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

August 12, 2010

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

PSF No:08HD-171
HAWAII

Amend Prior Board Action of December 12, 2008 (D-7),Grant of Term, Non-Exclusive Easements to The Nature Conservancy for Educational "Respecting Coral Reefs" Sign Purposes, Puako, Lalamilo, South Kohala, Hawaii, Tax Map Key: (3) 6-9-1:portion of 2 and 6-9-6:portion of 3

BACKGROUND:

The Land Board at its meeting of December 12, 2008, under agenda Item D-7, authorized the issuance of a 55-year, term, non-exclusive easement to The Nature Conservancy to install two signs to educate beachgoers and ocean recreation users about the protection of coral reefs. The signs were developed through a collaborative effort of private and government entities, including the Department of Land and Natural Resource's Division of Aquatic Resources.

REMARKS:

By letter dated June 16, 2010, we were notified by Mr. Chad Wiggins, Hawaii Island Marine Coordinator for The Nature Conservancy, that the appropriate entity to hold the new easement should be the Puako Community Association. Puako Community Association is a registered non-profit organization that represents the resident community of Puako and addresses issues of concern such as access, wildfire, reef protection, and visitor education. They have a long history of success in Puako and will continue to take care of community concerns far into the future.

Mr. Peter Hackstedde, President of the Puako Community Association has submitted a copy of their IRS 501(c)(3) status determination.

Staff has no objections to changing the Applicant from The Nature Conservancy to Puako Community Association. The consideration for the easement should be gratis because Puako Community Association is a non-profit and the 2 proposed signs will serve a public purpose.

RECOMMENDATION: That the Board:

1. Amend its prior Board action of December 12, 2008, under agenda item D-7 by replacing The Nature Conservancy with Puako Community Association.

2. All terms and conditions listed in its December 12, 2008 approval to remain the same.

Respectfully Submitted,

Charlene Unoki
Assistant Administrator

APPROVED FOR SUBMITTAL:

Laura H. Thielen, Chairperson

08HD-172

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

December 12, 2008

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

PSF No.:08HD-171 & -172

Hawaii

Grant of Term, Non-Exclusive Easements to The Nature Conservancy for Educational "Respecting Coral Reefs" Sign Purposes, Puako, Lalamilo, South Kohala, Hawaii, Tax Map Key: 3rd/ 6-9-01:02 por. & 6-9-06:03 por.

APPLICANT:

The Nature Conservancy, a non-profit corporation organized and existing under the laws of the District of Columbia, whose business address is 4245 N. Fairfax Drive, Arlington, VA 22203-1637, and whose mailing address on the Island of Hawaii is P.O. Box 6600, Kamuela, HI 96743.

LEGAL REFERENCE:

Section 171-13, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Puako, Lalamilo, South Kohala, Hawaii, identified by Tax Map Key: 3rd/ 6-9-01:02 & 6-9-06:03, as shown on the attached maps labeled Exhibits A-1 and A-2.

TMK/ ZONING/ ENCUMBRANCE/ AREA:

TMK	ZONE		PARCEL AREA	EASEMENT AREA	ENCUMBRANCE
	LUC	CZO			
3rd/ 6-9-01:02	Urban	Open; SMA	50.501 ac	10 sf*	Portion encumbered by GL S-5863 to Hale Puako, LLC to maintain encroaching seawall
3rd/ 6-9-06:03	Urban	Open; SMA	15,064 sf	10 sf*	None

APPROVED BY THE BOARD OF LAND AND NATURAL RESOURCES AT ITS MEETING HELD ON December 12, 2008

EXHIBIT "A"

*Approximate footprint of sign only, excluding any access corridor from public road. Actual easement area, including access corridor, to be determined by survey.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

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

CURRENT USE STATUS:

Vacant and unencumbered (with the exception of General Lease No. S-5863 covering the seawall encroachment on TMK 3rd/ 6-9-01:02 as noted above).

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain, repair, replace and remove educational signs (one per parcel) regarding coral reefs and their protection over, under and across State-owned land.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

Gratis.

EASEMENT TERM:

Fifty-five (55) years.

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. 3 for "Construction and location of single, new small facilities or structures and the alteration and modification of same and installation of new, small, equipment and facilities and alteration and modification of same. . . ." Also applicable is Exemption Class No. 4 for "Minor alteration in the conditions of land, water or vegetation", and Item No. 4 thereunder that states "Minor cut, fill and grading of state property of less than 50 cubic yards of rock and/or soil where the vertical height of cut or

fill does not exceed three feet."

DCCA VERIFICATION:

Place of business registration confirmed:	YES X	NO __
Registered business name confirmed:	YES X	NO __
Applicant in good standing confirmed:	YES X	NO __

APPLICANT REQUIREMENTS:

Applicant shall be required to:

1) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost;
2) Obtain a Special Management Area (SMA) permit or an SMA exemption; and
3) Comply with the Americans with Disabilities Act, as amended, to the extent the Act applies to the installation and maintenance of the signs on unencumbered and vacant State land.

REMARKS:

Applicant, The Nature Conservancy (Applicant), requests term easements on two separate State-owned parcels of land situated near shoreline public access routes in Puako, Lalamilo, South Kohala, Hawaii, to install two signs to educate beachgoers and ocean recreation users about the protection of coral reefs. See Exhibits A-1, A-2 and B attached for the proposed locations of the signs.

Applicant is undertaking a program to locate these signs at sites with frequent recreational use throughout the State. The sign was developed through a collaborative effort of private and government entities, including the Department of Land and Natural Resource's Division of Aquatic Resources. The dimensions of the sign are 36" x 24". The sign bears the heading "Respecting Coral Reefs" in prominent lettering, with additional information about living corals and the damage that swimmers, snorkelers and divers can cause to them. The sign advises such recreational users to view corals from a distance. The sign also advises people not to feed fish. See Exhibit B attached for more information about the sign.

Applicant intends to secure sponsorship for the installation of each sign at a cost of approximately $1,650. A sponsor will have the option of having its logo placed on the sign in dimensions of approximately 3" x 4". The signs will be mounted on poured concrete footings with dimensions of 3' x 2' x 3' (LWH). Applicant will work with community members to install the signs and maintain them in a useful and legible condition.

TMK 3rd/ 6-9-01:02 is located seaward of the Puako Beach Lots in Puako Village. TMK 3rd/ 6-9-06:03 is one of the Puako Beach Lots.

Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

On October 21, 2008, staff sent a request for comments on the proposed action to State and County of Hawaii agencies, with responses noted as follows:

Agency	Date Received	Response
Department of Health, Environmental Division	NA	No response
DLNR – Aquatic Resources	NA	No response
DLNR – Forestry & Wildlife	NA	No response
DLNR – Historic Preservation	11/17/08	No known historic properties within the location proposed for sign installation. Cease work and contact Historic Preservation if historic resources encountered during construction activities.
DNLR – State Parks	10/29/08	State Parks has received similar requests for installation of signs. Key issues for State Parks are ADA compliance and maintenance obligations.
DLNR – Office of Conservation and Coastal Lands	NA	No response
DLNR – Engineering	11/7/08	No objections
Office of Hawaiian Affairs	11/19/08	Subject lands are ceded lands that hold considerable sentimental, historical and legal significance for Native Hawaiians. OHA is supportive of proposed signs as educational tools.
County Planning Department	11/5/08	No objections
County Parks & Recreation	NA	No response
County Public Works	10/30/08	No comments
County Environmental Management	10/29/08	No comments

In response to the comments received from State Historic Preservation, staff will include the standard condition in the construction right-of-entry requiring Applicant to stop work and contact Historic Preservation if historic resources are encountered during the

installation of the signs.

In response to the comments received from State Parks, staff notes that the standard easement instrument used by Land Division provides that the grantee must observe all federal, state, and county laws in the exercise of grantee's rights under the easement. However, staff has included a specific requirement above that the Applicant comply with the Americans with Disabilities Act, as amended (ADA), to the extent the ADA applies to the installation and maintenance of the signs on unencumbered and vacant State land. The standard easement instrument also includes language requiring that the grantee "shall keep the easement area and the improvements thereon in a safe, clean, sanitary, and orderly condition". Accordingly, staff believes that maintenance concerns are adequately addressed by the standard easement instrument.

The parcels are not located in a Conservation District. However, they are located in an SMA. Applicant will be required to submit an SMA Use Permit Assessment Application to the County of Hawaii Planning Department and obtain either an SMA permit or SMA exemption for the sign installations.

Applicant is a non-profit, Internal Revenue Code Section 501(c)(3) organization and the proposed signs will serve a public purpose. Accordingly, staff is recommending that no rent be charged for the easements. Staff is further recommending that Applicant be granted a construction right-of-entry, once it has complied with the SMA condition above, to install the signs pending finalization of the easement documents.

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.

2. Authorize the Chairperson to execute a Special Management Area Use Permit Assessment Application for the proposed sign installation on behalf of the Department of Land and Natural Resources as landowner.

3. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of term, non-exclusive easements to The Nature Conservancy covering the subject areas for educational reef etiquette sign purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:

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

B. The easements shall not be assigned without the prior written consent of the Board of Land and Natural Resources.

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

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

4. Authorize the issuance of a construction right-of-entry to The Nature Conservancy to remain in effect until the easement documents are executed, subject to the following:

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

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

Respectfully Submitted,

Kevin E. Moore
Hawaii District Land Agent

APPROVED FOR SUBMITTAL:

Laura H. Thielen, Chairperson

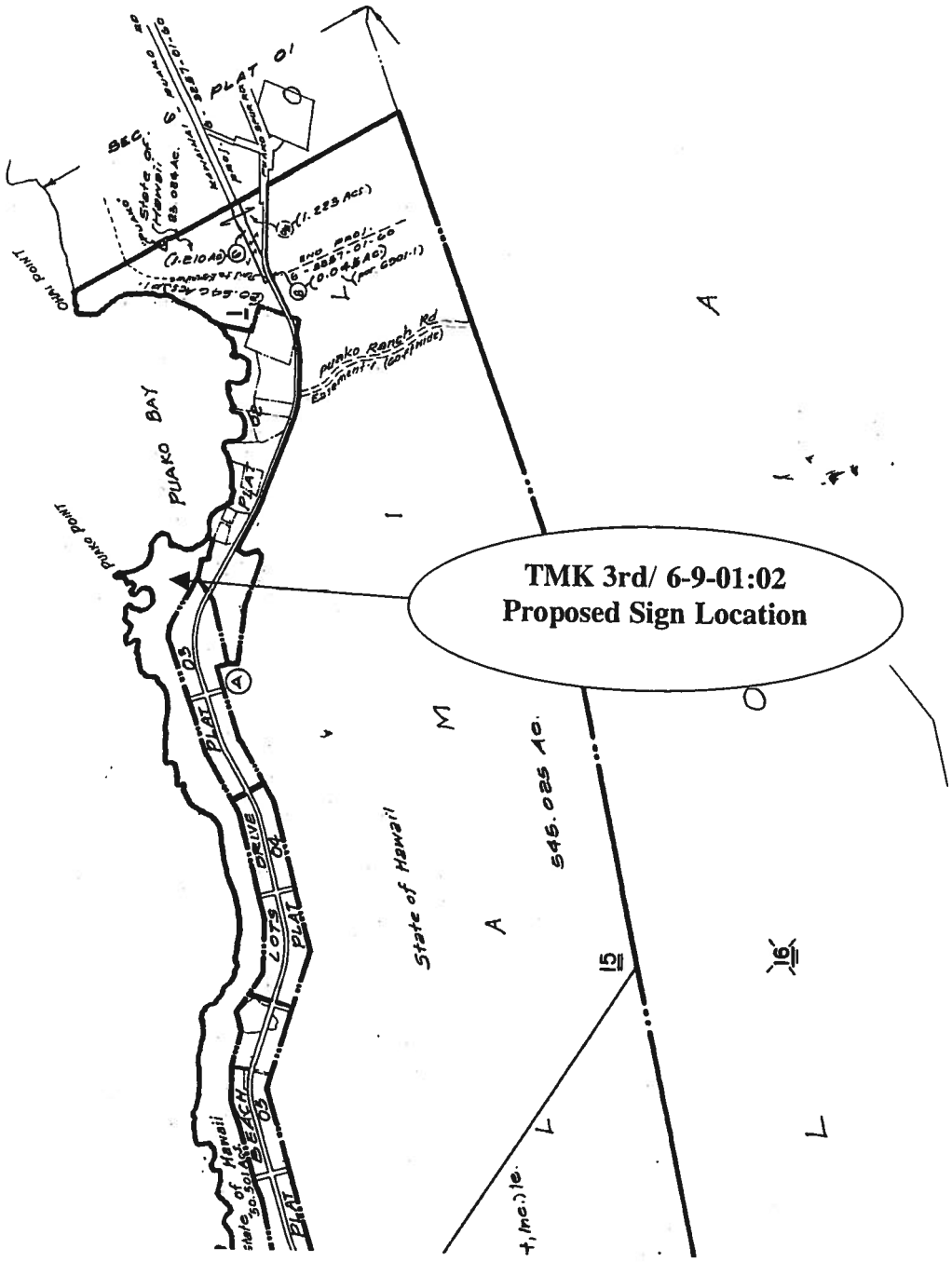

TMK 3rd/ 6-9-01:02
Proposed Sign Location
PUAKO BAY
State of Hawaii
545.025 Ac.
PLAT 01
PLAT 02
PLAT 03
PLAT 04
LOTS DRIVE
BEACH
Puako Ranch Rd
Easement 1 (60 ft wide)
Ohai Point
Puako Point
SEA
MOUNTAIN
LAND

EXHIBIT A-1

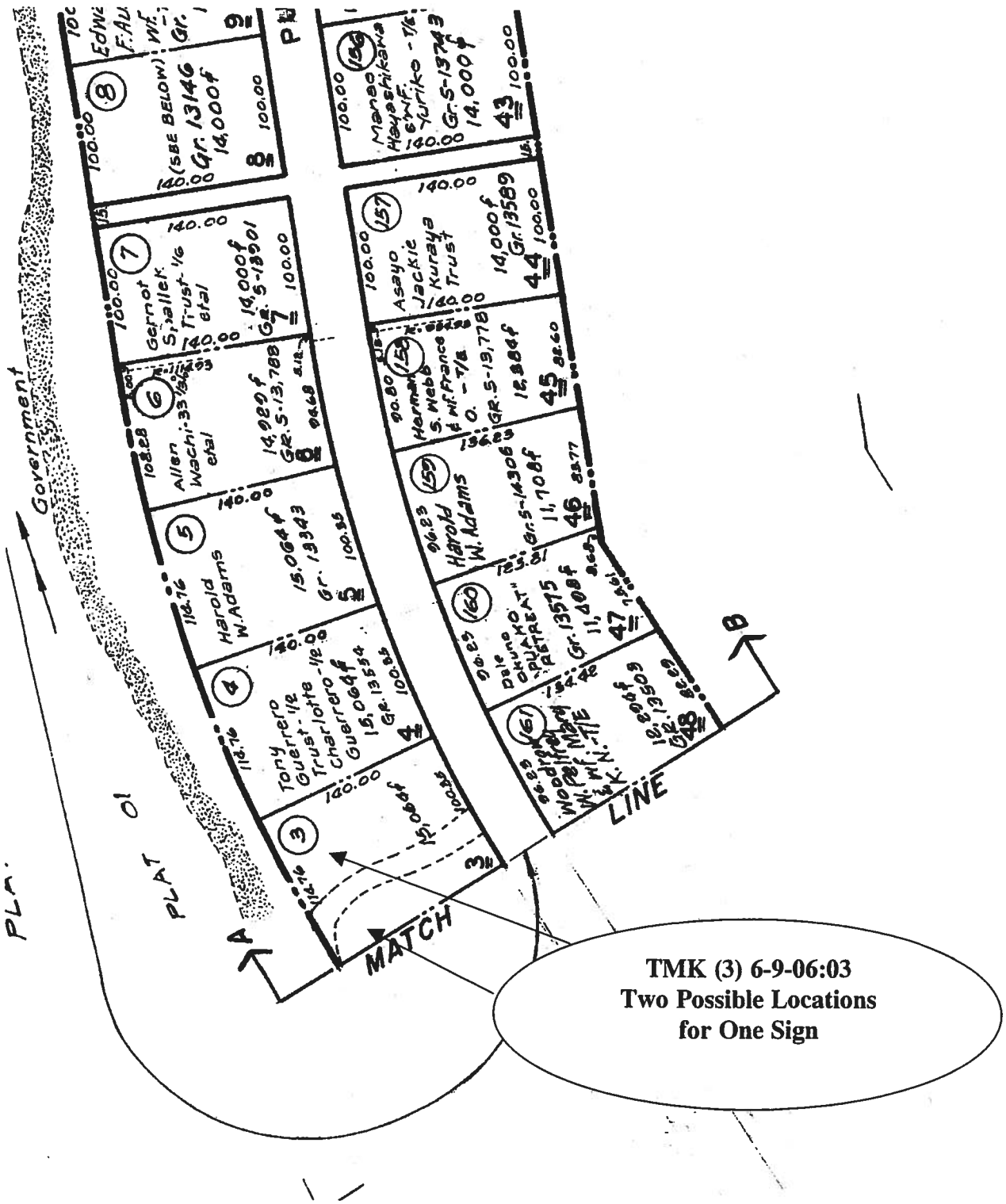
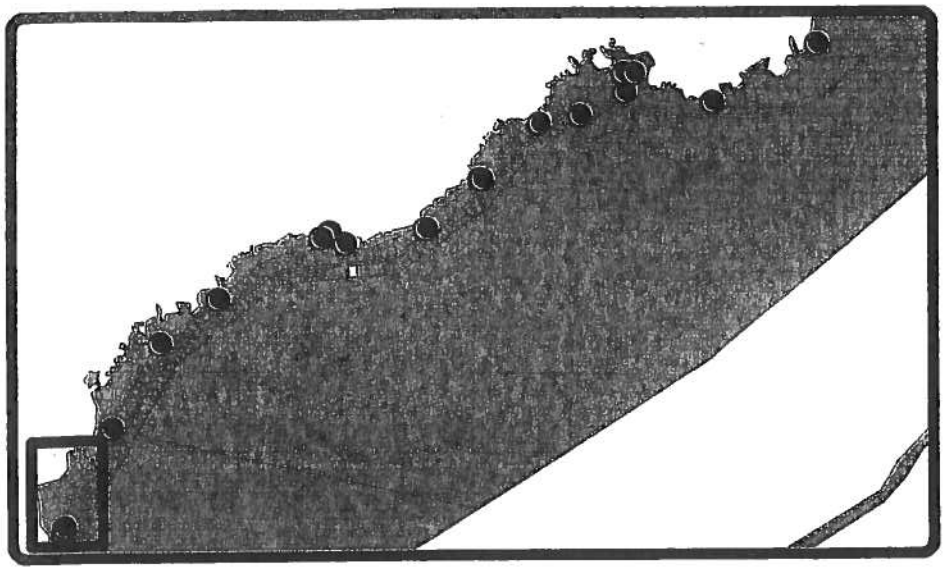
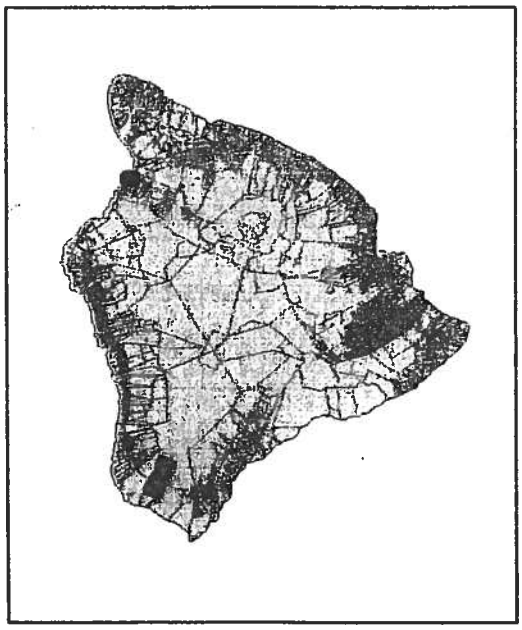
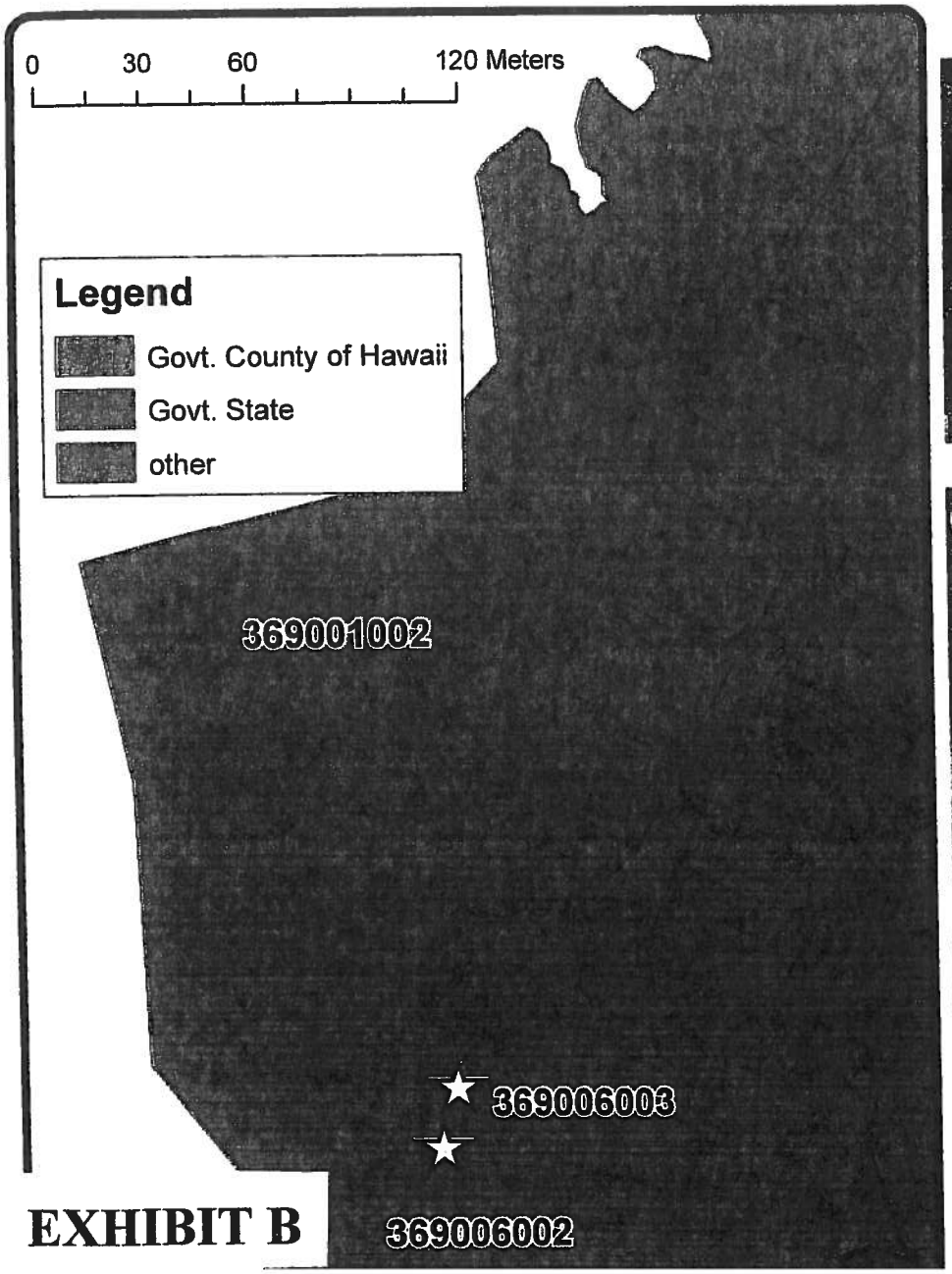

Government
PLAT 01
MATCH
LINE
A
B
TMK (3) 6-9-06:03
Two Possible Locations
for One Sign

EXHIBIT A-2

TMK Information for potential Paniau Reef Signs







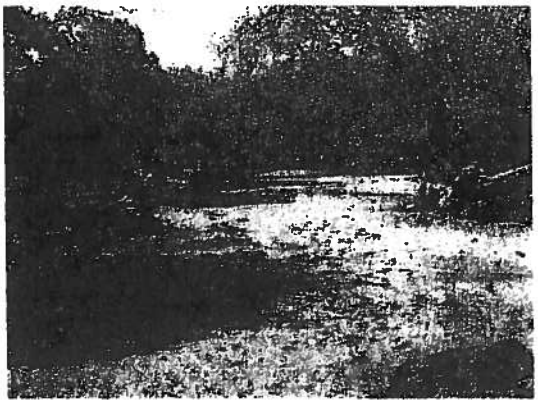
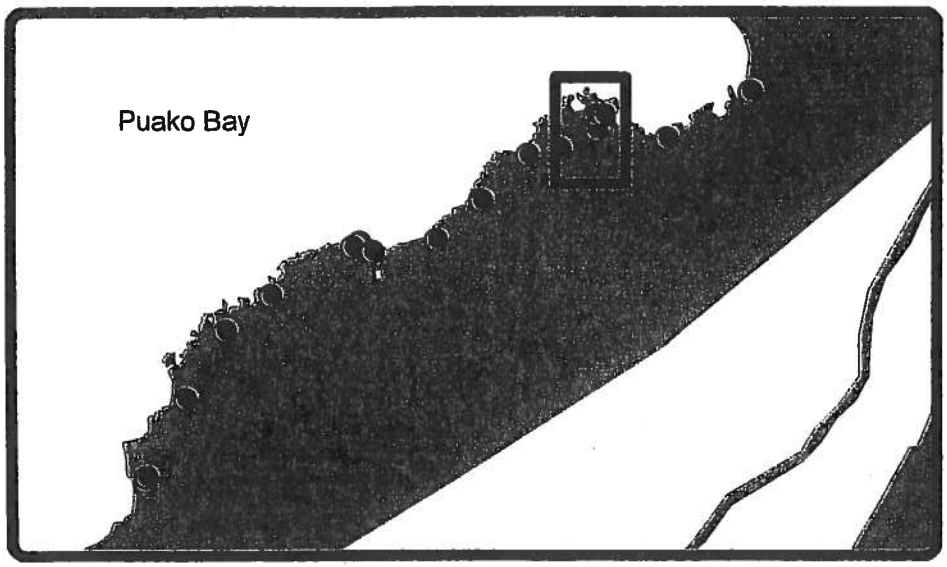
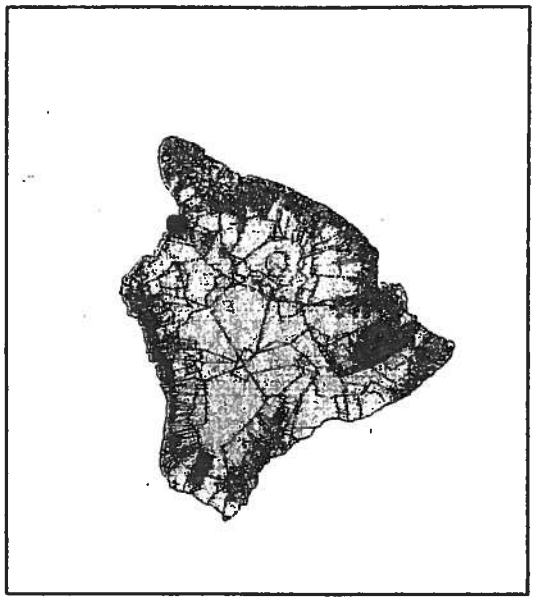
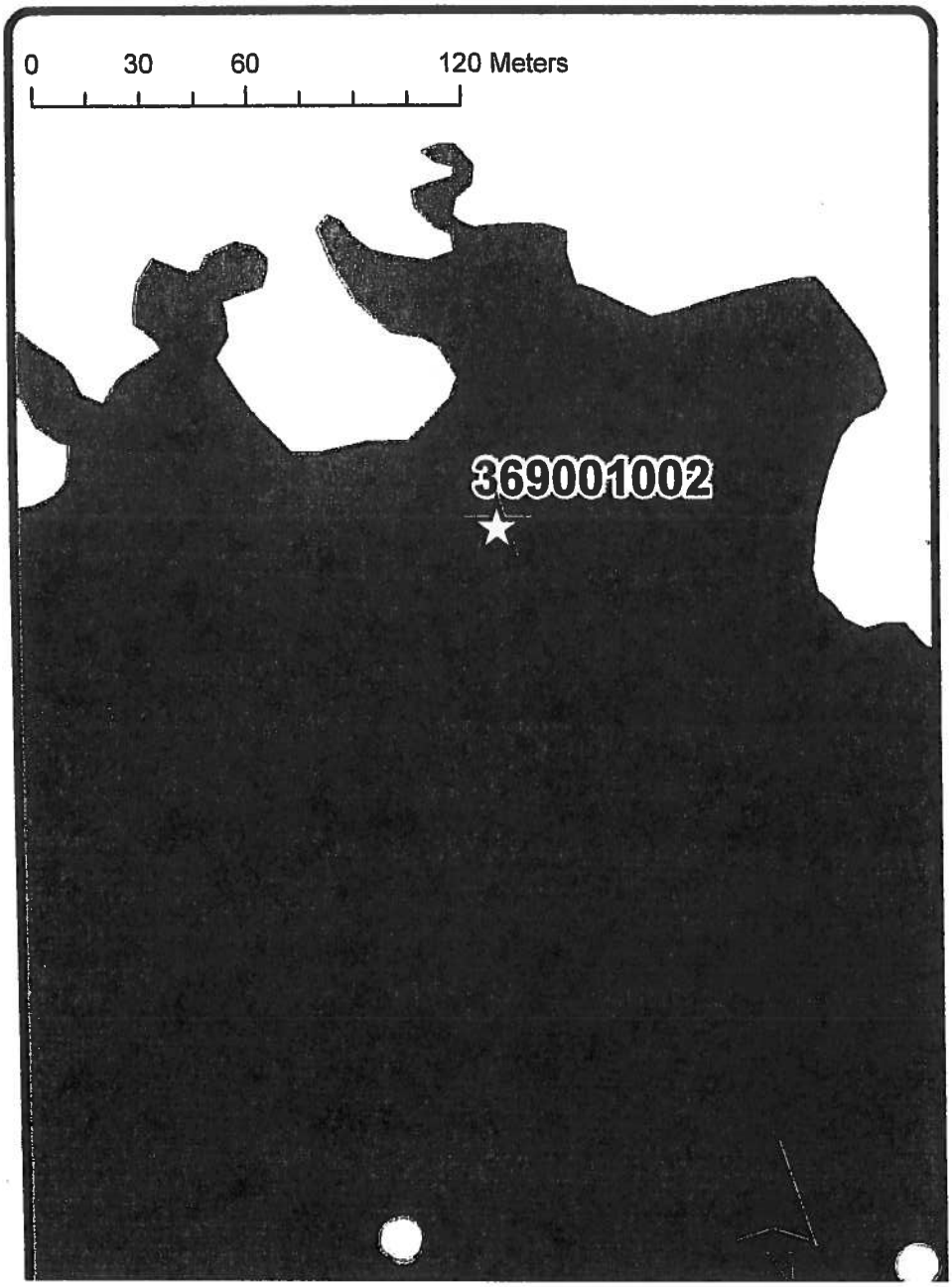


EXHIBIT B

TMK Information for potential Puako Reef Sign







Legend

- Govt. County of Hawaii
- Govt. State
- other

Adopt a Sign Project

YOU can sponsor the installation of a Reef Etiquette sign at beach access locations across the state!

example of sign's 2-post pedestal configuration

We will include your logo and the name of your business or organization on the sign.

Sign Installation:
You will be responsible for the installation of your sign. There are many in the community that may be willing to donate their services to help you install your sign. Our design team may be able to help connect you with individuals, companies, and organizations that can help, so please contact us if you have any questions or require further guidance.

For those ordering signs for islands other than Maui, we would like any assistance possible identifying community members willing to volunteer their services to get signs installed.

If you will need to contract a company to install your sign, be prepared to pay somewhere in the neighborhood of $750-$1,250.

Specifications for Sign Installation:
At the end of this document you will find diagrams that show the pedestals and how the sign itself mounts to them, as well as diagrams for installing the pedestal to a new concrete footing.

Security bolts and a hex key required to mount the sign to the pedestal are provided. The threaded inserts on the back of the signs for the bolts will come bored out of the signs ready for assembly. It is possible that you will need to provide stainless steel washers to make up for any extra space between the security bolt heads and the pedestal "L" bracket.

The hardware required to mount them into the concrete footing shown on the third spec sheet does **NOT** come with the signs. The diagram shows "L" bolts, also called "J" bolts, set into a concrete block. This type of installation requires the concrete to be set with the bolts in place. The vendor suggested creating a cardboard template based off of the bottom of the pedestal stand for setting the "L" bolts into the concrete when it's poured.

It is also possible to install these signs into exiting concrete footing using a concrete drill and special anchors and screws ("L" bolts can't be drilled into existing concrete).

Sign Security, Durability & Vandalism Issues:
The signs are made out of a "high pressure laminate" that is guaranteed not to fade in the sun or other outdoor conditions for 10 years. The material is also resistant to spray paint, as it can be cleaned with paint remover or similar chemicals without damaging the sign.

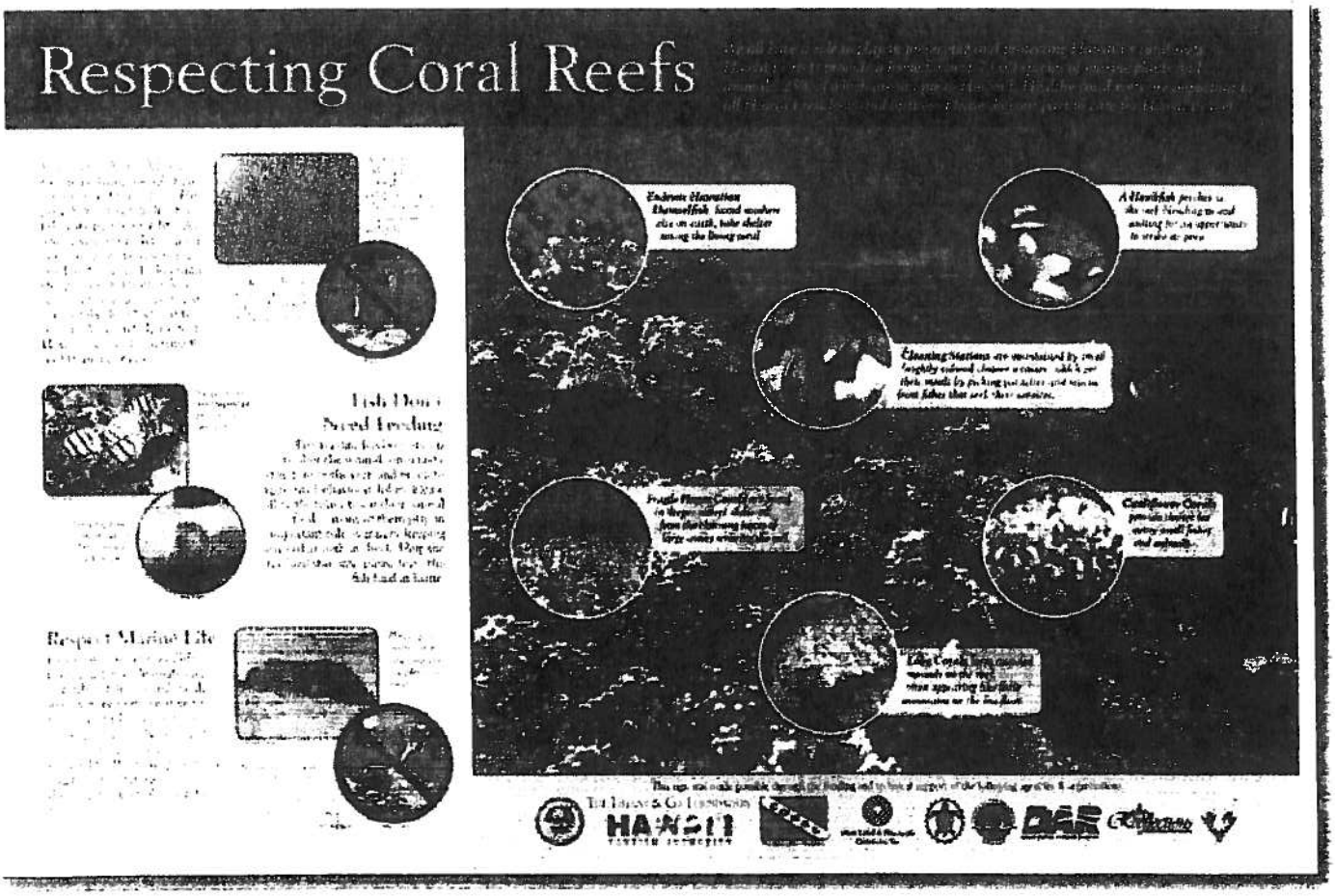
Sponsors will assume a "caretaker" role for their sign. Please be aware that there is always the possibility of vandalism or theft of the sign, and consider those factors when you choose a site for installation. Also note that the warranty only covers the sign's resistance to sun exposure; signs will not be replaced if stolen. While considered an unlikely scenario, we have outlined a few simple things that can be done to deter theft.

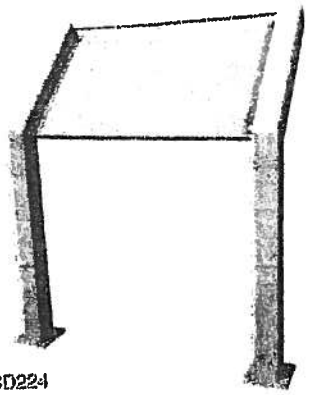
The security bolts that fasten the sign to the pedestal require a special hex key (provided) to remove the bolts. The bolts and washers you will need to provide to mount the pedestal into a cement footing will probably be standard hardware, so there is a possibility someone could remove the washers and take the whole pedestal with the sign. To protect against this possibility, epoxy can be used on the washers/bolts, or you can smash the threads on the bolts after the sign has been installed to prevent someone from unscrewing the washers. Some of our sponsors have also chosen to use epoxy on the security bolts that mount the sign to the pedestal. Be aware that using epoxy or damaging threads on bolts will require cutting the bolts if they need to be removed in the future for any reason.

More Background on the Sign:
"Respecting Coral Reefs" teaches visitors and residents how they can respect and help protect the delicate coral reef ecosystem. This sign is intended to be placed anywhere people can benefit from reef etiquette tips. The content was developed by the "design team" of Liz Foote, Megan Webster, and Russell Sparks, with extensive input from many individuals, organizations, and agencies statewide. The graphic design was done by Geoff Moore of Silver Moon Art and Design, and the beautiful images were donated by photographers across the state (Mike Roberts of Reeflections Underwater Photography, Brandoch Calef, Heather Spalding, John Hoover, George Balazs, Ziggy Livnat, Russell Sparks, and Liz Foote.) The Reef Etiquette sign was designed to be general enough to apply anywhere in the state; potential sponsors can contact the design team for more information.

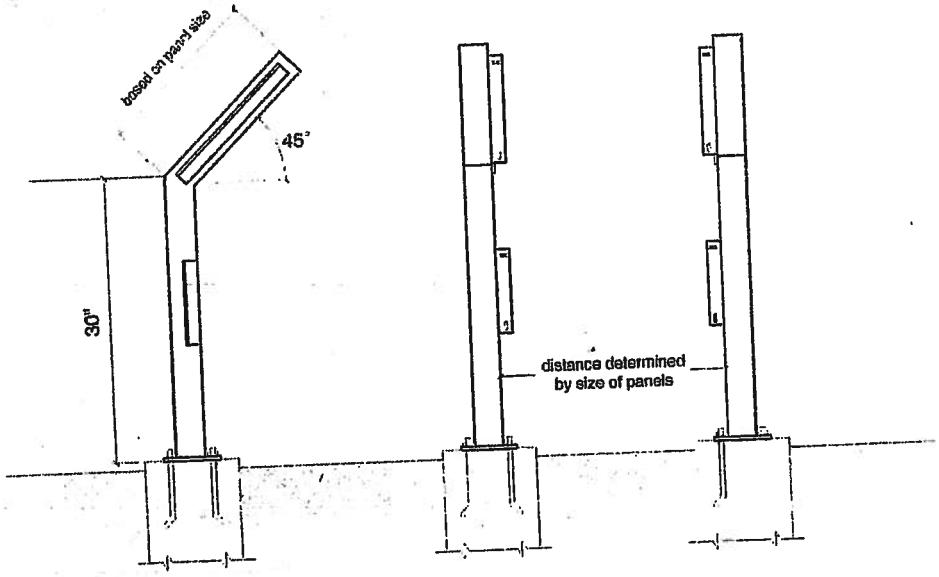
The sign itself is a 36" x 24" (1" thick with rounded corners) Full Color Exterior Laminate Sign, with a 10 year warranty against fading. Your order will include the sign, as well as its double post cantilever pedestal, and all the hardware necessary for installation.

The sign will also be made available as a poster that can be displayed by businesses, organizations, or schools to be used for educational purposes; please contact Liz Foote for more information.





CD224



SIDE

FRONT

CANTILEVER SUPPORTS

Part #: CD224

* Custom sizes available upon request

INTERNAL REVENUE SERVICE
P. O. BOX 2508
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: APR 30 2009

PUAKO COMMUNITY ASSOCIATION
PO BOX 44345
KAWALHAE, HI 96743

Employer Identification Number:
99-0268971
DLN:
17053214318048
Contact Person:
ANDREA SPECK
ID# 95044
Contact Telephone Number:
(877) 829-5500
Accounting Period Ending:
December 31
Public Charity Status:
170(b)(1)(A)(vi)
Form 990 Required:
Yes
Effective Date of Exemption:
July 28, 2008
Contribution Deductibility:
Yes
Addendum Applies:
Yes

Dear Applicant:

We are pleased to inform you that upon review of your application for tax exempt status we have determined that you are exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code. Contributions to you are deductible under section 170 of the Code. You are also qualified to receive tax deductible bequests, devises, transfers or gifts under section 2055, 2106 or 2522 of the Code. Because this letter could help resolve any questions regarding your exempt status, you should keep it in your permanent records.

Organizations exempt under section 501(c)(3) of the Code are further classified as either public charities or private foundations. We determined that you are a public charity under the Code section(s) listed in the heading of this letter.

Please see enclosed Publication 4221-PC, Compliance Guide for 501(c)(3) Public Charities, for some helpful information about your responsibilities as an exempt organization.

EXHIBIT "B"

PUAKO COMMUNITY ASSOCIATION

We have sent a copy of this letter to your representative as indicated in your power of attorney.

Sincerely,

Robert Choi
Director, Exempt Organizations
Rulings and Agreements

Enclosures: Publication 4221-PC