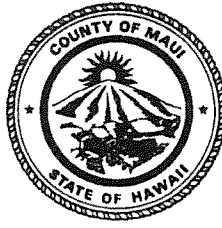


ALAN M. ARAKAWA
Mayor



PATRICK K. WONG
Corporation Counsel

EDWARD S. KUSHI
First Deputy

LYDIA A. TODA
Risk Management Officer
Tel. No. (808) 270-7535
Fax No. (808) 270-1761


RECEIVED

2018 JAN 29 PM 4: 43

OFFICE OF THE
COUNTY COUNCIL

DEPARTMENT OF THE CORPORATION COUNSEL
COUNTY OF MAUI
200 SOUTH HIGH STREET, 3RD FLOOR
WAILUKU, MAUI, HAWAII 96793
EMAIL: CORPCOUN@MAUICOUNTY.GOV
TELEPHONE: (808) 270-7740
FACSIMILE: (808) 270-7152

MEMO TO: Riki Hokama, Chair
Budget and Finance Committee

FROM: David A. Galazin 
Deputy Corporation Counsel

DATE: January 29, 2018

SUBJECT: **AMENDING FISCAL YEAR 2018 BUDGET: DEPARTMENT
OF PUBLIC WORKS (REMOVAL OF TREES ON PIIHOLO
ROAD) (BF-112)**

We are in receipt of your memorandum dated January 25, 2018 requesting a draft of the agreement between the County of Maui and Piihoho Ranch. For your information, attached is a copy of the right of entry which was sent to Matt Pietsch, Esq., counsel for the proposed Grantor, on January 25, 2018. The agreement has already gone through several revisions, and the attached document is intended to be the final draft.

If you have any questions, please contact me.

Attachment

2017-0093

BF-112 2018-01-29 Memo to Chair (Piihoho Road)

RIGHT-OF-ENTRY AGREEMENT

THIS AGREEMENT effective as of February 1, 2018 and entered into by and between WAIAHIWI GULCH LAND COMPANY, LLC, fee owner of the real property located at Piiholo Road, Makawao, Hawaii (further described below), and PETER D. BALDWIN, Leasee of the same real property, both whose mailing address is P.O. Box 599, Makawao, Hawaii 96768 (hereinafter collectively referred to herein as "GRANTOR"), and the COUNTY OF MAUI, a political subdivision of the State of Hawaii, whose business address is 200 South High Street, Wailuku, Hawaii 96793 (hereinafter called "GRANTEE"),

KNOW ALL MEN BY THESE PRESENTS, that GRANTOR, the legal and/or equitable owner of the real property and improvements hereinafter mentioned, does hereby give and grant to GRANTEE, its employees, agents, consultants and contractors this right-of-entry onto the premises designated as Tax Map Key Nos. (2)2-4-012:080 & 081, Makawao, Hawaii (the "Property"), and as shown more specifically on the maps attached hereto as Exhibits "A" & "B" for the following purposes: emergency tree removal; and any construction work necessary to complete the EMERGENCY TREE REMOVAL AT PIIHOLO ROAD, DPW JOB NO. 18-31; and

That the Grantee's tree removal consist of removal of all dead trees within 35 feet from the edge of pavement within the County right-of-way and within Tax Map Key Nos. (2)2-4-012:080 & 81, with Grantee choosing to haul the trees off the Grantor's property, leave them in place as fallen and/or pile cut trees on the premises to minimize the amount of vegetation entering the adjacent gulch; and

That this right-of-entry shall become effective as of the date set forth above and shall terminate upon completion of the above-described project, but no later than April 30, 2018; and

That Grantee shall require any and all contractors who participate in the tree removal to have adequate workers' compensation insurance, and liability insurance with policy limits of at least one million dollars (\$1,000,000) naming Grantor as an additional insured; and

That, subject to requirements of Chapter 3.16 of the Maui County Code, if any, the Grantee shall defend, indemnify and hold the Grantor and Grantor's members, owners, agents, managers, officers, affiliates, directors and employees, harmless from and against any and all claims for property damage, personal injury, or wrongful death arising out of or in connection with the right-of-entry, Grantee's entry onto the Property, and/or the work performed by Grantee on the Property.

GRANTOR:
WAI-AHIWI GULCH LAND COMPANY
LLC

By: PETER D. BALDWIN
Its: Manager and Leasee of the subject
premises

GRANTEE:
COUNTY OF MAUI

By _____
ALAN M. ARAKAWA
Its Mayor

APPROVED AS TO FORM AND LEGALITY:

DAVID A. GALAZIN
Deputy Corporation Counsel
County of Maui
2017-1524
2018-01-25 Right of Entry

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this ____ day of _____, _____, before me personally appeared PETER D. BALDWIN, to me known (or proven to me on the basis of satisfactory evidence) to be the person described in and who executed the foregoing document: Right of Entry Agreement above, who being duly sworn, did acknowledge that he executed the same as his free act and deed, having been duly authorized to execute such instrument in the capacities shown.

I, the Notary Public whose name is signed and printed in the signature area immediately below, do hereby certify that I notarized the foregoing Right of Entry Agreement, with an effective date of February 1, 2018, consisting of 7 pages in the Second Judicial Circuit of the State of Hawaii.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public, State of Hawaii

Print Name: _____

My commission expires: _____

NOTARY PUBLIC CERTIFICATION	
Doc. Date: _____	# Pages: _____
Notary Name: _____	Judicial Circuit: _____
Doc. Description: _____	

Notary Signature: _____	
Date: _____	

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this _____ day of _____, _____, before me appeared **ALAN M. ARAKAWA**, to me personally known, who being by me duly sworn did say, that he is the Mayor of the County of Maui, a political subdivision of the State of Hawaii, and that the seal affixed to the foregoing instrument is the lawful seal of the said County of Maui, and that the said instrument was signed and sealed on behalf of said County of Maui by authority of its Charter, and the said **ALAN M. ARAKAWA** acknowledged the said Instrument to be the free act and deed of said County of Maui.

I, the Notary Public whose name is signed and printed in the signature block immediately below, do hereby certify that I notarized the foregoing Right of Entry Agreement, with an effective date of February 1, 2018, consisting of 7 pages in the Second Judicial Circuit of the State of Hawaii.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public, State of Hawaii

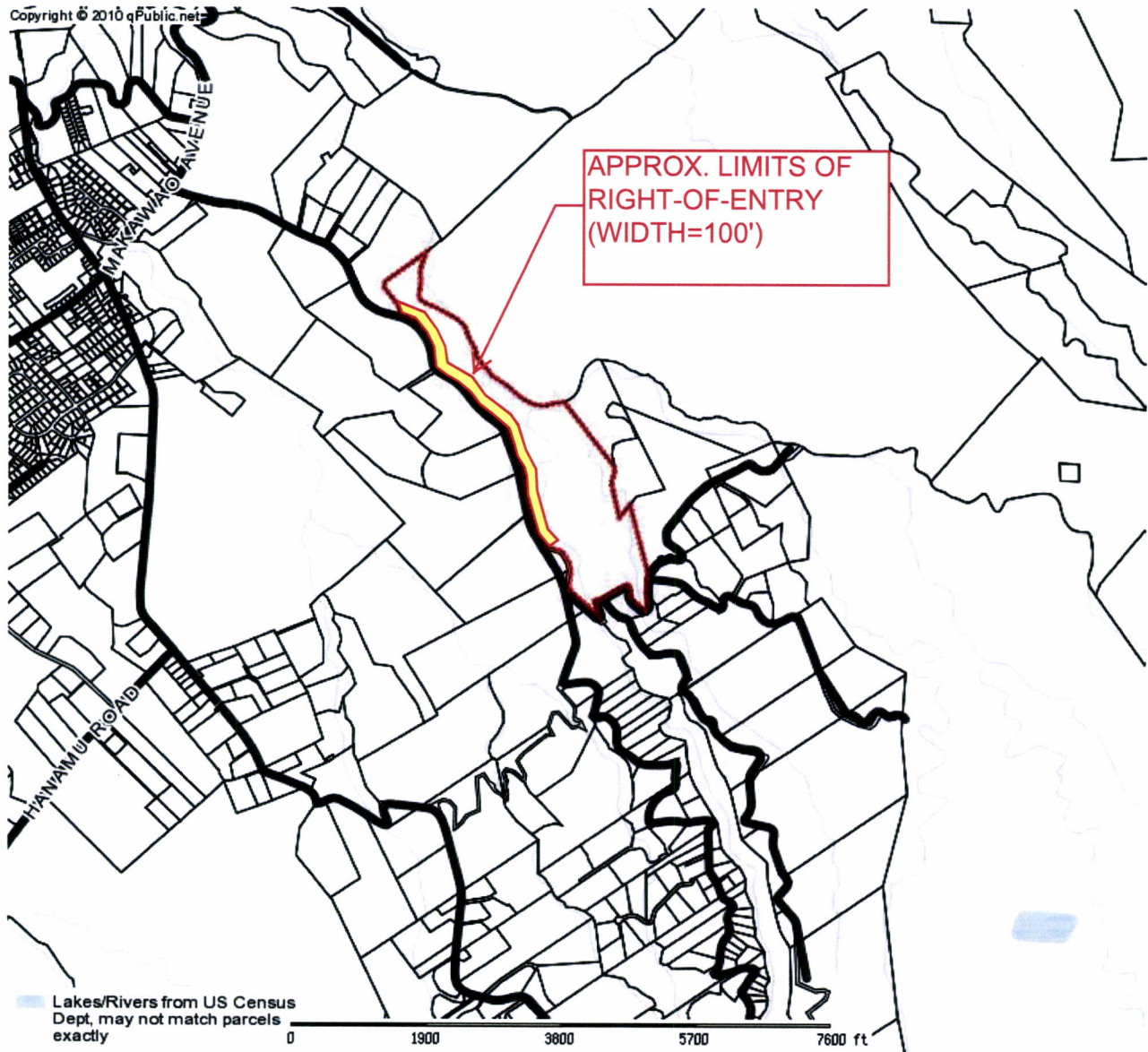
Print Name: _____

My commission expires: _____

NOTARY PUBLIC CERTIFICATION	
Doc. Date: _____	# Pages: _____
Notary Name: _____	Judicial Circuit: _____
Doc. Description: _____	

Notary Signature: _____	
Date: _____	

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Maui County Assessor			
Parcel: 240120800000 Acres: 91.99			
Name:	WAIHAWA GULCH LAND COMPANY LLC	Land Value	\$12,100.00
Site:	0 PIIHOLO RD	Building Value	\$0.00
Sale:	\$\$\$656,850 on 09-2007 Vacant= Qual=	Misc Value	\$0.00
Mail:	C/O MAUI ANIMAL ALOHA CTR C/O ACCTING SR P O BOX 1920 MAKAWAO HI 96768	Just Value	\$0.00
		Assessed Value	\$12,100.00
		Exempt Value	\$0.00
		Taxable Value	\$12,100.00

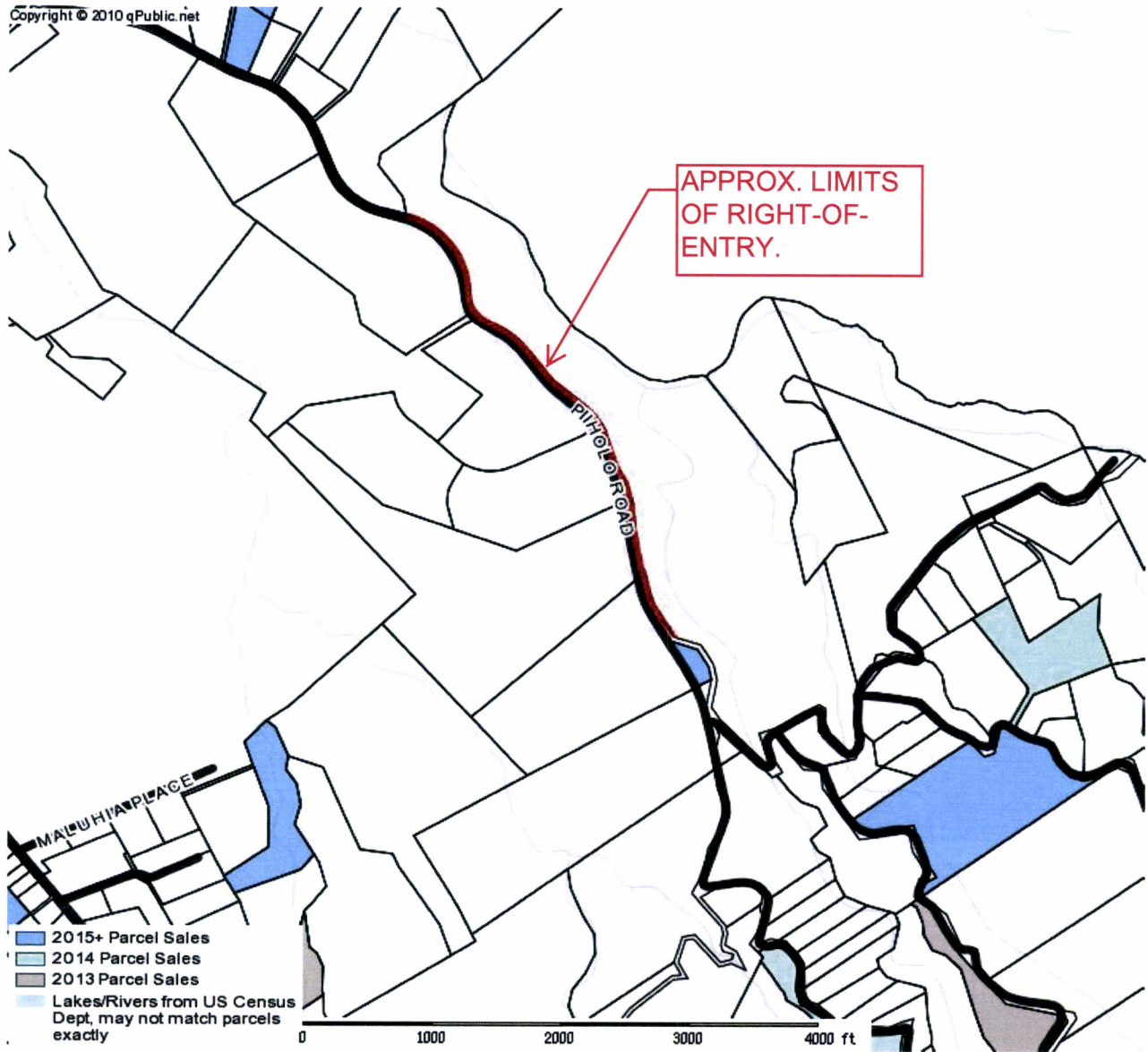


The Maui County Assessor's Office makes every effort to produce the most accurate information possible. No warranties, expressed or implied, are provided for the data herein, its use or interpretation. The assessment information is from the last certified taxroll. All data is subject to change before the next certified taxroll. PLEASE NOTE THAT THE PROPERTY APPRAISER MAPS ARE FOR ASSESSMENT PURPOSES ONLY NEITHER MAUI COUNTY NOR ITS EMPLOYEES ASSUME RESPONSIBILITY FOR ERRORS OR OMISSIONS ---THIS IS NOT A SURVEY---

Date printed: 11/30/17 : 18:20:12

EXHIBIT "A"

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Maui County Assessor

Parcel: 240120810000 Acres: 0.71

Name:	WAIHAWI GULCH LAND COMPANY LLC	Land Value	\$100.00
Site:	0 PIIHOLO RD	Building Value	\$0.00
Sale:		Misc Value	\$0.00
Mail:	C/O MAUI ANIMAL ALOHA CTR C/O ACCTING SR P O BOX 1920 MAKAWAO HI 96768	Just Value	\$0.00
		Assessed Value	\$100.00
		Exempt Value	\$100.00
		Taxable Value	\$0.00



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Date printed: 11/30/17 : 13:57:03