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

March 11, 2010

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

PSF No: 04KD-289
ISLAND

Amend Prior Board Action of October 28, 2005, Item D-2, Conveyance of State Land, Parcel 03 abutting Eastside of Poipu Road for Road Improvement Purposes to the County of Kauai, Koloa, Kauai, TMK: (4)2-6-04: 03

BACKGROUND:

Parcel 3 of Tax Map Key: (4) 2-6-04: 003 was Deeded by McBryde Sugar Company, Ltd. to the Territory of Hawaii dated March 9, 1928 and recorded in Liber 932 on pages 246-252 (Land Office Deed 3208.

Governor's Executive Order No. 3429 set aside portion of Parcel 3 to the County of Kauai for Fire and Police Station Purposes.

Portion of the New Poipu Road runs through Parcel 3 and never was conveyed to the County of Kauai.

Kukui'ula Development Company (Hawaii), LLC Development Project which includes construction of an approximately 600 linear-foot segment of the southern portion of the proposed Western Bypass Road; a roundabout at the intersection of Poipu Road, Lawai Road. The improvement to the Poipu Road and Lawai Road intersection including the roundabout is within Parcel 03.

When constructed all improvements is complete the roadway be dedicated to the County of Kauai by Kukui'ula Development (Hawaii), LLC. By letter dated October 1, 2004 from Deputy County Engineer Ladye H. Martin, the County of Kauai has no objection to the State conveyance of Parcel 03, for roadway purposes.

The Board at its October 28, 2005 meeting approved the conveyance of State land Parcel 03 abutting the eastside of Poipu Road for road improvement purposes to the County of Kauai.

REMARKS:

In April 2007 the conveyance documents, Land Office Deed 28,879 was sent to Mayor Bryan Baptiste for signature. Mayor Bryan

Batiste pass away in the year 2008.

Because of the Ceded lands issue between HFDC and OHA that went to the State Supreme Court. The decision of the Court made the conveyance of this parcel to the County of Kauai impossible. Although the Supreme Court of the United State did over turn the ruling of the State Supreme Court. The 2009 Legislature passed Act 176 Related to Lands Controlled by the State. This Act will make conveyance of parcel 03 to the County of Kauai difficult and time consuming.

The Poipu Road and Lawai Beach Road along with the roundabout at the intersection has been completed and being used by the public.

Therefore amending the prior Board Submittal to set-aside Parcel 03 to the County of Kauai would be appropriate at this time.

RECOMMENDATION: That the Board:

1. Amend its prior Board action of October 28, 2005, Item D-2, under agenda Item D-2, by changing the conveyance of State Land, Parcel 03 abutting Eastside of Poipu Road for Road Improvement Purposes to the County of Kauai to Set-aside of State Land, Parcel 03 abutting Eastside of Poipu Road for Road Improvement Purposes to the County of Kauai.

2. All terms and conditions listed in its October 28, 2005 approval to remain the same.

Respectfully Submitted,

Tommy Oi
Kauai District Land Agent

APPROVED FOR SUBMITTAL:

Laura H. Thielen, Chairperson

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

October 28, 2005

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

PSF No.: 04KD-289

KAUAI

Conveyance of State Land, Parcel 03 abutting the Eastside of Poipu Road for Road Improvement Purposes to the County of Kauai, Koloa, Kauai, Tax Map Key: (4) 2-6-04: 003.

APPLICANT:

County of Kauai whose business and mailing address is 4444 Rice Street, Mo'ikeha Building, Suite 275, Lihue, HI 96766

LEGAL REFERENCE:

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

LOCATION:

Portion of Royal Patent 6714, L.C. Aw. 7714-B, Apana 2 to M. Kekuaiwa no M. Kekuanaoa conveyed to the Territory of Hawaii by McBrybe Sugar Company, Limited by deed dated March 9, 1928 and recorded in Liber 932, Pages 246-252 (Land Office Deed 3208) situated at Koloa, Kauai, identified by Tax Map Key: (4) 1-6-04: 03, as shown on the attached map labeled Exhibit A.

AREA:

3.701 acres, more or less, to be determined by survey.

ZONING:

State Land Use District: Urban
County of Kauai CZO: Neighborhood Commercial and Open

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

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

CURRENT USE STATUS:

Vacant and unencumbered

APPROVED BY THE BOARD OF LAND AND NATURAL RESOURCES AT ITS MEETING HELD ON October 28, 2005

D-2

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Replacement of reconstruction of existing structures and facilities where the new structure will be located generally on the same site and will have substantially, height and dimensions as the structure replaced."

APPLICANT REQUIREMENTS:

Kukui'Ula Development Company (Hawaii) LLC shall:

1) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

Parcel 3 of Tax Map Key: (4) 2-6-04: 003 was Deeded by McBryde Sugar Company, Ltd. to the Territory of Hawaii dated March 9, 1928 and recorded in Liber 932 on pages 246-252 (Land Office Deed 3208.

Governor's Executive Order No. 3429 set aside portion of Parcel 3 to the County of Kauai for Fire and Police Station Purposes.

Portion of the New Poipu Road runs through Parcel 3 and never was conveyed to the County of Kauai.

Kukui'ula Development Company (Hawaii), LLC Development Project which includes construction of an approximately 600 linear-foot segment of the southern portion of the proposed Western Bypass Road; a roundabout at the intersection of Poipu Road, Lawai Road.

The roundabout at the intersection of Poipu Road, Lawai Road and the western bypass road will be constructed as a four-legged, single-land roundabout, with two (2) legs encompassing Poipu Road, one (1) leg encompassing Lawai Road, and one (1) leg encompassing Western Bypass Road. The roundabout improvements will occur within the existing Poipu Road and Lawai Road right-of -way and portion of State owned Parcel 03, which abuts the Poipu Road and Lawai Road intersection on the eastside. See Exhibit B

When constructed all improvements will be dedicated to the County of Kauai by Kukui'ula Development (Hawaii), LLC. By letter dated October 1, 2004 from Deputy County Engineer Ladye H. Martin, the County of Kauai has no objection to the State conveyance of Parcel 03, for roadway purposes.

Kukui'ula Development Company (Hawaii), LLC through its Special Management Area use Permit has received comment from the County and State agencies. See Exhibit C

To enable the County to improve the intersection of Poipu Road and Lawai Road, staff is recommending the issuance of a quitclaim

deed. The form of the deed has been approved by the Department of the Attorney General and contains specific wording that the State is releasing and disclaiming any interest in Parcel 03 of Tax Map Key: (4) 2-6-004.

RECOMMENDATION:

That the Board, subject to the Applicant fulfilling all of the Applicant requirements listed above authorize the quitclaim of interests, if any, the State may have in the subject roadway parcel to the County of Kauai covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:

a. The standard terms and conditions of the most current quitclaim deed form, as may be amended from time to time;

b. Review and approval by the Department of the Attorney General; and

c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

Thomas H. Oi
Kauai District Land Agent

APPROVED FOR SUBMITTAL:

for Peter T. Young, Chairperson

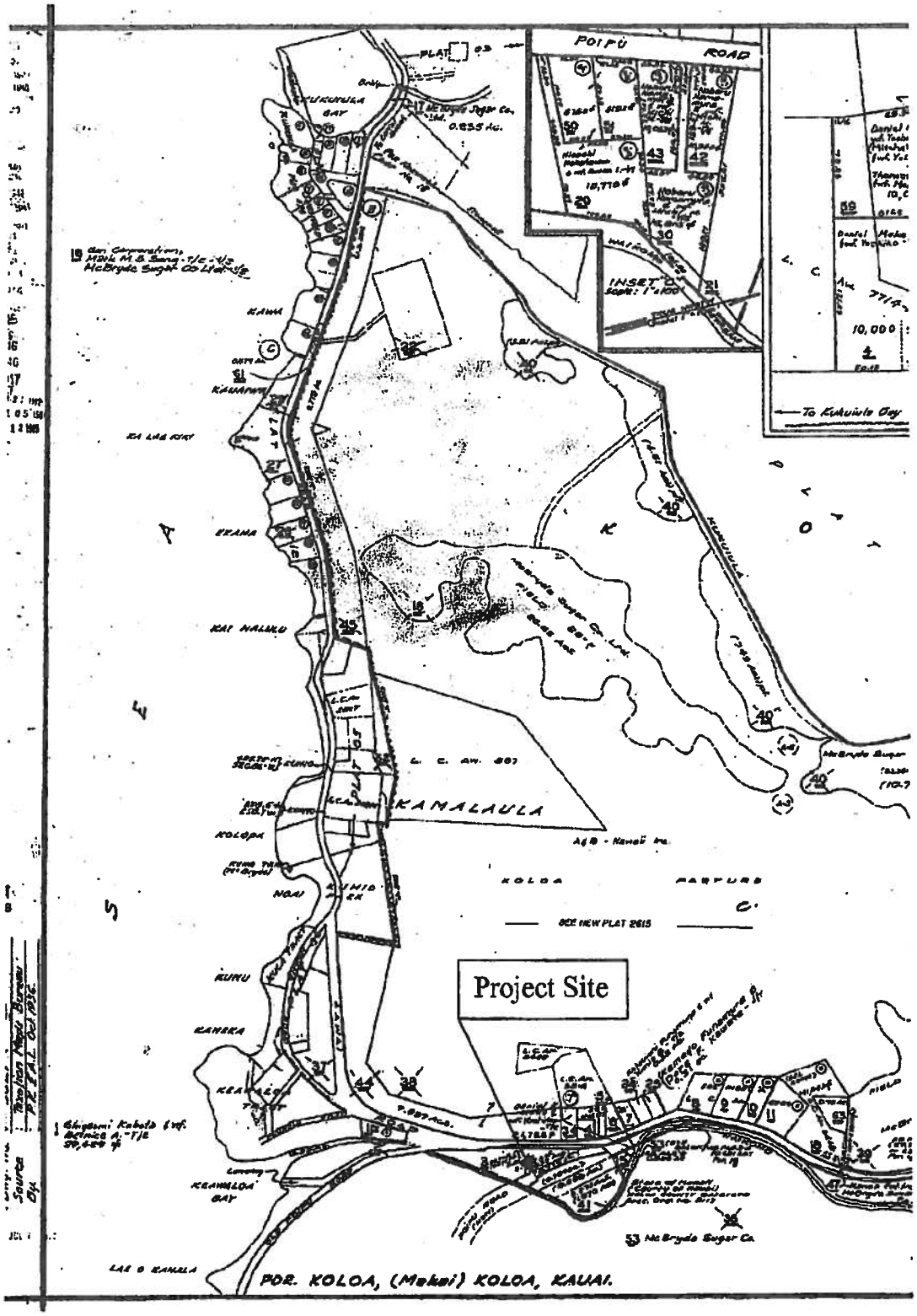
POIPU ROAD
INSET
To Kukuiula Bay
KAWA
KAUAIWA
EKANA
KAI HALUKU
KAMALAULA
KOLOPA
NOAI
KUNU
KANEKA
KEAWALOA BAY
LAE O KAHALA
KOLOA PASTURE
SEE NEW PLAT 2615
Project Site
McBryde Sugar Co.
POR. KOLOA, (Makai) KOLOA, KAUAI.

**EXHIBIT A**