

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

January 10, 2014

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

PSF No.: 07OD-139

OAHU

Approval in Principle for Issuance of Direct Lease to Hakipu'u Learning Center for Charter School Purposes; Issuance of Right-of-Entry for Site Investigation Purposes, Kaneohe, Koolaupoko, Oahu, Tax Map Key: (1) 4-5-023:001.

APPLICANT:

Hakipu'u Learning Center, a domestic non-profit corporation

LEGAL REFERENCE:

Section 171-55, 95.5, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Kaneohe, Koolaupoko, Oahu, identified by Tax Map Key: (1) 4-5-023:001, as marked "Subject Location" and shown on the map attached as **Exhibit A**.

AREA:

4.344 acres, more or less.

ZONING:

State Land Use District: Urban
City and County of Honolulu LUO: R-5

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

Vacant and unencumbered.

CHARACTER OF USE:

Charter School Purposes.

LEASE TERM:

Sixty-five (65) years

COMMENCEMENT DATE:

To be determined by the Chairperson.

ANNUAL RENT & RENTAL REOPENINGS:

To be determined by the Board upon the final approval stage.

IMPROVEMENT and PERFORMANCE BOND:

To be determined by the Board upon the final approval stage.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

Direct Issuance of Lease

Upon approval of subject request, applicant will commence an environmental assessment pursuant to Chapter 343, HRS. The outcome of such assessment process will be reported to the Board before final approval of the lease is requested.

Right-of-Entry for Site Investigation Purposes

A right-of-entry permit is proposed for the applicant to undertake any site investigation, which may include but not be limited to, soil sampling, geotechnical study, boundary survey, vegetation study for the purpose of preparing the environmental assessment as mentioned above.

In accordance with Hawaii Administrative Rule Sections 11-200-8(a)(1) & (4) and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated December 4, 1991, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "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" and Class No. 4, that states "Minor alteration in the conditions of land, water, or vegetation." See Exemption Notification at **Exhibit B**.

DCCA VERIFICATION:

Place of business registration confirmed: YES x NO

Registered business name confirmed: YES x NO
Applicant in good standing confirmed: YES x NO

APPLICANT REQUIREMENTS:

None at the time of writing this submittal, subject to inclusion of any applicant requirement upon finalization of the environmental assessment process.

REMARKS:

Governor's Executive Order No. ("EO") 3432 was issued to the Department of Transportation ("DOT") in 1989 setting aside the subject parcel for baseyard purposes. Subsequently, DOT obtained approval from the Board on March 27, 1992, Item F-9, cancelling EO 3432 and withdrawing and resetting aside a portion of the State Hospital for DOT's baseyard purposes. For reasons unknown to staff, the EO documents pursuant to 1992 approval have not been completed. Staff will resume working on the documentation pursuant to the 1992 Board approval.

Hakipu'u Learning Center ("HLC") is a State charter school for students from grades 4 to 12 currently operated from the Windward Community College campus. HLC is planning to expand the program by including students from pre-kindergarten through 12. The proposed expansion is planned to be undertaken by a joint effort with Ka Huli O Haloa, another non-profit organization. HLC has inquired about possible State lands in the neighborhood for its new campus. The process shows the Subject Location is a potential site.

Agencies' Comments

Staff solicited comments from other agencies on today's request. Commission on Water Resource Management, Division of Aquatic Resources, and Department of Hawaiian Home Lands have no objection/comment to the request.

Department of Planning and Permitting advises a Conditional Use Permit (Minor) is required for the proposed use, and Department of Facility Maintenance notes that there is a slope easement for road improvement purposes along Kealahala Road side of the Subject Location.

Division of Forestry and Wildlife, Department of Parks and Recreation, Board of Water Supply, City's Department of Transportation Services, and Office of Hawaiian Affairs have not responded to the solicitation for comment.

DOT indicates its concerns about the lease request in its memorandum attached as **Exhibit C**. The concerns include DOT's possible request for the subject land in the event the Department of Health ("DOH") resumes its request to expand the State Hospital into DOT's current baseyard, access to Kahekili Highway, and land needed for a future road project. In addition, DOH requests the EO to DOT not be completed, and that instead the parties enter into a memorandum of understanding to allow DOT to use the

site for limited period of time, to allow expansion of the State Hospital on DOT's baseyard, after DOT is given notice to vacate. See **Exhibit D** for DOH's comment.

Staff's response on DOT and DOH concerns

Access is one of the issues that will be covered in the environmental assessment process to be undertaken by the applicant pursuant to today's request, if approved. DOT and other agencies will have an opportunity to review and comment on the feasibility of the lease request in conjunction with the project(s) under the respective agencies' jurisdiction. Applicant is required to review any comments received during the consultation period and address such comments at the final environmental assessment stage. Furthermore, there is a standard lease condition allowing the Board to withdraw portion(s) of the leased premises for public purposes. The final lease condition can state public purposes include road widening.

According to the 1992 Board submittal, "Department of Health has no objection to withdrawal from [State Hospital]". In addition, staff understands that there was another location ("Additional Site") approved for set aside to DOT at the same Board meeting of 1992, and this site is still undeveloped at the time of writing this submittal. When HLC asked for the Additional Site previously, DOH advised that it wanted to retain the Additional Site for any future expansion of the State Hospital facility. DOT did not indicate any objection to DOH's request of retaining the Additional Site for State Hospital purposes. For housekeeping purposes, staff will recommend the Board rescind the 1992 approval regarding setting aside the Additional Site to DOT, upon final approval of the subject lease request from HLC.

Upon final approval of a direct lease to HLC, DOT can operate the baseyard from the current location. DOH will be able to use the Additional Site for the expansion of its facility. Staff believes such arrangement will address the needs for all parties concerned.

Therefore, staff recommends the Board approve in principle the issuance of a direct lease subject to the HLC's compliance with the environmental assessment process pursuant to Chapter 343, HRS within 24 months of the Board approval.

Right-of-Entry for site investigation purposes

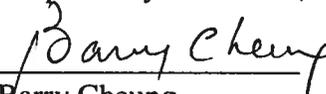
In addition, staff recommends the Board authorize the issuance of right-of-entry to HLC for any site investigation work necessary for the completion of the environmental assessment process.

RECOMMENDATION: That the Board

- A Approve in principle the issuance of a direct lease to Hakipu'u Learning Center, subject to the following:
 - 1. At its own cost, Hakipu'u Learning Center shall pursue satisfactory compliance with Chapter 343, Hawaii Revised Statutes within twenty-four (24) months of the Land Board's approval;

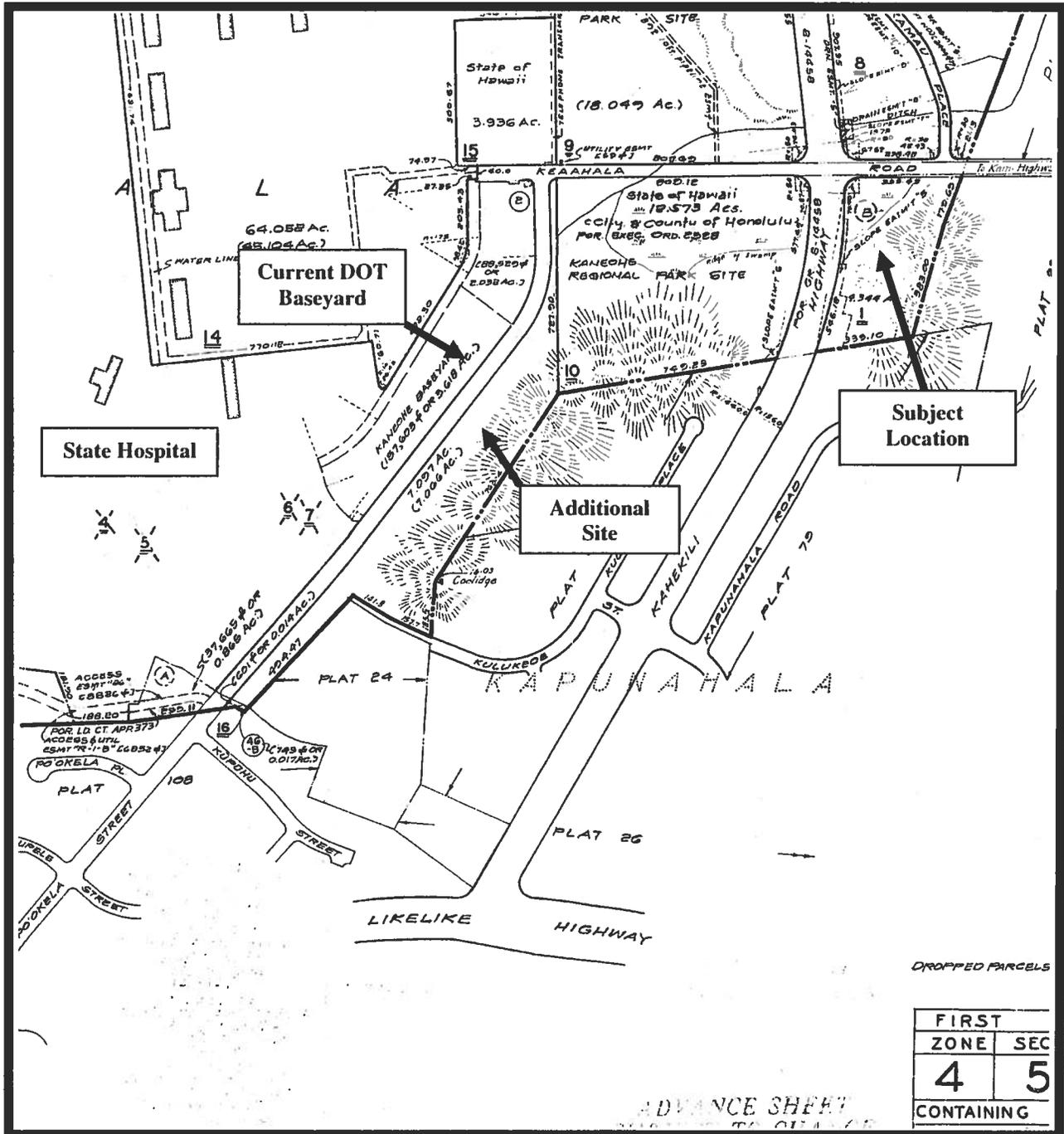
2. Should Hakipu'u Learning Center fail to obtain satisfactory compliance with Chapter 343, Hawaii Revised Statutes within twenty-four (24) months of the Land Board's approval, the Land Board's approval shall be considered rescinded;
 3. Hakipu'u Learning Center acknowledges the following:
 - a. All costs associated with the necessary compliance with Chapter 343, Hawaii Revised Statutes shall be borne by Hakipu'u Learning Center, Inc.;
 - b. That this action is an approval in principle and does not provide any assurance of a direct lease and such approval of a direct lease shall be subject to consideration by the Land Board under a separate action after satisfactorily complying with Chapter 343, Hawaii Revised Statutes; and
 4. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
- B. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, the requested right-of-entry will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
- C. Authorize the issuance of a right-of-entry permit to Hakipu'u Learning Center covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
1. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time; and
 2. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,


Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:


William J. Aila, Jr., Chairperson



TMK (1) 4-5-023:001

EXHIBIT A

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title: Issuance of Right-of-Entry for Site Investigation Purposes

Project / Reference No.: PSF 07OD-139

Project Location: Kaneohe, Koolaupoko, Oahu

Project Description: Site investigation, soil sampling, boundary survey and other site exploration works related to the proposed charter school campus.

Chap. 343 Trigger(s): Use of State Land

Exemption Class No.: In accordance with Hawaii Administrative Rule Section 11-200-8(a)(4) and (5), the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 4, that states "Minor alteration in the conditions of land, water, or vegetation", and pursuant to Exemption Class No. 5, that states "Basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource."

The request is related to the site investigation work necessary for the applicant to prepare an environmental assessment for the proposed charter school campus. Staff does not expect there will be major alteration in the conditions of the land, water or vegetation at the location.

Consulted Parties Agencies listed in the Board submittal

Recommendation: That the Board find this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.



William J. Aila, Jr., Chairperson
Date

EXHIBIT B

070D-1391

NEIL ABERCROMBIE
GOVERNOR



GLENN M. OKIMOTO
DIRECTOR

HIGHWAY DESIGN BRANCH, ROOM 688A
BRIDGE DESIGN SECTION, ROOM 611
CADASTRAL DESIGN SECTION, ROOM 600
HIGHWAY DESIGN SECTION, ROOM 609
HYDRAULIC DESIGN SECTION, ROOM 636
TECHNICAL DESIGN SERVICE, ROOM 688
LANDSCAPE DESIGN SECTION, ROOM 609

DEPUTY DIRECTORS
JADE T. BUTAY
FORD N. FUCHIGAMI
RANDY GRUNE
JADINE URASAKI

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
HIGHWAYS DIVISION AT KAPOLEI
601 KAMOKILA BOULEVARD
KAPOLEI, HAWAII 96707

IN REPLY REFER TO
HWY-RM
3.90385

RIGHT-OF-WAY BRANCH, ROOM 691
TRAFFIC BRANCH, ROOM 602
MOTOR VEHICLE SAFETY OFFICE, ROOM 511

August 9, 2013

TO: BARRY CHEUNG
LAND DIVISION
DEPARTMENT OF LAND AND NATURAL RESOURCES

FROM: DEAN YOGI 
RIGHT-OF-WAY MANAGER

SUBJECT: PO'OKELA, KANEOHE, OAHU, HAWAII, TMK (1) 4-5-023:01
HAKIPU'U LEARNING CENTER
REQUEST TO LEASE LAND FOR K-12 CHARTER SCHOOL

RECEIVED
LAND DIVISION
2013 AUG 13 AM 11:20
DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

This is in response to your letter dated July 15, 2013 requesting review and comments on the application for use of State land for the development of a charter school.

From your previous letter dated October 30, 2012, requesting review and comments, please be reminded that we did have concerns as to the lease request. If the Department of Health resumes their request to take over portions of our existing maintenance or construction baseyards, then the Kaneohe baseyard would be affected and we may need the land to relocate the baseyard. In addition, upgrades to Pookela Road to City standards would affect the area in question due to widening of the road.

With this second request for review and comments, we would add that if the request is approved, the development would need to assess traffic impacts to the existing intersection. No access will be allowed onto Kahekili Highway.

Furthermore, we may need the land for Castle Hills, Phase 3. We would require consultation with us before executing project. We want the opportunity to review and comment on the Environmental Assessment.

Should you have any questions, please call Katja Jordan-King, Right-of-Way Agent, Property Management Section, at 692-7331, or you may e-mail her at Katja.M.Jordan-King@Hawaii.Gov.

EXHIBIT "C"

NEIL A. ABERCROMBIE
GOVERNOR OF HAWAII



LORETTA J. FUDDY, A.C.S.W., M.P.H.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to
File.

ASO D14-133

September 23, 2013

TO: The Honorable William J. Aila, Jr., Chairperson
Department of Land and Natural Resources

FROM: Loretta J. Fuddy, A.C.S.W., M.P.H.
Director of Health

SUBJECT: **Request to Retain Hawaii State Hospital Property Currently Used by the
Department of Transportation**

RECEIVED
LAND DIVISION
2013 OCT -7 AM 11:14
DEPT. OF LAND
NATURAL RESOURCES
STATE OF HAWAII

It is my understanding that the Department of Land and Natural Resources (DLNR) is in the process of preparing an Executive Order (EO) to have Hawaii State Hospital (HSH) property, which is currently occupied by the Department of Transportation (DOT), transferred permanently to the DOT.

I am requesting that the EO not be sent to the Governor for approval. The HSH has a definite need for this property, which was designated specifically for use as a hospital for persons with mental illness. The HSH is accepted by the Kaneohe community and, for this reason, must retain all of its property for use as a hospital. It would be a severe hardship for the DOH to secure an alternative location where the HSH will be welcome.

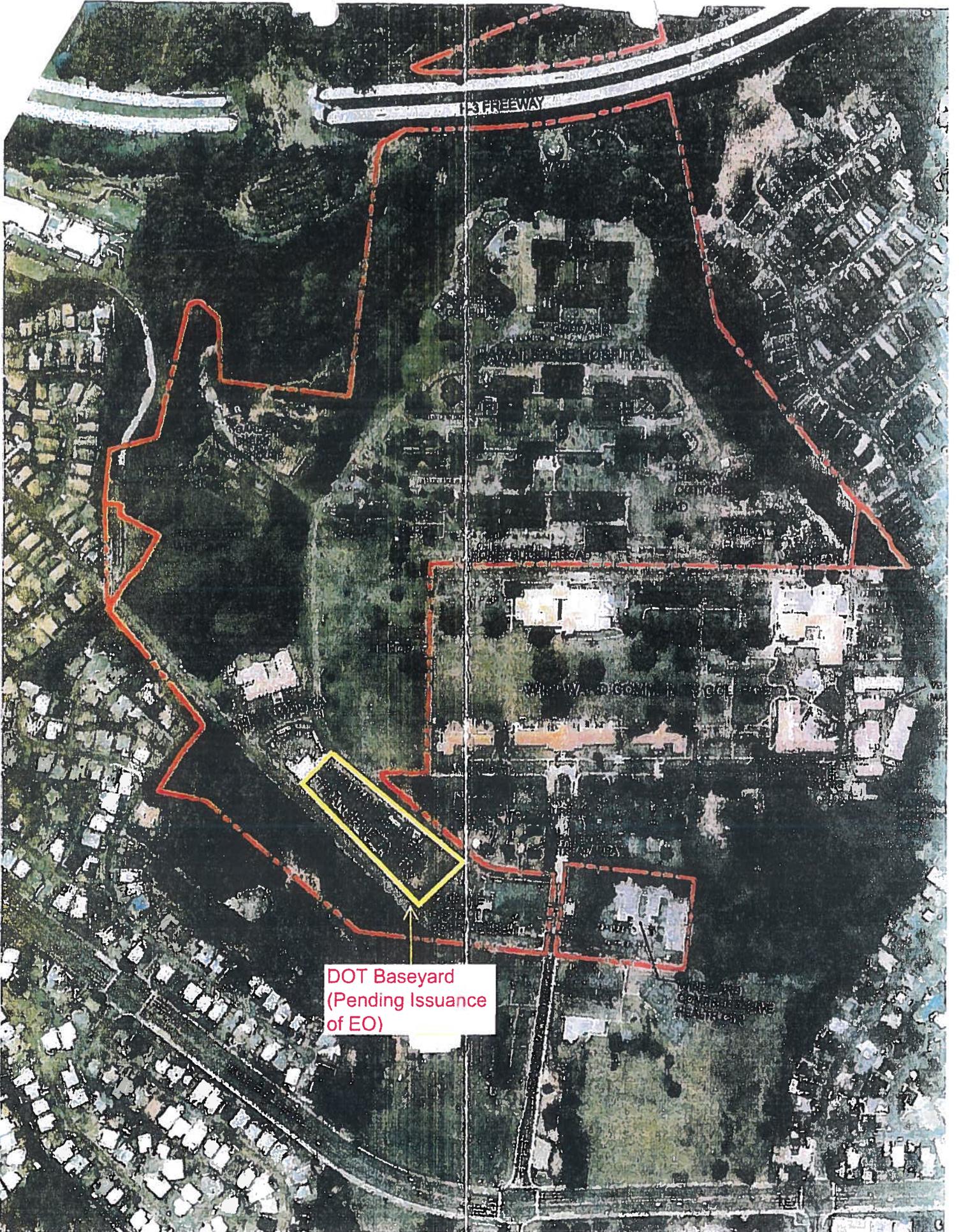
At this time, the DOH wishes to enter into a Memorandum of Understanding to allow the DOT use of the property for a limited period of time. The DOT will be given adequate notice to vacate the site once the DOH receives capital improvement funds for construction or is able to enter into an agreement with a private entity for construction of a facility and provision of services.

Thank you for your consideration in this matter.

Attachment

Promoting Lifelong Health & Wellness

EXHIBIT "D"



DOT Baseyard
(Pending Issuance
of EO)