

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

November 22, 2010

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

PSF No.: 10HD-064

Island of Hawaii

Acquisition of Private Lands and Set Aside to Division of
State Parks for Addition to Lapakahi State Historical Park,
Kaipuhaa, North Kohala, Island of Hawaii, Tax Map Key: (3)
5-7-001:011.

APPLICANT AGENCY:

Division of State Parks

PRIVATE LANDOWNER:

The Trust for Public Land ("TPL"), a California nonprofit public
benefit corporation as Fee Owner whose address is The Trust for
Public Land National Office, 101 Montgomery Street, Suite 900,
San Francisco, California, 94104.

LEGAL REFERENCE:

Sections 107-10, 171-11, 171-30 and 173A-4.5(a)(1) Hawaii Revised
Statutes, as amended, and Chapter 101, HRS, as may be necessary.

LOCATION:

Privately-owned lands of Robert C. and Susan N. Reish, as
Trustees of the Reish 1995 Family Trust (created by a Declaration
of Trust dated September 18, 1995) a California Trust, situated
at Kaipuhaa, North Kohala, Island of Hawaii identified by Tax Map
Key: (3) 5-7-001:011, as shown on the attached map labeled
Exhibit A.

AREA:

17.05 acres, more or less.

ZONING:

State Land Use District: Conservation, Resource Subzone
County of Hawaii CZO: A-5A, Agricultural District

CURRENT USE:

Vacant and unencumbered.

CONSIDERATION:

The fair market value as determined by appraisal, subject to review and approval by the Chairperson and the Attorney General, pursuant to Hawaii Revised Statutes Section 173A-4.5, or the amount of approved funds, whichever is less.

PURPOSE:

Conservation purposes through addition of the property to the Lapakahi State Historical Park.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

Pursuant to Section 343-5(a)(1), HRS, an environmental assessment (EA) is not required where State or county funds are being used for the acquisition of unimproved real property. As the subject lands are unimproved, an EA is not required. Inasmuch as the Chapter 343 environmental requirements apply to Applicant's use of the lands, the Applicant shall be responsible for compliance with Chapter 343, HRS, as amended.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Pay for the appraisal cost to determine the value of the properties to be acquired;
- 2) Provide survey maps and descriptions for the privately-owned property according to State DAGS standards and at Applicant's own cost;
- 3) Obtain a title report for the privately-owned property at Applicant's own cost and subject to review and approval by the Department;
- 4) Pay for and conduct a Phase I environmental site assessment and, if this Phase I identifies the potential for hazardous materials release or the presence of hazardous materials, conduct a Phase II environmental sampling and analysis plan and perform any and all remediation, abatement and disposal as may be warranted and as satisfactory to the standards required by the Federal Environmental Protection Agency and/or the State Department of Health, all at no cost to the State and to the satisfaction of the Department.

REMARKS:

BACKGROUND: The 17.05 acre parcel (the "Property") is located on the North Kohala coastline fronting the Lapakahi Marine Life Conservation District (MLCD). In addition, the Property is

significant because it is an in-holding surrounded on three sides by the Lapakahi State Historical Park. The Property includes approximately 2000 feet of shoreline and upon successful acquisition, will connect a total of 1.75 miles of publicly held protected coastline, including the Lapakahi State Historical Park, and to the north, the U.S. Coast Guard lighthouse at Mahukona and the Mahukona Beach Park. Once acquired, the Property will be incorporated into the Lapakahi State Historical Park.

The coastline is made up of lava rock, with occasional coves of boulder, pebble and coral beach. DLNR surveyed the coastal waters in 1975 and found that the area was nearly 95% covered with impressive coral of a variety of forms, shapes and colors. The Legislature established the MCLD in 1979 to protect these invaluable natural and ecological resources. The Division of Aquatic Resources regularly monitors the MCLD. The MCLD supports 112 different species of fish, two species of lobster, and several species of sea cucumber and sea urchins. At least ten species with the greatest need for conservation use the MCLD as a habitat. Furthermore, the area of coastline that would be protected by acquiring the Property would serve as an additional habitat for the endangered Hawaiian monk seal and green sea turtle. The acquisition of the Property would also prevent threatened grading and residential development of, and runoff from, a half-mile of coastline fronting the southern portion of the Lapakahi MCLD.

The Property is currently owned by Robert C. and Susan N. Reish, and will be acquired by TPL before being sold to the State. The Property is the last private in-holding of land fronting the marine protected area located within the Lapakahi State Historical Park. The inclusion of the Property to the Lapakahi State Historical Park would result in increased capacity for recreational activities within the Park, as well as greater access to the shoreline area and the Ala Kahakai National Historical Trail, which runs through the Property. In addition, there would be increased capacity for the protection of archaeological and cultural sites located both within the Property and the surrounding Park.

Once acquired, the Property will be included into the southern portion of the Lapakahi State Historical Park. This area of the park is reserved for future research, the preservation of archeological sites, and open space. Public access to the southern portion of the park is expected to remain limited in the near future with the exception of passive recreational activities such as fishing, and hiking along the Ala Kahakai coastal trail, as mentioned above.

Short term management would consist of an archaeological assessment of any threats or impacts to the archaeological sites, including vegetation growth, existing levels of public use and

vandalism. State Parks archeologists and current park personnel assigned to the park will monitor the site on a regular basis. In addition, TPL and other community groups are assisting by applying to the Hawaii Tourism Authority for funding of community management efforts. Long term, it is envisioned that archaeological research will be conducted and the sites will be cleared, stabilized and interpreted for the public as part of the park.

FUNDING SOURCES: The acquisition is funded by grants awarded to State Parks from the State Legacy Land Conservation Program ("LLCP") and the National Oceanic and Atmospheric Administration's Coastal and Estuarine Land Conservation Program ("CELCP"). The total funding for this acquisition is \$2,500,000.00. The CELCP and LLCP grant awards are in the amounts of \$1,250,000.00 each. The LLCP grant was approved by the Board at its meeting on February 13, 2009, under Agenda Item C-2.

Using the NOAA funds requires that the acquired property be managed for conservation purposes and consistent with the purposes for which it was entered into the CELCP. The State shall not dispose of, exchange, encumber its title or other interests in, or convert the use of this property without the approval of NOAA or its successor agencies. This grant requirement shall be included in the deed language. The Property shall also be managed consistently with the purposes for which it was awarded a Legacy land Conservation Program grant and Hchapter 173A, Hawaii Revised Statutes.

APPLICANT REQUIREMENTS: A revised appraisal report was prepared by Hastings, Conboy, Braig & Associates, Ltd., dated April 23, 2010, and determined the 17.05 acre Property's fair market value to be \$2,350,000.00, which will be the purchase price pending State and Federal review and approval. As this acquisition is being partially funded by a Legacy Land Conservation Program grant, pursuant to Hawaii Revised Statutes Section 173A-4.5(a)(1), the Department may review and accept an appraisal prepared on behalf of TPL, a non-profit organization. As required by HRS Section 173A-4.5, the appraisal will be submitted to the Department of the Attorney General for review and approval as well.

The Department has received a title report and Phase I Environmental Assessment from TPL. The title report is currently under review by the Department and the Attorney General, and acceptance of which will be required prior to closing. The Phase I environmental site assessment, dated April 29, 2010, was conducted by Tetra Tech EM Inc. The assessment, conducted in adherence of ASTM Practice E 1257-05, found no recognized environmental conditions (REC) or items of concern (IOC), concluding that no further action is warranted. Since the closing of this transaction will occur past the 180 day viability

period for the assessment, TPL shall be required to provide a current assessment which meets the all appropriate inquiry standard. A survey description will be prepared by DAGS Survey Division.

AGENCY COMMENTS: Comments were solicited from the Division of State Parks, the Division of Aquatic Resources, the Division of Forestry and Wildlife, the Office of Conservation and Coastal Lands, State Historic Preservation Division, and the Office of Hawaiian Affairs. The Division of Aquatic Resources had no objections to this acquisition. The Office of Hawaiian Affairs ("OHA") submitted comments in support of this acquisition, but did express some concerns.

OHA noted that constituents have noted that certain segments of the Ala Kahakai trail could increase access to sacred sites, increasing the potential for vandalism and disrespectful activities to occur. The Department concurs that there is potential for the expansion of this trail to increase access to sacred sites. Through its State Parks Division, the Department will consult with the affected community on the alignment of the trail and how to balance trail use with cultural resource protection. State Parks will be working closely with the National Parks Service to involve the community with the management of this trail section in the park. OHA also expressed hope that future archeological research would complement the long term vision for Lapakahi State Historical Park shared by families with a demonstrated kuleana. The Department will consult with these families prior to conducting archeological research. Finally, as many families that live in this area actively engage in fishing for subsistence rather than recreation, OHA sought assurances that respectful and appropriate traditional practices are allowed to continue. The Department will ensure that native access and subsistence rights as guaranteed by law will be a priority in planning for and managing Lapakahi State Historical Park.

RECOMMENDATION: That the Board:

1. Authorize the acquisition of the subject private lands 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 warranty deed document form, as may be amended from time to time;
 - B. Review and approval by the Department of the Attorney General;
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the

State.

2. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to the Division of State Parks under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
 - A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 - B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
 - C. Review and approval by the Department of the Attorney General; and
 - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

3. Authorize the issuance of a management right-of-entry permit to State Parks covering the subject area under the terms and conditions cited above, effective immediately upon acquisition by the State, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time;
 - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



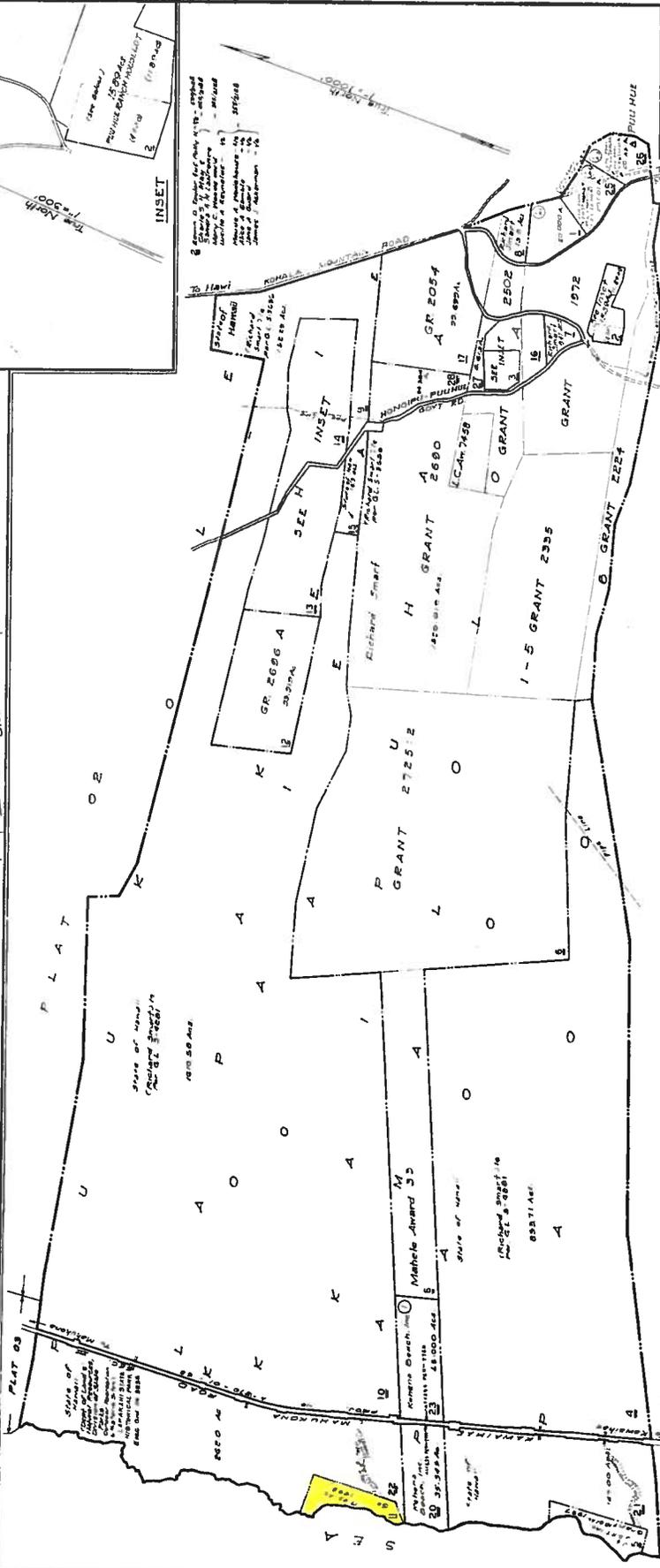
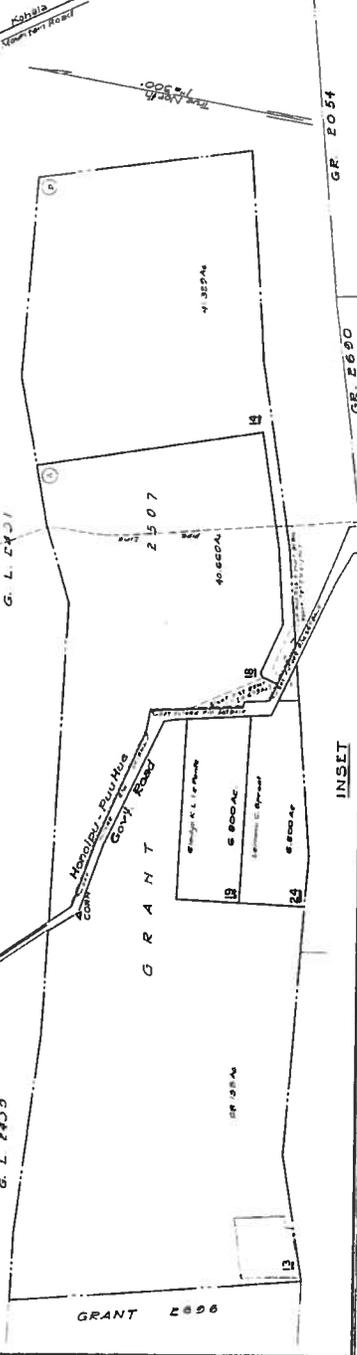
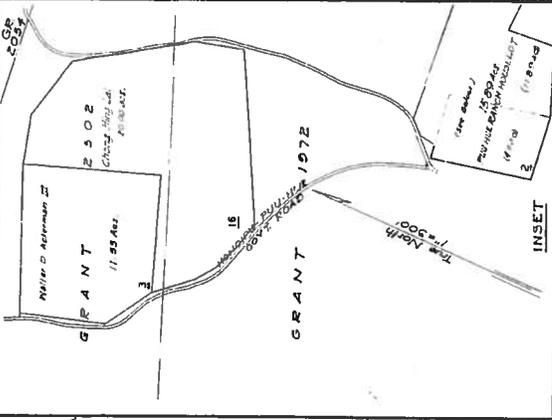
Ian Hirokawa
Project Development Specialist

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson

5 T 01



TRIMED DIVISION	PLAT
ZONE SEC.	5 7 01
CONTAINING PARCELS	
Scale: 1" = 400' (AS SHOWN)	

ADVANCE SHEET
SUBJECT TO CHANGE

PAGE 10 PUKOLE, N. KOHALA, HAWAII

Dwg. No. 1422
Surveyed by Dept. of Public Survey
By: D. E. R. - Aug. 1958

EXHIBIT "A"