

REQUEST FOR LEGAL SERVICES

RECEIVED

By Dept. of the Corporation Counsel at 9:05 am, Sep 27, 2024

Date: September 27, 2024
From: Tom Cook, Chair
Water and Infrastructure Committee


TRANSMITTAL

Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Caleb P. Rowe, Esq.

Subject: RESOLUTION 24-157, ACCEPTING LAND SET ASIDE BY THE GOVERNOR IN EXECUTIVE ORDER 4708 FOR LANDFILL EXPANSION PURPOSES (HĀNA) (WAI-28)

Background Data: Please see attached resolution. Please submit your response to wai.committee@mauicounty.us with a reference to WAI-28.

Work Requested: FOR APPROVAL AS TO FORM AND LEGALITY
 OTHER:

| | |
|---|--|
| Requestor's signature  Tom Cook, Chair | Contact Person <u>Jarret Pascual or Carla Nakata</u> (Telephone Extension: <u>7141 or 5519, respectively</u>) |
|---|--|

ROUTINE (WITHIN 15 WORKING DAYS) RUSH (WITHIN 5 WORKING DAYS)
 PRIORITY (WITHIN 10 WORKING DAYS) URGENT (WITHIN 3 WORKING DAYS)

SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): October 2, 2024
REASON: For posting on the October 11, 2024, Council meeting agenda.

FOR CORPORATION COUNSEL'S RESPONSE

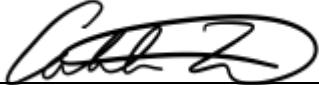
| | | |
|------------------|--------------------------|---------|
| ASSIGNED TO: CPR | ASSIGNMENT NO. 2023-0137 | BY: ALH |
|------------------|--------------------------|---------|

TO REQUESTOR: APPROVED DISAPPROVED OTHER (SEE COMMENTS BELOW)
 RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE): _____

DEPARTMENT OF THE CORPORATION COUNSEL

Date 9/27/24

By 
(Rev. 7/03)

wai:ltr:028acc01:jpg

Attachment

Resolution

No. 24-157, CD1

ACCEPTING LAND SET ASIDE BY THE
GOVERNOR OF THE STATE OF HAWAII BY
EXECUTIVE ORDER 4708, TAX MAP KEY
(2) 1-3-006:017, CONTAINING AN AREA OF
45.415 ACRES, FOR LANDFILL EXPANSION
PURPOSES

WHEREAS, the County of Maui operates a municipal solid waste landfill in Hāna, Maui; and

WHEREAS, on May 13, 2011, the Board of Land and Natural Resources voted to recommend that the Governor issue an executive order setting aside certain public land for the expansion of the Hāna Landfill; and

WHEREAS, on February 26, 2024, Governor Josh Green, M.D., issued Executive Order 4708 (attached as Exhibit “1”), setting aside 45.415 acres for landfill expansion purposes in Hāna, Maui, Hawai‘i, tax map key (2) 1-3-006:017, formerly identified as a portion of tax map key (2) 1-3-006:007, as described in Exhibits “A” and “B” (“Property”); and

WHEREAS, the Director of Environmental Management reviewed the Executive Order and recommends acceptance of the Property; and

WHEREAS, under Subsection 3.44.015(D), Maui County Code, the Council may accept any interest in real property by the adoption of a resolution approved by a majority of its members; now, therefore,

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

1. That it accepts the Property set aside by Executive Order 4708, tax map key (2) 1-3-006:017, containing an area of 45.415 acres, for landfill expansion purposes;
2. That it authorizes the Mayor to execute all necessary documents in connection with the acceptance and dedication of the Property; and

Resolution No. 24-157, CD1

3. That certified copies of this Resolution be transmitted to the Mayor, Director of Finance, Director of Environmental Management, and Governor of the State of Hawai'i.

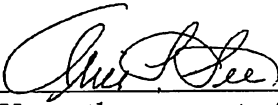
APPROVED AS TO FORM AND LEGALITY:



Department of the Corporation Counsel
County of Maui

wai:misc:028areso01:jpp
LF# 2023-0137

INTRODUCED BY:



Upon the request of the Mayor.

control and management of the County of Maui, being that parcel of land situate at Kawaipapa, Hana, Maui, Hawaii and identified as "Hana Landfill Expansion Site," containing an area of 45.415 acres, SUBJECT, HOWEVER, to a portion of Road Easement, more particularly described in Exhibit "A" and delineated on Exhibit "B," both of which are attached hereto and made parts hereof, said exhibits being respectively, a survey description and survey map prepared by the Land Survey Division, Department of Accounting and General Services, State of Hawaii, both being designated C.S.F. No. 25,692 and dated October 12, 2018.

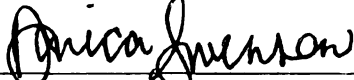
SUBJECT, HOWEVER, to the condition that upon cancellation of this executive order or in the event of non-use or abandonment of the premises or any portion thereof for a continuous period of one (1) year, or for any reason whatsoever, the County of Maui, shall, within a reasonable time, restore the premises to a condition satisfactory and acceptable to the Department of Land and Natural Resources, State of Hawaii.

SUBJECT, FURTHER, to disapproval by the Legislature by two-thirds vote of either the Senate or the House of Representatives or by majority vote of both, in any regular or special session next following the date of this Executive Order.

This executive order does not authorize the recipient of the set aside to sell or exchange or otherwise relinquish the State of Hawaii's title to the subject public land.

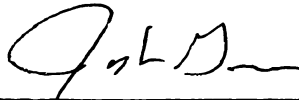
IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Hawaii to be affixed. Done at the Capitol at Honolulu this 26th day of February, 2024.

APPROVED AS TO FORM:



DANICA L. SWENSON
Deputy Attorney General
Dated: February 13, 2024

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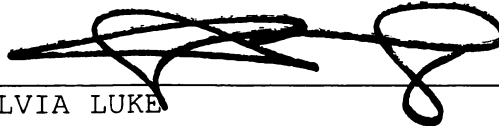
JOSH GREEN, M.D.
Governor of the State of Hawaii

STATE OF HAWAII

Office of the Lieutenant Governor

THIS IS TO CERTIFY That the within is a true copy of Executive Order No. 4708 setting aside land for public purposes, the original of which is on file in this office.

IN TESTIMONY WHEREOF, the Lieutenant Governor of the State of Hawaii, has hereunto subscribed her name and caused the Great Seal of the State to be affixed.



SYLVIA LUKE
Lieutenant Governor of the State of Hawaii

DONE in Honolulu, this 27th day of
February, A.D. 2024



STATE OF HAWAII
SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
HONOLULU

C.S.F. No. 25,692

October 12, 2018

HANA LANDFILL EXPANSION SITE

Kawaipapa, Hana, Maui, Hawaii

Being a portion of the Government Land of Kawaipapa.

Beginning at the easterly corner of this parcel of land and at the west corner of Hana Garbage Dump Site, Governor's Executive Order 3304, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAUIKI" being 5091.44 feet North and 2823.13 feet West, thence running by azimuths measured clockwise from True South:-

1. 309° 46' 30" 1008.28 feet along Hana Garbage Dump Site,
Governor's Executive Order 3304;
2. 44° 00' 418.00 feet along Grant 8237 to Haiku Fruit and
Packing Company, Limited;
3. 69° 56' 376.70 feet along Grant 8237 to Haiku Fruit and
Packing Company, Limited;
4. 78° 15' 426.40 feet along Grant 1982 to Kahananui, et al.;
5. 133° 15' 757.00 feet along Grant 1982 to Kahananui, et al.;
6. 180° 00' 1159.94 feet along the remainder of the Government
Land of Kawaipapa;

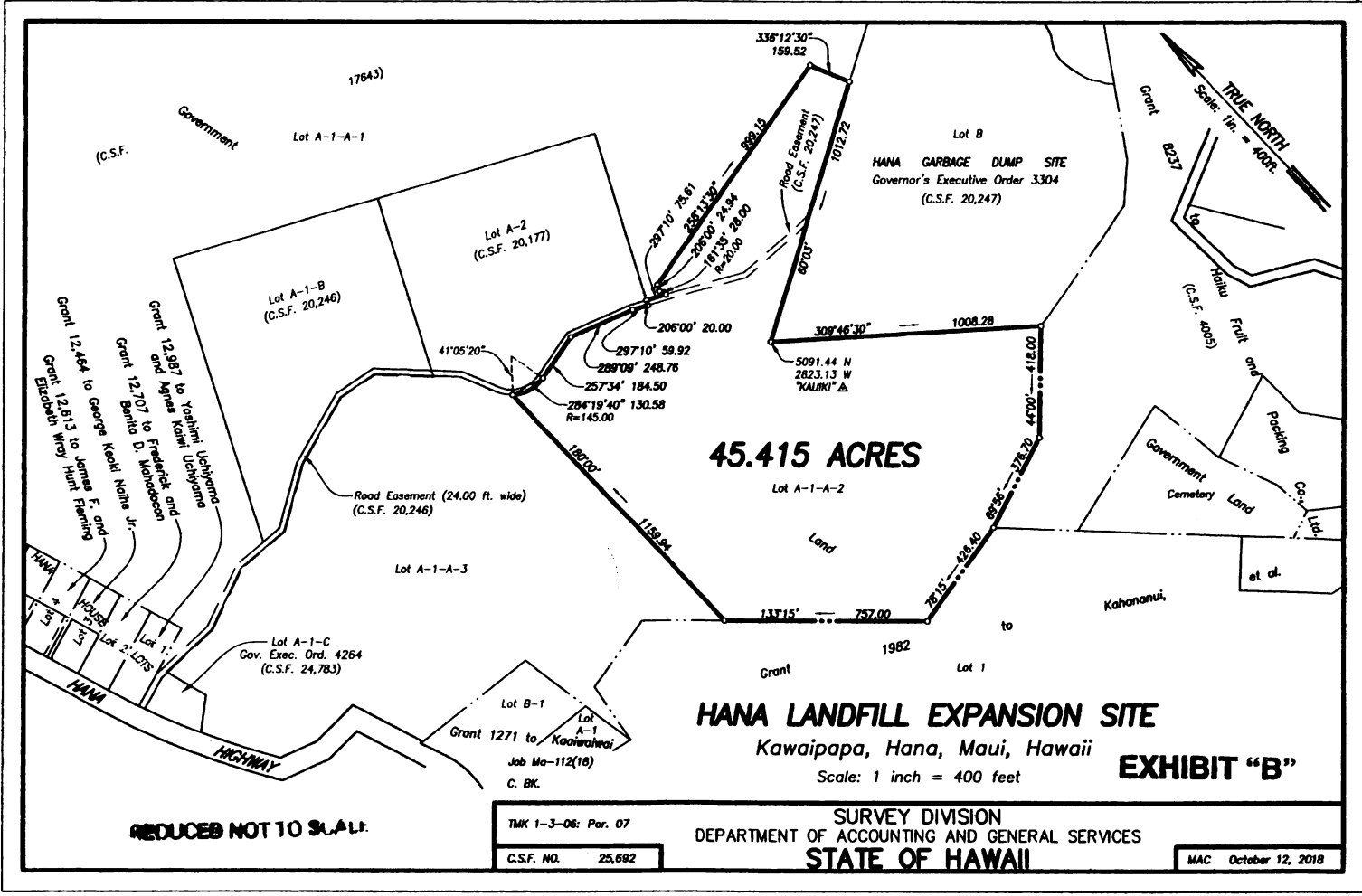
7. Thence along the remainder of the Government Land of Kawaipapa on a curve to the left with a radius of 145.00 feet, the chord azimuth and distance being:
284° 19' 40" 130.58 feet;
8. 257° 34' 184.50 feet along the remainder of the Government Land of Kawaipapa;
9. 289° 09' 248.76 feet along the remainder of the Government Land of Kawaipapa;
10. 297° 10' 59.92 feet along the remainder of the Government Land of Kawaipapa;
11. 206° 00' 20.00 feet along the remainder of the Government Land of Kawaipapa;
12. 297° 10' 75.61 feet along the remainder of the Government Land of Kawaipapa;
13. Thence along the remainder of the Government Land of Kawaipapa on a curve to the right with a radius of 20.00 feet, the chord azimuth and distance being:
161° 35' 28.00 feet;
14. 206° 00' 24.94 feet along the remainder of the Government Land of Kawaipapa;
15. 258° 13' 30" 999.15 feet along the remainder of the Government Land of Kawaipapa;
16. 336° 12' 30" 159.52 feet along the remainder of the Government Land of Kawaipapa;
17. 60° 03' 1012.72 feet along Hana Garbage Dump Site, Governor's Executive Order 3304 to the point of beginning and containing an AREA OF 45.415 ACRES.

SUBJECT, HOWEVER, to a portion of Road Easement as shown on plan attached hereto and made a part hereof.

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

By: *Gerald Z. Yonashiro*
Gerald Z. Yonashiro
Land Surveyor rk

Compiled from map and desc.
furn. by Newcomer Lee Land
Surveyors, Inc. Said map and desc.
have been examined and checked as
to form and mathematical correctness
but not on the ground by the Survey
Division.



17643
 Government
 Lot A-1-A-1
 (C.S.F. 20,246)

Lot A-2
 (C.S.F. 20,177)

Lot A-1-B
 (C.S.F. 20,246)

Grant 12,987 to Yoshimi Uchiyama
 and Agnes Keahi Uchiyama
 Grant 12,707 to Frederick and
 Bernice D. Kahanoocon
 Grant 12,464 to George Keeki Naha Jr.
 Grant 12,813 to James F. and
 Elizabeth Wray Hunt Fleming

Road Easement (24.00 ft. wide)
 (C.S.F. 20,246)

Lot A-1-C
 Gov. Exec. Ord. 4264
 (C.S.F. 24,783)

Lot B-1
 Lot A-1
 Grant 1271 to Kawaiwai
 Job No-112(16)
 C. BK.

Lot B
 HANA GARbage DUMP SITE
 Governor's Executive Order 3304
 (C.S.F. 20,247)

HANA LANDFILL EXPANSION SITE
 Kawaipapa, Hana, Maui, Hawaii

EXHIBIT "B"

THK 1-3-06: Par. 07
 C.S.F. NO. 25,692

SURVEY DIVISION
 DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
 STATE OF HAWAII

MAC October 12, 2018