

MICHAEL P. VICTORINO  
Mayor

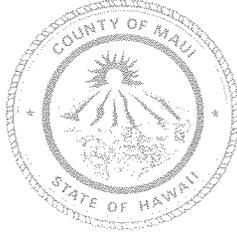
ERIC A. NAKAGAWA, P.E.  
Director

SHAYNE R. AGAWA, P.E.  
Deputy Director

MICHAEL P. RATTE  
Solid Waste Division

SCOTT R. ROLLINS, P.E.  
Wastewater Reclamation Division

TAMARA L. FARNSWORTH  
Environmental Protection &  
Sustainability Division



RECEIVED

2020 NOV -6 AM 9: 38

OFFICE OF THE MAYOR

**COUNTY OF MAUI  
DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT**

2050 MAIN STREET, SUITE 2B  
WAILUKU, MAUI, HAWAII 96793

November 5, 2020

Honorable Michael P. Victorino  
Mayor, County of Maui  
200 S. High Street  
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL

Mayor

11/6/20

Date

For transmittal to:

Honorable Alice L. Lee, Chair  
and Members of the Maui County Council  
Maui County Council  
200 S. High Street  
Wailuku, Hawaii 96793

**RE: PROPOSED RESOLUTION AUTHORIZING THE PURCHASE OF LAND  
LOCATED AT HONOKOWAI RESERVOIR, ISLAND AND COUNTY OF MAUI,  
PURSUANT TO CHAPTER 3.44, MAUI COUNTY CODE**

Dear Council Chair Lee and Members:

The Department of Environmental Management wishes to submit the attached proposed Resolution entitled:

Authorizing the Purchase of Land Located at Honokowai Reservoir, Island and County of Maui, Pursuant to Chapter 3.44, Maui County Code

Thank you for your consideration and should you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

ERIC A. NAKAGAWA, P.E.  
Director of Environmental Management

RECEIVED  
2020 NOV -6 PM 2: 24  
OFFICE OF THE  
COUNTY CLERK

COUNTY COMMUNICATION NO. 20-576

# Resolution

No. \_\_\_\_\_

AUTHORIZING THE PURCHASE OF LAND  
LOCATED AT HONOKOWAI RESERVOIR,  
ISLAND AND COUNTY OF MAUI, PURSUANT  
TO CHAPTER 3.44, MAUI COUNTY CODE

WHEREAS, MAUI LAND & PINEAPPLE COMPANY, INC. (“MLP”), a Hawaii corporation, is the fee owner of real property located identified for real property tax purposes as tax map key number (2) 4-4-002:019, and containing an area of approximately 5.1 acres located at Honokowai, Lahaina, Maui, as shown on Exhibit “1” and as described in Exhibits “2” and “3” (the “Subject Property”); and

WHEREAS, the Subject Property has been identified by the County of Maui as being desirable for elevated storage of recycled water, which is necessary for the expansion and pressurization of the recycled water system in West Maui; and

WHEREAS, a portion of the Subject Property is occupied by a solar farm and is subject to a 20-year solar license/lease agreement, which commenced March 19, 2012, and which Assignment of Solar Lease Agreement, indicating the current lessee, is attached as Exhibit “4,” and which Agreement is valued by MLP using cap rates between 3% to 4% from \$440,000 to \$587,000 (including the exercise of a 10-year optional extension period) or without the option period at a range of \$332,000 to \$442,000; and

WHEREAS, an appraisal by Medusky & Co., Inc., dated July 31, 2019, for the County, indicates that the appraised value of the Subject Property, not taking into account the intended assignment of the Solar Lease Agreement to the County, is \$480,000.00; and

WHEREAS, MLP has expressed a desire to sell the Subject Property to the County of Maui, inclusive of the County’s assumption of MLP’s interest in the Solar License Agreement, which at the agreed-to price of \$599,999.00, plus customary expenses; and

**Resolution No. \_\_\_\_\_**

WHEREAS, the Council finds that the acquisition of the Subject Property is in the public interest; and

WHEREAS, Section 3.44.015.C, Maui County Code ("MCC"), provides that, in the case of real property with a purchase price that exceeds \$250,000, the County Council shall authorize the acquisition by passage of a resolution; and

WHEREAS, Section 3.40.040.A.1, the County Council may authorize the leasing of property for periods in excess of five years when the lessee's capital improvements are in excess of \$25,000.00; now therefore,

BE IT RESOLVED by the Council of the County of Maui:

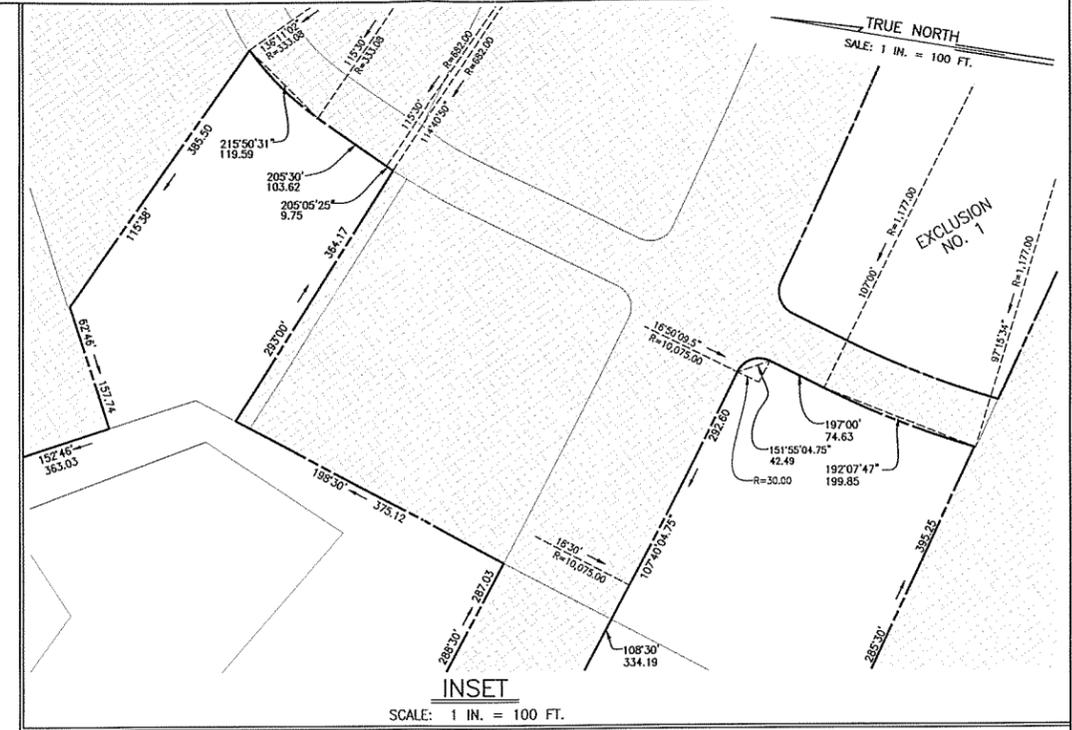
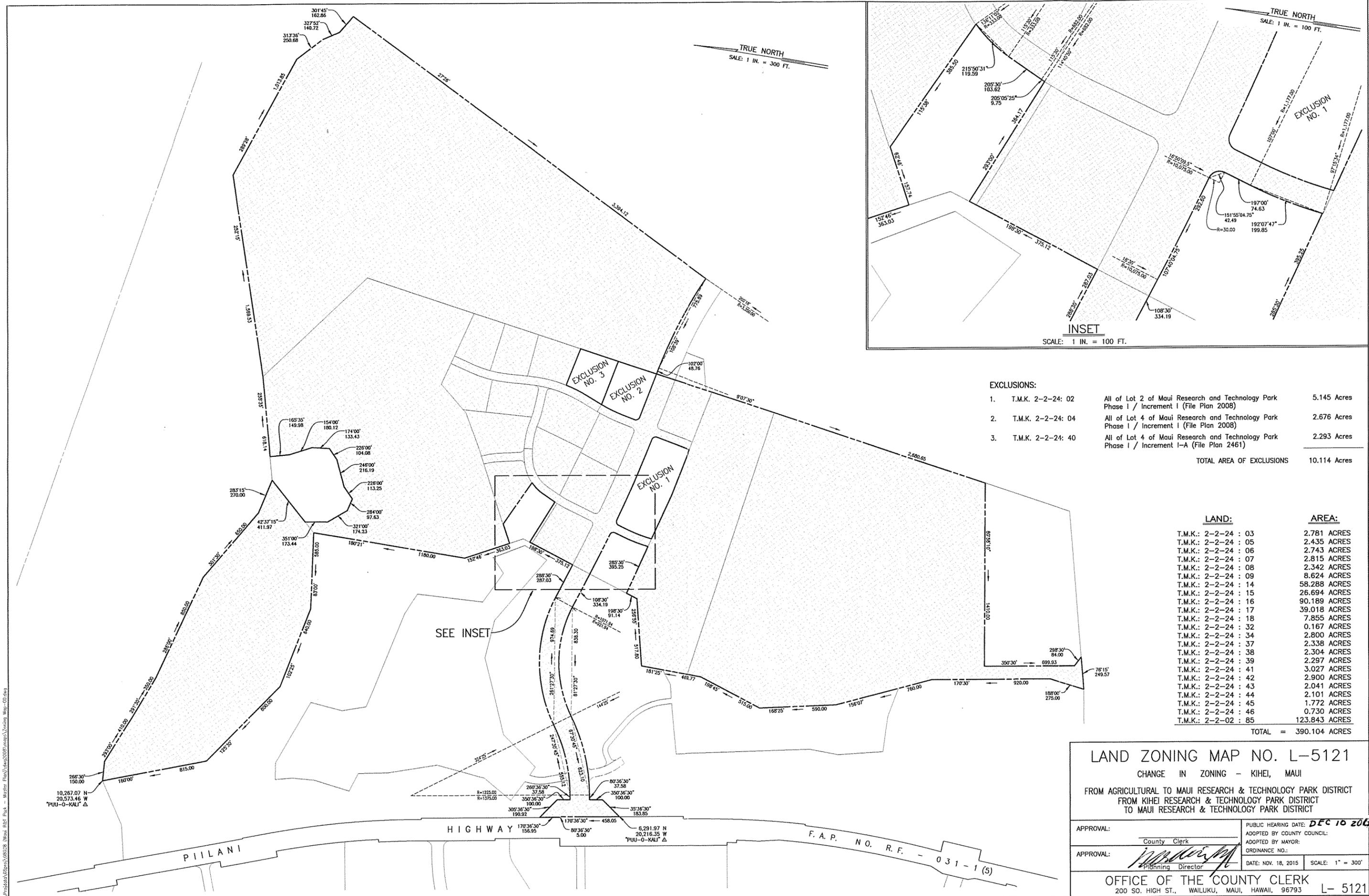
1. That it finds that the acquisition of the Subject Property to be in the public interest; and
2. That, pursuant to Maui County Code Sections 3.44.015.C and 3.40.040.A.1, the Council hereby approves the acquisition of the approximately 5.1 acres of real property, inclusive of the County's assumption of MLP's interest in the Solar License Agreement, for \$599,999.00, plus customary expenses; and
3. That certified copies of this resolution be transmitted to the Mayor, the Director of Environmental Management, and the Director of Finance.

APPROVED AS TO FORM AND  
LEGALITY:

 2020.11.04  
14:47:24 -10'00'

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RICHELLE M. THOMSON  
Department of the Corporation Counsel  
County of Maui  
LF2019-1933



**EXCLUSIONS:**

1.	T.M.K. 2-2-24: 02	All of Lot 2 of Maui Research and Technology Park Phase I / Increment I (File Plan 2008)	5.145 Acres
2.	T.M.K. 2-2-24: 04	All of Lot 4 of Maui Research and Technology Park Phase I / Increment I (File Plan 2008)	2.676 Acres
3.	T.M.K. 2-2-24: 40	All of Lot 4 of Maui Research and Technology Park Phase I / Increment I-A (File Plan 2461)	2.293 Acres
<b>TOTAL AREA OF EXCLUSIONS</b>			<b>10.114 Acres</b>

LAND:	AREA:
T.M.K.: 2-2-24 : 03	2.781 ACRES
T.M.K.: 2-2-24 : 05	2.435 ACRES
T.M.K.: 2-2-24 : 06	2.743 ACRES
T.M.K.: 2-2-24 : 07	2.815 ACRES
T.M.K.: 2-2-24 : 08	2.342 ACRES
T.M.K.: 2-2-24 : 09	8.624 ACRES
T.M.K.: 2-2-24 : 14	58.288 ACRES
T.M.K.: 2-2-24 : 15	26.694 ACRES
T.M.K.: 2-2-24 : 16	90.189 ACRES
T.M.K.: 2-2-24 : 17	39.018 ACRES
T.M.K.: 2-2-24 : 18	7.855 ACRES
T.M.K.: 2-2-24 : 32	0.167 ACRES
T.M.K.: 2-2-24 : 34	2.800 ACRES
T.M.K.: 2-2-24 : 37	2.338 ACRES
T.M.K.: 2-2-24 : 38	2.304 ACRES
T.M.K.: 2-2-24 : 39	2.297 ACRES
T.M.K.: 2-2-24 : 41	3.027 ACRES
T.M.K.: 2-2-24 : 42	2.900 ACRES
T.M.K.: 2-2-24 : 43	2.041 ACRES
T.M.K.: 2-2-24 : 44	2.101 ACRES
T.M.K.: 2-2-24 : 45	1.772 ACRES
T.M.K.: 2-2-24 : 46	0.730 ACRES
T.M.K.: 2-2-02 : 85	123.843 ACRES
<b>TOTAL =</b>	<b>390.104 ACRES</b>

**LAND ZONING MAP NO. L-5121**  
CHANGE IN ZONING - KIHAI, MAUI  
FROM AGRICULTURAL TO MAUI RESEARCH & TECHNOLOGY PARK DISTRICT  
FROM KIHAI RESEARCH & TECHNOLOGY PARK DISTRICT  
TO MAUI RESEARCH & TECHNOLOGY PARK DISTRICT

APPROVAL:	COUNTY CLERK	PUBLIC HEARING DATE: <b>DEC 10 2013</b>
APPROVAL:	PLANNING DIRECTOR	ADOPTED BY COUNTY COUNCIL:
		ORDINANCE NO.:
		DATE: NOV. 18, 2015
		SCALE: 1" = 300'

**OFFICE OF THE COUNTY CLERK**  
200 SO. HIGH ST., WAILUKU, MAUI, HAWAII, 96793

**L- 5121**

M:\Projects\2013\0828 - Maui RFE Plan - Master Plan\Map\2013\0828\Map\Map\_03.dwg

## EXHIBIT "2"

### Portion of the Government (Crown) Land of Honokowai - Parcel A Description of Reservoir Site

Land situated on the easterly side of Honoapiilani Highway (Federal Aid Project No. RF-030-1(5)) at Honokowai, Lahaina, Maui, Hawaii

Being a portion of Grant 7844 to Lahaina Agricultural Company, Ltd., being also a portion of Exclusion 5 of Portion of The Government (Crown) Land of Honokowai - Parcel A

Beginning at a point at the northwesterly corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "MANINI (PUU KOLII)" being: 7,146.00 feet North and 8,051.00 feet West and running by azimuths measured clockwise from True South:

1. 266° 15'                      220.00 feet along Parcel A of The Government (Crown) Land of Honokowai and Pipeline Right-of-Way, being also along the remainder of Grant 7844 to Lahaina Agricultural Company, Ltd. to a point;
2. 289° 00'                      215.00 feet along Parcel A of The Government (Crown) Land of Honokowai to a point;
3. 341° 30'                      120.00 feet along same to a point;
4. 47° 45'                        405.00 feet along same to a point;
5. 146° 00'                      340.00 feet along same to a point;

6. 190° 18'

162.50 feet along same to the point of beginning and containing an Area of 3.204 Acres.



WARREN S. UNEMORI ENGINEERING, INC.

Wells Street Professional Center  
2145 Wells Street, Suite 403  
Wailuku, Maui, Hawaii 96793  
September 17, 2020

By: Reed M. Ariyoshi 04/30/22 Exp.  
Licensed Professional Land Surveyor  
Certificate No. 6597

V:\Projdata\20PROJ\20022 - WWRD Honokowai Reservoir Site Subd\Survey\Desc of Reservoir Site\_rev1.doc

## EXHIBIT "3"

### Portion of the Government (Crown) Land of Honokowai - Parcel A Description of Pipeline Right-of-Way

Land situated on the easterly side of Honoapiilani Highway  
(Federal Aid Project No. RF-030-1(5)) at Honokowai, Lahaina,  
Maui, Hawaii

Being a portion of Grant 7844 to Lahaina Agricultural Company,  
Ltd., being also a portion of Exclusion 5 of Portion of The  
Government (Crown) Land of Honokowai - Parcel A

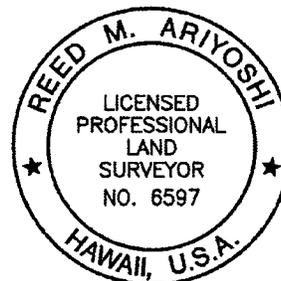
Beginning at a point at the southwesterly corner of this parcel  
of land, the azimuth and distance from the northwesterly corner of  
Reservoir Site (Portion of Exclusion 5) of The Government (Crown)  
Land of Honokowai - Parcel A being: 266° 15' 51.89 feet, the  
coordinates of said point of beginning referred to Government Survey  
Triangulation Station "MANINI (PUU KOLII)" being: 7,149.39 feet North  
and 7,999.22 feet West and running by azimuths measured clockwise  
from True South:

1. 119° 46' 89.69 feet along Parcel A of The  
Government (Crown) Land of  
Honokowai to a point;
2. 81° 40' 829.92 feet along same to a point;
3. 69° 08' 1781.58 feet along Parcel A of The  
Government (Crown) Land of  
Honokowai and the remainder of  
Land Commission Award 76, Apana  
5 to William Shaw to a point;
4. 72° 46' 155.25 feet along the remainders of Land  
Commission Award 76, Apana 5 to  
William Shaw and Royal Patent  
6169, Land Commission Award  
4793, Apana 5 to Hanuna to a  
point;
5. 162° 46' 16.00 feet along the remainder of Royal  
Patent 6169, Land Commission  
Award 4793, Apana 5 to Hanuna  
to a point;

6. 252° 46' 154.75 feet along the remainders of Royal Patent 6169, Land Commission Award 4793, Apana 5 to Hanuna and Land Commission Award 76, Apana 5 to William Shaw to a point;
7. 249° 08' 1,782.82 feet along the remainder of Land Commission Award 76, Apana 5 to William Shaw and along Parcel A of The Government (Crown) Land of Honokowai to a point;
8. 261° 40' 792.57 feet along Parcel A of The Government (Crown) Land of Honokowai to a point;
9. 95° 02' 8.25 feet along same to a point;
10. Thence along same on a curve to the right, having a radius of 110.00 feet, the chord azimuth and distance being:  
126° 24' 30" 114.54 feet to a point;
11. 157° 47' 529.30 feet along same to a point;
12. Thence along same on a curve to the right, having a radius of 110.00 feet, the chord azimuth and distance being:  
163° 29' 21.85 feet to a point;
13. 169° 11' 159.80 feet along same to a point;
14. Thence along same on a curve to the left, having a radius of 90.00 feet, the chord azimuth and distance being:  
156° 21' 30" 39.96 feet to a point;
15. 143° 32' 366.30 feet along same to a point;

16. Thence along same on a curve to the right, having a radius of 110.00 feet, the chord azimuth and distance being:  
159° 02' 58.79 feet to a point;
17. 174° 32' 156.60 feet along same to a point;
18. Thence along same on a curve to the right, having a radius of 110.00 feet, the chord azimuth and distance being:  
186° 25' 30" 45.33 feet to a point;
19. 198° 19' 290.00 feet along same to a point;
20. 288° 19' 20.00 feet along same to a point;
21. 18° 19' 290.00 feet along same to a point;
22. Thence along same on a curve to the left, having a radius of 90.00 feet, the chord azimuth and distance being:  
6° 25' 30" 37.09 feet to a point;
23. 354° 32' 156.60 feet along same to a point;
24. Thence along same on a curve to the left, having a radius of 90.00 feet, the chord azimuth and distance being:  
339° 02' 48.10 feet to a point;
25. 323° 32' 366.30 feet along same to a point;
26. Thence along same on a curve to the right, having a radius of 110.00 feet, the chord azimuth and distance being:  
336° 21' 30" 48.83 feet to a point;
27. 349° 11' 159.80 feet along same to a point;

28. Thence along same on a curve to the left, having a radius of 90.00 feet, the chord azimuth and distance being: 343° 29' 17.88 feet to a point;
29. 337° 47' 529.30 feet along same to a point;
30. Thence along same on a curve to the left, having a radius of 90.00 feet, the chord azimuth and distance being: 306° 24' 30" 93.71 feet to a point;
31. 275° 02' 47.29 feet along same to a point;
32. 311° 25' 14.67 feet along same to a point;
33. 299° 46' 119.08 feet along same to a point;
34. 86° 15' 36.22 feet along Reservoir Site (Portion of Exclusion 5) of The Government (Crown) Land of Honokowai, being also along the remainder of Grant 7844 to Lahaina Agricultural Company, Ltd. to the point of beginning and containing an Area of 1.899 Acres.



WARREN S. UNEMORI ENGINEERING, INC.

Wells Street Professional Center  
 2145 Wells Street, Suite 403  
 Wailuku, Maui, Hawaii 96793  
 September 17, 2020

By: Reed M. Ariyoshi 04/30/22 Exp.  
 Licensed Professional Land Surveyor  
 Certificate No. 6597

EXHIBIT "4"

*Handwritten initials/signature*



STATE OF HAWAII  
BUREAU OF CONVEYANCES  
RECORDED

April 23, 2014 8:02 AM

Doc No(s) A-52260953A thru A-52260953B



/s/ NICKI ANN THOMPSON  
REGISTRAR

1 1 / 1 SAT Conveyance Tax: \$1.50  
B-32451457

LAND COURT SYSTEM

REGULAR SYSTEM

Return By: Mail ( ) Pickup ( ) To:

Kobayashi Sugita & Goda, LLP  
999 Bishop Street, Suite 2600  
Honolulu, Hawaii 96813  
Attn: David B. Tongg, Esq.  
Tel: (808) 535-5700

Total Pages:

*Handwritten mark*

Tax Map Key: (2) 4-4-002-019

**ASSIGNMENT OF SOLAR LEASE AGREEMENT  
AND LESSOR'S CONSENT**

THIS ASSIGNMENT OF SOLAR LEASE AGREEMENT AND LESSOR'S CONSENT is made this 23<sup>rd</sup> day of April, 2014, by and between:

A. **SOLAR HUB UTILITIES LLC**, a Hawaii limited liability company, whose address is 213 Ka'alawai Place, Honolulu, Hawaii 96816, hereinafter called the "**Assignor**",

B. **MAUI 61-5 LLC**, a Hawaii limited liability company, whose address is 213 Ka'alawai Place, Honolulu, Hawaii 96816, hereinafter called the "**Assignee**", and

C. **MAUI LAND & PINEAPPLE COMPANY, INC.**, a Hawaii corporation, whose address is 200 Village Road, Lahaina, Hawaii 96761, hereinafter called the "**Lessor**".

**WITNESSETH THAT:**

**WHEREAS**, Assignor, as "Lessee", and Lessor, as "Lessor", entered into that certain Solar Lease Agreement dated March 19, 2012 (the "**Lease**"), demising that certain parcel of land containing approximately 5.1 acres, designated as Tax Map Key No. (2) 4-4-002-019, and more particularly described therein (the "**Leased Premises**"), a memorandum of which was recorded in the Bureau of Conveyances of the State of Hawaii as **Document No. A-47650329**; and

**WHEREAS**, Assignor formed Assignee as a special purpose entity and a wholly-owned subsidiary of Assignor, for the purpose of transferring and conveying to Assignee all of the assets, including the Lease, relating to the solar generating project to be constructed on the Leased Premises.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Assignor, and of the covenants and agreements of the Assignee hereinafter contained and on the Assignee's part to be observed and performed, Assignor sold, assigned, transferred, set over and delivered to Assignee, its successors and assigns, all of Assignor's right, title and interest in and to the Lease, as set forth in that certain unrecorded Bill of Sale and General Assignment and Assumption Agreement dated April 23, 2014.

**AND**, in connection therewith, Assignee, in consideration of the premises, does hereby promise, covenant and agree to and with Assignor, and to and with Lessor, in consideration of the consent of Lessor to the foregoing assignment, that Assignee will pay the rents thereby reserved as and when the same become due and payable pursuant to the provisions of the Lease and will also faithfully observe and perform all of the covenants and conditions contained in the Lease which are or ought to be observed and performed by the "Lessee" named therein.

**AND**, Lessor, in consideration of the promises and covenants set forth herein, hereby consents to the foregoing assignment upon the express condition that this consent shall not be deemed or construed to be a waiver of any term, covenant, condition or provision of the Lease, nor a consent to any other or further assignment thereof, nor a release of Assignor, all rights of Lessor under the Lease being hereby expressly reserved.

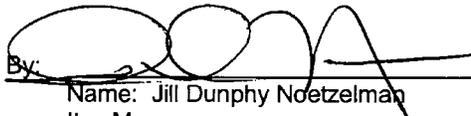
**IT IS MUTUALLY AGREED** that the terms "Assignor", "Assignee" and "Lessor" as and when used herein shall mean and include the masculine or feminine, the singular or plural number, individuals, associations, trustees, corporation, partnership, limited liability companies or other entities, and their and each of their respective successors in interest, heirs, personal representatives, executors, administrators and permitted assigns, according to the context thereof.

This instrument may be executed in counterparts, each of which shall be deemed an original regardless of the date of its execution and delivery. All of such counterparts together shall constitute one and the same document, binding all of the parties hereto, notwithstanding all of the parties are not signatory to the original or the same counterparts. For all purposes, including, without limitation, recordation, filing and delivery of this document, duplicate unexecuted and unacknowledged pages of the counterparts may be discarded and the remaining pages assembled as one document.

[SIGNATURE PAGE FOLLOWS]

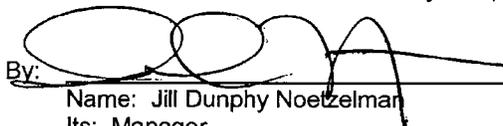
**IN WITNESS WHEREOF**, the parties hereto have duly executed these presents on the day and year first above mentioned.

**SOLAR HUB UTILITIES LLC**, a Hawaii limited liability company

By:   
Name: Jill Dunphy Noetzelman  
Its: Manager

**"Assignor"**

**MAUI 61-5 LLC**, a Hawaii limited liability company

By:   
Name: Jill Dunphy Noetzelman  
Its: Manager

**"Assignee"**

**MAUI LAND & PINEAPPLE COMPANY, INC.**, a Hawaii corporation

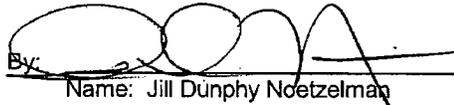
By: \_\_\_\_\_  
Name:  
Its:

By: \_\_\_\_\_  
Name:  
Its:

**"Lessor"**

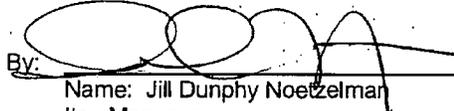
IN WITNESS WHEREOF, the parties hereto have duly executed these presents on the day and year first above mentioned.

**SOLAR HUB UTILITIES LLC**, a Hawaii limited liability company

By:   
Name: Jill Dunphy Noetzelman  
Its: Manager

"Assignor"

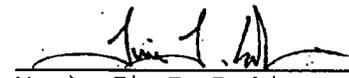
**MAUI 61-5 LLC**, a Hawaii limited liability company

By:   
Name: Jill Dunphy Noetzelman  
Its: Manager

"Assignee"

**MAUI LAND & PINEAPPLE COMPANY, INC.**, a Hawaii corporation

By:   
Name: Ryan Churchill  
Its: President

By:   
Name: Tim T. Esaki  
Its: Chief Financial Officer

"Lessor"

STATE OF NEBRASKA )  
 ) SS:  
COUNTY OF Shenandoah )

On this 12<sup>th</sup> day of November, 2013, before me personally appeared **JILL DUNPHY NOETZELMAN**, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed said instrument as her free act and deed, and, if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

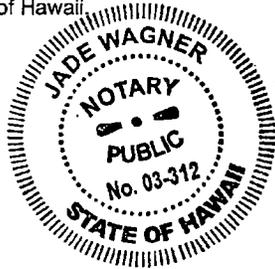
ALYSSA R DEHART  
General Notary  
State of Nebraska  
My Commission Expires Mar 1, 2015

Alyssa R Dehart  
Name of Notary:  
Notary Public, State of Nebraska  
My Commission expires: Mar 1 2015

STATE OF HAWAII )  
 ) SS:  
COUNTY OF MAUI )

On this 4<sup>th</sup> day of December, 2013, before me personally appeared Ryan Churchill, to me personally known, who, being by me duly sworn, did say that such person executed the foregoing instrument 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.

I, the Notary Public whose name is printed in the signature block immediately below, do hereby certify that I notarized the foregoing Assignment of Solar Lease Agreement and Lessor's Consent dated November 12, 2013, consisting of five (5) pages in the Second Judicial Circuit of the State of Hawaii.



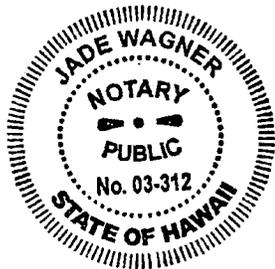
*Jade Wagner*

Name of Notary: Jade Wagner  
Notary Public, State of Hawaii  
My commission expires: June 1, 2015

STATE OF HAWAII )  
 ) SS:  
COUNTY OF MAUI )

On this 3<sup>rd</sup> day of December, 2013, before me personally appeared Tim T. Esaki, to me personally known, who, being by me duly sworn, did say that such person executed the foregoing instrument 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.

I, the Notary Public whose name is printed in the signature block immediately below, do hereby certify that I notarized the foregoing Assignment of Solar Lease Agreement and Lessor's Consent dated November 12, 2013, consisting of five (5) pages in the Second Judicial Circuit of the State of Hawaii.



*Jade Wagner*

Name of Notary: Jade Wagner  
Notary Public, State of Hawaii  
My commission expires: June 1, 2015