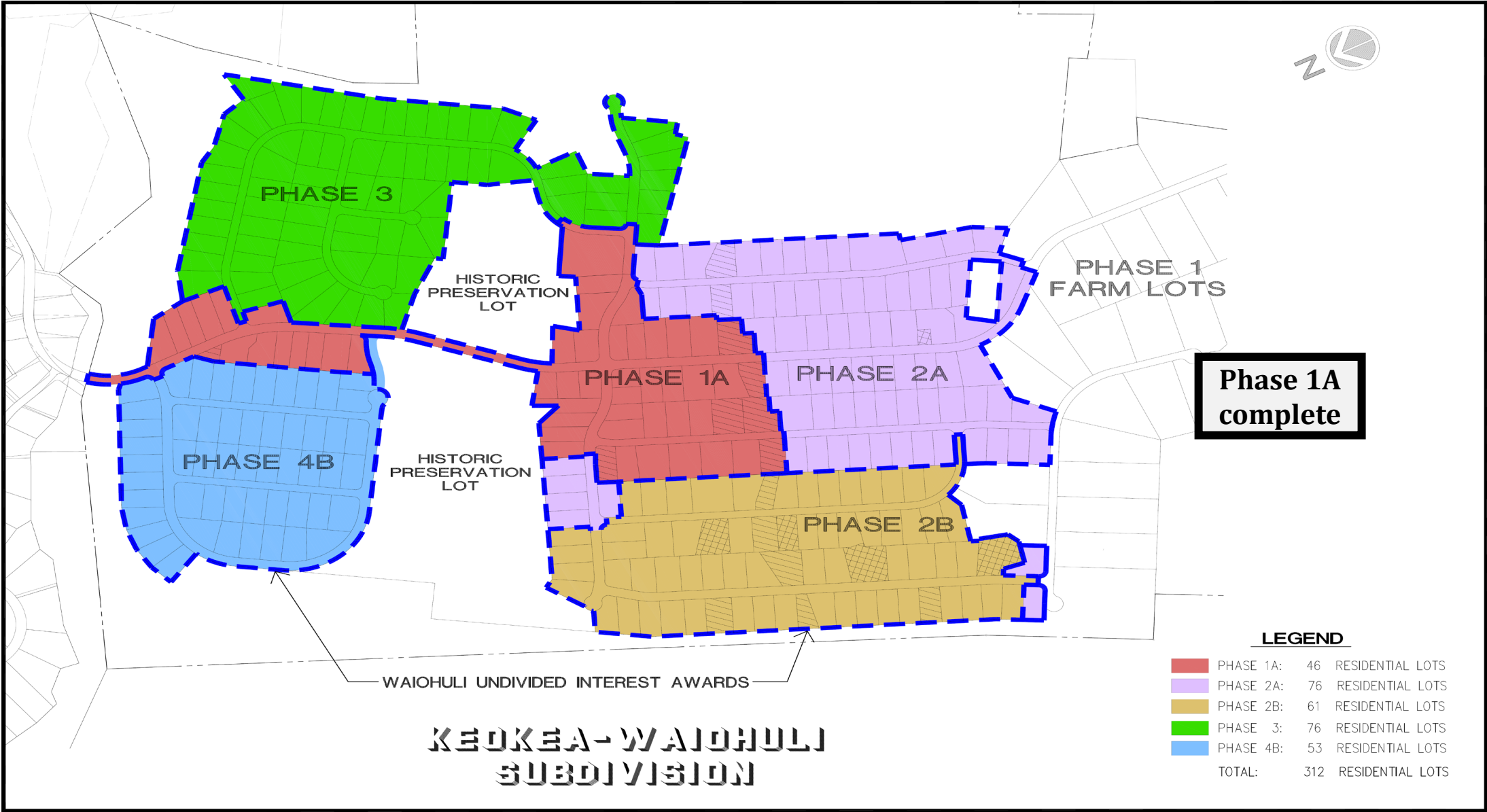


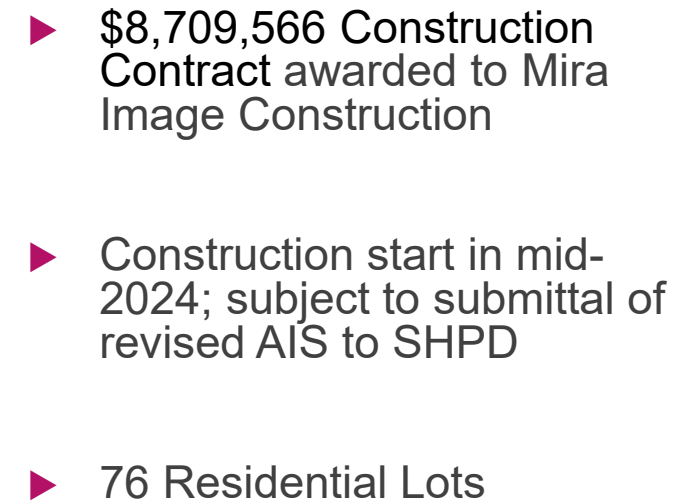
Kula – Waiohuli - Kēōkea Development





Kēōkea – Waiohuli Development





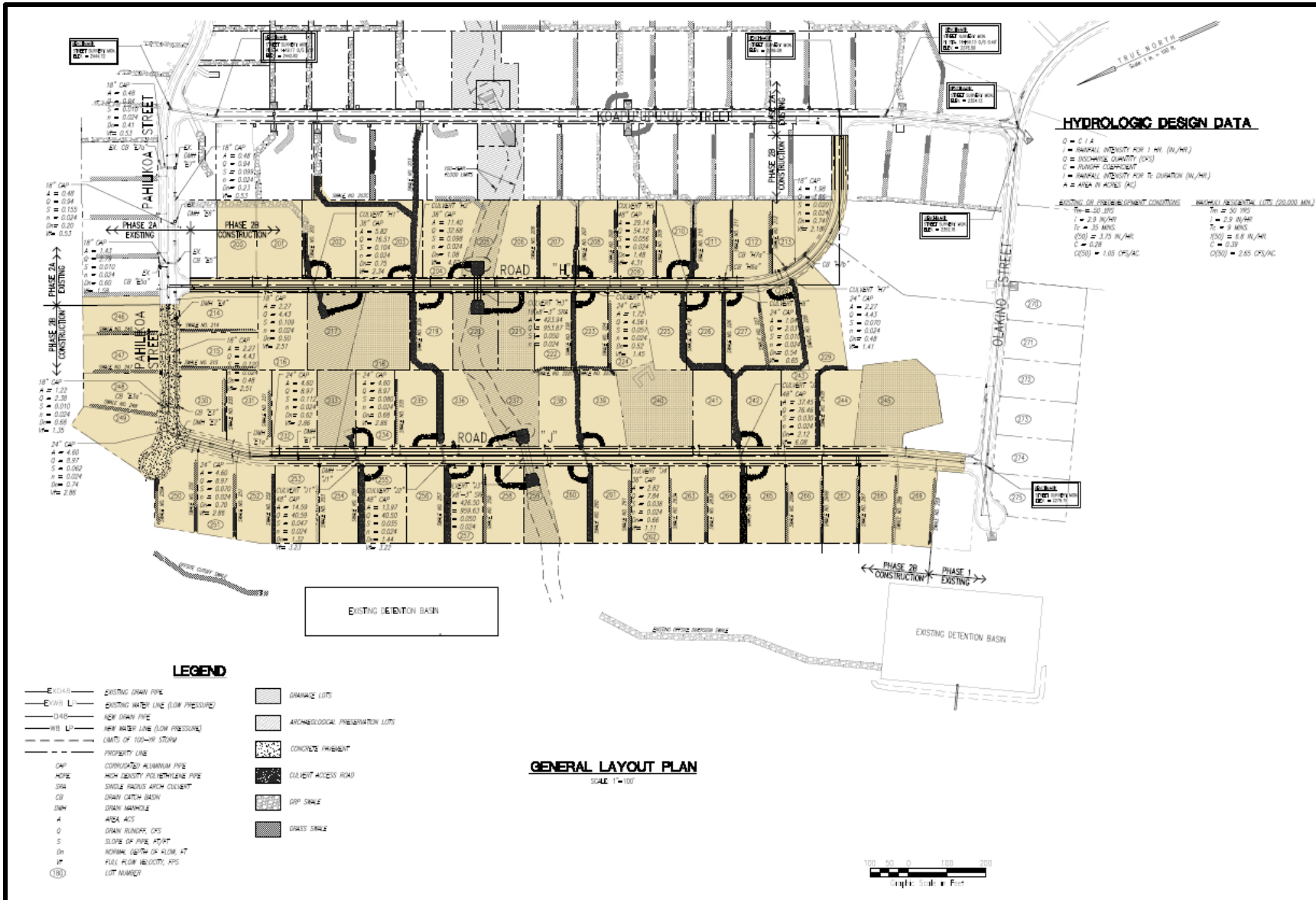


Waiohuli High Pressure Waterline Extension

- ▶ Phase 2A High Pressure Waterline Extension from Keanuhea Street down Pahiliko Street and Koapuupuu Street; 330 feet of 4-inch pipe
- ▶ Waterline to Service Lessees Experiencing Low Pressure Water Service on Pahiliko Street
- ▶ Construction completion scheduled for December 2023



Kēōkea – Waiohuli Development: Phase 2B

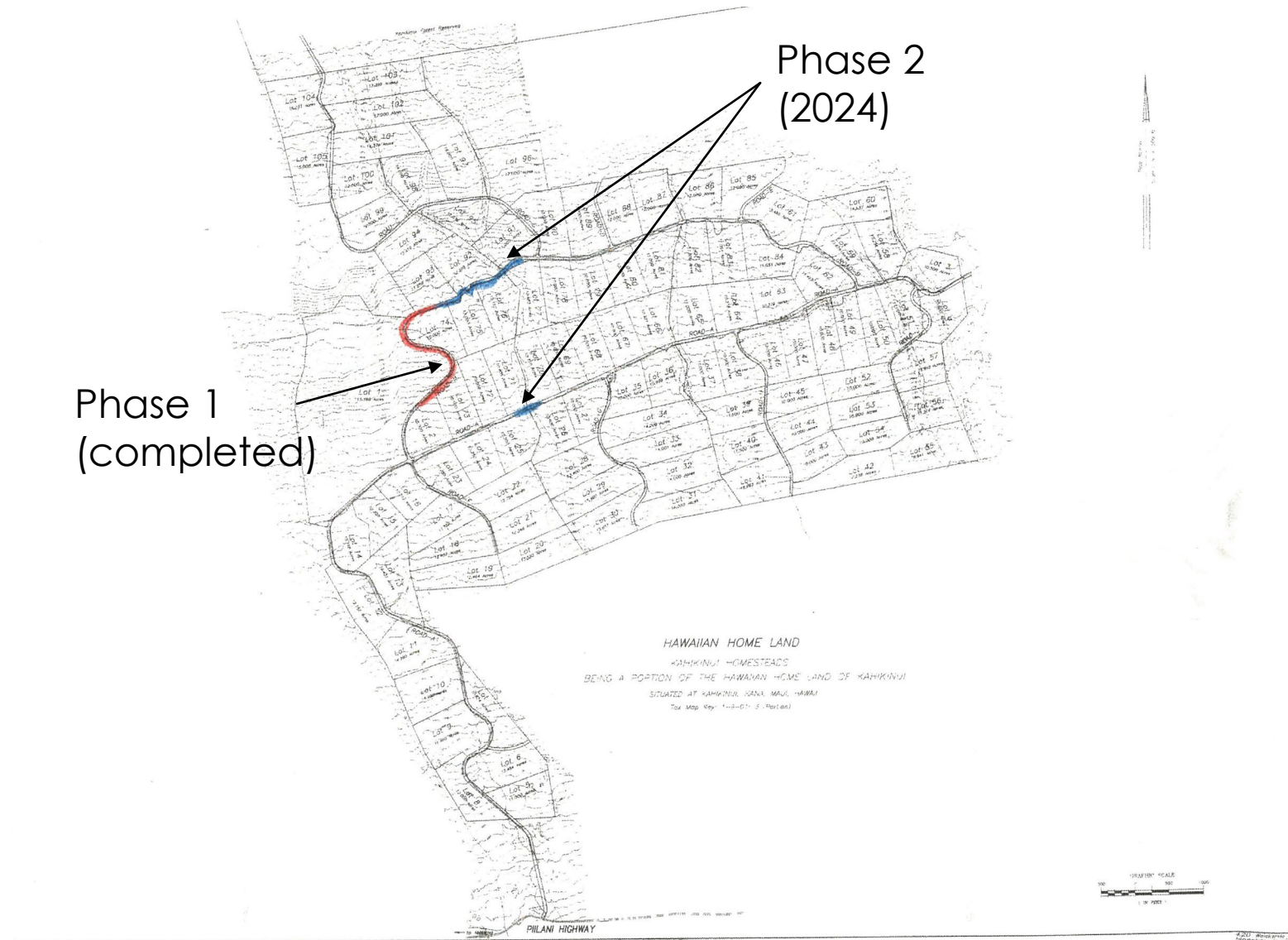


- Design in Process
- Construction Bid posting in early-2024
- 61 Residential Lots
- Withhold 100-year drainage lots and archeological preserves



Kahikinui Road Improvements



- Road Improvements, Phase 1 Completed November 2020
- Road Improvements, Phase 2 Bid early 2024
- Discussions planned with lessees for temporary construction easements and permanent road realignment





Paukukalo Community Center

- Notice of Award to Cajudoy Construction, LLC on May 31, 2023 for \$465,296
- Notice To Proceed (NTP) pending permit approvals
- Scope:
 - Ceiling repair
 - Electrical repair
 - Fan replacement
 - Restroom improvements

STATE OF HAWAII DEPARTMENT OF HAWAIIAN HOME LANDS PAUKUKALO COMMUNITY CENTER RENOVATION 657 KAUMUALII STREET, WAILUKU, MAUI HI 96793 IFB-23-LDD-000 DRAWINGS PREPARED BY HAWAII ENGINEERING GROUP 1088 BISHOP ST. #2506 HONOLULU, OAHU, HI 96813 T.M.K.: 3-3-05:87																																					
 ISLAND MAP  LOCATION MAP	<p>GENERAL NOTES</p> <ol style="list-style-type: none">1. THE INFORMATION CONTAINED HEREIN IS BASED UPON UNLIMITED FIELD INVESTIGATIONS AND AVAILABLE RECORD DRAWINGS.2. DRAWINGS ARE INTENDED TO PROVIDE A GRAPHIC ILLUSTRATION OF DESIGN CONCEPT ONLY AND DEPICT THE GENERAL LAYOUT OF CERTAIN COMPONENTS IN RELATION TO EACH OTHER.3. FOR CLARITY, DETAIL DRAWINGS DO NOT SHOW ALL COMPONENTS OR ILLUSTRATE ALL FIELD CONDITIONS THAT MAY BE PRESENT.4. CONTRACTOR SHALL TAKE MEASUREMENTS AND FIELD VERIFY ALL CONDITIONS AND DIMENSIONS PRIOR TO CONSTRUCTION AND/OR FABRICATION.5. ALL CONSTRUCTION SHALL CONFORM TO THE FOLLOWING BUILDING CODES: 2018 IBC 2018 IFBC 1, UFC 2018 UPC WITH STATE ADOPTIONS 2018 IEBC 2018 NBC TITLE 11 CHAPTER 35	<p>PREPARED FOR</p> <p>DEPARTMENT OF HAWAIIAN HOME LANDS LAND DEVELOPMENT DIVISION 91-5420 KAPOLOA PARKWAY KAPOLU, HAWAII 96767</p> <p>CONTACT: WILLIAM J. ALA, JR. CHAIRMAN, HAWAIIAN HOME COMMISSION</p>	<p>PROJECT DATA</p> <p>TRAIL MAP KEY: 3-3-05:87 LOT SIZE: 70,942 S.F. PLANNING ZONE: R2 OCCUPANCY GROUP: (S205 THRU 300) A-3 CONSTRUCTION TYPE: V-N</p>																																		
		<p>PREPARED BY</p> <p>HAU ENGINEERING GROUP, INC. 1088 BISHOP STREET, SUITE 2506 HONOLULU, HAWAII 96813 CONTACT: GREGORY E. SHAFER, P.E.</p>	<p>INDEX TO DRAWINGS</p> <table border="1"><thead><tr><th>SCALE</th><th>SHEET NO.</th><th>SHEET DESCRIPTION</th></tr></thead><tbody><tr><td></td><td>000</td><td>COVER SHEET</td></tr><tr><td></td><td>001</td><td>TITLE SHEET</td></tr><tr><td></td><td>002</td><td>GENERAL NOTES</td></tr><tr><td>3</td><td>003</td><td>SITE PLAN</td></tr><tr><td></td><td>A101</td><td>EXISTING FLOOR PLAN</td></tr><tr><td></td><td>A102</td><td>REFLECTED CEILING PLAN</td></tr><tr><td>7</td><td>A103</td><td>ROOF PLAN</td></tr><tr><td>8</td><td>A201</td><td>EXTERIOR ELEVATIONS</td></tr><tr><td>9</td><td>A301</td><td>BUILDING SECTIONS</td></tr><tr><td>10</td><td>A401</td><td>EXTERIOR PLANS AND INTERIOR ELEVATIONS</td></tr><tr><td>11</td><td>B001</td><td>ELECTRICAL PLAN</td></tr></tbody></table> <p>APPROVED:</p> <p>DIRECTOR (OWNER) ST. HAWAII AND HAWAIIAN CITY AND COUNTY OF HONOLULU FOR THE COUNTY OF HONOLULU</p> <p>DEPARTMENT OF HAWAIIAN HOME LANDS PAUKUKALO COMMUNITY CENTER IMPROVEMENTS 657 KAUMUALII STREET, WAILUKU, OAHU, HAWAII T.M.K.: 3-3-05:87</p> <p>TITLE SHEET</p> <p>DATE: 10/10/2023 SCALE: 1"=200' SHEET: 001 OF 11</p>	SCALE	SHEET NO.	SHEET DESCRIPTION		000	COVER SHEET		001	TITLE SHEET		002	GENERAL NOTES	3	003	SITE PLAN		A101	EXISTING FLOOR PLAN		A102	REFLECTED CEILING PLAN	7	A103	ROOF PLAN	8	A201	EXTERIOR ELEVATIONS	9	A301	BUILDING SECTIONS	10	A401	EXTERIOR PLANS AND INTERIOR ELEVATIONS	11
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10	A401	EXTERIOR PLANS AND INTERIOR ELEVATIONS																																			
11	B001	ELECTRICAL PLAN																																			



Regional Detention Basin Maintenance



Two rows of caution tape in areas where fencing fabric was removed



Contractor mixing concrete for fence post footing

“Waiehu Koa Subdivision Phase 2 – Detention Basin 2 ”



Lot Assessment & Preparation for Award

(Kula Residence Lots)

Lot 45



Lot 85



Lot 112



Lot 206



Lot 209



Lot 121



Lot 122



Lot 213



Lot 235





Preparation for Award

(Hikina Residence Lots)

Lot 16



Lot 42



Lot 29



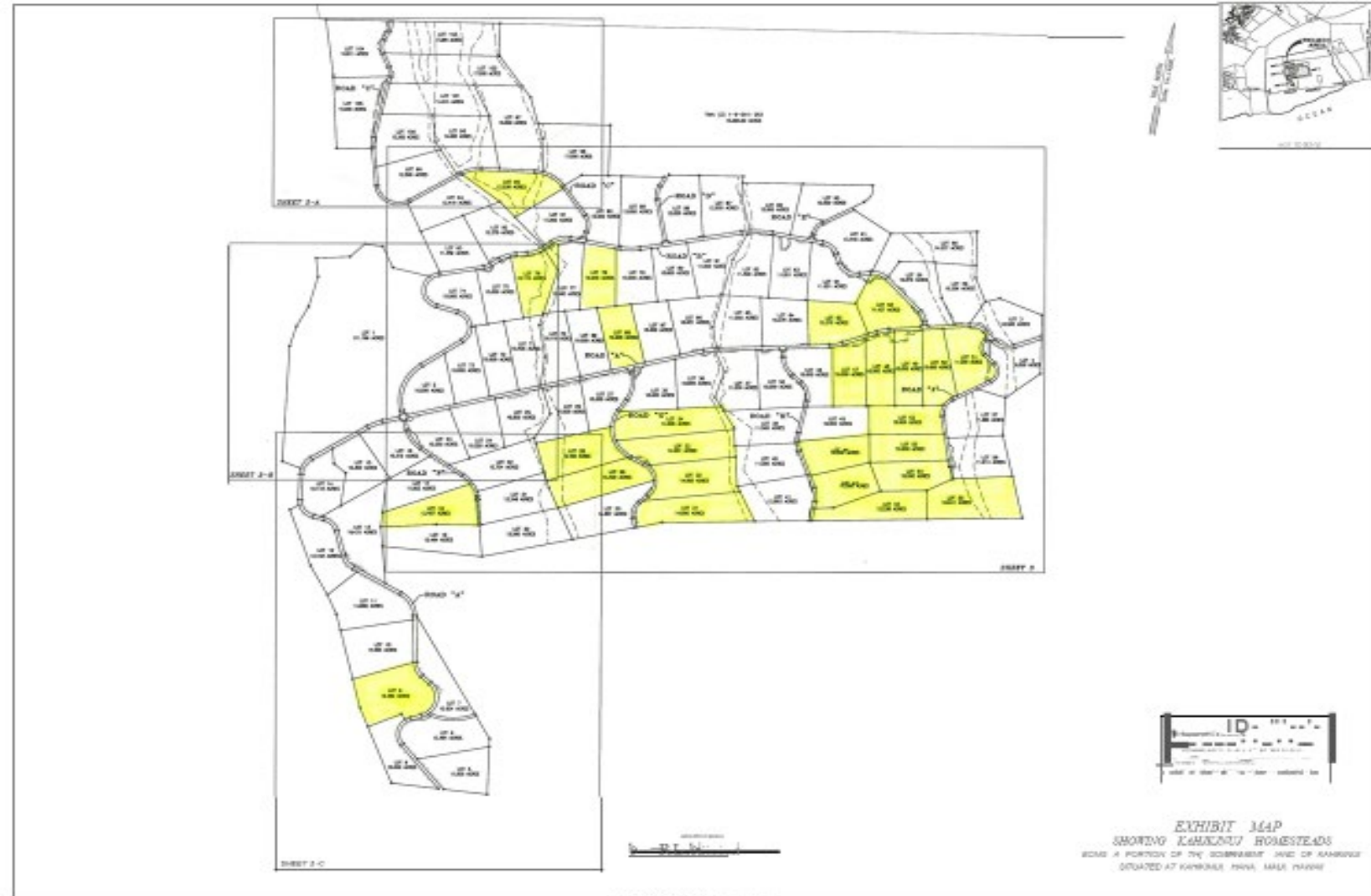
Lot 33

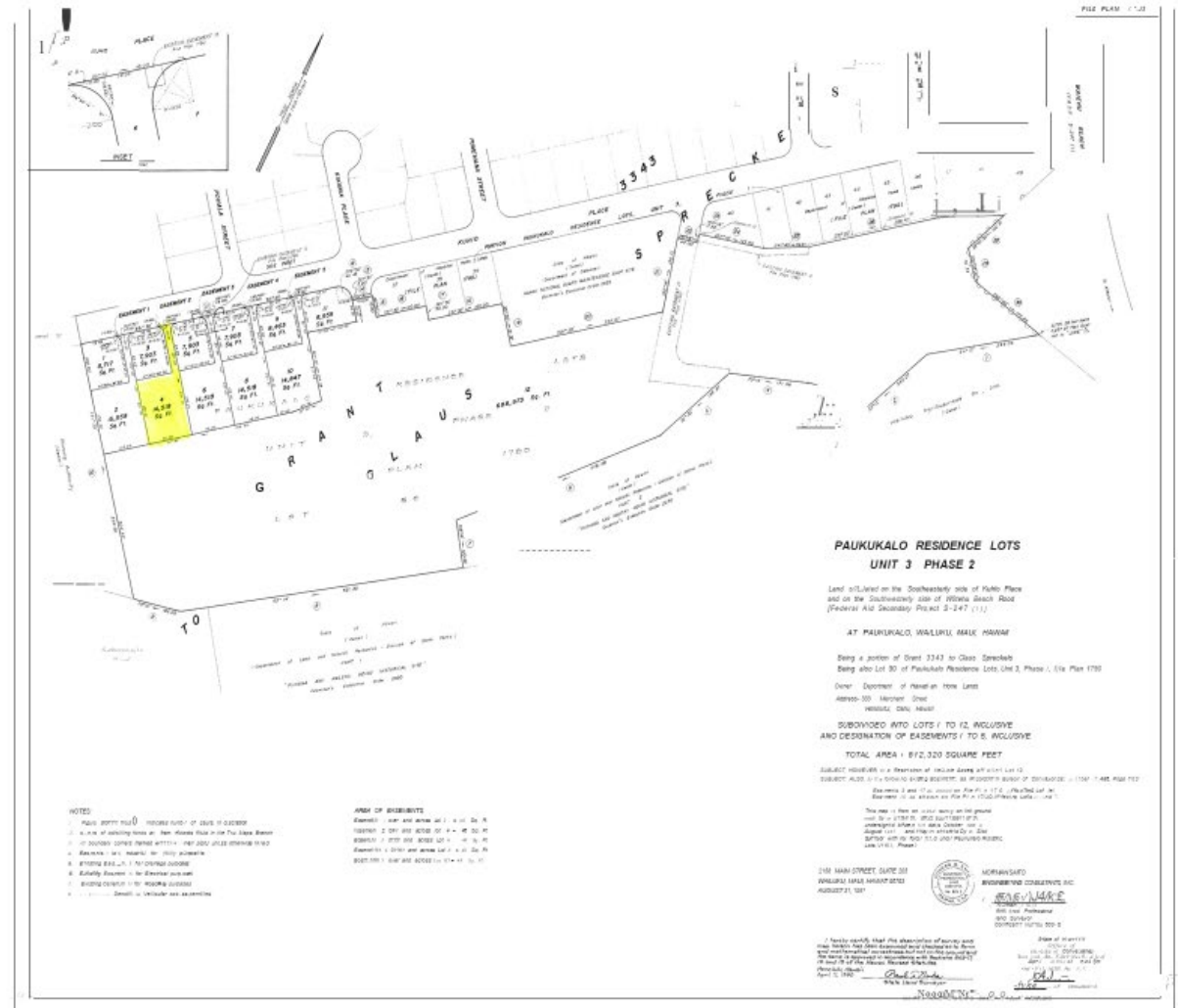




Kahikinui Pastoral Kuleana Lots for Award

26 Pastoral
Lots to be
offered for
award





DEPARTMENT OF HAWAIIAN HOME LANDS



Paukukalo Unit 3 Phase 2 Lot 4



Mahalo




DEPARTMENT OF HAWAIIAN HOME LANDS

www.dhhl.hawaii.gov

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

October 16-17, 2023

To: Chairman and Members, Hawaiian Homes Commission

From: Stewart Matsunaga, Administrator 
Land Development Division

Subject: For Information Only
Implementation Progress Report for Act 279, Session Laws of Hawaii 2022, as of
October 6, 2023

RECOMMENDED MOTION/ACTION

None, for information only.

BACKGROUND

Act 279 enacted in Regular Session of 2022 of the 31st Legislature appropriated \$600,000,000 in general funds to provide a multi-pronged approach to reducing the DHHL waitlist. The \$600,000,000 will address the needs of those on the waitlist and those beneficiaries still waiting. (Excerpt from "Strategic Plan to Implement Act 279 of 2022 dated November 2022)

On August 16, 2022, The Hawaiian Homes Commission (HHC) approved the Strategic Approach to Implement Act 279 - August 2022. Further, on November 22, 2022 the HHC approved the Strategic Plan to Implement Act 279 of 2022.

Pursuant to Section 4(c), Act 279, DHHL shall submit the strategic plan, including findings, recommendations, and any proposed legislation, to the Legislature, no later than December 10, 2022. On December 6, 2022 copies of the Strategic Plan to Implement Act 279, SLH 2022 was transmitted to the Senate President and members of the Senate and President of the House and members of the House of Representatives, pursuant to Section 4(c), Act 279.

DISCUSSION ON FY 2024 IMPLEMENTATION

Project highlights from September 1, 2023 to October 6, 2023:

Request for Release of Act 279 funds to encumber the following:

Island	Subdivision/ Project	Lots	Phase	Pending Encumbrances	Status
Lanai	Lanai Residence Lots	75	Planning/Design	\$ 2,000,000	Contract executed Requesting release of Act 279 funds

	Offsite Infrastructure				
Oahu	Kaupea, Phase 2	60	Dev Agree	\$ 11,900,000	Awarded to Mark Development Negotiating development agreement
Oahu	East Kapolei II Master Developer	421	Dev Agree	\$ 109,000,000	RFQ released 8/7/23 Submittals due 9/8/23 Submittals under review
<u>Land/Project Acquisition RFP 1</u>					
Oahu	Waialua (Mill Camp)	92	Dev Agree	\$ 19,365,760	Negotiating development agreement with Mark Development
Oahu	Ewa Villages	142	Dev Agree	\$ 27,486,000	Developer drafting purchase agreement
Statewide	RFP#2		Acquisition/Dev Agree		5 offers under consideration. Potential \$59 million acquisition
	TOTAL			\$ 169,751,760	Request for Release of funds total \$175,000,000 rounded (includes contingency)

To date, Request for Release of funds is pending approval from Department of Budget and Finance and Governor.

Act 279 Implementation Status as of October 6, 2023 is attached as “Exhibit A”.

Land Acquisition and Development Project offers from second Request for Proposals is under review and will be submitted to HHC in coming months.

RECOMMENDED MOTION/ACTION:

None—for information only.

	DEPARTMENT OF HAWAIIAN HOME LANDS								
	ACT 279 IMPLEMENTATION								
	Project Status as of October 9, 2023								
				Act 279 Implementation Budget (Strategic Plan2022)		Encumbrance Status as of August 31, 2023			
Island	FY23 Subdivision/Project	Lots	Phase	FY 2023	FY 2024	Encumbered FY23	Projected Encumbrance FY24	Projected Encumbrance FY25	Status
Hawaii	Laiopua Villages 1 and 2, and N. Kona Water Development	400	Acq/ Dev Agrmt	\$ 4,000,000	\$ 63,000,000		\$ 67,000,000		Chair directs RFP/RFQ development agreement to include Villages 1 and 2, house construction in Village 4 Hema, and Village 5 vacant lots. Revisit Leg appropriation Act 88, SLH 2021; proviso for \$12.2M for water development and subdivision improvements "Encumbered" Well site appraisal in progress. LDD preparing RFQ for November posting.
Hawaii	Honomu Subsistence Ag Lots, Phase 2	40	Design/ Construction		\$ 6,000,000			\$ 6,000,000	Designs in process; IFB scheduled for 4th Quarter 2024
Lanai	Lanai Residence Lots Offsite Infrastructure	75	Design	\$ 2,000,000			\$ 2,000,000		Contract with Bowers+Kubota executed, awaiting release of funds. Schedule meeting with B+K and Pulama Lanai. Request to Release Act 279 funds submitted to B&F and Gov in September 2023
Molokai	Hoolehua Scattered Lots	20	Construction		\$ 3,500,000		\$ 3,500,000		Draft EA in process.
Molokai	Naiwa Ag Subdivision	16	Construction		\$ 6,000,000		\$ 6,000,000		FONSI and Final EA October 2023. Designs in process; bid scheduled for 1st Quarter 2024. FONSI and Final EA rescheduled to November 2023.
Maui	Pu'unani Homestead Subdivision	161	Construction	\$ 17,500,000		\$ 17,171,944			Construction Contract Awarded to Maui Kupono Builders; \$17,171,944. Notice to proceed effective May 15, 2023. Groundbreaking May 24, 2023.
Maui	Pu'unani Homestead Subdivision (Offsite Water Tank)		Design/ Construction			\$ 5,509,000			Developer preparing plans and specifications for IFB in Fall 2023, subject to County DWS approval of construction plans and storage agreements.
Maui	Leialii 1B Offsite Water		Construction	\$ 15,000,000			\$ 15,000,000		LDD proposes to prepare RFQ to wrap around Leialii Offsite water, highway improvements and Leialii 1B subdivision. Offsite water tank, booster pump and transmission needed to provide potable water and fire protection to Leialii 1B Inc. 2; 95 single family lots. Cost is exclusive of \$9,000,000 CIP appropriation for highway improvements and HHFDC DURF funding \$10,000,000 for Honokowai Water Well development.
Maui	Leialii 1B - Subdivision	181	Dev Agrmt		\$ 68,000,000		\$ 68,000,000		181 single family lots in lieu of 86 single family and 167 multi-family units. LDD proposes to prepare RFQ to wrap around Leialii Offsite water, highway improvements and Leialii 1B subdivision. Initial focus on construction of 86 single family lots in Leialii 1B, Increment 1. FONSI and Final EA scheduled for HHC approval on October 16, 2023.
Maui	Honokowai Subsistence Ag Ph. 1	50	Design		\$ 5,000,000	\$ 1,470,000		\$ 3,530,000	Survey and design in process. Continuing design work on R-1 water easements and engineering. Amending scope of work to include access from Honoapiilani Highway, and establishment of sewer manholes at Honokowai makai boundary.
Oahu	Kaupea, Phase 2		Acq	\$ 8,250,000		\$ 8,250,000			Acquisition completed.
Oahu	Kaupea, Phase 2	60	Dev Agrmt		\$ 14,750,000		\$ 11,900,000		Development Agreement awarded to Mark Development. Negotiations in progress; amount subject to change. Request to Release Act 279 funds submitted to B&F and Gov in September 2023
Oahu	East Kapolei II Master-planned Community	421	Design	\$ 24,000,000	\$ 88,000,000	\$ 33,080	\$ 109,000,000		RFQ issued 8/7/23 incorporating backbone infrastructure, East Kapolei II-C, II-D, II-E, and II-F. Responses due 9/8/23. Responses received; undergoing internal review for recommendation to Chair. Request to Release Act 279 funds submitted to B&F and Gov in September 2023.
Oahu	East Kapolei IIA	300	Dev Agrmt	\$ 14,000,000					Deleted from Act 279 project list: multi-family rentals.
Oahu	Maili Development	280	Dev Agrmt		\$ 60,000,000			\$ 60,000,000	FONSI and Final EA October 2023. Designs in process; bid scheduled for 1st Quarter 2024.
Oahu	Ewa Beach (former NOAA site)	600	Dev Agrmt		\$ 48,000,000			\$ 48,000,000	RFQ. Access, sewer, drainage and traffic issues.
Kauai	Hanapepe Residence Lots, Phase 2	82	Construction	\$ 23,000,000		\$ 17,800,126			Bids open on 12/21/22. Contract awarded to Hawaiian Dredging on on 12/29/22. Groundbreaking August 23. Supply chain issues; start in 1st Quarter 2024. Issue RFP for design, construction, financing and marketing of 82 houses. RFQ let on October 6, 2023. Pre-submittal conference on October 13, 2023. Submittal of Qualifications due Nov. 3, 2023.
Kauai	Anahola Kuleana Phase 1 Pastoral	115	Construction		\$ 5,000,000			\$ 5,000,000	Designs in process.

DEPARTMENT OF HAWAIIAN HOME LANDS									
ACT 279 IMPLEMENTATION									
Project Status as of October 9, 2023									
				Act 279 Implementation Budget (Strategic Plan2022)		Encumbrance Status as of August 31, 2023			
Island	FY23 Subdivision/Project	Lots	Phase	FY 2023	FY 2024	Encumbered FY23	Projected Encumbrance FY24	Projected Encumbrance FY25	Status
Statewide	Land/Project Acquisition		Professional Services			\$ 1,500,000			Project management contract with Bowers+Kubota; researching Villages of Leialii acquisition.
Statewide	Land/Project Acquisition		Acq/ Dev Agrmt	\$ 35,000,000					RFP let in November 2022. Eight offers received. Details of five accepted offers below.
Oahu	Ewa Villages (Haseko) Pilina Homes	142	Acq/ Dev Agrmt				\$ 27,486,000		Acquisition: \$17,646,772 Source: NAHASDA Development: \$20,239,443 Source: Act 279 Acquisition and development agreement negotiations in progress; amount subject to change. Request to Release Act 279 funds submitted to B&F and Gov in September 2023.
Maui	Wailuku (DDC2 LLC)	207	Acq/ Dev Agrmt			\$ 45,038,800			Acquisition: \$5,200,000 Source: Act 279 Development: \$39,838,800 Source: Act 279 Development Agreement executed, funds encumbered.
Hawaii	Kaumana (Avalon Development)	168	Acq			\$ 2,000,000			Proposal acceptable for acquisition only. Sale closed 3/31/23; transaction completed.
Maui	Waiehu (DDC3 LLC)	366	Acq/ Dev Agrmt			\$ 93,868,417			Acquisition: \$12,240,000 Source: Act 279 Development: \$81,628,417 Source: Act 279 Development Agreement executed, funds encumbered.
Oahu	Waialua (Mill Camp Development Group, LLC)	92	Acq/ Dev Agrmt				\$ 19,365,760		Acquisition: \$1,990,000 Source: Act 279 Development: \$12,368,633 Source: Act 279 Negotiating Development Agreement' amount increased. Request to Release Act 279 funds submitted to B&F and Gov in September 2023.
Statewide	Project Contingencies						\$ 5,248,240		Project contingency amounts for encumbered projects in FY 23. Request to Release Act 279 funds submitted to B&F and Gov in September 2023.
Statewide	Land/Project Acquisition		Acq/ Dev Agrmt						RFP let in May 2023. Eighteen offers received.
Statewide	Project Financing/Partnerships			\$ 30,000,000			\$ 100,000,000		Interim house construction financing in order to reduce house pricing.
Statewide	Individual Assistance						\$ 60,000,000		Individual down payment or other assistance/subsidy
Statewide	Project Management Staffing						\$ 5,000,000		Staffing to implement Act 279 projects.
	Total	3,776		\$ 172,750,000	\$ 367,250,000	\$ 192,641,367	\$ 499,500,000	\$ 122,530,000	11/17/22 \$172.75M Allotment released by Governor. 6/27/23 \$21.0M Allotment released by Governor. Total released to date: \$193.75M Request to release \$175 M submitted to B&F and Gov on September 13, 2023.
	Total Estimated Encumbrances						\$ 692,141,367	\$ 814,671,367	


Hawaiian Homes Commission
Meeting
October 16 & 17, 2023


F ITEMS


STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

October 16-17, 2023

To: Chairman and Members, Hawaiian Homes Commission

Thru: Richard Kuitunen, Administrator 
Land Management Division

Ward "Kalei" Young, Supervising Land Agent 
Land Management Division

From: Shelly Carreira, Land Agent 
Land Management Division

Subject: Approval of Annual Renewal of Right of Entry Permits, Maui and Lanai Islands

RECOMMENDED MOTION/ACTION:

That the Hawaiian Homes Commission (HHC) approve the following actions while developing a process to making short-term agricultural and pastoral land dispositions available to beneficiaries:

- A) Renew all Maui and Lanai Island Right of Entry Permits as listed on Exhibit "A" and identified by approximate location on the respective Maui and Lanai Island Maps Exhibit "A-1" that are in compliance and issued temporary approvals, as of November 1, 2023.
- B) The renewal period, shall be on a month-to-month basis, for up to twelve (12) months, but no longer than October 31, 2024.
- C) Authorize the Chairman to negotiate and set forth other terms and conditions that may be deemed to be appropriate and necessary.

DISCUSSION

This submittal represents annual renewals for all Maui and Lanai Island ROE permit(s) only, which expired on October 31, 2023. As a means of maintaining a process by which PERMITEE'S can be assured that their permits have been renewed, notification letters will be transmitted accordingly.

For information purposes Exhibit "A" references all Right of Entry Permits on Maui and Lanai Islands by order of commencement date, land use, then by acreage. While Right of Entry Permits generate additional revenue to the Trust, its primary purpose provides DHHL the ability

to efficiently manage its lands through the issuance of these short-term dispositions which are typically not needed for longer-term dispositions (such as homesteading or general leases) over a 20-year time period or as dictated by DHHL's respective island plans. DHHL's total Maui Island land inventory covers approximately 31,000 acres¹ or 15% of DHHL's statewide inventory. The short-term disposition(s) issued to Beneficiary Homestead Organizations within the Maui Island inventory cover approximately 76.0 acres or .002% of its inventory.

DHHL's total Lanai Island land inventory covers approximately 50 acres². The short-term disposition(s) issued cover approximately 25.0 acres or 50.0% of Lanai Island inventory.

Right of Entry Permits help in having presence on DHHL lands thereby reducing costs for land management activity functions (i.e. signage, landscaping, fencing, removing trash and derelict vehicles, and prevents trespassing on unencumbered lands) that DHHL would bear if the lands were to sit vacant. Permittee's are required to assume responsibility for the land, post insurance, indemnify the department, and manage and maintain the land.

Until improvements to the Revocable Permit Program can be implemented, this process will be used for Annual Renewals of these month-to-month ROE Permit dispositions.

The table below reflects the revenue generated from ROE permits on Maui and Lanai Islands respectively, which is less than 1.0% (\$1,176) of the ROE total revenues (\$2,719,010) that DHHL received statewide for FY 2022. Maui and Lanai Islands holds 3 of the 145 ROE permits Statewide. These permittees fall under a variety of land use purposes with the most being community use.

Maui Island

FY 2023		Total
Agriculture	\$0	-
Caretaker	\$0	-
Commercial	\$0	-
Community	\$480	2
Industrial	\$0	-
Office	\$0	-
Pastoral	\$0	-
Preservation	\$0	-
Recreation	\$0	-
Research	\$0	-
Stabling	\$0	-
	\$480	2

FY 2024		Total
Agriculture	\$0	-
Caretaker	\$0	-
Commercial	\$0	-
Community	\$480	2
Industrial	\$0	-
Office	\$0	-
Pastoral	\$0	-
Preservation	\$0	-
Recreation	\$0	-
Research	\$0	-
Stabling	\$0	-
	\$480	2

Lanai Island

¹ DHHL Maui Island Plan –PBR Hawaii, September 2004

² DHHL Lanai Island Regional Plan, June 2010

FY 2021		Total
Agriculture	\$0	-
Caretaker	\$0	-
Commercial	\$0	-
Community	\$0	-
Industrial	\$0	-
Office	\$0	-
Pastoral	\$696	1
Preservation	\$0	-
Recreation	\$0	-
Research	\$0	-
Stabling	\$0	-
	\$696	1

FY 2022		Total
Agriculture	\$0	-
Caretaker	\$0	-
Commercial	\$0	-
Community	\$0	-
Industrial	\$0	-
Office	\$0	-
Pastoral	\$696	1
Preservation	\$0	-
Recreation	\$0	-
Research	\$0	-
Stabling	\$0	-
	\$696	1

LMD respectfully recommends maintaining its current rental rates without any increase.

For FY 2023, renewals for the 3 Right of Entry Permits located on Maui and Lanai Islands will total an annual rent revenue of \$1,176 as referenced in the table above. .

AUTHORITY / LEGAL REFERENCE:

§171-55, Hawaii Revised Statutes, as amended, a “permit on a month-to-month basis may continue for a period not to exceed one year from the date of issuance; provided that the commission may allow the permit to continue on a month-to-month basis for additional one-year periods.”

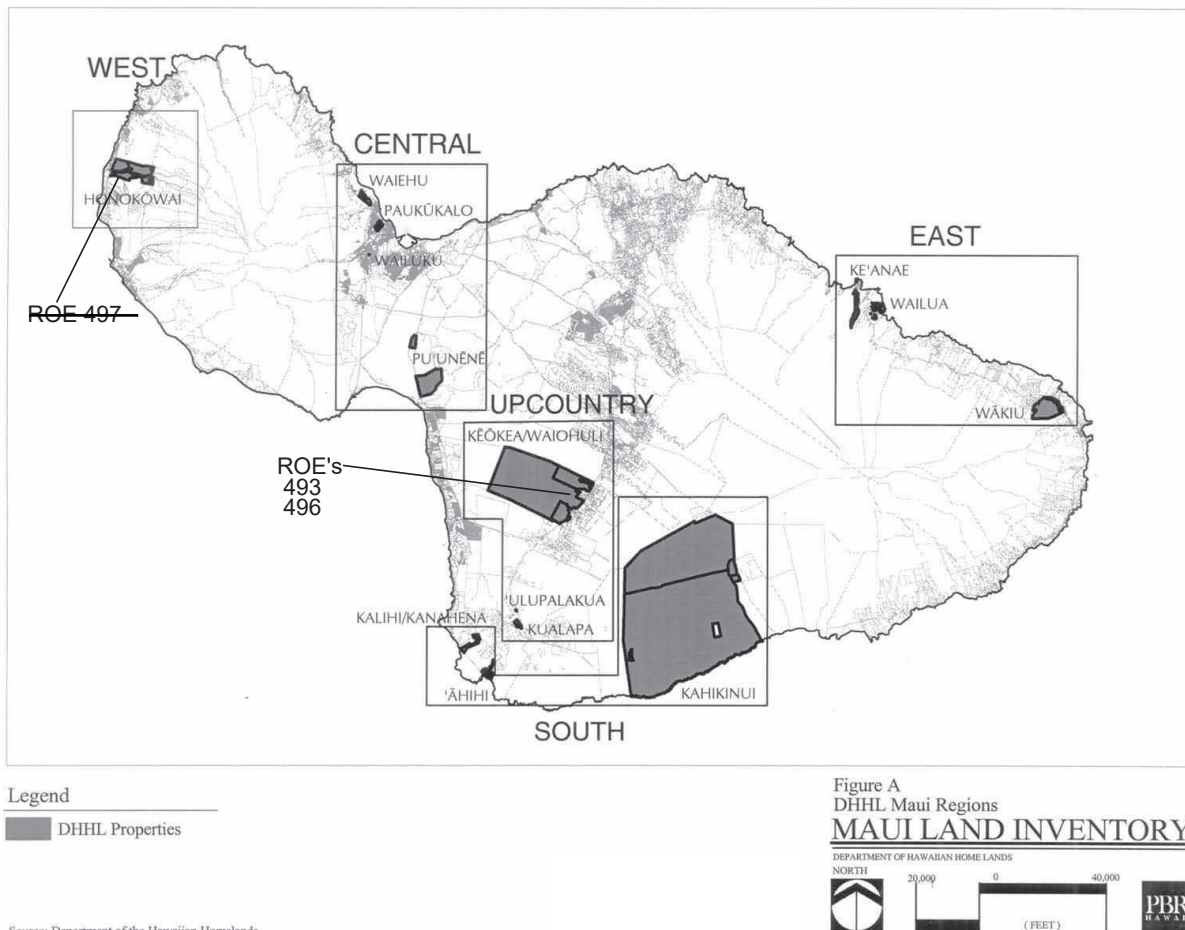
RECOMMENDATION:

Land Management Division respectfully requests approval of the motion as stated.

RIGHT OF ENTRY PERMITS - MAUI ISLAND as of NOVEMBER 2023							Denotes Beneficiary		Denotes Delinquent	
NO.	ACRE	USE	PERMITTEE	LOCATION	TMK	Date Started	Current Annual Rent	Proposed Annual Rent	Comments: rent amount and reasons (site issues-insufficient/no infrastructure, no legal access, substandard lot size or irregular shape, etc.) why no long-term disposition	
493	6.820	Community	Waiohuli Hawaiian Homesteaders Association	Kula	(2) 2-2-002-056(P)	10/1/2005	\$240	-	Rent is current - Community Use	
496	69.000	Community	Keokea Homestead Farm Lot Association	Keokea	(2) 2-2-002-055	2/8/2010	\$240	-	Rent is current - Community Use	

RIGHT OF ENTRY PERMITS - LANAI ISLAND as of SEPTEMBER 2022							Denotes Beneficiary		Denotes Delinquent	
NO.	ACRE	USE	PERMITTEE	LOCATION	TMK	Date Started	Current Annual Rent	Proposed Annual Rent	Comments: rent amount and reasons (site issues-insufficient/no infrastructure, no legal access, substandard lot size or irregular shape, etc.) why no long-term disposition	
510	25.000	Pastoral	Alton & Joelle Aoki	Lanai City	(2) 4-9-002-057(P)	7/1/2006	\$696	-	Rent is current - Pastoral Use	


Exhibit "A"
Item No. F-1





STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

October 16-17, 2023

To: Chairman and Members, Hawaiian Homes Commission

Through: Richard Kuitunen, Administrator 
Land Management Division

Ward "Kalei" Young, Supervising Land Agent 
Land Management Division

From: Shelly Carreira, Land Agent 
Land Management Division

Subject: Approval to Second Amendment to Right of Entry No. 690, Pa'upena Community Development Inc., Waiohuli-Keokea, Maui, TMK (2) 2-2-034:026 (portion) & 028 (portion)

RECOMMENDED MOTION/ACTION:

That the Hawaiian Homes Commission (HHC) grant its approval to the Second Amendment to Right of Entry No. 690 issued to Pa'upena Community Development Inc., for an additional twelve (12) month period for the purpose of conducting due diligence requirements on Hawaiian home lands TMK: (2) 2-2-034:026 (portion) & 028 (portion).

Approval of this first amendment is subject to the following conditions:

1. The term shall be extended for an additional twelve (12) month period, commencing October 10, 2023;
2. The processing and documentation fee, \$150.00 shall be waived; and
3. With the exception of the current requested action, all of the terms, conditions, covenants, and provisions of Right of Entry No. 690 shall continue and remain in full force and effect.

LOCATION:

Portions of Hawaiian home lands situated in Waiohuli-Keokea, Island of Maui, identified as TMK: (2) 2-2-034:026 & 028 (See Exhibit "A")

AREA:

127.0 Acres (more or less)

BACKGROUND/DISCUSSION

At its meeting of August 18, 2019, the Hawaiian Homes Commission (HHC) approved the issuance of Right of Entry No. 690 (ROE 690) to the Pa'upena Community Development Corporation, Inc. (Pa'upena

CDC) for the purpose of conducting due diligence activities related to developing the parcel for pasturing and an agricultural demonstration site to educate and train beneficiaries in farming concepts and techniques, see Exhibit “B” .

The ROE 690 allows for an option to extend the term for two additional twelve-month periods. Through the first amendment the term was extended for an additional twelve-month period, commencing on October 10, 2022, see Exhibit “C”. The requested second amendment will provide the additional time needed for Pa’upena CDC to complete the HRS Chapter 6E, State Historic Preservation requirement and discuss process related to securing a long-term disposition.

CONSISTENCY WITH DHHL PLANS, POLICIES AND PROGRAMS

The recommended disposition is consistent with the following plans, policies, and programs:

- 1) DHHL General Plan (2002) goals and objectives:

Land Use Planning

Goals: Utilize Hawaiian Home Lands for uses most appropriate to meet the needs and desires of the beneficiary population.

Objectives: Provide space for and designate a mixture of appropriate land uses, economic opportunities, and community services in a native Hawaiian friendly environment.

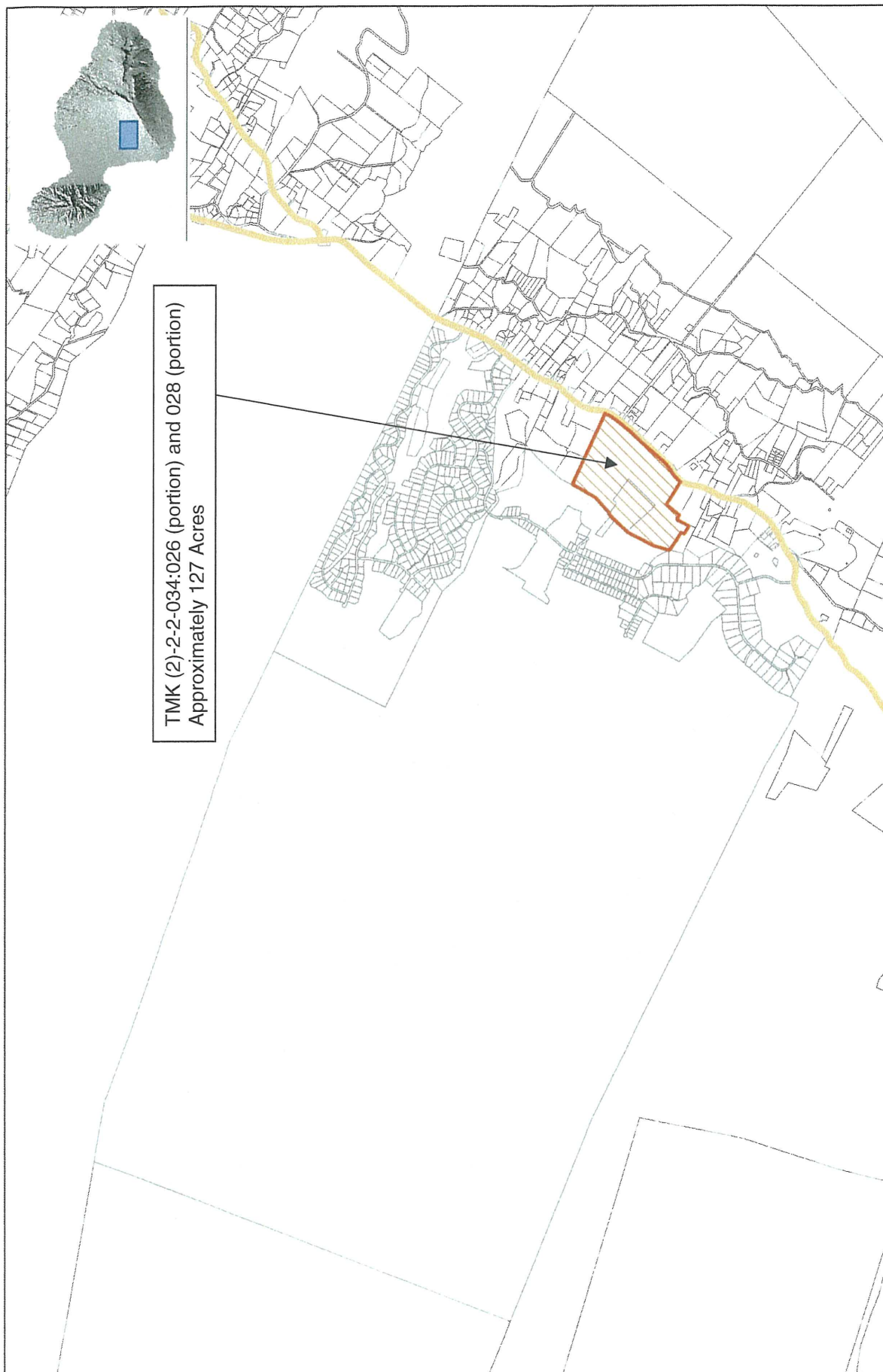
- 2) Maui Island Plan, September 2004

- Land Use Designation: Residential, General Agriculture, September 2004, Figure B, Keokea/Waiohuli Land Use Plan

- 3) Regional Plan: The proposed use of Hawaiian Home Lands was not identified in the Keokea-Waiohuli Regional Plan dated June 2010. A beneficiary consultation meeting was conducted on May 30, 2019 to get beneficiary feedback on the proposed use of Hawaiian Home Lands.

RECOMMENDATION

Land Management Division respectfully recommends approval of the requested motion/action as stated.



TMK (2)-2-2-034:026 (portion) and 028 (portion)
Approximately 127 Acres

Legend




-  Paupena ROE Boundary
-  DHHL Land
-  State Highway

EXHIBIT A

ITEM NO. F-2

0 0.25 0.5 1 Miles



STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

RIGHT-OF-ENTRY NO. 690

This Right-of-Entry ("ROE") No. 690 is dated this 10th day of October, 2019, by and between the State of Hawaii, DEPARTMENT OF HAWAIIAN HOME LANDS, whose place of business is 91-5420 Kapolei Parkway, Kapolei, Hawaii, 96707, and whose mailing address is P. O. Box 1879, Honolulu, Hawaii 96805, hereinafter as "PERMITTOR," and Pa'upena Community Development, Inc., whose address is 96 Ahulua Street, Kula, Hawaii 96790, hereinafter the "PERMITTEE."

PERMITTOR hereby grants to PERMITTEE a Right-of-Entry upon that certain parcel of Hawaiian home lands in Waiohuli, Makawao, Island of Maui, for the non-exclusive, use of approximately 127.0 acres of Hawaiian home lands, identified as Tax Map Key No. (2) 2-2-034:026 (por.) & 028 (por.) and further shown in the attached Exhibit "A", subject to the following conditions:

1. TERM. The term of the ROE shall be month-to-month up to thirty-six (36) months, commencing upon execution, with the option for two (2) additional twelve (12) month extensions at the sole discretion of PERMITTOR. This ROE may be cancelled by PERMITTOR, at PERMITTOR'S sole discretion and for any reason whatsoever, at any time during the term of the ROE, upon 30 days advance notice in writing to PERMITTEE;
2. PERMITTED USE. The Premises shall be used for the purpose of conducting due diligence studies including but not limited to project master plan, business plan, and related Chapter 343, HRS compliance requirements and Chapter 6E, HRS compliance requirements;
3. FEE. The fee for the term of this ROE shall be gratis;
4. CONSTRUCTION AND MAINTENANCE. During the period of the ROE, PERMITTEE shall keep the Premises and all improvements thereon in a strictly clean and sanitary and orderly condition, and shall not make, permit nor suffer any waste, spoil, nuisance, nor any unlawful, improper or offensive use of the Premises. PERMITTEE shall comply with all rules, regulations, ordinances and/or laws of the State of Hawaii

EXHIBIT "B"
ITEM NO. F-2



and any other municipal and/or Federal Government authority applicable to the Premises and improvements thereon;

5. RIGHT TO ENTER. PERMITTEE shall allow PERMITTOR, and the agents and representatives thereof, at all reasonable times, free access to the Premises for the purpose of examining the same and/or determining whether the covenants herein are being fully observed and performed, or for the performance of any public or official duties. In the exercise of such rights, PERMITTOR and government officials shall not interfere unreasonably with PERMITTEE and PERMITTEE'S use and enjoyment of the Premises;
6. NO TRANSFER, MORTGAGE, AND SUBLEASE. This ROE shall be non-transferable, and PERMITTEE may not in any manner transfer to, mortgage, pledge, sublease, sublet, or otherwise hold or agree so to do, for the benefit of any other person or persons or organization of any kind, its interest in this ROE, the premises and the improvements now or hereafter erected thereon;
7. EXPIRATION. Upon the expiration of the ROE, or its sooner termination as herein provided, PERMITTEE shall peaceably and quietly leave and surrender and deliver up to PERMITTOR possession of the premises. This includes the clean-up and removal of all property belonging to PERMITTEE;
8. TERMINATION/ABANDONMENT. Upon termination or abandonment of the specified purposes for which this ROE is granted, all interests granted by this ROE and any approved improvement constructed by PERMITTEE on the Premises shall revert to, and become the property of PERMITTOR;
9. PREMISES. The term "Premises", when it appears herein, includes and shall be deemed to include the lands described above and all improvements whenever and wherever erected or placed thereon;
10. INSURANCE. PERMITTEE shall, at its own expense, effect, maintain and keep in force throughout the life of this ROE, a comprehensive public liability insurance policy, with limits of not less than \$1,000,000.00 for each occurrence, including property damage, personal injury and advertising injury; \$100,000.00 for fire damages to the Premises for any one fire; \$10,000.00 in medical expenses for any one person, and an aggregate limit of \$2,000,000.00 per policy year.



The specification of these limits as contained herein shall not be construed in any way to be a limitation on the amount of liability of PERMITTEE for fees, interest or other charges under this ROE.

PERMITTEE at its own expense shall maintain and keep in force Workers Compensation Insurance to include Employer's Liability. Such coverage shall apply to all of its employees.

PERMITTEE at its own expense shall maintain and keep in force Automobile Insurance, covering all owned, non-owned and hired automobiles in the following amounts: Bodily Injury: \$1,000,000.00 per person and \$1,000,000.00 per occurrence; Property Damage: \$1,000,000.00 per accident; or a combined single limit of \$1,000,000.00

PERMITTEE shall provide certificate(s) of insurance necessary to evidence compliance with the insurance provisions of this ROE. PERMITTEE shall keep such insurance in effect and the certificate(s) on deposit with PERMITTOR during the entire term of this ROE.

In addition:

- a. Failure of PERMITTEE to provide and keep in force such insurance shall be regarded as material default under this ROE. PERMITTOR shall be entitled to exercise any or all of the remedies provided in this ROE for default of PERMITTEE.
- b. The procuring of such required insurance policies shall not be construed to limit PERMITTEE'S indemnification obligations under this ROE.
- c. PERMITTOR is a self insured State agency. PERMITTEE'S insurance shall be primary. Any insurance maintained by PERMITTOR and/or the State of Hawaii shall apply in excess of, and shall not contribute with, insurance provided by PERMITTEE.

Such insurance policy shall (a) be issued by an insurance company or surety company authorized to do business in the State of Hawaii or approved in writing by the Chairman, Hawaiian Homes Commission; (b) name the State of Hawaii and its DEPARTMENT OF HAWAIIAN HOME LANDS as an insured; (c)



provide that the DEPARTMENT OF HAWAIIAN HOME LANDS shall be notified at least thirty (30) days prior to any termination, cancellation or material change in the insurance coverage; and (d) cover all injuries, losses or damages arising from, growing out of or caused by any acts or omissions of PERMITTEE, its officers, agents, employees, invitees or licensees in connection with PERMITTEE'S use or occupancy of the Premises.

PERMITTEE shall insure during the term of this ROE the entire Premises, including all buildings now existing and hereafter built or located on the Premises, improvements and grounds, and all roadways and sidewalks on or adjacent to the Premises in the control or use of the PERMITTEE. The insurance shall cover loss or damage by fire and other hazards, casualties and contingencies, including vandalism and malicious mischief. The insurance shall be for the full insurable value of such improvements.

PERMITTEE shall furnish to PERMITTOR upon the execution of this ROE, certificates showing such insurance policy or policies to be in favor of PERMITTOR and to be in force, and shall furnish like certificates upon each renewal thereof. In the event of loss, damage or destruction, PERMITTOR shall retain from the proceeds of the policies such amounts deemed by it to be necessary to cover the loss, damage or destruction of or to the improvements and the balance of such proceeds, if any, shall be delivered to PERMITTEE.

The procuring of this policy shall not release or relieve PERMITTEE of its responsibility under this ROE as set forth herein or limit the amount of its liability under this ROE.

PERMITTEE shall provide proof of liability insurance for such activities prior to the effective date of this ROE, or this ROE shall be null and void.

11. DEFENSE AND INDEMNITY. PERMITTEE shall release, defend, indemnify and hold harmless PERMITTOR, its officers, employees, and agents from and against all liability, loss, damage, cost, and expense, including all attorneys' fees, and all claims, suits, and demands therefore, arising out of or resulting from the acts or omissions of PERMITTEE and/or PERMITTEE'S officers, employees, agents, or contractors occurring during or in connection with the exercise of this ROE. The provisions of this paragraph



shall remain in full force and effect notwithstanding the expiration or early termination of this ROE.

12. HAZARDOUS MATERIAL. PERMITTEE shall not cause or permit the escape, disposal, or release of any hazardous materials. PERMITTEE shall not allow the storage or use of such materials in any manner not sanctioned by law or by the highest standards prevailing in the industry for the storage and use of such materials, nor allow to be brought onto the premises any such materials except to use in the ordinary course of PERMITTEE'S business, and then only after written notice is given to the PERMITTOR of the identity of such materials and upon PERMITTOR'S consent, which consent may be withheld at the PERMITTOR'S sole and absolute discretion. If any lender or governmental agency shall ever require testing to ascertain whether or not there has been any release of hazardous materials by PERMITTEE, then PERMITTEE shall be responsible for the costs thereof. In addition, PERMITTEE shall execute affidavits, representations and the like from time to time at PERMITTOR'S request concerning PERMITTEE'S best knowledge and belief regarding the presence of hazardous materials on the Premises placed or released by PERMITTEE.

For the purpose of this ROE, the term "hazardous material" as used herein shall include any substance, waste or material designated as hazardous or toxic or radioactive or other similar term by any present or future federal, state or local statutes, regulation or ordinance, such as the Resource Conservation and Recovery Act, as amended, the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, and the Federal Clean Water Act, as amended from time to time, and also including but not limited to petroleum, petroleum based substances, asbestos, polychlorinated-biphenyls ("PCB"), formaldehyde, and also including any substance designated by federal, state or local regulations, now or in the future, as presenting a risk to human health or the environment;

Prior to the termination of the ROE, PERMITTEE may be required to conduct a Level One (1) Hazardous Waste Evaluation and conduct a complete abatement and disposal, if necessary, satisfactory to the standards required by the Federal Environmental Protection Agency, the Department of Health and PERMITTOR;



13. SPECIAL CONDITIONS.

A. PERMITTEE shall submit a Master Plan. Master plan shall include but not be limited to:

- i. Narrative description that clearly articulates permittee's project goals for the project area and detailed description of each proposed programmatic element and land use by the permittee.
- ii. Narratively and graphically describe characteristics of the project area including topography, portions of the project area susceptible to natural disaster events, location of known sensitive or unique natural and cultural resources, water resources, access points for vehicle and pedestrian ingress and egress, identification of level of infrastructure improvements required and location of improvements;
- iii. Site plan drawing at scale of the project area depicting conceptual size and location of proposed improvements and programmatic use of the project area.

B. PERMITTEE shall submit a Project Business Plan. The Project Business Plan shall include a description of expense and income budget (start-up/initial costs, operating budget, reserve fund, fundraising campaign). Business plan shall identify rough order of magnitude (ROM) cost for all capital improvements proposed by PERMITTEE to the premises including off-site infrastructure. Business plan shall include ROM cost for operation and maintenance expenses. Business plan shall include ROM for programmatic expenses including but not limited to staff salary and compensation. Business plan shall identify potential revenue sources and reasonably justified estimated revenue projections from each of these sources.

C. PERMITTEE shall consult with and work closely with PERMITTOR on completing HRS Chapter 343 and HRS Chapter 6E compliance documentations and studies. If HRS Chapter 343 Environmental Assessment study or Environmental Impact Study is required, approval of these studies is subject to the approval of the Hawaiian Homes Commission. Chapter 6E compliance is subject to the



approval/concurrence of the Department of Land Natural Resources State Historic Preservation Division.

D. As part of the PERMITTOR's regular review of PERMITTEE activities, and in exchange for gratis base rent, PERMITTEE shall submit a bi-annual progress report to the PERMITTOR and to the Hawaiian Homes Commission every six months starting from the ROE commencement date. The bi-annual progress reports shall document the PERMITTEE's activities of the previous period and shall include but not be limited to the following:

- i. Timeline and schedule to complete due diligence studies as described in Sections A thru D of this agreement. Timeline and schedule should identify major milestones in the completion of due diligence studies.
- ii. Description of major activities related to the project timeline and schedule that were conducted and/or completed in the six-month period.
- iii. Progress report shall also include description of circumstances that may affect the permittee's timeline and schedule for completion of due diligence studies.
- iv. Progress report shall identify any professional service provider or third-party assisting the permittee in the completion of due diligence studies.

E. The documentation and processing fee shall be waived;

F. This ROE is subject to other terms and conditions that may be deemed prudent by the Chairman of the Hawaiian Homes Commission.

[REMAINDER OF PAGE BLANK -- SIGNATURE PAGE FOLLOWS]



IN WITNESS WHEREOF, PERMITTOR and PERMITTEE have caused this ROE to be executed by the duly authorized officers/individuals as of the day and year first above written.

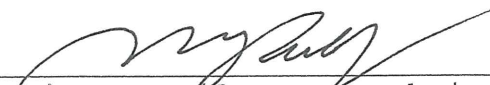
APPROVED BY THE HHC
AT ITS MEETING HELD ON
August 18, 2019

State of Hawaii
DEPARTMENT OF HAWAIIAN HOME LANDS

APPROVED AS TO FORM:




Deputy Attorney General
State of Hawaii

By 

William J. Aila, Jr., Chairman
Hawaiian Homes Commission

PERMITTOR

PA'UPENA COMMUNITY DEVELOPMENT, INC.

By 

Print Name: Kekoa Catherine Enomoto

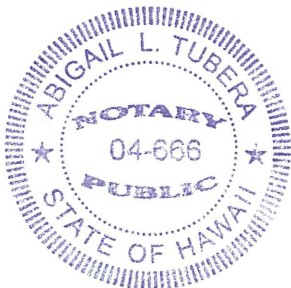
PERMITTEE



STATE OF HAWAII)
) ss:
CITY & COUNTY OF HONOLULU)

On October 10, 2019, in the First Circuit, State of Hawaii, before me appeared WILLIAM J. AILA, JR., to me personally known, who, being by me duly sworn or affirmed, did say that such person is the CHAIRMAN of the HAWAIIAN HOMES COMMISSION, and the person executed the foregoing instrument identified or described as RIGHT-OF-ENTRY NO. 690, as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

The foregoing instrument is undated and contained eleven (11) pages at the time of this acknowledgment/certification.



Bill L. Turner

Print Name: Abigail L. Tubera

Notary Public, State of Hawaii

My commission expires: November 21, 2020

STATE OF HAWAII

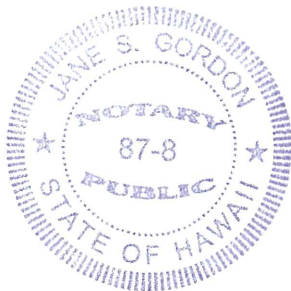
)

) SS.

COUNTY OF MAUI

)

On this 1st day of October, 2019, before
me appeared Kekoa Catherine Enamoto,
and _____, to me personally known,
who, being by me duly sworn, did say that ~~they~~ ^{she is} are the person js/np
who executed the foregoing instrument and acknowledged to me
that ~~they~~ ^{she} executed the same freely and voluntarily for the use
and purposes therein set forth. js/np



Jane S. Gordon
Notary Public, State of Hawaii

Printed Name: JANE S. GORDON
My commission expires: 1-13-2023

NOTARY CERTIFICATION STATEMENT

Document Identification or Description:

Right-of-Entry No. 690

Doc. Date: _____ or ☒ Undated at time of notarization

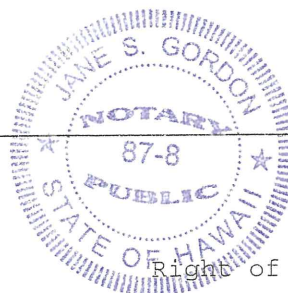
No. of Pages: 11 Jurisdiction: 2nd Circuit
(in which notarial act is performed)

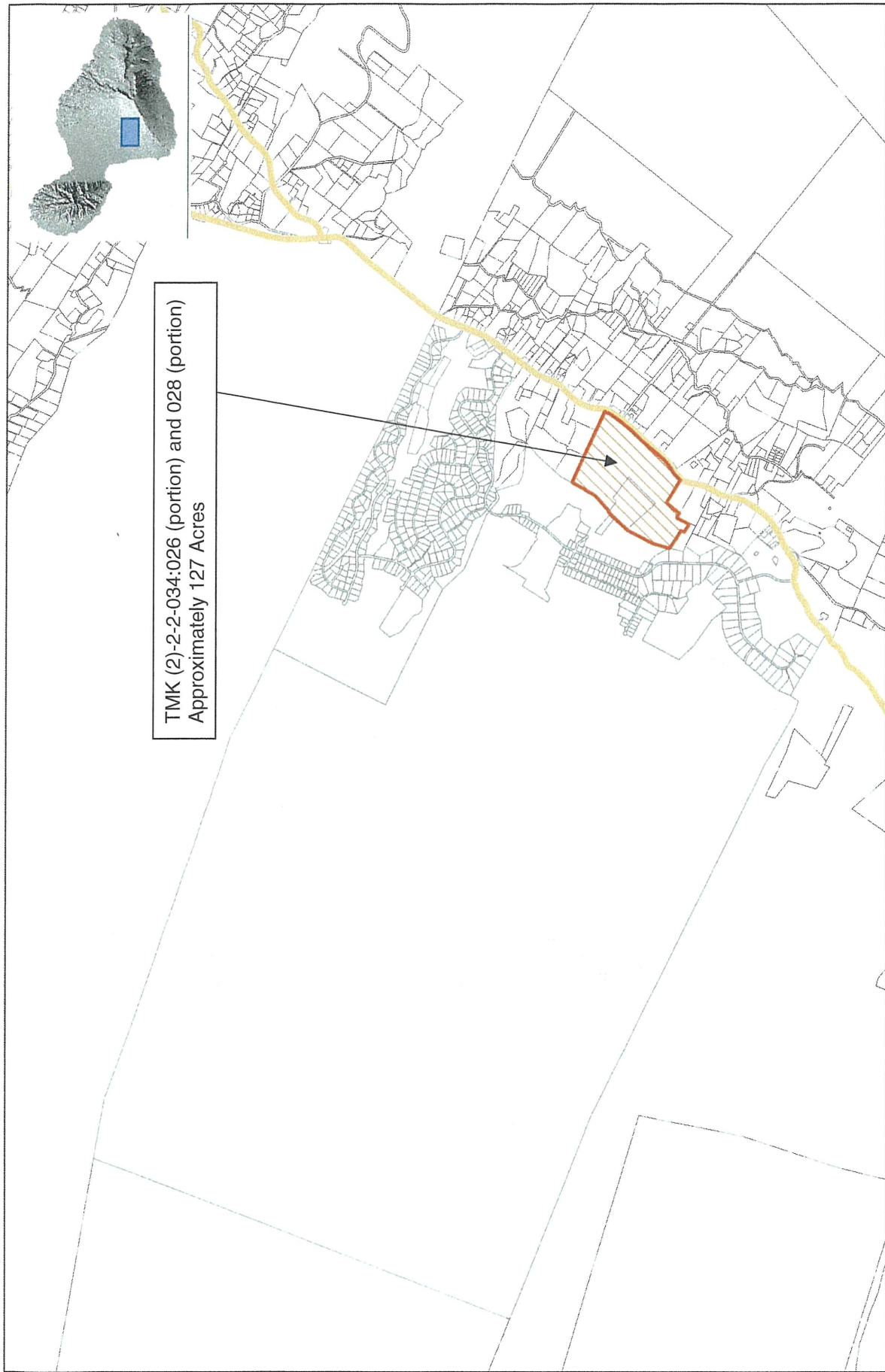
Jane S. Gordon
Signature of Notary

10-1-2019
Date of Notarization and
Certification Statement

JANE S. GORDON


Printed Name of Notary






TMK (2)-2-2-034:026 (portion) and 028 (portion)
Approximately 127 Acres

Legend

 Paupena ROE Boundary

 DHHL Land


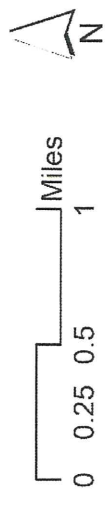
 State Highway

EXHIBIT A



STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

FIRST AMENDMENT TO RIGHT OF ENTRY NO. 690

This FIRST AMENDMENT TO RIGHT OF ENTRY NO. 690 (this **Amendment**), dated March 21, 2023, is made by and between the State of Hawai'i, by its **DEPARTMENT OF HAWAIIAN HOME LANDS**, whose address is 91-5420 Kapolei Parkway, Kapolei, Hawai'i 96707 (**Permittor**), and **PA'UPENA COMMUNITY DEVELOPMENT, INC.**, a Hawai'i nonprofit corporation, whose mailing address is 96 Ahulua Street, Kula, Hawai'i 96790 (**Permittee**).

A. Permittor is the "Permittor" and Permittee is the "Permittee" under that certain Department of Hawaiian Home Lands Right of Entry No. 690, dated October 10, 2019, (hereinafter "ROE 690"), filed in the Office of the Department of Hawaiian Home Lands.

B. Permittor and Permittee desire to exercise the option to extend the term of ROE 690 by one year, as approved by the Hawaiian Homes Commission on February 22, 2023.

AGREEMENT

NOW, THEREFORE, the parties agree as follows:

1. Term. The extended one-year term of ROE 690 commences on October 10, 2022 and will continue thereafter on a month-to-month basis unless earlier terminated as provided in ROE 690. The Permittee may request to extend the ROE for one additional year, the grant of which is at Permittor's sole discretion.

2. Fees. The processing and documentation fee of \$150.00 shall be waived.

3. No Other Amendments. Except as expressly amended by this Amendment, all other terms and conditions of ROE 690 remain in full force and effect.

4. Counterparts. This Amendment may be signed in counterparts and by facsimile, PDF, or other electronic means. Each counterpart when signed shall be deemed an original, and all of which, when taken together, shall be deemed to be and constitute one and the same instrument.

[Remainder of page intentionally left blank. Signatures on following page(s).]

EXHIBIT "C"
ITEM NO. F-2

DHHL
-
LMD

IN WITNESS WHEREOF, the parties have signed this Amendment as of the date written above.

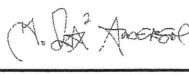
Approved by the
Hawaiian Homes Commission
on February 22, 2023

APPROVED AS TO FORM:

STATE OF HAWAI'I
Department of Hawaiian Home Lands




Deputy Attorney General
State of Hawai'i

By 

JUSTIN MICHAEL IKAIKA ANDERSON
Interim Chairman
HAWAIIAN HOMES COMMISSION

PERMITTOR

PA'UPENA COMMUNITY DEVELOPMENT, INC.
a Hawai'i nonprofit corporation

By 
Kekoa Enomoto (Mar 17, 2023 11:22 HST)

KEKOA CATHERINE ENOMOTO
Its Director

PERMITTEE












First Amendment to Right of Entry No. 690

Final Audit Report

2023-03-21

Created:	2023-03-10 (Hawaii-Aleutian Standard Time)
By:	Shelly Carreira (shelly.p.carreira@hawaii.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAUTbFOeyrvpmlo25ubRGgAktDUzII29ZM

"First Amendment to Right of Entry No. 690" History


-  Document created by Shelly Carreira (shelly.p.carreira@hawaii.gov)
2023-03-10 - 11:41:50 AM HST
-  Document emailed to kenomoto1@hawaii.rr.com for signature
2023-03-10 - 11:43:47 AM HST
-  Email viewed by kenomoto1@hawaii.rr.com
2023-03-11 - 8:13:27 PM HST
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2023-03-13 - 11:43:14 AM HST
-  Email viewed by kenomoto1@hawaii.rr.com
2023-03-16 - 6:56:57 AM HST
-  Email viewed by kenomoto1@hawaii.rr.com
2023-03-17 - 11:19:31 AM HST
-  Signer kenomoto1@hawaii.rr.com entered name at signing as Kekoa Enomoto
2023-03-17 - 11:22:21 AM HST
-  Document e-signed by Kekoa Enomoto (kenomoto1@hawaii.rr.com)
Signature Date: 2023-03-17 - 11:22:23 AM HST - Time Source: server
-  Document emailed to Ikaika Anderson (ikaika.anderson@hawaii.gov) for signature
2023-03-17 - 11:22:24 AM HST
-  Document e-signed by Ikaika Anderson (ikaika.anderson@hawaii.gov)
Signature Date: 2023-03-21 - 2:36:30 PM HST - Time Source: server
-  Agreement completed.
2023-03-21 - 2:36:30 PM HST


Names and email addresses are entered into the Acrobat Sign service by Acrobat Sign users and are unverified unless otherwise noted.


STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS


October 16-17, 2023


To: Chairman and Members, Hawaiian Homes Commission

Through: Richard Kuitunen, Administrator 
Land Management Division

Ward "Kalei" Young, Supervising Land Agent 
Land Management Division

Andrew Choy, Manager 
Planning Office

From: Shelly Carreira, Land Agent 
Land Management Division

Julie Ann Cachola, Planner 
Planning Office

Subject: Approval to Issue a License Agreement to Ka Ohana O Kahikinui, Inc.,
Kahikinui, Maui, TMK: (2) 1-9-001:003 (portion)

APPLICANT:

Ka Ohana O Kahikinui, Inc. "LICENSEE"

RECOMMENDED MOTION/ACTION:

That the Hawaiian Homes Commission (HHC) grant its approval to issue a License Agreement to Ka Ohana O Kahikinui, Inc., for approximately 0.50 acre, or 21,780 square feet (more or less) of Hawaiian home lands TMK: (2) 1-9-001:003 (portion), adjacent to the community pavilion in the community area within the Kahikinui Kuleana Homestead Subdivision for the purpose of developing a water catchment and storage system for providing non-potable water to Kahikinui homesteaders.

Authorize the issuance of a license agreement to LICENSEE covering the subject area under the terms and conditions cited below, which are by this reference incorporated herein and further subject to the following:

- A. The standard terms and conditions of the most current license form, as may be amended from time to time;

- B. The term of the license agreement is for ten (10) years, commencing upon execution of the license agreement document. The license agreement may be extended for additional five (5) year periods subject to evaluation and at the sole discretion of LICENSOR;
- C. LICENSOR and LICENSEE may mutually agree to increase the licensed area for accommodating additional fog drip segments. Amendments to increase land area are subject to approval from the Hawaiian Homes Commission;
- D. The fee for the term of the License shall be gratis;
- E. LICENSEE shall be responsible for the management, maintenance, and repair of the non-potable water catchment system, water tanks, infrastructure, and related appurtenances;
- F. LICENSEE shall consult with and work closely with LICENSOR on completing HRS Chapter 6E compliance requirement. Chapter 6E compliance is subject to the approval/concurrence of the Department of Land Natural Resources State Historic Preservation Division;
- G. LICENSEE shall submit for approval all plans and specifications for any improvements, modifications, alterations, or additions constructed on the land; to include clearing, grading, grubbing, fencing, building construction now or hereafter erected on the premises to the Chairman of the Hawaiian Homes Commission for approval prior to construction;
- H. The documentation and processing fee shall be waived;
- I. The License document shall be subject to the review and approval of the Department of the Attorney General; and
- J. Such other terms and conditions as may be prescribed by the Hawaiian Homes Commission to best serve the interest of the Hawaiian Home Lands Trust.

LOCATION:

Portion of Hawaiian home lands situated in Kahikinui, Island of Maui, identified as a portion of TMK: (2) 1-9-001:003 (See Exhibit "A")

AREA:

Approximately 0.50 acre or 21,780 square feet (more or less)

BACKGROUND/DISCUSSION

During the regional planning process for the development of the Kahikinui Regional Plan dated July 2011, beneficiaries identified the Punawai Project & Water Infrastructure Improvements as a priority project. The project involves design, engineering, sourcing materials, employing

contractors, and recruiting volunteers necessary for developing a fog drip system and water infrastructure improvements in Kahikinui (see Exhibit “B”).

The Punawai Project & Water Infrastructure Improvements (fog drip) is currently under Right of Entry No. 696 (ROE 696) issued to Ka Ohana O Kahikinui (KOOK) for due diligence items related to developing the fog drip system. The Kahikinui Fog Drip Project is an innovative alternative that harvests non-potable water from the clouds that pass through the land at higher elevations, every day. The project collects water from the clouds, stores the water in water tanks and transmits the water to lower elevation tanks next to the community pavilion where homesteaders can easily access the water for their non-potable uses.

This is a large project that encompasses various components at different locations. Moreover, as a nonprofit organization, KOOK has had to apply for grants in order to secure the funding necessary to implement the project. In July 2023, KOOK secured an \$80,000 grant from the County of Maui to construct a stand-alone portion of the project. The proposed license disposition will allow KOOK to construct the stand-alone water catchment/storage tanks at the community pavilion within the County deadlines identified in the grant. However, construction of this segment is subject to compliance with HRS Chapter 6E.

The stand-alone segment, KOOK will purchase and install two 5,000 gallon tanks, catchment connections, and a 5’ x 7’ tool shed to store and secure related equipment and supplies. In order to minimize ground disturbance, a 25’ x 20’ concrete slab will be constructed. The two tanks and the tool shed will be bolted down to the concrete slab. This stand-alone segment will eventually connect to other components of fog drip system. Under this phased approach, the license can be expanded to cover additional segments through amendments approved by the Hawaiian Homes Commission.

The KOOK has contracted ‘Āina Archaeology to assist with HRS Chapter 6E requirements for the overall fog drip project. In addition, Department of Hawaiian Home Lands (DHHL) Planning staff is also assisting with mapping the project components and completing SHPD Chapter 6E forms and other processes related to compliance with HRS Chapter 6E.

The DHHL has determined the installation and operation of a fog/rain collection and distribution system is exempt from the preparation of an HRS Chapter 343 Environmental Assessment based on the general types enumerated in Section 11-200.1-159(c), Hawaii Administrative rules, Exemption Type 3 and 5 (see Exhibit “C”).

Through the attached Exhibit “D”, KOOK is requesting a long-term license that will allow KOOK to construct the stand-alone water catchment system to collect non-potable water for Kahikinui community use. The requested license will allow KOOK to comply with grant requirements and meet funding deadlines.

CONSISTENCY WITH DHHL PLANS, POLICIES AND PROGRAMS

The recommended disposition is consistent with the following plans, policies, and programs:

- 1) DHHL's General Plan (2022) goals and objectives:

Land Use Planning

Goals: Utilize Hawaiian Home Lands for uses most appropriate to meet the needs and desires of the beneficiary population.

Objectives: Provide space for and designate a mixture of appropriate land uses, economic opportunities, and community services in a native Hawaiian friendly environment.

- 2) DHHL's Maui Island Plan, September 2004

- Land Use Designation: Special District, Figure M, Kahikinui Land Use Plan

- 3) DHHL's Kahikinui Regional Plan: The proposed use of Hawaiian Home Lands is identified in the Kahikinui Regional Plan dated July 2011, Priority Project: Punawai Project & Water Infrastructure Improvement. The proposed project calls for the development of one or more tanks- to retain the water collected by a mist capture system e.g. fog screens.

- 4) Kahikinui Forest Reserve Community Management Conceptual Plan, July 1995, Page 17, Item No. 3, Water Source Identification, Storage and Transmission Projects. "Water source development projects such as rainfall and fog drip catchments demonstrations may be conducted and if effective, implemented within the forest reserve."

AUTHORITY

§207(c)(1)(A) of the Hawaiian Homes Commission Act, 1920, as amended, authorizes the department to grant licenses for the use of Hawaiian Home Lands for public purposes.

RECOMMENDATION

Land Management Division and the Planning Office respectfully recommends approval of the requested motion/action as stated.

EXHIBIT A

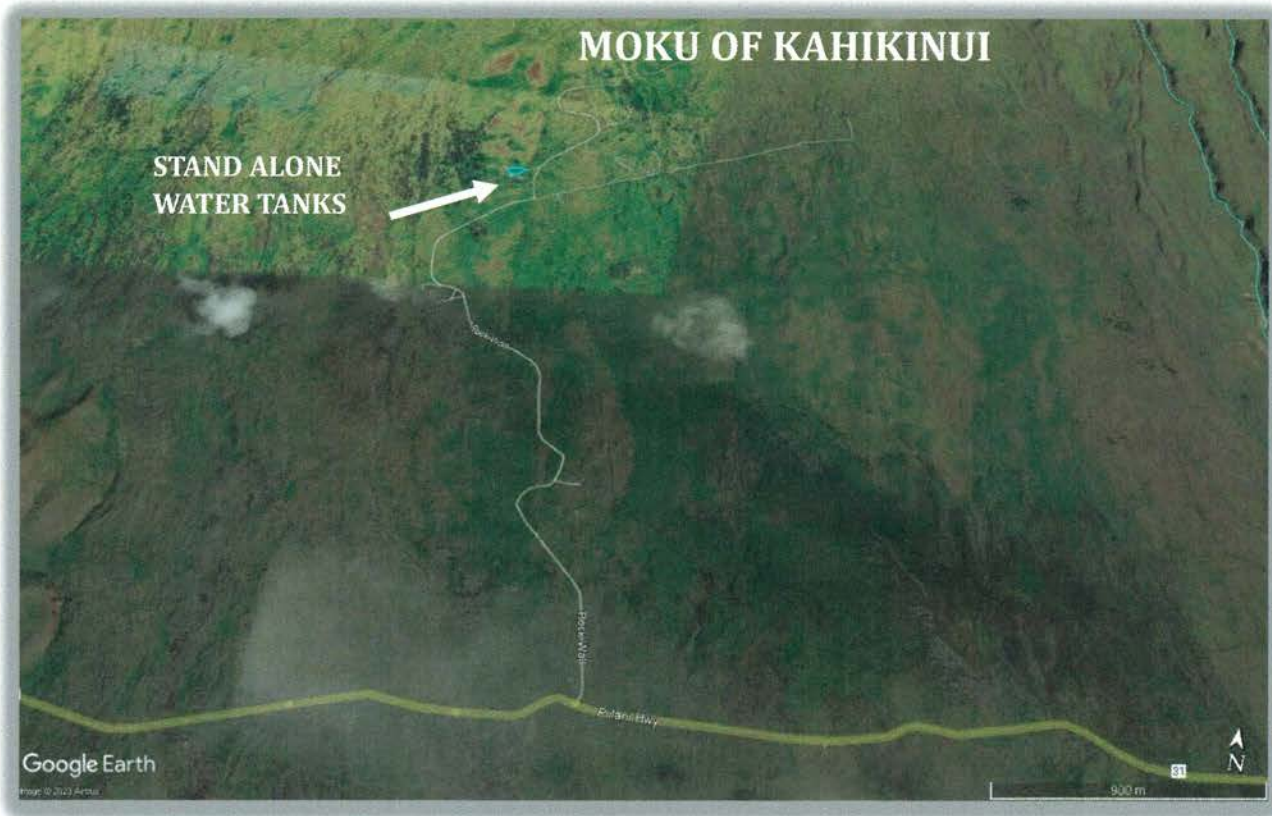
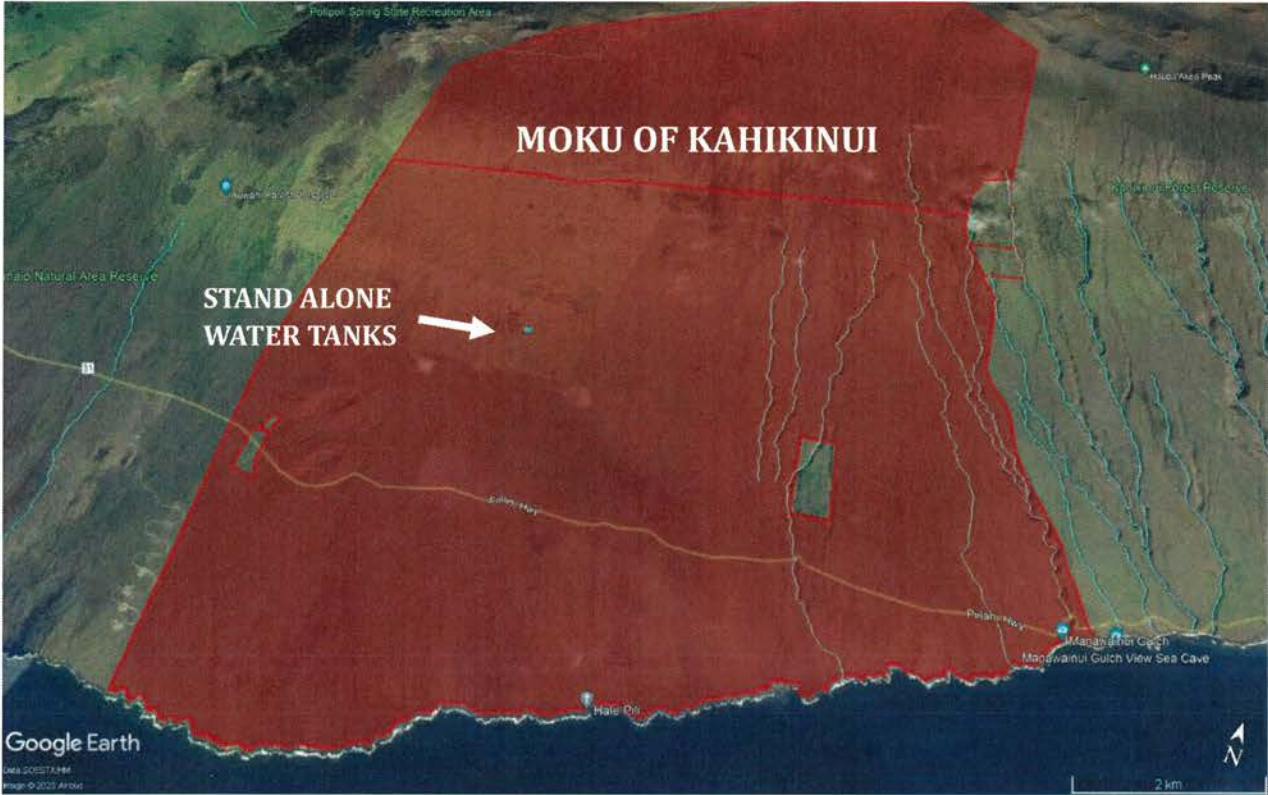


EXHIBIT A

Community Pavilion



Land Use Request from KOOK for
one-half acre, or 21,780 sq. ft.
TMK: (2) 1-9-001:003 (portion)

5'x7'
toolshed

25' X 20
Concrete
slab



(2) 5,000-gallon
water tanks

Priority Project: Pūnāwai Project & Water Infrastructure Improvements

Description

The availability of water is a constant constraint in Kahikinui. Homesteaders rely on hauling water, almost daily, to store in water catchment systems. Test mist capture structures were developed during the early days of Kahikinui. The system captured water and the technology has been shown to work. One lesson learned was the need to protect the fog screens from feral ungulates. The other is the importance of the designs for collection and retention facilities of the system along with transmission.

Community System

The proposed project calls for the development of one or more tanks/reservoirs to retain the water collected by a mist capture system e.g. fog screens. The initial capture area should be a 5-10 acre site fenced for protection from people and animals. Reservoirs should be lined to the top of the bank. Reservoirs also need to be protected from contamination by fencing or other means primarily from feral animals and possible human activity. A house/shed should be built next to the reservoirs to accommodate the presence of a waterman/guard, if needed, to maintain and protect the equipment and the water and to house maintenance equipment for the system. These fog screens and reservoirs should be located above the homestead areas in the Dry Montane Forest zone between 975 to 1,980 meters above sea level. Water tanks should be installed in the lots toward Pu'u Pane. A large reservoir should also be developed below the Comm. Center.

A pipeline system (tentatively estimated at 2 inch diameters) is needed to bring the water from the reservoirs to two 100,000 gallon storage tanks. These tanks should be developed makai of the reservoirs but mauka of most of the homestead lots. From the reservoirs there needs to be a system that follows the main roads down to the lowest users. The lessees will be responsible for bringing the line from the main road to their individual lots and houses.

Individual Homesteads

DHHL should consider setting up a program to subsidize each homestead lot with a 15,000 gallon tank. This is a relatively small site development cost when compared to normal site development subsidies provided by the Department for a normal housing project. While the original concept for Kahikinui did call for off grid independence and general self sufficiency from DHHL support, Kahikinui remains a pilot in progress and one of the lessons learned is the importance of having a water tank of sufficient size to support domestic use. For the majority of the year, water from roof catchment fills the tank and supplies most of the domestic needs of the homesteading family. It provides a good economically reasonable kick start to the individual lot development process. The cost is estimated to run between \$10,000 and \$20,000 per homestead. Helping the homesteader at this level of subsidy will help put more people on the land more quickly. Appropriate placement of the tank on each lot is important from a water pressure standpoint.

Potential Partners

This is a partnership program between DHHL and Homestead beneficiaries. It would be a way to accelerate the full build out. It is also a novel concept for a water delivery system and it might be possible to obtain support and/or funding from other potential interested parties such as the County Department of Water Supply, DLNR or the U.S. Department of Agriculture. Other more peripheral but possible interested parties may be organizations like the Nature Conservancy or the Natural Resource Conservation Service.

Next Steps

Pūnāwai Project

- The fog capture system should be revisited for efficiency and cost.
- A concept idea should be evaluated from an engineering perspective.
- After cost estimates are developed a grant requested or some other form of funding should be sought to conduct final engineering design, permitting and construction. Because of the novel nature of this project, non-traditional funding sources should be investigated along with conventional sources.
- Bid and select a general contractor for the project.
- The plan should include funding to pay people for time spent guarding the facilities. A system of rotating security responsibility among homesteaders should be considered.
- A maintenance plan should be developed which includes an operational funding plan.

Water Tank Subsidy

- Draft a proposal requesting the Hawaiian Homes Commission to institute a subsidy to provide a 15,000 gallon tank for each lessee who could use one to kick start his/her settlement activity.
- Submit and lobby for approval

Timeline

2011	2012	2013
• Year one, finalize plans for system.	• Year two, obtain funding and obtain entitlements.	• Year three, start construction of Phase 1.



Fog capture system

DAVID Y. IGE
GOVERNOR
STATE OF HAWAII

JOSH GREEN
I.T. GOVERNOR
STATE OF HAWAII



WILLIAM J. AILA, JR.
CHAIRMAN
HAWAIIAN HOMES COMMISSION

TYLER I. GOMES
DEPUTY TO THE CHAIRMAN

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

P. O. BOX 1879
HONOLULU, HAWAII 96805

TO: 1. Agency-Maintained Public Files for Chapter 343 HRS Exemption Determinations
2. Environmental Review Program (via <https://health.hawaii.gov/oeqc/submittal-form>)
3. Ka 'Ohana o Kahikinui (via email)

FROM: Chairman of the Hawaiian Homes Commission

SUBJECT: Exemption Notice for Ka 'Ohana o Kahikinui, Installation and Operation of a Fog/Rain Collection and Distribution System (reference-file # PO-21-310)

DATE: October 21, 2021

AGENCY OR APPLICANT ACTION

Check applicable box

- ☐ This exempted action is an agency action as defined by Section 343-5(b), Hawai'i Revised Statutes (HRS), and Section 11-200.1-8, Hawai'i Administrative Rules (HAR),
- ☒ This exempted action is an applicant action as defined by Section 343-5(e), HRS, and Section 11-200.1-9, HAR

EXEMPTION TYPE:

The Exemption Notice for the action described below is based on the general types enumerated in Section 11-200.1-15(c), Hawai'i Administrative Rules (HAR), Exemption Type 3 and 5.

As applicable, the exemption for the action described below is also supported by the Exemption List for the Department of Hawaiian Home Lands, reviewed and concurred to by the Environmental Council on April 6, 2021.

- Exemption List, Part II- Type 3¹.
Items Numbered 1d, 1e, 5, 6 and
- Exemption List, Part II- Type 5.
Items Numbered 1, 2.
- Applicable language from the exemption list²:

Part II, Type 3. Construction and location of single, new, small facilities or structures and the alteration and modification of the facilities or structures and installation of new, small equipment or facilities and the alteration and modification of the equipment or facilities, including, but not limited to (d) Water, ~~sewage, electrical, gas, telephone~~, and other essential public utility services extensions to serve such structures or facilities; accessory

¹ This project also involves activities including the installation of several water storage tanks, water distribution, appurtenant structure, collecting data and conducting various studies. These components of the project have been evaluated and are de minimis activities covered by DHHL's exemption list, Part I Type 3(d) items 1b, 1c, 3, 8c, 8d, 8j; Type 2 item 1o, Type 4 item 4, 6; and Type 5 items 1, 2, 7, 9, 10, 11, 12, and 27.

² Activities not relevant to this project but included within the language of the exemption list type/part have been crossed out.

or appurtenant structures including ~~garages, carports, patios, and fences~~; and acquisition of utility easements

Item #1- Construction of new structures on DHHL lands (to include leased lands) of any of the following:

(d) Essential public utility services extensions to serve such types of structures or facilities, including domestic water source development for homesteading purposes, with required permits

(e) Essential public utility services extensions to serve such types of structures or facilities, including domestic water source development for homesteading purposes, with required permits

Item #5- Construction of fencing, gates, lighting, security alarms, camera systems and similar items for security and/or safety

Item #6- Construction of interior roadways, driveways, ~~parking lots, sidewalks, curbs, and gutters~~

Part II, Type 5 Basic data collection, research, experimental management, and resource and infrastructure testing and evaluation activities that do not result in a serious or major disturbance to an environmental resource

Item #1 - Archaeological surveys that include clearing of vegetation in direct association with site evaluation and mapping

Item #2- Construction of site improvements needed to mobilize equipment or personnel to accomplish the task

Item #4- Subsurface trenching or digging necessary to install scientific or geological data collection devices

DESCRIPTION OF ACTION

Proposing Agency or Applicant: Ka 'Ohana o Kahikinui

Project Name & Address/Location: Installation and Operation of a Fog/Rain Collection and Distribution System

Anticipated Start Date: November 1, 2021

Anticipated End Date: Construction- 3 months after receipt of all approvals

Operation: indefinitely

Island and District: Maui Kahikinui

Tax Map Key(s) and other geolocation means: (2)1-9-001:003

Anticipated Permits and Approvals:

- DLNR- State Historic Preservation Division Chapter 6E Historic Preservation Review
- County of Maui- electrical, civil construction and inspection, grubbing and grading
- Activities within a Critical Habitat

NARRATIVE

Describe the action and why it qualifies for the exemption:

This project is a collaborative effort to provide a source of fresh water to the Kahikinui community. The remote location and small size of the community has made it cost prohibitive to connect to any existing water systems or develop a ground water source. The project is utilizing technology that has been pilot tested to capture rainwater and moisture directly from the air utilizing 5,000 ft² surface rain catchment and 4,680 ft² fog drip screen arrays respectively. The project will not require the need for exploratory nor production wells to meet the needs of this community. Two collection tanks (both under 5,000 gallons) will be located at the collection source at an elevation of approximately 4,500 feet above mean sea level (msl). The collection system will include electrified perimeter fencing up to 8 feet tall for security and health a safety purposes. The water will be transmitted down to lower elevations for use by the community via a 1.5-inch above ground waterline. Two-hundred fifty-gallon pressure breaker tanks will be installed incrementally at approximately every 300-foot drop in elevation. The transmission line will be connected to two 10,000-gallon steel tanks, one at approximately 3,600 feet and 2,800 feet above msl. The community members will be able to draw water from the storage tanks. No connection piping is proposed to provide water directly from the system to individual lots. At the present, the community is not pursuing the required certification, maintenance and testing for this system to meet the requirements for potable water.

RECEIVING ENVIRONMENT

Describe the site, including any impacts on the receiving environment:

The project site is currently deforested open pasture on a 5–20 degree slope, covered by various alien pasture grasses and weeds. It was recently part of a fire break that had been cleared and bulldozed, but grass has grown back. The project area is below the current Koa forest line and is part of the large expanse of DHHL land that at one time was forested, but has been denuded over the last hundred years from uncontrolled overgrazing.

ENVIRONMENTAL ANALYSIS

I have considered the potential effects of the proposed project and all related activities against the criteria checked below:

	Not Applicable
<input checked="" type="checkbox"/> Land Use and Zoning Conformance	<input type="checkbox"/>
<input checked="" type="checkbox"/> Traffic (Vehicles, Bicycles, Pedestrian)	<input type="checkbox"/>
<input checked="" type="checkbox"/> Infrastructure (Roads, Buildings, Utilities)	<input type="checkbox"/>
<input checked="" type="checkbox"/> Air Quality Pollutant Emissions	<input type="checkbox"/>
<input checked="" type="checkbox"/> Noise Emissions	<input type="checkbox"/>
<input checked="" type="checkbox"/> Solid, Hazardous, and Liquid Waste Management	<input type="checkbox"/>
<input checked="" type="checkbox"/> Social	<input type="checkbox"/>
<input checked="" type="checkbox"/> Economic	<input type="checkbox"/>
<input checked="" type="checkbox"/> Health and Safety	<input type="checkbox"/>
<input type="checkbox"/> Recreation	<input checked="" type="checkbox"/>
<input type="checkbox"/> Public Beach Access	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/> Cultural Resources and Practices	<input type="checkbox"/>
<input checked="" type="checkbox"/> Visual/Aesthetic	<input type="checkbox"/>

- | | |
|---|--------------------------|
| <input checked="" type="checkbox"/> Environmental Justice | <input type="checkbox"/> |
| <input checked="" type="checkbox"/> Rare, Threatened, and/or Endangered Species | <input type="checkbox"/> |
| <input checked="" type="checkbox"/> Surface and Ground Water Resources | <input type="checkbox"/> |
| <input checked="" type="checkbox"/> Wetlands | <input type="checkbox"/> |
| <input checked="" type="checkbox"/> Floodplains | <input type="checkbox"/> |
| <input checked="" type="checkbox"/> Riparian/Coastal Resources | <input type="checkbox"/> |
| <input type="checkbox"/> Other | <input type="checkbox"/> |

Comments/summary of impact analysis:

The project site is located outside of any floodplains, 3.2-foot sea-level-rise exposure area, special management area, and wetlands. The project is located within areas identified as D and E by the Land Study Bureau and as "other" within the Agriculture Lands of Importance to the State of Hawai'i. A portion of the project area is located in an area identified as a critical habitat ecosystem, the Montane Dry 01, and the *Manduca blackburni* (Blackburn's sphinx moth) critical habitat.

The project site is designated as Agriculture and Conservation, by the State Land Use Board. The project is located within DHHL's Special District Land Use designation and the County of Maui's Agriculture and Interim zoning. The actions proposed are consistent with activities allowed on lands with these designations.

MITIGATION

Describe all mitigation measures and best management practices planned to address impacts during the project activities and after project completion:

- KOOK and their respective contractors shall comply with all County, State, and Federal permit, and approval requirements.
- The project will generate short-term construction related fugitive dust and noise impacts during construction. Best management practices need to be employed to reduce dust emissions. Compliance with HAR §11-46 relating to community noise control.
- All activities should include erosion control and other best management practices to reduce/eliminate pollution generating activities from impacting the project site and the surrounding areas.
- If any human remains or funerary material are discovered during ground disturbing activities, all activity in the immediate area must stop. The State Historic Preservation Division (SHPD) and County Police shall be called. Work in the area may resume only after SHPD and County Police authorize activity in the area.
- Approval from State Historic Preservation Division is required prior to any ground disturbing activities.

- Compliance with the Endangered Species Act is required. A portion of the project area is located in an area identified as a critical habitat ecosystem, the Montane Dry 01, and the *Manduca blackburni* critical habitat. As such, coordination and consultation with US Fish and Wildlife (USFWS), Division of Forestry and Wildlife (DOFaW) must be conducted prior to construction to determine what mitigations are required for the protection of endangered or threatened species as well as species of concern. Alternatives to barbed wire fencing may be required based on USFWS and DOFaW recommendations. It is anticipated that the avoidance of night work during sea bird fledgling season (September 15 through December 15) may be required.
- The project is located within the critical habitat of the Blackburn's sphinx moth. The adult Blackburn's sphinx moth feeds on nectar from native plants, including beach morning glory (*Ipomoea pes-caprae*), 'ilie'e (*Plumbago zeylanica*), and maiapilo (*Capparis sandwichiana*). Blackburn's sphinx moth larvae feed on non-native tree tobacco (*Nicotiana glauca*) and native aiea (*Nothocestrum* sp.). To pupate, the larvae burrow into the soil and can remain in a state of torpor for a year or more before emerging from the soil. Soil disturbance can result in death of the pupae. To avoid potential project impacts to the Blackburn's sphinx moth, the following mitigation measures will be taken unless technical assistance provided by DOFAW and/or USFWS provides alternative mitigation requirements:
 - A biologist familiar with the species will survey areas of proposed activities for Blackburn's sphinx moth and its larval host plants prior to work initiation.
 - Surveys will be conducted during the wettest portion of the year (usually November-April or several weeks after a significant rain) and within 4-6 weeks prior to construction.
 - Surveys will include searches for adults, eggs, larvae, and signs of larval feeding (chewed stems, frass, or leaf damage).
 - If moths, eggs, or larvae, or native aiea or tree tobacco over 3 feet tall, are found during the survey, please contact the Service for additional guidance to avoid impacts to this species.
 - If no Blackburn's sphinx moth, aiea, or tree tobacco are found during surveys, the following measures will be taken to avoid attraction of Blackburn's sphinx moth to the project location and prohibit tree tobacco from entering the site.
 - Remove any tree tobacco less than 3 feet tall. (Tree tobacco can grow greater than 3 feet tall in approximately 6 weeks. If it grows over 3 feet, the plants may become a host plant for Blackburn's sphinx moth.)
 - Monitor the site every 4-6 weeks for new tree tobacco growth before, during, and after the proposed ground-disturbing activity.
 - Monitoring for tree tobacco can be completed by any staff, such as groundskeeper or regular maintenance crew, provided with picture placards of tree tobacco at different life stages.

CONSULTATION

NAME: EXEMPTION NOTICE FOR KA 'OHANA O KAHIKINUI, INSTALLATION AND OPERATION OF A
FOG/RAIN COLLECTION AND DISTRIBUTION SYSTEM
DATE: OCTOBER 21, 2021
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The following parties have been consulted about this declaration exemption (Name, affiliation, consultation date): Information from the following agencies was collected from their digital reference materials on October 14, 2021.

County- Planning Department

State- Department of Agriculture
Department of Land and Natural Resources
Department of Health, Clean Water Branch

Federal- U.S. Census Bureau
USDA, National Resources Conservation Service
Federal Emergency Management Agency
U.S. Fish and Wildlife Service

EXEMPT DECLARATION

The direct, cumulative, and potential impacts of the action described above have been considered pursuant to Chapter 343, Hawai'i Revised Statutes and Chapter 11-200.1, Hawai'i Administrative Rules. I declare that the action described above will have minimal or no significant impact on the environment and is therefore exempt from the requirement to prepare an environmental assessment.



William J. Aila, Jr., Chairman
Hawaiian Homes Commission

10/18/21

Date

Attachments:

Figure- Overall Site Plan
Figure- Fog Catchment Detail
Figure- DHHL's Land Use Designations- (Maui Island Plan- Figure M)
Figure- State Land Use Districts
Figure- Maui County Zoning
Figure- Land Study Bureau
Figure- Agriculture Lands of Importance to the State of Hawai'i
Figure- Critical Habitats
Figure- Flood Hazard Areas and Wetlands
Figure Sea Level Rise Exposure Area and Special Management Area
Document- Project Description

- ☒ This document is on file in our office and is available for public review.
- ☒ This document has been submitted to the Office of Environmental Quality Control for publication in *The Environmental Notice*.

NAME: EXEMPTION NOTICE FOR KA 'OHANA O KAHIKINUI, INSTALLATION AND OPERATION OF A
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PAGE 7 OF 14

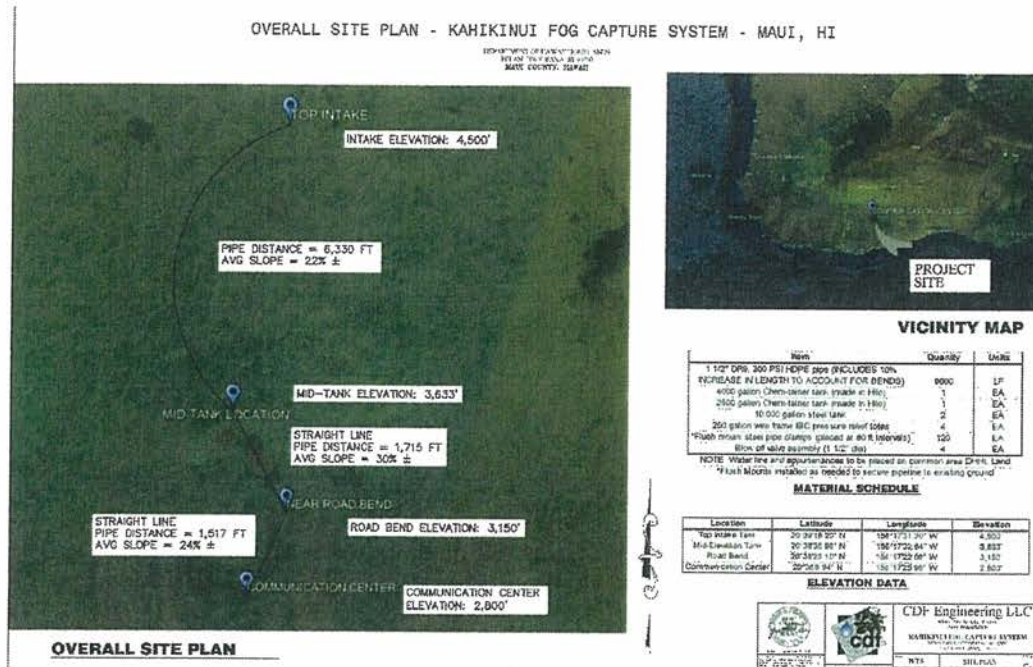


Figure-Overall Site Plan

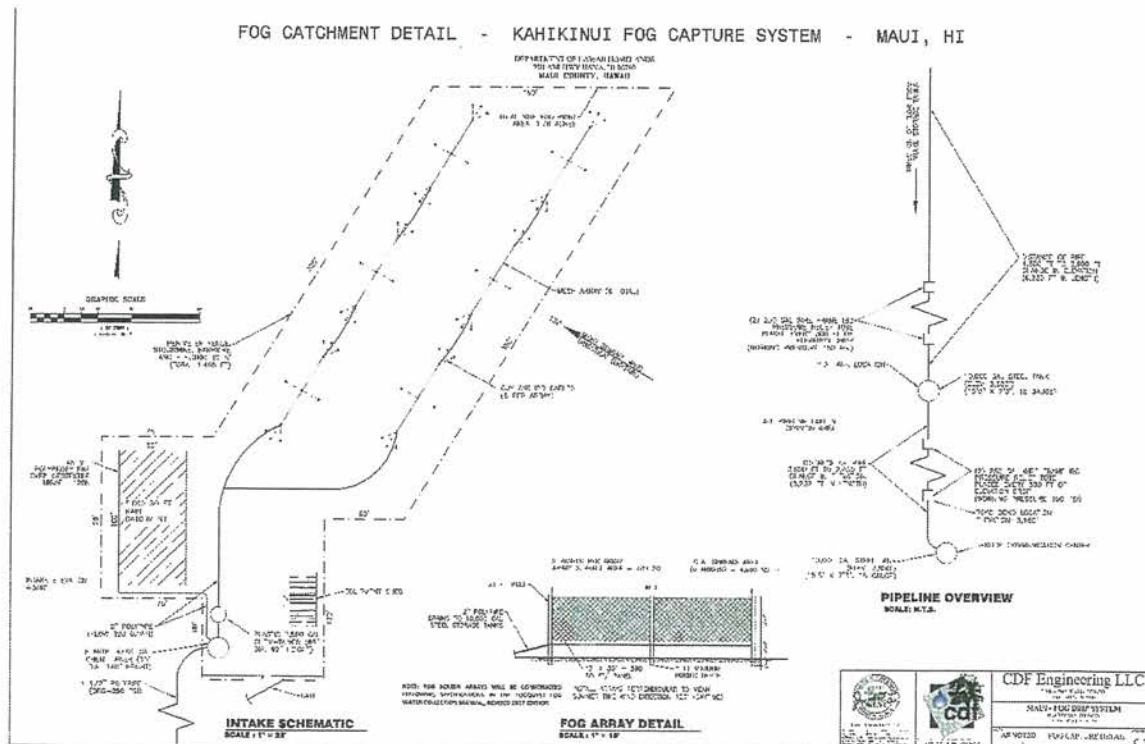


Figure- Fog Catchment Detail

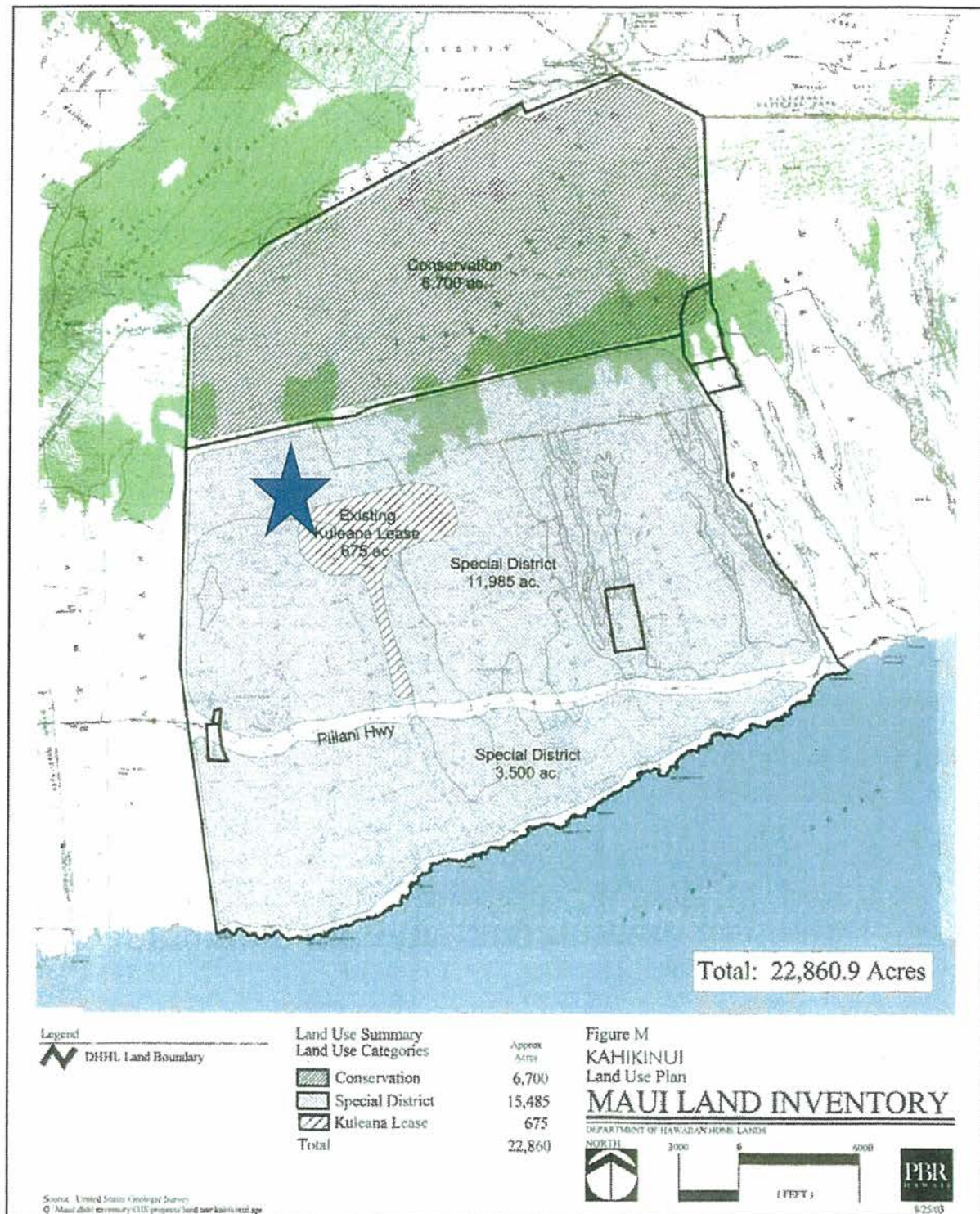


Figure- DHHL's Land Use Designations- (Maui Island Plan- Figure M)



Figure- State Land Use Districts

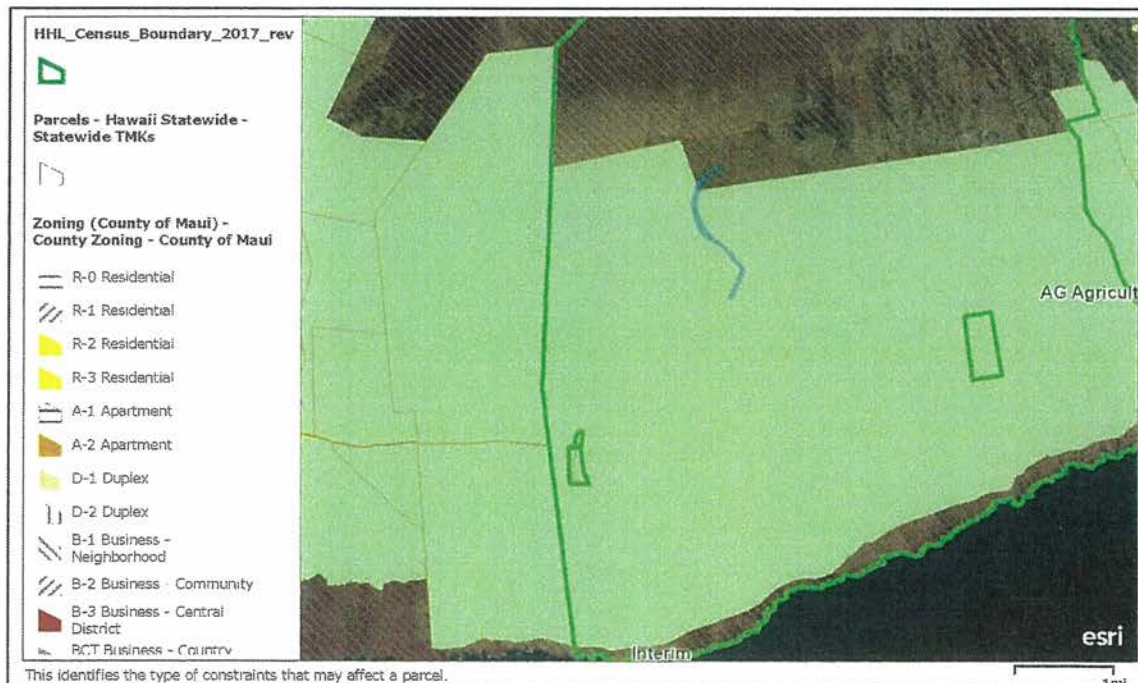


Figure- Maui County Zoning
(pale green-Agriculture, purple diagonal stripe- Interim)

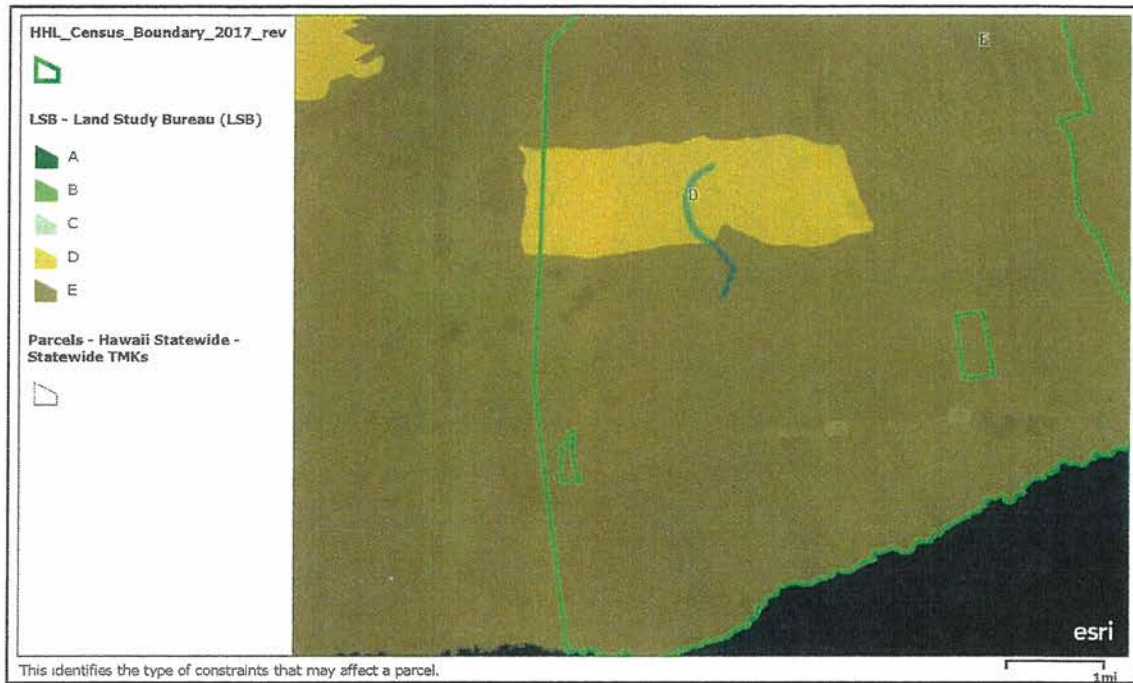


Figure- Land Study Bureau



Figure- Agriculture Lands of Importance to the State of Hawai'i

NAME: EXEMPTION NOTICE FOR KA 'OHANA O KAHIKINUI, INSTALLATION AND OPERATION OF A FOG/RAIN COLLECTION AND DISTRIBUTION SYSTEM

DATE: OCTOBER 21, 2021

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Figure- Critical Habitats



Figure- Flood Hazard Areas and Wetlands



Figure Sea Level Rise Exposure Area and Special Management Area

Document-Project Description



CDR Engineering LLC
Civil Engineering and Surveying Consultants
1131 W. 28th St., Suite 111, Hilo, HI 96720
Phone: (808) 939-2402 - Fax: (808) 939-2402
www.cdrhawaii.com Lic. No. ANC-3559

June 30, 2021

Ka 'Ohana O Kahikinui Inc
c/o Jim Juwik, Ph.D.
Pacific Environmental Planning
223 Makani Circle
Hilo, HI 96720
(808) 896-4460

**SUBJECT: DEPARTMENT OF HAWAIIAN HOMELANDS AT KAHIKINUI
NON-POTABLE WATER SYSTEM**

The purpose of this document is to certify the subject water system in accordance with general practices for the health and safety of the public.

This project arose from a collaborative effort to install a fog-drip capture water delivery system to provide a sustainable source of fresh water to the Hawaiian community at Department of Hawaiian Home Lands (DHHL) Kahikinui. The water provided by this system will be considered NON-POTABLE.

The system will consist of the following components (See associated construction drawings).

1. Six (6) Fog Drip screen arrays (780 square feet each)
2. Two (2) 10,000-gallon steel water tanks
3. 5,000 square feet surface rain catchment
4. Equipment shed
5. Fencing around Fog Drip arrays, surface catchment, and intake plastic water tanks
6. 1-1/2" waterline (approximately 10,000 lineal feet)
7. Four (4) 250-gallon pressure break tanks (Wire Frame IBC Totes)
8. One (1) 4,000-gallon plastic water tank
9. One (1) 2,500-gallon plastic water tank

No treatment of the water has been specified to create a potable water system at the time of this certification. Inspections of the Fog Drip Array area should be completed monthly and before and after known storm events. The fencing is a critical component of the system providing a barrier for security and cleanliness of the overall water source. Water should be circulated frequently throughout the water system and associated tanks to avoid stagnancy in accordance with Department of Health and Environmental Protection Agency guidelines for catchment water systems.

3d architecture - equipment - water/hydrology - capture - distribution management
erosion-control/NM - plans - landscape architecture - sub-division

(Non-Potable water system at Kahikinui page 1)

NAME: EXEMPTION NOTICE FOR KA 'OHANA O KAHIKINUI, INSTALLATION AND OPERATION OF A
FOG/RAIN COLLECTION AND DISTRIBUTION SYSTEM
DATE: OCTOBER 21, 2021
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Kahikinui
June 30, 2022
Page 3 of 5

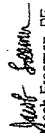
The system will be operated by the local community and designated individuals. Those individuals will operate and maintain the water system in accordance with the instructions prescribed by the professional engineer and so that the product/finished water will comply with general practices for the health and safety of the public.

The system will require all subsequent owners of the non-potable water system to operate and maintain the non-potable water system for the said project in accordance with the instructions prescribed by a professional engineer and so that the product/finished water will comply with the applicable laws.

The system operators will notify, before transfer of ownership, all subsequent owners of the potable water system of their duty to operate and maintain the potable water system for said project in accordance with instructions prescribed by a professional engineer and so that the product/finished water will comply with applicable laws.

Operations and Emergency Plan will consist of anticipating storm events, anchoring IBC totes, water tanks, fog array poles, and water lines. The Fog Dip screen material will be taken down during anticipated storm events with winds over 35 mph.

Sincerely,

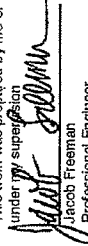

Jacob Freeman, PE
Lic. No. 13736-C
Lic. Exp. 4-30-2022

PROFESSIONAL ENGINEER CERTIFICATION

The undersigned, being a registered professional engineer, certifies that:

1. He has prepared the attached report and the information contained therein is true to the best of his information and belief, and
2. The water produced by the DHHI Kahikinui Fog Dip Capture System, the non-potable water system identified in the attached report, will comply with general guidelines for the health, safety, and operation of such a water system. While the State primary potable water regulations contained in Hawaii Administrative Rules, Title 11, Chapter 20, Rules Relating to Potable Water Systems, does not apply here, they can be used as general guidelines when said water system is operated and maintained in accordance with the instruction and information contained in this report.

This work was prepared by me or under my supervision


Jacob Freeman
Professional Engineer
CDF Engineering, LLC
Lic. No. 13736-C
Lic. Exp. 4-30-2022

(Non-Potable water system at Kahikinui pages 2-3)

KA 'OHANA O KAHIKINUI, INC.
HC1 Box 961, Kula 96790

October 5, 2023

Kali Watson, Chairman
Hawaiian Homes Commission
P.O. Box 1879
Honolulu, Hawai'i 96815

Subject: Request for Commission Approval of a Long-Term License to Construct, Manage, and Maintain two 5,000 gallon Water Tanks/Catchments and a Tool Shed, TMK (2) 1-9-001:003 (portion)

Aloha Chairman Watson:

Ka 'Ohana o Kahikinui (KOOK) is requesting Hawaiian Homes Commission approval for a long-term License to construct, operate and maintain a small water project adjacent to the community pavilion located within the Kahikinui Kuleana Homestead (see attached maps). The project will purchase two 5,000 gallon water tanks and a 5' x 7' tool shed to store and secure related equipment, supplies, and materials. In order to minimize ground disturbance, we plan to pour a 25' x 20' concrete slab; the two water tanks and the tool shed will be bolted down to the concrete slab.

In addition to being a stand-alone project, the two water tanks are components of the Kahikinui Fog Drip Project which will harvest water up mauka at higher elevations where the clouds run through Kahikinui everyday. The Fog Drip System will store the captured water in a series of tanks at different elevations which will end with the two water tanks that will be constructed in this stand-alone project.

In July 2023, Ka 'Ohana o Kahikinui (KOOK) received an \$80,000 grant from Maui County to implement the stand-alone project. We are very thankful for the County grant and want to make sure that we are in good-standing and meet all deadlines and report requirements. We want our funders to know that they made a good decision when they awarded the grant to KOOK.

We need the long-term license for the stand-alone project so we can begin construction as soon as possible in order to meet the grant deadlines for the use of the funds.


Mahalo!
Kaleo Cullen, President Ka 'Ohana O Kahikinui


ITEM NO. F-3
EXHIBIT "D"


STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

October 16-17, 2023

To: Chairman and Members, Hawaiian Homes Commission

Through: Richard Kuitunen, Administrator 
Land Management Division

Ward "Kalei" Young, Supervising Land Agent 
Land Management Division

From: Shelly Carreira, Land Agent 
Land Management Division

Subject: Approval to Issuance of a General Lease to Waiohuli Hawaiian Homesteaders Association, Inc., a 501(c)(3) non-profit, Waiohuli-Keokea, Maui, TMK Nos. (2) 2-2-028:181 (portion), (2) 2-2-002:014 (portion)

RECOMMENDED MOTION/ACTION

That the Hawaiian Homes Commission ("HHC") grant its **FINAL** approval to issue a sixty-five a (65)-year general lease to Waiohuli Hawaiian Homesteaders Association, Inc., a 501(c)(3) non-profit ("WHHA") to use approximately 150.0 acres of Hawaiian home lands located in Waiohuli, island of Maui, further identified by TMK Nos. (2) 2-2-028:181 (portions), (2) 2-2-002:014 (portion) (see Exhibit "A"), for the Waiohuli Economic Development Opportunities ("WE DO"), to include cultural, educational and economic components, as presented by the Land Management Division to the Hawaiian Homes Commission at its regular monthly meeting held on July 17-18, 2023, under Agenda Item No. F-6 (See Exhibit "A"), with the exception of amending the Environmental Compliance condition more specifically identified under paragraph no. 5.a, as more particularly described as follows:

(1) Delete Condition No. 5 .ENVIRONMENTAL COMPLIANCE, which reads in its entirety as follows:

LESSEE must complete the required HRS Chapter 343, Environment Assessment, and compliance with HRS Chapter 6E, Historic Preservation prior to any ground disturbance to the subject leased premises.

(2) Insert new condition No. 5 ENVIRONMENTAL COMPLIANCE., to read as follows:

a. LESSEE must complete the required HRS Chapter 343, Environment Assessment within an EIGHTEEN (18) month period commencing on the effective date of lease execution. Should the lessee fail to complete the required HRS Chapter 343, Environmental Assessment within the specified time period, the lease shall become

Item No. F-4

null and void and terminate immediately. LESSEE shall also submit quarterly progress reports to LESSOR and the Hawaiian Homes Commission every three (3) months starting from the lease commencement date. The quarterly progress report shall document LESSEE's progress on the HRS Chapter 343, Environmental Assessment requirement.

b. LESSEE shall also comply with HRS Chapter 6E, Historic Preservation prior to any ground disturbance to the subject leased premises;

(3) Except as amended herein, all of the conditions and provisions for the general lease shall remain as proposed in Exhibit "A".

DISCUSSION

At its regular meeting of July 2023, submittal Item no. F-6 (Exhibit "A") was presented to the Hawaiian Homes Commission for approval to the Issuance of a General Lease to Waiohuli Hawaiian Homesteaders Association, Inc., Waiohuli-Keokea, Maui, TMK Nos. (2) 2-2-028:181 (portions), (2) 2-2-002L014 (portion). During the meeting it was noted that the WHHA was requesting to complete the required HRS Chapter 343, Environmental Assessment (EA) and compliance with HRS Chapter 6E, Historic Preservation (6E) after issuance of the General Lease, similar to how the Department of Hawaiian Home Lands (DHHL) administered the Kulia 'I ka Nu'u Program. The HHC determined the submittal item should be deferred until the next HHC held on Maui island and until the HHC could receive more information on the Kulia 'I ka Nu'u Program.

In efforts to address HHC concerns regarding the HRS Chapter 343 requirement, DHHL is proposing an 18-month timeline in which WHHA must complete the HRS Chapter 343 requirement to avoid termination of the lease. In addition, WHHA must submit quarterly reports showing progress made on the HRS Chapter 343, Environmental Assessment requirement. The progress reports shall be presented to HHC and DHHL on a quarterly basis at the respective HHC meeting.

The DHHL Planning Office is scheduled to provide HHC with the requested briefing on the Kulia 'I ka Nu'u program at the HHC October 16-17, 2023 meeting under Agenda Item No. G-1.

AUTHORIZATION

§171-43.1 of the Hawaii Revised Statutes, as amended, titled Lease to eleemosynary organizations, authorizes the commission to lease, at nominal consideration or any rental amount the commission deems appropriate; by direct negotiation and without recourse to the public auction, public lands to an eleemosynary organization which has been certified to be tax exempt under sections 501(c)1 or 501 (c)3 of the Internal Revenue Code of 1986, as amended; and on such other terms and conditions as the commission may determine. The lands shall be used by such eleemosynary organizations for the purposes which their charter was issued and for which they were certified by the Internal Revenue Service.

RECOMMENDATION

Land Management Division respectfully requests approval of the motion as stated.

Exhibit "A"
Item No. F-4

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

July 17-18, 2023

To: Chairman and Members, Hawaiian Homes Commission

From: Peter “Kahana” Albinio Jr., Acting Administrator
Land Management Division ~~✓~~ A

Subject: Approval to Issuance of a General Lease to Waiohuli Hawaiian Homesteaders Association, Inc., a 501(c)(3) non-profit, Waiohuli-Keokea, Maui, TMK Nos. (2) 2-2-028:181 (portion), (2) 2-2-002:014 (portion)

RECOMMENDED MOTION/ACTION

That the Hawaiian Homes Commission (“HHC”) grant its **FINAL** approval to issue a sixty-five (65)-year general lease to Waiohuli Hawaiian Homesteaders Association, Inc., a 501(c)(3) non-profit (“WHHA”) to use approximately 150.0 acres of Hawaiian home lands located in Waiohuli, island of Maui, further identified by TMK Nos. (2) 2-2-028:181 (portions), (2) 2-2-002:014 (portion) (see Exhibit “A”), for the Waiohuli Economic Development Opportunities (“WE DO”), to include cultural, educational and economic components.

The final approval is subject to the following terms and conditions:

- (1) **LESSEE:** Waiohuli Hawaiian Homesteaders Association, Inc. with the ability to assign the lease to another IRS 501(c)(3) non-profit entity and/or entities to develop and manage water, wastewater, and renewable energy components of WE DO, subject to the approval from the Hawaiian Homes Commission.
- (2) **TERM:** Sixty-five (65) year term that shall commence effectively on the date that the LEASE document is fully executed by the LESSEE and LESSOR.
- (3) **LAND AREA:** Approximately 150 acres of Hawaiian Home Lands in Waiohuli, Maui, more specifically identified by TMK Nos. (2) 2-2-028:181 (portions), (2) 2-2-002:014 (portion) and delineated in Exhibit “A.” Portions of the leased land area shall revert to the LESSOR once the proposed infrastructure development is completed by LESSEE.
- (4) **PERMITTED USE:** LESSEE shall use the premises for economic development (including job training and employment opportunities), infrastructure development and community public purposes. Other future uses as envisioned may be permitted via lease amendment subject to approval by the Hawaiian Homes Commission.

- (5) ENVIRONMENTAL COMPLIANCE: LESSEE must complete the required HRS Chapter 343, Environment Assessment, and compliance with HRS Chapter 6E, Historic Preservation prior to any ground disturbance to the subject leased premises.
- (6) BASE RENT: To be determined at later date based on the final development plan and proposed land uses.
- (7) LESSEE shall inform LESSOR immediately if it loses its tax-exempt status or if any revenue generated from activities on the premises is deemed subject to taxation.
- (8) LESSOR shall have the right to terminate the lease, or any portion of it, if LESSEE loses its tax-exempt status or is determined to be conducting unrelated trade or business activities on the Premises.
- (9) As part of LESSOR's regular review of LESSEE activities, LESSEE shall submit an ANNUAL PROGRESS REPORT to LESSOR each year on the anniversary date of lease commencement. The ANNUAL PROGRESS REPORT shall document the LESSEE'S activities of the previous lease year and shall include but not be limited to the following:
- a. Pre-construction and construction progress report that provides a description of pre-construction and construction milestones completed in the respective year of the ANNUAL PROGRESS REPORT. LESSEE shall also provide LESSOR with an anticipated schedule of completion of pre-construction and construction milestones for the following lease year.
 - b. Upon completion of the construction of the infrastructure and facilities necessary to implement LESSEE's programs, a narrative program report that describes LESSEE's progress on achieving its charitable purpose as articulated in its IRS 1023 Form shall be included in the ANNUAL PROGRESS REPORT. LESSEE shall work with LESSOR to identify specific reporting requirements and applicable metrics to monitor progress towards achieving the LESSEE's charitable purpose. Minimum reporting requirements shall include number of beneficiaries served and a description of how LESSEE has been serving beneficiaries.
 - c. A financial report that includes standard annual financial statements and the LESSEE's IRS 990 Form for the preceding fiscal year, as well as a budget for the following lease year, shall be included in the ANNUAL PROGRESS REPORT.
 - d. Letters from the board of the Waiohuli Hawaiian Homesteaders Association Inc. and the boards of other current or future beneficiary membership organizations in the Keokea-Waiohuli region indicating whether the LESSEE has satisfactorily provided programs and services to its respective organization's members in the respective year of the ANNUAL PROGRESS REPORT. Note: Keokea-Waiohuli Region is defined as the region that is specified in the June, 2010 DHHL Waimea Nui Regional Plan

(10) No revenue generated by the LESSEE on the Premises shall be used to pay dividends or make payments, beyond reasonable salary or contract payments, to any individual or organization. No remuneration shall be paid to any officer or director of "WHHA" or by any third party, sublessee or beneficiary membership organizations utilizing any portion of the premises.

(11) LESSEE shall at no time own less than 51% of leasehold interest in all facilities located on the Premises.

(12) LESSEE may only sublease the premises with the consent of the LESSOR and the LESSOR shall have the right to review and approve rent to be charged to the proposed sub-lessee and revise the rent charged to the LESSEE based on the rental rate charged to the proposed sub-lessee.

(13) Any subletting of the premises initiated by the LESSEE shall include a condition in which the sublease will be terminated upon the termination of this lease agreement.

(14) LESSOR shall have the right to withdraw portions of the premises from this lease agreement if, after an 18-year period, such portions of the premises are not being used by the LESSEE for purposes permitted by the lease.

(15) Upon review of LESSEE'S activities, if the LESSOR determines that the LESSEE'S activities are not adequately servicing DHHL beneficiaries, LESSOR shall have the right to charge LESSEE rent in an amount equal to the fair market rental of the property. Fair market rent shall be determined by an independent appraiser selected by the LESSOR. LESSOR shall also reserve the right to place this lease on a "probationary status" if upon review of LESSEE's activities, the LESSOR determines that the LESSEE'S activities are not adequately servicing DHHL beneficiaries. If after one year on "probation", LESSEE does not demonstrate improvement in providing adequate services to DHHL beneficiaries, then LESSOR reserves the right to terminate this lease.

Standard General Lease Terms and Conditions

(16) Pursuant to HHCA § 204(a)(2), Lessor shall have the right to withdraw the premises, or any portion thereof, from the lease at any time for the purposes of the Hawaiian Homes Commission Act.

(17) LESSEE shall comply with all federal, state and county regulations or requirements regarding environmental issues and the safe handling and disposal of toxic or hazardous materials. Upon termination of this lease, LESSEE shall be responsible for environmental clean-up of any contamination or hazardous materials brought onto the site or caused by LESSEE'S activities on the site.

(18) LESSEE shall pay all property taxes that the LESSOR or LESSEE may be assessed during the term of this lease. Failure of the LESSEE to pay all property taxes in a timely manner shall trigger the termination of this lease.

- (19) LESSEE shall maintain commercial property insurance, general liability insurance, worker's compensation and employers' liability insurance, and other types of insurance as may be required by LESSOR. LESSOR shall be named as an additional insured on any required insurance policy. Types and amounts of required coverage shall be specified in the general lease document.
- (20) The non-refundable processing (\$200.00) and documentation (\$75.00) fee of \$275.00 shall be waived.
- (21) LESSEE shall comply with all federal, state and county statutes, regulations, codes, and ordinances applicable to LESSEE'S use of the premises.
- (22) LESSEE agrees to pay for all the costs of establishing utility services to the property and pay for all consumption of utilities on the Premises, should LESSEE'S use require such utility services.
- (23) LESSEE shall obtain LESSOR'S prior approval for any alteration of the topography except surface grubbing to remove vegetation. LESSEE shall be responsible for any flooding or erosion caused by LESSEE'S use or alteration of the property.
- (24) Prior to vacating the Premises, LESSEE shall remove, at LESSEE'S sole cost, all of the LESSEE'S equipment, constructed improvements, trash, goods and materials and restore the area to a condition as good as or better than that which existed prior to LESSEE'S use. LESSEE shall also notify LESSOR to do a site inspection when LESSEE has completed removal.
- (25) LESSEE shall always keep the Premises neat and clean and shall not allow its trash to spread to other surrounding areas.
- (26) LESSEE shall be responsible for the security of the Premises and all of LESSEE'S personal property thereon.
- (27) The lease document is subject to the approval of the State of Hawaii Department of Attorney General.
- (28) Other terms and conditions deemed prudent by the Hawaiian Homes Commission may be added.

DISCUSSION

At its regular meeting of December 2022, the Hawaiian Homes Commission granted Preliminary Approval to the Issuance of a General Lease to Waiohuli Hawaiian Homesteaders Association, Inc., Waiohuli-Keokea, Maui, TMK Nos. (2) 2-2-028:181 (portions), (2) 2-2-002L014 (portion) under LMD Agenda Item No. F-1 (See Exhibit "B"). Before FINAL approval is brought to the HHC for consideration, WHHA must complete the required HRS Chapter 343, Environmental Assessment (EA) and compliance with HRS Chapter 6E, Historic Preservation (6E). At the time of HHC approval, the anticipated time frame for the completion of the EA and 6E was approximately nine to twelve months.

Also, at its December 2022 meeting, the Hawaiian Homes Commission approved multiple homestead grant awards including a grant award of \$100,000 to WHHA to complete an environmental assessment for its WE DO Initiative

WHHA assembled its team of consultants to complete the EA and 6E based on the conceptual plan, land uses and approximate timeline to complete as presented to the Hawaiian Homes Commission. However, after receiving all pricing proposals, the estimated cost to complete the EA and 6E is \$300,000. DHHL's homestead grant award will support \$100,000 of the total EA and 6E cost however WHHA needs to secure the balance of funding before contracting its consultants to proceed.

WHHA firmly believes that it would be best positioned to secure both public and private funding to support WE DO if it were able to secure site control through the issuance of a General Lease prior to completing the EA and 6E.

- Site control enables WHHA to secure the remaining funding to complete the EA and 6E.
- Site control provides WHHA with immediate opportunities to secure Federal funding and native set aside infrastructure and economic development grants that complement the purpose and mission of WE DO.
- Site control would also allow for continued discussions on the use of WHHA's \$80M Special Purpose Revenue Bond with DHHL and State Department of Budget and Finance.

WHHA attempted to meet with DHHL leadership in February and March of 2023 to discuss its request and reasons for site control and reference DHHL's similar program practices but were unsuccessful.

In its initial version of the Kulia 'I ka Nu'u Program, the HHC granted approvals to issue 65-year general leases to Hawaiian homestead community organizations for economic development PRIOR to the organization completing the Chapter 343 requirements. In these cases, completion of Chapter 343 became an initial milestone or deliverable after the general lease was issued. Several of these general leases have resulted in viable community economic developments for Waimanalo, Nanakuli, La'iopua and the the Kapolei Community Development Corporation (who serves Kapolei Homestead community) organizations.

WHHA was eventually able to meet with new DHHL leadership in May and June of 2023 enabling this opportunity to present its request to the HHC.

In evaluating the merits of WHHA's request for issuance of a general lease prior to completing an EA and 6E, DHHL is considerate of the consistent and focused achievements of this homestead organization that include:

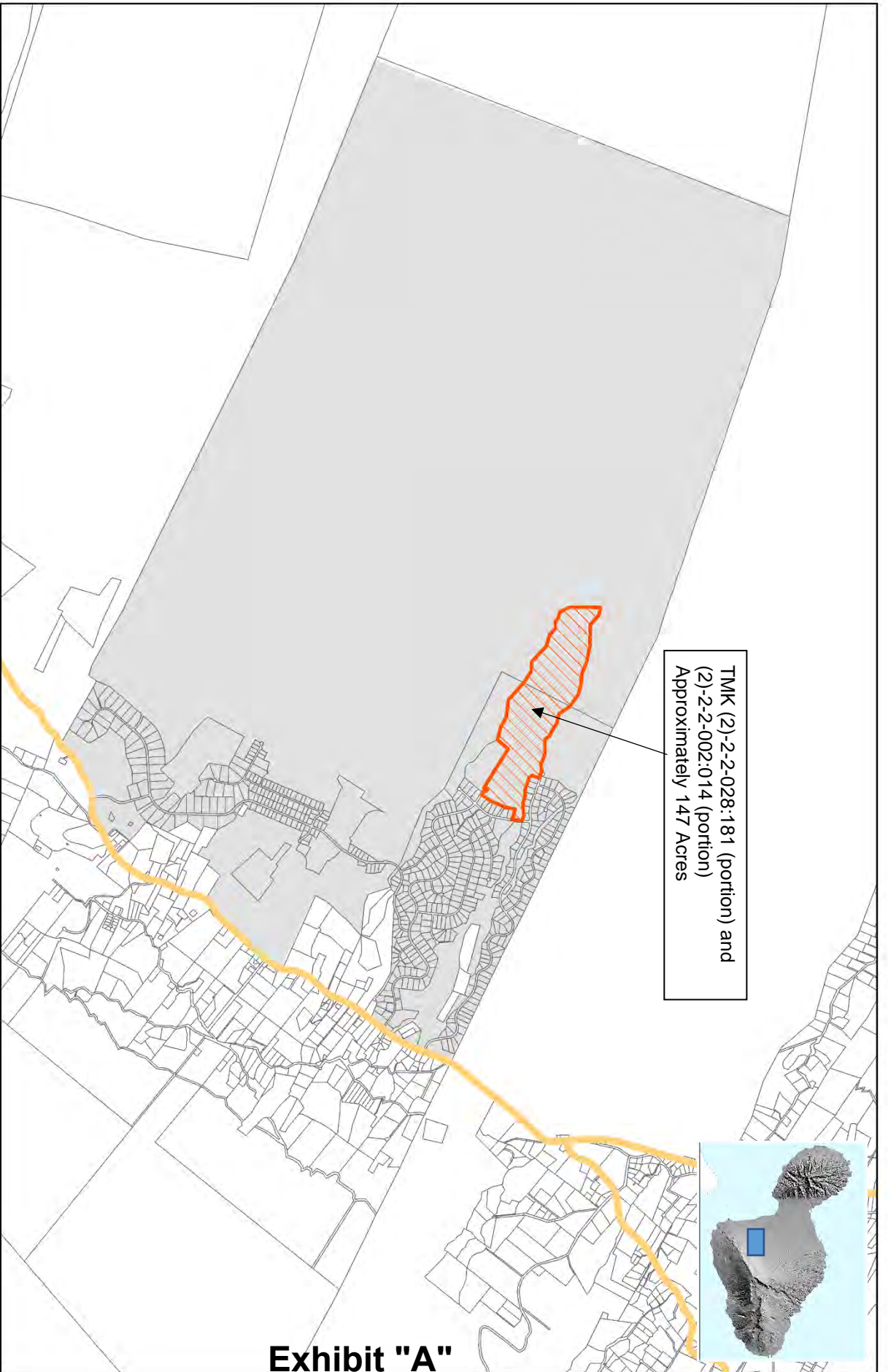
- Since 2005, WHHA continues to be a compliant, tax-exempt non-profit organization under section 501(c)(3) of the Internal Revenue Code as well as maintaining a Certification of Good Standing with the State of Hawaii
- WHHA's pursuit of economic sustainability began in 2006 with its community-developed Strategic Plan of 2006 to promote social interaction, education and sustainability
- WHHA has secured approximately \$4M in non-DHHL funding to complete park improvements that provide and direct community benefits. While constructing park improvements, WHHA has nurtured private partnerships with contractors and consultants to enable work and mentorship opportunities for its community while building its capacity to develop. All grant funds were fully expended, and all grant reporting requirements fulfilled.
- WHHA also received approximately \$410,000 of DHHL grant funds for Regional Plan Priority Projects pertinent to the regions long-term sustainability. In December 2022, DHHL approved approximately \$1.1M in grant funding to WHHA for homestead improvements that directly compliment WE DO.
- WHHA received Legislative approval in 2021 for the Issuance of an \$80M Special Purpose Revenue Bond (Act 198) to assist in the implementation of WE DO.
- WHHA's WE DO initiative remains consistent with the goals and objectives set forth in DHHL's "Kuli'a I ka Nu'u" program of the Native Hawaiian Development Program Plan of 2011-2013

AUTHORIZATION

§171-43.1 of the Hawaii Revised Statutes, as amended, titled Lease to eleemosynary organizations, authorizes the commission to lease, at nominal consideration or any rental amount the commission deems appropriate; by direct negotiation and without recourse to the public auction, public lands to an eleemosynary organization which has been certified to be tax exempt under sections 501(c)1 or 501 (c)3 of the Internal Revenue Code of 1986, as amended; and on such other terms and conditions as the commission may determine. The lands shall be used by such eleemosynary organizations for the purposes which their charter was issued and for which they were certified by the Internal Revenue Service.

RECOMMENDATION


Land Management Division respectfully requests approval of the motion as stated.



Legend

 Waionui_ROE_boundary

 DHHL Land

 State Highway

0 0.25 0.5 1 Miles



Exhibit "A"
Item No. F-6

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

December 19–20, 2022

To: Chairman and Members, Hawaiian Homes Commission

Through: Peter “Kahana” Albinio, Jr., Acting Administrator
Land Management Division *VA*
Q Kalei Young, Supervising Land Agent
Land Management Division

From: Shelly Carreira, Land Agent *SC*
Land Management Division

Subject: Preliminary Approval to the Issuance of a General Lease to Waiohuli Hawaiian Homesteaders Association, Inc., Waiohuli-Keokea, Maui, TMK Nos: 2-2-028:181 (portion), (2) 2-2-002:014 (portion)

RECOMMENDED MOTION/ACTION

That the Hawaiian Homes Commission (“HHC”) grant its **PRELIMINARY** approval to the issuance of a 65-year general lease to Waiohuli Hawaiian Homesteaders Association, Inc. (WHHA) to use of approximately 150.0 acres of Hawaiian home lands located in Waiohuli, island of Maui, further identified by TMK Nos. (2) 2-2-028:18 (portion), (2) 2-2-002:014 (portion) (see Exhibit “A”), for the Waiohuli Economic Development Opportunities, to include cultural, educational, and economic components.

This **PRELIMINARY** approval is intended to provide WHHA, and its financiers with sufficient comfort to expend resources and pursue financial commitments.

The **PRELIMINARY** approval is subject to the following basic terms and conditions and is subject to **FINAL** approval by the Hawaiian Homes Commission:

- (1) LESSEE: Waiohuli Hawaiian Homesteader Association, Inc., with the ability to assign the lease, subject to approval from the Chairman of the Hawaiian Homes Commission
- (2) TERM: 65 years
- (3) LAND AREA: Approximately 150 acres of Hawaiian Home Lands in Waiohuli, Maui

- (4) PURPOSE: The site shall be used for economic development (including job training and employment opportunities), infrastructure development and community public purposes.
- (5) BASE RENT: To be determined later based on the final development plan on proposed land uses.
- (6) Before FINAL approval is brought to the HHC for consideration, WHHA must complete the required HRS Chapter 343, Environmental Assessment and compliance with HRS Chapter 6E, Historic Preservation.

DISCUSSION

The WHHA presently holds Right of Entry No. 688 (ROE 688) for the purpose of conducting due diligence related to developing its Waiohuli Economic Development Opportunity (WE DO) project and its meeting of November 21, 2022 the Hawaiian Homes Commission (HHC) approved an extension to the term of WHHA's ROE.

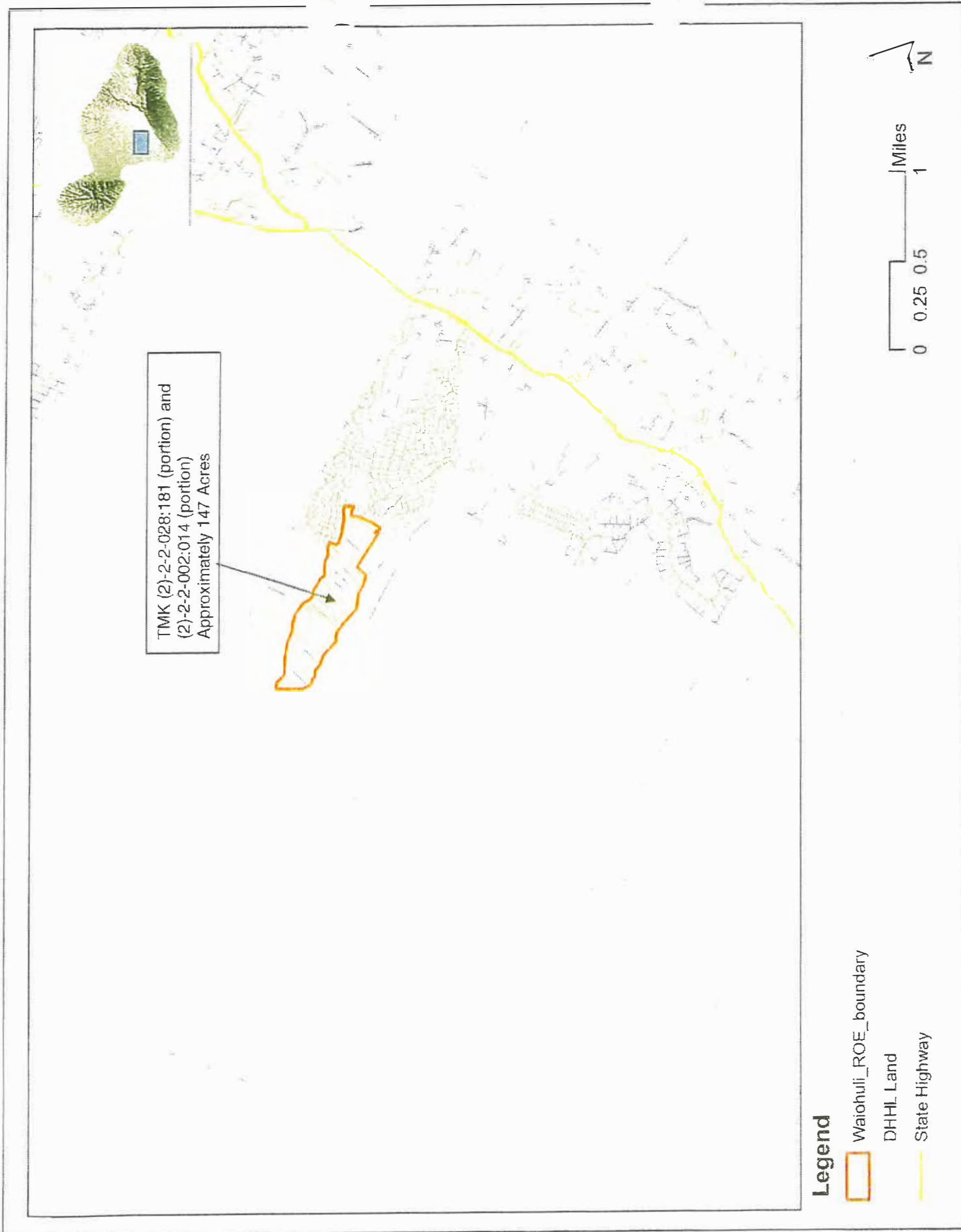
In summary, the vision for WE DO is to provide economic opportunities that will foster greater self-sufficiency through capacity building and community-based job opportunities. Section 2 of the WE DO plan describes the vision, goals, and proposed land use, see Exhibit "B". Figure 3 provides a conceptual land use plan that illustrates relationships, locations, and estimated acreage within the planned development.

The WHHA has completed its master plan, business plan under ROE 688. To proceed forward, the 150-acre parcel would remain under ROE 688 while the environmental studies are being completed. Once this work is completed, FINAL approval for a long-term general lease to WHHA can be brought to the HHC for action. The anticipated time frame for the completion of the environmental studies is approximately nine to twelve months.

The WHHA is compliant with the State of Hawaii, State Procurement Office, Hawaii Compliance Express. See attached Exhibit "C" for copies of WHHA's Certificate of Vendor Compliance and Department of Commerce and Consumer Affairs documents.

RECOMMENDATION

Land Management Division requests approval of the recommended motion as stated.



2 WE DO Plan

2.1 Vision & Goals

The vision for WE DO is to provide short- and long-term economic opportunities that will foster greater self-sufficiency for the people of upcountry Maui through capacity building and jobs homegrown at the WE DO Site. WE DO proposes a public-private collaboration to combine traditional construction of a master plan development with community-based job opportunities derived from development of infrastructure, agricultural cultivation, renewable energy, and water source development to create long-term economic sustainability for the Waiohuli community.

Goals for the project include:

- Maximize use of the existing Waiohuli Community Center as a space for job training, business incubation, and production.
- Develop a flexible space (indoor and outdoor) for capacity building in the trades.
- Staff the educational and community facilities with persons trained on site.
- Create career mentoring and employment opportunities in multiple fields of expertise and services associated with a master-planned development.
- Leverage public resources and services to secure deliberate, sustainable private communities and expertise to provide the best, affordable, and timely development solutions possible.
- Propose land uses of WHHA's master-planned development are consistent and complimentary with the DHHL's Waiohuli Regional Plan and land use designations.

2.2 WE DO Conceptual Plan (*ROE Special Condition #1*)

A preliminary site plan map illustrating land uses for the Site is provided in Figure 3, referred to herein as the "WE DO Conceptual Land Use Plan." The relationships and locations of the planned land uses are illustrated on the map with an accompanying table showing estimated acreage within the planned development. A description of the conceptual plan elements, proposed land uses, and facilities within the development is outlined in Section 0.

2.2.1 WE DO Proposed Land Uses

The WE DO conceptual land use plan is Figure 3 within this report. A description of the anticipated land uses follows.

Community Support Training Facilities

An area of the Site designated to the Community Support Training Facilities is proposed to be located near the roadway entrance along both sides of the Lau'ie Drive extension, comprising a total of 6 acres. This component of the master plan will complement the existing Waiohuli Community Center abutting these areas to offer community facilities, social services and other

resources for the broader Waiohuli region. Potential uses could include recreational spaces, educational and workforce training facilities, multi-purpose functional spaces, as well as health and wellness facilities that feature both traditional Hawaiian healing practices and western medical services. Community support training facilities and concepts will be developed to align with the desired needs of the community and will be invaluable for the Waiohuli region, given the remoteness of the community.

Infrastructure Training Sites

Three segments of the Site, totaling approximately 31 acres, will be utilized as the Infrastructure Training Sites. This includes areas on the far eastern end of the Site near the Lau‘ie Drive entrance, a segment in the central portion of the Site, and an area near the far western end of the Site. These areas will primarily serve as a component of the master plan that will support job training related to infrastructure construction. Infrastructure development through job training facilities could eventually provide the means for future growth within the Site. Within the Infrastructure Training Sites in the central portion of the Site, a water well capable of 350 gallons per minute (gpm) production is proposed. The proposed yield and pumping capacity were determined based on estimated water demand outlined by a groundwater feasibility study conducted in 2022 to evaluate potential build out of the Site if community development is considered in the future. The segment on the far western end of the Site is being considered to develop wastewater treatment package plant scalable to the proposed uses to serve the community support training facilities and will be designed with capacity to serve potential future growth on the Site if desired by the Waiohuli community.

Agriculture Development Training Sites

The Agriculture Development Training Sites will comprise approximately 42 acres, stretching along the northern and southern portions of the Site, as well as a central portion makai of the existing Waiohuli Community Center. This segment of the Site will primarily provide space for educational facilities and job training in the agricultural industry rooted in indigenous knowledge and traditional Hawaiian farming. Agriculture cultivated in these areas will also be a resource for the community and serve as an opportunity to build on indigenous knowledge cultivating native plants using traditional Hawaiian farming techniques. Agricultural development on the Site will also offer economic opportunities for commercial development to generate revenue streams for the Waiohuli community.

Renewable Energy Development/Training Sites


A large 26.4-acre segment along the western boundary of the Site has been planned as an opportunity to for training focused on renewable energy development that could also support potential future growth on the Site and the neighboring communities.

LEGEND

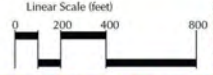
A (A-1 to A-2)	Community Support Training Facilities	± 6 Ac.
B (B-1 to B-5)	Infrastructure Training Sites	± 31 Ac.
C (C-1 to C-2)	Agricultural Development Training Sites	± 42 Ac.
D	Renewable Energy Development/Training Sites	± 26 Ac.
	Natural Drainage Gulch	± 45 Ac.
TOTAL:		± 150 Ac.

Figure 3
Conceptual Land Use Plan
WE DO


Waiohuli Homesteaders Association Inc.



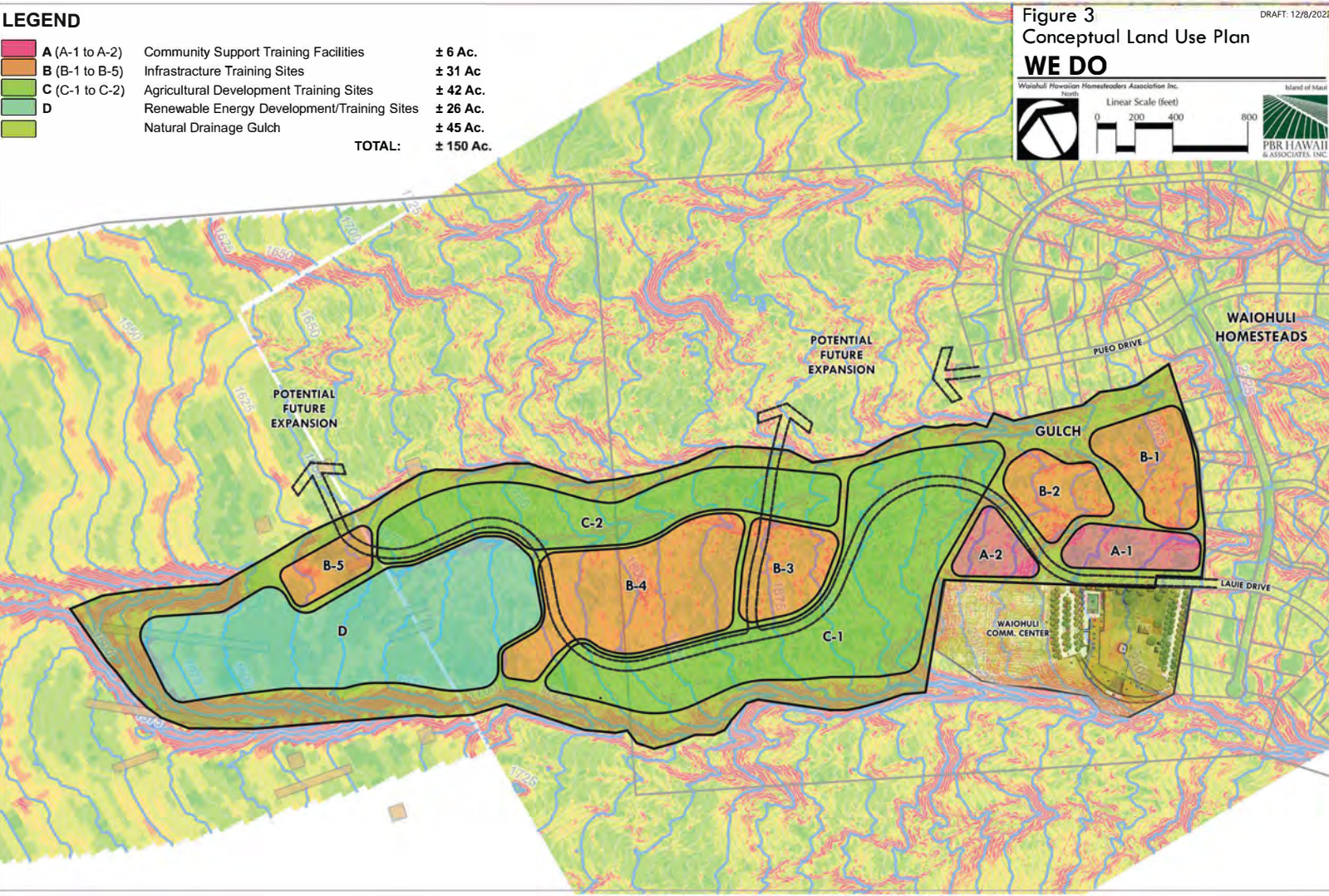
Linear Scale (feet)



Island of Maui



PBR HAWAII & ASSOCIATES, INC.





STATE OF HAWAII
STATE PROCUREMENT OFFICE

CERTIFICATE OF VENDOR COMPLIANCE

This document presents the compliance status of the vendor identified below on the issue date with respect to certificates required from the Hawaii Department of Taxation (DOTAX), the Internal Revenue Service, the Hawaii Department of Labor and Industrial Relations (DLIR), and the Hawaii Department of Commerce and Consumer Affairs (DCCA).

Vendor Name: **WAIQHULI HAWAIIAN HOMESTEADERS ASSOCIATION, INC.**

DBA/Trade Name: **WAIQHULI HAWAIIAN HOMESTEADERS ASSOCIATION, INC.**

Issue Date: **12/12/2022**

Status: **Compliant**

Hawaii Tax#: 20556458-01

New Hawaii Tax#:

FEIN/SSN#: XX-XXX1895

UI#: No record

DCCA FILE#: 115966

Status of Compliance for this Vendor on issue date:

Form	Department(s)	Status
A-6	Hawaii Department of Taxation	Compliant
8821	Internal Revenue Service	Compliant
COGS	Hawaii Department of Commerce & Consumer Affairs	Compliant
LIR27	Hawaii Department of Labor & Industrial Relations	Compliant

Status Legend:

Status	Description
Exempt	The entity is exempt from this requirement
Compliant	The entity is compliant with this requirement or the entity is in agreement with agency and actively working towards compliance
Pending	A status determination has not yet been made
Submitted	The entity has applied for the certificate but it is awaiting approval
Not Compliant	The entity is not in compliance with the requirement and should contact the issuing agency for more information

ITEM NO. F-1
EXHIBIT "C"

DCCA State of Hawaii

Downloaded on December 12, 2022.
The information provided below is not a certification of good standing and does not constitute any other certification by the State.
Website URL: <http://hbe.ehawaii.gov/documents>

Business Information

MASTER NAME	WAIOHULI HAWAIIAN HOMESTEADERS ASSOCIATION, INC.
BUSINESS TYPE	Domestic Nonprofit Corporation
FILE NUMBER	115966 D2
STATUS	Active
PURPOSE	TO PROTECT AND FURTHER THE NATIVE HAWAIIAN CULTURAL HERITAGE THROUGH EDUCATION; AND TO FURTHER THE QUALITY OF LIFE OF DISADVANTAGED FAMILIES WITHIN THE WAIOHULI HAWAIIAN HOMESTEAD COMMUNITY.
ORGANIZED IN	Hawaii UNITED STATES
INCORPORATION DATE	Jul 6, 1999
MAILING ADDRESS	P O BOX 698 KULA, Hawaii 96790-0698 UNITED STATES
TERM	PER
AGENT NAME	ERNETTE KAEA-PRONES
AGENT ADDRESS	P O BOX 698 KULA, Hawaii 96790 UNITED STATES

Annual Filings

FILING YEAR	DATE RECEIVED	STATUS
2022	Oct 3, 2022	Processed
2021	Aug 8, 2021	Processed
2020	Oct 5, 2020	Processed
2019	Sep 18, 2019	Processed
2018	Oct 16, 2018	Processed
2017	Jul 31, 2017	Processed
2016	Oct 4, 2016	Processed
2015	Aug 6, 2015	Processed
2014	Sep 25, 2014	Processed
2013	Jul 8, 2013	Processed
2012	Jul 6, 2012	Processed
2011	Sep 6, 2011	Processed
2010	Sep 27, 2010	Processed
2009	Aug 11, 2009	Processed
2008	Jul 14, 2008	Processed
2007	Jul 2, 2007	Processed
2006	Apr 5, 2007	Processed
2005	Jan 30, 2006	Processed
2004	Oct 20, 2004	Processed
2003	Sep 5, 2003	Processed

2002		Not Required
2001	Jun 17, 2002	Processed
2000	Jul 22, 2002	Processed
1999	Sep 5, 2002	Processed

Officers

NAME	OFFICE	DATE
ARTATES,PERRY	P	Jul 1, 2015
ALO,KAWIKA	V	Jul 1, 2017
BROWN,JOADDIE	S	Jul 1, 2017
KAEA-PRONES,ERNETTE	T	Jul 1, 2015
ARUDA,STEVEN	D	Jul 1, 2017
FOSTER,SAV	D	Jul 1, 2017
YAP,EMMA	D	Jul 1, 2017
GREIG, WILLIAM	D	Jul 1, 2019
ARTATES, ALANI	D	Jul 1, 2019
KUAILANI, KEITH	D	Jul 1, 2019
NAKOOKA,DANETTE	D	Jul 1, 2015
SAFFERY,CARL	D	Jul 1, 2015

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

October 16-17, 2023

TO: Chairman and Members, Hawaiian Homes Commission

THRU: Richard Kuitunen, Administrator
Land Management Division *RK*

FROM: Peter "Kahana" Albinio, Jr., Property Development Manager
Land Management Division *AK*

SUBJECT: Approval to Issue Right-of-Entry Permits to Lease Properties, LLC
Shafter Flats Industrial Subdivision, Moanalua Kai, Island of Oahu
TMK: (1) 1-1-064:019 & 020

RECOMMENDED MOTION/ACTION

That the Hawaiian Homes Commission grants its approval to issue **TWO** (2) month to month right-of-entry permits (ROE) to Lease Properties, LLC, a limited liability corporation, for the use of Hawaiian home lands at Shafter Flats Industrial Development in Moanalua Kai, Island of Oahu, identified by TMK:(1) 1-1-064:019 & 020, each parcel containing approximately 0.574 acres of land area, together with all improvements located thereon, and further identified hereto as Exhibit "A" and subject to the following conditions:

1. The Premises shall be used for industrial warehouses as permitted under the current City & County of Honolulu zoning code I-2, Intensive Industrial District.
2. Lease Properties, LLC (PERMITTEE) understands that this is a month-to-month permit to use Hawaiian home lands which can be terminated for any or no reason upon a 30-day advance written notice given by either party. PERMITTEE acknowledges and accepts the risk PERMITTEE'S use could be terminated before PERMITTEE has recovered the costs invested in the Premises.
3. The permit fee for the premises shall be THIRTEEN THOUSAND FIVE HUNDRED & NO/100 DOLLARS (\$13,500.00) per month per Right-of-entry Permit (PERMIT). PERMITTOR reserves the right to increase the permit fee upon renewal.
4. PERMITTEE shall be required to pay non-refundable processing and documentation fees of ONE HUNDRED SEVENTY FIVE & NO/100 DOLLARS (\$175.00).
5. PERMITTEE is required to place a security deposit equal to two months permit fee or TWENTY SEVEN THOUSAND & NO/100 DOLLARS (\$27,000.00). The security deposit of \$6,666.67 under the soon to expire General Lease No. S-4124 & S-4125 shall be transferred to these new PERMITS and PERMITTEE shall remit the difference of \$20,333.33 upon execution of these PERMITS. PERMITTEE shall not earn any interest on the security deposit. If, upon vacating the Premises, PERMITTEE is in compliance with the terms and conditions of the PERMITS to be issued, the security deposit shall be refunded, less amounts deducted for non-compliance issues, if any.

6. No residential use shall be permitted, including temporary overnight camping. However, PERMITTEE shall be allowed to provide a shelter for security personnel, if such persons are hired for security purposes.
7. PERMITTEE shall not be allowed to erect any structures without PERMITTOR'S prior written approval. PERMITTOR reserves the right to limit the number of structures or require removal if the structures are not maintained in good condition. No major alteration or addition of any kind shall be made to the Premises unless plans are first submitted and approved by PERMITTOR.
8. PERMITTEE shall be responsible for the security of the Premises and all of PERMITTEE'S personal property thereon. Except for fencing, which is allowed at PERMITTEE'S option, other kinds of security systems will only be allowed after review and approval of PERMITTOR.
9. PERMITTEE is responsible for payment for all utilities and waste removal servicing the Premises and all repairs and maintenance of utility services shall be paid for by PERMITTEE.
10. PERMITTEE shall comply with all federal, state and county regulations or requirements regarding environmental issues and the safe handling and disposal of toxic or hazardous materials. Upon termination of this Permit, PERMITTEE shall be responsible for environmental cleanup of any contamination or hazardous materials brought onto the site or caused by PERMITTEE'S activities on the site.
11. PERMITTEE shall keep the Premises neat and clean at all times, including trimming the vegetation and removing trash on a regular basis.
12. Other standard terms and conditions of similar right-of-entry permits issued by PERMITTOR, such as liability insurance, site maintenance and real property tax payments.
13. The PERMIT shall be subject to the review and approval of the Department of the Attorney General.
14. Other terms and conditions deemed prudent by the Hawaiian Homes Commission may be added.

DISCUSSION

Lease Properties, LLC is the current holder of General Lease Nos. S-4124 & S-4125, both leases will expire on October 9, 2023. Lease Properties has been a responsible tenant for DHHL.

At the regular monthly meeting of September 18-19, 2023, the Hawaiian Homes Commission authorized the department to offer eight (8) lots at this subdivision, including these two lots, for public land disposition for 55-year long term general leases. The process to conduct public land disposition will take a while and Lease Properties, LLC has agreed and accepted the terms and condition for a month-to-month use to continue the warehouse operations on the leased premises until DHHL is ready for the public auction.

Terms and Condition letters were sent to Lease Properties and they accepted the conditions as noted (See Exhibit "B")

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT

The proposed use will utilize pre-existing improvements and does not significantly differ from the past use of the subject area. Therefore, pursuant to DHHL’s updated Comprehensive Exemption List for the State of Hawaii, Department of Hawaiian Home Lands as approved by the Environmental Council as of April 6, 2021, the subject request is exempt from the preparation of an environmental assessment pursuant to Type 1, under Part I, titled De Minimis Activities, Type 1, “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.”

AUTHORITY

Section 10-4-1 of the Department’s Administrative Rules, as amended

Section 171-55, Hawaii Revised Statutes, as amended, titled Permits

RECOMMENDATION

Land Management Division recommends approval of the motion as stated.

JOSH GREEN, M.D.
GOVERNOR
STATE OF HAWAII
*Ka Kinohiwa o ka Aie o ka Moana
o Hawaii*

SYLVIA J. LUKE
LT. GOVERNOR
STATE OF HAWAII
*Ka Hopena o ka Aie o ka Moana
o Hawaii*



KALI WATSON
CHAIRMAN HHC
Ka Lono Hu'ukele

KATIE L. DUCATT
DEPUTY TO THE CHAIRMAN
Ka Hopena Lono Hu'ukele

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS
Ka 'Oihana 'Aina Ho'opulapula Hawaii'i

P. O. BOX 1879
HONOLULU, HAWAII 96805

October 3, 2023

Mr. J. D. Watamull
Lease Properties, LLC
307 Lewers Street, 6th Floor
Honolulu, Hawaii 96815

SENT VIA ELECTRONIC MAIL TO: jared@wpchawaii.com

Dear Mr. Watamull:

Subject: Expiring General Lease No. S-4124, Moanalua Kai, Island of Oahu
Tax Map Key No. (1) 1-1-064:019

Prior to seeking the approval of your request to continue use of the subject parcel, we need to reach a preliminary agreement on the terms and conditions for allowing your use. In this regard, we propose the following:

1. The Premises shall be used for industrial warehouses as permitted under the current City & County of Honolulu zoning code I-2, Intensive Industrial District.
2. Lease Properties, LLC (PERMITTEE) understands that this is a month-to-month permit to use Hawaiian home lands which can be terminated for any or no reason upon a 30-day advance written notice given by either party. PERMITTEE acknowledges and accepts the risk PERMITTEE'S use could be terminated before PERMITTEE has recovered the costs invested in the Premises.
3. The permit fee for the premises shall be \$13,500.00 per month. PERMITTOR reserves the right to increase the permit fee upon renewal.
4. PERMITTEE shall be required to pay non-refundable processing and documentation fees of \$175.00 and place a security deposit equal to two months rent or \$27,000.00. The security deposit of \$6,666.67 under the soon to expire General Lease No. S-4124 shall be transferred to this new Right-of-Entry Permit (PERMIT) and PERMITTEE shall remit the difference of \$20,333.33 upon execution of the PERMIT. PERMITTEE shall not earn any interest on the security deposit. If, upon vacating the Premises, PERMITTEE is in compliance with the terms and conditions of the PERMIT to be issued, the security deposit shall be refunded, less amounts deducted for non-compliance issues, if any.

Exhibit "B"
Item No. F-5

Mr. J.D. Watumull
Lease Properties, LLC
October 3, 2023
Page 2

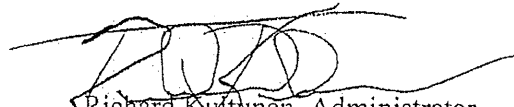
4. No residential use shall be permitted, including temporary overnight camping. However, PERMITTEE shall be allowed to provide a shelter for security personnel, if such persons are hired for security purposes.
5. PERMITTEE shall not be allowed to erect any structures without PERMITTOR'S prior written approval. PERMITTOR reserves the right to limit the number of structures or require removal if the structures are not maintained in good condition. No major alteration or addition of any kind shall be made to the Premises unless plans are first submitted and approved by PERMITTOR.
6. PERMITTEE shall be responsible for the security of the Premises and all of PERMITTEE'S personal property thereon. Except for fencing, which is allowed at PERMITTEE'S option, other kinds of security systems will only be allowed after review and approval of PERMITTOR.
7. PERMITTEE is responsible for payment for all utilities and waste removal servicing the Premises and all repairs and maintenance of utility services shall be paid for by PERMITTEE.
8. PERMITTEE shall comply with all federal, state and county regulations or requirements regarding environmental issues and the safe handling and disposal of toxic or hazardous materials. Upon termination of this Permit, PERMITTEE shall be responsible for environmental clean up of any contamination or hazardous materials brought onto the site or caused by PERMITTEE'S activities on the site.
9. PERMITTEE shall keep the Premises neat and clean at all times, including trimming the vegetation and removing trash on a regular basis.
10. Other standard terms and conditions of similar right-of-entry permits issued by PERMITTOR, such as liability insurance, site maintenance and real property tax payments.
11. The PERMIT shall be subject to the review and approval of the Department of the Attorney General.
12. Other terms and conditions deemed prudent by the Hawaiian Homes Commission may be added.

If the proposed terms and conditions are acceptable, please sign, date and return a copy of this letter. Although your return of the signed letter is not binding on either party, it will be used as a basis for seeking the Commission's approval and drafting a document that will become binding once all the parties have signed.

Mr. J.D. Watumull
Lease Properties, LLC
October 3, 2023
Page 3

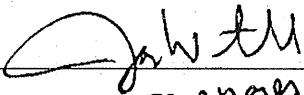
Should you have questions or need further clarification, you may contact Peter "Kahana" Albinio, Jr., Property Development Manager, at (808) 620-9451 or by email at peter.k.albinio.jr@hawaii.gov.

Aloha,


Richard Kuttunen, Administrator
Land Management Division

AGREED AND ACCEPTED:

LEASE PROPERTIES, LLC.

By  _____
manager

Date 10/4/23

JOSH GREEN, M.D.
GOVERNOR
STATE OF HAWAII
*Ka Kū'āina o ka Moku'āina o
Hawaii*

SYLVIA J. LUKE
LT. GOVERNOR
STATE OF HAWAII
*Ka Hoʻopiʻia o ka Moku'āina
o Hawaii*



KALI WATSON
CHAIRMAN, HHC
Ka Lāna Ili'ākele

KATIE L. DUCATT
DEPUTY TO THE CHAIRMAN
*Ka Hoʻopiʻia o ka Moku'āina
o Hawaii*

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS
Ka 'Oihana 'Āina Ho'opulapula Hawaii

P. O. BOX 1879
HONOLULU, HAWAII 96805

October 3, 2023

Mr. J. D. Watamull
Lease Properties, LLC
307 Lewers Street, 6th Floor
Honolulu, Hawaii 96815

SENT VIA ELECTRONIC MAIL TO: jared@wpchawaii.com

Dear Mr. Watamull:

Subject: Expiring General Lease No. S-4125, Moanalua Kai, Island of Oahu
Tax Map Key No. (1) 1-1-064:020

Prior to seeking the approval of your request to continue use of the subject parcel, we need to reach a preliminary agreement on the terms and conditions for allowing your use. In this regard, we propose the following:

1. The Premises shall be used for industrial warehouses as permitted under the current City & County of Honolulu zoning code I-2, Intensive Industrial District.
2. Lease Properties, LLC (PERMITTEE) understands that this is a month-to-month permit to use Hawaiian home lands which can be terminated for any or no reason upon a 30-day advance written notice given by either party. PERMITTEE acknowledges and accepts the risk PERMITTEE'S use could be terminated before PERMITTEE has recovered the costs invested in the Premises.
3. The permit fee for the premises shall be \$13,500.00 per month. PERMITTOR reserves the right to increase the permit fee upon renewal.
4. PERMITTEE shall be required to pay non-refundable processing and documentation fees of \$175.00 and place a security deposit equal to two months rent or \$27,000.00. The security deposit of \$6,666.67 under the soon to expire General Lease No. S-4124 shall be transferred to this new Right-of-Entry Permit (PERMIT) and PERMITTEE shall remit the difference of

Mr. J.D. Watamull
Lease Properties, LLC
October 3, 2023
Page 2

\$20,333.33 upon execution of the PERMIT. PERMITTEE shall not earn any interest on the security deposit. If, upon vacating the Premises, PERMITTEE is in compliance with the terms and conditions of the PERMIT to be issued, the security deposit shall be refunded, less amounts deducted for non-compliance issues, if any.

4. No residential use shall be permitted, including temporary overnight camping. However, PERMITTEE shall be allowed to provide a shelter for security personnel, if such persons are hired for security purposes.

5. No major alteration or addition of any kind shall be made to the Premises unless plans are first submitted and approved by PERMITTOR.

6. PERMITTEE shall be responsible for the security of the Premises and all of PERMITTEE'S personal property thereon. Except for fencing, which is allowed at PERMITTEE'S option, other kinds of security systems will only be allowed after review and approval of PERMITTOR.

7. PERMITTEE is responsible for payment for all utilities and waste removal services and all repairs and maintenance of utility services shall be paid for by PERMITTEE.

8. PERMITTEE shall comply with all federal, state and county regulations or requirements regarding environmental issues and the safe handling and disposal of toxic or hazardous materials. Upon termination of this Permit, PERMITTEE shall be responsible for environmental cleanup of any contamination or hazardous materials brought onto the site or caused by PERMITTEE'S activities on the site.

9. PERMITTEE shall keep the Premises neat and clean at all times, including trimming the vegetation and removing trash on a regular basis.

10. Other standard terms and conditions of similar right-of-entry permits issued by PERMITTOR, such as liability insurance, site maintenance and real property tax payments.

11. The PERMIT shall be subject to the review and approval of the Department of the Attorney General.

12. Other terms and conditions deemed prudent by the Hawaiian Homes Commission may be added.

If the proposed terms and conditions are acceptable, please sign, date and return a copy of this letter. Although your return of the signed letter is not binding on either party, it will be used as a basis for seeking the Commission's approval and drafting a document that will become binding once all the parties have signed.

Mr. J.D. Watamull
Lease Properties, LLC
October 3, 2023
Page 3

Should you have questions or need further clarification, you may contact Peter “Kahana” Albinio, Jr., Property Development Manager, at (808) 620-9451 or by email at peter.k.albinio.jr@hawaii.gov.

Aloha,

Richard Kuizinen, Administrator
Land Management Division

AGREED AND ACCEPTED:

LEASE PROPERTIES, LLC.

By

John H. All
managers

Date _____

Date 10/4/23

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

October 16-17, 2023

TO: Chairman and Members, Hawaiian Homes Commission

THRU: Richard Kuitunen, Administrator *RK*
Land Management Division

FROM: Peter "Kahana" Albinio, Jr., Property Development Manager
Land Management Division *KA*

SUBJECT: Authorization to Enter Into a Sale of Lease at Public Auction for Industrial Purposes,
Parcel 3, Kalaeloa, Island of Oahu, TMK No. (1) 9-1-013:001

RECOMMENDED ACTION/MOTION

That the Hawaiian Homes Commission (HHC) authorize the following:

- A. To advertise and conduct public land disposition for a 43.021-acre parcel of Hawaiian home lands, located adjacent to the former Barber's Point Naval Air Station at Kalaeloa, further identified by Tax Map Key No. (1) 9-1-013:001 (See Exhibit "A").
- B. To set all appropriate terms and conditions, to be approved by the Chairman, Hawaiian Homes Commission, in accordance with the requirements of Chapter 171, Hawaii Revised Statutes, as amended, pursuant to Section 204 (a)(2) and/or Section 220.5, Hawaiian Homes Commission Act, 1920, as amended.
- C. To expend budgeted funds necessary for a fair market summary appraisal report and environmental assessment, if necessary, on the subject parcels which are designated for non-residential use on the Oahu Island Plan and IMX-1 (Industrial Commercial Mixed Use) Zoning in the City & County of Honolulu Land Use Ordinances.
- D. To retain outside legal counsel, if necessary, in the lease negotiation of the final terms and conditions of the general lease agreements.

DISCUSSION

Creating interest in the Department of Hawaiian Home Lands' proposed general lease program is a primary objective of the Land Management Division (LMD). In conjunction with the publication of the legal notices in the newspaper and on our website, LMD will initiate its marketing plan by notifying appropriate interested parties/trade organization on the availability of the parcel, as well as the public at large who have expressed interest in leasing land from the department.

LMD follows the real estate practices of continually marketing its commercial/industrial properties to draw the interest of qualified and creditworthy lessees.

SELECTED PROPERTY

Tax Map Key No.:	9-1-013:001 (First Division)
Land Area:	43.021 acres (1,873,995 square feet)
Location:	Malakole Street, Kalaeloa, Oahu
Improvements:	Vacant
State Land Use:	Urban
Ewa Development Plan:	Industrial
County Zoning:	F-1, Military & Federal Preservation
Easement:	60' wide drainage easement (#1359) in favor of the Estate of James Campbell is located along Malakole Street that fronts the parcel. There is a flight path restriction (Easement No. 1360 for flight Clearance Purposes) due to the proximity to the airport
Archaeological:	Site 1725, located on the property, is eligible for listing in the National Register of Historic Places. It is described as being a Hawaiian habitation complex with 17 features, with one feature containing human remains.
General Description:	It is triangularly shaped and bounded by Malakole Street (makai), Saratoga Avenue (Diamond Head), Kapolei Business Park (mauka), and Malakole Industrial Park (Ewa). The site is generally flat with a small rise along Malakole Street.
Utilities:	There is County water line at the intersection of Komohana Street and Malakole Street. County sewer connection is also close by, however, developer may have to hook up with a transmission line and possibly a pump station.

MARKET ASSESSMENT

The demographics for Kapolei are as follows:

Kapolei population in 2030 estimates	157,530
Number of Housing in 2030 estimates	51,080
Average household size (2010 US Census)	3.43
Median age (2010 US Census)	31.90

Kapolei will continue to be the fastest growing region in the State. Using 2020 as a baseline, by 2050 the population will increase by 40 percent, housing will grow by 52 percent, and jobs will increase by 77 percent (source: Plasch Econ Pacific LLC as reported by Kapolei Magazine).

According to Colliers Oahu Industrial Market Report Q2 2023, dated July 21, 2023, Oahu's industrial market continued to face a shortage of available inventory as the vacancy rate reached a record low of 0.76%. For 10 consecutive quarters, Oahu's industrial market posted occupancy gains. The key takeaways from this report are:

- Oahu’s industrial market has maintained vacancy rates below 1% for the third consecutive quarter
- More than 936,000 square feet of occupancy growth has been recorded over the past ten quarters
- Building operating expenses reach record highs

Parcel 3 is one of only 2 DHHL parcels outside of the Barber’s Point Naval Air Base. It has an average location within Ewa/Kapolei region, with average access and exposure along Malakole Street. The current right-of-way width is 60”, a traffic study may be required to determine the final required right-of-way dimensions.

It is adjacent to the existing Kapolei Business Park and the newly developed Malakole Industrial Park. Kapolei Business Park is a fee simple business park. Phase 2 was released with lot sizes ranging from 1.060 acres to 2.793 acres. The purchase price ranges from \$37.00-\$38.50 per square foot. Malakole Industrial Park is warehouse for lease development with bays ranging from 1,209 to 231,838 square feet and asking rent at \$1.50/sf/mo with discounts for larger space and estimated CAM at \$0.29.

VALUATION OF PARCEL 3

2023 Tax Assessed land value	\$45,355,900.00
Estimated fair market rent @ 8%	\$ 3,628,472.00

DHHL wishes to offer the development of the subject property through a project developer agreement so that the development can be at its highest and best use, which has been determined to be “Industrial Commercial mixed use” under the IMX-1 zoning. Proposals for residential development will not be accepted, however, most, if not all, other uses permitted under the City and County of Honolulu’s IMX-1 zoning shall initially be acceptable.

PROPOSED TERMS AND CONDITIONS OF THE GENERAL LEASE

Term: The term of the general lease can be within the minimum term of 25 years and the maximum term of 65 years as each applicant deemed appropriate.

Minimum Upset Rent: An appraisal will be ordered to determine the minimum upset rent for the first ten (10) years with step-up rent for the ensuing fifteen (15) years so interested applicant will have a known rent period of twenty-five years. If the lease term extends beyond 25 years, the rent shall be re-determined by an independent appraisal prior to the commencement of the 26th, 36th, 46th and/or 56th years.

Purpose/Use: The property is being offered for industrial/business development as allowed under an Industrial Commercial mixed use, IMX-1, zoning district and all applicable permit requirements consistent therewith, except that residential development shall not be acceptable.

CHAPTER 343, ENVIRONMENT ASSESSMENT

The selected applicant/developer shall be required to comply with Chapter 343 of the Hawaii Revised Statutes, as amended, prior to the start of any construction activity on the site. Such compliance shall assess the impact that the proposed development will have on the surrounding community and environment. Such compliance shall be considered completed upon the issuance of a Finding of No Significant Impact (FONSI) or final approval and acceptance of an Environmental Impact Statement (EIS), whichever is applicable.

AUTHORIZATION

Section 10-4-1 of the Department's Administrative Rules, as amended, states in part that "...The department may lease, license or otherwise deal with any available lands as may not be immediately needed for the purposes of the Act as provided by Section 204(a)(2) of the act and Chapter 171, HRS, upon such terms and conditions as to it may deem fair reasonable."

Section 204(a)(2) of the Hawaiian Homes Commission Act, 1920, as amended, reads in part: "In the management of any retained available lands not required for leasing under Section 207(a), the department may dispose of such lands to the public, including native Hawaiians, on the same terms, conditions, restrictions and uses applicable to the disposition of public lands as provided in Chapter 171, Hawaii Revised Statutes, as amended... provided further that the department is expressly authorized to negotiate, prior to negotiations with the general public, the disposition of a lease of Hawaiian home lands to a native Hawaiian, or organization or association owned or controlled by native Hawaiians for commercial, industrial, or other business purposes, in accordance with procedure set forth in section 171-59, Hawaii Revised Statutes, and the lease rental limitation imposed by section 171-17(b), Hawaii Revised Statutes."

Chapter 171-59(a), Hawaii Revised Statutes, as amended, titled Disposition by negotiations, reads in part: "...After a determination is made to negotiate the disposition of a lease, the board [commission] shall (1) Give public notice as in public auction, in accordance with the procedure set forth in section 171-16(a)...(2) Establish reasonable criteria for the selection of the lessee...(3) Determine the applicants who meet the criteria for selection set by the board and notify all applicants of its determination...If two or more applicants meet the criteria for selection of the lessee, the board shall select the lessee who submits the highest offer contained in a sealed bid deposited with the board."

Section 220.5 of the Hawaiian Homes Commission Act, 1920, as amended, also authorizes the department to enter into project developer agreement with a qualified developer for commercial or multi-purpose project, subject to the requirements pursuant with Chapter 171-60(a)(3).

RECOMMENDATION

Land Management Division requests approval of the motion as stated.

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

October 16-17, 2023

TO: Chairman and Members, Hawaiian Homes Commission

THRU: Richard Kuitunen, Administrator *RK*
Land Management Division

FROM: Peter "Kahana" Albinio, Jr., Property Development Manager
Land Management Division *KA*

SUBJECT: Authorization to Enter Into a Sale of Lease at Public Auction for Resort/commercial
Purposes, Wailua, Island of Kauai
TMK No. (4) 3-9-006:009

RECOMMENDED ACTION/MOTION

That the Hawaiian Homes Commission (HHC) authorize the following:

- A. To advertise and conduct public land disposition for a 41.152-acre parcel of Hawaiian home lands, located in Wailua, Island of Kauai, further identified by Tax Map Key No. (4) 3-9-006:009 (See Exhibit "A").
- B. To set all appropriate terms and conditions, to be approved by the Chairman, Hawaiian Homes Commission, in accordance with the requirements of Chapter 171, Hawaii Revised Statutes, as amended, pursuant to Section 204(a)(2) and 220.5, Hawaiian Homes Commission Act, 1920, as amended.
- C. To expend budgeted funds necessary for a fair market summary appraisal report and environmental assessment, if necessary, on the subject parcels which are designated for non-residential use on the Kauai Island Plan and RR-20 (Resort) Zoning in the County of Kauai County Code.
- D. To retain outside legal counsel, if necessary, in the lease negotiation of the final terms and conditions of the general lease agreements.

DISCUSSION

Creating interest in the Department of Hawaiian Home Lands' proposed general lease program is a primary objective of the Land Management Division (LMD). In conjunction with the publication of the legal notices in the newspaper and on our website, LMD will initiate its marketing plan by notifying appropriate interested parties/trade organizations on the availability of the parcel, as well as the public at large who have expressed interest in leasing land from the department.

LMD follows the real estate practices of continually marketing its commercial/industrial properties to draw the interest of qualified and creditworthy lessees.

SELECTED PROPERTY

Tax Map Key No.:	3-9-006:009 (Fourth Division)
Land Area:	41.152 acres (1,792,581 square feet)
Location:	Kuhio Highway and Leho Drive, Kauai
Improvements:	Vacant
State Land Use:	Urban
County Zoning:	Open

General Description: The land is undeveloped, varying in elevation from 10 ft. above mean sea level nearest the shoreline at Wailua Golf Course to 45 ft. above mean sea level at Kuhio Highway. Close to Wailua Golf Course and Leho Drive/Lydgate Beach Park, the land is within one-quarter mile of the shoreline and enjoy direct access to the ocean via Lydgate Beach Park. DHHL has identified the land as suitable for resort/commercial development (RR-20) due to its close proximity to the shoreline, existing resorts and oceanfront amenities.

There are no known cultural sites on DHHL property. However, the entire Wailua area is culturally significant with several heiau located within the area.

Utilities: There is a shortage of water in the Wailua area. County has indicated that the project will require its own water source, storage and transmission/distribution system.

County operates a wastewater treatment plant makai of the property and there is enough capacity for the proposed development. However, upgrading of the plant, including the offsite transmission system will be required for the project.

The applicant/developer will have to consult the electric and telephone service providers for the required services to the project site.

DHHL wishes to offer the development of the subject property through a project developer agreement so that the development can be at its highest and best use, which has been determined to be "Resort" under the RR-20 zoning. Proposals for residential development will not be accepted, however, most, if not all, other uses permitted under the County of Kauai RR zoning shall initially be acceptable.

PROPOSED TERMS AND CONDITIONS OF THE GENERAL LEASE

Term: The maximum term of the general lease is 65 years.

Minimum Upset Rent: An appraisal will be ordered to determine the minimum upset rent for the first ten (10) years with steps-up rent for the ensuing fifteen (15) years so interested applicant will have a

known rent period of twenty-five (25) years. The rent shall be re-determined by an independent appraisal prior to the commencement of the 26th, 36th, 46th and/or 56th years.

Purpose/Use: The property is being offered for resort development as allowed under RR-20, zoning district and all applicable permit requirements consistent therewith, except that residential development shall not be acceptable.

CHAPTER 343 ENVIRONMENTAL ASSESSMENT

The selected applicant/developer shall be required to comply with Chapter 343 of the Hawaii Revised Statutes, as amended, prior to the start of any construction activity on the site. Such compliance shall assess the impact that the proposed development will have on the surrounding community and environment. Such compliance shall be considered completed upon the issuance of a Finding of No Significant Impact (FONSI) or final approval and acceptance of an Environmental Impact Statement (EIS), whichever is applicable.

AUTHORIZATION

Section 10-4-1 of the DHHL's Administrative Rules, as amended, states in part that "...The department may lease, license or otherwise deal with any available lands as may not be immediately needed for the purposes of the Act as provided by Section 204(a)(2) of the act and Chapter 171, HRS, upon such terms and conditions as to it may deem fair reasonable."

Section 204(a)(2) of the Hawaiian Homes Commission Act, 1920, as amended, reads in part: "In the management of any retained available lands not required for leasing under Section 207(a), the department may dispose of such lands to the public, including native Hawaiians, on the same terms, conditions, restrictions and uses applicable to the disposition of public lands as provided in Chapter 171, Hawaii Revised Statutes, as amended... provided further that the department is expressly authorized to negotiate, prior to negotiations with the general public, the disposition of a lease of Hawaiian home lands to a native Hawaiian, or organization or association owned or controlled by native Hawaiians for commercial, industrial, or other business purposes, in accordance with procedure set forth in section 171-59, Hawaii Revised Statutes, and the lease rental limitation imposed by section 171-17(b), Hawaii Revised Statutes."

Chapter 171-59(a), Hawaii Revised Statutes, as amended, titled Disposition by negotiations, reads in part: "...After a determination is made to negotiate the disposition of a lease, the board [commission] shall (1) Give public notice as in public auction, in accordance with the procedure set forth in section 171-16(a)...(2) Establish reasonable criteria for the selection of the lessee...(3) Determine the applicants who meet the criteria for selection set by the board and notify all applicants of its determination...If two or more applicants meet the criteria for selection of the lessee, the board shall select the lessee who submits the highest offer contained in a sealed bid deposited with the board."

Section 220.5 of the Hawaiian Homes Commission Act, 1920, as amended, authorizes the department to enter into project developer agreement with a qualified developer for commercial or multi-purpose project, subject to the requirements pursuant with Chapter 171-60(a)(3).

Chapter 171-60, Hawaii Revised Statutes, as amended, titled Development through private developer, subsection (a) states in part that "...the board [commission]...may lease public lands...to a private developer or developers, or enter into a development agreement with a private developer or

developers, for development and subdivision of lands as a leasehold project for ...commercial, business or hotel and resort uses, as provided in this subsection.”

RECOMMENDATION

Land Management Division requests approval of the motion as stated.

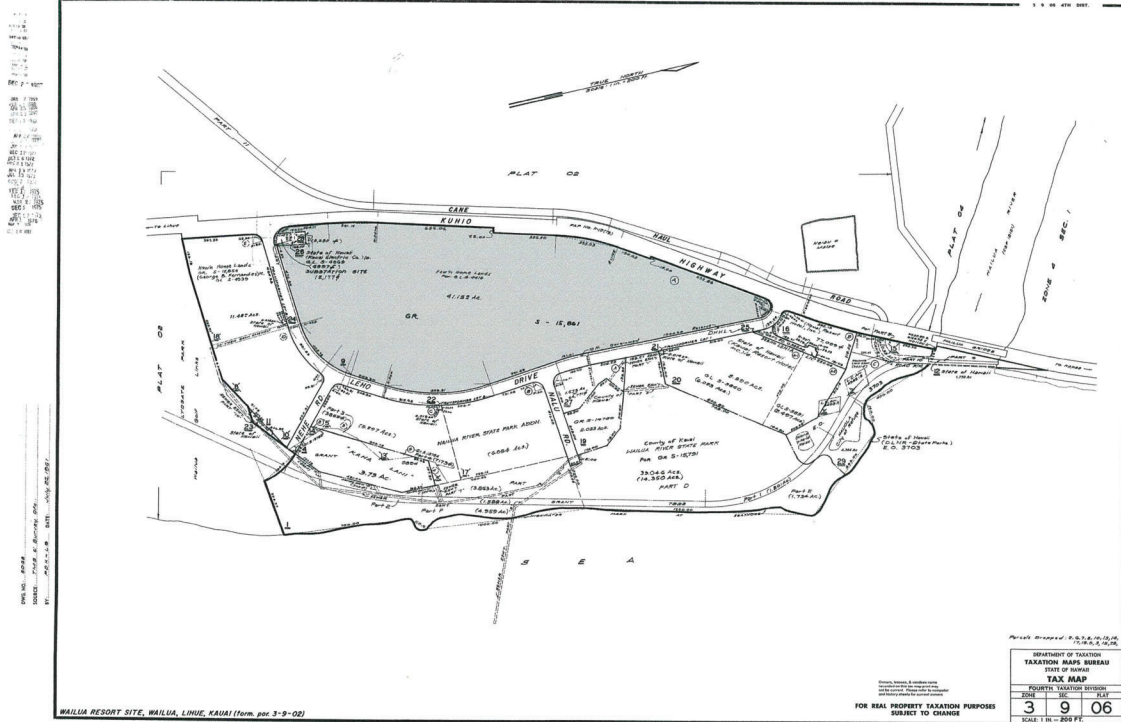


Exhibit "A"
Item No. F-7



STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

October 16-17, 2023

TO: Chairman and Members, Hawaiian Homes Commission

THRU: Richard Kuitunen, Administrator *AK*
Land Management Division

FROM: Peter "Kahana" Albinio, Jr., Property Development Manager
Land Management Division *AK*

SUBJECT: Authorization to Enter Into a Sale of Lease at Public Auction for Commercial/Industrial
Purposes, Waiakea, Island of Hawaii, TMK No. (3) 2-1-012:070

RECOMMENDED ACTION/MOTION

That the Hawaiian Homes Commission (HHC) authorize the following:

- A. To advertise and conduct public land disposition for a 11.685-acre parcel of Hawaiian home lands, located in Waiakea, Island of Hawaii, further identified by Tax Map Key No. (3) 2-1-012:070 (See Exhibit "A").
- B. To set all appropriate terms and conditions, to be approved by the Chairman, Hawaiian Homes Commission, in accordance with the requirements of Chapter 171, Hawaii Revised Statutes, as amended, pursuant to Section 204(a)(2) and 220.5, Hawaiian Homes Commission Act, 1920, as amended.
- C. To expend budgeted funds necessary for a fair market summary appraisal report and environmental assessment, if necessary, on the subject parcels which are designated for non-residential use on the Hawaii Island Plan and MCX (Industrial-Commercial Mixed District) Zoning in the County of Hawaii County Code.
- D. To retain outside legal counsel, if necessary, in the lease negotiation of the final terms and conditions of the general lease agreements.

DISCUSSION

Creating interest in the Department of Hawaiian Home Lands' proposed general lease program is a primary objective of the Land Management Division (LMD). In conjunction with the publication of the legal notices in the newspaper and on our website, LMD will initiate its marketing plan by notifying appropriate interested parties/trade organizations on the availability of the parcel, as well as the public at large who have expressed interest in leasing land from the department.

LMD follows the real estate practices of continually marketing its commercial/industrial properties to draw the interest of qualified and creditworthy lessees.

SELECTED PROPERTY

Tax Map Key No.:	2-2-012:070 (Third Division)
Land Area:	11.685 acres (508,999 square feet)
Location:	By the old Hilo Airport, fronting Kanoelehua Avenue
Improvements:	Vacant
State Land Use:	Urban
County Zoning:	Limited Industrial (ML-20)

General Description: The parcel is approximately 11.7-acres, more or less, of Hawaiian Home Lands' situated in Waiakea, South Hilo, Island of Hawaii identified as TMK:(3) 2-1-012:070. The subject property forms a roughly triangular shape, bordered on the west by Kanoelehua Avenue and on the southeast by the old Hilo Airport terminal area and facilities. Immediately to the north and east lies vacant land owned by the State of Hawaii and managed by the Department of Land and Natural Resources. The topography of the site is fairly flat with gradual slopes and is presently vacant and overgrown. There are some internal paved and graveled roads, overhead power lines, and low lying vegetation within the site. A mix of industrial uses and businesses surround the project site, including a Foreign Trade Zone, the Hilo International Airport and existing industrial uses along Kanoelehua Avenue. The property's central location is ideal and makes the parcel an attractive piece for mixed commercial/industrial use development.

On-site infrastructure: Very little infrastructure exists on the property. The property is accessed by Railroad Avenue to the north and off of Kanoelehua Avenue at Hualani Street.

Utilities: County has indicated that the project site has several waterlines, several 12-inch and 8 -inch waterlines with two service laterals capable of accommodating a 5/8-inch meter and a 1-inch meter.

There is a 12-inch sewer line located along the north side of Piilani Street that ends on the west side of Kanoelehua Avenue with a manhole, and an 8-inch stub out.

Two overhead distribution pole lines exist, one along the north boundary and one through the site.

A pressurized petroleum pipeline is located along the east side of Kanoelehua Avenue and terminates at the HELCO power plants.

DHHL wishes to offer the development of the subject property, together with Department of Land and Natural Resources' (DLNR) 13.7 acres adjacent parcels, through a project developer agreement so that the development can be at its highest and best use, which has been determined to be MCX zoning (See Exhibit "B"). DHHL and DLNR believe a mix of commercial and/or industrial uses would maximize the

value of the properties and yield greater returns if developed as one master-planned project by a private entity with the necessary development expertise and financial capacity.

Proposals for residential development will not be accepted, however, most, if not all, other uses permitted under the County of Hawaii MCX zoning shall initially be acceptable.

PROPOSED TERMS AND CONDITIONS OF THE GENERAL LEASE

Term: The maximum term of the general lease is 65 years.

Minimum Upset Rent: An appraisal will be ordered to determine the minimum upset rent for the first ten (10) years with steps-up rent for the ensuing fifteen (15) years so interested applicant will have a known rent period of twenty-five (25) years. The rent shall be re-determined by an independent appraisal prior to the commencement of the 26th, 36th, 46th and/or 56th years.

Purpose/Use: The property is being offered for industrial and commercial development as allowed under an Industrial Commercial mixed use, MCX, zoning district and all applicable permit requirements consistent therewith, except that residential development shall not be acceptable.

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT

The selected applicant/developer shall be required to comply with Chapter 343 of the Hawaii Revised Statutes, as amended, prior to the start of any construction activity on the site. Such compliance shall assess the impact that the proposed development will have on the surrounding community and environment. Such compliance shall be considered completed upon the issuance of a Finding of No Significant Impact (FONSI) or final approval and acceptance of an Environmental Impact Statement (EIS), whichever is applicable.

AUTHORIZATION

Section 10-4-1 of the DHHL's Administrative Rules, as amended, states in part that "...The department may lease, license or otherwise deal with any available lands as may not be immediately needed for the purposes of the Act as provided by Section 204(a)(2) of the act and Chapter 171, HRS, upon such terms and conditions as to it may deem fair reasonable."

Section 204(a)(2) of the Hawaiian Homes Commission Act, 1920, as amended, reads in part: "In the management of any retained available lands not required for leasing under Section 207(a), the department may dispose of such lands to the public, including native Hawaiians, on the same terms, conditions, restrictions and uses applicable to the disposition of public lands as provided in Chapter 171, Hawaii Revised Statutes, as amended... provided further that the department is expressly authorized to negotiate, prior to negotiations with the general public, the disposition of a lease of Hawaiian home lands to a native Hawaiian, or organization or association owned or controlled by native Hawaiians for commercial, industrial, or other business purposes, in accordance with procedure set forth in section 171-59, Hawaii Revised Statutes, and the lease rental limitation imposed by section 171-17(b), Hawaii Revised Statutes."

Chapter 171-59(a), Hawaii Revised Statutes, as amended, titled Disposition by negotiations, reads in part: "...After a determination is made to negotiate the disposition of a lease, the board [commission] shall (1) Give public notice as in public auction, in accordance with the procedure set forth in section 171-16(a)...(2) Establish reasonable criteria for the selection of the lessee...(3) Determine the applicants

who meet the criteria for selection set by the board and notify all applicants of its determination...If two or more applicants meet the criteria for selection of the lessee, the board shall select the lessee who submits the highest offer contained in a sealed bid deposited with the board.”

Section 220.5 of the Hawaiian Homes Commission Act, 1920, as amended, authorizes the department to enter into project developer agreement with a qualified developer for commercial or multi-purpose project, subject to the requirements pursuant with Chapter 171-60(a)(3).

Chapter 171-60, Hawaii Revised Statutes, as amended, titled Development through private developer, subsection (a) states in part that “...the board [commission]...may lease public lands...to a private developer or developers, or enter into a development agreement with a private developer or developers, for development and subdivision of lands as a leasehold project for ...commercial, business or hotel and resort uses, as provided in this subsection.”

RECOMMENDATION

Land Management Division requests approval of the motion as stated.

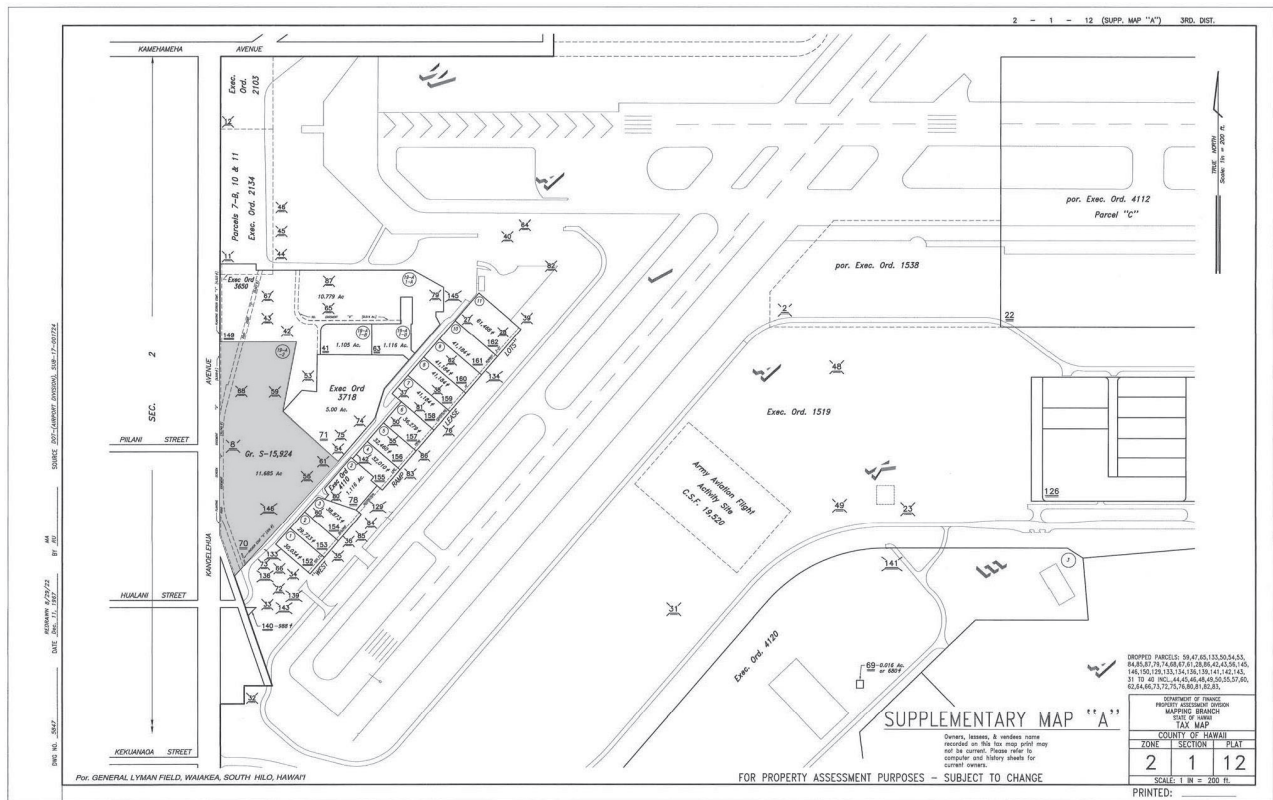


Exhibit "A"


Item No. F-8




**STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS**

October 16-17, 2023

To: Chairman and Members, Hawaiian Homes Commission

Through: Richard Kuitunen, Administrator 
Land Management Division

From: Kaipo Duncan, Land Agent 
Land Management Division

Subject: Issuance of License Extension, License No. 851, Kūkulu Kumuhana O Anahola (KKOA), Ulupono Anahola (Thrive Anahola) Community Center-An Agricultural and Youth Training Center, Island of Kaua‘i, TMK Nos. (4)4-8-003:019 (Por.)

APPLICANT:

Kūkulu Kumuhana O Anahola (KKOA)

RECOMMENDED MOTION/ACTION: That the Hawaiian Homes Commission (HHC) authorize the issuance of a 30-year License extension to KKOAA, covering the subject area as identified and described below:

Approval and issuance of this License extension shall be subject to the following conditions:

1. The License term shall be for a period of 30-years, and effectively commence on April 30, 2027, after the current 5-year KKOAA License ends on April 29, 2027.

LICENSEE must apply for a License extension six (6) months prior to expiration of the term and the approval shall be subject to the Hawaiian Homes Commission review, evaluation, and approval of LICENSEE's operation status;
2. The License fee shall be Gratis;
3. The Licensee currently uses 10 acres of DHHL lands for their phase 1 due diligence. Any request for additional acreage up to a total of 30 acres for phases 2 and 3 shall be subject to the Hawaiian Homes Commission review and approval;
4. The Licensed area shall be used for the Ulupono Anahola Community Center. No other use shall be allowed without DHHL's prior written approval;
5. Licensee's Ulupono Anahola Community Center shall conform to Federal, State, and County (government agencies) standards. Licensee shall obtain applicable permits and approvals from government agencies prior to the commencement of any work on the property that requires such permits and approvals;

6. The Licensee shall be allowed to do fundraising events on the site and to showcase its movie nights from May to August of every year on the last Sunday of the Summer months;
7. The Licensee shall be allowed to do Community based Farmers Markets on the site;
8. All Fundraising, Movie Nights, and the Community Farmers Market events held on site shall have the full support of the Piilani Mai Ke Kai (PMKK) residential neighbors and the PMKK Community Association. Advance notice shall be given to the neighbors and PMKK Community Association and KKOAA shall ensure there is no disruptive loud noises and excessive dust;
9. The Licensee will employ all necessary Best Management Practices (BMP's) for managing soil erosion, stormwater runoff, and fugitive dust as necessary during clearing and agricultural activities;
10. The Licensee shall be allowed to dig a water well for non-potable irrigation water for its agricultural crops. All Federal, State, and County laws shall be followed ;
11. Licensee shall pay a \$275.00 processing and documentation fee;
12. The License document shall be subject to other standard terms and conditions of similar licenses issued by DHHL;
13. Review and approval by the State of Hawaii, Department of the Attorney General; and
14. Such other terms and conditions deemed prudent and reasonable by the Chairman of the Hawaiian Homes Commission and/or the Hawaiian Homes Commission to serve the best interests of the trust and its beneficiaries.

LOCATION:

Portion of Hawaiian Home Lands situated in Anahola, Island of Kaua'i, identified as
TMK Nos.: (4)4-8-003:019

AREA:

10 acres

DISCUSSION:

At its meeting held on September 20, 2021, the Hawaiian Homes Commission requested KKOAA return to the Commission at its November 2021 meeting with milestones, schedules, and timelines for their original Right of Entry Permit (ROE 698) to be converted to a 5-year License (See Exhibits A and B).

On November 16, 2021, the HHC approved a 5-year License to KKOA and on April 29, 2022, License No. 851 was issued.

KKOA is requesting a 30-year License extension (See Exhibit C) to be able to obtain grant funding. Its current 5-year License is considered too short to pursue grants.

Over the last 14 years KKOA has done and continues to do tremendous work in Anahola. From its annual Summer once a month movie nights to teaching keiki and Anahola residents how to grow dry land taro their work in Anahola never ceases. They care about Anahola and are very well respected in the community.

PLANNING AREA:

Anahola, Island of Kaua'i

LAND USE DESIGNATION:

Community Use, Kaua'i Island Plan (2004), Figure 8.2–Anahola/Kamalomalo'o Land Use Plan, page 8-4

CURRENT STATUS:

Hog wire fencing surrounds the current 10-acre site. Most of the site is mowed and agricultural crops are planted on some of the 10 acres. The site Makai of Pilipoli Road acts as a firebreak to area residential neighbors located on the Mauka side of Pilipoli Road. Over the last 6 or 7 years there have been many fires in this area.

CHARACTER OF USE:

Community Use Purposes

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

Triggers:

Use of State Lands.

Licensee is required to do an Environmental Assessment (EA) and KKOA has completed the EA process.

CONSISTENCY WITH DHHL PLANS, POLICIES AND PROGRAMS

Consistency with DHHL General Plan (2001) and Kaua'i Island Plan (2004)

The applicable goals and objectives in the General Plan that support this use of the land are as follows:

Land Use Planning

Goals:

- Utilize Hawaiian Home Lands for uses most appropriate to meet the needs and desires of the beneficiary population.
- Develop livable, sustainable communities that provide space for or access to the amenities that serve the daily needs of its residents.

Land and Resource Management

Goal: Be responsible, long-term stewards of the Trust's lands and the natural, historic and community resources located on these lands.

Objective: Allow native Hawaiian use of natural resources on Trust lands for traditional and cultural purposes.

Economic Development

Goal: Provide economic opportunities for beneficiaries within areas designated for their use.

Objective: Assist native Hawaiian entrepreneurs by supporting opportunities for business education, training, financing, planning, and leasing.

Building Healthy Communities

Goal: Establish self-sufficient and healthy communities on Trust lands.

Per the Kaua'i Island Plan's Land Use Plan for Anahola, the DHHL Land Use designation for the area is "Community Use." Allowable land uses within this designation include "...space for parks & recreation, cultural activities, CBED, & other public amenities."

BENEFICIARY CONSULTATION

Since the proposed project was not a Priority Project in the current Anahola Regional Plan, the Planning Office was required to conduct a Beneficiary Consultation meeting on the Ulupono land use request. A Beneficiary Consultation Meeting was held in Anahola on August 7, 2019. The Ulupono Initiative by KKOA in partnership with the Pi'ilani Mai Ke Kai Community Association was one of the projects consulted on. Information on the project was presented to the beneficiaries, and feedback was collected. The Beneficiary Consultation Report for this consultation was accepted by the HHC at its regular meeting on Sept. 16-17, 2019, in Līhu'e, Kaua'i. While overall community support for the project was very strong, the following comments and responses were recorded for the project:

Topic	Comments/Questions	Response/Recommendation
Liability	Who will assume liability?	ROE Holder/Licensee must maintain liability insurance of \$1 million

DCC&R's	Do the Homeowner's Association Rules apply to this site?	The site was identified for community use and was not included in the DCC&R's for PMKK
Homeless in coastal area	Need to remove homeless individuals living makai of Pi'ilani Mai Ke Kai, near the lighthouse	DHHL in partnership with County of Kaua'i and State DOT-Highways is working to clear out homeless encampments in the unencumbered lands

Chapter 343, HRS, Environmental Review Compliance

KKOA has completed the EA process.

AUTHORITY / LEGAL REFERENCE:

Section 207(c)(1)(A) of the Hawaiian Homes Commission Act, 1920, as amended, and Sections 10-4-21 and 10-4-22 of the Department of Hawaiian Home lands Administrative Rules, as amended.

RECOMMENDATION:

Land Management Division respectfully requests approval of the motion as stated.

Subject Area
Approximately 10.0 Acres

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KUKUIHALE RD
ULUMANA ST
MALUA ST
ANAHOA RD

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ITEM NO. F-9

Exhibit "B"

KKOA Goals

(as presented to the Hawaiian Homes Commission)

- #1 – Rehabilitate the 10-acres offered to KKOA by removing abandoned vehicles posing a fire hazard that endangered community.
- #2 – Creating a thriving food system of native, medicinal and diversified foods grown at mauka site while completing due diligence for Ulupono Anahola site.
- #3 – Creating a safe educational and agricultural training site for students, beneficiaries and the community that will result in a strong and healthy community. Students, families, partners and kupuna all learning side by side.
- #4 – Creating a safe place with opportunities for building life skills and economic development.
- #5 – Creating a safe place that provides opportunities to build together self-identity by perpetuating cultural values such as lauhalā weaving, coconut weaving, Hu games, ukulele classes, movie nights

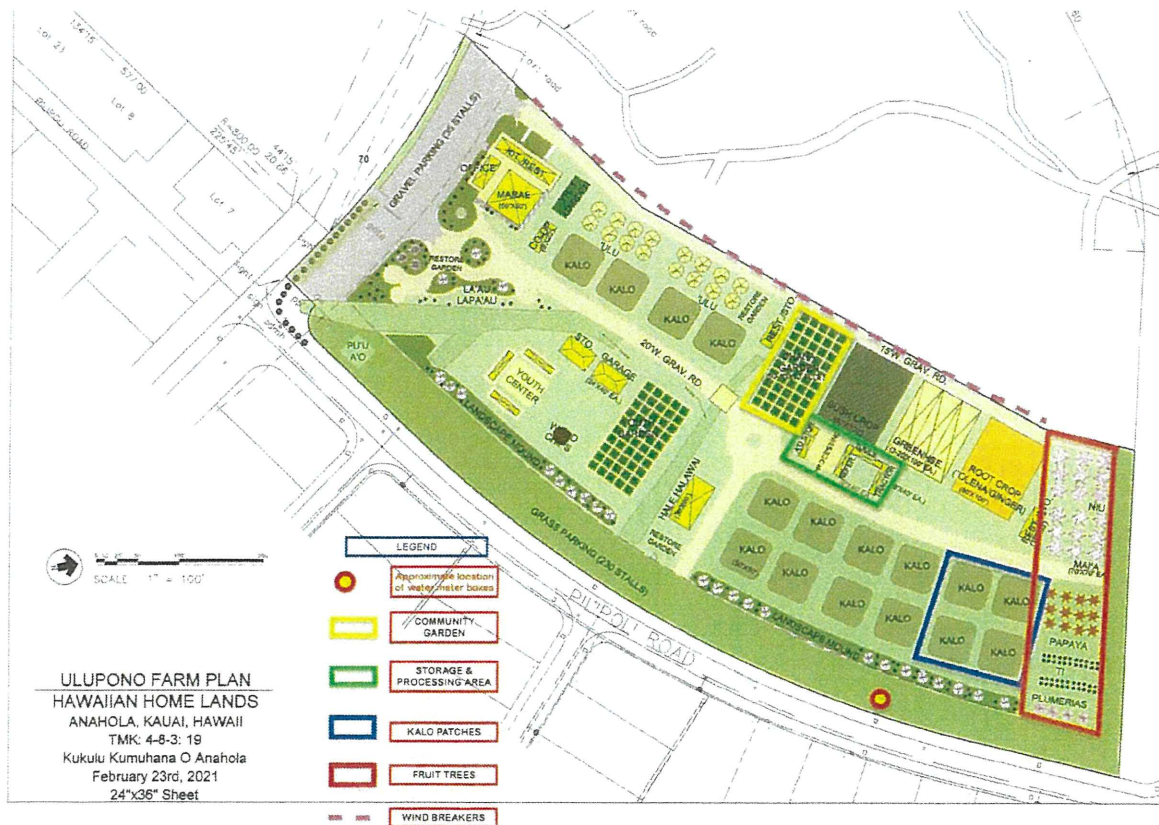


EXHIBIT "B"

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

LICENSE AGREEMENT NO. 851

THIS NON-EXCLUSIVE LICENSE AGREEMENT No. 851 ("License") made and issued on April 29, 2022, by and between the State of Hawaii by its **DEPARTMENT OF HAWAIIAN HOME LANDS**, whose place of business is 91-5420 Kapolei Parkway, Kapolei, Hawaii 96707, and whose mailing address is P. O. Box 1879, Honolulu, Hawaii 96805, ("LICENSOR"), and the **KUKULU KUMUHANA O ANAHOLA (KKOA)**, a Hawaii non-profit corporation, whose mailing address is P.O. Box 30891, Anahola, Hawaii 96703 ("LICENSEE").

BACKGROUND

A. Under Section 207(c)(1)(A) of the Hawaiian Homes Commission Act, 1920, as amended, and Section 10-4-21 and 10-4-22 of the Hawaii Administrative Rules for the Department of Hawaiian Home Lands, as amended, LICENSOR is authorized to grant licenses for the use of Hawaiian home lands for public purposes; and

AGREEMENT

NOW THEREFORE, in consideration of the terms and conditions herein contained to be observed and performed by the LICENSEE, LICENSOR hereby grants to LICENSEE this Non-Exclusive License Easement, as follows:

1. **Premises.** A portion of that certain parcel of Hawaiian home lands located near the Piilani Mai Ke Kai Subdivision in Anahola, Island of Kauai, identified as Tax Map Key No. (4) 4-8-003:019 (por.), being approximately 10 acres, and depicted in the map attached hereto as **Exhibit "A."**

2. **Term.** The term of this License is for five (5) years and, effectively commencing on the date that this license easement document is fully executed by the LICENSEE and LICENSOR unless sooner terminated as hereinafter provided. LICENSEE must apply for a License extension six (6) months prior to expiration of the term and the approval shall be subject to the Hawaiian Homes Commission review, evaluation, and approval of LICENSEE'S operational status.

3. **License Fee.** The license fee shall be GRATIS. However, LICENSEE shall remit a non-refundable processing and document fee in the amount of TWO HUNDRED SEVENTY-FIVE AND NO/100 DOLLARS (\$275.00).

EXHIBIT "B"

License Agreement No. 851

ITEM NO. F-9

DHHL
LMD

4. **Use.** LICENSEE may not use the Premises for any purpose other than the Ulupono Anahola Project only, which activities are outlined in the attached **Exhibit "B."** No other use shall be allowed without written approval from LICENSOR.

5. **Taxes, Assessments and Utilities.** LICENSEE shall, pay, when due, all taxes, rates, assessments, charges, and other outgoings of every nature and kind whatsoever, including all charges for utility services, which shall during the term of this License be lawfully charged, assessed, imposed, or become due and payable upon or on account of the Premises and LICENSEE'S improvements now on or hereafter erected thereon.

6. **Maintenance and Repair.** During the term of this License, LICENSEE shall at its expense repair and maintain the Premises and LICENSEE'S improvements now or hereafter located on the Premises including poles, anchors, equipment, wiring, and all other fixtures in or on the Premises with all necessary reparations and amendments whatsoever; shall keep the Premises and all of LICENSEE'S improvements thereon in a strictly clean and sanitary condition and shall comply with all laws, ordinances, rules and regulations of the Federal, State, County or municipal governments that are applicable to the Premises and LICENSEE'S improvements; and shall allow LICENSOR or its agents or employees at all reasonable times, free access to the Premises for the purpose of examining the same or determining whether the conditions herein are being fully observed and performed, and shall make good, or commence to make good, at its own cost and expense all defects within sixty (60) days after the mailing of written notice by registered mail to the last known address of LICENSEE.

7. **Approval of Construction.** All plans and specifications for any improvements, modifications, alterations, or additions to be constructed on the land, to include clearing, grading, grubbing, fencing, building construction, parking and signage now or hereafter erected on the Premises, must be submitted to and approved by the Chairman of the Hawaiian Homes Commission prior to commencement.

8. **Construction Standards.** LICENSEE shall undertake no construction until LICENSOR has reviewed and approved the plans. All uses and construction must utilize only new materials and be in full compliance with all laws, ordinances, rules and regulations of the Federal, State and County governments and be approved and licensed by all applicable government agencies.

9. **Ownership/Right to Remove Improvements.** All buildings or structures or other major improvements of whatever kind that the LICENSEE constructs or erects on the Premises shall remain the property of the LICENSEE during the term of this License. LICENSEE shall have the right, prior to the termination of this License, or within such additional period as LICENSOR in its reasonable discretion may allow, to remove its property from the Premises; provided that after thirty (30) days written notice to remove given after the termination of this License, LICENSOR may at its option retain the property or remove the same and charge the cost of removal and storage, if any, to

the LICENSEE. All insurance and condemnation proceeds pertaining to improvements on the Premises shall be the sole property of LICENSEE.

If LICENSOR becomes aware that a transfer of the Premises will occur, LICENSOR will promptly notify LICENSEE and will take diligent action to ensure that the transferee will not interfere with LICENSEE'S use of the Premises as set out in this License. LICENSOR will not voluntarily transfer its rights to such transferee without written assurance from such transferee that such transferee will not interfere with LICENSEE'S rights under this License.

10. **Waste: Unlawful Use.** LICENSEE shall not do or commit or license or suffer to be done, any willful or voluntary waste or destruction in and upon the Premises, any nuisance, or any unlawful or improper use of the Premises.

11. **Default of LICENSEE.** It is expressly agreed that this License is contingent upon the continuing condition that if LICENSEE after a thirty (30) day demand, fails to observe or perform substantially the provisions contained herein, and if LICENSEE does not commence to cure, and diligently continue to attempt to cure, such default within sixty (60) days after delivery by LICENSOR of a written notice of such failure by personal service or by certified mail to LICENSEE; or if the LICENSEE becomes bankrupt, insolvent or files any debtor proceedings or takes or has taken against it for good cause any proceedings of any kind or character whatsoever under any provision of the Federal Bankruptcy Act seeking readjustment, rearrangement, postponement, composition or reduction of LICENSEE'S debts, liabilities or obligations; then in any such event LICENSOR may at its option cancel this License and thereupon take immediate possession of the Premises, after a reasonable time or right of action which LICENSOR may have.

12. **Assignment.** Except as expressly provided in this License Easement, this License Easement is not transferable. At no time during the term of the License shall LICENSEE assign, mortgage or pledge its interest in this License or its interest in the improvements now or hereafter erected on the Premises without the prior written consent of LICENSOR, which consent will not be withheld unreasonably.

13. **Insurance.** LICENSEE shall, at its own expense, effect, maintain and keep in force throughout the life of this License, a comprehensive general liability insurance policy, with limits of not less than \$1,000,000.00 for each occurrence, including property damage, personal injury and advertising injury; \$100,000.00 for fire damages for any one fire; \$10,000.00 in medical expenses for any one person, and an aggregate limit of \$2,000,000.00 per policy year. The specification of these limits as contained herein shall not be construed in any way to be a limitation on the amount of liability of LICENSEE for fees, interest or other charges under this License.

LICENSEE at its own expense shall maintain and keep in force Workers Compensation Insurance to include Employer's Liability. Such coverage shall apply to all of its employees.

LICENSEE at its own expense shall maintain and keep in force Automobile Insurance, covering all owned, non-owned and hired automobiles in the following amounts: Bodily Injury: \$1,000,000.00 per person and \$1,000,000.00 per occurrence; Property Damage: \$1,000,000.00 per accident; or a combined single limit of \$1,000,000.00

LICENSEE shall agree to provide certificate(s) of insurance necessary to evidence compliance with the insurance provisions required under this License. LICENSEE shall keep such insurance in effect and the certificate(s) on deposit with LICENSOR during the entire term of this License. In addition:

a. Failure of LICENSEE to provide and keep in force such insurance shall be regarded as material default under this License. LICENSOR shall be entitled to exercise any or all of the remedies provided in this License for default of LICENSEE.

b. The procuring of such required insurance policies shall not be construed to limit LICENSEE'S indemnification under this License.

c. LICENSOR, DEPARTMENT OF HAWAIIAN HOME LANDS, is a self insured State agency. LICENSEE's insurance shall be primary. Any insurance maintained by LICENSEE business in the State of Hawaii or approved in writing by LICENSOR; (b) name the LICENSOR as an additional insured; (c) to the extent commercially available at reasonable cost, provide that LICENSOR shall be notified at least thirty (30) days prior to any termination, cancellation or material change in the insurance coverage; and (d) cover all injuries, losses or damages arising from, growing out of or caused by any acts or omissions of LICENSEE, its officers, agents, employees, invitees or LICENSEES in connection with LICENSEE'S use or occupancy of the Premises.

LICENSEE shall insure during the term of this License the entire Premises, including all buildings now existing and hereafter built by LICENSEE on the Premises, and all roadways and sidewalks on or adjacent to the Premises in the control or use of the LICENSEE. The insurance shall cover loss or damage by fire and other hazards, casualties and contingencies, including vandalism and malicious mischief. The insurance shall be for the full insurable value of such improvements.

LICENSEE shall furnish to LICENSOR upon the execution of this License, certificates showing such insurance policy or policies to be in favor of LICENSOR as additional insured and to be in force, and shall furnish like certificates upon each renewal thereof. In the event of loss, damage or destruction, all insurance proceeds shall be payable to LICENSEE.

The procuring of any insurance policy or policies shall not release or relieve LICENSEE of its responsibility under this License as set forth herein or limit the amount of its liability under this License.

14. **Surrender.** Upon the expiration of this License, or its sooner termination as herein provided, LICENSEE shall peaceably and quietly leave, surrender and deliver to LICENSOR possession of the Premises. Without limiting LICENSEE'S rights to insurance and condemnation proceeds, LICENSEE shall have the option to surrender this License where the portion damaged or taken renders the remainder unsuitable for the use or uses for which the Premises were licensed.

15. **Indemnification.** LICENSEE shall indemnify, defend, and hold harmless LICENSOR, its officers, employees, and agents from and against all liability, loss, damage, cost, and expenses, thereof, arising out of or resulting from LICENSEE or agents) use and possession the Premises. This provision shall survive the expiration or earlier termination of this License.

16. **Costs of Litigation.** In case either party shall, without any fault on its part, be made a party to any litigation commenced by or against the other (other than condemnation proceedings), the party at fault shall pay all costs, including reasonable attorney's fees and expenses incurred by or imposed on the other. The prevailing party in any dispute between the parties shall be entitled to recover its attorney's fees.

17. **Hazardous Materials.** LICENSEE shall not cause or license the escape, disposal, or release of any hazardous materials. LICENSEE shall not allow the storage or use of such materials in any manner not sanctioned by law or by the highest standards prevailing in the industry for the storage and use of such materials, nor allow to be brought onto the Premises any such materials except to use in the ordinary course of LICENSEE'S business, and then only after written notice is given to the LICENSOR of the identity of such materials and upon LICENSOR'S consent, which consent may be withheld at the LICENSOR'S sole and absolute discretion. If any lender or governmental agency shall, with reasonable cause, ever require testing to ascertain whether or not there has been any release of hazardous materials by LICENSEE shall execute affidavits, representations and the like from time to time at LICENSOR'S request concerning LICENSEE'S best knowledge and belief regarding the presence of hazardous materials on the Premises placed or released by LICENSEE.

LICENSEE shall agree to indemnify, defend, and hold harmless LICENSOR, its officers, employees, and agents from and against all liability, loss, damage, cost, and expense, including all attorney's fees, and all claims, suits, and demands therefor, arising out of or resulting from any use or release of hazardous materials on the Premises occurring while LICENSEE is in possession, or elsewhere, if caused by LICENSEE or persons acting under LICENSEE. These covenants shall survive the expiration or earlier termination of this License.

For the purpose of this License, the term "hazardous material" as used herein shall include any substance, waste or material designated as hazardous or toxic or radioactive or other similar term by any present or future Federal, State or local statutes, regulation or ordinance, such as the Resource Conservation and Recovery Act, as amended, the Comprehensive Environmental Response, Compensation, and

Liability Act, as amended, and the Federal Clean Water Act, as amended from time to time, and also including but not limited to petroleum, petroleum based substances, asbestos, polychlorinated-biphenyls ("PCB"), formaldehyde, and also including any substance designated by Federal, State or local regulations, now or in the future, as presenting a risk to human health or the environment.

Prior to the termination of this License, LICENSEE may be required to conduct a Level One (1) Hazardous Waste Evaluation with respect to the Premises and, with respect to any hazardous materials released on the Premises by LICENSEE, conduct a complete abatement and disposal, if necessary, satisfactory to the standards required by the Federal Environmental Protection Agency, the Department of Health and LICENSOR.

18. **Abandonment.** In the event the easement area, hereby granted, shall be abandoned or shall remain unused for the purpose granted for a continuous period of one year, all rights granted hereunder shall terminate, and the LICENSEE will remove its appliances, equipment, and improvements and restore the land as nearly as is reasonably possible to the condition existing immediately prior to the time of installation or construction of its improvements, if any, the LICENSOR hereby consenting and agreeing to such removal. Failure of LICENSEE to remove its appliances, equipment and improvements and/or to restore the land within ninety (90) days after notification to do same from LICENSOR by certified mail at LICENSEE'S last known address, will constitute a breach and LICENSOR may remove LICENSEE'S appliances, equipment and improvements and/or restore the land to a condition similar to that existing immediately prior to the time of installation and LICENSEE will reimburse LICENSOR for all reasonable costs in connection with the removal and/or restoration.

19. **Miscellaneous.**

a. **Consents.** Whenever under the terms of this License the consent or approval of either party shall be required, such consent or approval shall not be unreasonably or arbitrarily withheld. If the party receiving any request or consent or approval shall fail to act upon such request within sixty-five (65) days after receipt of written request therefor, such consent or approval shall be presumed to have been given.

b. **Bind and Inure.** This License shall be binding upon and inure to the benefit of LICENSOR and LICENSEE and their respective officers, directors, representatives, personal representatives, successors, successors-in-trust and assigns.

c. **Applicable Law; Severability.** This License shall be governed by and interpreted in accordance with the laws of the State of Hawaii. If any provision of this License is held to be invalid or unenforceable,

the validity or enforceability of the other provisions shall remain unaffected.

d. Paragraph Headings. The headings of paragraphs in this License are inserted only for convenience and shall in no way define, describe or limit the scope or intent or any provision of this License.

e. Incorporation of Agreements. This License incorporates all agreements between the parties relating to the subject matter hereof, and supersedes all other prior oral or written letters, agreements or understandings relating to the subject matter hereof. This License may not be modified or amended, nor any of the provisions hereof waived, except by an instrument in writing signed by the parties hereto.

f. Counterparts. The parties hereto agree that this License may be executed in counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one and the same agreement, binding all of the parties hereto, notwithstanding all of the parties are not signatory to the original or the same counterparts. In making proof of this License, it shall not be necessary to produce or account for more than one such counterpart. For all purposes, including, without limitation, recordation and delivery of this License, duplicate unexecuted and unacknowledged pages of the counterparts may be discarded and the remaining pages assembled as one document.

20. **Special Conditions:**

- a. LICENSEE is required to complete an Environmental Assessment (EA) for the Project within the next two (2) years. Prior to completion of the EA, activities on the site shall be limited to those listed in the DHHL EA exemption list;
- b. Any permanent construction or significant alteration of the premises shall not be done until the EA is complete;
- c. LICENSEE will employ all necessary Best Management Practices (BMP's) for managing soil erosion, stormwater runoff, and fugitive dust as necessary during clearing and agricultural activities;
- d. LICENSOR shall issue one (1) 5/8-inch water meter at no cost to the LICENSEE. LICENSEE shall be allowed to use four (4) water credits. One (1) for 5/8-inch water meter and three (3) for a 3/4-inch meter.

- e. Entry under the LICENSE shall be limited to LICENSEE'S employees, agents, contractor and subcontractors solely for the purpose stated herein;
- f. LICENSEE will exercise due care and diligence to prevent injury to persons and damages to or destruction of property belonging to LICENSOR.
- g. LICENSEE will provide annual reports to the Commission, on or about the anniversary date of the execution of this license.

[REMAINDER OF PAGE BLANK -- SIGNATURE PAGE FOLLOWS]



IN WITNESS WHEREOF, the parties hereto have caused these presents to be duly executed the day and year first above written.

Approved by the Chairman,
Hawaiian Homes Commission
November 16, 2021

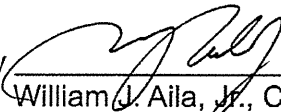
APPROVED AS TO FORM:

State of Hawaii
DEPARTMENT OF HAWAIIAN HOME LANDS

/s/ Katie L. Lambert

Deputy Attorney General
State of Hawaii

By

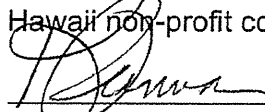


William J. Aila, Jr., Chairman
Hawaiian Homes Commission

LICENSOR

KUKULU KUMUHANA O ANAHOLA
a Hawaii non-profit corporation

By



Kuleialoha Punua
Its Co-Founder and President

LICENSEE

Exhibit "A"
TMK No. (4) 4-8-003:019
(Premises)



(as presented to the Hawaiian Homes Commission)

-
- The map shows the layout of Ulupono Farm, bounded by Puleolu Road to the north and west, and Haleakala Road to the south. The farm is divided into several functional zones:
- Parking Areas:** GRAVEL PARKING (24 STALLS) at the northwest corner and GRASS PARKING (200 STALLS) along the southern boundary.
 - Agricultural Zones:** Multiple KALO patches are distributed throughout the central and eastern parts of the farm. Specific crops identified include MAEAE, LAAU LAPA'AU, and ROOT CROPS (COLEMAN GINGER).
 - Community & Processing Areas:** A YOUTH CENTER, RESTORE GARDEN, GARAGE, and STORAGE & PROCESSING AREA are located in the central-western section.
 - Infrastructure:** Roads include PULEOLU ROAD, 20W GRAV. RD., 15W GRAV. RD., and HALEAKALA ROAD. Utility lines for WATER, GAS, and FIBER are also shown.
 - Other Features:** A RESTORE GARDEN is located near the center, and a large area labeled NIU is situated on the far right side.
- Legend:**
- Red circle: Represents location of water meter boxes
 - Yellow rectangle: COMMUNITY GARDEN
 - Green rectangle: STORAGE & PROCESSING AREA
 - Blue rectangle: KALO PATCHES
 - Red rectangle: FRUIT TREES
 - Black dashed line: WIND BREAKERS
- Scale:** SCALE 1" = 100'
- Title Block:**
- ULUPONO FARM PLAN
HAWAIIAN HOME LANDS
ANAHOLA, KAUAI, HAWAII
TMK: 4-8-3: 19
Kukulu Kumuhana O Anahola
February 23rd, 2021
24"x36" Sheet

COMPREHENSIVE EXEMPTION LIST
FOR THE STATE OF HAWAI'I DEPARTMENT OF HAWAIIAN HOME LANDS
As Approved by the
Environmental Council

June 30, 2015

**See, Exhibit "C"
attached**



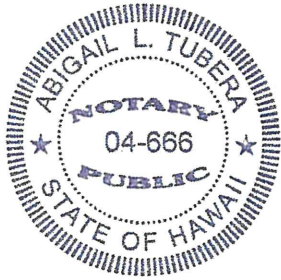
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STATE OF HAWAII)
) ss:
CITY & COUNTY OF HONOLULU)

On May 9, 2022, in the First Circuit, State of Hawaii, before me appeared WILLIAM J. AILA, JR., to me personally known, who, being by me duly sworn or affirmed, did say that such person is the CHAIRMAN of the HAWAIIAN HOMES COMMISSION, and the person executed the foregoing instrument identified or described as LICENSE AGREEMENT NO. 851, as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

The foregoing instrument is undated and contained 33 pages at the time of this acknowledgment/certification.



Bill Tabera

Print Name: Abigail L. Tubera

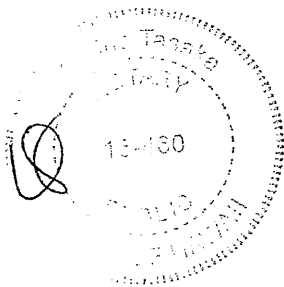
Notary Public, State of Hawaii

My commission expires: November 21, 2024

STATE OF HAWAII
COUNTY OF KAUAI

)
) SS
)

On this 29 day of April, 2022, before me appeared Kuuleialoha Puhua, to me personally known, who, being by me duly sworn, did say that he/she is the person who executed the foregoing instrument and acknowledged to me that he/she executed the same freely and voluntarily for the use and purposes therein set forth.



Karlina Tasaka

Notary Public, State of Hawaii

Print Name Karlina Tasaka

My commission expires: 04-24-2024

Document Date:	<u>4-15-22</u> <u>4-29-22</u>	# of Pages:	<u>15</u>
Notary Name:	<u>Karlina Tasaka</u>	<u>5</u> <u>1st</u> <u>Circuit</u>	
Doc. Description:	<u>Agree</u>		
<u>Karlina Tasaka</u> Notary Signature			
NOTARY CERTIFICATION			

COMPREHENSIVE EXEMPTION LIST
FOR THE STATE OF HAWAII'I DEPARTMENT OF HAWAIIAN HOME LANDS
As Approved by the
Environmental Council

June 30, 2015

The Department of Hawaiian Home Lands (DHHL) is comprised of the following divisions and offices:

- Office of the Chairman (OCH)
- Planning Office (PO)
- Administrative Services Office (ASO)
- Fiscal Office (FO)
- Information and Community Relations (ICRO)
- Homestead Services Division (HSD)
- Land Development Division (LDD)
- Land Management Division (LMD)

HISTORICAL NOTE

This exemption list for the Department of Hawaiian Home Lands was reviewed and concurred upon by the Environmental Council on June 30, 2015. This list supersedes the previous list that was reviewed and concurred upon by the Environmental Council on October 18, 1982.

GENERAL NOTE

Chapter 343, HRS authorizes the Environmental Council to establish procedures to exempt specific types of actions from the need to prepare an environmental assessment because the actions will have minimal or no significant effect on the environment.

The following types of projects will not be exempt:

1. Projects requiring detailed analyses as provided in an environmental assessment under Section 343-5, HRS. These include, but are not limited to places listed on the Federal or State registers of historic places.
2. Projects in statutorily defined areas, including, but not limited to: critical habitats, special management areas, special design districts, registered view planes or scenic corridors, wet lands, sanctuaries, special habitats,

EXHIBIT "C"

shoreline areas, tsunami inundation areas, or other designations, except where the work is eligible for exemption and there is no negative impact on the conditions that define these areas.

3. Major projects without an Environmental Impact Statement (EIS), an Environmental Assessment with a Finding of No Significant Impact (EA/FONSI), or major projects that were never presented at a public meeting concerning site selection, master plan report, or any phase of incremental construction.
4. Major projects without a program to encourage public input into the design or siting of the project.

Pursuant to Section 11-200-8(B), Hawaii Administrative Rules (HAR), all exemptions under the classes in this section are inapplicable when the cumulative impact of planned successive actions of the same type, in the same place, over time, is significant or when an action that is normally insignificant in its impact on the environment may be significant in a particularly sensitive environment, as expressed in #2 above.

Pursuant to the administrative rules promulgated under authority of section 343-6(7), HRS, specifically Section 11-200-8, HAR, DHHL has determined that the following types of actions, where they fall within the given classes of action, shall generally be exempt from the preparation of an environmental assessment:

Exemption Class #1: 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.

1. Fertilizing, sprinkling, mowing, weeding, trimming, brush cutting, clearing, grubbing, aerating, road clearing and patching, sweeping, removal of debris and other routine maintenance of the following agency maintained lands and facilities:
 - a. Ditches, channels, and common areas
 - b. Streets, roads, highways, bike paths, pedestrian ways, trails, parking lots and appurtenances
 - c. Flood-control, erosion-control, and drainage facilities
 - d. Parks
 - e. Landscaped areas

- f. Beach accesses
- g. Beaches
- h. Cemeteries
- 2. Operation, maintenance, overhauling, repairing, repainting, reroofing, cleaning, polishing, greasing, oiling, and servicing of the following facilities, structures, and equipment:
 - a. Existing buildings, offices and community facilities
 - b. Repairs to existing homestead homes
 - c. Structures required for essential utilities, including, but not limited to:
 - i. Water system components such as pumps, valves and controls, pipes and channels, water storage tanks, wells and other water sources
 - ii. Water and sewage handling and treatment systems
 - iii. Sanitary sewage systems
 - iv. Drainage systems
 - v. Electrical systems
 - vi. Communication systems
 - vii. Irrigation systems
 - viii. Gas systems
 - ix. Energy systems
 - d. Fencing, curbing, gates, walls, and retaining walls
 - e. Steps and stairways
 - f. Handicapped accessibility improvements, including walkways, stairways, ramps, and handrails
 - g. Individual and cluster unit mailboxes
 - h. Signage
 - i. Existing structures, including, but not limited to:
 - i. Storage sheds
 - ii. Electrical sheds
 - iii. Electric panels
 - iv. Pumphouses
 - v. Irrigation control panel sheds
 - vi. Garages
 - vii. Mechanic shops
 - viii. Telecommunication equipment and sheds
 - ix. Plant nursery sheds and hothouses
 - x. Trash enclosures
 - xi. Litter containers
 - xii. Trash compactors
 - xiii. Recycling collection bins
 - xiv. Manhole and junction box covers
 - j. Stationary and mobile motorized equipment
 - k. Equipment, including, but not limited to:
 - i. Pumps, valves and motors

- ii. Electrical transformers, cabinets, panels, and vaults
- iii. Power, light, and telephone systems, including installation of poles
- iv. Heating, ventilation, and air conditioning ("HVAC")
- v. Odor control systems
- vi. Security systems and alarms
- vii. Communication systems including antennae
- viii. Telecommunications and control systems, including supervisory control and data acquisition ("SCADA") systems
- ix. Irrigation controllers
- x. Telephone stations
- xi. Emergency electrical generators
- xii. Lifts provided for handicapped accessibility
- l. Traffic calming devices, including, but not limited to, new traffic and pedestrian control devices - speed humps, speed bumps, speed tables, traffic signals, directional, informational and regulatory signs, pavement markers, and striping
- m. Traffic and pedestrian safety measures - guardrails, escape ramps, sidewalks, bollards, and vehicle access barriers
- n. Exterior lighting, including, but not limited to, street lights, parking lot lights, security lighting, ball field and play court lighting, bollards, and wall sconces
- o. Existing recreational facilities, structures, and equipment, including, but not limited to:
 - i. Recreation buildings, multi-purpose buildings, clubhouses, and education buildings
 - ii. Administration buildings, storage and operations buildings, and caretaker residences
 - iii. Comfort stations, bathhouses, and locker room facilities
 - iv. Water tanks developed to serve park or community use needs
 - v. Outdoor showers, drinking fountains, ornamental and swimming pools, and hose bibs
 - vi. Security and visitor information kiosks, concession stands, and phone booths
 - vii. Life guard towers and accessory or appurtenant structures
 - viii. Athletic fields, athletic courts, play court practice walls, skate parks, and appurtenant equipment and facilities

- ix. Gymnasiums, skating rinks and related facilities
- x. Planter boxes, arbors, botanical and community gardens, and plant nurseries
- xi. Bandstands, pavilions, shelters, tent platforms, benches, picnic tables and charcoal disposals
- xii. Signs and posts, and bike racks
- xiii. Security lighting of grounds, structures, and parking lots
- xiv. Equipment sheds and canoe hale
- xv. Pedestrian bridges in park or community use areas
- xvi. Play equipment, fitness exercise stations
- 3. Patching, resurfacing, striping and cleaning of pavement surfaces including, but not limited to, streets, roads, highways, pedestrian ways and walkways, bike paths, driveways, parking lots and appurtenances
- 4. Repair and maintenance of established footpaths, trails and bike paths, including those to beaches and beach accesses
- 5. Operation, repair, testing, and maintenance of vehicles
- 6. Abandoned vehicle pickup program operations
- 7. Collection of refuse and recyclables, and schedule changes
- 8. Operation, repairs, and maintenance of existing cemeteries, including the digging and covering of new graves
- 9. Relocation of cemetery grave contents that have been affected or are threatened to be affected by erosion, according to regulations for the Native American Graves Protection and Repatriation Act (NAGPRA, 43 CFR Part 10), and per guidelines provided in Hawaii Administrative Rules Chapter 13-300, as approved by the Island Burial Councils
- 10. General actions involving the rehabilitation or restoration of existing structures at historic sites
- 11. Removal of sand from ocean ponds or drainage ways for maintenance purposes as permitted by the U.S. Army Corps of Engineers and the State Department of Health
- 12. Acquisition of land presently utilized as maintenance accessways, by easement or deed, for the purpose of stream cleaning
- 13. Clearing of earth berms, drainage swales, culverts, stream banks, and streams including, but not limited to streams with direct outlet to the ocean
 - a. Routine maintenance and removal of dirt, rock, debris, and accumulated boulders from canals, streams, and flood-control debris basins and debris/catchment structures where such removal will not have an adverse impact on downstream waters, bays, or the environment
 - b. Vegetation clearing from streams, improved and unimproved drainage ditches, or swales. Work may

- involve removing and cutting of debris, brush, grasses, and trees
- 14. Removal of domestic sewage from residential and commercial waste and wastewater systems and the disposal of such material into municipal wastewater treatment facilities
- 15. Chemical control of vector
- 16. Construction staging areas and temporary storage of construction equipment and materials
- 17. Clearing and maintenance of areas for emergency mitigation and access including, but not limited to, firebreaks, emergency landing zones, and properly staged operations and staging sites.
- 18. Actions necessary for compliance with Occupational Safety & Health Administration requirements
- 19. Repair and maintenance of civil defense warning sirens

Exemption Class #2: Replacement or reconstruction of existing structures and facilities where the new structure will be located generally on the same site and will have substantially the same purpose, capacity, density, height and dimensions as the structure replaced.

- 1. Replacement, reconstruction, alteration, modification (no change in use), or installation of any building, structure, facility, equipment or utility, including, but not limited to:
 - a. Homestead residential dwellings and accessory structures such as garages and barns
 - b. Community use structures such as recreation buildings, multi-purpose buildings, clubhouses, and education buildings
 - c. Administration buildings, storage and operations buildings, and caretaker residences
 - d. Replacement of cesspools with Individual Wastewater Systems approved by the State Department of Health
 - e. Installation of systems with improved technology for energy savings, including but not limited to solar hot water and photovoltaic systems
 - f. Exterior door and window replacement
 - g. Steps and stairways
 - h. Handicapped accessibility improvements, including walkways, stairways, ramps, and handrails
 - i. Individual and cluster unit mailboxes
 - j. Signage

- k. Fencing, curbing, gates, walls, and retaining walls
- l. Landscaping, clearing, grading, and grubbing
- m. Clearing and maintenance of areas for emergency mitigation and access including, but not limited to, firebreaks, emergency landing zones, and properly staged operations and staging sites
- n. Utility support systems for exempt landscaping projects, including, but not limited to sprinkler systems installation
- o. Pavements including, but not limited to, roadways, driveways, parking lots, carports, walkways, bikeways, sidewalks, jogging paths, multi-use pathways, and covered walkways
- p. Traffic calming devices, including, but not limited to, new traffic and pedestrian control devices - speed humps, speed bumps, speed tables, traffic signals, directional, informational and regulatory signs, pavement markers, and striping
- q. Traffic and pedestrian safety measures - guardrails, escape ramps, sidewalks, bollards, and vehicle access barriers
- r. Highway improvements for safety purposes - widening less than one lane width, adding shoulders, adding auxiliary lanes for localized purposes (i.e., turning, passing, decelerating lanes, etc.), correcting substandard curves and intersections, and grading cut slopes to a minor extent
- s. Bridge repair and/or replacement (for bridges without historic value) as long as the new bridge is limited to two traffic lanes. New bridge replacement could include bicycle route, pedestrian walkway and safety improvements to meet Federal and State Highway Standards
- t. Footbridge replacement and repair
- u. Public transportation shelters and bus stops
- v. Upgrading of existing street lighting system
- w. Litter containers, trash enclosures, trash compactors, and recycling collection bins
- x. Recycling drop-off and redemption centers serving the surrounding residential community, and drop-off areas for clean yard waste and landscape debris generated in the surrounding community
- y. Storage sheds, maintenance sheds, electrical sheds, pump houses, and athletic equipment storage sheds
- z. Drainage structures and facilities, earth berms, and stream banks without historic value

- aa. Comfort stations, bathhouses, and locker room facilities
 - bb. Water tanks developed to serve park or community use needs
 - cc. Outdoor showers, drinking fountains, ornamental and swimming pools, and hose bibs
 - dd. Security and visitor information kiosks, concession stands, and phone booths
 - ee. Life guard towers and accessory or appurtenant structures
 - ff. Athletic fields, athletic courts, play court practice walls, skate parks, and appurtenant equipment and facilities
 - gg. Gymnasiums, skating rinks and related facilities
 - hh. Planter boxes, arbors, botanical and community gardens, and plant nurseries
 - ii. Bandstands, pavilions, shelters, tent platforms, benches, picnic tables and charcoal disposals
 - jj. Signs and posts, and bike racks
 - kk. Security lighting of grounds, structures, and parking lots
 - ll. Equipment sheds and canoe hale
 - mm. Play equipment, fitness exercise stations
 - nn. Civil defense warning sirens
2. Replacement, reconstruction, alteration, modification (no change in use), or installation of equipment, including, but not limited to:
- a. Pumps
 - b. Motors
 - c. Electrical transformers, cabinets, panels, and vaults
 - d. Power, light, and telephone pole systems
 - e. Solar hot water and photovoltaic systems
 - f. Installation of systems with improved technology for energy savings
 - g. Measures to increase resilience of structures, including but not limited to hurricane clips
 - h. HVAC
 - i. Odor control systems
 - j. Security systems and alarms
 - k. Communication systems including antenna
 - l. SCADA
 - m. Irrigation controllers
 - n. Telephone stations
 - o. Emergency electrical generators
 - p. Lifts provided for handicapped accessibility

3. Replacement, reconstruction, alteration, modification (no change in use), or installation of utility services, including, but not limited to:
 - a. Water, wastewater, drainage, electrical, communications, telecommunications, control systems, including SCADA systems, security, fire protection, air conditioning, odor, irrigation, and fuel systems, subject to compliance with all applicable permitting requirements, including State Department of Health requirements
 - b. Existing sewer lines and sewer service laterals, providing the action does not involve any increase in the overall capacity of the system beyond the capacity required to meet current and anticipated future service requirements in an established existing County wastewater system service area
 - c. Removal or filling of decommissioned cesspools with required permit
 - d. Replacement or reconstruction of domestic water wells for homesteading purposes

Exemption Class #3: Construction and location of single, new, small facilities or structures and the alteration and modification of the same, including, but not limited to:

- (a) Single - family residences not in conjunction with the building of two or more units;
- (b) Multi - unit structures designed for not more than four (4) dwelling units if not in conjunction with the building of two (2) or more such structures;
- (c) Stores, offices, and restaurants designed for total occupant load of twenty (20) persons or less per structure, if not in conjunction with the building of two (2) or more such structures; and
- (d) Water, sewage, electrical, gas, telephone, and other essential public utility services extensions to serve such structures or facilities; accessory or appurtenant structures including garages, carports, patios, swimming pools, and fences; and acquisition of utility easements.

1. Construction of new structures on DHHL lands (to include leased lands) of any of the following:
 - a. Single family residences not in conjunction with the building of two (2) or more such units
 - b. Multi-unit structure designed for not more than four (4) dwelling units if not in conjunction with the building of two (2) or more such structures
 - c. Stores, offices and restaurants designed for total occupant load of twenty (20) persons or less, if not in conjunction with the building of two (2) or more such structures
 - d. Water, sewage, electrical, gas, telephone and other essential public utility services extensions to serve such types of structures or facilities, including domestic water source development for homesteading purposes, with required permits
 - e. Accessory or appurtenant structures including domestic water source development for homesteading purposes, collection, distribution and storage systems; small structures needed to house utilities, garages, carports, patios, swimming pools, driveways, swales, and individual and cluster unit mailboxes
2. Construction of modifications, such as ramps and lifts for building/facility access, to ensure compliance with existing/new codes and regulations
3. Modifications to facilitate the storage or on-site repair of new equipment necessary for the operation and/or maintenance of the facility
4. Installation of new, small ground water, surface water or atmospheric monitoring and data collection equipment and structures that house or protect them
5. Installation of electrical and telemetry systems to serve data collection equipment and structures that house or protect them
6. Re-burial of previously identified or inadvertently discovered remains over fifty (50) years old, with Department approval, and according to regulations for the Native American Graves Protection and Repatriation Act (NAGPRA, 43 CFR Part 10) and guidelines provided in Hawaii Administrative Rules Chapter 13-300
7. Construction, alterations or modification of small facilities which support department activities, to include lifeguard stations and similar public safety structures, comfort stations, and waterless or composting toilet facilities

8. Construction of traditional Native Hawaiian hale and halau using renewable materials, traditional construction techniques, and permeable foundations such as ili'ili, in general conformance with materials requirements and design standards as described in Maui County Code Chapter 16.26B.3800 "Hawaii Provisions for Indigenous Hawaiian Architecture Structures" and Revised Ordinances of Honolulu Chapter 16 Article 12, "Indigenous Hawaiian Architecture". No concrete or other modern materials for foundations or flooring
9. Installation of civil defense warning sirens

Exemption Class #4: Minor alteration in the conditions of land, water, or vegetation.

1. Removal and/or cutting of trees that are burned, destroyed or diseased, or otherwise endanger life or property
2. Removal of gravel, rocks, trees (non-endangered species) and/or other materials necessary to make agricultural lands more productive and useful for grazing, farming and other related agricultural purposes
3. Landscaping alongside roadways, around buildings, and within existing parks and community use areas, including, but not limited to, planting of groundcover, grass, shrubs, and trees, sodding of bare areas for dust and erosion control, and installation of community gardens, involving minimal or no grading
4. Minor vegetation clearing and management, including mowing, pruning, and trimming. Work under this exemption shall be performed by the Department or its contractor. Work shall involve cutting and removal of brush, grass, and small trees or bushes. Vegetation shall be hauled by truck to an approved sanitary landfill site, or allowed to remain onsite where feasible for use as compost or mulch
5. Re-burial of previously identified or inadvertently discovered remains over fifty (50) years old, with Department approval, and according to regulations for the Native American Graves Protection and Repatriation Act (NAGPRA, 43 CFR Part 10) and guidelines provided in Hawaii Administrative Rules Chapter 13-300
6. Minor grading and grubbing of lands not requiring a grading permit
7. Removal or filling of decommissioned cesspools with required permit

8. Construction of seepage drains/detention basins on DHHL lands where flows are kept within preexisting levels and for which a drainage study has been completed
9. Re-grading of road shoulders and installation of pedestrian/bike sidewalks and bike paths
10. Pest control. Work under this exemption shall be performed by the Department or its contractor. Work shall involve placement of approved toxic baits, kill traps, live traps, snares, repellent and using EPA-regulated, commercially-available pesticides. Label instructions shall be strictly adhered to. No pesticides shall be allowed to enter State waters
11. Construction of walkways and installation of guard rails
12. Paving of previously existing graded parking areas and roadways
13. Vegetation clearing and removal work on or near the embankment, spillway, or outlet works of a dam facility with the intent of removing tall and/or woody vegetation which could pose a threat to the embankment or impede inspection of the facility. May also include clearing or construction of site improvements required for the mobilization of equipment or personnel to accomplish the task
14. Vegetation clearing and removal work to stabilize existing slopes and mitigate rockfall including work required to mobilize equipment and personnel to accomplish the task
15. Removal of an existing sea/retaining wall or shoreline armoring, subject to the following criteria:
 - a. The sea/retaining wall or armoring is structurally unsound as certified by a Structural Engineer;
 - b. Removal of the sea/retaining wall or armoring is determined as a mitigative measure to impacts identified by a technical study prepared by a certified professional engineer and/or coastal geologist;
 - c. The sea/retaining wall or armoring is determined to be a safety hazard to the public or environment, and the impacts of retaining the sea/retaining wall or armoring are determined greater than removal; or
 - d. Removal of the sea/retaining wall or armoring is performed in conjunction with beach nourishment.
16. Beach nourishment and sand dune restoration activities of less than 10,000 cubic yards of beach quality sand
17. Construction, in accordance with the Hawaii Well Construction and Pump Installation Standards, required to seal production, monitoring and geothermal wells which have been permanently discontinued, that have either been allowed to become unsealed, leaking, polluting, deteriorating in

quality, uncontrollable, buried, or are in such a state of disrepair that continued use is impractical or unsafe

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. Surveys, research, and investigations into all aspects of water use, quantity, and quality
2. Planning data collection
3. Studies for the purpose of identifying hazardous conditions
4. Noise monitoring surveys
5. Drainage studies
6. Flood control studies
7. Site inventories and site assessments
8. Building evaluations
9. Economic analyses
10. Archaeological surveys, including clearing of vegetation in direct association with site evaluation and mapping
11. Air quality surveys
12. Water quality surveys
13. Foundation surveys and subsurface investigations (borings) provided cultural remains are not disturbed
14. Ecological and botanical surveys for which no permit is required
15. Surveys, research and investigations into all aspects of natural resource management, including native forest restoration and invasive species removal
16. Environmental impact research
17. Hazardous materials surveys
18. Data collection in accordance with NPDES requirements
19. Topographic, metes and bounds, sounding, wave, littoral transport and location surveys
20. Ground cover survey inspection of property for appraisal
21. Development feasibility studies
22. Installation of staff gauges, water monitoring and reporting equipment at dam facilities and appurtenant works to include trenching work and construction of supporting features such as equipment sheds, transmitting devices, solar panels, and minimal site grading and improvements for the safe operation and installation of these features
23. Phase II Investigation work on a dam or reservoir, including soil sampling and drilling, water monitoring, and/or test

- pit excavations. This may include clearing or construction of site improvements needed to mobilize equipment or personnel to accomplish the task
24. Measurements of stream flow in accordance with the prescribed method and practices of, or acceptable to, the U.S. Geological Survey, installation of surface water monitoring equipment, and collection of data
 25. Collection of ground water resource data and conducting of ground water monitoring, including construction of exploratory wells not more than 8 inches in diameter to provide ground truth for water resource investigations, in accordance with the Hawaii Well Construction and Pump Installation Standards
 26. Collection of atmospheric data and conducting of climatological monitoring in accordance with the methods and practices of, or acceptable to, the National Weather Service and collection of data
 27. Installation of new, small ground water, surface water or atmospheric monitoring and data collection equipment and structures that house or protect them
 28. Installation of electrical and telemetry systems to serve data collection equipment and structures that house or protect them
 29. Subsurface trenching or digging necessary to install scientific or geological data collection devices
 30. Permission to enter state lands for the purpose of conducting the activities listed above

Exemption Class #6: Construction or placement of minor structures accessory to existing facilities.

1. Installation of fencing for agricultural and cultural and natural resources management purposes
2. Installation of roof top water catchment systems
3. Placement of aerators for increasing the dissolved oxygen content for fish populations in reservoirs, nurseries, or ponds
4. Construction of fencing, gates, lighting, security alarms, camera systems and similar items for security and/or safety
5. Installation of utilities (telecommunications, electrical, drainage, waterlines and faucets, sewers) for use within a site/property
6. Installation of equipment such as pumps and valves; electrical transformers, cabinets, panels and vaults; power, light, and telephone poles/cables; heating, ventilation, and

- air conditioning; irrigation controllers; emergency electrical generators; and lifts provided for handicapped accessibility
7. Construction of interior roadways, driveways, parking lots, sidewalks, curbs, and gutters
 8. Construction of retaining walls, perimeter walls and walls for traffic safety purposes less than four (4) feet in height that are properly engineered so as to not affect drainage on the site
 9. Installation of items to facilitate compliance with construction best management practices procedures and requirements
 10. Installation of signage (regulatory, directional, informational) and pavement markings
 11. Construction of utility storage sheds, maintenance sheds, electrical sheds, pump houses, trash enclosures, and portable modular buildings measuring less than 500 square feet in total area
 12. Construction of telecommunication equipment and sheds less than four (4) feet in height
 13. Installation of glare screens, bollards, vehicular access barriers, energy attenuators, and other appurtenances designed to protect the motoring public
 14. Alteration or addition of comfort stations, pavilions, concessions, or other structures accessory to existing facilities to meet facility needs
 15. Construction/installation of ground water or utility tanks with less than 10,000 gallon capacity. Spill containment shall be provided when appropriate
 16. Installation of hurricane protection devices and other minor structural accessories that will facilitate resistance to damaging effects of natural hazards

Exemption Class #7: Interior alterations involving things such as partitions, plumbing, and electrical conveyances.

Interior alterations to buildings or structures that do not increase the floor area or change the occupancy, including but not limited to:

1. Construction work to maintain existing utilities
2. Expansion of utilities as need dictates in existing structures

3. Upgrades to plumbing and electrical systems that result in conservation of energy, water, or other reductions in waste production or resource demand
4. Installation of office partitions, electrical outlets, lighting
5. Renovations and reconstruction required to bring existing structures into compliance with current building codes and applicable health and safety regulations
6. Renovations that will result in energy or other operational cost savings
7. Installation of security lights and alarms
8. Normal removal and replacement of windows, doors, partitions, floors, ceiling, roof, and other building accessories/components due to wear and tear. This exemption does not include procedures needed to handle lead paint, asbestos, and other toxic substances

Exemption Class #8: Demolition of structures, except those structures located on any historic site as designated in the national register or Hawaii register as provided for in the Historic Preservation Act of 1966, Public Law 89-665, 16 U.S.C. §470, as amended, or chapter 6E, HRS.

Demolition and removal of structures on Hawaiian Home Lands, except in cases where the structures to be demolished contain known hazardous substances such as asbestos and lead based paint, including but not limited to:

1. Demolition and removal of abandoned private property from Hawaiian Home Lands
2. Demolition and removal of buildings and structures prior to or concurrent with the construction of a new or replacement building or structure, except those structures located on any historic site
3. Demolition and removal of old, dilapidated, unsafe, buildings or structures which pose a hazard in accordance with building, housing, or health codes and regulations, including but not limited to, the decommissioning and backfilling of cesspools
4. Demolition and removal of utilities and utility structures or portions thereof
5. Demolition and removal of roadway paving, drainage structures, and security fencing

6. Demolition and removal of unusable, obsolete, abandoned, or unauthorized structures or improvements on DHHL lands
7. Removal of an existing sea/retaining wall, shoreline armoring, or groin, subject to the following criteria:
 - a. The item to be removed has been either determined to be structurally unsound as certified by a Structural Engineer or determined to have ceased to perform its function;
 - b. Removal of the item is determined as a mitigative measure to impacts identified by a technical study by a certified professional engineer;
 - c. The item has been determined to be a safety hazard to the public or environment, and the impacts of retaining it have been determined to exceed those of its removal;
 - d. Removal is performed in conjunction with beach maintenance or restoration work

Exemption Class #10: Continuing administrative activities including, but not limited to purchase of supplies and personnel-related actions.

1. Continuing DHHL administrative activities including, but not limited to, purchase of supplies and personnel-related actions
2. Purchase, maintenance and repair of supplies, services, equipment, and motor vehicles to support existing operations
3. Procurement of appraisals and other related studies and reports
4. Land consolidation of remnant parcels to provide additional land area for homesteading purposes
5. Minor subdivisions, defined as single-lot subdivisions involving one lot divided into two lots
6. Acquisition and leasing of land and facilities/improvements acquired for continued use, provided that the Department conduct a site assessment
7. Acquisition of interests, including easements, quitclaim, fee simple, and leaseholds, in real property on which existing DHHL facilities are situated, provided that DHHL has conducted an environmental site assessment pursuant to the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA"), and the U.S. Environmental Protection Agency ("EPA") regulations under 40 CFR Part 312 and/or the American Society of Testing and Materials ("ASTM") standards under ASTM E1527-05 or E2247-08

8. Land exchanges including, but not limited to, transactions to correct existing roadway alignments and easement locations, public park facilities, and title transfers between DHHL and other State departments and between DHHL and County or federal agencies involving no monetary consideration
9. Acquisition, but not improvement of property, for DHHL use (including easements) and minor subdivision and consolidation of parcels for acquisition of property for DHHL use (including rounding corners and minor street widening)
10. Subdivision consolidation of public lands to facilitate their transfer between the city and state for continuing public use without change in existing land use
11. Operation of initial or continuing DHHL programs consistent with established land use, including, but not limited to, stream debris clean-ups, storm drain stenciling, beach debris clean-up
12. Acquisition of lands for drainage purposes where there is a natural, existing drainage watercourse

- HOME
- ABOUT
- BOARD OF DIRECTORS
- VISION AND MISSION
- UPCOMING EVENTS
- MOVIE NIGHTS
- DONATE
- VOLUNTEER
- CONTACT

Our Vision & Mission

EXHIBIT "B"

ITEM NO. F-9



Choose Life



OUR VISION

- A thriving Hawaiian community in Anahola that is active in its traditional and modern culture; utilizing new technologies to enhance the old; and establishing and managing their own food systems to provide a healthy and sustainable way of living.

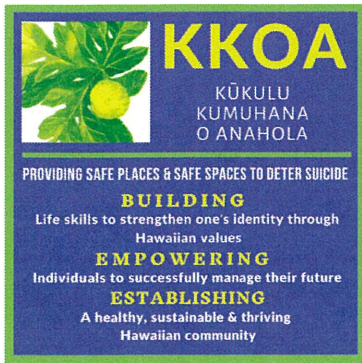
OUR MISSION

- Providing safe places and safe spaces to deter suicide by BUILDING life skills to strengthen one's identity through Hawaiian values, EMPOWERING individuals to successfully manage their future and ESTABLISHING a healthy, sustainable & thriving Hawaiian community.

Kūkulu kumuhana means the pooling of strengths -- emotional, psychological, and spiritual -- for a shared purpose (From Nana I Ke Kumu (Look to the Source), Vol. 1

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LAND MANAGEMENT
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2023 SEP -5 PM 3: 38



Board of Directors

Ku'uleialoha Punua, Co-Founder & President
Ka'ala Clarke, Vice President
Becky Santos, Treasurer
Chelsey Contrades, Secretary

Advisory Board

Manulele Clarke, Co-Founder
Heather Lebrun, Ph.D.
Nalani Mahelona, B.A.
Mary Nakamura
Keola Ka'aihue-Paopao

Executive Director

Rachelle Makanani Nam

September 5, 2023

Chairman Kali Watson
Hawaiian Homes Commission
P. O. Box 1879
Honolulu, HI 96707

Re: **Extension on License Agreement No. 851**

Aloha e Chairman Watson,

The purpose of this letter is to introduce myself as well as our organization and to request for an extension on our current license. My name is Rachelle Makanani Nam and I am the Executive Director for the non-profit organization Kukulū Kumuhana O Anahola (KKOA). Congratulations on your appointment as the new Chairman of DHHL. We are looking forward to working with you as we continue to meet the needs and challenges of the Anahola community on the island of Kaua'i.

We have been serving the Anahola community since 2008 and have the amazing privilege to see how resilient they are, how they value 'ohana, their culture and want to see the next generation not only succeed but thrive in the future. Three teen deaths by suicide is what pulled our team together and suicide prevention has been our mission since then. We have incorporated as many preventative factors as we can to provide a safe place to deter suicide. We have collaborated with many organizations and community members on the island that have produced positive impacts to individuals, families, and communities as well as on the land we steward.

As suggested by Kaipo Duncan, Land Manager for DHHL, a letter to you would be our first step to request to be placed on the October agenda of the HHC meeting. We would like to request an extension on our License Agreement No. 851 from a 5-year license to a 30-year license. Our original request back in 2019 was for a 30-year license but we were approved for a 5-year license. We would like the opportunity to provide a presentation as to why a 30-year license is imperative at this time. Please consider putting us on the agenda for the October HHC meeting so we are able to make a presentation and receive a decision from the Commissioners. If you need further information, please let me know how I can help. You can reach me best by phone at (808)224-4245. Thank you for your consideration and I look forward to hearing back from you soon.

Mahalo,

Rachelle Makanani Nam, Executive Director
Kūkulu Kumuhana O Anahola

Kūkulu Kumuhana O Anahola, P. O. Box 30891, Anahola, HI 96703-0891
(808) 224-4245 / www.kkoa.org / IG: kkoa_life

EXHIBIT "C"

ITEM NO. F-9

Hawaiian Homes Commission
Meeting
October 16 & 17, 2023

G ITEMS

STATE OF HAWAI'I
DEPARTMENT OF HAWAIIAN HOME LANDS

October 16-17, 2023

To: Chairman and Members, Hawaiian Homes Commission
From: Andrew H. Choy, Planning Program Manager
Subject: For Information Only - Lessons Learned from Kulia I Ka Nu'u Program and Other Homestead Community Development Pilot Programs

Recommended Action

None for information only.

Background

Kulia I Ka Nu'u

With the HHC approval of the Native Hawaiian Development Program Plan 2009-2011, DHHL established the Kulia I Ka Nu'u (Strive for Excellence) Program in 2009 to increase its investments in building the capacity of homestead associations. The program's purpose and goals were to:

- Build a foundation for sustainability and economic self-sufficiency for Homestead Associations;
- Enhance and strengthen homestead leadership capacity; and
- Increase networking and mentoring among homesteads and beneficiary organizations.

The Kulia I Ka Nu'u Program was designed as a graduated approach to building organizational capacity for homestead associations and beneficiary organizations to carry out their programs and services to address community needs. Program supports were provided in the form of (1) **trainings, technical assistance, conferences** (2) **funding (grants)**, and (3) **land parcel awards** in ways that were appropriate to the development stage of the homestead association as well as its existing and proposed programs, projects, and activities.

- **Training.** Trainings were provided to program participants including basic non-profit organizational training, advanced technical training, and leadership development.

- **Technical Assistance.** Technical assistance involved services such as developing organizational assessments, strategic planning, organizational and venture development coaching, and master planning.
- **Conferences.** Homestead leaders were provided the opportunity to exchange ideas, information, and to make new connections at DHHL Annual Leaders Conferences. In addition, DHHL also provided beneficiaries with scholarships to attend other local conferences related to community economic development.
- **Grants.** DHHL complemented the above capacity building support with four types of grants to homestead associations - (1) Capacity building; (2) Project implementation; (3) Regional Plan Priority Projects and (4) Community Economic Development.
- **Land Parcel Awards.** Associations received a long-term disposition (license or general lease) from DHHL during the Kulia I Ka Nu'u Program.

Pilot Projects Related to Community Economic Development

Kulia I Ka Nu'u ended in January 2012 when the Hawaiian Homes Commission voted to reallocate funding for the program through the adoption of the updated 2012-2014 Native Hawaiian Development Program Plan. Commissioners cited beneficiary desire at the time for more training and technical assistance **(Exhibit A)**. At the time that Kulia was phased out, a handful of community associations were continuing to pursue conceptualization and planning of a community economic development project within their region anticipating the continuation of the Kulia I Ka Nu'u Program and the financial resources it provided for due diligence studies and award of long-term disposition. Without a community economic development program in place, however, DHHL has not had a comprehensive program to provide these community associations the assistance necessary to move forward.

In 2015, the HHC voted to authorize the Chairman to undertake a pilot project with the Waimea Hawaiian Homestead Association in which DHHL would conduct due diligence, planning, feasibility, environmental assessment, and subdivision application in collaboration with the Waimea Hawaiian Homestead Association (WHHA) covering a portion of a 161-acre property in Waimea. It was believed that the completion of these due diligence activities that the WHHA would be able to solicit funding from private and public sources to complete the design

and construct the first phase of its community economic development initiative.

DHHL completed an evaluation of the pilot project with WHHA (**Exhibit B**). The evaluation identified strengths and weaknesses of the pilot project. Based on the strengths and weaknesses of the pilot project, the evaluation made the following recommendations for DHHL community economic development going forward if community economic development projects are identified as a high priority by the Hawaiian Homes Commission:

1. Community visions need to be clearly articulated and defined before the technical elements of the planning process begin (i.e. environmental assessment, procurement process, entitlement process, etc.). Once the planning process is in motion, perhaps individual objectives may change, but the original vision should not.
2. A high priority for community economic development will require a higher level of DHHL investment in community development initiatives going forward. This investment can come in the form of time, money, and/or political action (i.e. grant writing and lobbying the Legislature to obtain funds).
3. A high priority will require more dedicated DHHL staff for community development projects.

Managing too many projects simultaneously results in communication issues between Managers and Communities as well as delays in moving the processes forward in a timely manner. Moreover, by positioning community development initiatives as "side projects," there is high potential for homestead communities to adopt a negative view of the Department because their initiative is not being treated as a priority.

The requirements of this position would likely be:

- i. Experience with property management.
 - ii. Understanding of the entitlement process as it relates to development (ex. Chapter 343).
 - iii. Experience with grant monitoring and/or grant writing.
 - iv. Previous work with not-for-profit organizations.
4. DHHL should implement guidelines and procedures for future community development projects. Clarity in the process will likely decrease the amount of work that has to be redone following the Department's review. The logic model should be a starting point, because it clearly defines roles and

responsibilities. Likewise, a flow chart communicating the necessary steps in the development process should also be provided to every community considering an economic development project.

5. DHHL should be involved with community projects from the beginning, especially when they are larger in scale. Its role does not always have to be active; however, the Department should at the very least enact periodic check-ups on community development initiatives to increase accountability and insure appropriate progress.
6. DHHL should connect communities with the appropriate type of resources early in the planning process. Having technically trained professionals on a development team will guide communities towards best practices and help them make strategic decisions from the beginning. Examples include: i) paving a winding road instead of a straight road to prevent speeding, ii) limiting the height of buildings due to airport requirements, iii) strategically placing buildings based on the location of water sources, etc.
7. As a part of standard practice DHHL should include teaching opportunities overall as well as within a project's budget. This includes community training sessions and capacity building seminars as well as the acceptance of mistakes along the way.

Recommendation	Implementation Status
Community visions need to be clearly articulated and defined before the technical elements of the planning process begin.	Since 2017, DHHL has been incorporating community vision statements in each of its updated Regional Plans. Proposed community economic development projects.
A high priority for community economic development will require a higher level of DHHL investment in community development initiatives going forward. This investment can come in the form of time, money, and/or political action (i.e. grant writing and lobbying the Legislature to obtain funds).	<p>Hawaiian Homes Commission has approved sufficient sums budget request to the Legislature which includes community economic development initiatives.</p> <p>HHC has approved annual amounts of funding in the Planning Office budget to assist community associations with the technical planning studies to initiate community development projects. Funds are usually included in the Planning Office budget as “grants” and “technical assistance.”</p>
A high priority will require more dedicated DHHL staff for community development projects.	<p>Not implemented.</p> <p>DHHL has not allocated a full-time employee (FTE) to provide these types of specialized services. Currently, community economic development requests from homestead associations are handled by various staff in the Planning Office and Land Management Division in addition to the other kuleana that these staff have.</p>
DHHL should implement guidelines and procedures for future community development projects.	Partially implemented. See proceeding section in this report, “Current Guidelines and Procedures.”

Recommendation	Implementation Status
<p>DHHL should be involved with community projects from the beginning, especially when they are larger in scale. Its role does not always have to be active; however, the Department should at the very least enact periodic check-ups on community development initiatives to increase accountability and insure appropriate progress.</p>	<p>Implementation of this recommendation has been inconsistent due to varying degrees of different staff availability and capacity as well as capacity of community associations.</p> <p>Staff have made themselves available at the request of community associations but more proactive “check-ups” should be conducted. Having a full time staff person dedicated to this function would better ensure proactive “check-ups”.</p>
<p>DHHL should connect communities with the appropriate type of resources early in the planning process. Having technically trained professionals on a development team will guide communities towards best practices and help them make strategic decisions from the beginning.</p>	<p>HHC has approved annual amounts of funding in the Planning Office budget to assist community associations with the technical planning studies to initiate community development projects. Funds are usually included in the Planning Office budget as “grants” and “technical assistance.”</p>
<p>As a part of standard practice, DHHL should include teaching opportunities overall as well as within a project’s budget. This includes community training sessions and capacity building seminars as well as the acceptance of mistakes along the way.</p>	<p>Not implemented.</p>

Current Procedures and Guidelines

Exhibit C illustrates the general process DHHL has been following when working with community associations on implementation of their community economic development project since 2016. Exhibit C has been included in all updated DHHL regional plans since 2016 as a guide.

The steps of this process have been incorporated into a revised land use request application form (**Exhibit D**) for **unsolicited requests** to utilize DHHL land from non-profit organizations. The land use application form has been utilized since the summer of 2019.

The general process was created in part based on the recommendations from the evaluation report of the Waimea Nui Pilot project, with emphasis on providing DHHL assistance to associations to get through the planning and due diligence studies as those studies are the cornerstone of development projects. HRS 343 and 6E compliance are also required prior to the actual implementation of a project. The general process also tries to balance the assessment and evaluation of the capacity of an organization to carry out its proposed project but also making sure that the process does not create unnecessary bureaucratic hoops for community associations to go through.

Challenges with the existing process:

- Volume of **unsolicited** requests vary each year and the timing to respond to each request varies because of the volume of requests received.
- No dedicated full-time staff also affects response time and ability to provide technical assistance to homestead community associations.
- Community associations have expressed the need to receive a long-term disposition to obtain financing for the project.

Related to the third challenge identified above, the current process gives associations a month-to-month ROE to complete due diligence studies prior to the issuance of a long-term disposition. Upon completion of those studies, then a recommendation by DHHL to the HHC for a long-term disposition would be made. Some of the recent associations going through the current process have completed most of the diligence requirements except for HRS 6E, which requires the approval/concurrence of the State Historic Preservation Division (SHPD). HRS 6E compliance has been challenging as it (1) requires reviews and approvals outside of DHHL control and (2) requires resources to contract

qualified archaeologists to complete the work to the standard required by SHPD.

Community Project Assistance Post -2015

Since the 2015 pilot project with the Waimea Hawaiian Homestead Association, DHHL has provided technical assistance to the following associations in the form of either funding, project management, or both. Table 1 provides a summary of the projects and assistance DHHL has provided.

Association	Technical Assistance Provided	Years Provided	Due Diligence Status	Disposition Status
Kailapa Community Association	DHHL technical assistance and review of Environmental Assessment prepared by KCA	2016	Master Plan completed Business Plan completed HRS 343 EA completed HRS 6E compliance completed	KCA has a 50 year license with DHHL that was executed in 2011 for 14-acres
Panaewa Hawaiian Home Land Assoc. & Panaewa Comm. Alliance	DHHL project management and funding of consultant to prepare master plan, business plan, HRS 343 EA, and HRS 6E compliance	2016 to 2018	Master Plan completed Business Plan completed HRS 343 EA completed HRS 6E Compliance completed	PHHLCA and PCA have a 30 year license with DHHL that was executed in 2016 for 12.744 acres.
Keaukaha-Panaewa Farmers' Assoc.	DHHL Grant funds were awarded to KPFA in 2021 to do master plan and awarded in 2022 to prepare HRS 343 EA.	2021 to 2023	Master Plan completed Business Plan completed HRS 343 EA completed HRS 6E Compliance completed	KPFA has existing month-to-month ROE with DHHL for its farmers' market. KPFA is seeking additional acreage and converting its ROE to a longer-term disposition.
Keokea Farmers Homestead Association	DHHL project management and funding of consultant to prepare master plan, business plan, HRS 343 EA, and HRS 6E compliance. However, SHPD did not concur with initial HRS 6E determination, additional HRS 6E work needed.	2020 to 2022	Master Plan completed Business Plan completed HRS 343 EA completed HRS 6E in progress and pending SHPD approval	KFHA currently has a month-to-month Right-of-Entry Permit to conduct its farmers market and provide limited programming on site. KFHA is seeking a long-term disposition in order to finance its proposed improvements.

Waiohuli Hawaiian Homestead Association	DHHL Grant funds were awarded to Waiohuli in 2021 to prepare a master plan for its WE-DO project. Additional grant funds were awarded to Waiohuli in 2023 to complete HRS 343 EA	2021 to present	Master Plan completed Business Plan completed HRS 343 EA in progress HRS 6E compliance in progress and pending SHPD approval	WHA has a ROE to conduct due diligence studies and preliminary approval from the HHC for a General Lease conditioned upon the completion of its due diligence studies.
Paupena CDC	DHHL project management of archaeological consultant for HRS 6E compliance	2022 to present	Master Plan completed Business plan completed DHHL determined that activities identified by master plan were exemptible from HRS 343 EA based on DHHL EA exemption list. HRS 6E compliance in progress and pending SHPD approval	Paupena CDC has a ROE to conduct due diligence studies. At the completion of due diligence requirements will seek long-term disposition from DHHL.
Ka Ohana O Kahikinui	DHHL Grant funds were awarded to KOOK most recently in 2022 for its fog drip system design plans and materials and assist with HRS 6E compliance	2021 to present	Fog Drip Design Plans completed DHHL determined that design plans were exemptible from HRS 343 EA based on DHHL EA exemption list. HRS 6E compliance pending	KOOK has a month-to-month ROE from DHHL to conduct due diligence for its fog-drip system and is seeking a long-term license from DHHL to construct, manage, and maintain the system.
Kekaha Hawaiian Homestead Association	DHHL project management of consultant for development of Farm and Irrigation Plan, HRS 343 preparation, and HRS 6E compliance.*	2018 to 2020	Farm and Irrigation Plan completed HRS 343 EA completed HRS 6E completed	KHHA has a 20-year license from DHHL that was executed in 2017.

Recommendation

None for information only.

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

HAWAIIAN HOMES COMMISSION WORKSHOP/AGENDA
91-5420 Kapolei Parkway, Kapolei, O'ahu, Hawai'i
Monday, January 23, 2012, 2:00 p.m., & January 24, 2012, 8:30 a.m.

ORDER OF BUSINESS

Roll Call
Approval of Agenda
Approval of Minutes of December 12, 2011

B - PUBLIC TESTIMONY ON AGENDIZED ITEMS

C - OFFICE OF THE CHAIRMAN

- C-1 Resolution No. 260 - Non Homesteading Leasing of Trust Lands
- C-2 Strategic Plan Year One Deliverables
- C-3 Water Ad Hoc Committee Update
- C-4 Energy Ad Hoc Committee Update
- C-5 Amendment to HHC 2012 Calendar

D - HOMESTEAD SERVICES DIVISION

- D-1 HSD Status Reports
 - Exhibits:
 - A - Homestead Lease and Application Totals and Monthly Activity Reports
 - B - Delinquency Report and Status of Contested Case Hearings
 - C - DHHL Guarantees for USDA-Rural Development Mortgage Loans
 - D - DHHL Guarantees for FHA Construction Loans
- D-2 Approval of Various Lease Awards
- D-3 Use of Native Hawaiian Housing Block Grant Funds - Waiohuli Undivided Interest Relocation Offering, Maui
- D-4 Deferred Sales Price Program
- D-5 Approval of Consent to Mortgage
- D-6 Refinance of Loans
- D-7 Schedule of Loan Delinquency Contested Case Hearings
- D-8 Ratification of Loan Approvals
- D-9 Homestead Application Transfers / Cancellations
- D-10 Reinstatement of Deferred Applications
- D-11 Ratification of Designation of Successors to Leasehold Interest and Designation of

ITEM G-1 EXHIBIT A

Persons to Receive Net Proceeds

- D-12 Approval of Assignment of Leasehold Interest
- D-13 Approval of Amendment of Leasehold Interest
- D-14 Request for Contested Case Hearing - **Samuel Tollefson**
- D-15 Commission Designation of Successor - **Loretta L.K. Luavasa**
- D-16 Commission Designation of Successor - **Albert Clyde Pu**
- D-17 Cancellation of Lease - **Alma S. Weiss**

F- LAND MANAGEMENT DIVISION

- F-1 Findings of No Significant Impact, Aina Mauna Legacy Program Plan, Humu`ula, Hawai`i
- F-2 Issuance of License, Aha Punānā Leo, Inc., Kauhale `Oiwī O Kalawahine, O`ahu
- F-3 Issuance of License, Patricia K. Hodson, Pu`ukapu, Hawai`i
- F-4 For Information Only - Hawai`i DeBartolo LLC, East Kapolei, O`ahu
- F-5 Amendment to General Lease No. 290, Kapolei Community Development Corp., East Kapolei, O`ahu
- F-6 Ratification of Consents and Approvals by Chairman, Hawaiian Homes Commission
- F-7 Notices of Default and Revocations, Statewide
- F-8 Assignment of Partial Interest License Agreement No. 372, Waimana Enterprises, Inc.

G - PLANNING OFFICE

- G-1 Native Hawaiian Development Program Plan 2012 - 2014

EXECUTIVE SESSION


The Commission anticipates convening in executive meeting Pursuant to Section 92-5(a)(4), HRS, to consult with its attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities and liabilities on these matters.

1. Richard Nelson, III, Kaliko Chun et al. v HHC, Civil No. 09-1-161507
2. Kalima v SOH, DHHL, Civil No. 99-0-4771-12(EHH) (Class Action)
3. Petition for Certiorari to US Supreme Court, Corboy v Louie
4. Proposed Resolution of Property Tax Liability
5. Potential Conflicts of Interests of Commissioners Under HRS 84-14(a)
6. Defect of Title Claims
7. Honokaia `Ohana v HHC & DHHL, Civil No. 09-00395
8. Honokaia `Ohana v HHC & DHHL, Civil No. 09-101615-07
9. Alternate Land Use for Pastoral & Agricultural Homestead Leases
10. Regarding HRS 10-2-33
11. General Leasing Policy

ANNOUNCEMENTS AND ADJOURNMENT

1. Next Meeting – February 21 - 22, 2012 Kapolei, Hawai'i
2. Other Announcements
3. Adjournment



 Albert "Alapaki" Nahale-a, Chairman
Hawaiian Homes Commission

COMMISSION MEMBERS

Imaikalani P. Aiu, Kaua'i
Perry O. Artates, Maui
Leimana DaMate, West Hawai'i
J. "Kama" Hopkins, O'ahu

Michael P. Kahikina, O'ahu
Ian B. Lee Loy, East Hawai'i
Henry K. Tancayo, Moloka'i
Renwick V.I. Tassill, O'ahu

No Community Meeting Scheduled for February, 2012

Special Accommodations (such as Sign Language interpreter, large print, taped materials) can be provided, if requested at least five (5) working days before the scheduled meeting on the respective island by calling (808) 620-9590.

HAWAIIAN HOMES COMMISSION
Minutes of January 23 & 24, 2012
Meeting Held in Kapolei, O`ahu, Hawai`i

Pursuant to proper call, the 623rd Regular Meeting of the Hawaiian Homes Commission was held at the Department of Hawaiian Home Lands, 91-5420 Kapolei Parkway, Kapolei, Hawai`i January 23, 2012 beginning at 2:05 p.m.

PRESENT Mr. Albert "Alapaki" Nahale-a, Chair
Mr. Imaikalani Aiu, Commissioner, Kaua`i
Mr. Perry O. Artates, Commissioner, Maui
Ms. Leimana DaMate, Commissioner, West Hawai`i
Mr. J. Kama Hopkins, Commissioner, O`ahu
Mr. Michael P. Kahikina, Commissioner, O`ahu
Mr. Ian B. Lee Loy, Commissioner, East Hawai`i
Mr. Henry K. Tancayo, Commissioner, Moloka`i
Mr. Renwick V.I. Tassill, Commissioner, O`ahu

COUNSEL Deputy Attorney General Kalani Bush

STAFF Michelle Ka`uhane Deputy to the Chair
Wai`ale`ale Sarsona, Chief of Staff
Linda Chinn, Administrator, Land Management Division
Darrell Yagodich, Administrator, Planning Office
Dean Oshiro, Acting Administrator, Homestead Services
Crystal Kua, Information & Community Relations Officer
Norman Sakamoto, Land Development Specialist
Juan Garcia, Supervisor, Homestead Services Division
Don Aweau, Special Assistant to the Chair
Kaleo Manuel, Planner, Planning Office
Julie Cachola, Planner, Planning Office
Gigi Cairel, Planner, Planning Office
Blaine Fergerstrom, Information Specialist, ICRO
Kimo Kai, Special Assistant, Office of the Chair
Elaine Searle Secretary to the Commission

MELE Commission Michael Kahikina

PULE Commissioner Kama Hopkins

AGENDA Commissioner K. Hopkins moved, seconded by Commissioner I. Aiu to approve the agenda. Motion carried unanimously.

RECOMMENDATION

That the commission: 1) Approve the Native Hawaiian Development Program Plan for the period from January 1, 2012 to June 30, 2014; 2) Amend the department's Operating Budget for the period from January 1, 2012 to June 30, 2012, noted Planner Kaleo Manuel.

MOTION

Moved by Commissioner I. Aiu, seconded by Commissioner L. DaMate.

DISCUSSION

Commissioner I. Aiu said the Comments on Training and Technical Assistance seemed to be the most desired and positively commented on by beneficiaries. He would recommend redirecting more funds to this piece because of its value to the beneficiary. The original request came in at \$300,000, and there is matching funds still being sought. Any negotiations would need to be handled with the federal government, added Planning Administrator Darrell Yagodich. The \$1.3 million budget is a realistic budget that fits into the Native Hawaiian Development Program Plan.

According to Deputy M. Ka'uhane, the department will 1) need to run a balanced budget. 2) need to make known how critical the funding is. The amount projected based on the action taken on the 15% is reflected in there. There is approximately \$3.8 million reserved in NHRF funds and \$250,000 is being generated from the 30% monies and \$100,000 on interest on a formula. So, there's approximately \$450,000 coming in annually, claimed D. Yagodich.

Chief of Staff W. Sarsona stated she has no problem adjusting the budget for more technical assistance if the commission feels there is a need. Several contractors are available to the homesteaders. They can apply to the department for the contract to obtain this service. There were several outstanding contracts to deliver these services. It was costly. With this motion, if you receive a grant, you deliver, added Chair Nahale-a. There are some providers where this is their only contract. There needs to be better leveraging and this model doesn't appear to be the right fit.

Planner Kaleo Manuel explained the purpose of the Native Hawaiian Rehabilitation Fund (NHRF) is to provide rehabilitation that address education, economic and political opportunities. Chair added that there needs to be more streamline approach to funding and the administration is attempting to address this.

ACTION

Motion carried unanimously.

ITEM G-1 EXHIBIT B



Established 1960

Beyond Information. Intelligence.

Cover Sheet

Database Marketing

Economic & Social Impact Studies

Evaluations

Research

Modeling/Forecasting

Waimea Nui Program Evaluation

Presented to: Department of Hawaiian Home Lands

March 1, 2016

SMS

1042 Fort Street Mall
Suite 200
Honolulu, HI 96813
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Toll Free (877) 535-5767
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SMS Affiliations and Associations:

Experian
International Survey Research
Solutions Pacific, LLC
SMS Consulting, LLC
3i Marketing & Communications

ITEM G-1 EXHIBIT B

Background

The Waimea Nui Region covers in excess of 27,000 acres of Hawaiian Homestead Lands on which 536 leases have been awarded. This Homestead community is part of the greater Waimea district which is a diverse agricultural region, with strong opportunities from both its human and natural resources. Currently, 14,000 people call Waimea home of which roughly 40% are of Hawaiian decent. The Waimea Hawaiian Homestead community is composed of land used for residential, agricultural, and pastoral purposes, as designated by the Hawaiian Homes Commission Act (HHCA) of 1920. Of the 110 farm and 275 pastoral leases in Waimea Nui, the number of successful, productive working farms is limited. The Department of Hawaiian Home Lands (DHHL) estimates that only 5% of agriculture awards throughout the state are productive farms.

Limitations to a successful agriculture (farm) and pastoral (ranch) program in Waimea Nui were identified during community meetings, and inquiries, suggestions and recommendations were made to DHHL. These include (1) the lack of resources (i.e. water, equipment), (2) limits of lessees' technical capacity, (3) finances, (4) lack of hands-on training programs and (5) availability of appropriate product type. These limitations hinder the income generating potential for the lands Native Hawaiians lessees were granted. Furthermore, there are limited local economic opportunities for Waimea Nui Region residents and most commute 40 to 50 miles a day to the Waikoloa Coast for employment.

The Waimea Nui Community Development Initiative (WNCDI) is a beneficiary driven, shared community effort created with *the purpose of developing fundamental infrastructure to build a vibrant, self-sufficient community grounded in traditional Hawaiian values*. The 161-acre community complex being pursued by the Waimea Hawaiian Homestead Association (WHHA) was designed to fit the needs of nā 'ōpio to kūpuna, as well as those that have passed on. It is DHHL's hope that this pilot project will result in replicable and innovative models that can inspire and guide other homestead communities should they decide to take on similar initiatives.

SMS Research was contracted by DHHL to perform a formal evaluation of the Development Initiative using a logic model to drive its analysis. The purpose of the evaluation was to identify the project's strengths and weaknesses and to provide recommendations for improvement. The outcomes of this project will help the Department evaluate how the WNCDI's process can be replicated in other Hawaiian Homestead communities.

Methodology

SMS took on a fairly straightforward approach to evaluating the WNCDI. First, SMS constructed a logic model using the "Waimea Nui Hawai'i Regional Plan" as well as the "Waimea Nui Community Development Initiative" as background documents. In the model, SMS linked the project's desired outcomes with its planning process and inputs, allowing them to visualize and evaluate the general flow of the plan. SMS then conducted executive interviews with the Initiative's stakeholders to identify the project's strengths and weaknesses. In these interviews, the logic model was also reviewed and input on its accuracy was provided. A list of participating stakeholders is available below.

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STAKEHOLDERS INTERVIEWED	
Name	Title
Mike Hodson	Chairman, Waimea Nui Community Development Initiative
Andrew Choy	Planner, Department of Hawaiian Home Lands
Kaleo Manuel	Acting Planning Program Manager, Department of Hawaiian Home Lands
Kawika McKeague	Project Director, Group 70

Timeline

Over the years, the Development Initiative has gone through many phases; however, the work to make the Waimea Nui Region an economically successful and self-sufficient community began over 50 years ago. In 1964, WHHA began envisioning a more sustainable future starting with their proposal for a neighborhood park with recreational facilities and walking paths. Today, the community-building plan is currently in its fourth phase and has since expanded to include 15 additional projects that are rooted in six focus areas: (1) Community Facilities, (2) Farming and Ranching, (3) Health and Wellness, (4) Fitness and Recreation, (5) Revenue Generation and Sustainable Jobs, and (6) Utilities.

WHHA identified the need to conduct preliminary planning activities as critical to the success of the project, so the Association began its fundraising efforts in August 2011 as a way to pay for this process. They held an extremely successful sold-out benefit lū'au and were able to contract with Rivertop Solutions, LLC to conduct an environmental assessment (EA) of their proposed 161-acre community complex. This project cost the community \$10,000. When WHHA requested their lease for 161-acres, they provided DHHL with their completed EA. However, it was determined that the assessment was incomplete and inadequate for the size and scope of WHHA's master plan. For this reason, DHHL became more directly involved in Waimea Nui's Development Initiative in 2013 after it provided the community with \$200,000 to complete a second EA this time using Group 70 as the assessor.

In August 2013, Mike Hodson, the chairman of the WNCIDI met with Andrew Choy, a DHHL planner, and together they reviewed the first EA completed by Rivertop Solutions. Strengths and weaknesses were identified and the reasons behind the implementation of a second EA were disclosed. In this meeting, it was also decided that the community would focus on the first four revenue-generating projects in the short-term, rather than the full 16 projects proposed. The four projects chosen were the agricultural complex (including the recreational park), cemetery, golf course, and paniolo equestrian complex. These four projects were chosen because they have the highest revenue potential. If successful, these four projects will allow the community to independently fund the remaining 12 facilities.

In January 2014, Mike Hodson met with Group 70 representatives to discuss the community's vision for their 161-acre complex and by June, a contract for service was signed. The EA took ten months to complete and was presented to the Hawaiian Homes Commission in April 2015. The Commission approved the general lease for the 161-acres one month later. In January 2016, a lease agreement was reached between DHHL, the Hawaiian Homes Commission and WNCIDI. Essentially, the lands will be leased to the community rent free in exchange for complete annual reports until all of the initial start-up costs have been paid in full through the revenues earned from the four projects. DHHL will begin taking a percentage of the revenues thereafter.

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TIMELINE of WAIMEA NUI COMMUNITY DEVELOPMENT INITIATIVE	
1964	WHHA started to create their vision for a self-sufficient, economically sustainable future
2008	WHHA began working with DHHL to develop a regional plan
	The plan's major elements were identified:
	Youth Recreational Facilities
	Community Hale/ Gathering Facilities
	Revenue Generating Facilities
2011	WHHA started their fundraising efforts to pay for their formal planning process
2012	Rivertop Solutions completed the first Environmental Assessment for the 161-acre complex
	WNCDI submitted their request for the 161-acre lease to DHHL; the EA was determined to be insufficient
Aug. 2013	DHHL became involved in the WNCDI planning process
Jan. 214	DHHL provided \$200,000 to WHHA to contract Group 70 to complete a revised EA
Jun. 2014	Group 70 was officially contracted to perform the EA
Apr. 2015	The revised EA was completed and submitted to the Hawaiian Homes Commission for review
May 2015	Hawaiian Homes Commission approved the EA as well as the lease request
Jan. 2016	Lease agreement between DHHL and WNCDI was approved

Feedback on the Program

The efforts taken between 2013 and 2015 have greatly accelerated the WNCDI's community building plans, and have in essence pushed the initiative through the planning phase and into its development stages. Reviewing the process for its strengths and weaknesses will help the Department identify if and how it might be best to replicate the Waimea Nui model for other community building initiatives in Homestead lands across the state.

Strengths

The assessment that Rivertop Solutions provided DHHL became one of the initiative's biggest strengths. Because the qualitative descriptions of the community and its plans were so rich, the original EA helped Group 70 identify and work around the goals of the WNCDI. The technical knowledge of what it takes to implement a successful physical plan (i.e. height constraints, noise contours, and water issues) while extremely important became supplemental factors in the master plan. The care that was taken to maintain the goals of the community was a very important factor in the process because the WNCDI's 161-acre complex had already been stripped down and limited to four core projects by the time Group 70 became involved. Furthermore, because the community goals were so well articulated, there was a clear end-point in mind that all parties involved could work towards. To change the scope even further would have had a negative effect on the community's momentum and drive to see their plan through to completion.

Another strength of the WNCDI was the passion, leadership and community support surrounding this regional plan. Prior to DHHL's involvement in the community's planning objectives, the Development Initiative was working independently to articulate a vision, create a list of desired projects, and secure funding for their 161-acre complex—something they had been working on for 50 years. Furthermore, the WNCDI leadership created nine committees that focused on some element of the project and encouraged

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WHHA members to join them. Topic areas included agriculture, economic development, kūpuna care, and recreational areas. This allowed for increased community input and provided all members the opportunity to communicate what amenities they would like to have included in the Development Initiative. In making the regional plan accessible community-wide, the WNCIDI was able to unify WHHA members under one clearly defined vision.

More generally, the underlying purpose of the WNCIDI was very community-centric, and thus better able to capture the support of Waimea Nui residents. The plan provides a solution to the problem of limited access to local economic opportunities in Waimea. Having an economically sustainable, self-sufficient community will benefit the entire region, and is thus a project that can easily garner support. The incorporation of community needs is a strength in any regional planning project and resident input is paramount for long-term success.

At the departmental level, having a DHHL planner take on a role similar to that of a primary contractor was imperative to the success of this project. Initially, the Department's planning office thought its primary responsibility was to assist the WNCIDI through its procurement process. Over time, however, its planners— Andrew Choy in particular— became involved in other elements of the project, and took on the responsibility of tracking the project's overall development as well as its deliverables. Andrew also acted as the communication line between Group 70 and WNCIDI. In doing so, the project benefited from an added level of accountability and organization. With his understanding of procurement, property management, grant writing, and not-for-profit organizations Andrew was able to bridge the technical elements of development with the community's goals and foci to navigate the Initiative to a successful end. This evolving role for the planning office had the greatest impact on updating the logic model.

Lastly, WNCIDI's pursuit of appropriate funding sources allowed the Initiative to maintain its original vision. In interviews with stakeholders, SMS found that community development projects often bend or change their visions to meet the requirements or missions of grant funders in an attempt to receive funding. This practice has proven to have a negative effect in the long-term because projects lose support when there is inconsistency in vision. Community members become confused— even divided— and they stop working together to achieve their goals. WNCIDI was steadfast in their pursuit of a sustainable local economy, and they never once lost sight of their original objectives. This consistency kept the community engaged in the process and willing to put time and work into getting their 161-acre complex off the ground.

Weaknesses

The majority of this project's weaknesses have to do with a lack of capacity within WNCIDI and DHHL. The WNCIDI did not have the professional knowledge or technical skills necessary for development, and DHHL was not adequately staffed to manage the size and scale of this Development Initiative. These limitations resulted in the unnecessary loss of resources for both parties. With the money raised from their benefit lū'au, the WNCIDI was able to put \$10,000 towards an EA. However, the scope of the project was significantly larger than an EA of this size was able to adequately address, and thus it was not accepted by the Department. This decision had a negative effect on the community's morale as well as its view of DHHL.

The Department, on the other hand, lost time to this project because the regional plan became a larger responsibility than originally anticipated. Because there is no DHHL position or division dedicated to

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regional development plans, the demands of this Development Initiative had to be balanced with the daily duties of the Planning Division. This likely prolonged the procurement process because time could not be exclusively allocated to the project—again damaging the WNCIDI leadership’s view of DHHL. Communications between the Department and WNCIDI also suffered during this time due to conflicting priorities.

Another weakness was DHHL’s insufficient involvement prior to 2013. Had the Department been more involved in planning decisions, perhaps the community would have better understood standards for EAs and other development requirements. The need to redo an EA reflects the initial lack of communication between the two parties. Furthermore, it brings to light the fact that DHHL did not have clear guidelines in place for supporting this Development Initiative. Without a standard to follow when going through the planning process, the WNCIDI had to re-do much of their work.

For a project of this scope DHHL expected more from the WNCIDI than it was reasonably able to achieve. It is important for the Department to remember that the Development Initiative is comprised of volunteers who assist with the project when they are able. They are not technically trained, paid professionals. This distinction is important to make because more consideration has to be given to the learning curve involved, especially when taking on large scale pilot projects like this regional plan. Errors must be expected, and the recognition that mistakes will happen along the way should be reflected in the budget.

In a similar vein, the WNCIDI leadership did not feel as though the Department provided them with enough technical assistance or capacity-building opportunities. This limited their ability to conduct the development process independently, according to WNCIDI’s board.

Funding

To date, the Waimea Nui Community Development Initiative has accumulated a total of \$48.73 million in funding. A complete breakdown is provided below.

FUNDING FOR WAIMEA NUI COMMUNITY DEVELOPMENT INITIATIVE	
Amount	Source
\$30,000	WHAHA Benefit Lū’au
\$200,000	DHHL; used to contract Group 70
\$3.5 million	Department of Agriculture to be put towards the design and construction of the Agriculture Complex
\$45 million	Special purpose revenue bond from the Hawaii State Legislature to be used for the first four focus projects

Logic Model

The program logic model is defined as a planning tool used to clarify and visually display the sequence of actions that describe what a program is and will do—how investments link to results. It allows for a better understanding of the interconnectivity of the resources, activities, and intended results of a plan. SMS has found the logic model and its processes to facilitate thinking, planning, and communications about program objectives and actual accomplishments. The process of developing the model is an opportunity to chart the course. It is a conscious process that creates an explicit understanding of the challenges ahead, the resources available, and the timetable in which to hit the target. In addition, it helps keep a balanced focus on the big picture as well as the component parts.

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The logic model that SMS developed for the Waimea Nui Community Development Initiative tracks the different steps of the planning process as well as its inputs, outputs, output measures (the indicator used to confirm the outputs), and the outcomes for both short, medium, and long-term goals. DHHL assisted SMS with the first draft of the logic model, and the final version was provided to stakeholders for review. This logic model is provided below.

When reviewing the logic model, it is important to know that Steps 1 through 6a describe the process for the project prior to 2013. What evolved from the understanding of the strengths and weaknesses of this approach and what is truly required to move the project forward resulted in Steps 6b through 7h to be added. This is the “map” in place for the rest of the project.

Recommendation for the Future

DHHL needs to determine the priority level for Homestead Communities to become more economically self-sufficient. If it is a high priority, then the following recommendations should be implemented.

1. Community visions need to be clearly articulated and defined before the technical elements of the planning process begin (i.e. environmental assessment, procurement process, entitlement process, etc.). Once the planning process is in motion, perhaps individual objectives may change, but the original vision should not.
2. A high priority for community economic development will require a higher level of DHHL investment in community development initiatives going forward. This investment can come in the form of time, money, and/or political action (i.e. grant writing and lobbying the Legislature to obtain funds).
3. A high priority will require more dedicated DHHL staff for community development projects. It would be best if the added staff were incorporated into the Planning Division. Managing too many projects simultaneously results in communication issues between Managers and Communities as well as delays in moving the processes forward in a timely manner. Moreover, by positioning community development initiatives as “side projects,” there is high potential for homestead communities to adopt a negative view of the Department because their initiative is not being treated as a priority.
 - a. The requirements of this position would likely be:
 - i. Experience with property management.
 - ii. Understanding of the entitlement process as it relates to development (ex. Chapter 343).
 - iii. Experience with grant monitoring and/or grant writing.
 - iv. Previous work with not-for-profit organizations.
4. DHHL should implement guidelines and procedures for future community development projects. Clarity in the process will likely decrease the amount of work that has to be redone following the Department’s review. The logic model should be a starting point, because it clearly defines roles and responsibilities. Likewise, a flow chart communicating the necessary steps in the

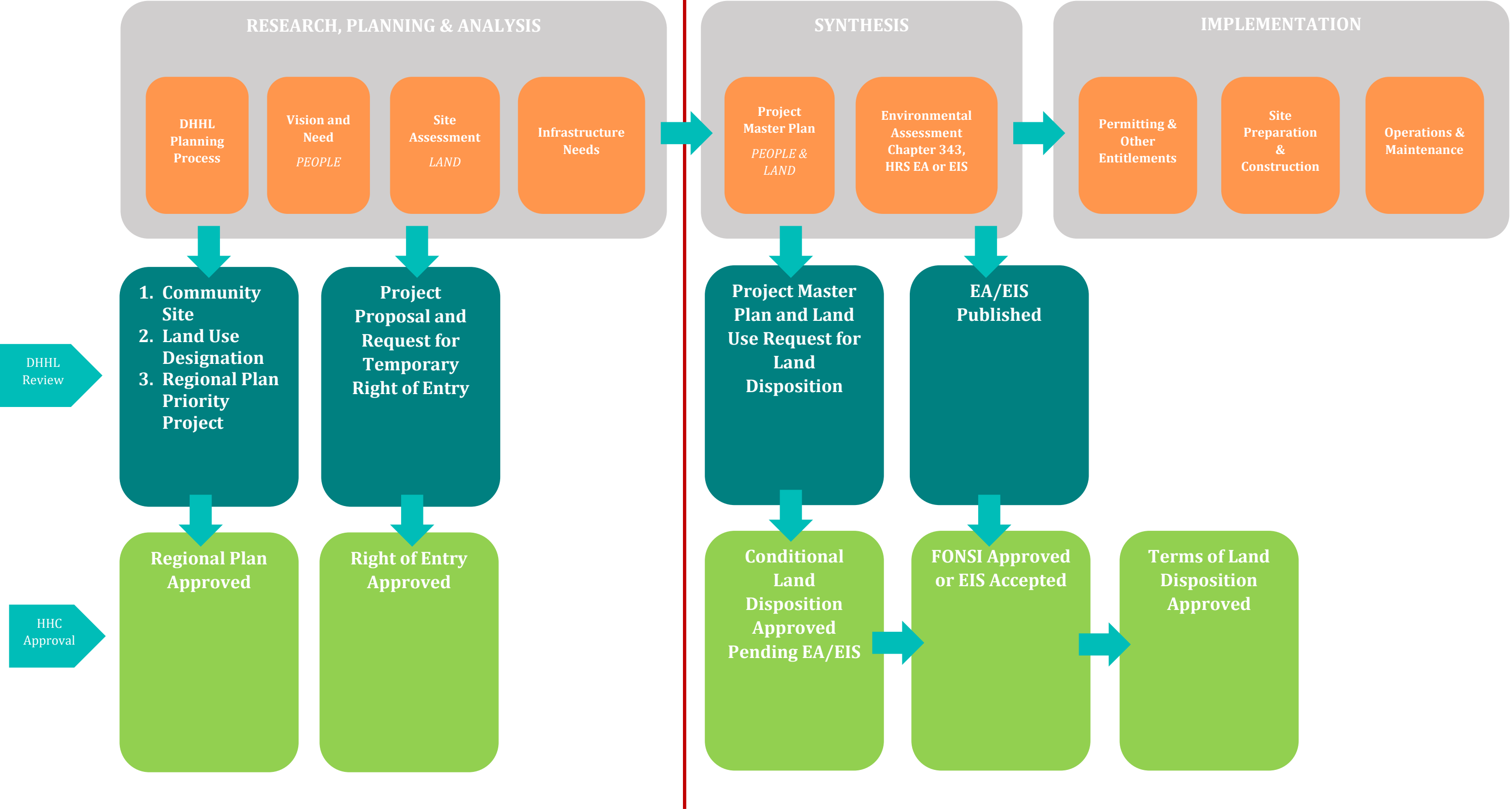
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development process should also be provided to every community considering an economic development project.

5. DHHL should be involved with community projects from the beginning, especially when they are larger in scale. Its role does not always have to be active; however, the Department should at the very least enact periodic check-ups on community development initiatives to increase accountability and insure appropriate progress.
6. DHHL should connect communities with the appropriate type of resources early in the planning process. Having technically trained professionals on a development team will guide communities towards best practices and help them make strategic decisions from the beginning. Examples include: i) paving a winding road instead of a straight road to prevent speeding, ii) limiting the height of buildings due to airport requirements, iii) strategically placing buildings based on the location of water sources, etc.
7. As a part of standard practice DHHL should include teaching opportunities overall as well as within a project's budget. This includes community training sessions and capacity building seminars as well as the acceptance of mistakes along the way. Ultimately, the homestead members involved in a regional plan will likely be volunteers who can assist with projects as they are able. They will likely not be technically trained in urban planning and will face a learning curve going into a development project. Adjustments will have to be made as they become better acquainted with the process. These adjustments should be factored into a project's funding. However, by assigning a DHHL Manager to a development project from the start, these adjustments should be minimized.

Homestead Communities' economic development projects have great potential for improving the well being and economic self sufficiency of Homestead residents. Managing these projects in a well-defined, sufficiently resourced manner will increase the efficiency and reduce the time required to implement them.

FIGURE 4: MASTER PLANNING AND LAND DEVELOPMENT PROCESS ON HAWAIIAN HOME LANDS



Department of Hawaiian Home Lands
NON-PROFIT ORGANIZATION APPLICATION FOR LONG-TERM USE OF DHHL LANDS
Application
INSTRUCTIONS

PURPOSE OF APPLICATION

The Hawaiian Homes Commission Act (HHCA) Section 204(2) and 207(c) authorizes DHHL to dispose of lands for non-homesteading purposes on the same terms, conditions, restrictions, and uses applicable to the disposition of public lands as provided in Hawaii Revised Statutes (HRS) Chapter 171. HRS 171-43.1 authorizes DHHL to dispose of lands to eleemosynary organizations by direct negotiation without requiring a competitive solicitation process.

Per HRS 171-43.1, eleemosynary organizations must be certified to be tax exempt under sections 501(c)(1) or 501(c)(3) of the Internal Revenue Code of 1986, as amended. The lands shall be used by such eleemosynary organizations for the purposes for which their charter was issued and for which they were certified by the Internal Revenue Service.

This application is meant for IRS 501(c)(1) or IRS(501)(c)(3) non-profit organizations that are interested in long-term utilization of DHHL land for the purposes of providing programs and services to DHHL beneficiaries to further their rehabilitation and well-being.

This application is NOT meant for:

- For-profit entities and for-profit purposes. For-profit proposals must go through a different process that requires a competitive solicitation process as outlined in HRS Chapter 171.
- Individual use of Hawaiian Home Lands
- Organizations and individuals that are interested in use or access of Hawaiian Home Lands for less than 30-days (short-term use). Interested organizations or individuals interested in short-term use of Hawaiian Home Lands should contact the DHHL Land Management Division for a Limited Right-of-Entry Permit application.

APPLICATION PROCESS

There are two main parts to this application process: (1) Completion of Pre-Application Form and (2) Application.

Part I -- Pre-Application Form

Pre-application intended to minimize risk of investing significant time and resources for the applicant and give DHHL a better idea about proposal and applicant potential capacity to implement.

The Pre-Application Project Proposal Form also ensures that the proposed area of use is consistent with DHHL Island Plan Land Use Designations. DHHL Island Plans can be found at: <http://dhhl.hawaii.gov/po/island-plans/> DHHL will **only** be accepting proposals for its lands that

are designated for (1) Community Use, (2) General Agriculture, (3) Conservation, or (4) Special District.

The Pre-Application Project Proposal Form will also help DHHL determine whether the proposed project requires a DHHL beneficiary consultation meeting. Project proposals that are identified as priority projects in DHHL Regional Plans do **not** require additional DHHL beneficiary consultation.

NOTE TO POTENTIAL APPLICANTS: DHHL funding and staff technical assistance is NOT guaranteed. DHHL might consider providing funding assistance to projects that can attract other sources of funding. Projects that rely primarily on DHHL resources (other than land) for implementation will not be considered.

Submitting the Pre-Application Packet

There are questions on the Pre-Application Form that can be filled out on the form. However, the majority of the questions on the form will require typed written responses on a separate page. When answering questions on a separate page, please indicate the question number and question you are responding to prior to your written response.

Overview of the Pre-Application Form

There are four sections to the Pre-Application Form:

1. **Applicant Information** – This section helps DHHL identify **who** the applicant organization is and the applicant organization's history and experience with providing programs and services to DHHL beneficiaries.
2. **Project Information** – This section helps DHHL identify **what** the project is, **why** the project is needed, and **how** it will benefit DHHL and its beneficiaries. The section also asks whether the proposed project is a DHHL Regional Plan Priority Project to determine beneficiary support for the project. If it is not a DHHL Regional Plan Priority Project, additional beneficiary consultation is needed to determine beneficiary support for the project.
3. **Project Location** – This section helps DHHL identify **where** the project is located. DHHL will make determinations whether the proposed project is consistent with its Island Plan Land Use Designation and whether the proposed project is a compatible use with the surrounding area.
4. **Timeframe** – This section helps DHHL identify **when** and **how long** the applicant's proposed project will take to implement. More importantly, it helps DHHL and the applicant to identify major benchmarks and phases in the proposed project.

A completed Pre-Application Packet must include:

- Signed Application Instructions Form (See the bottom of this form)
- Filled-out and signed Pre-Application Form
- Enclosed with the filled-out and signed Pre-Application Form, on separate pages, applicant responses to the information requested on the Pre-Application Form.

Please submit your pre-application packet either via mail to:

**DHHL Land Management Division
91-5420 Kapolei Parkway
Kapolei, HI 96707**

Part II --APPLICATION

After DHHL review of a completed Pre-Application Project Proposal and positive recommendation by staff is made, and if comments from beneficiary consultation meetings are positive, staff will make a recommendation to the Hawaiian Homes Commission to approve a Right-of-Entry Permit for the applicant to access DHHL land to conduct further due diligence work. Terms and conditions of the ROE permit will also be negotiated with the applicant at this time. The due diligence work is project dependent but typically consists of:

- Master Plan
- Business Plan
- HRS Chapter 343 Environmental Assessment or Environmental Impact Statement

NOTE TO POTENTIAL APPLICANTS: DHHL funding and staff technical assistance is NOT guaranteed to complete any of the above due diligence work. DHHL might consider providing funding assistance to projects that can attract other sources of funding. Projects that rely primarily on DHHL resources (other than land) for implementation will not be considered.

ISSUANCE OF A LONG-TERM DISPOSITION (License or General Lease)

After successful completion of the due diligence studies, DHHL will negotiate terms and conditions of a long-term disposition with the applicant and make a recommendation to the HHC for approval of a long-term disposition. Please note, each disposition will most likely include a set of special conditions that must be fulfilled by the applicant. Special conditions will be unique for each project and will be negotiated between DHHL and the applicant.

In addition to special conditions, **standard conditions** that will be included in every disposition instrument include:

- Requiring the licensee or lessee to possess a valid limited liability insurance policy that can cover up to \$1 million in damages to DHHL property or persons that are accidentally injured on DHHL land;
- Requiring the licensee or lessee to comply with all applicable federal, state, and county laws;
- Realistic project milestones that demonstrate the growing capacity of the licensee or lessee; this may include limiting the size of the area that was originally requested by the applicant in the pre-application form to a smaller more manageable size in the first several years of the license or lease and gradually increasing the size of the area in the license or lease over time as project milestones are reached.
- Requiring the licensee or lessee to demonstrate that it is proactively making its best effort to recruit more DHHL beneficiaries to participate in the programs and services being provided on the DHHL property for which it has a license or lease to.

DHHL has a fiduciary responsibility to ensure that the applicant's use of DHHL property does not harm DHHL's ability to help other current and future beneficiaries. Please note that the special conditions and standard conditions that are included in dispositions are meant to mitigate harm to the DHHL Trust from unforeseen and/or unfortunate incidences that may occur on the licensed or leased property and ensure that all interested DHHL beneficiaries may participate in programs or services being offered through the use of DHHL property by the applicant.

APPLICATION PROCESS ESTIMATED TIMEFRAME

Application Step	Timeframe	Responsible Entity
1. DHHL receives pre-application packet and notifies applicant if pre-application packet is complete	Up to 30 days	LMD
2. DHHL reviews completed project proposal and schedules review meeting with applicant to review questions, concerns, staff may have	Up to 90 days	PO & LMD
3. DHHL schedules beneficiary consultation meeting if project is <u>not</u> a regional plan priority project. The applicant's pre-application will be placed on the DHHL Land Management Division webpage for public review.	Meeting scheduled 3 months before on island HHC meeting. For example, if you are applying for DHHL land on Kauai, the beneficiary consultation meeting would be scheduled 3 months before the HHC meeting on Kauai. HHC meeting calendar go to: http://dhhl.hawaii.gov/hhc/	PO & Applicant
4. HHC ROE approval for due diligence	3 months after beneficiary consultation meeting	LMD & HHC
5. Conduct due diligence studies*	12-24 months	Applicant*
6. HHC approves FONSI	TBD	PO & HHC
7. HHC approves long-term disposition	TBD	LMD & HHC
8. Monitoring and reporting	TBD	Applicant & PO & LMD

[To be signed by person identified in Pre-Application Form Question #1] I hereby acknowledge that I have read and understand the above application instructions. I understand that this form is being submitted electronically and my typed name on the signature line will qualify as my signature for purposes of the above certification.

Signature: _____

Date: _____

Printed Name: _____

Title: _____

Organization: _____



STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS
P. O. BOX 1879
HONOLULU, HAWAII 96809

Department of Hawaiian Home Lands
**NON-PROFIT ORGANIZATION APPLICATION FOR
LONG-TERM USE OF DHHL LANDS**

PRE-APPLICATION FORM

This form should be used by non-profit organizations who are interested in securing a long-term license agreement for the use of DHHL lands to better serve native Hawaiian beneficiaries, their families, and the homestead community. Please review the Pre-Application Guidelines and Instructions document before you fill out this form because it provides detailed instructions and it explains all the steps involved in securing a long-term license agreement.

APPLICANT INFORMATION

Name of Organization: _____

Date of Incorporation: _____ IRS Tax-Exempt #: _____

1. Please identify one individual who will be the point of contact for this application:

Contact Name: _____ Title: _____

Email Address: _____ Phone: _____

2. What is the mission/vision of your organization?

[Please provide your typed responses on a separate page]

3. Please describe the history of your organization.

[Please provide your typed responses on a separate page]

4. How has your organization previously served beneficiaries of the Hawaiian Homes Commission Act?

[Please provide your typed responses on a separate page]

5. Describe past experiences, projects, or programs in the last five years that illustrate consistency with your organization's mission/vision statement.

[Please provide your typed responses on a separate page]

6. Please provide references (name and contact information) and/or Letters of Support for this application for non-homestead use of Hawaiian Home Lands.

[Please provide your typed responses on a separate page]

7. If you are developing your project in partnership with another organization(s), please describe the roles and responsibilities of each organization during project development, implementation, and long-term management.

[Please provide your typed responses on a separate page]

PROJECT INFORMATION

8. Describe the project. What are your project goals and objectives? What kinds of activities, programs, and/or services will you provide? Describe the need for your project and how it will benefit the DHHL trust, homestead lessees, and/or waitlist applicants.
[Please provide your typed responses on a separate page]
9. Please share your current thinking about the following project elements:
- The planning process and your efforts to include beneficiaries.
 - Beneficiary involvement throughout the duration of the project.
 - Design and construction costs for major improvements (if any).
 - Long-term management and operation of project facilities and the requested land area.
 - Long-term maintenance and repairs.
- [Please provide your typed responses on a separate page]*
10. Is the proposed project a Regional Plan Priority Project? YES ☐ NO ☐
11. How do you intend to secure funding and other needed resources for the project?
[Please provide your typed responses on a separate page]

PROJECT LOCATION

12. Identify the parcel(s) of land your organization is requesting.
Tax Map Key Number(s): _____ Acres: _____
Homestead Area: _____ Regional Plan Area: _____
Island Plan Land Use Designation: *check all that apply below*
Community Use ☐ General Agriculture ☐ Conservation ☐ Special District ☐ Other ☐
13. Please attach a map that marks the boundaries of the area of land you are requesting. Please also identify on a separate map the conceptual layout and siting of proposed uses.
14. What are the existing uses in the surrounding area? Please describe how your proposed use is consistent with the existing surrounding uses.
[Please provide your typed responses on a separate page]
15. Why do you want to implement your project at this site? Describe the characteristics of the site and surrounding area that make it an ideal location for your project.
[Please provide your typed responses on a separate page]

TIMEFRAME

16. What is the general timeframe for implementing the project (estimated years)? Please identify major benchmarks and phases.
[Please provide your typed responses on a separate page]

I hereby acknowledge that I have read this application and certify that the information provided in our responses are correct. I understand that this form is being submitted electronically and my typed name on the signature line will qualify as my signature for purposes of the above certification.

Signature: _____

Date: _____

Printed Name: _____

Title: _____

Organization: _____

STATE OF HAWAI'I

DEPARTMENT OF HAWAIIAN HOME LANDS

October 16 - 17, 2023

To: Chairperson and Members, Hawaiian Homes Commission
From: Andrew Choy, Acting Planning Program Manager *AC*
Subject: For Information Only - Maui Water Issues and Projects

I. RECOMMENDED MOTION/ ACTION

None; for information only.

II. INTRODUCTION

This submittal to the Hawaiian Homes Commission ("HHC") provides an update of water issues and projects of significance to beneficiaries and the Department of Hawaiian Home Lands ("DHHL") on the island of Maui. It is submitted in furtherance of the HHC Water Policy Plan (WPP) Goal 1, to "Affirmatively communicate with beneficiaries regarding water decisions, performance, and water rights on a regional and annual basis.

In the year since our last submittals on Maui water issues in September and November 2022, much has changed. Most significantly, soon after the wildfire disasters in upcountry and Lahaina on August 8, 2023, the management of water on Maui became a topic of local, Hawai'i wide, national and international discussion and concern. The importance of the water rights of native Hawaiians (including those held by DHHL and its beneficiaries) has received a level of attention that is unprecedented. In addition there have been multiple other significant water issues that already had notable progress in Maui Komohana (West Maui) and Maui Hikina (East Maui) over the past year; accordingly this year's submittal is more detailed and lengthier than previous presentations. *Because so many of the issues that have arisen touch on nearly every aspect of DHHL water rights and responsibilities, the submittal begins with a review of DHHL Water Kuleana that will become a reference*

attachment for future regional updates. The submittal is organized as follows:

- III. Review of DHHL Water Kuleana
 - A. Lehua Handout (DHHL Water Kuleana)
 - 1. Water Planning and Advocacy
 - 2. Water Source Development
 - 3. Water System Management
 - B. Kalo Handout - The Commission on Water Resource Management (CWRM) Record on Appeal, 1987 - 2023
 - C. HHC Water Policy Plan (WPP)
- IV. Maui Komohana (West Maui) Water Issues and Projects
 - A. Water Demands and Reservations
 - B. Recent Water Issues
 - 1. Interim Instream Flow Standards
 - 2. Designation
 - 3. Post-fire Water Related Occurrences
 - C. DHHL Water Projects in West Maui
 - 1. Wahikuli Irrigation Well Water Use Permit Application
 - 2. R2 Honokowai Water
 - 3. Honokowai Well Final Environmental Assessment (FEA)
 - 4. Other Honokowai water / alternate sources
 - 5. Other issues: Water Testing Available for Homesteaders at Leali`i
- V. Maui Hikina (East Maui) Water Issues and Projects
 - A. Water Demands and Reservations
 - B. Recent Water Issues
 - 1. Status of BLNR proposed EMI lease
 - 2. Writ of Mandamus
 - 3. East Maui Water Authority Board
 - C. East Maui Water Authority Board Consultation
 - D. DHHL EMI reservation status
 - E. Pā`upena Community Development Corporation Meter Request
 - F. Keokea / Waiohuli Water Source Options

III. REVIEW OF DHHL WATER KULEANA

DHHL has four primary water responsibilities. The first two are closely linked: to plan for water needs and advocate for water rights. The third is to develop water sources, and the fourth is to manage water systems. To help fulfill these responsibilities, DHHL has distinct water rights based on the Hawaiian Homes Commission Act (HHCA), the Hawai'i State Constitution (HSC), Hawai'i Revised Statutes (HRS), Attorney

General's opinions and court cases. These water rights are tools that the Hawaiian Homes Commission (HHC) can use as needed. Which tool/right is best to use depends on the opportunities at hand and the costs (financial and otherwise) of asserting that tool/right. The educational "Lehua Handout" (Attachment A) has a summary of these tools and the next sections go into some additional detail, prior to describing how DHHL interacts with CWRM and implements the HHC WPP.

Planning for Water Needs and Advocating for Water Rights

The Department's Water Planning and Advocacy Kuleana include the need to continuously determine the future water needs for all of the `āina ho`opulapula and then seek water reservations from CWRM to set aside sufficient water to meet those needs.

What are water reservations?

Water can be "reserved" - set aside and not allocated to other users - by the CWRM, implementing its powers under the state Water Code, HRS 174C. It can take years between the HHC determining a proposed use of land and the land being developed for that use, due primarily to the lack of capital funds needed for development. Absent water reservations, other competing public and private sector developers can (and in some cases have) developed all the available water in an area, either precluding DHHL development or significantly increasing the costs of water development. Reservations are one tool to address that problem.

There are two distinct methods by which CWRM can reserve water. In Water Management Areas (WMAs) - parts of the state which are subjected to a higher level of permitting scrutiny for surface or ground water allocation - water reservations are adopted through rule making. Currently all of O`ahu except for the Wai`anae Aquifer Sector Area, all ground water on the island of Molokai, the `Īao Aquifer of Maui, and groundwater in West Maui are designated as Ground WMAs. The surface waters of Nā Wai `Ehā and the surface waters related to the Lahaina Aquifer Sector Area, both on Maui, are designated as Surface WMAs.

Because of this rule making requirement as well as the permitting requirements in WMAs - which require that all water use permits are subject to the rights of DHHL - the protection of DHHL water rights are more robust in WMAs.

In non-WMAs, the CWRM can simply take action to vote, by a majority of its seven members, to reserve water for DHHL. Reservations by rule and by simple CWRM action are supposed to be included in all elements of the Hawai'i Water Plan, including the Water Resources Protection Plan (WRPP), the State Water Projects Plan (SWPP), and the County Water Use and Development Plans (WUDPs).

The actions that trigger CWRM consideration of DHHL water reservation needs vary. The state water code (HRS 174C) in section 101(a) requires that: "Decisions of the commission on water resource management relating to the planning for, regulation, management, and conservation of water resources in the State shall, to the extent applicable and consistent with other legal requirements and authority, incorporate and protect adequate reserves of water for current and foreseeable development and use of Hawaiian home lands as set forth in section 221 of the Hawaiian Homes Commission Act."

Some of the most common triggers for adopting DHHL reservations have been related to adoptions of parts of the Hawai'i Water Plan. Most of the groundwater reservations currently held were adopted following the acceptance by CWRM of the 2017 SWPP update.

Another key trigger has been when CWRM has adopted new Interim Instream Flow Standards (IIFSs), which are science and fact based determinations of the minimum amount of water that should remain in a stream before any off-stream uses of water are allowed. The original IIFSs adopted by CWRM around Hawai'i in 1988 were "status quo" standards, only protecting the amount of water in the stream at that time. Since most streams across Hawai'i in 1988 were diverted, and these historic diversions usually took 100% of the flow on non-rainy days, this has meant that there have been few or no legal protections for public trust uses of surface water. For decades after this action, communities around Hawai'i have petitioned CWRM to adopt IIFSs that protect public trust uses of water, including DHHL needs; this has led to well-known litigation such as the Waiāhole and Nā Wai `Ehā cases. In recent years the CWRM has begun to proactively propose IIFS on its own, and has worked with DHHL to propose associated reservations at the same time.

Actions by the Board of Land and Natural Resources (BLNR) can also trigger the adoption of reservations for DHHL. HRS 171-58, which governs the issuance of water leases by the state, specifies in part (g) that "Any lease of water rights or renewal

shall be subject to the rights of the department of Hawaiian home lands as provided by section 221 of the Hawaiian Homes Commission Act." In the case of the EMI system requests, DHHL's reservation consideration is triggered by the current owners of EMI seeking a long-term lease of water.

Limits to reservations

While water reservations are an important policy tool available to DHHL, CWRM, and the HHC, they have limitations. Some of these include:

- Previously, reservation requests by DHHL have been delayed or denied by CWRM staff for unclear reasons
- Reservations do not provide immediate access to "wet water"
- Developing water will still require:
 - Capital Improvement Plan (CIP) funds
 - Detailed design and environmental review
 - Developing source, storage, transmission
 - Agreement with County or others for operation
- In geographically large aquifer systems, locations to develop water can still be remote from DHHL tracts
- The enforceability of reservations, particularly in non-WMAs, has not been legally tested
- DHHL along with CWRM will need to monitor other developments potential impact on DHHL reservations

Water License Receipts

As mentioned above, the issuing of water licenses by the state can be a trigger for the DHHL to seek a water reservation from a particular source proposed for license. Receipts are to be deposited into the Native Hawaiian Rehabilitation Fund, which is the source of revenue for grants to homestead organizations. This arrangement originated in the HHCA as it was passed in 1921, and are codified including in [HSC Art. XII, § 1.](#)

Historically revenue from the licensing of water was significant; however, with the decline of large plantations, along with choices made by the Land Division of the Department of Land and Natural Resources, water license revenue has declined significantly. There are instances around Hawai'i where water originates from state land and currently there is no proposal to issue a water license.

Public Trust Status

As the key Trustee and lead agency in managing water, CWRM is critical in helping DHHL preserve and implement its rights to water. However, since the passage of the Water Code in 1987, a number of significant court decisions have been made on appeals of decisions by the CWRM. That record will be discussed in more detail below. Of significance here is that the courts have identified over a series of cases four "public trust uses" of water, which are to have priority, over private, commercial uses of water. While they are not specifically listed as such under the Water Code, the courts identified these based on interpreting the Code, the specific circumstances of the cases they were ruling on, as well as the long legal history of water law dating back to the Kingdom. These four Public Trust Purposes are:

- Maintaining water in its natural state;
- Water used in the exercise of the traditional and customary practices of native Hawaiians;
- Water reserved for or used by DHHL; and
- The domestic needs of the general public.

In addition, "appurtenant water rights" - water necessary for the use of kuleana parcels at the time kuleana awards were made - enjoy the same high level of priority.

Private, commercial uses of water are not prohibited. However, when CWRM or other agencies make decisions, they need to follow particular processes to ensure that public trust purposes of water are provided for.

As one of the protected public trust uses of water, the DHHL has a particular responsibility to protect that status, as well as to not bring harm to the other public trust uses of water. One way in which DHHL does this is to consider and pursue alternate sources of water when its uses may impact another public trust use of water. Another is to help defend all public trust uses against private commercial uses that could harm its own and other public trust uses.

Water Source Development

Even after the Department has secured water reservations as discussed above, efforts must be made to develop water sources

to enable homesteading. In addition to the general powers that state departments have to expend funds and manage programs, DHHL has particular powers related to water source development.

The most commonly used of these is the power to issue leases or licenses to trust lands. Very frequently, DHHL will develop some combination of water source, storage, and transmission, and then lease, license, or otherwise dedicate those to the Board or Department of Water Supply of the county these lands lie in. In exchange, DHHL, receives a certain number of water credits, which can be used and exchanged for water meters at a future time. Water credits have also been obtained in the past by other parts of the state government developing wells and assigning credits to the DHHL, as well as through litigation.

While it has never used the power, the HHC also has the power to bring eminent domain proceedings against private parties to obtain sites with water sources. It can also "demand" access to state controlled water systems, but like condemnation has not exercised this power.

As discussed above in the review of water reservations, in Designated Water Management Areas (WMAs), all users of water must obtain a "water use permit" from CWRM. By law those permits are conditioned on the rights of the DHHL. Generally, however, DHHS lands do not coincide with existing WMAs. See Figure 1, below, showing WMAs and DHHL lands on Maui.

Water System Management

The last major water kuleana that DHHL has is the ability to develop and manage water systems directly. DHHL currently manages four systems on Molokai, Kaua'i and Hawai'i Islands.

The Commission on Water Resource Management (CWRM) Record on Appeal

While the HHC, DHHL and its beneficiaries have particular and significant water rights as described above, we are largely dependent on CWRM and protecting those rights. Unfortunately, since passage of the code in 1987, it has been a very mixed history. See Attachment B. DHHL and beneficiaries have frequently had to go to court to challenge decisions of CWRM. The most successful instances have been when the DHHL and beneficiaries have worked closely together on those efforts. It is notable that beneficiaries on the island of Molokai have led

the way, and the resulting cases have helped the courts describe the significance of DHHL water rights.

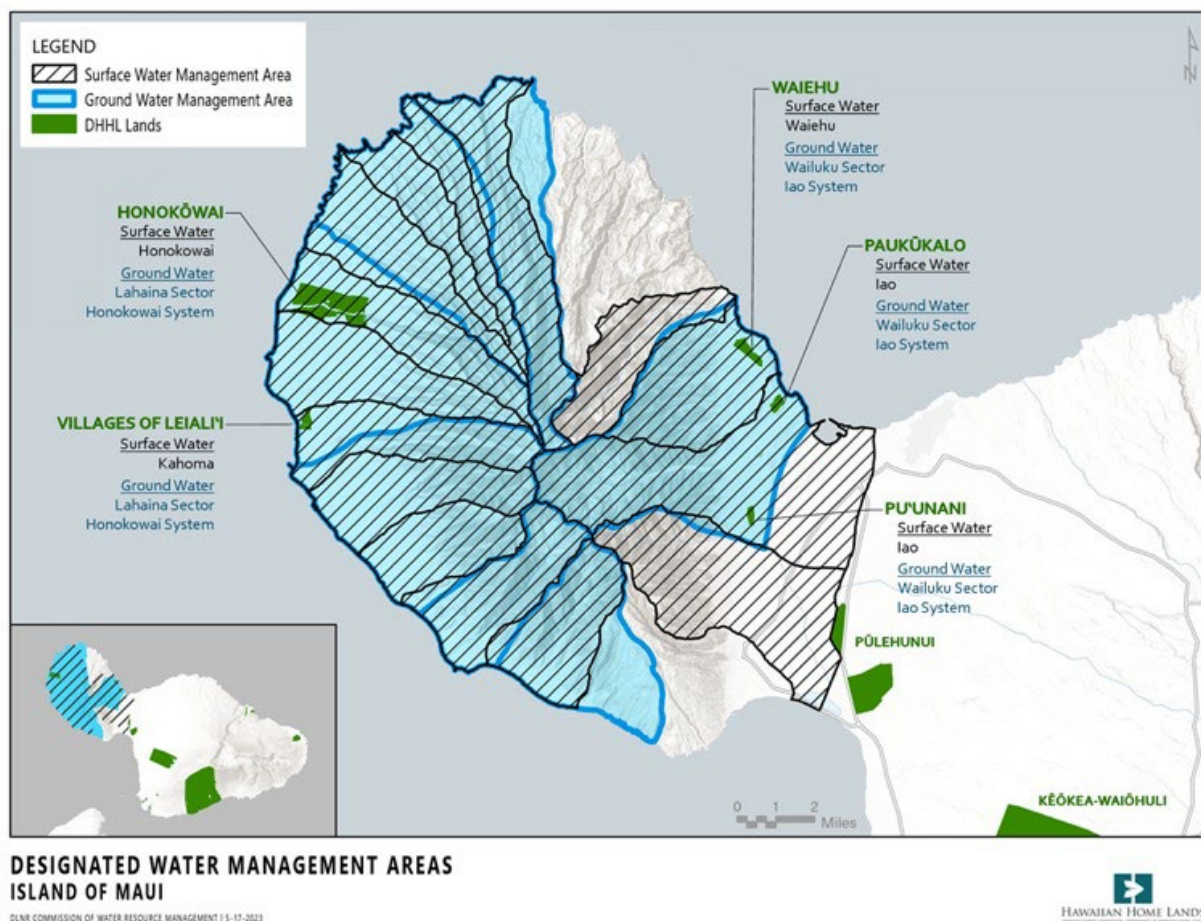


Figure 1. DHHL Lands and Water Management Areas on Maui. Most DHHL lands on Maui and across Hawaiʻi lie outside WMAs.

HHC Water Policy Plan (WPP)

In order to consistently make water decisions and protect the trust's water interests, in 2014 the HHC passed a Water Policy Plan (WPP) under the General Plan. This was adopted after two years of research, and two rounds of beneficiary consultation across the archipelago. It is to our knowledge, the first policy regarding water decisions passed by the HHC since passage of the HHCA in 1921. See Attachment C.

The WPP is comprised of a number of distinct sections. The first section, a vision statement, comes directly from Section 101 of the HHCA. The Mission statement derives from the

different water kuleana described above. The next section is on Values and describes four Hawaiian values key to the proper management of water. This is followed by twelve policies to guide water decisions. The core of the WPP are nineteen goals identified by beneficiaries, staff, and the HHC to be the focus of DHHL water activities, with four identified as priority goals. These are:

1. Affirmatively communicate with beneficiaries regarding water decisions, performance, and water rights on a regional and annual basis.
2. Aggressively, proactively, consistently and comprehensively advocate for the kuleana of the beneficiaries, the DHHL, and the HHC to water before all relevant agencies and entities.
3. Develop and manage a Water Assets Inventory (WAI).
4. Support watershed protection and restoration on DHHL lands and source areas for DHHL water.

The final substantive portions of the WPP includes a statement on the delegation of authorities, which includes a requirement for the submission to the HHC by the DHHL an annual report on accomplishments as well as a plan for the coming fiscal year. Legal authorities, related plans, and legal references are also included.

In conclusion, DHHL has significant water kuleana - responsibilities and rights - that it can bring to bear in order to bring water to lands across the `āina ho`opulapula and to fulfill the goals of the HHCA. The primary areas of this work are for water planning, advocacy, source development, and system management. The CWRM and the Counties are critical partners to help achieve our goals. The HHC has adopted the WPP as the key policy guidance for this work. The WPP requires a number of actions from DHHL, including annual plans of work, reports on achievements, and annual regional updates on water issues and projects.

IV. MAUI KOMOHANA (WEST MAUI) WATER ISSUES AND PROJECTS

As reviewed in the outline including above, this next section of the submittal reviews water issues and projects in Maui Komohana. We begin by reviewing water demands and reservations in the area, describe recent water issues, and water projects.

Water Demands and Reservations

DHHL land tracts in Maui Komohana include a number in the Nā Wai `Ehā area including existing homesteads at Paukūkalo, homesteads in development at Waikapū ("Pu`unani"), and homesteads in the process of land acquisition under Act 279, discussed in other submittals to the HHC. Water demands for those tracts are either already provided, too preliminary to calculate, and/or should be provided by the county as authorized by the County Water Availability ordinance (their "show me the water" law) which was amended on December 10, 2023 to exempt development by DHHL from the water availability policy.

Other Maui Komohana tracts include lands at Leali`i and Honokōwai. Water demands for Leali`i are already met in the existing phase, and for phase 1B were calculated in the 2017 SWPP. A published FEA for phase 1 B was Revised plans for Honokōwai were adopted after the 2017 and 2020 SWPP updates; the FEA for Honokōwai was published in January 2022. Based on these documents the medium projected water demands for these tracts are as follows:

Tract	Land Use	Water Use	Acres / Units	Rate (gad /gpd)	Demand (gpd)
Honokōwai	Subsistence Agricultural Homestead	Non-Potable	347	4849	1,682,602
Honokōwai	Supplemental Agricultural Homestead	Non-Potable	14	4849	67,886
Honokōwai	Community Use	Non-Potable	17	4849	82,433
Honokōwai	Community Use	Non-Potable	30	4849	145,470
				Subtotal	1,750,488
Leiali`i 1B	Residential Homestead	Potable	181	600	108,600
Honokōwai	Residential / Agricultural Homestead	Potable	1181	600	708,600
				Subtotal	817,200
				TOTAL	2,567,688

Table 1. DHHL Water Demands for Honokōwai and Leali`i Phase 1B.

CWRM has adopted reservations to help meet these needs. All of these reservations were adopted prior to designation of the combined ground and surface WMA designations of Lahaina discussed more below. CWRM staff has been pursuing a rule package to enact these reservations into rule.

Hydrologic Unit	Quantity Reserved (MGD)	Effective Date
Honokōwai	0.770	September 18, 2018
Honokōhau and Kaluanui Streams in the Surface Water Hydrologic Unit of Honokōhau, Honolulu Stream in the Surface Water Hydrologic Unit of Honolulu	2.00	May 18, 2021

Table 2. DHHL Water Reservations for Honokōwai and Leali`i Phase 1B.

It is important to note that agricultural demands for Honokōwai could well exceed the amount of reserved water. In addition, while we hold a reservation related to surface water for that tract, there are significant public trust uses for those waters as well. In addition, we note that to date, DHHL never been granted water reservations related to recycled water sources; steps to secure recycled water are discussed under water projects for this area, further below.

Recent Water Issues

As touched on in the introduction, water issues have been significant and contentious in this area, particularly after the August 8, 2023 wildfire. However, community and CWRM led efforts to protect public trust interests in water, including DHHL interests, had preceded these events in the last few years.

IIFS amendments

Beginning in 2018, based on research starting years before, CWRM staff in their surface water branch began a formal process of amending the IIFS for Maui Komohana streams that had not already been addressed in the Nā Wai `Ehā proceedings that had been started by the community over a decade earlier. CWRM adopted new amendments establishing new IIFSs on March 20, 2018 for Ukumehame, Olowalu, Launiupoko, and Kaula'ula streams. DHHL had no lands that could be serviced by the streams, and the streams have significant unmet public trust uses, particularly uses related to the traditional and customary practices of native Hawaiians. As a consequence, no reservations were

proposed for DHHL from these four streams, though DHHL staff and consultants monitored and participated in the proceedings. Those actions were particularly significant in that they restored water for native Hawaiian kalo farmers, would be fighting for over a century to have sufficient for their practices.

CWRM staff subsequently proposed IIFS amendments for Honokōwai, Honolua, and Honokōhau Streams that were adopted by CWRM on May 18, 2021. Because those historically significant sources could provide surface water for lands at Honokōwai, the above referenced reservation was made in conjunction with those actions. The proposed reservation was successfully adopted in part because Homestead leaders worked closely with kalo farmers in Honokōhau Valley, to ensure that these communities mutually supported each other's needs for water.

Lahaina Surface and Ground Water Designation

After years of study, months of outreach, and multiple public participation processes before CWRM as well as the Maui County Council, and the Maui County Board of Water Supply, on June 14, 2022 CWRM unanimously designated the surface and ground waters of the Lahaina area as WMAs. The specific designations were for the Honokōhau (6014), Honolua (6013), Honokahua (6012), Kahana (6011), Honokōwai (6010), Wahikuli (6009), Kahoma (6008), Kaula'ula (6007), Launiupoko (6006), Olowalu (6005), and Ukumehame (6004) Surface Water Hydrologic Units and the Honokōhau (60201), Honolua (60202), Honokōwai (60203), Launiupoko (60204), Olowalu (60205), Ukumehame (60206) Groundwater Hydrologic Units. The water code requires that a public notice of designation be published multiple times in a newspaper, and the effective date of designation follows the final publication. Therefore the final date of designation of Lahaina was August 6, 2022.

DHHL beneficiaries, staff, and consultants actively participated in these efforts. Consistent with the HHC's action supporting designation of Wai'anae O'ahu as a proposed groundwater WMA, testimony reflected how DHHL water rights enjoy significantly higher levels of protection in WMAs. As described above in the review of DHHL water kuleana, this is both because reservations in WMAs are adopted by rule, and any parties which receive permits in the area have their permits subject to the rights of DHHL.

This is particularly significant for DHHL's ability to develop our lands at Leali'i and Honokōwai. In order to develop our reservations into "wet water", DHHL must develop new water sources in the Honokōwai Aquifer. As discussed in the findings of fact adopted by CWRM during designation, as of December 2021 the sustainable yield for this aquifer was 6,000,000 gallons per day. However, withdrawals from wells and tunnel sources were 6,500,000 gallons per day. The additional protections of our rights in designated areas are critical to fulfilling our plans.

Post-fire Water Related Occurrences

After the disasters of August 8, 2023, there have been a number of widely reported on events related to water policy and management in Maui Komohana. CWRM's fire and post-fire decisions related to water policy and management in West Maui has caused Lahaina community members, including DHHL beneficiaries and other Native Hawaiians to become active participants in water resource management and decisions by CWRM and the State.

Through recent public meetings, including the Governor Office's Build Back Better Working Group and the monthly CWRM meeting in September, numerous members of the public voiced concerns over water projects and water policy decisions in West Maui. These public meetings received numerous hours of passionate public comments. Below is an imperfect summary of concerns heard and how those concerns relate to DHHL and its water needs:

- The suspension of the water code on a long-term basis would remove protections that ensure DHHL rights to water and existing water reservations and also remove protections for water used for Native Hawaiian traditional and customary practices;
- While DHHL water use for homesteading is a public trust use of water, DHHL needs to be cognizant of how its water use may impact other Native Hawaiian uses of water needed for traditional and customary practices;
- The plantation-era practice of diverting water may have contributed to dry conditions in West Maui creating fire prone conditions which will only be exacerbated by future climate change. The existing water management practices will need to be re-examined;
- Private commercial water users may need to reduce its water use to accommodate public trust uses of water in this dry region.

- CWRM's work is best guided by staff that have a deep understanding of Native Hawaiian perspectives and water rights to better address the complex water issues and needs in West Maui.

Corresponding events are summarized in Table 3, below.

Date	Events
8/9/2023	3 rd Emergency Proclamation Related to Wildfires suspends the Water Code "to the extent necessary to the extent necessary to respond to the emergency"
8/10/2023	CWRM Chair by letter suspends IIFS in the area
8/16/2023	CWRM Chair announces redeployment of CWRM deputy via press release
8/17/2023	Governor indicates desire to modify or lift WMA designation in an interview
8/23/2023	BBBWG agenda posted indicating DHHL will seek exemptions for the Honokōwai well
8/24/2023	Rally and Press Conference at State Capitol
8/29/2023	BBBWG Chair announces DHHL items removed from agenda at the start of the meeting
9/8/2023	7 th Emergency Proclamation Related to Wildfires removes the suspension of the Water Code
9/19/2023	CWRM monthly meeting lasts 12.5 hrs., overwhelming testimony to reinstate IIFSs, CWRM deputy, maintain designation
9/19/2023	In closing remarks CWRM Chair repeats notice that Code is no longer suspended, announces she has informed landowners that IIFSs are back in place, and that no formal proposal to remove designation has been made
10/9/2023	CWRM Chair announces reinstatement of CWRM deputy via press release
10/24/2023	Next CWRM meeting, to be held on Maui and focus on Maui water issues

Table 3. Notable water related occurrences for Maui Komohana following August 8.

DHHL Water Projects in West Maui

Since last year submittals, the department has undertaken a number of significant efforts to increase water availability for homesteading in this area.

Wahikuli Irrigation Well WUPA

In an agreement with the Hawai'i Housing Finance and Development Corporation (HHFDC), DHHL controls a small irrigation well that is used to irrigate the Leali'i Parkway, the entrance to our existing homestead and future Phase 1B. This is a shallow, brackish water well.

The August 6, 2022, designation of Lahaina, water management areas, set a one-year deadline for filing a Water Use Permit Application (WUPA). Working with LDD, HHFDC staff, and others, DHHL through the Planning Office successfully filed a timely WUPA for this source.

In their September 19 briefing to that commission, CWRM staff reviewed the status of wellheads in the burn zone in Lahaina. They confirmed that presentation that the Wahikuli Irrigation well is intact.

Recycled water for Honokōwai

As described in Submittal F-3 from November 2022, DHHL recognizes the need for recycled (R1) water to support DHHL's Honokōwai development. The DHHL and the Maui County Department of Environmental Management (DEM) are working towards an agreement wherein the DEM would provide a recycled water allocation to the DHHL from the County's Honokōwai Reservoir in exchange for the license. Through negotiations, DHHL and DEM reached an agreement of an initial allocation of 500,000 Gallons Per Day (GPD) of recycled water from DEM to DHHL.

In exchange for the 500,000 GPD allocation, the County of Maui would receive a license for needed areas. DHHL has determined the 500,000 GPD of recycled water allocation suitable for servicing Phase I of DHHL's Honokōwai subsistence agriculture lot development. The 500,000 GPD reservation is 25 percent of DHHL's total projected water demand of 2 MGD for non-potable water uses in Honokōwai. This initial agreement does not preclude DHHL from requesting additional R-1 water from DEM in the future. Additionally, as previously mentioned, DHHL has a surface water reservation from CWRM of 2 MGD and is another source of irrigation water for DHHL's Honokōwai lands.

Honokōwai Well

As has been detailed and other submittals from LDD, DHHL has been pursuing development of a groundwater well in the

Honokōwai Aquifer for a number of years. Originally a joint project between DHHL and HHFDC, it is designed to have a capacity of 1 mgd and reliably yield 2/3 of that amount. A water allocation agreement with the county will be need to be executed. DHHL continues to work with a third-party consultant assessment for that project.

As indicated above for the Wahikuli well, new wells in Lahaina will have to file WUPA now that it is a WMA. Planning office staff is working with LTD and consultants to draft the WUPA. As part of that effort, staff are examining alternatives, which must be evaluated as part of a WUPA.

Honokōwai Alternative Water Sources

The Finding of Fact d document referenced above for the designation of Lahaina as a WMA by CWRM indicated that of the existing withdrawals of water in the aquifer, 2.5 mgd is derived from tunnel sources. While of drinking water quality, they are currently used for irrigation. These tunnels were drilled or dug into the mountains at high elevations across the Hawaiian Islands during the plantation era. By piercing "lava dike" formations - areas of dense lava that hold back water from flowing downhill or towards the coast - they can capture high elevation water.

DHHL staff and consultants have been informed that Tunnel 20B at 1,600 ft in elevation lies within state lands, yields approximately 0.5 mgd, and has not had a water license attached to it. Utilizing some of the water kuleana tools reviewed in the first part of this submittal, staff can consider these as an alternate source in our pending WUPA for the Honokōwai well.

Other issues: Water Testing Available for Homesteaders at Leali'i

Immediately after the November 2021 fuel spill at the US Navy's Red Hill Bulk Fuel Storage Facility, initial communications from the military to customers receiving water from the military water system indicated the water was safe to drink, a statement later rescinded. One follow-up action was the start of an independent water testing program offered in conjunction with the University of Hawai'i Water Resource Research Center (WRRC).

Following the August 8 wildfires, Maui County issued "do not drink" orders on portions of the upcountry and Lahaina area

water systems as a precautionary measure to determine whether fire damage to the County water may have caused contaminants to enter into the system. After subsequent water quality monitoring and tests, the County has lifted the “do not drink” order for many areas, including the DHHL Leiali`i homestead, as of October 9, 2023; current status can be found at a link to an interactive map at <https://www.mauicounty.gov>. Homesteaders who would like to request the additional testing available through WRRC can fill out a form at <https://www.wrrc.hawaii.edu/maui-post-fire-community-water-info-hub/>.

V. MAUI HIKINA (EAST MAUI) WATER ISSUES AND PROJECTS

Water Demands and Reservations

DHHL land tracts in Maui Komohana include lands at Kēōkea / Waiohuli, `Ulupalakua / Kualapa, Ke`anae, Wailuanui, Wākiu, Kahikinui, `Āhihi, and Kalihi / Kanahena. Water demands for all of these tracts were calculated in the 2017 SWPP Update. Because the SWPP has a 20 year time horizon, it is a useful document but does not necessarily represent all of the future water demands for all lands. In addition, the SWPP calculated low-, mid-, and high-level demands. Table 4 summarizes the mid-level demands from the 2017 SWPP for these tracts.

Based on the data in the SWPP, in 2018 CWRM approved ground water reservations for all of these tracts. Because the Pūlehunui tract is underlain by the same aquifer as the Kēōkea/Waiohuli tracts, the reservation reflects potential uses for both areas. The Maui Hikinia reservations to date are listed in Table 5.

Tract	Land Uses	Water Use	Demand (Mgd)
Kēōkea/Waiohuli	Res., Subsistence Ag., Community	Potable	0.8097
Wākiu	Res., Subsistence Ag., Community	Potable	0.1177

Ke`anae	General ag, kalo	Potable	0.0034
Kahikinui	Pastoral	Potable	0.0765
Other	Homesteading	Potable	0.0238
		Subtotal	1.03
Kēōkea/Waiohuli	Res., Subsistence Ag., Community	Non-Potable	0.578
Wākiu	Residential, Subsistence Agricultural Homestead	Non-Potable	0.255
Ke`anae	General ag., kalo	Non-Potable	4.5878
Wailuanui	General ag., kalo	Non-Potable	2.2802
Other	Homesteading	Potable	0.0238
		Subtotal	7.72
		TOTAL	8.76

Table 4. DHHL Water Demands for Maui Hikina tracts based on the mid-level demands in the 2017 SWPP Update.

Hydrologic Unit	Quantity Reserved (MGD)	Effective Date
Kamaole	2.547	September 18, 2018
Ke`anae	0.003	September 18, 2018
Kawaipapa	0.118	September 18, 2018
Lualaiula	0.063	September 18, 2018

Table 5. Water reserved for DHHL for Maui Hikina tracts by CWRM based on the mid-level demands in the 2017 SWPP Update.

Recent Water Issues

While water issues in Maui Komohana have received considerable attention recently, water issues in Maui Hikina continue to be areas of significant concern and public attention. Most of these resolve around the long running issues related to the diversion of water from a number of streams in Maui Hikinia to agricultural fields in central Maui. Referred to as the East Maui Irrigation System (EMI), the system diverts water from multiple streams and at multiple elevations and also delivers water to Maui County's upcountry water system. Much of the water comes from diversions on state owned lands. The legal agreements (currently revocable permits, with a long-term lease being sought from the Board of Land and Natural Resources

[BLNR])) allowing diversion from state owned land have been the subject of multiple legal proceedings over decades.

Status of BLNR proposed EMI lease

The status of the proposed EMI lease is being briefed to the BLNR by staff on Friday October 13, the week before the HHC meeting that this submittal is being prepared for. The staff submittal for the BLNR meeting is available at <https://dlnr.hawaii.gov/wp-content/uploads/2023/10/D-6.pdf>. The submittal indicates that there had been a plan to seek bringing the lease to the Board before the end of 2023 but "Due to several outstanding complex issues, approval for public auction for a water license will not be able to be brought before the Board before the end of 2023." These issues include:

- development of a draft water license document;
- reduction of the license areas under the revocable permits and prior leases, which placed approximately 33,000 acres of forest reserve lands under private control;
- Approval of a stream diversion works permit for the abandonment of certain diversions by CWRM

Writ of Mandamus

As DHHL asserts its rights to water on Maui, DHHL and its beneficiaries need to be aware of competing interests and perspectives related to water. The following is a recent example of differing interests and perspectives to be aware of. On August 9, 2023, the state Attorney General on behalf of BLNR filed a "Writ of Mandamus" before the Hawai'i Supreme Court (HSC) asking that court to compel Environmental Court Judge Crabtree to modify rulings related to certain ongoing litigation related to EMI. The filing indicated that the standing ruling prevented sufficient water being available to fight fires the day previously. The HSC held oral argument on the matter on August 23, and the following day the HSC denied the motion.

East Maui Water Authority Board

As an alternative to the state issuing a long term disposition to EMI, voters in Maui County in the November 2022 election passed a charter amendment calling for the creation of "Community Water Authorities" that could acquire and manage water systems, and specific provision was made for the creation of an "East Maui Regional Community Board" to pursue matters related to the EMI system. At its June 2023 meeting, the HHC appointed a representative into a seat reserved for a

representative of the HHC. Due in part to delays related to addressing fire impacts, the Board has not yet met.

East Maui Water Authority Board Consultation process on appointment

In order to more smoothly create a pathway for the appointment of a member to the East Maui Regional Community Board, the Planning Office will lead a beneficiary consultation to establish such a process. That process and background information is available at <https://dhh1.hawaii.gov/po/maui/po-maui-east-maui-water-authority/#:~:text=At%20its%20June%202023%20meeting,four%20years%20and%20five%20years.>

DHHL EMI Reservation Request Status

On December 16, 2020, following HHC action including approval of a Beneficiary Consultation Report on the same issue, DHHL submitted a reservation petition to CWRM for waters related to East Maui Irrigation System. That Petition for Reservation was for 11,177,500 gallons per day ("gpd") originating from the watersheds of East Maui and diverted by the East Maui Irrigation ("EMI") system for the current and foreseeable development and use of the Pūlehunui and Kēōkea-Waiohuli Hawaiian Home Lands, under the State Water Code.

At their August 2022 meeting, CWRM heard a briefing from their surface water branch staff member Dr. Ayron Strauch on an [Analysis of Non-instream Uses Relying on Water from East Maui Streams](#). In the recording of their meeting, It begins at about 2:08:30 here: <https://youtu.be/zLomIZJlIiQ> and lasts to 4:11 or so. While the detailed presentation and its associated submittal contains extensive significant information, we highlight two key observations here:

- During the contested case over the 2001 Petition regarding east Maui water decided in 2018, CWRM estimated there was at mean flow about 103 million gallons a day (mgd) available for off stream uses after meeting in stream needs
 - o Using updated data on available water, they now estimate only around 58 mgd is available.

- DHHL's reservation request was based on HHC designated land uses and standard water demands, and totaled 11.17 mgd, of which 9.85 mgd is for upcountry (specifically Keokea and Waiohuli) and the remainder (1.328 mgd) for Pūlehunui

- o Utilizing their own irrigation estimation software, CWRM suggest 7.87 mgd is needed for upcountry and 2.943 mgd for Pūlehunui

CWRM considered the DHHL reservation request in combination with proposed modifications to stream flow standards at their September 2023 meeting. In part due to the combination of these matters, testimony about the DHHL reservation was mixed. CWRM deferred action on the item and DHHL staff and consultants are working with CWRM staff to seek to have the reservation request rescheduled as a stand-alone item.

Pā`upena Community Development Corporation Meter Request

The Pā`upena Community Development Corporation has submitted a water meter request to DHHL for use on parcel they are seeking a long term disposition on. DHHL staff and consultants are working to implement this request under the "Processes for the Allocation of Water Credits and Water Meters on Water Systems Serving DHHL Lands" approved by the HHC in September 2022.

Kēōkea / Waiohuli Water Source Options

Finally we note that in addition to pursuing a reservation of water related to EMI, DHHL consultants working with LDD have continued to explore both how those waters could be transmitted to Kēōkea / Waiohuli, as well as water source alternatives. This could occur through groundwater development, though that can be challenging at the elevation of these lands.

V. RECOMMENDED MOTION/ACTION:

None; for information only.

DEPARTMENT OF HAWAIIAN HOME LANDS WATER KULEANA

The Department of Hawaiian Home Lands (DHHL) has four primary water responsibilities: to plan for water needs and advocate for water rights, to develop water sources, and to manage water systems. To help fulfill these responsibilities, DHHL has distinct water rights based on the Hawaiian Homes Commission Act (HHCA), the Hawai'i State Constitution (HSC), Hawai'i Revised Statutes (HRS), Attorney General's opinions and court cases. These water rights are tools that the Hawaiian Homes Commission (HHC) can use as needed. Just as a lei maker can choose which lehua is right to use, which tool/right is best to use depends on the opportunities at hand and the costs (financial and otherwise) of asserting that tool/right.

Right/Tool	Description	Legal Reference	Has it been exercised? Where?
RESPONSIBILITY: PLAN FOR WATER NEEDS AND ADVOCATE FOR RIGHTS			
Water Reservations	The Commission on Water Resource Management shall “reserve” water for future DHHL needs to the extent applicable, based on DHHL projections.	<ul style="list-style-type: none">• HHCA § 221• HRS §§ 174C-49(d), 101(a)• HAR §13-171-61, 62, 63	Yes; for groundwater in designated areas on O‘ahu and Moloka‘i; for some surface and ground water sources in non-designated areas on Kaua‘i, Lāna‘i, Maui, and Hawai‘i.
Water License Revenue	Advocate for continued provision of 30% of the receipts from state-issued water licenses.	<ul style="list-style-type: none">• HSC Art. XII, § 1• HHCA § 213(i)• HRS §§ 171-58(g), 174C-101	Yes; DHHL has received revenue and audited returns, and continues to advocate for broader application and fair pricing of lease requirements.
Public Trust Status	Public Trust purposes of water include domestic (individual household) water needs, traditional and customary Native Hawaiian practices, resource protection, and DHHL reservations. Public Trust purposes have priority over private commercial uses of water.	<ul style="list-style-type: none">• HSC Art XI, §§ 1, 7• HRS §§ 1-1, 174C• Waiāhole I, 94 Haw. 97 (2000)• Wai‘ola• Kukui, 116 Haw. 481 (2007)	Yes; in legal actions on O‘ahu (Waiāhole I) and Moloka‘i (the Wai‘ola and Kukui cases) and in numerous hearings and meetings before county and state authorities.
RESPONSIBILITY: DEVELOP WATER SOURCES			
Priority Use	Only in water management areas, water use permits are issued with conditions on non-interference with DHHL’s rights and reservations. Permitted amounts of others can be reduced if they interfere.	<ul style="list-style-type: none">• HRS § 174C-49(a)• Wai‘ola O Moloka‘i, 103 Haw. 401 (2004)	Partially; in the ground water management areas established on O‘ahu, Moloka‘i, and Maui, permits are issued conditioned on DHHL’s rights. On Moloka‘i a permit was successfully challenged for its impact on DHHL rights.
Demand Water	To supply pastoral, aquaculture, agriculture, or domestic needs, DHHL can (1) demand water derived from government lands, without payment, (2) negotiate for the right to use water derived from government or private lands, or (3) bring eminent domain proceedings in its own name.	<ul style="list-style-type: none">• HHCA § 221• HRS § 171-58• Attorney General Opinion dated 8/22/1994	Partially; DHHL has negotiated for the use of water across the islands, and has used the related power to reserve water (see below) but has not “demanded” water from government lands nor brought eminent domain proceedings.
Issue Leases or Licenses	DHHL can lease or license trust land to third parties for the provision of water.	<ul style="list-style-type: none">• HHCA, especially §§ 204.5, 207	Yes; most new DHHL water systems are built to County standards then licensed to the respective County.
RESPONSIBILITY: MANAGE WATER SYSTEMS			
Own and Manage Water Systems	DHHL can develop, manage, and own water systems and deliver water to homesteaders and others. It is barred from selling any wholly-owned system.	<ul style="list-style-type: none">• HHCA §§ 220, 220.5, 221• HRS § 167	Yes; on Moloka‘i, Kaua‘i, and Hawai‘i.
Derive Revenue	The HHC may derive revenue from the delivery of water to non-homesteaders.	<ul style="list-style-type: none">• HHCA § 220	Yes; on Moloka‘i and Kaua‘i.
Moloka‘i Irrigation System (MIS)	If an actual need is shown to the Department of Agriculture, the HHC and homesteaders have a preference right to 2/3 of the water developed by the system.	<ul style="list-style-type: none">• HRS § 168-4	No; however some homesteaders have individually sought water from the MIS and have been granted access.

THE COMMISSION ON WATER RESOURCE MANAGEMENT (CWRM) ON APPEAL, 1987 – 2023

In 1987 the Legislature passed the Hawaiʻi Water Code (HRS 174C) and created the CWRM. The seven members have made nine major decisions that have been appealed to the Intermediate Court of Appeals (ICA) or the Hawaiʻi Supreme Court (HSC). Seven of nine times CWRM has been overruled for failing to protect public trust and Native Hawaiian interests in water. CWRM’s two wins were when they ruled with Native Hawaiian, working class and mālama ʻāina advocates. Victories are in green and reversals in grey.

	CASE	ISSUE	CWRM DECISION	COURT DECISION
1	Koʻolau Ag, 83 Hawaiʻi 484, 927 P.2d 1367 (1996)	The Sierra Club petitioned for water management areas (WMAs) on Oʻahu.	At their May 5, 1992 hearing, CWRM voted to designate the five aquifers as WMAs. Koʻolau Ag., a commercial water user, appealed.	HSC upheld CWRM; “a WMA designation is not judicially reviewable,” but a decision to <i>not</i> designate may be.
2	Waiāhole I, 94 Hawaiʻi, 97, 9 P.3d 409 (2000)	Windward groups petitioned to return water to windward streams that had been diverted to leeward Oʻahu for nearly a century.	In December 1997 after a long contested case hearing (CCH), CWRM permitted over half the water for ditches and released the “surplus” to two of three windward streams under increased interim instream flow standards (IIFS).	HSC reversed because: (1) The new IIFS were not shown to be sufficient for instream uses; (2) “Public Trust” uses are supposed to have priority over private commercial water use; (3) the “precautionary principle” requires protection when science is uncertain.
3	Waiāhole II, 105 Hawaiʻi 1, 93 P.3d 643 (2004)	The Agricultural Development Corp. (ADC) and other commercial users sought water use permits (WUPs) for agricultural uses and ditch system losses.	CWRM ruled: (1) IIFS could be half their natural flow because anciently ditches could not divert more than half of streams; (2) Economic impacts on leeward users made groundwater use impracticable; (3) ADC was granted a WUP for system losses.	HSC reversed because: (1) CWRM did not show restoring half of stream flow would protect instream uses; (2) economic viability of diversions was not adequate grounds for its decision in light of public trust purposes; (3) ADC’s 1.5 mgd losses did not comply with WUP conditions.
4	Waiʻola, 103 Hawaiʻi 401, 83 P.3d 664 (2004)	Waiʻola, a Molokaʻi Ranch (MR) subsidiary, sought a WUP for development.	Practitioners, the Department of Hawaiian Home Lands (DHHL) and others opposed the WUP. After holding a CCH, CWRM issued Waiʻola an “interim” WUP.	HSC vacated the WUP because: (1) CWRM did not protect DHHL’s and traditional/ customary rights; (2) Waiʻola had the burden of showing how it would not affect these rights.
5	Kukui, 116 Hawaiʻi 481, 174 P.3d 320 (2007).	Kukui Molokaʻi Inc. (KMI), a different MR subsidiary, applied for a WUP in a different aquifer than in Waiʻola.	In a CCH, DHHL argued water for homesteaders was a public trust use and pumping nearby could affect their reservations. Hawaiian practitioners argued groundwater removal would impact near shore traditional and customary practices. CWRM granted a WUP.	HSC reversed CWRM’s decision because: (1) DHHL’s water reservation was a public trust purpose; (2) KMI had not been burdened with showing an absence of alternatives; (3) CWRM impermissibly placed the burden on DHHL to show how Kukui would impair water quality.
6	Waiāhole III, 130 Hawaiʻi 346, 310 P.3d 1047 (2010)	Central / leeward users including Puʻu Makakilo, Inc. (PMI) sought WUPs.	Jul. 2006: CWRM granted water to central / leeward users. Windward community groups appealed to the ICA.	ICA vacated PMI’s WUP because CWRM refused to consider evidence that PMI did not need all water applied for in its WUP.
7	Nā Wai ʻEhā, 128 Hawaiʻi 228, 287 P.3d 129 (2012)	Maui community groups petitioned to amend the IIFS for the streams of Nā Wai ʻEhā for instream uses and kalo cultivation.	From 2007-08, a CCH was held on Hui o Nā Wai ʻEhā’s IIFS petition, resulting in a proposed restoration of 34.5 mgd by a hearings officer. CWRM instead chose to limit restoration to only two of the four streams.	HSC overturned CWRM’s decision for: (1) failing to consider impacts on and protections for practices; (2) incompletely analyzing instream uses; (3) miscalculating alternative water sources, user company’s acreage and reasonable system losses.
8	Nā Moku Aupuni o Koʻolau Hui, 128 Hawaiʻi 497, 291 P.3d 395 (Haw. App. 2012) (mem.)	A community group petitioned CWRM to amend the IIFS for 27 East Maui streams diverted for Central Maui agriculture.	CWRM amended IIFSs for 8 streams. Oct. 2010: CWRM denied Nā Moku’s petition for a CCH on its IIFS petition on the basis that Nā Moku had no “legal” right to a CCH. Nā Moku appealed to the ICA.	ICA reversed CWRM’s CCH denial. Nā Moku members exercised legally protected traditional and customary practices, including kalo cultivation. CWRM’s IIFS decisions on Nā Moku's members' rights merited a CCH.
9	Kukui II, No. SCOT-17-0000184 (2018)	Remand of the Kukui case	CWRM dismissed the Kukui remand, at the urging of DHHL and OHA; MR appealed.	HSC upheld CWRM: The Commission did not err in finding MR had made a clear and unambiguous waiver.

HAWAIIAN HOMES COMMISSION WATER POLICY PLAN

July 22, 2014

Vision

Our vision is that there will be adequate amounts of [water](#) and supporting infrastructure so that homestead lands will always be usable and accessible, to enable us to return to our lands to fully support our self-sufficiency and self-determination in the administration of the Hawaiian Homes Commission Act (HHCA), and the preservation of our values, traditions, and culture.

Mission

In a manner consistent with our [values](#), the Hawaiian Homes Commission (HHC) and Department of Hawaiian Home Lands (DHHL) shall strive to ensure the availability of adequate, quality [water](#) by working cooperatively to:

- Understand our trust [water](#) assets;
- Plan for our [water](#) needs;
- Aggressively understand, exercise and assert our [kuleana](#) as stewards of [water](#);
- Develop and protect [water](#) sources; and
- Manage [water](#) systems.

Values

1. **Waiwai:** [Mōhala i ka wai ka maka o ka pua](#). *Unfolded by the water are the faces of the flowers.* The availability of [water](#) to our lands and people is integral to the trust and our mission.
2. **Waihona:** [Ua lehulehu a manomano ka `ikena a ka Hawai`i](#). *Great and numerous is the knowledge of the Hawaiians.* Honoring and documenting our knowledge about [water](#) is essential to managing it.
3. **Mālama:** [He ali`i ka `āina; he kauwā ke kanaka](#). *The land is a chief; man is its servant.* We consider [water](#) to be part of our genealogy and so we manage it in a manner that cares for its long-term sustainability for all things, as we also use it productively for our mission.
4. **Laulima:** [E lauhoe mai nā wa'a; i ke kā, i ka hoe; i ka hoe, i ke kā; pae aku i ka 'āina](#). *Everybody paddle the canoes together; bail and paddle, paddle and bail, and the shore is reached.* We are one people who now share Hawai`i with others. DHHL is only one of many Hawaiian serving institutions. We will assert our rights while considering our larger lāhui `ōiwi and the larger world in which we live.

Policies

The HHC and the DHHL are seeking to be proactive in our management of water. Our Priority Policies are to:

1. Expressly determine and plan for future [water](#) needs and actively participate in broader [water](#) management, use and protection efforts in Hawai'i in order to secure [water](#).
2. Aggressively exercise, reclaim, and protect Hawaiian home land [water kuleana](#).
3. Develop, manage, and steward [water](#) in a manner that balances cost, [efficiency measures](#), and [Public Trust](#) uses in the short and long term.
4. Affirmatively communicate our decisions, our reasoning, and our performance in managing, stewarding, and using [water](#) before and after making major [water](#) decisions.

Additionally, the HHC and the DHHL should consider in their work the following statements:

5. Educate beneficiaries, the DHHL, HHC, and other stakeholders continually on our [water kuleana](#).
6. Foster self-sufficiency of beneficiaries by promoting the adequate supply of [water](#) for homesteading when developing or managing [water](#).
7. Foster the self-determination of beneficiaries by seeking ways for beneficiaries to participate in the management of [water](#) by delegating authority related to [water](#) subject to the discretion of the HHC as described in the [HHCA](#).
8. Make [water](#) decisions that incorporate traditional and place-based knowledge of our people and are clear and methodical in their reasoning.
9. Make efforts to understand, maintain, and improve the quality of [water](#) as it moves into and through our lands and is used by beneficiaries.
10. Affirmatively consider the development and use of [alternative sources](#) of [water](#) and [efficiency measures](#) in [water](#) decision-making.
11. Ensure that [water](#) decisions are consistent with other Departmental [policies](#), programs, and plans including but not limited to the [Energy Policy](#) and Agricultural Program.
12. Explicitly consider [water](#) availability and the costs to provide adequate [water](#) when developing new homestead areas, designating land uses, issuing land dispositions, or exchanging properties.

Goals

To make progress on achieving our Mission and complying with our Policies, the Priority Goals of the HHC and the DHHL are to:

1. Affirmatively communicate with beneficiaries regarding [water](#) decisions, performance, and [water](#) rights on a regional and annual basis.
2. Aggressively, proactively, consistently and comprehensively advocate for the [kuleana](#) of the beneficiaries, the DHHL, and the HHC to [water](#) before all relevant agencies and entities.
3. Develop and manage a [Water Assets Inventory \(WAI\)](#).
4. Support watershed protection and restoration on DHHL lands and source areas for DHHL [water](#).

Additional goals that DHHL and the HHC shall seek to achieve, based on the availability of resources, organized by Mission activities, are:

Part I. Understand our trust water assets

1. Revise the DHHL submittal template to the HHC for [water](#) related decisions.
2. Revise budgets to show the total costs of a) [water](#) system management b) all spending on [water](#) issues.
3. Staff and organize the DHHL consistent with importance of [water](#) to the trust.

Part II. Plan for our water needs

4. Determine current and foreseeable future needs based upon periodic reviews of [water](#) availability projections that incorporate climate change, projected beneficiary demand, [alternative sources](#) and [efficiency measures](#) efficiency measures.
5. Design homesteads and manage lands to create and enhance [water](#) availability, optimizing costs, use of [alternative sources](#) and [efficiency measures](#).

Part III. Aggressively understand, exercise and assert our water rights

6. Secure adequate and enforceable reservations of [water](#) for current and foreseeable future needs for all of its lands across the islands.
7. Partner with trust beneficiaries in [water](#) advocacy efforts.
8. Engage in updates to all [Hawai'i Water Plan](#) elements to ensure DHHL [water](#) needs and rights are addressed.
9. Advocate that all [Water Use Permit Applications](#) properly address the [water](#) rights of DHHL and other Hawaiian [water](#) rights.

10. Advocate that County Boards of Water Supply and other County agencies that affect [water](#) have the spirit of the [HHCA](#) faithfully carried out to protect DHHL water uses as a [Public Trust](#) use of [water](#) and manage rates so they are affordable by beneficiaries.
11. Ensure that all legal provisions for the licensing of state [water](#) are followed.

Part IV. Develop and protect water sources

12. Carefully weigh alternatives regarding the dedication or DHHL management of new [water](#) systems.
13. Methodically and consistently manage and allocate water credits.
14. Support the drilling of wells by beneficiaries for their own use on lots where appropriate.
15. Partner with Department of Health and others on [water](#) quality education and outreach.
16. Continue to pursue development of agricultural [water](#) systems.

Part V. Manage water systems

17. Secure revenue and reduce operation costs so DHHL [water](#) systems break even financially over the long term.
18. Increase security and reliability for DHHL [water](#) users.
19. Pursue resolution by the Department of Agriculture of prior audit findings in the management of the Moloka'i Irrigation System and full repair of the System

Delegation of Authorities, Reporting, and Consultation

1. Delegation
 - a. The HHC delegates authority to the Chairperson to prepare an Implementation Program for this Water Policy Plan, which shall be subject to the approval by HHC. The Program shall identify tasks to implement each goal, and shall specify tasks that apply statewide as well as tasks that apply to different islands or regions under each goal.
2. Reporting
 - a. The Chairperson shall submit the proposed Implementation Program to the HHC annually in conjunction with the Department's budget request.
 - b. The Chairperson shall annually report on progress on execution of the approved Implementation Program and overall progress towards achieving the goals of and maintaining compliance with the Water Policy Plan.
3. Consultation
 - a. The Chairperson shall consult with the HHC on any major water issues not contained in the Implementation Program.

Legal Authorities

1. [Hawai'i State Constitution](#)
2. [Hawaiian Homes Commission Act of 1921, as amended](#)
3. [Hawai'i State Water Code, HRS 174C](#)
4. [In the Matter of Water Use Permit Applications \(Waiāhole I case\)](#)
5. [Wai'ola o Moloka'i](#)
6. [Kauai Springs, Inc. v. Planning Commission of the County of Kauai](#)

Related Plans and Policies

1. [DHHL General Plan](#)
2. [DHHL Energy Policy](#)
3. [Hawaiian Homes Commission Beneficiary Consultation Policy](#)

References

1. 1983. Puku'i, Mary Kawena. **'Ōlelo No'eau: Hawaiian Proverbs & Poetical Sayings**. Honolulu: Bernice Pauahi Bishop Museum.
2. **Aia i hea ka wai a Kāne?** (Traditional chant, "Where is the water of Kāne?")

Definitions

Alternative sources: Alternative sources include but are not limited to the water developed through reuse and recycling technologies and best practices, capture of flood waters, desalinated waters, and other sources as may be appropriate for proposed uses.

Hawai'i Water Plan: The Hawai'i Water Plan and its parts, as detailed in Part III of the Hawai'i State Water Code (HRS 174C), is the state's "program of comprehensive water resources planning to address the problems of supply and conservation of water" (HRS 174C-2(b)).

Efficiency Measures: Efficiency measures include optimal design and development, alternative energy utilization, changing in behavioral practices and technologies that support onsite distributed wastewater systems.

Kuleana: Kuleana encompasses both rights and responsibilities. DHHL's water kuleana includes its responsibilities under its mission and the legal rights to water enshrined in the HHCA and state Constitutional and statutory provisions. Kuleana exists within the genealogical and spiritual relationship between water and the lāhui `ōiwi.

Public Trust: As delineated in the Hawai'i Supreme Court [Waiāhole I](#) and [Wai`ola O Moloka`i](#) cases, public trust uses of water include domestic uses, traditional and customary Hawaiian rights, the protection and procreation of fish and wildlife, the maintenance of proper ecological balance and scenic beauty, and reservations of water for the DHHL.

Water: In this policy, water includes mists, fog, rain, and other precipitation; water as it flows above or below ground, and into the ocean; water used for homesteading; alternative sources including waste, brackish, and salt water; water used in the exercise of traditional and customary practices; infrastructure used to produce, store and transmit water; and water we use as well as water to which we have rights.

Water Assets Inventory (WAI): A comprehensive geographically referenced database of the water assets of the DHHL, including traditional knowledge related to water, DHHL owned water infrastructure, current and future water demand, water agreements, water credits, and potential water sources.

Approval Date

Policy approved by the Hawaiian Homes Commission on July 22, 2014.

Hawaiian Homes Commission
Meeting
October 16 & 17, 2023

H ITEMS

State of Hawai'i
DEPARTMENT OF HAWAIIAN HOME LANDS

October 16, 2023

TO: Chair Watson and Commissioners, Hawaiian Homes Commission

FROM: Brian K. Furuto, Acting Administrative Services Officer

SUBJECT: Ratification of Emergency Purchases Related to Lahaina Wildfire Impacting the Villages of Leiali'i, Village 1-A

RECOMMENDED MOTION/ACTION:

To ratify the Chairman's Emergency Action to procure and expend \$960,000 for emergency purchases and related costs that were made in August 2023 to address urgent Leali'i homestead community needs arising from the Lahaina wildfires that occurred on August 8 and 9, 2023, as described below, and to continue to procure and expend fiscal resources, as needed.

DISCUSSION:

The Lahaina/West Maui wildfires on August 8 and 9, 2023 caused damage to the electrical power and water delivery systems in the West Maui area, including the Department of Hawaiian Home Lands Villages of Leiali'i, Village 1-A subdivision. Electricity to the Leali'i Homestead community went out on August 8, 2023, and initial estimates for restoration from Hawaiian Electric Company (HECO) ranged from 14-45 days. The County of Maui Department of Water Supply (DWS) potable water system was also not operable, both causing serious health and safety issues for homestead residents.

Fortunately, the Lahaina wildfire seemed to have jumped over and around the Leiali'i subdivision. However, two homes along the south Wahikuli boundary were destroyed. DHHL learned that shortly after the fire, homeowners started returning to their homes, despite water and power outages. Leali'i community leaders immediately sprang into action and used their own resources, including their homes, to serve as meeting, communication, and supply staging points for the community. It was quickly determined that additional resources beyond goods and supplies would be necessary to aid the Leiali'i homestead.

Knowing homesteaders were returning to their homes, with the assistance of Alpha Inc. And Dowling Company, the first priority was to restore temporary power and provide for portable wastewater services, i.e.. portable toilets. While the County of Maui stated that the wastewater system in Lahaina continued to operate, without potable water being delivered to homes, flushing was not possible. With authorization from DHHL, Alpha Inc. procured numerous portable generators to provide temporary power to homes being occupied. Alpha Inc. also procured portable toilets and strategically placed them throughout the community.

Upon learning of further difficulties our homesteaders were facing, the DHHL Chair, Maui Island Commissioner, and other department leadership met with the Council on Native Hawaiian Advancement (CNHA) and DHHL contractors. DHHL contractors quickly assisted and helped to procure critical equipment including a 50' x 12' trailer with photovoltaic power generation, 100 portable generators, dust fencing and dust control to mitigate potentially toxic dust from entering the Leiali'i subdivision, and other essential resources.

Approximately one week following the wildfire, HECO restored power to the Leiali'i subdivision. The County of Maui DWS also restored potable water service; however, a "No Drink" advisory was issued, cautioning and limiting the use of water for only waste disposal and restricting drinking and cooking. On October 6, 2023, the DWS lifted the restriction based on sampling, testing, and evidence supporting the acceptability of the water and that all properties in the Villages of Leiali'i and have full use of the potable water since. As a matter of information, approximately a dozen homestead lots in Waiohuli along and adjacent to Kula Highway, Lauie Drive and Pueo Drive were also impacted with the "No Drink" advisory. The similar restriction has been dropped, as shown on the County of Maui DWS webpage.

The potential for harmful elements in the fugitive dust and particulates migrating from the Wahikuli properties is of great health concern with the Leiali'i subdivision residents. As mentioned earlier, Alpha Inc erected a dust fence along the Wahikuli boundary, adjacent to any burned private property. A sprinkler system was installed on the dust fence to spray down the adjacent property and to help mitigate dust particulates. The sprinkler system is connected to individual homes. Each homesteader along the Wahikuli boundary will be compensated for the additional water cost needed to supply the sprinkler system. These costs are to be determined and not calculated into the amount identified in the subject action.

It is our understanding that a dust monitor was installed by Department of Health and Federal Emergency Management (FEMA). The dust monitor results are negative for toxic particulates; however the environment remains subject to further testing. Operating under an abundance of caution, Land Development Division (LDD) recommends the purchase of additional air quality monitors, prior to the clean out effort of the County of Maui and FEMA. While a surfactant type coating will be sprayed on burned material, the wind is strong and is unpredictable in its direction, DHHL seeks to exercise additional monitoring in the event that fugitive dust proves to have toxic elements. It is possible that DHHL in conjunction with the County of Maui and the Hawaii Emergency Management Agency Joint Command may have to issue a temporary relocation of its Leiali'i residents, during the cleanup effort.

DHHL has assisted lessees of Lot 15 and Lot 16 prepare Right of Entry applications to the County of Maui to be able to enter the DHHL lots for cleanup. Despite losing their hale, the two families are in as good spirits as can be expected and have been responsive in providing information need by the County of Maui. Alpha Inc. also provided a dust fence around the two destroyed homes, to limit exposure to surrounding homes.

While the other 102 homes, were not destroyed, fire damage to roofs and belongings in yards were sustained. There could also be substantial smoke damage to the interior of homes; homeowners still report smoke smell which has settled in the ceiling, on walls and furniture.

CNHA has provided the cost of adjusters to enter homes to determine costs for smoke mitigation and cleaning.

The various activities and purchases are vital to ensure the safety and well-being of affected residents and to support the on-going disaster response efforts. It should be noted that DHHL procured items quickly, since there were competing agencies and communities vying for these same goods and equipment. Other new and on-going emergency recovery expenses are anticipated, such as the trailer rental, new air quality monitors, and sprinkler water expenses.

The total amount, to date, that the Department will pay to contractors who assisted in the purchase is estimated to be \$1,200,000. Figure 1 is a summary of these expenditures followed by an explanation and justification.

Figure 1.

Item	Cost	Projected Cost	Total Cost
Power Generators	\$349,366.49	\$0.00	\$349,366.49
Boat Freight/Shipping	\$22,568.00		\$22,568.00
Lease Rent for Trailer*		\$38,187.29	\$38,187.29
Dust Fence		\$175,000.00	\$175,000.00
Sprinkler/Dust Control*		\$100,000.00	\$100,000.00
Various Misc Costs		\$75,000.00	\$75,000.00
Potable Water		\$200,000.00	\$200,000.00
Air Quality Monitors		\$80,000.00	\$80,000.00
Restoration of Irrigation System		\$50,000.00	\$50,000.00
Rental and Storage Expenses*		\$100,000.00	\$100,000.00
Total	\$371,934.49	\$818,187.29	\$1,190,121.78

*recurring cost per annum

Electrical Generators:

Quantity: 100 units

Total Cost: \$349,366.49

Justification:

The Lahaina Wildfires caused widespread power outages in the affected areas, leaving residents without access to essential electrical services. These diesel-powered generators were critical to provide immediate backup power for homesteaders. Ensuring a reliable power supply is essential for maintaining communications, medical equipment, and essential services during the crisis. In an abundance of caution, and prior to the restoration of power, DHHL sought purchasing additional home use generators, should HECO power take longer than anticipated. Alpha Inc's cost for initial generator rental, labor and set up is not included in this amount.

Boat Freight:

Total Cost: \$22,568.00

Justification:

Given the urgency of the situation, it is imperative to expedite the delivery of the generators to the affected areas. Boat freight provides the fastest and most efficient means of transportation to ensure that these generators reach Lahaina as quickly as possible. Timely delivery is crucial to addressing the immediate needs of the affected population.

Lease Rent for Trailer:

Duration: 12 months

Monthly Cost: \$2,455.19

Shipping and Set up: 8,725.01

Total Estimated Cost: \$38,187.29

Justification:

A 50'x12' trailer is necessary to serve as an all-purpose center for coordinating relief efforts. This trailer will provide a safe, secure and organized space for storing essential supplies, providing community meeting space, and serve as a location for support services. The three-month lease period aligns with the expected duration of the emergency response phase; however, it is expected that recovery for the community will take much longer. It is estimated that the trailer will be needed for at least 12 months.

Dust Fence:

Total Estimated Cost: \$175,000

Justification:

Materials and labor costs for dust fencing. Dust fencing is important after a fire because it help in mitigating air pollution, protecting water quality and the environment, maintaining infrastructure, ensuring public safety, supporting habitat recovery, and complying with environmental regulations.

Sprinkler/Dust Control:

Total Estimated Cost: \$100,000

A sprinkler system, or other dust control method, is essential after a wildfire because it serves as a valuable tool for fire suppression, protection of structures and property, ember control, and overall wildfire mitigation. It helps safeguard lives, property, and communities while reducing the risk of further fire damage in the aftermath of a wildfire. Sprinkler use will incur additional water charges; amounts will be advanced to participating homeowners.

Various Costs:

Total Estimated Cost: \$75,000

Justification:

Photovoltaic container to power the trailer, portable toilets, Rolloffs refuse bins, containers, and other miscellaneous costs, which may include customs fees, storage charges, and other incidentals related to the purchase and transportation of the various purchases.

Potable Water:

Total Estimated Cost: \$200,000

Justification:

Leali'i homestead potable water was restored on October 6, 2023. Prior to the lifting of restrictions there were community needs for drinking and cooking via bottled water. The department will continue to work with the County of Maui and FEMA to ensure that an adequate supply of clean water is provided to the community.

Air Quality Monitors

Estimated cost: \$80,000

Justification: provide more complete air quality monitoring to supplement the single monitor

Restoration Irrigation system

Estimated cost: \$50,000

Justification: DHHL responsible for maintenance of Leiali'i Parkway and common areas.

The irrigation system was damaged during the fire and is currently inoperable.

Of note is the effort by DHHL and HHFDC to keep brush and grass down and maintained mauka of the Leiali'i subdivision; whereby precluding the wildfire spread. While monkeypod trees were scorched, the Leiali'i Parkway to the north of the subdivision may have also acted as a firebreak.

Rental and Storage expenses

Estimated costs: \$100,000

Justification: Continued rental and storage related expenses for currently purchased items, including the office trailer, PV trailer, and storage of generators.

Hawaiian Homes Commission
Meeting
October 16 & 17, 2023

J ITEMS

Hawaiian Homes Commission Meeting
October 16 & 17, 2023
J Agenda

Requests to Address the Commission

- J-1 Kahaunani Mahoe-Theone – Foreclosure and Lease Cancellation Prevention
- J-2 Lexy Gorgonio, Chelsea Enos, Troy Hanohano – Kanaka Anti Displacement Fund
- J-3 Blossom Feiteira – Various Maui Concerns
- J-4 Kekoa Enomoto – Pāupena Community Development Corporation
- J-5 J. Alohalani Smith – Wākiu Community Development Corporation
- J-6 Noelani Paresa - Pāupena Updates
- J-7 Mahealani Wendt – Keanae and Wailuanui
- J-8 Bo Kahui – LaiŌpua
- J-9 Terri Napeahi – Keaukaha Action Network - Geothermal
- J-10 Jessie Wallace – Relocations
- J-11 Charlita Mahoe – Ahupuaa O Nanakuli
- J-12 Allen Cardines Jr. – Neighborhood Security Watch
- J-13 Ainaaloha Ioane – Mālama Ka Āina, Hana Ka Āina
- J-14 Robin Kealiinohomoku – Various Concerns
- J-15 Kapua Keliikoa-Kamai – Beneficiary Consultation Process and Act 279
- J-16 Sherilyn Wahinekapu – Lease Concerns

From: stacelynn.k.eli@hawaii.gov
To: [Burrows-Nuuanu, Leatrice W](#)
Subject: New submission from Submit J-Agenda Testimony
Date: Tuesday, September 05, 2023 2:04:03 PM

Name

Kahaunani Mahoe-Thoene

Email

kahau@hawaiiancommunity.net

Message

Aloha, I am writing to request the opportunity to testify via video to the Hawaiian Homes Commission regarding a foreclosure and lease cancellation prevention plan for lessees on Maui.

As Operations Director with over 10 years of experience in assisting our people prevent foreclosure, I will be speaking on the following recommendations on behalf of Hawai'i Community Lending:

- 1) Put in place a 12-Month Lease Cancellation Moratorium for Maui Lessees;
- 2) Offer 12-Month Mortgage Forbearance to all Maui Lessees with DHHL Direct Loans, and;
- 3) Consider contracting for foreclosure and lease cancellation prevention services to lessees in order to help them at this critical time.

Mahalo for the opportunity. I look forward to testifying on September 19.

From: stacelynn.k.eli@hawaii.gov
To: [Burrows-Nuuuanu, Leatrice W](#)
Subject: New submission from Submit J-Agenda Testimony
Date: Tuesday, September 05, 2023 1:58:17 PM

Name

Lexy Gorgonio

Email

lexy@hawaiiancommunity.net

Message

Aloha, I would like to register to provide video testimony regarding the Kanaka Anti-Displacement Fund established by Hawai'i Community Lending.

The Fund's phase 1 objective is to first support the 102 'ohana in the Leiali'i homestead in preserving their stewardship and access to 'āina (land) on Maui. HCL's relationship with the Leiali'i 'ohana runs deep. We helped them get their mortgages to secure their place on the land in 2007 and 15 years later, we are here to make sure they stay on the land. In phase 2, HCL will seek to expand the Fund's reach to serve the remaining 169 kānaka homeowners who were impacted.

Under the Fund, HCL 'Ohana Advocates will first meet with homeowners to help them request a copy of their certified policy active on the date of the disaster from their insurance company. At the same time, the homeowner will be referred to various resources: 1) HCL loss mitigation specialists to obtain mortgage forbearances, modifications, or grants and loans to pay past due mortgage, HOA fees, property taxes, and utilities, 2) a Hawaiian Community Assets (HCA) HUD certified housing counselor to establish a crisis budget, 3) a trained FEMA application assistant to file for disaster assistance and appeal denials, and 4) a public insurance adjuster (PA) who will review homeowner policies to educate them on what is covered and create a documentation list needed for submission of an insurance claim. 'Ohana Advocates will help homeowners collect required documents and prepare an insurance claim. Homeowners may then retain the PA to act on their behalf to submit a claim and negotiate with their insurance company.

I have submitted more information about the fund and look forward to presenting at the September 18th meeting. Mahalo,

File

- [Kanaka-Anti-Displacement-Fund.pdf](#)

Kānaka Anti-Displacement Fund

The goal of the Kānaka Anti-Displacement Fund is to prevent displacement of indigenous kānaka maoli from Maui and other areas in Hawai'i impacted by natural and human made disasters.

The Maui wildfire disaster temporarily displaced 271 kānaka (Native Hawaiian) homeowners from their land in Lahaina. Our people will need financial support and expertise to secure insurance claim monies and disaster assistance necessary to stay in place and rebuild. Unfortunately, kānaka may not have the funds to afford the costs of submitting a claim in the first place or to appeal insurance and FEMA denials. Without access to support and expertise, our people will be displaced from their homelands and potentially, from Hawai'i altogether.

The Fund has been established by Hawai'i Community Lending (HCL), a US Treasury certified native CDFI, to provide deferred payment loans and technical assistance for impacted kānaka homeowners to maximize their insurance and disaster assistance payouts to preserve their access to 'āina and rebuild.

The Fund's phase 1 objective is to first support the 102 'ohana in the Leiali'i homestead in preserving their stewardship and access to 'āina (land) on Maui. HCL's relationship with the Leiali'i 'ohana runs deep. We helped them get their mortgages to secure their place on the land in 2007 and 15 years later, we are here to make sure they stay on the land. In phase 2, HCL will seek to expand the Fund's reach to serve the remaining 169 kānaka homeowners who were impacted.

Under the Fund, HCL 'Ohana Advocates will first meet with homeowners to help them request a copy of their certified policy active on the date of the disaster from their insurance company. At the same time, the homeowner will be referred to various resources: 1) HCL loss mitigation specialists to obtain mortgage forbearances, modifications, or grants and loans to pay past due mortgage, HOA fees, property taxes, and utilities, 2) a Hawaiian Community Assets (HCA) HUD certified housing counselor to establish a crisis budget, 3) a trained FEMA application assistant to file for disaster assistance and appeal denials, and 4) a public insurance adjuster (PA) who will review homeowner policies to educate them on what is covered and create a documentation list needed for submission of an insurance claim. 'Ohana Advocates will help homeowners collect required documents and prepare an insurance claim. Homeowners may then retain the PA to act on their behalf to submit a claim and negotiate with their insurance company.

Once the insurance claim is submitted, the insurance company will acknowledge receipt of the claim and schedule a meeting with the PA (if retained) and homeowner for an on-site inspection of the damaged property. The inspection will require soil testing, an engineering assessment, and other third-party costs. The insurance company must respond within 14 business days after the inspection with an initial determination: 100% payout of the claim, partial payment, or denial.

Homeowners who receive a 100% payout will continue with an HCA HUD counselor to save the funds, obtain a mortgage prequalification, and be referred to HCL for technical assistance and financing to rebuild. Homeowners who receive a partial payment or denial will work with the PA to appeal the insurance company's decision. Throughout this process, the homeowner will work with their HCL loss mitigation specialist and trained FEMA application assistant for mortgage and disaster assistance needs while receiving support from their designated 'Ohana Advocate.

HCL will raise \$5 million in capital for the Fund's first phase to serve the first 102 kānaka homeowners with deferred payment loans for costs of the PA and other third-party costs required to secure and maximize their insurance claim payouts. Additional capital will be raised in phase 2 for the remaining 169 kānaka homeowners, depending on demand and investments. The average homeowner loan will be \$50,000 at 5% interest over a 3-year term. No monthly payments will be required. Principal and accrued interest will be paid off by the homeowner using their insurance claim monies, refinancing with an HCL debt consolidation loan, or with a permanent mortgage. Investors will make loans to HCL at an average of 2% interest over a 5-year term. Up to 10% of investor capital will be forgiven as a grant to HCL for defaulted loans. Investor principal will be pooled and paid out with interest annually on a pro rata share as funds are recaptured from homeowners.

An additional \$1.5 million in operations grants will be raised to cover the cost of administering the Fund over the next 5 years.

For more information, visit <https://hawaiicommunitylending.com/kadfund/>.

From: stacelynn.k.eli@hawaii.gov
To: [Burrows-Nuuuanu, Leatrice W](#)
Subject: New submission from Submit J-Agenda Testimony
Date: Tuesday, September 05, 2023 2:32:51 PM

Name

Troy Hanohano

Email

troy@kanakaeconomy.org

Message

Request to testify at the 9/19 Hawaiian Homes commission meeting and discuss the anti-displacement fund.



Chelsie Evans Enos
chelsie@hawaiiancommunity.net
(808) 464-5441
September 5, 2023

Department of Hawaiian Homelands

Subject: Testimony in Support of the Partnership for Native Hawaiian Housing

I am writing to express my wholehearted support for the proposed contract between Hawaiian Community Assets (HCA) and the Department of Hawaiian Homelands (DHHL) to establish the Partnership for Native Hawaiian Housing. This partnership is a pivotal initiative that holds immense promise for native Hawaiians who have been waiting for residential lease awards, aiming to provide them with culturally based financial education and support to enable them to thrive in Hawaii.

The Partnership for Native Hawaiian Housing addresses a pressing need within the Hawaiian community, aligning with the recent emergency housing proclamation issued by the Governor. It is evident that there is an urgent need to accelerate the allocation of vacant residential lots and assist beneficiaries in securing lease awards, as well as obtaining construction and mortgage financing for their homes. With over 28,000 native Hawaiian beneficiaries currently waiting for residential lease awards statewide, this partnership becomes a beacon of hope and opportunity.

The proposed partnership between DHHL, HCA, and Hawaii Community Lending (HCL) outlines a comprehensive approach to address this challenge. DHHL's commitment to providing builders, pre-approved home packages, construction technical assistance, and capital for construction and mortgage financing is commendable. Equally laudable is DHHL's collaboration with HCA to offer financial assessments and education to beneficiaries on the Hawaiian Home Lands waitlist. This vital support will empower individuals with the knowledge and resources they need to become mortgage qualified, a crucial step towards homeownership.

HCL's involvement in processing, underwriting, and closing construction-to-permanent mortgages is another significant aspect of this partnership. Their dedication to expanding their operations to accommodate 240 beneficiaries, supported by the initial grant from DHHL, showcases their commitment to the cause. The provision of construction and mortgage credit



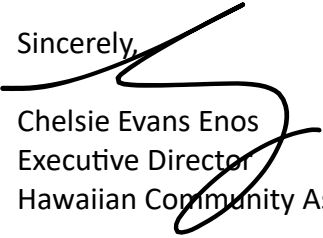
counseling throughout the process ensures that beneficiaries are equipped to sustain their mortgage, promoting long-term stability.

Furthermore, HCL's recommendation for DHHL to use funds from Act 297 or the Hawaiian Homes Trust as the source of construction and mortgage capital highlights a practical and cost-effective approach that prioritizes the welfare of beneficiary families. By doing so, DHHL can ensure maximum flexibility and minimize the increased costs of prevailing wages that can burden these families when NAHASDA funding is used.

In conclusion, the Partnership for Native Hawaiian Housing is an extraordinary opportunity to uplift the native Hawaiian community by providing them with the tools and support they need to realize their dream of homeownership and secure a brighter future for their families. I urge the Department of Hawaiian Homelands to approve this contract and allocate the necessary resources to make this partnership a reality.

Thank you for your attention to this crucial matter. I believe that together, we can make a profound and positive impact on the lives of native Hawaiians who have been waiting for their chance to thrive in Hawaii.

Sincerely,


Chelsie Evans Enos
Executive Director
Hawaiian Community Assets

Aloha mai kua e Leah,
May I RSVP to speak on behalf of the Maui/Lana'i Moku-puni Council, on the J Agenda during the 10/17/23 Hawaiian Homes Commission meeting at the Courtyard by Marriott Maui Kahului Airport? I w/present via Zoom from Las Vegas, to describe the five or six Midwest/Nevada informational meetings I am hosting for Hawaiian Homes waitlist beneficiaries, including their issues, concerns, mana'o and questions.
Mahalo nui a hui hou,
-‘Anake Kekoa

Kekoa Enomoto
Chairwoman of the board,
Pa‘upena Community Development Inc.

From: [Wakiu CDC](#)
To: [Burrows-Nuuuanu, Leatrice W](#)
Subject: [EXTERNAL] Fwd: J Agenda for October 15, 2023 Form
Date: Tuesday, September 05, 2023 10:28:18 PM

Aloha Leah,

Thank you for your time with us in Hana.

I would like to ask you how to get on the J Agenda when the form is no longer available? I was prepping for our upcoming Hana Community Meeting but ran into this snag from the DHHL Website. I would greatly appreciate your guidance.

J. Alohalani Smith
Interim Secretary
Website: [Wakiu.org](#)
Email: Wakiucdc@gmail.com
PEmail: kaukaulani@gmail.com
iPhone: 808-870-2820

From: dhhl.icro1@hawaii.gov
To: [Burrows-Nuuuanu, Leatrice W](#)
Subject: HCC Contact:
Date: Monday, October 02, 2023 7:25:47 AM

First Name

Noelani

Last Name

Paresa

Email

Nparesa76@gmail.com

Email

Nparesa76@gmail.com

Subject

To Commission Secretary

Message

Aloha, we are humbly requesting to be added to the upcoming October meeting agenda.. I am requesting to present an update of our achievements, specifically at the 127 acre tract formerly known as the Brown pasture, at the next meeting here on Maui. As Secretary of Pā'upena CDC and lineal descendant to Pu Ali Komohana, I will be guiding a short slide show of data to the commissioners and to our lāhui. This includes updates on our activities including the replacement/installation of fencing, along the parameter, with steel fencing to last another 99 years; kalo farming along with workshops to educate our beneficiaries about farming practices in the arid upcountry environment and elevations; sustainable regenerative agriculture and flood prevention for kula kai via future historical and ancestral plant farming and soil rehabilitation; animal husbandry and evolving organic fertilization techniques, and more. These projects are achieved through our relationships established within the community and through funding from the county, state, and Federal grants programs. We will be focusing this presentation on the recent AIS performed by 'Aina Archeology and the future use of this archeologically and agriculturally abundant historical site.

Mahalo.

TESTIMONY OF MAHEALANI WENDT
REGARDING KE`ANAE-WAILUANUI,
EAST MAUI
October 17, 2023

Aloha Chair Watson and Commission members. Mahalo for this opportunity to testify.

My name is Mahealani Wendt. I am a former Executive Director of Native Hawaiian Legal Corporation (NHLC), and retired in 2009 after 32 years of service. NHLC is a nonprofit public interest lawfirm whose attorneys assist with land and natural resources claims, customary and traditional practices and enforcement of public land trusts.

During my tenure with NHLC, one-third of our estimated 1,000 annual client caseload consisted of Hawaiian Home Lands applicants and beneficiaries. NHLC played a key role, during Governor Waihe'e's administration in securing an historic settlement on behalf of Hawaiian Home Lands beneficiaries that included:

(1) a prospective right of beneficiaries to sue the State of Hawai'i, which had theretofore enjoyed sovereign immunity, for breaches of the Hawaiian Home Lands Trust;

(2) creation of the Hawaiian Home Lands Trust Individual Claims Review Panel to resolve past individual claims;

(3) transfer of 16,518 acres of land to compensate for past transfers out of the trust, largely through former Governors' illegal Executive Orders; and

(4) \$600 million, \$30 million to be paid out by the State of Hawai'i over a period of 20 years to the Department of Hawaiian Home Lands.

When Governor Waihee's successor Governor Cayetano dissolved the Individual Claims Review Panel, NHLC recruited attorneys from the private sector experienced with class action lawsuits to bring the Kalima class action lawsuit, which is moving towards resolution but is still unresolved after 24 years. My mother died on the waiting list, my siblings and I are claimants in the Kalima case.

Since my retirement, I have resided in Wailuanui, East Maui, and am here today to support the testimony of Jerome Kekiwi, Jr., President of Na Moku Aupuni o Ko'olau Hui, our community nonprofit organization. Jerome Kekiwi attended this Commission's Hana Community meeting and advocated for a prequalification lineal descendency standard to apply when considering awards in Ke'anae-Wailuanui. My husband Ed Wendt was President of Na Moku since its founding up until 2018, when he stepped aside and Jerome succeeded him. I served as volunteer administrator for 15 years up until last year and am very familiar with the nonprofit's work.

As has been pointed out numerous times over the several decades since the 16,518 acres were transferred to the trust as part of the above-described settlement, Ke`anae-Wailuanui is an old, well-settled community with ancient roots. They still farm the same taro patches, maintain the same `auwai, fish, gather and hunt the same places as their ancestors. Ke`anae-Wailuanui had for the most part been undisturbed by so-called "progress" over the centuries, accessible only by boat or trail. This isolation enabled traditional subsistence practices to continue as a daily way of life.

Ke`anae-Wailuanui is an anomaly with respect to its lands' status as DHHL lands. Smaller lots suitable and used in the past for residences and taro patches are scattered randomly throughout this traditional subsistence community; the larger parcels have been traditionally utilized for community pasturage. It is not DHHL's typical blank slate of contiguous undeveloped land. There exists great concern on the part of our current residents that settling awardees who have no clue, understanding, genuine appreciation, respect or actual experience engaging in traditional practices will cause great disruption and division within our community.

As Jerome Kekiwi points out in his testimony, several rounds of community surveys and numerous meetings going back several decades underscored and strengthened this concern. Jerome expressed his gratitude for the cultural sensitivity demonstrated by DHHL's planning staff and its contractors in recent years. They have been well received and are appreciated. But ultimately, our people want to protect, preserve, and perpetuate the unique character and essence that is Ke`anae-Wailuanui for future generations.

I am here today to ask that this Commission please take seriously our community's sincere concern that lineal descendants, many of whom are on DHHL's waiting list and qualify for an award, be given priority consideration by applying a lineal descendency prequalification criteria for Ke`anae-Wailuanui.

In the past, there was also discussion about the possibility of creating an aquaculture waiting list for those who could demonstrate technical knowledge and actual hands-on experience engaging in these traditional practices.

However the goal of protecting the unique character of our community can be accomplished, we appreciate this Commission's taking our concerns to heart.

Thank you for the opportunity to testify. I have appended Jerome Kekiwi, Jr.'s testimony for your further reference and for the record.

Mahealani Wendt
185 Wailua Road
Haiku, Hawai'i 96708
808-248-7730

Jerome Kekiwi, Jr. - President
Norman Martin, Vice-President
Kupa`a Luat-Hu`eu - Treasurer
Jessie Kekiwi Aweau - Secretary
Radford Kaauamo - Sgt.-at-Arms

Earl Inouye
Kanani Frederick
Guy Mahilani Namahoe
Jennifer Kekiwi



P. O. Box 81642, Ha`iku, Hawai`i 96708

TESTIMONY BY JEROME KEKIWI, JR., PRESIDENT,
BEFORE THE HAWAIIAN HOMES COMMISSION
COMMUNITY MEETING - HANA, MAUI, HAWAI`I
OCTOBER 15, 2023

Aloha Chairperson Watson and Members of the Hawaiian Home Lands Commission.

My name is Jerome Kekiwi, Jr., and I am president of Na Moku Aupuni o Ko`olau Hui, a 501(c)(3) nonprofit organization whose members are the lineal descendants of the adjacent ahupua`a of Ke`anae and Wailuanui, Ko`olau Moku.

We would like to express our appreciation to you, Chairperson Watson, to your fellow Commisisoners, your Administration, and to your planning staff, for their sensitivity in reaching out and working with our community. We have appreciated the efforts of the G70 consultant group as well as cultural practitioners under the leadership of Huihui Kanahele-Mossman.

We understand there are 91 acres and 151 acres of DHHL lands in Wailuanui and Ke`anae, respectively.

Our families trace their lineage to these lands many, many generations back.

There are two scholarly studies published that attest to the uniqueness of the people and culture of Ke`anae-Wailuanui, to its status as cultural kipuka owing to its remoteness, its historic isolation:

(1) ***Wai o ke Ola: He wahi mo`olelo o Maui Kahikina: A Collection of Native Traditions and Historical Accounts of Hāmākua Poko, Hāmākua Loa and Ko`olau, Maui Hikina (East Maui), Island of Maui (2001) by Kepa Maly; and***

(2) ***Kalo Kanu o ka `Āina: A Cultural Landscape Study of Ke`anae and Wailuanui, East Maui(1995) by Professor Davianna McGregor***

When Ke`anae-Wailuanui lands were transferred from the DLNR to DHHL, we had already existed as a settled community for many, many generations prior, long before the Great Mahele.

Moreover, we existed and continue to exist as a community whose members still engage in traditional and customary subsistence practices. I and many others in our community actively farm taro, fish, gather and hunt on our `āina hānau, our birth lands and the birth lands of our ancestors, as a daily way of life.

My immediate family members and I meet blood quantum eligibility criteria to receive an award. Some Na Moku members are eligible to receive homestead awards and some are not; nevertheless, we stand in solidarity with one another and are 100% committed to supporting all efforts to make productive use of those lands by eligible beneficiaries.

Na Moku presented formal testimony to this Commission in 2003, under Chair Micah Kane as part of DHHL's planning process. We presented testimony again on November 19, 2017, when Chair Jobie Masagatani and the Commission met at Ke`anae Protestant Church. On January 26, 2020, under Chair William Aila, we submitted results of community surveys to this Commission as part of our formal testimony.

Throughout those years up to the present, at all of those meetings, our testimony has been consistent in expressing concern that the unique traditional character of our community might be irreparably damaged by settling those who do not live, and therefore do not truly understand and will be unable to perpetuate, our traditional lifestyle.

We continue to express concern that to the extent legally possible, priority be given to individuals who have demonstrated their commitment to perpetuating that lifestyle by having actually and actively engaged in taro farming, fishing, gathering and hunting. Since a good number of parcels in our community are lo`i, or taro patches, it stands to reason that our community would want priority consideration to those who can trace their ancestry to this area and who actually actively engage in these practices. There are individuals in our community who are eligible and meet this criteria.

To sum it up, please consider applying a prequalification criteria of lineal descendency for the limited number of residential and lo`i parcels in Ke`anae-Wailuanui.

We also favor community pasturage use for the large tracts of undeveloped lands.

Thank you for the opportunity to present this testimony.

From: [Craig Bo Kahui](#)
To: [Burrows-Nuuuanu, Leatrice W](#)
Subject: Re: [EXTERNAL] Request to be placed on the J Agenda
Date: Thursday, August 31, 2023 9:47:33 PM
Attachments: [image003.png](#)
[image002.png](#)

Aloha Leah,
No worries!
Please confirm to address the Commission in October, please.
Mahalo
Bo Kahui.

From: [Melina Keawe](#)
To: [Burrows-Nuuuanu, Leatrice W](#)
Subject: [EXTERNAL] Request to be on October Agenda Commissioners Meeting
Date: Thursday, September 14, 2023 9:26:52 PM

Aloha mai Leatrice,

This is Terri Napeahi from Hawai'i Island, asking to be on the Commissioners Agenda on Maui for October. I will be giving a powerpoint presentation on the subject of geothermal and what Don Thomas is proposing. I will send the powerpoint presentation ahead of time to you for the Commissioners to review.

Mahalo,

Terri Napeahi President of Keaukaha Action Network (KAN) & Hawaiian Homesteads Beneficiary.

From: [Kyra Castor-Wallace Kekahuna](#)
To: [Burrows-Nuuanu, Leatrice W](#)
Subject: [EXTERNAL] J agenda
Date: Sunday, September 17, 2023 8:59:10 AM

Aloha, Leatrice

I wanted to know if we can move our meeting instead of this month in September to next month in October?

Please let me know. This is for Jessie Wallace.

Mahalo, Kyra Wallace

From: dhhl.icro1@hawaii.gov
To: [Burrows-Nuuuanu, Leatrice W](#)
Subject: New submission from Submit J-Agenda Testimony
Date: Monday, October 02, 2023 11:04:13 AM

Name

Charlita Mahoe

Email

charlita.ahupuaaonanakuli@gmail.com

Message

Aloha e Commissioners,

We at AONH (Ahupua'a o Nanakuli Homestead would like to share our excitement and report our success at last years Christmas on the Avenue event. We are also excited to share an opportunity for the Department of Hawaiian Homelands to partner with us in honoring the 93 year Legacy of beneficiaries who were the first settlers in the Nanaikapono Homestead as early as 1930.

I will need internet access audio visual display and audio.

Please confirm via email as noted above for October meeting. Mahalo nui! Charlita Mahoe

From: dhl.icro1@hawaii.gov
To: [Burrows-Nuuanu, Leatrice W](#)
Subject: New submission from Submit J-Agenda Testimony
Date: Monday, October 02, 2023 11:27:59 AM

Name

Allen Cardines, Jr

Email

acardinesjr@gmail.com

Message

Aloha Leah!

I look forward to giving an update on our Neighborhood Security Watch. Especially regarding Christmas on the Ave and Operation Blue Light Christmas on Dec. 9, 2023.

Mahalo!

From: [MAHA INC](#)
To: [Burrows-Nuuanu, Leatrice W](#)
Subject: [EXTERNAL] Re: J-Agenda October
Date: Monday, October 02, 2023 3:59:39 PM

Aloha Leatrice,

I am following up on the email above on this thread, sent Thursday September 21.
I was wondering if you can confirm my J-Agenda request for the October 15-16th, 2023 Maui meeting.

Mahalo nui
Aina Ioane

On Thu, Sep 21, 2023 at 1:51 PM MAHA INC <mahainc2020@gmail.com> wrote:
Aloha Lea,

Can I please be out on October J-Agenda.

Ainaaloha Ioane, MAHA, King's Landing Gate security.

Mahalo

From: [Robin Kealiinohomoku](#)
To: [Burrows-Nuuanu, Leatrice W](#)
Cc: [Robin Kealiinohomoku](#); adam@fightclub.com
Subject: [EXTERNAL] J-Agenda
Date: Tuesday, October 03, 2023 12:49:46 PM

Aloha e Lea,

Hope all is well. Could you please add me to your J-Agenda for this upcoming meeting on Maui on Monday, October 16. Please reply to confirm.

Mahalo,

Robin Kealiinohomoku

From: dhl.icro1@hawaii.gov
To: [Burrows-Nuuanu, Leatrice W](#)
Subject: New submission from Submit J-Agenda Testimony
Date: Tuesday, October 03, 2023 2:25:57 PM

Name

Kapua Keliikoa-Kamai

Email

dkapua@gmail.com

Message

October 3, 2023

Aloha,

I'd like to share manao on presentations in public forums preceding the Beneficiary Consultation process at the next HHC Meeting in Maui in October 2023. Time permitting, the expenditures of \$600 million from Act 279 also. Mahalo.

Kapua Keliikoa-Kamai
Wai'anāe Valley Homestead Lessee

From: [Sheri Wahinekapu](#)
To: [Burrows-Nuuanu, Leatrice W](#)
Subject: [EXTERNAL] Re: HCC Contact:
Date: Friday, September 08, 2023 7:43:10 AM
Attachments: [image002.png](#)

Mahalo Lea,

Please place our request on the October agenda (Maui). Appreciate your kōkua.

Mahalo again

[Sent from Yahoo Mail for iPad](#)

On Thursday, September 7, 2023, 7:57 AM, Burrows-Nuuanu, Leatrice W <leatrice.w.burrows-nuuanu@hawaii.gov> wrote:

