

Setting Aside Land for Public Purposes

By this Executive Order, I, the undersigned, Governor of the State of Hawaii, by virtue of the authority in me vested by Section 171-11, Hawaii Revised Statutes, and every other authority me hereunto enabling, do hereby order that the public land hereinafter described be, and the same is, hereby set aside for the following public purposes:

FOR KEALAKEHE WASTEWATER RECLAMATION FIELD AND NORTH KONA GOLF COURSE, to be under the control and management of the Department of Public Works, County of Hawaii, a political subdivision of the State of Hawaii, situate at Kealakehe, North Kona, Island of Hawaii, Hawaii, and identified as follows:

Being a portion of the Government Land of Kealakehe, and being all of Lot 25 of the Villages of Laiopua, Phase I as shown on File Plan 2128 filed in the Office of the Bureau of Conveyances of the State of Hawaii and containing an area of 193.547 acres, more or less, Subject, However, to Easement 1 for Sanitary Sewer Purposes affecting Lot 25 as shown on File Plan 2128 and containing an area of 46,262 square feet, more or less;

Subject, also, to Easement 2 for All Purposes (80.00 feet wide) of Kealakehe Parkway, Phase I as shown on File Plan 2067 affecting Lot 25 as shown on File Plan 2128 and containing an area of 34,052 square feet, more or less.

All more particularly described on Exhibit "A" and delineated on Exhibit "B," both of which are attached hereto and made parts hereof, said exhibits being respectively, a survey description prepared by the Survey Division, Department of Accounting and General Services, State of Hawaii, designated as C.S.F. No. 22,250 and dated February 9, 1995, and said map being File Plan 2128.

SUBJECT, HOWEVER, to the following conditions established by Board of Land and Natural Resources approval of March 8, 1991:

1. The County of Hawaii shall comply with all applicable statutes, ordinances, rules and regulations of the Federal, State and County of Hawaii governments; and
2. All building construction, grading and landscaping, shall be in full compliance with all statutes, ordinances, rules and regulations of the Federal, State and County of Hawaii governments applicable thereto and in accordance with plans and specifications submitted by the County of Hawaii and/or its contractor to and approved by the Chairperson of the Board of Land and Natural Resources (Chairperson) prior to construction; and

3. The County of Hawaii and/or its contractor shall procure, at its own cost and expense, and maintain during the entire period of this executive order, from an insurance company or companies licensed to do business in the State of Hawaii, a policy or policies of comprehensive public liability insurance, in an amount acceptable to the Chairperson, insuring the State of Hawaii and the County of Hawaii against all claims for personal injury, death and property damage; that said policy shall cover the entire executive order area, including all improvements and grounds and all roadways or sidewalks on or adjacent to the executive order area in the control or use of the County of Hawaii and/or its contractor. The County of Hawaii and/or its contractor shall furnish a like certificate upon each renewal of such policy, each such certificate to contain or be accompanied by an assurance of the insurer to notify the State of Hawaii of any intention to cancel any such policy sixty (60) days prior to actual cancellation; and

4. The County of Hawaii and/or its contractor shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim or demand for property damage, personal injury and death arising out of any act or omission of the County of Hawaii, its contractor, its successors, assigns, officers, employees, and/or agents under this executive order or relating to or connected with granting of this executive order; and

5. In the event that any unanticipated sites or remains, such as shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings or walls are encountered during construction, the County of Hawaii and/or its contractor shall stop work immediately and contact the State Historic Preservation Program, Department of Land and Natural Resources in Honolulu at 548-0047; and

6. The County of Hawaii and/or its contractor shall deliver to the Chairperson of the Board of Land and Natural Resources, the premium sum of SIX MILLION DOLLARS (\$6,000,000), in legal tender of the United States of America, upon the contractor's receipt of the Notice to Proceed from the County of Hawaii; and

7. The County of Hawaii shall deliver to the Department of Land and Natural Resources an amount equal to twenty percent (20%) of the rent payable by the contractor to the County of Hawaii. The contractor's rental payment to the County of Hawaii is equal to three and six-tenths percent (3.6%) of the contractor's "total gross revenues." Payment shall be due from the County of Hawaii within thirty (30) days after receipt of rental payment from the contractor; and

8. The County of Hawaii shall submit to the Chairperson a copy of the report as detailed in Paragraph 11, Accounting found on pages 32 and 33 of the Development Agreement for Construction and Operation of a Golf Course in North Kona, Hawaii (Request for Proposal No. 1327); and

9. The County of Hawaii shall submit to the Chairperson or his designated representatives all minutes and reports of the review board, which shall be appointed by the Mayor, to assist the County of Hawaii in reviewing operation and maintenance of the golf course; and

10. The County of Hawaii shall not rent or sublet the whole or any portion of the interest or rights granted by this executive order, except as provided herein upon the prior written approval of the Board of Land and Natural Resources; and

11. The County of Hawaii and/or its contractor shall not mortgage, hypothecate, or pledge any interest in this executive order without the prior written approval of the Chairperson and any mortgage, hypothecation or pledge without the Chairperson's approval shall be null and void; and

12. The County of Hawaii in coordination with the State Housing Finance and Development Corporation shall be responsible for the subdivision of the subject parcel; and

13. The County of Hawaii and/or its contractor shall at its own expense (and at no cost to the State), comply with the requirements of Chapter 343, Hawaii Revised Statutes, if required, prior to the subdivision of the area in question; and

14. 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 Hawaii 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; and

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.

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 18th day of
July, Nineteen Hundred and 95

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Approved as to form:

William M. Larr
Deputy Attorney General

Dwight J. Cayetano
Governor of the State of Hawaii

Dated: 6/16/95