

NOTICE OF PUBLICATION AND NOTICE OF PUBLIC HEARING

OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUAI

Notice is hereby given that the Council of the County of Kaua'i will hold a public hearing on Wednesday, July 8, 2020, at 1:30 p.m., or soon thereafter, at the Council Chambers, 4396 Rice Street, Room 201, Historic County Building, Lihu'e, on the following:

Resolution No. 2020-28

RESOLUTION AUTHORIZING THE ACQUISITION OF AN EASEMENT INTEREST IN LAND REQUIRED FOR PUBLIC USE, TO WIT: THE PEDESTRIAN AND BICYCLE PATH THAT CONSTITUTES PART OF THE COUNTY'S PUBLIC PARK SYSTEM, SITUATED AT WAIPOULI, DISTRICT OF KAWAIHAU, COUNTY OF KAUA'I, HAWAI'I, AND DETERMINING AND DECLARING THE NECESSITY OF THE ACQUISITION THEREOF BY EMINENT DOMAIN

This Resolution proposes to authorize the County Attorney to institute eminent domain proceedings to condemn an easement for public use in the public interest at Tax Map Key (TMK) (4) 4-3-007:009 (also referred to as "Easement B-8 in Parcel 9 of TMK (4) 4-3-07"), Waipouli, District of Kawaihau, County of Kaua'i, Hawai'i, as described in Resolution No. 2020-28. The purpose of this easement is to provide a perpetual non-exclusive easement to build, construct, rebuild, repair, maintain, and operate a bicycle and pedestrian shared-use path for public access purposes. The easement is necessary to establish a portion of Ke Ala Hele Makalae, which is part of the County's public park system, and allow an access path to the beach.

All interested persons who wish to present their comments may do so at the public hearing. Written testimony prior to the hearing would be appreciated. Written testimony can be submitted to the Office of the County Clerk, Council Services Division by mail, facsimile, or via E-mail to counciltestimony@kauai.gov. Copies of the Resolution are available at the Office of the County Clerk, Council Services Division.

(The Council Committee or Council may amend this Resolution at their subsequent meetings. Meeting notices are posted at least six (6) days in advance at the County Clerk's Office and the public may also testify at any of these meetings.)

CERTIFICATE OF THE COUNTY CLERK

I hereby certify that the foregoing Resolution No. 2020-28 was ordered to print by the Council of the County of Kaua'i at its meeting held on June 17, 2020, by the following vote:

AYES: Chock, Cowden, Evslyn, Kagawa, Kualii, Kaneshiro	TOTAL - 6,
NOES: None	TOTAL - 0,
EXCUSED & NOT VOTING: Brun	TOTAL - 1*,
RECUSED & NOT VOTING: None	TOTAL - 0.

Lihu'e, Hawai'i
June 17, 2020

/s/ Jade K. Fountain-Tanigawa
County Clerk, County of Kaua'i

*Beginning with the March 11, 2020 Council Meeting and until further notice, Councilmember Arthur Brun will not be present due to U.S. v. Arthur Brun et al., Cr. No. 20-00024-DKW (United States District Court), and therefore will be noted as excused (i.e., not present).

NOTE: IF YOU NEED AN AUXILIARY AID/SERVICE, OTHER ACCOMMODATION DUE TO A DISABILITY, OR AN INTERPRETER FOR NON-ENGLISH SPEAKING PERSONS, PLEASE CONTACT THE OFFICE OF THE COUNTY CLERK, COUNCIL SERVICES DIVISION AT (808) 241-4188 OR COKCOUNCIL@KAUAI.GOV AS SOON AS POSSIBLE. REQUESTS MADE AS EARLY AS POSSIBLE WILL ALLOW ADEQUATE TIME TO FULFILL YOUR REQUEST.

UPON REQUEST, THIS NOTICE IS AVAILABLE IN ALTERNATE FORMATS SUCH AS LARGE PRINT, BRAILLE, OR ELECTRONIC COPY.

(One publication – The Garden Island – June 23, 2020)

COUNTY COUNCIL

COUNTY OF KAUA'I

Resolution No. 2020-28

(FOR CONDEMNATION)

RESOLUTION AUTHORIZING THE ACQUISITION OF AN EASEMENT INTEREST IN LAND REQUIRED FOR PUBLIC USE, TO WIT: THE PEDESTRIAN AND BICYCLE PATH THAT CONSTITUTES PART OF THE COUNTY'S PUBLIC PARK SYSTEM, SITUATED AT WAIPOULI, DISTRICT OF KAWAIHAU, COUNTY OF KAUA'I, HAWAI'I, AND DETERMINING AND DECLARING THE NECESSITY OF THE ACQUISITION THEREOF BY EMINENT DOMAIN

WHEREAS, Hawai'i Revised Statutes (HRS) Section 101-2 provides express authority for taking private property for public use; and

WHEREAS, HRS Section 46-1.5(6) grants the counties the power of condemnation by eminent domain when it is in the public interest; and

WHEREAS, the Pedestrian and Bicycle Path, also known as Ke Ala Hele Makalae, which is part of the County of Kaua'i's public park system, is a public use and the acquisition of lands for its construction is in the public interest; now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF KAUA'I, STATE OF HAWAI'I, that:

1. The acquisition of Easement B-8 in Parcel 9 of Tax Map Key (TMK) (4) 4-3-07, being also a portion of R.P. 7373, L.C. Aw. 8559-B, Apana 42 to Wm. C. Lunalilo, the description of which is attached hereto as Exhibit 1 (description of Easement B-8 and its Attachments A and B) and made a part hereof, is necessary for a public use, purpose, and interest, to wit: the construction of a portion of the Pedestrian and Bicycle Path, also known as Ke Ala Hele Makalae, and for the acquisition of an access path to the beach from the Pedestrian and Bicycle Path.
2. The County Attorney of the County of Kaua'i is hereby authorized and empowered to institute proceedings in eminent domain as provided by law for the acquisition of the easement interest in Parcel 9.

3. In the process of any proceedings in eminent domain, the County Attorney is hereby authorized and empowered to negotiate terms of settlement, subject to approval of this Council and/or of the Court before which the proceedings are commenced.
4. The County Clerk is hereby authorized and directed to transmit copies of this Resolution to the Acting County Engineer, the Director of Parks and Recreation, the Director of Finance, and the County Attorney.

This Resolution shall take effect upon its approval.

Introduced by:



ROSS KAGAWA
(By Request)

	Aye	Nay	Excused	Refused
Brun				
Chock				
Cowden				
Enslin				
Kagawa				
Kaneshiro				
Kuali'i				
Total				

Certificate Of Adoption

We hereby certify that Resolution No. _____
was adopted by the Council of the County of Kaua'i, State of
Hawai'i, Lihu'e, Kaua'i, Hawai'i, on _____.

County Clerk
Dated

Chairman & Presiding Officer

PEDESTRIAN AND BICYCLE PATH

PARCEL 9
(Easement B-8)

TMK (4) 4-3-007-009 (Portion)

All of that certain parcel of land situated in Waipouli, Kawaihau, Island and County of Kaua'i, State of Hawai'i, bounded and described as follows:

Easement B-8, being a portion of that certain piece of land designated as Parcel 9 or Tax Map Key (TMK): (4) 4-3-07, being also a portion of R.P. 7373, L.C. Aw. 8559-B, Apana 42 to Wm. C. Lunalilo, area 2,122 square feet, more or less, as shown on Exhibits A and B.

EXHIBIT A**EASEMENT B-8
(For Bike Path Purposes)**

Being a portion of that certain piece of land designated as Parcel 9 of Tax Map Key (TMK): (4) 4-3-07, being also a portion of R.P. 7373, L.C. Aw. 8559-B, Apana 42 to Wm. C. Lunalilo.

Situate at Waipouli, Kawaihau, Kauai, Hawaii.

Beginning at the North corner of this piece of land, being also the East corner of Parcel 8 of TMK: (4) 4-3-07, the coordinates of said point of beginning referred to Government Survey Triangulation Station "NONOU" being 587.15 feet South and 11,669.73 feet East and running by azimuths measured clockwise from true South:

- | | | |
|----|----------|--|
| 1. | 324° 11' | 17.17 feet along Parcel 11 of TMK: (4) 4-3-07; |
| 2. | 46° 07' | 124.58 feet along the remainder of Parcel 9 of TMK: (4) 4-3-07; |
| 3. | 142° 40' | 17.11 feet along the Northeast side of Kamoā Road; |
| 4. | 226° 07' | 125.04 feet along Parcel 8 of TMK: (4) 4-3-07 to the point of beginning and containing an area of 2,122 square feet. |



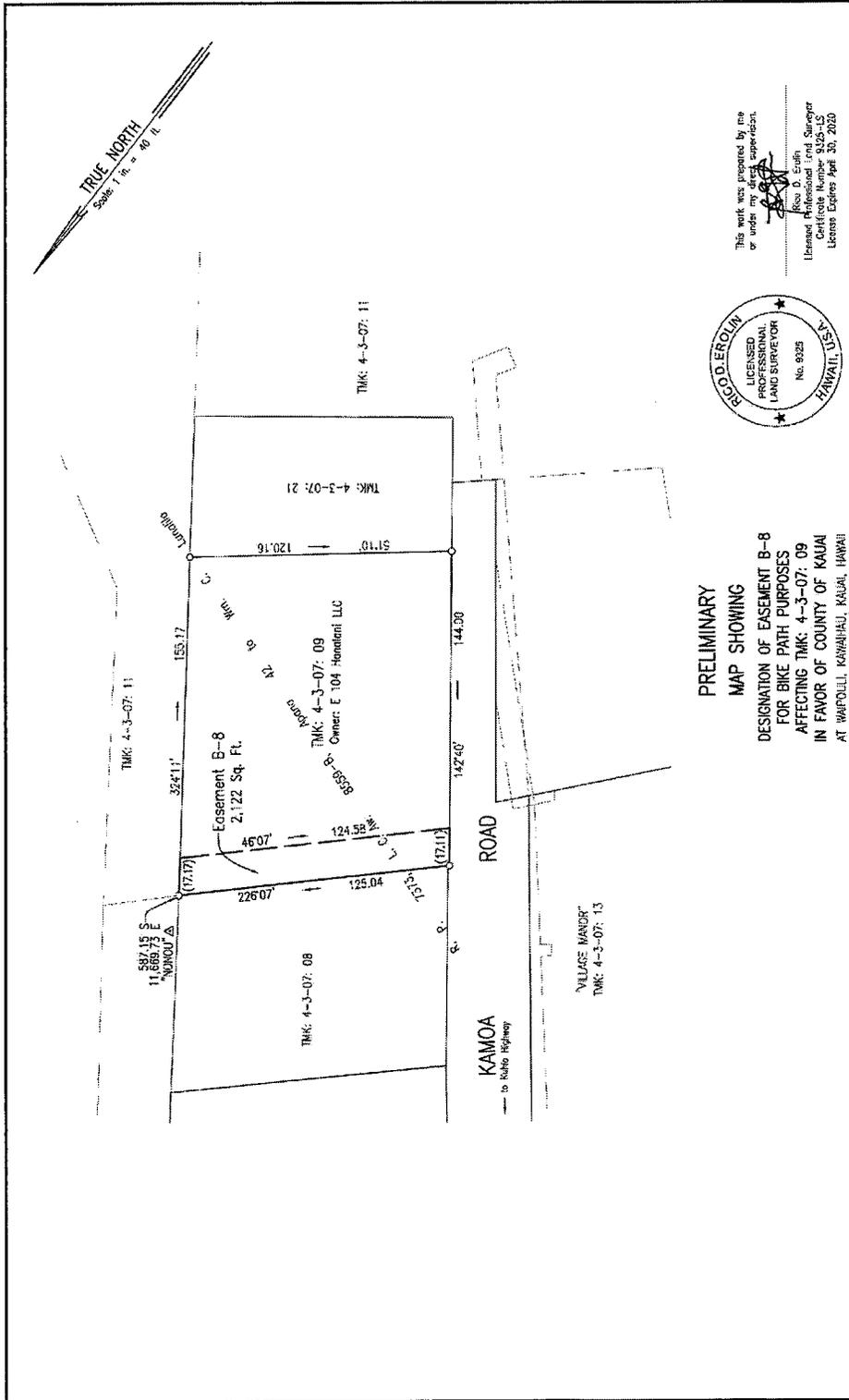
March 28, 2019
Honolulu, Hawaii



Rico D. Erolin
Licensed Professional Land Surveyor
Certificate Number 9325

TMK: (4) 4-3-07: 09 Portion

EXHIBIT B



CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Resolution No. 2020-28, which on first reading was ordered to print by the Council of the County of Kaua'i at its meeting held on June 17, 2020, by the following vote:

FOR PASSAGE:	Chock, Cowden, Evslin, Kagawa, Kualii, Kaneshiro	TOTAL – 6,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Brun	TOTAL – 1*,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Lihu'e, Hawai'i
June 17, 2020



Jade K. Fountain-Tanigawa
County Clerk, County of Kaua'i

*Beginning with the March 11, 2020 Council Meeting and until further notice, Councilmember Arthur Brun will not be present due to U.S. v. Arthur Brun et al., Cr. No. 20-00024-DKW (United States District Court), and therefore will be noted as excused (i.e., not present).