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

April 12, 2013

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

PSF No.:11MD-101

Maui

Grant of Term, Non-Exclusive Easement to CMBY 2011 Investment, LLC for Access and Utility Purposes, Pulehunui, Wailuku, Maui, Tax Map Key: (2) 3-8-008:001 por.

APPLICANT:

CMBY 2011 Investment, LLC, a Limited Liability Corporation.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Pulehunui situated at Wailuku, Maui, identified by Tax Map Key: (2) 3-8-008: Portion of 001, as shown on the attached map labeled Exhibit A.

AREA:

9.43 acres more or less
Area of 56' x 7333' = 410,648 sq. ft.
410,648 sq. ft. = 9.43 acres more or less
area to be encumbered by this easement will be determined by final DAGS map and descriptions.

ZONING:

State Land Use District: Agricultural
County of Maui CZO: Agricultural

TRUST LAND STATUS:

Section 5(a) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

- Revocable Permit No. S-7368, to Alexander & Baldwin, Inc., Agriculture Purposes.
- Land Office Deed No. 26985, to the County of Maui, Dept. of Water Supply, Waterline purposes.
- Land Office Deed No. 28477, to Maui Electric Co. Ltd., Access & Utility Purposes.
- Land Office Deed No. 28690, to the County of Maui, Dept. of Water Supply, Access & Utility Purposes.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain and repair a right-of-way over, under and across State-owned land for access and utility purposes.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

One-time payment to be determined by independent appraisal establishing fair market rent, subject to review and approval by the Chairperson.

EASEMENT TERM:

Fifty-five (55) years.

ANNUAL RENT:

One-time payment to be determined by independent appraisal establishing fair market rent, subject to review and approval by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The Final Environmental Assessment for the subject project was published in the OEQC's Environmental Notice on January 8, 2013 with a finding of no significant impact (FONSI).

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) Pay for an appraisal to determine one-time payment;
2) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost;
3) Obtain a title report to ascertain ownership, where necessary, at Applicant's own cost and subject to review and approval by the Department.

REMARKS:

CMBY is requesting to utilize a 56 foot wide by 7,333 foot long access easement which will encumber 9.43 acres (more or less) of State lands situate at TMK: (2) 3-8-008:001 for access and utility purposes. The proposed easement area will encumber an existing paved road that currently services the Hawaiian Cement lease area and related subleases (Exhibit B). The proposed easement will provide access to the applicant's privately owned property at TMK: (2) 3-8-008:019. Parcel 019 is land locked. CMBY is in the process of establishing entitlements for subdivision of parcel 019 in order to create 28 industrial use lots that shall be serviced by an 11 acre internal roadway system, a drainage retention basin, and common areas for landscaping and irrigation purposes. The applicant states that an owners association shall be created in order to administer common areas which shall include responsibilities related to the use and maintenance of the proposed easement area.

The 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.

AGENCY COMMENTS:

Requests for comments were submitted to the following agenies:

County of Maui – Planning Dept.	No comments response received.
County of Maui – Public Works	Noted discrepancy with easement area calculation. Final survey map to resolve.
Office of Hawaiian Affairs	No comments received.

RECOMMENDATION: That the Board:

1. Authorize the subject requests to be applicable in the event of a change in the ownership of the abutting parcel described as Tax Map Key: (2) 3-8-008:019, provided the succeeding owner has not had a lease, permit, easement or other disposition of State lands terminated within the last five (5) years due to non-compliance with such terms and conditions.

2. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a term non-exclusive easement to CMBY 2011 Investment, LLC covering the subject area for access and utility 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 easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key: (2) 3-8-008:019, provided however: (1) it is specifically understood and agreed that the easement shall immediately cease to run with the land upon the expiration or other termination or abandonment of the easement; and (2) if and when the easement is sold, assigned, conveyed, or otherwise transferred, the Grantee shall notify the Grantor of such transaction in writing, and shall notify Grantee's successors or assigns of the insurance requirement in writing, separate and apart from the easement document;

   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.

Respectfully Submitted,

Daniel Ornellas, District Land Agent

APPROVED FOR SUBMITTAL:

William J. Aila, Jr., Chairperson

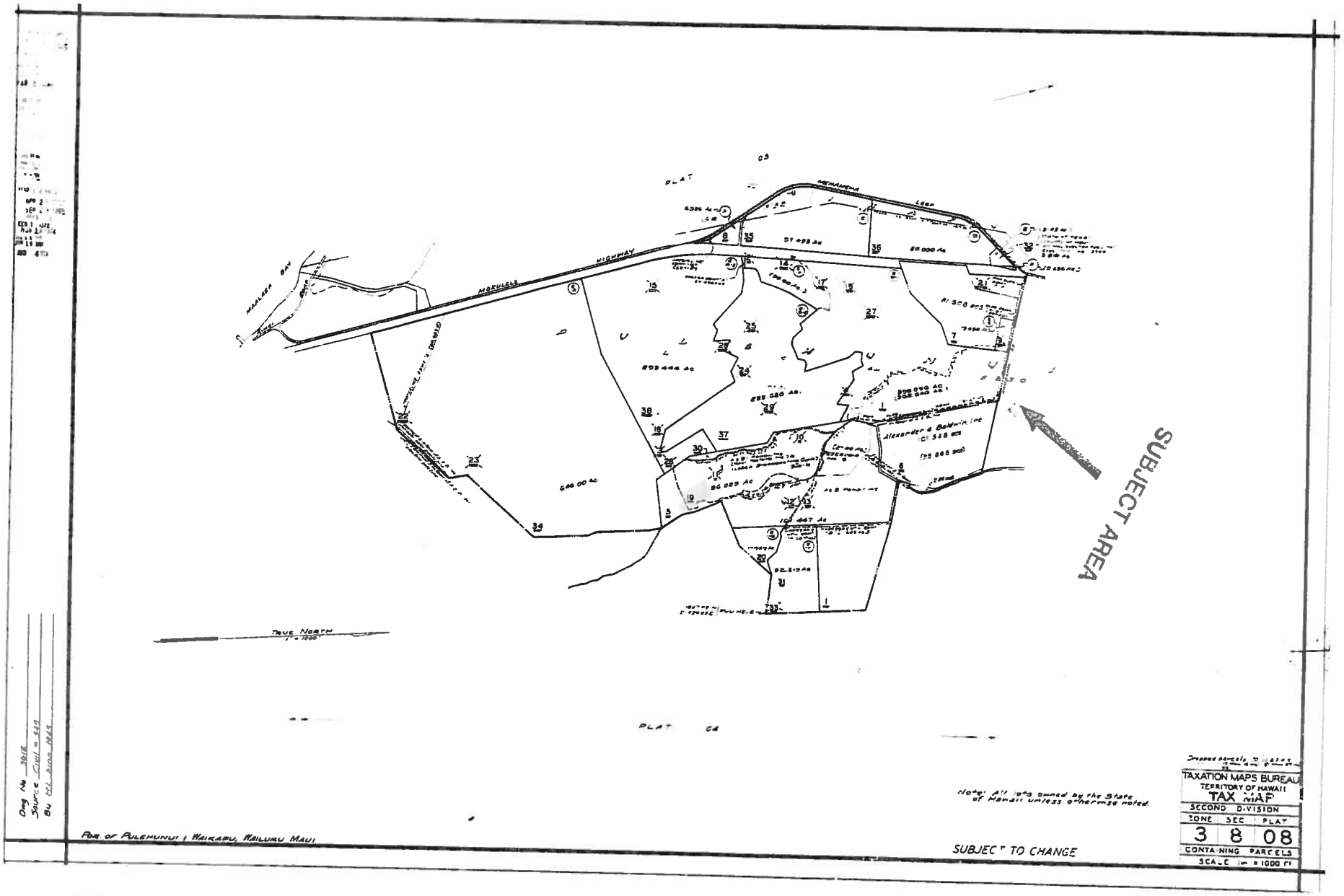
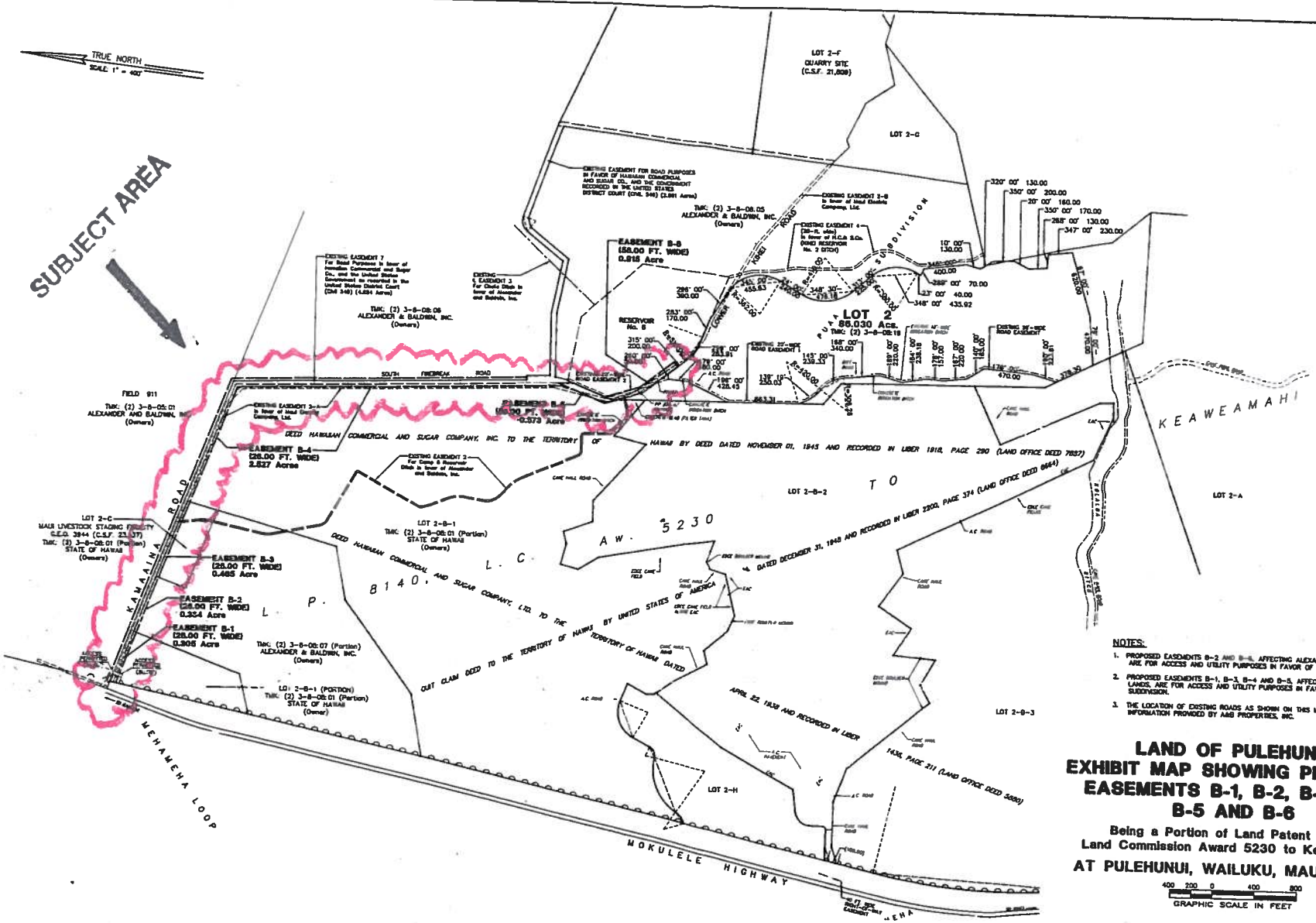

PLAT 03
MEHAMEHA LOOP
MOKULELE HIGHWAY
MAALAEA BAY
Alexander & Baldwin, Inc
SUBJECT AREA
TRUE NORTH
PLAT 04
Note: All lots owned by the State of Hawaii unless otherwise noted.
TAXATION MAPS BUREAU
TERRITORY OF HAWAII
TAX MAP
SECOND DIVISION
ZONE SEC PLAT
3 8 08
CONTAINING PARCELS
SCALE 1in = 1000 ft
SUBJECT TO CHANGE
POR. OF PULEHUNUI, WAIKAPU, WAILUKU MAUI

EXHIBIT A

Exhibit B



NOTES:

1. PROPOSED EASEMENTS B-2 AND B-6, AFFECTING ALEXANDER & BALDWIN, INC. LANDS, ARE FOR ACCESS AND UTILITY PURPOSES IN FAVOR OF LOT 2, PUAA SUBDIVISION.
2. PROPOSED EASEMENTS B-1, B-3, B-4 AND B-5, AFFECTING STATE OF HAWAII LANDS, ARE FOR ACCESS AND UTILITY PURPOSES IN FAVOR OF LOT 2, PUAA SUBDIVISION.
3. THE LOCATION OF EXISTING ROADS AS SHOWN ON THIS MAP ARE FROM INFORMATION PROVIDED BY A&B PROPERTIES, INC.

LAND OF PULEHUNUI
EXHIBIT MAP SHOWING PROPOSED EASEMENTS B-1, B-2, B-3, B-4, B-5 AND B-6

Being a Portion of Land Patent 8140, Land Commission Award 5230 to Keaweamahi

AT PULEHUNUI, WAILUKU, MAUI, HAWAII

400 200 0 400 800
GRAPHIC SCALE IN FEET