

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

May 22, 2015

Ref. No.: 15HD-076
GLS-5619

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

HAWAII

Consent to Mortgage of Sublease K-4 with Estoppel Certificate, General Lease No. S-5619, Natural Energy Laboratory of Hawaii Authority, Lessee, Cyanotech Corporation, Sublessee/Mortgagor, Pacific Rim Bank, Mortgagee, Kalaoa 1st-4th, North Kona, Hawaii, Tax Map Key: 3rd/ 7-3-043: 063.

APPLICANT AND REQUEST:

Cyanotech Corporation, requesting Consent to Mortgage of Sublease K-4 with Estoppel Certificate from Pacific Rim Bank, Mortgagee, in an amount not to exceed \$2,500,000.00.

LEGAL REFERENCE:

Section 171-22, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Kalaoa 1st-4th, North Kona, Hawaii, identified by Tax Map Key: 3rd/ 7-3-043: 063 as shown on the attached map labeled Exhibit A.

AREA:

90.067 acres, more or less.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution:

YES ___ NO X

SUBLEASE CHARACTER OF USE:

The commercial production of various microalgal products including, but not limited to, *spirulina*, natural beta-carotene, astaxanthin, natural biopesticides, and Chlorella.

TERM OF LEASE:

65 years, commencing on July 3, 2001 and expiring on July 2, 2066. Last reopening was on July 3, 2011. Next rental reopening is scheduled for July 3, 2021.

SUBLEASE TERM:

40-years, commencing on January 1, 1996 and expiring on December 31, 2035.

ANNUAL RENTAL:

Fifty percent (50%) of the net operating income (NOI)¹.

SUBLEASE RENTAL:

\$24,932.82 per month

The fixed rental fee is calculated at a rate of \$246.78 per acre, per month, for unimproved lands (83.13 acres), \$2,200 per pond for two ponds, and \$18 per tank for two tanks, for periods covering 2/1/2012 to 1/31/2017.

USE OF LOAN PROCEEDS:

An itemized breakdown of the loan proceeds will be disbursed as follows:

\$2,389,550	Working Capital
\$ 110,450	Loan Closing Costs
\$2,500,000	Total loan distribution

REMARKS:

Over the years since 2000, the Land Board approved three consents to mortgages to Cyanotech. The first two consents related to loans with Bridgeview Capital Solutions of \$3,500,000 in 2000 and \$1,078,400 in 2008. These loans were paid-off in May 2010 and

¹ NOI is the actual net income remaining after all adjusted operating expenses are deducted from the effective gross income including a reserve for replacement and for major repairs not covered in the operating budget. This does not include federal funds and grants.

August 2012 respectively. The third consent was received in 2012 relative to a \$5,500,000 loan with Pacific Rim Bank. This request for a second mortgage is supplemental to the existing mortgage held by Pacific Rim Bank, as part of the 2012 loan.

At its meeting of March 17, 2015, the NELHA Board reviewed the transaction and approved its consent to mortgage of Sublease K-4, between Cyanotech Corporation and Pacific Rim Bank.

By letter dated March 27, 2015, Ms. Laurence Sombardier, Contracts and Leasing Specialist, NELHA, on behalf of Cyanotech Corporation, requested consent to mortgage of Sublease K-4, General Lease No. S-5619, NELHA, Lessee, Cyanotech Corporation, Sublessee/ Mortgagor, in favor of Pacific Rim Bank, as Mortgagee.

Loan proceeds from a second mortgage with an aggregate principal amount of Two Million Five Hundred Thousand and 00/100 Dollars (\$2,500,000.00) will be disbursed for working capital/capacity improvements with the usual fees associated with mortgage closings.

NELHA has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

Staff reviewed the file and can report that for the past two (2) years, Lessee has been in compliance with all lease terms and conditions. The Lessee has never been cited for any illegal or unlawful activity on the State property.

The last rental reopening was on July 3, 2011. The next rental reopening is scheduled for July 3, 2021.

There are no outstanding rental reopening issues.

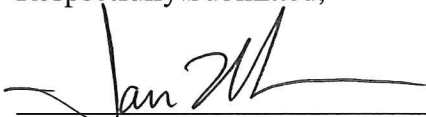
Staff has no objections to the request.

RECOMMENDATION: That the Board:

- A. Consent to the Mortgage of Sublease K-4 of General Lease No. S-5619, NELHA, Lessee, between Cyanotech Corporation, Sublessee/Mortgagor, and Pacific Rim Bank, Mortgagee, subject to the following:
 1. The standard terms and conditions of the most current consent to mortgage form, as may be amended from time to time;

2. The loan proceeds shall be used for the purposes as stated in "Use of Loan Proceeds" above. The Lessee shall maintain records of loan expenditures which may be inspected by the Department;
 3. Review and approval by the Department of the Attorney General; and
 4. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
- B. Authorize the execution of an Estoppel Certificate subject to the following:
1. The standard terms and conditions of the most current estoppel certificate form, as may be amended from time to time;
 2. Review and approval by the Department of the Attorney General; and
 3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interest of the State.

Respectfully Submitted,



Wesley T. Matsunaga
Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

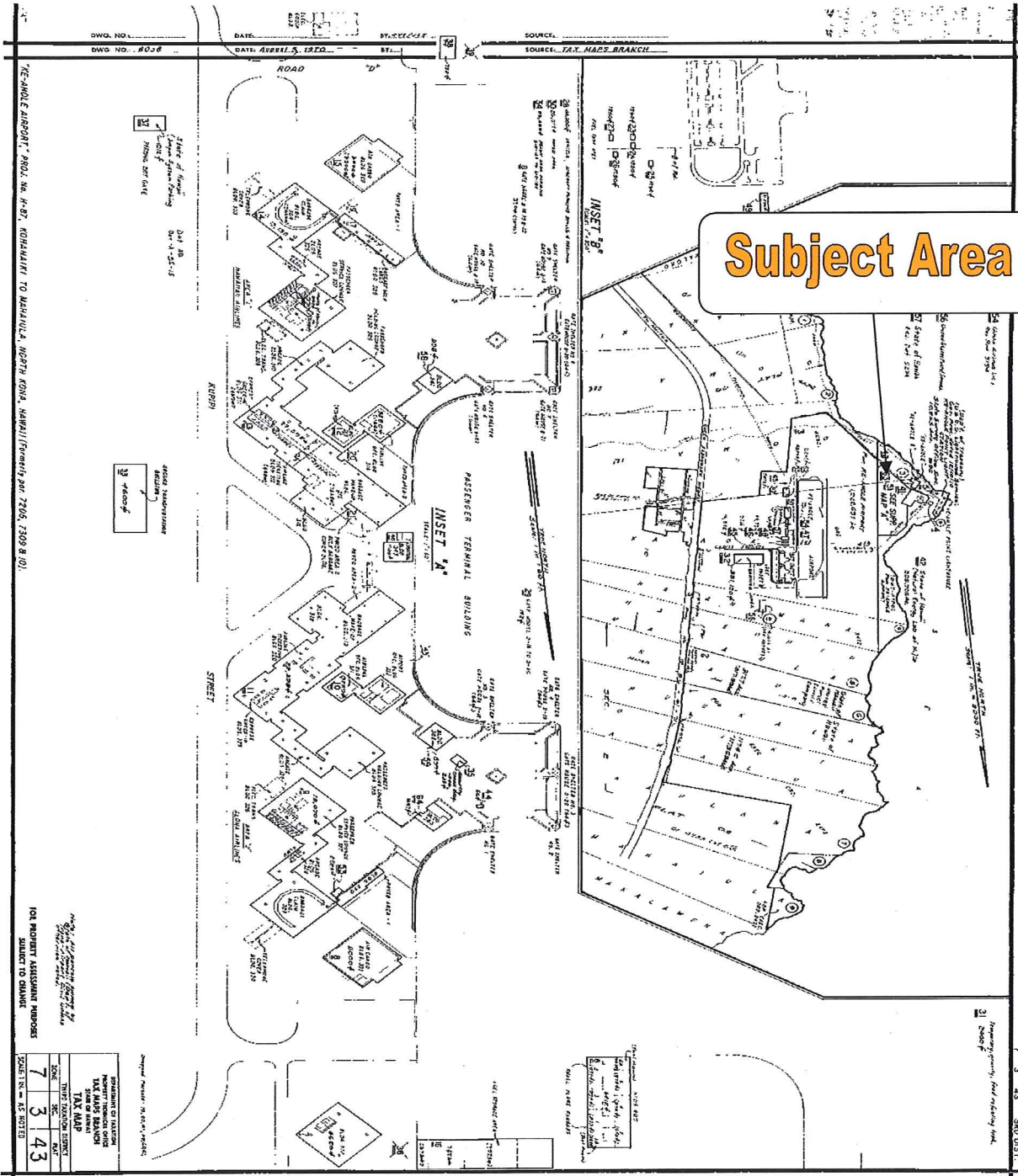


EXHIBIT A

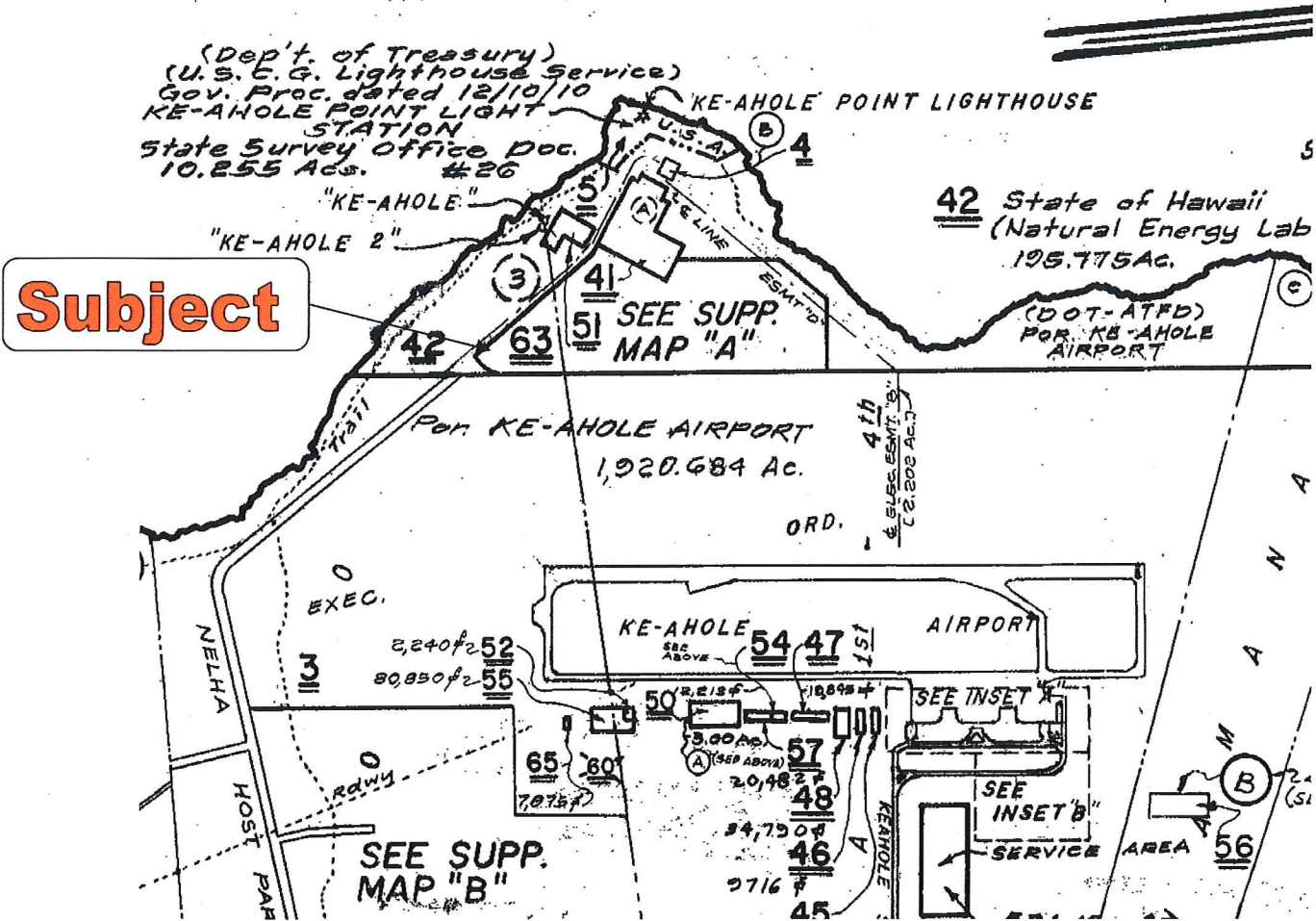


EXHIBIT A