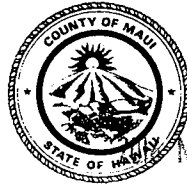


ALAN M. ARAKAWA
Mayor

DAVID C. GOODE
Director

ROWENA M. DAGDAG-ANDAYA
Deputy Director

Telephone: (808) 270-7745
Fax: (808) 270-7975



RECEIVED

NOV 30 PM 2:42

OFFICE OF THE MAYOR

COUNTY OF MAUI
DEPARTMENT OF PUBLIC WORKS
ENGINEERING DIVISION
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793

November 30, 2016

GLEN A. UENO, P.E.
Development Services Administration

CARY YAMASHITA, P.E.
Engineering Division

LESLI L. OTANI, P.E., L.S.
Highways Division

OFFICE OF THE
COUNTY CLERK

2016 DEC -5 AM 9:31

RECEIVED

Honorable Alan M. Arakawa
Mayor, County of Maui
200 South High Street
Wailuku, Maui, Hawaii 96793

For Transmittal to:

Honorable Mike White, Council Chair
and Members of Maui County Council
200 South High Street
Wailuku, Maui, Hawaii 96793

APPROPRIATOR TRANSPARENT

Mayor

Dear Council Chair White and Members:

**SUBJECT: AUTHORIZING PROCEEDINGS IN EMINENT DOMAIN FOR THE
ACQUISITION OF REAL PROPERTY INTERESTS FOR MAKANI ROAD
IMPROVEMENTS INVOLVING TMK: 2-3-033:004**

Transmitted herewith for your review and approval is a proposed resolution entitled, "AUTHORIZING PROCEEDINGS IN EMINENT DOMAIN FOR THE ACQUISITION OF REAL PROPERTY INTERESTS AT MAKAWAO, MAUI, HAWAII FOR MAKANI ROAD IMPROVEMENTS." The relevant legal property description and location map is attached to the resolution.

The purpose of the proposed resolution is to authorize eminent domain proceedings in a court of law in order to acquire a road widening lot on Makani Road. Despite numerous efforts spanning over two years, negotiations to acquire the necessary road widening lot have failed. The road widening lot is necessary to address encroachment and design issues.

Thank you for your attention to this matter. Should you have any questions, please contact Linda Monden in our Engineering Division at Ext. 7271.

Sincerely,

DAVID C. GOODE
Director of Public Works

DCG:LM
Enclosure
(ED 16-1127)
S:\ENGVALL\Inm\DGLtr-ResoMakani

COUNTY COMMUNICATION NO. 16-32A

Resolution

No. _____

AUTHORIZING PROCEEDINGS IN EMINENT DOMAIN
FOR THE ACQUISITION OF REAL PROPERTY INTERESTS
AT MAKAWAO, MAUI, HAWAII FOR MAKANI ROAD IMPROVEMENTS

WHEREAS, the Department of Public Works, County of Maui, was in the process of undertaking a project known as Old Haleakala Highway (Aelo Street to Kula Highway) And Makani Road (Old Haleakala Highway to Haleakala Highway Bypass) Reconstruction, Federal Aid Project No. STP-0900(085), in Makawao, Maui, Hawaii (hereinafter referred to as the “Old Haleakala Highway - Makani Road Reconstruction Project”); and

WHEREAS, all Federal Aid Projects require 100% land rights acquisition prior to the commencement of any project; and

WHEREAS, the property owner of TMK: (2) 2-3-033:004 has brought it to the attention of the Department of Public Works that a portion of Makani Road is located on his property (hereinafter referred to as the “Subject Property”); and

WHEREAS, despite significant efforts toward resolving this matter during the last decade, the owner of the Subject Property has not agreed to a Right of Entry Agreement nor to allow the Department of Public Works to subdivide out and purchase the roadway area prior to the Old Haleakala Highway – Makani Road Reconstruction Project deadline; and

WHEREAS, as a result of the owners’ refusal, the Department of Public Works was forced to remove Makani Road from the Old Haleakala Highway – Makani Road Reconstruction Project in order to retain federal aid for the remainder of the project; and

Resolution No. _____

WHEREAS, in order to avoid problems with any future road improvement projects on Makani Road, the Department of Public Works believes that it is now in the best interest of the County of Maui to acquire possession of the roadway area located on the Subject Property as a road widening lot in fee; and

WHEREAS, said roadway area is identified as a portion of TMK: (2) 2-3-033:004 in Pukalani, Maui, Hawaii, comprising 0.037 acres, more or less, as more particularly described in Exhibit "A," attached hereto and incorporated by reference herein ("Road Widening Lot"); and

WHEREAS, based upon an appraisal of the subject real property interests, the estimated fair market value of the Road Widening Lot described in Exhibit "A" is SEVENTEEN THOUSAND SIX HUNDRED DOLLARS AND NO/100 DOLLARS (\$17,600.00); and

WHEREAS, Sections 46-1.5(6), 46-61, and 46-62, Hawaii Revised Statutes ("HRS"), and Chapter 101, HRS, authorize counties to exercise the power of condemnation by eminent domain when it is in the public interest to do so; and

WHEREAS, pursuant to Section 101-13, HRS, "[w]henver any county deems it advisable or necessary to exercise the right of eminent domain in the furtherance of any governmental power, the proceedings may be instituted . . . after the . . . county council . . . of the county has authorized such suit by resolution duly passed . . ."; and

WHEREAS, Section 101-13, HRS, also provides that the resolution "be published in a newspaper with the eyes and noes, at least one day (Sundays and legal holidays excepted) before final action upon it."; and

WHEREAS, Section 4-2(7), Revised Charter of the County of Maui (1983), as amended, states: "Resolutions authorizing proceedings in eminent domain shall be adopted as provided by law."; now, therefore,

Resolution No. _____

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

1. That, pursuant to Sections 46-1.5(6), 46-61, and 46-62, HRS, and Chapter 101, HRS, it does hereby find and declare that the acquisition of real property interests, situated at Wailuku, Maui, Hawaii, identified as a portion of Tax Map Key Number (2) 2-3-033:004, by exercise of the power of condemnation, is in the public interest and necessary for the public purpose of maintaining Makani Road near the intersection with Old Haleakala Highway; and

2. That proceedings in eminent domain as provided by law be instituted for the acquisition of a road widening lot in fee simple on a portion of Tax Map Key Number (2) 2-3-033:004, comprising 0.037 acres, more or less, as more particularly described in Exhibit "A," along with a temporary right to enter the Subject Property to allow for the completion of a proper survey to set the boundaries of said road widening lot and to prepare the subdivision map for the Subject Property; and

3. That the Corporation Counsel of the County of Maui is hereby authorized and empowered to proceed in eminent domain for the acquisition of said real property interests; and

4. That the Corporation Counsel is further authorized to deposit with the Clerk of the Circuit Court of the Second Circuit, State of Hawaii, the estimated just compensation in the sum of SEVENTEEN THOUSAND SIX HUNDRED DOLLARS AND NO/100 DOLLARS (\$17,600.00), to obtain possession of said real property interests; and

5. That the Corporation Counsel is authorized and empowered to negotiate terms of settlement, subject to the approval of the Council and the Circuit Court of the Second Circuit, State of Hawaii, in which said proceedings are held; and

Resolution No. _____

6. That certified copies of this Resolution be transmitted to the Mayor, Director of Finance, Director of Public Works, and the Corporation Counsel.

APPROVED AS TO FORM
AND LEGALITY:



MICHAEL J. HOPPER
Deputy Corporation Counsel
County of Maui
2014-3376

LOT 11-B
(ROADWAY WIDENING LOT)

PUKALANI ACRES

SITUATED ON THE NORTHERLY SIDE OF MAKANI ROAD
AND OLD HALEAKALA HIGHWAY INTERSECTION
AT KAUAU, MAKAWAO, MAUI, HAWAII

Beginning at the Northeast corner of this Lot, being also the Southeast corner of Lot 11-A, Pukalani Acres, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU PANE" being 6,302.04 feet North and 9,375.12 feet East and running by azimuths measured clockwise from True South:

1. 326° 18' 11.63 feet along Parcel 44 of Tax Map Key (2) 2-2-33;
2. 75° 11' 4.00 feet along Makani Road;
3. Thence, along Makani Road on a curve to the right with a radius of 230.00 feet, the radial azimuth to the point of curve being 345° 11' and the radial azimuth to the point of tangent being 48° 35', the chord azimuth and distance being:
106° 53' 241.72 feet;
4. Thence, along Lot 11-A, Pukalani Acres, on a curve to the left with a radius of 190.00 feet, the radial azimuth to the point of curve being 48° 35' and the radial azimuth to the point of tangent being 5° 03', the chord azimuth and distance being:
296° 49' 140.91 feet;
5. 275° 03' 27.55 feet along Lot 11-A, Pukalani Acres;

EXHIBIT " A "

6. Thence, along Lot 11-A, Pukalani Acres on a curve to the left with a radius of 219.00 feet, the radial azimuth to the point of curve being 5° 03' and the radial azimuth to the point of tangent being 345° 07' 16.15", the chord azimuth and distance being:

265° 05' 08.87" 75.79 feet

to the point of beginning and containing an area of 0.037 Acres.



R. T. TANAKA ENGINEERS, INC.

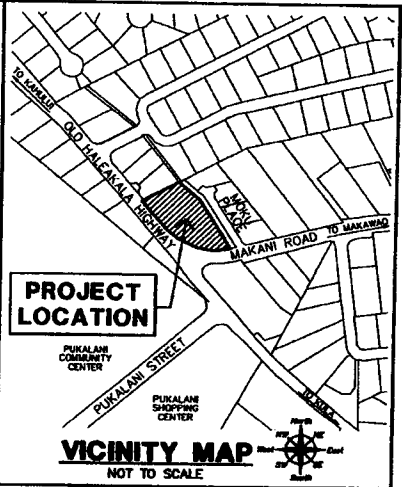
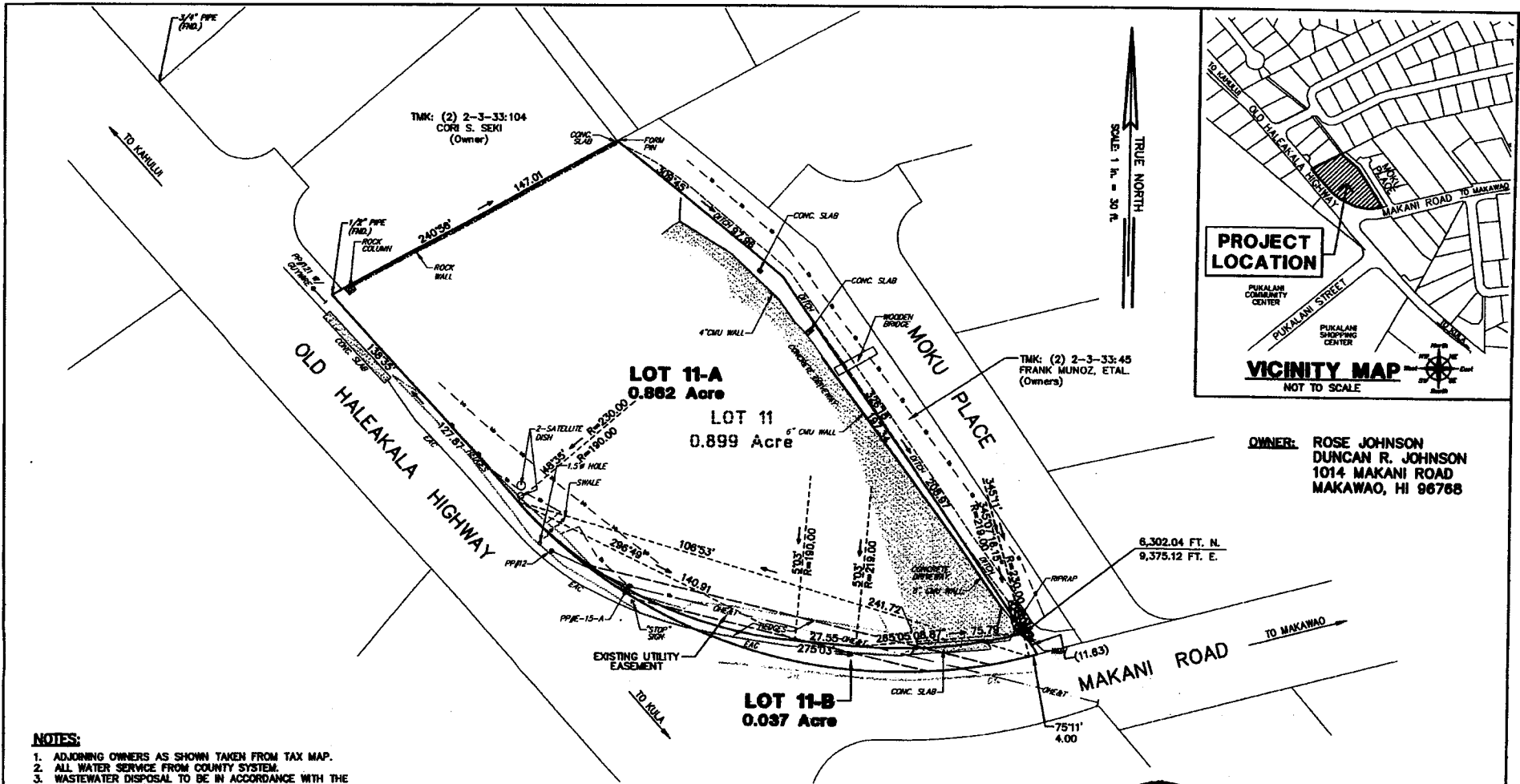
A handwritten signature in cursive script, appearing to read "Kirk T. Tanaka".

Kirk T. Tanaka
Licensed Professional Surveyor
Certificate No. 7223-LS
License Expires: April 30, 2016

871 Kolu Street, Suite 201
Wailuku, Hawaii 96793

September 24, 2015

This Description is subject
to Final Subdivision Approval
by the County of Maui.

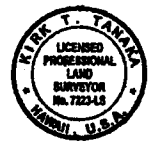


OWNER: ROSE JOHNSON
DUNCAN R. JOHNSON
1014 MAKANI ROAD
MAKAWAO, HI 96768

NOTES:

1. ADJOINING OWNERS AS SHOWN TAKEN FROM TAX MAP.
2. ALL WATER SERVICE FROM COUNTY SYSTEM.
3. WASTEWATER DISPOSAL TO BE IN ACCORDANCE WITH THE REQUIREMENTS OF THE STATE DEPARTMENT OF HEALTH.
4. ALL AZIMUTHS AND RECORD COORDINATES AS SHOWN REFERRED TO GOVERNMENT SURVEY TRIANGULATION STATION "PUU PANE".
5. PURSUANT TO MAUI COUNTY CODE SECTION 3.44.015(C), THE COUNTY OF MAUI IS NOT RESPONSIBLE FOR ANY PARK, ROADWAY, EASEMENT (INCLUDING BUT NOT LIMITED TO DRAINAGE, SEWER, ACCESS, RECLAIMED WATER, OR AVIATION EASEMENT), OR ANY OTHER INTEREST IN REAL PROPERTY SHOWN ON THIS MAP OR SHOWN ON THESE PLANS, UNLESS THE MAUI COUNTY COUNCIL HAS ACCEPTED ITS DEDICATION BY A RESOLUTION APPROVED BY A MAJORITY OF COUNCIL'S MEMBERS AT A REGULAR OR SPECIAL MEETING OF THE MAUI COUNTY COUNCIL.
6. LOT 11-B IS A ROADWAY WIDENING LOT TO BE ACQUIRED BY THE COUNTY.
7. ALL BOUNDARY CORNERS MARKED WITH 1/2" PIPE UNLESS NOTED OTHERWISE.
8. EXISTING UTILITY EASEMENT IS IN FAVOR OF MAUI ELECTRIC COMPANY, LTD. AND HAWAIIAN TELEPHONE COMPANY, LLC AND IS RECORDED IN LIBER 13375, PAGE 29, DATED APRIL 7, 1978.

**PUKALANI ACRES
SUBDIVISION OF LOT 11
INTO LOTS 11-A AND 11-B
Being a Portion of Grant 1202 to Kawahalema
AT KAUAU, MAKAWAO, MAUI, HAWAII**



THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION

Kirk T. Tanaka 02/20/15
DATE
KIRK T. TANAKA
Licensed Professional Land Surveyor
Certificate No. 7223
License Expires APRIL 31, 2016

REVISED: SEPTEMBER 30, 2016
REVISED: SEPTEMBER 22, 2015
MARCH 26, 2015

SUBDIVISION FILE NO. 2.3254
JOB NO. 13-056

MAUI COUNTY RECORDS - 10-10-10 LOT 11-A, 11-B (2015) FILED: 10/10/15 P. 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100

Tax Map Key: (2) 2-3-33: 04
671 KOLEA STREET, SUITE 300
WAILUKU, MAUI, HAWAII 96793

R. T. TANAKA ENGINEERS, INC.

END EXHIBIT " A "