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**FOR ACTION**

**I. REQUEST**

Approve a Waterline Easement to the County of Maui at the Villages of Leiali'i in Lahaina, Maui, Hawaii, TMK No.: (2) 4-5-21: por. 003.

**II. FACTS**

Project: Villages of Leiali'i  
Address: Lahaina, Maui, Hawaii  
HHFDC Involvement: Landowner/Master Developer  
Market: Mixed-Uses  
Type: Master Planned Community  
Land Ownership: DLNR/HHFDC  
Land Tenure: Leasehold  
No. of Units: 4,800 Units  
Acreage: 1,128 Acres  
TMK: (2) 4-5-021: 003; por. 004; 020; 021; por. 022  
(2) 4-5-036: 001 to 111  
Contact Person: Wendy Taomoto, P.E.  
Department of Water Supply  
County of Maui  
200 South High Street, 5<sup>th</sup> Floor  
Wailuku, Maui, Hawaii 96793  
Phone: (808) 270-7681

- A. The Villages of Leiali'i (VOL) is a master planned community in Lahaina, Maui, Hawaii, consisting of approximately 4,800 residential units and other community facilities on approximately 1,128 acres, including a golf course, located on the mauka (east) side of Honoapiilani Highway, next to the Lahaina Civic and Recreation Center in Lahaina, Maui, Hawaii.
- B. On November 5, 2007, HHFDC procured Belt Collins Hawaii Ltd. to re-evaluate the VOL master plan and complete an Environmental Impact Statement (EIS) for the new master plan. On July 9, 2008, draft master plan Concepts A (3,290 units) and B (3,910 units) were distributed to stakeholders for review and comment. A revised Concept A (10/13/08) is attached hereto as Exhibit A-1 for reference. This work is on-going.
- C. In November 1994, HHFDC's predecessor agency, the Housing Finance and Development Corporation (HFDC), acquired title to approximately 544 acres makai of the proposed Lahaina By-Pass Highway, including TMK (2) 4-5-21: 3, 18, 19, & 21. HHFDC's predecessor agency, HCDCH, transferred Villages 1A and 1B to the Department of Hawaiian Home Lands (DHHL) pursuant to Transfer Agreement dated December 30, 2004. DLNR owns the balance of the Villages of Leiali'i project, TMK (2) 4-5-21: por. 4, por. 22.
- D. Due to the ceded lands litigation, residential development at the Villages of Leiali'i has been suspended since 1994. After a trial in November 2001, on December 5, 2002, State Circuit Court Judge Sabrina McKenna ruled that the State could sell ceded lands. This decision was appealed to the Hawaii Supreme

Court and on January 31, 2008, the Hawaii Supreme Court unanimously ruled in favor of the Office of Hawaiian Affairs (OHA) that an injunction should issue against the State from selling or otherwise transferring to third parties ceded lands until the claims of the native Hawaiians have been resolved. In accordance with the decision of the Hawaii Supreme Court, on June 4, 2008, the State Circuit Court issued an injunction order barring the State from selling or transferring ceded lands to third parties, except that the State may "continue its practice of transferring remnants, and issuing licenses, permits, easements and leases concerning ceded lands." On April 29, 2008, the Attorney General announced that a Petition for a Writ of Certiorari was filed with the U.S. Supreme Court and on October 1, 2008, the U.S. Supreme Court agreed to hear the State's appeal of the Hawaii Supreme Court decision.

- E. In 1965, before title was transferred to HFDC, the State of Hawaii issued Executive Order No. 2189 within the Villages of Leiali'i project to the County of Maui for the Wahikuli County Tank Site and Easements A and B to service the existing Wahikuli Houselots Subdivision makai of the Villages of Leiali'i Project. See attached Exhibit A. The tank site, TMK (2) 4-5-14: 58, is 2,834 square feet and Easements A and B are 10-feet wide for waterline purposes connecting the water tank site to waterlines in Wahikuli and Fleming Roads. The tank site is vacant, however, there is an existing 2-1/2" waterline in Easements A and B, which the County would like to replace. See attached Exhibit A-2.

### III. DISCUSSION

- A. The County of Maui Department of Water Supply (DWS) is requesting for a new waterline easement, 15-feet wide, alongside and in the vicinity of Easements A and B of E.O. No. 2189 as shown on the attached Exhibit B for the installation of a new 8" waterline to replace the existing waterline in Easements A and B. The approximate area of the easement is 8,765 square feet.
- B. The proposed terms of the conveyance to DWS are as follows:
  - 1. Purpose: For water pipeline;
  - 2. Grantee: Department of Water Supply, County of Maui;
  - 3. Consideration: Gratis
  - 4. "AS IS";
  - 5. Conveyance of title by easement in a form acceptable to the Department of Attorney General;
  - 6. All costs, including engineering, property description, conveyance and closing costs to be borne by DWS.
- C. If the requested new waterline easement is approved and granted, the existing E.O. No. 2189 and Easements A and B will be cancelled.
- D. The easement area requested by DWS is within a retention basin open space area on current draft land use plans being prepared by Belt Collins Hawaii Ltd.
- E. DWS acknowledges that the easement requested is on ceded land and conveyance shall be subject to approval by the Department of Attorney General (AG).

#### IV. RECOMMENDATION

That the HHFDC Board of Directors approve the dedication of a waterline easement over a portion of the Villages of Leiali'i Project in Lahaina, Maui, Hawaii, TMK (2) 4-5-21: por. 003, to the County of Maui Department of Water Supply for the existing Wahikuli Houselots Subdivision makai of the Villages of Leiali'i Project substantially as discussed in this For Action, and authorize the Executive Director to take all actions necessary to effectuate the purpose of this For Action, subject to approval of the form and substance of the easement over ceded lands by the Department of Attorney General.

Attachments: Exhibit A - Location Maps  
Exhibit B - Proposed Easement Area

Prepared by: Stan S. Fujimoto, Project Manager SP

Reviewed by: Rick Prahl, Development Branch Chief RWP

Approved by The Board of Directors at its meeting  
on JAN 08 2008

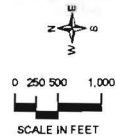
DEVELOPMENT BRANCH

Please take necessary action.

Kam Loh  
EXECUTIVE DIRECTOR



# Exhibit A-1



— Project Boundary  
 □ Parcels

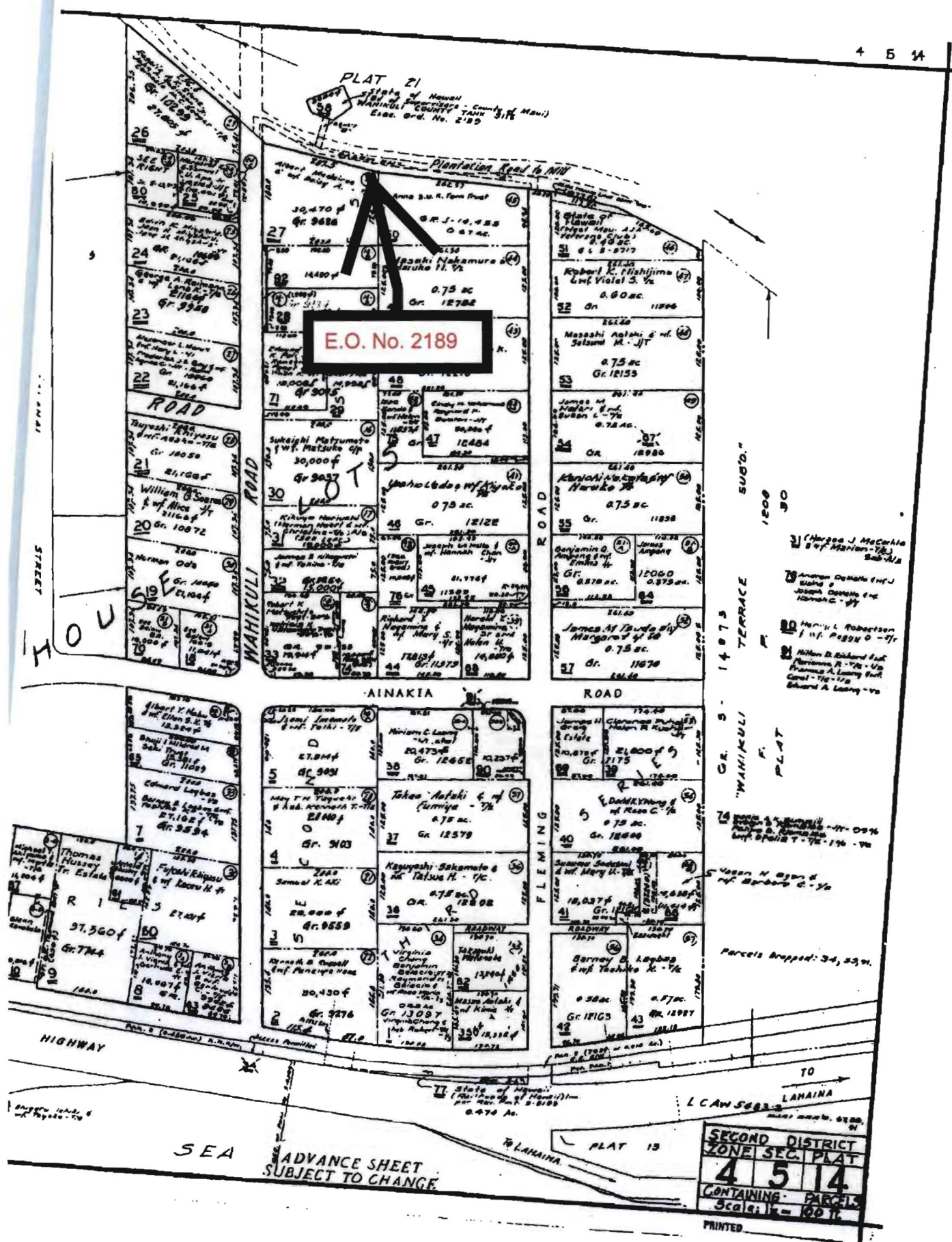
Imagery from Google Earth Pro

Preliminary - Subject to Revision  
 - Lot lines shown are approximate and for illustrative purposes  
 - Imagery is approximately matched to lot lines

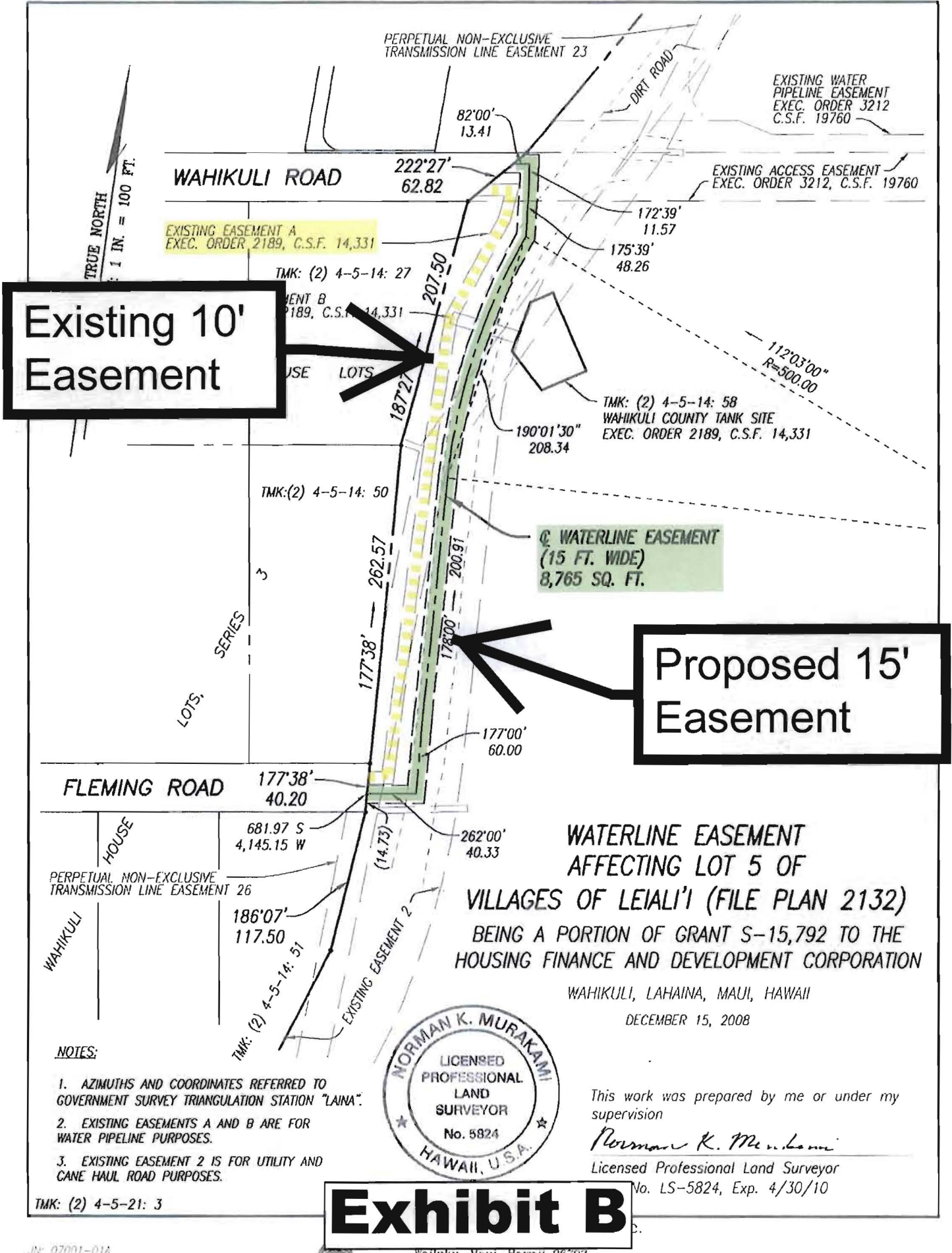
VILLAGES at LEIALI'I  
 Maui Parcels

Lahaina, Maui, Hawaii  
 March 2008





## Exhibit A-2

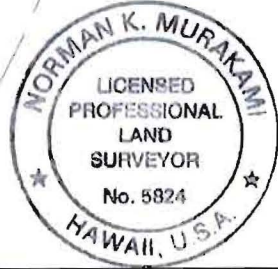


Existing 10' Easement

Proposed 15' Easement

WATERLINE EASEMENT  
AFFECTING LOT 5 OF  
VILLAGES OF LEIALI'I (FILE PLAN 2132)  
BEING A PORTION OF GRANT S-15,792 TO THE  
HOUSING FINANCE AND DEVELOPMENT CORPORATION

WAHIKULI, LAHAINA, MAUI, HAWAII  
DECEMBER 15, 2008



This work was prepared by me or under my supervision  
*Norman K. Murakami*  
Licensed Professional Land Surveyor  
No. LS-5824, Exp. 4/30/10

Exhibit B

NOTES:

1. AZIMUTHS AND COORDINATES REFERRED TO GOVERNMENT SURVEY TRIANGULATION STATION "LAHA".
2. EXISTING EASEMENTS A AND B ARE FOR WATER PIPELINE PURPOSES.
3. EXISTING EASEMENT 2 IS FOR UTILITY AND CANE HAUL ROAD PURPOSES.

TMK: (2) 4-5-21: 3