

NEIL ABERCROMBIE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

GLENN M. OKIMOTO
DIRECTOR

Deputy Directors
JADE T. BUTAY
FORD N. FUCHIGAMI
RANDY GRUNE
JADINE URASAKI

IN REPLY REFER TO:

Board of Land and
Natural Resources
State of Hawaii
Honolulu, Hawaii

HAWAII

AMENDMENT TO PRIOR LAND BOARD ACTION OF JULY 22, 2009, UNDER AGENDA ITEM M-3, REGARDING ISSUANCE OF DIRECT LEASE TO LIQUID ROBOTICS, INC.; SITUATED AT PIER 1 NORTH SHED AND ADJACENT OPEN, PAVED AREA, KAWAIHAE HARBOR, KAWAIHAE 1ST, SOUTH KOHALA, ISLAND OF HAWAII, TAX MAP KEY: 3RD DIVISION, 6-1-03: PORTION OF 23.

At its meeting of July 22, 2009, under agenda Item M-3, the Land Board authorized the issuance of a lease to Liquid Robotics, Inc., for: 1) research, development, and assembly of station-keeping buoys, utilizing a major technological development that furthers the Maritime industry, and 2) the right to conduct, after obtaining LESSOR'S prior written approval, any other operation or activity, which is reasonably necessary or incidental to the conduct of LESSEE'S research, development, and assembly of station-keeping buoys.

The Applicant has requested more lease tenure from five years to ten years so that it can invest more into its Kawaihae facility. The Harbors Division's experience with the Applicant is that it is a good, responsible tenant, hiring local people, and even cultivating and sharing its new technology with University of Hawaii students.

The Applicant was a high-tech startup in 2008. However, since then it has attracted considerable investor capital, including a \$22 million infusion in 2011. As such, securing the personal guarantees from the Applicant's investors would not be necessary. The Applicant instead has agreed to provide a \$119,000.00 cash security deposit (which represents two years of the \$59,500 annual rent).

ITEM M-2

RECOMMENDATION:

That the Board:

1. Amend its action of July 22, 2009, under agenda Item M-3 by authorizing:
a) a ten-year lease instead of a five-year lease, and b) waiver of written personal guarantees from the Applicant's investors, in lieu of a \$119,000.00 cash security deposit.
2. Accept a more accurate survey dated September 1, 2009, which shows the entire leased area as 25,203 sf and not 27,083 sf.
3. All other terms and conditions of the Land Board action of July 22, 2009, under agenda Item M-3, remain the same.
4. Such other terms and conditions as may be prescribed by the Director of Transportation that best serve the interest of the State.

Respectfully submitted,



GLENN M. OKIMOTO, Ph.D.
Director of Transportation

Attachment

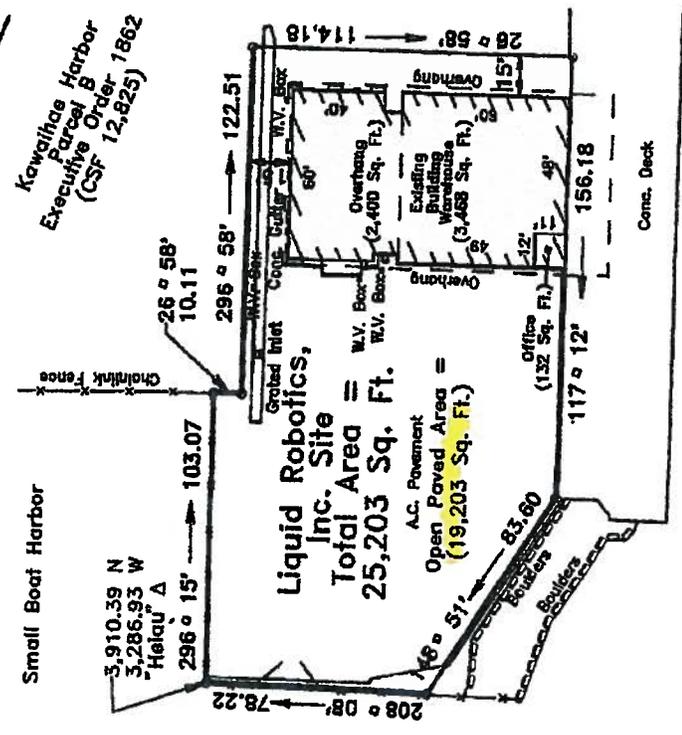
APPROVED FOR SUBMITTAL:



WILLIAM J. AILA, JR.
Chairperson and Member
Board of Land and Natural Resources

True North
Scale:
1 In. = 60 Ft.

138° 06' 25"
3,605.03
Kawaihae Harbor
Parcel B
Executive Order 1862
(CSF 12,825)



Liquid Robotics, Inc. Site

Land situated at Kawaihae 1st, South Kohala,
Island of Hawaii, Hawaii.

Being a portion of Parcel B (Kawaihae Harbor
Project), Executive Order 1862 (CSF 12,825)



Prepared By:
Imata and Associates, Inc.
171 Kapiolani Street
Hilo, Hawaii 96720



This work was prepared by
me or under my supervision

Natalie K. Imata

Natalie K. Imata
Licensed Professional Land Surveyor
Certificate Number 5816
Expires: April 30, 2010

September 1, 2009

S E A

Tax Map Key: 3rd Div. 6-1-03: 23 (Portion)

Job Number 98-38 (Liquid)

LIQUID ROBOTICS, INC. SITE

LAND SITUATED AT KAWAIHAE 1ST, SOUTH KOHALA,
ISLAND OF HAWAII, HAWAII.

Being a portion of Parcel B (Kawaihae Harbor Project),
Executive Order 1862 (CSF 12,825).

Beginning at the northwest corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HEIAU", being 3,910.39 feet North and 3,286.93 feet West, thence running by azimuths measured clockwise from true South:

Along the remainder of Parcel B
(Kawaihae Harbor Project), Executive
Order 1862 (CSF 12,825) for the next
seven (7) courses, the direct azimuths
and distances being:

- | | | |
|----|----------|---|
| 1. | 296° 15' | 103.07 feet; |
| 2. | 26° 58' | 10.11 feet; |
| 3. | 296° 58' | 122.51 feet; |
| 4. | 26° 58' | 114.18 feet; |
| 5. | 117° 12' | 156.18 feet; |
| 6. | 148° 51' | 83.60 feet; |
| 7. | 208° 08' | 78.22 feet to the point of beginning and containing
an area of 25,203 Square Feet. |

The following are usage of the site:

Warehouse = 3,468 Square Feet

Office = 132 Square Feet
Overhang = 2,400 Square Feet
Total Building Usage = 6,000 Square Feet
Open Paved Area = 19,203 Square Feet
Total Site Area = 25,203 Square Feet



Natalie K. Imata

Natalie K. Imata
Licensed Professional Land Surveyor
Certificate No. 5816 Exp. April 2010

Tax Map Key: 3rd Div. 6-1-03: 23 (Portion)

LINDA LINGLE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

BRENNON T. MORIOKA
DIRECTOR

Deputy Directors
MICHAEL D. FORMBY
FRANCIS PAUL KEENO
BRIAN H. SEKIGUCHI
JIRO A. SUMADA

IN REPLY REFER TO:

July 22, 2009

Board of Land and
Natural Resources
State of Hawaii
Honolulu, Hawaii

HAWAII

Issuance of Direct Lease to Liquid Robotics, Inc.; Situated at Pier 1 North Shed and Adjacent Open, Paved Area, Kawaihae Harbor, Kawaihae 1st, South Kohala, Island of Hawaii; Tax Map Key: 3rd Division, 6-1-03: Portion of 23

APPLICANT:

Liquid Robotics, Inc., whose business and mailing address is 1901 Embarcadero Road, Suite 106, Palo Alto, CA 94303-3324.

LEGAL REFERENCE:

Sections 171-11, -35, -36, and Subsection 171-59(b), Hawaii Revised Statutes.

LOCATION AND TAX MAP KEY:

Portion of State-owned, public land situated at Kawaihae Harbor area, Kawaihae 1st, South Kohala, Island of Hawaii, identified by Tax Map Key: 3rd Division, 6-1-03: Portion of 23, as shown and delineated on the attached map exhibit labeled Exhibit "A."

AREA:

Pier 1 North Shed:

Office Space of approximately 132 square feet
Warehouse Space of approximately 3,468 square feet
Shed Overhang Area of approximately 2,400 square feet

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON

July 22, 2009 *EF*

ITEM M-3

Open, Paved Area:

Approximately 21,083 square feet

ZONING:

State Land Use Commission: Urban District
County of Hawaii CZO: MG-1a (General Industrial – 1 acre)

LAND TITLE STATUS:

Section 5 (b) "ceded" lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES NO

CURRENT USE STATUS:

Subject public land presently encumbered by:

Governor's Executive Order No. 1862, dated September 18, 1958, setting aside portions of the Kawaihae Harbor area to the control and management of the Board of Harbors Commissioners (now known as Department of Transportation, Harbors Division) for loading and landing of merchandise, with warehouse or warehouse space, office or office space, storage for wares and merchandise, and the like.

CHARACTER OF USE:

1. Research, development, and assembly of station-keeping buoys, utilizing a major technological development that furthers the Maritime industry.
2. The right to conduct, after obtaining LESSOR's prior written approval, any other operation or activity, which is reasonably necessary or incidental to the conduct of LESSEE's research, development, and assembly of station-keeping buoys.

TERM OF LEASE:

Five (5) years, to commence on the first day of the month to be determined by the Director of Transportation.

ANNUAL BUILDING SPACE AND GROUND LEASE RENTAL:

To be determined by an independent real property appraiser who is licensed by the State of Hawaii as a "Certified General Appraiser" whose services shall be: (a) contracted for by the Department of Transportation, Harbors Division; and (b) paid by the Applicant.

PERFORMANCE BOND REQUIREMENT:

An amount equal to the annual building space and ground lease rental then in effect.

CHAPTER 343, HRS – ENVIRONMENTAL ASSESSMENT REQUIREMENT:

Harbors Division made a determination that the Applicant is exempted from Chapter 343, HRS requirements regarding preparation and submittal of a Draft Environmental Assessment to the accepting agency (Department of Transportation) based on DOT's Exemption Class 1: "Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing." Harbors Division considered primary, secondary and cumulative impacts in making its determination.

DCCA VERIFICATION:

Place of business registration confirmed:	YES
Registered business name confirmed:	YES
Applicant in good standing confirmed:	YES

SPECIAL APPLICANT REQUIREMENTS:

Prior to the execution and commencement of the direct lease, Applicant shall be required to comply with and satisfy all of the following requirements:

1. At the Applicant's sole cost and expense, provide the Harbors Division with survey map whiteprint(s), together with metes and bounds survey description, of the premises to be demised under the direct lease, prepared by a State of Hawaii-licensed professional land surveyor; and,
2. Applicant, at its sole cost and expense, must provide assurance to the Harbors Division in the form of written personal guarantees from all of Applicant's investors that should the Applicant, as "Lessee," not fulfill all of its obligations under the direct lease, including abiding by, complying with and satisfying all financial and operating requirements, each of the "investor guarantors" shall then be held jointly and severally liable for all of Lessee's deficiencies with respect to any and all lease covenants, conditions and requirements.

REMARKS:

Currently, the Applicant occupies a portion of the Pier 1 North Shed via a month-to-month revocable permit.

As their operation has expanded, the Applicant requested to rent the remaining portion of the Pier 1 North Shed and its surrounding area by way of a direct lease.

The proposed expansion does not constitute development under Section 205A-22-6, Hawaii Revised Statutes, relating to Special Management Area, which states that "Development does not include the following: Repair, maintenance, or interior alterations to existing structures."

Although their use is considered maritime-related, the Harbors Division has decided to limit the direct lease to a lease term of only five (5) years, pending results of the Hawaii Island Commercial Harbors 2035 Master Plan that would allocate Maritime uses within the Kawaihae Harbor area.

Currently, the access leading towards the Pier 1 North Shed is through the Kawaihae Harbor entrance off of the Kawaihae Access Road. Although, the Applicant has expressed interest in accessing their space from another route, they understand that for security reasons, this must first be reviewed and approved by both the Harbors Division and the U.S. Coast Guard.

Should the Applicant attempt to secure a loan from a lending institution that requires that the Pier 1 Shed and yard area be subdivided in accordance with the County of Hawaii subdivision ordinance, the Applicant understands that such subdivision application will be processed by the Applicant at its sole cost and expense.

Also, the Applicant understands that at its sole cost and expense, Applicant must provide assurance to the Harbors Division in the form of written personal guarantees from all of Applicant's investors that should the Applicant, as "Lessee," not fulfill all of its obligations under the direct lease, including abiding by, complying with and satisfying all financial and operating requirements, each of the "investor guarantors" shall then be held jointly and severally liable for all of Lessee's deficiencies with respect to any and all lease covenants, conditions and requirements.

RECOMMENDATION:

That the Board:

- A. Find the subject area to be an economic unit in terms of the intended use.
- B. Authorize the Department of Transportation to issue a direct lease to Liquid Robotics, Inc., subject to:
 - 1. Terms and conditions herein outlined, which are by this reference incorporated herein;
 - 2. Such other terms and conditions as may be prescribed by the Director of Transportation to best serve the interests of the State;
 - 3. Standard lease covenants, terms and conditions previously approved as to form and content by the Department of the Attorney General; and,
 - 4. Review and approval of the Department of the Attorney General as to the final lease form and content.

Respectfully submitted,



BRENNON T. MORIOKA, Ph.D., P.E.
Director of Transportation

Attachments

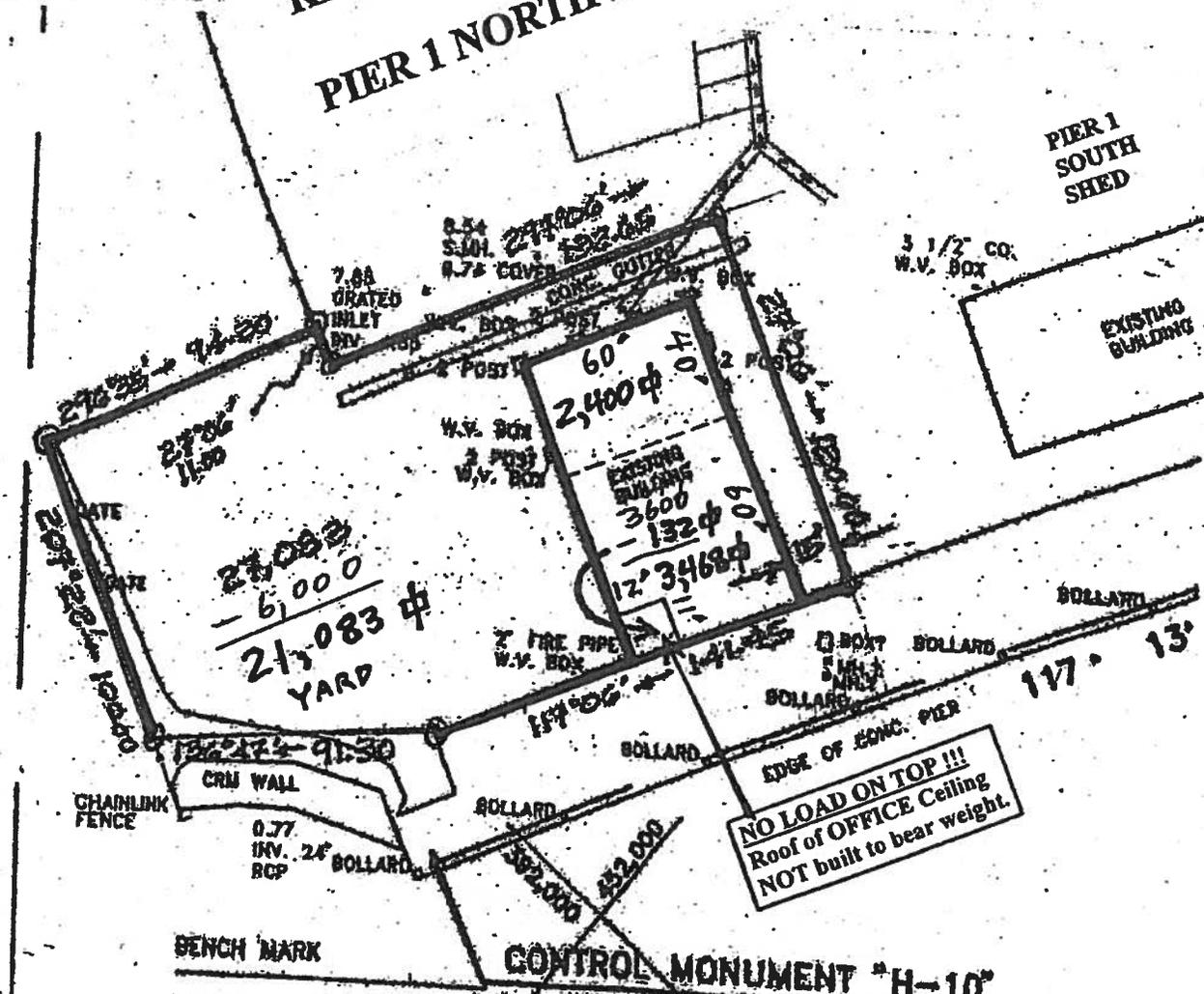
APPROVED FOR SUBMITTAL:



LAURA H. THIELEN
Chairperson and Member
Board of Land and Natural Resources

KAWAIHAE HARBOR PIER 1 NORTH SHED

PIER 1
SOUTH
SHED



BENCH MARK
4" CUT IN CONC. (FND)
ELEV. 7.93

CONTROL MONUMENT "H-10"

BRASS DISK (SET)
ELEV. 7.57
452,049.89 N
391,974.85 E
HAWAII STATE PLANE

EXHIBIT "A"