

STATEOFHAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Boating and Ocean Recreation
Honolulu, Hawaii

June 14, 2013

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

Oahu

AMENDMENT TO LEASE NO. H-78-5
LA MARIANA SAILING CLUB, INC., FOR EXTENSION OF LEASE TERM
KEEHI LAGOON, KALIHI, HONOLULU, OAHU, HAWAII, TMK: (1) 1-2-23:52

APPLICANT AND REQUEST:

The La Mariana Sailing Club, Inc. ("Lessee")
50 Sand Island Access Road
Honolulu, Hawaii 96819

The Lessee is requesting an extension of Lease No. H-78-5 ("Lease") for an additional five (5) years, commencing on May 1, 2014 and expiring on April 30, 2019, for an aggregate term of 40 years.

LEGAL REFERENCE:

Section 171-36 (d), and (e) Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Governor's Executive Orders 1458 consisting of fast land and submerged land, situated seaward of Sand Island Access Road, Kaluapulu, Kalihi, Honolulu, Oahu, Hawaii, identified by Tax Map Key: (1) 1-2-23-52, as shown in the attached Exhibit A.

AREA:

Total Area of 129,755 square feet or 2.98 acres more or less, as shown on Exhibit B
Fast land: 26,365 square feet (8,679 sf. Exclusive, 3,888 sf. & 13,798 Non-exclusive)
Submerged land: 103,390 square feet

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

CHARACTER OF USE:

For the construction of certain improvements which shall be used primarily for a private sailing club for sail boats only. Liveboards are not permitted. The improvements to be constructed shall include suitable piers and may include a clubhouse with a snack bar and bar for members, bathroom with showers for men and women and a building to house an office, recreation room, bathroom and kitchenette, workshop, lockers, and a caretakers quarters. The premises may also be used for such other purposes related to the private sailing club, as may be approved in writing by the lessor.

TERM OF LEASE:

Original term of thirty five (35) years commenced on May 1, 1979 and expires on April 30, 2014.
Request for an extension of five (5) years, to commence on May 1, 2014 and expiring on April 30, 2019.

ANNUAL RENTAL:

The annual rental of \$75,600.00 is paid in quarterly installments of \$18,900.00 on the first day of each quarter. The last rental reopening was in 2004.
The lessee is current with rent.

RENTAL OPENING:

Reopening in the original term was at the end of the 15th and 25th years of the term or on April 30, 1994 and April 30, 2004.

An appraisal shall be prepared to determine rent for the extended five year term, with an effective date of May 1, 2014.

CHAPTER 343 ENVIRONMENTAL ASSESSMENT:

In accordance with the "Comprehensive Exemption List for the Division of Boating and Ocean Recreation, Department of Land and Natural Resources, State of Hawaii, as concurred in by the Environmental Council, State of Hawaii", dated March, 1995, the subject request is exempt from the preparation of an environmental assessment pursuant

to Exemption Class No. 1 that states in pertinent part, "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." The subject support areas will have negligible or no expansion or change of use beyond that previously existing.

Repairs and replacement of damaged docks were performed and completed within the existing leased area, and with no expansion of use.

DCCA VERIFICATION:

Place of business registration confirmed:	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
Registered business name confirmed:	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
Applicant in good standing confirmed:	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>

APPLICANT REQUIREMENTS:

The applicant shall be required to pay for an appraisal, which is to be contracted by the State to determine rent for the five year extended period, effective May 1, 2014.

REMARKS:

Lease No. H-78-5 was awarded to Annette L. Nahinu doing business as La Mariana Sailing Club on July 14, 1978 for a period of thirty five (35) years. The property which is the subject of the Lease is located at 50 Sand Island Access Road, Honolulu, Hawaii 96819.

At its meeting on April 9, 1999, the Board approved the assignment of Lease No. H-78-5 to La Mariana Sailing Club, Inc. ("Lessee")The Assignment of Lease was recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2000-131931. The State's consent to the Assignment of Lease was recorded as aforesaid as Document No. 2000-13192.

The lease rent and insurance are current, and the lessee has not had a lease, permit, easement or other dispositions of the State lands terminated within the last five (5) years due to non-compliance with such terms and conditions.

The last rental reopening occurred on May 1, 2004, and no further rental openings scheduled, although, DOBOR is prepared to appraise the property for the extended five-year term.

The lessee's operations were significantly affected by the tsunami that hit the Hawaiian Islands on March 11, 2011. The tsunami and objects affected by the tsunami damaged

the docks that form a substantial and necessary part of the leased premises.

The Lessee contracted with local contractors, Bluewater Marine & Dock Specialties, Inc. and Ekolu Electric to do repairs. La Mariana provided the following repair figures to DOBOR, a combined amount of \$427,578.89 was paid to the two contractors, incurred costs came to \$9,723.18, and there was an estimated loss of revenue from mooring proceeds in the amount of \$22, 885.90. The Lessee is said to be pursuing reimbursement from other parties whose items as result of the tsunami were said to have damaged the La Mariana docks.

The lessee did not obtain mortgage financing in order to repair the damaged docks, although it did enter into an unsecured loan with Bank of Hawaii in order to expedite the repairs. The Lessee opened a credit line with a limit of \$500,000.00 and in connection with that credit line, the Lessee pledged certain assets to Bank of Hawaii. The Lessee has provided DOBOR with evidence of receipts, and cancelled checks for the replacement, and repair of the docks so as bringing them back into full service. In addition to the repair costs, La Mariana has provided its mooring rent roll and calculations of lost revenue during the down time of the docks.

The Lessee is requesting an amendment to the lease for an extension of the term, in order to amortize the expenses incurred through the repairs that needed to be done due to tsunami.

The staff is recommending that the lease extension be granted for five years, which is the maximum allowed under Hawaii Revised Statutes, Section 171-36(e)(5).

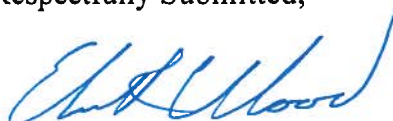
RECOMMENDATION:

That the Board, subject to the Applicant fulfilling the Applicant requirements, terms and conditions of the lease listed above:

1. Declare that after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect in its replacement of the docks and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the amendment for the five (5) year extension of General Lease No.H-78-5 under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current lease extension form, as may be amended from time to time;

- B. Review and approval by the Department of the Attorney General and
- C. Such other conditions as may be prescribed by the Chairperson which are in the best interests of the State.

Respectfully Submitted,



Edward R. Underwood
Administrator

Attachments

APPROVED FOR SUBMITTAL:



William J. Aila, Jr.
Chairperson

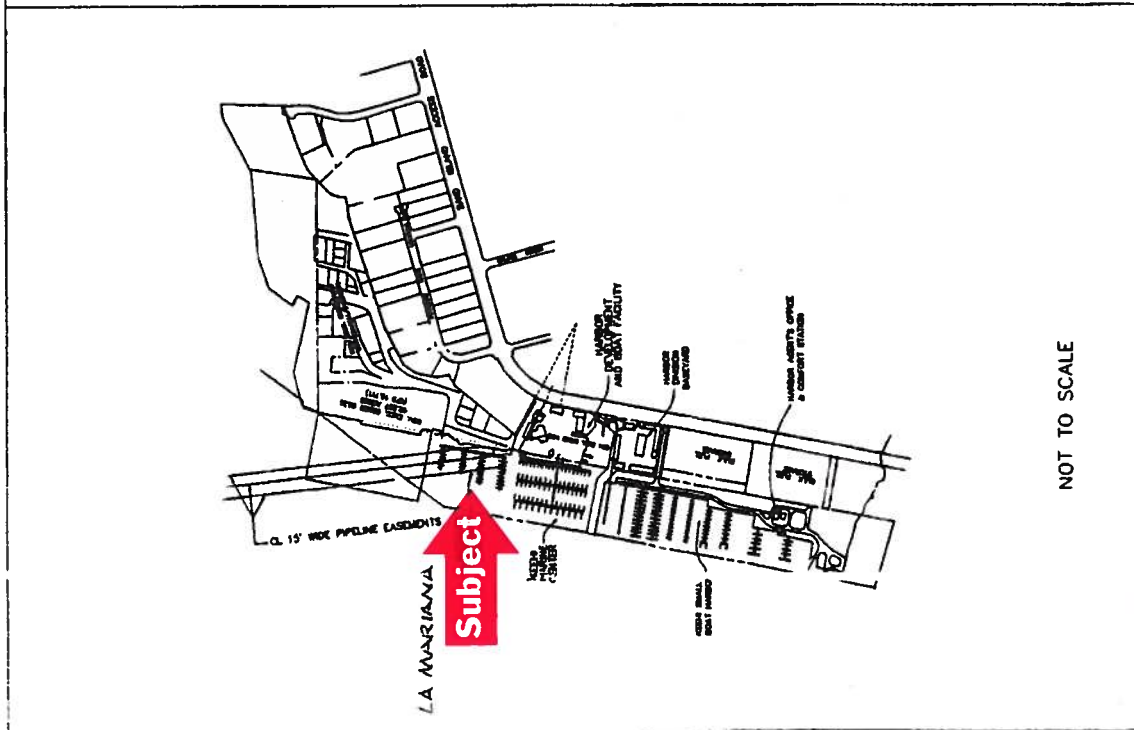
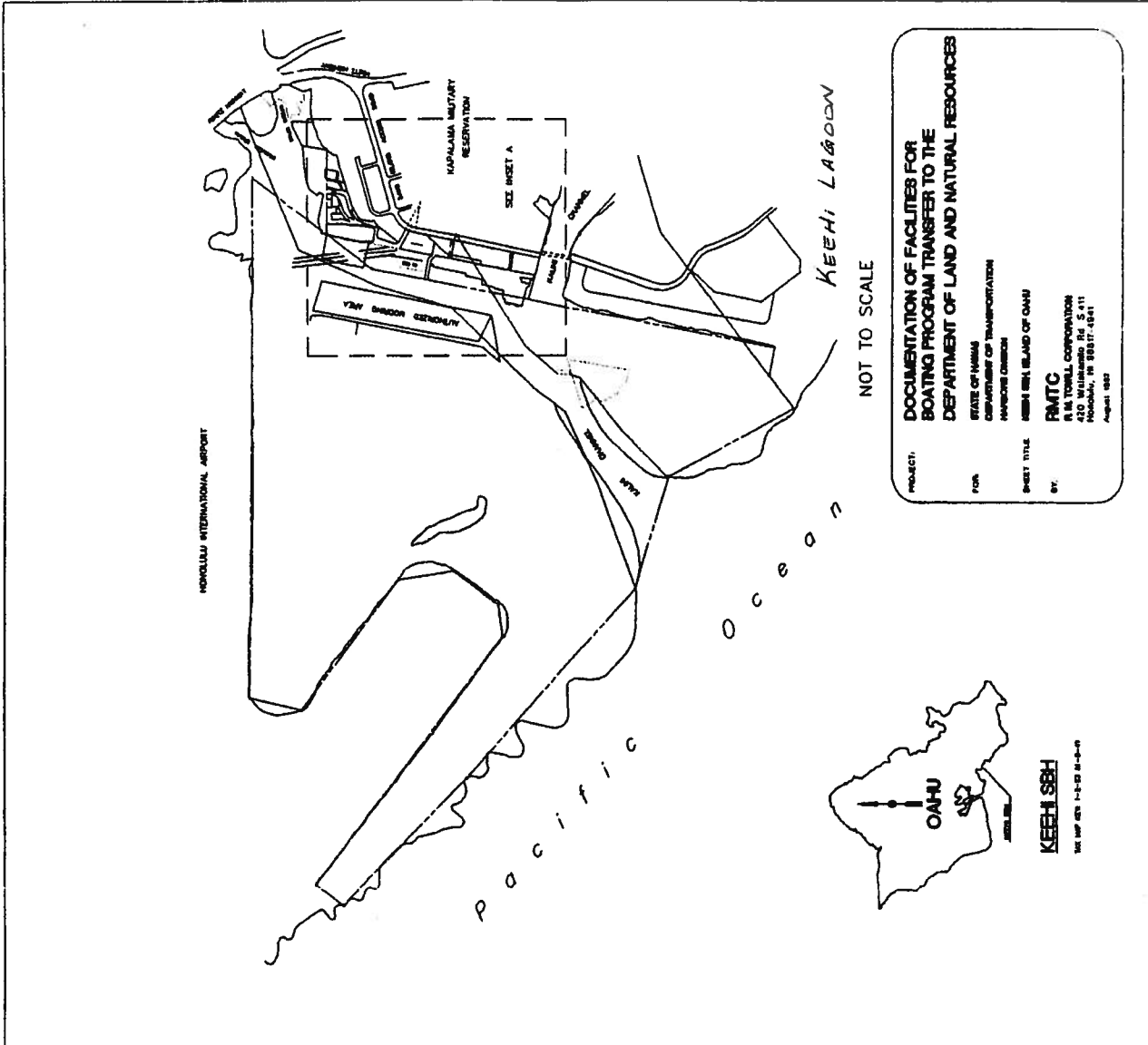


EXHIBIT A

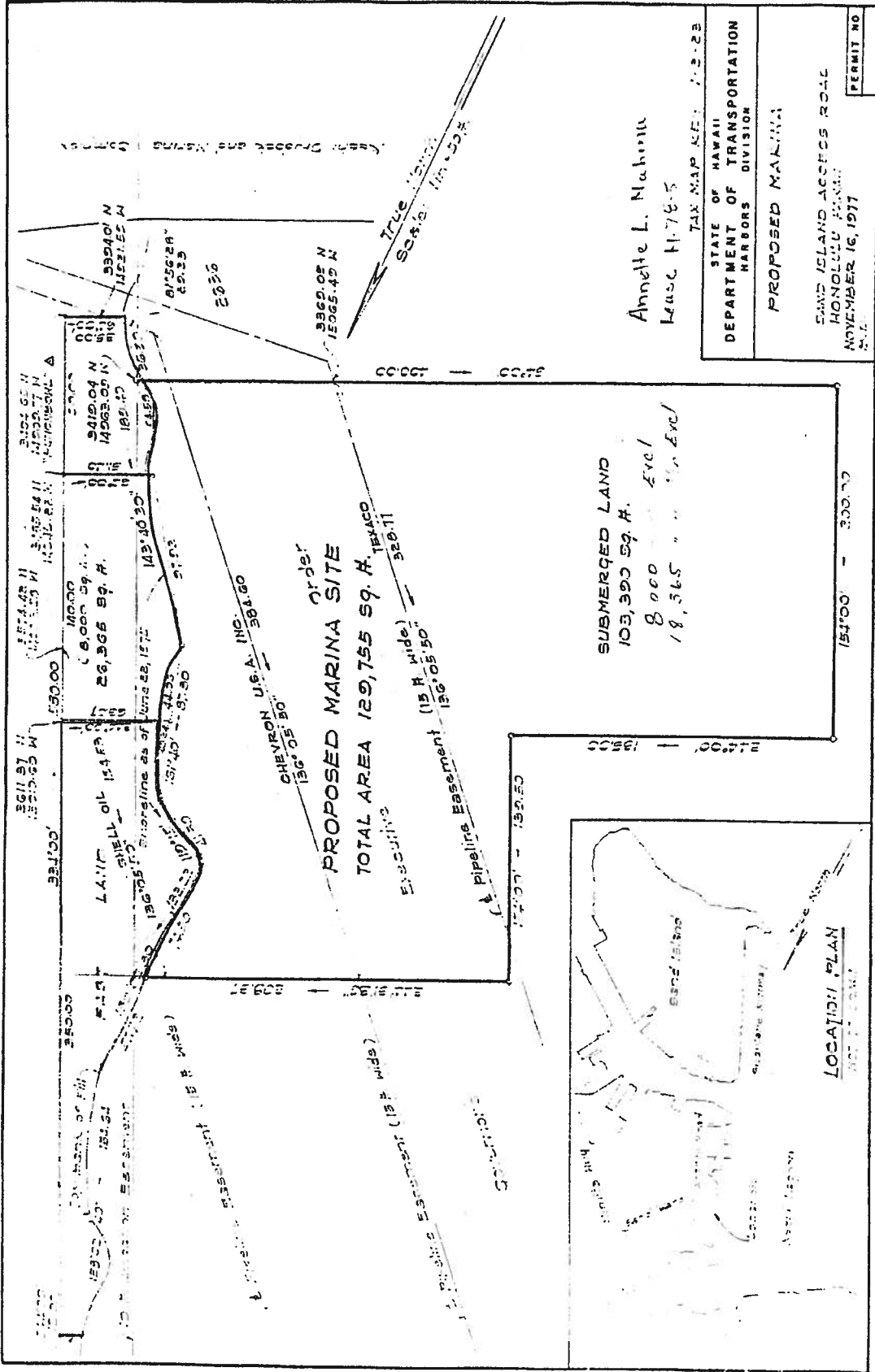


EXHIBIT B