

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

May 9, 2014

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

Ref. No: GLS-3583

HAWAII

Amend Prior Board Action of March 14, 2014, Item D-6, Consent to 10-Year Term Extension of General Lease No. S-3583, Yamada Consolidated, Inc., Pursuant to Act 207, Session Laws of Hawaii 2011, Waiakea, South Hilo Hawaii, Tax Map Key: (3) 2-2-037:052, 092 & 093.

The Amendment is to Seek Board's Authorization to correct Condition C of the Recommendation to be consistent with the terms and conditions of the lease, which requires only a \$1,800 bond.

BACKGROUND:

At its meeting of March 14, 2014, agenda item D-6, the Board of Land and Natural Resources approved a 10-year term extension of General Lease No. S-3583, Yamada Consolidated, Inc., Pursuant to Act 207, Session Laws of Hawaii 2011, Waiakea, South Hilo Hawaii, Tax Map Key: (3) 2-2-037:052, 092 & 093. (Exhibit A)

At its meeting of August 22, 1986, Item F-6, the Land Board waived the bond requirements under General Lease No. S-3583.

In addition to the approving the 10-year term extension, staff recommended that the bond requirements under General Lease No. S-3583 be re-instated for the extended period.

REMARKS:

In the processing of the above, Lessee contacted staff to inquire, for clarification, the amount of bond required as indicated in the Board recommendation under Condition C. It was then realized that the conditions of the lease, relating to the bond requirements on page 7, under General Lease No. S-3583 is not your usual condition, which typically requires twice the annual rent. In this particular lease, the bond is set at \$1,800.00 for the term of the lease.

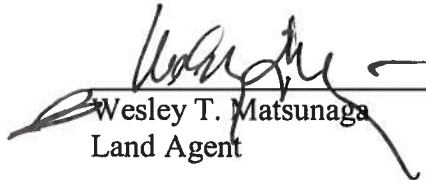
As a result, staff is recommending that the Board amend its prior Board action of March 14, 2014, Item D-6, to change Condition C of the Recommendation Section, to be consistent with the lease terms and conditions of General Lease No. S-3583 (page 7, paragraph 2), which states, in part:

“...within one month from date thereof, a bond with the Lessor, with surety or sureties approved by the Lessor, in an amount of One Thousand Eight Hundred and No/100 Dollars (\$1,800.00).”

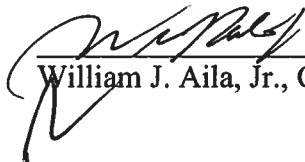
RECOMMENDATION: That the Board:

1. Amend its prior Board action of March 14, 2014, under agenda item D-6 by changing Condition C to read: “Provide a performance/surety bond in the amount of \$1,800.00 within one month of this Board action.”
2. All terms and conditions listed in its March 14, 2014 approval to remain the same.

Respectfully Submitted,

  
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Wesley T. Matsunaga  
Land Agent

APPROVED FOR SUBMITTAL:

  
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William J. Aila, Jr., Chairperson

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

March 14, 2014

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

Ref. No.: GLS-3583

HAWAII

Consent to 10-Year Term Extension of General Lease No. S-3583; Yamada Consolidated, Inc., Lessee, Pursuant to Act 207, Session Laws of Hawaii 2011, Waiakea, South Hilo, Hawaii, Tax Map Key: 3<sup>rd</sup>/2-2-037:052, 092 & 093.

APPLICANT AND REQUEST:

Yamada Consolidated, Inc., a Hawaii corporation.

Improvements to leasehold property financed by Lessee, Yamada Consolidated, Inc. pursuant to Act 207, Session Laws of Hawaii 2011 and Section 171 36(b) in the amount of approximately \$47,857 (completed), plus proposed additional \$20,000 repairs.

In order for Lessee to fully amortize its expenditures, the Lessee is requesting an extension of General Lease No. S-3583 of 10 years, commencing on November 5, 2014 and expiring on November 4, 2024 for an aggregate term (initial 45-year term, plus prior 10-year extension plus 10-year extension currently being requested) of 65 years.

LEGAL REFERENCE:

Act 207, Session Laws of Hawaii 2011  
Sections 171 36(b)(3), Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands, Waiakea, South Hilo, Hawaii, identified by Tax Map Key: (3) 2-2-037:052, 092 & 093, as shown on the attached map labeled Exhibit A.

AREA:

2.565 acres, more or less.

APPROVED BY THE BOARD OF  
LAND AND NATURAL RESOURCES  
AT ITS MEETING HELD ON  
March 14, 2014 *ld.*

D-6

**EXHIBIT A**

**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  

**LEASE CHARACTER OF USE:**

Commercial/industrial purposes.

**TERM OF LEASE:**

Original lease was for 45 years, commencing on November 5, 1959 and expiring on November 4, 2004.

A 10-year extension with consent to mortgage was approved, commencing on November 5, 2004, and expiring on November 4, 2014 for an aggregate term (initial 45 year term plus extension) of 55 years. Last rental reopening was scheduled for November 11, 2011, and is currently in arbitration.

Request a 10-year extension under Act 207, commencing on November 5, 2014 and expiring on November 4, 2024 for an aggregate term (55 year term plus extension) of 65 years.

**RENTAL REOPENINGS:**

Reopenings in the original term were at the end of the 20<sup>th</sup>, 30<sup>th</sup>, 40<sup>th</sup> and 50<sup>th</sup> years of the term. The last rental reopening was scheduled for November 5, 2011, but is currently in arbitration.

Rent for the extended term shall be determined by an immediate appraisal that will project rent for the period of November 5, 2014 through November 4, 2024. The appraiser shall be selected by the State but paid for by Lessee. As a condition of the Board's discretionary approval of the lease extension, the appraised rent for the extension period shall be determinative and not subject to arbitration.

**IMPROVEMENTS:**

Through the years, between 2001 and 2007, the lessee made substantial improvements to the property, which involved the replacement or refurbishing of purlins, ridge vents, wall and cap flashing and metal roofing on the two warehouses. The entire supporting roof elements were completely refurbished and new pre-formed metal roofing installed.

On July 14, 2013, Hussey Appraisal Group Hawaii, consultant, provided a copy of its

report regarding the economic life and financing terms of the completed Yamada Consolidated improvements upon the leasehold premises. The report indicated that total expenditures were \$196,390 with the estimated life of the improvements being 40 years to 55 years or more.

**Breakdown on Cost of Improvements:**

2001 (Jul)	\$ 34,292	
2002 (Jan)	\$ 41,270	} Expenses (\$114,141) relating to a consent to mortgage with a 10-year extension approved in 2002.
2002 (Oct)	\$ 72,871	
2007 (Apr)	\$ 24,767	
<u>2007 (Aug)</u>	<u>\$ 23,090</u>	Expenses (\$47,857) considered for this request.
Total:	\$196,290	

Yamada Consolidated is proposing an additional \$20,000 in roof and gutter repairs for its office building and garage. Work to be completed by the end of the year.

**ANNUAL RENTAL:**

\$43,000.00.

**PERFORMANCE BOND:**

At its meeting of August 22, 1986, Item F-8, the Land Board approved waiver of the performance bond on the basis that Lessee has complied with all terms and conditions of the lease.

Although Lessee has an outstanding record of compliance with all terms and conditions of the lease, staff recommends requiring a performance bond equal to the annual rental amount be held for the extended period of the lease.

**DCCA VERIFICATION:**

Place of business registration confirmed:	YES <u>x</u>	NO
Registered business name confirmed:	YES <u>x</u>	NO
Good standing confirmed:	YES <u>x</u>	NO

**APPLICANT REQUIREMENTS:**

1. Applicant shall be required to pay for an appraisal for the rental reopening for the 10 year extended term of the lease, scheduled for November 5, 2014. The appraisal shall not be subject to arbitration.
2. Provide a performance bond in an amount equal to the annual rental amount for the extended period of the lease.

3. By the end of the year, complete a minimum of \$20,000 worth of roof and gutter repairs to its office building and garage. To provide the Hawaii District Land Office with copies of receipts for the improvements made.

**REMARKS:**

General Lease No. S-3583 was awarded to the Hilo Salvage Company, Ltd. as the highest bidder at a public auction held on November 5, 1959, in Hilo, Hawaii. The original lease term was 45 years. No specific use was mentioned in the lease, however, the property is zoned MG-1 [General Industrial (1- acre)]

By mesne conveyances, General Lease No. S-3583 is now under Yamada Consolidated, Inc., as illustrated below:

Grantor	Grantee	Board Action
Hilo Salvage Company, Ltd.	Robert M. Yamada	May 19, 1960
Robert M. Yamada	Ronald Yamada, Donald Yamada and Maile Chong, as Co-Successor Trustees of the Robert M. Yamada Trust, dtd 9/17/77.	Probate No. 5154, Third Circuit Court, Order Approving Final Accounts and Distributing & Settling Estate. September 5, 1985.
Ronald Yamada, et al, Trustees of the Robert M. Yamada Revocable Living Trust	Emma Yamada, Trustee of the Emma Yamada Revocable Living Trust, dtd 2/21/80.	February 27, 1987 Item F-1-b
Emma Yamada	Yamada Consolidated, Inc.	June 5, 1998, Item D-8

As indicated in the table above, General Lease No. S-3583 was assigned to Robert M. Yamada by action of the Board on May 19, 1960. Mr. Robert M. Yamada passed away on December 11, 1979.

In accordance with the Order of Approving Final Accounts and Distributing and Settling Estate (Probate No. 5154, Third Circuit Court), the subject General Lease was awarded to Trustees of the Revocable Living Trust dated September 16, 1977, made between Robert M. Yamada, Settlor and Ronald Yamada, Donald Yamada and Maile Chong, as Trustees.

At its meeting of February 27, 1987, Item F-1-b, Ronald Yamada, Donald Yamada and



Maile Chong, as Co-Trustees/ Grantors, assigned their individual interests of General Lease No. S-3583, to their mother, Emma Yamada, as Trustee of the Emma Yamada Revocable Living Trust dated February 21, 1980.

At its meeting of June 5, 1998, Item D-8, the Board approved the assignment of General Lease No. S-3583, Emma Yamada, Trustee of the Emma Yamada Revocable Living Trust, to Yamada Consolidated, Inc.

At its meeting of November 16, 2001, Item D-3, the Land Board approved a 10-year lease extension of General Lease No. S-3583 with consent to mortgage from First Hawaiian Bank. The lease extension was necessary to enable Yamada Consolidated to qualify for a \$200,000 mortgage (\$100,000 roof repairs/ \$100,000 operating expense). The actual roof repairs were made in 2002.

On April 18, 2011, an offer letter was sent to Yamada Consolidated, Inc., relating to its scheduled rental reopening of November 5, 2011. The rental reopening for November 5, 2011, as prepared by Hastings, Conboy Braig & Associates, Ltd., determined the new annual rent to be \$81,000, for the period covering November 5, 2011 to November 4, 2014. Yamada Consolidated, Inc. did not accept the offer and exercised its right to arbitrate the lease rent.

By letter dated, July 17, 2013, Mr. Brian Ikawa, President, Yamada Consolidated, Inc., requested a 10-year term extension of General Lease No. S-3583. The extension is being requested pursuant to Act 207, Session Laws of Hawaii 2011.<sup>1</sup> The subject lease is scheduled to expire on November 4, 2014. Many of the State leases adjacent to the Yamada Consolidated lease are scheduled to expire in 2025 and 2035, or 11 to 21 years respectively (Exhibit B). Mr. Ikawa explained that should the Land Board not approve its request for a 10-year term extension, it would not have yet fully amortized the cost of its improvements, and will be required to write-off a \$145,300 loss of unamortized debt.

If approved an extension, Yamada Consolidated is proposing to complete an additional \$20,000 worth of roof/gutter repairs to its office building and garage by the end of the year.

The Department of Land and Natural Resources, Land Division (DLNR-LD) recently retained the services of the consulting firm, Munekiyo & Hiraga, Inc. (MHI), for the purposes of providing feasibility study and land use planning analysis services for the Kanoiehua Industrial Area<sup>2</sup>.

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<sup>1</sup> Act 207, Session Laws of Hawaii 2011 amends Section 171-36(b) of the Hawaii Revised Statutes by allowing the Lessee to extend or modify the fixed rental period of the lease: provided that the aggregate of the initial term and any extension granted shall not exceed sixty-five years.

<sup>2</sup> Most of the DLNR leases in this area were established pursuant to Act 4, First Special Session of 1960 resulting from the destruction of the Hilo bay front caused by the 1960 tsunami.

Key elements of the study/analysis will be to:

- Determine the market demand for the KIA properties, particularly the demand for industrial-commercial use or some other use for long-term leasing (30 years or more).
- Determine whether some properties should be consolidated and reconfigured to maximize the utility of the land in view of the results from the above findings.
- Assess the feasibility and desirability of placing management of the leasehold properties under a master lease from the State for industrial, commercial or other uses permitted by the applicable zoning.

The results of the study will be used to assist the department in determining the future of the Kanoelehua Industrial Area and create an economic region that will benefit the island.

Upon expiration of the existing State industrial leases, any improvements on the property will belong to the State. It is anticipated that the State will be able to bring in a higher lease rent for the improved land than it would for extensions of the existing leases.<sup>3</sup>

The Yamada Consolidated lease and the adjacent leases were not issued under Act 4, First Special Session of 1960 relating to the 1960 tsunami. These leases were issued through public auction.

Since the implementation of Act 207, SLH 2011, there have been three leases within the Kanoelehua Industrial Area that have been granted ten-year extensions. One is located off Railroad Avenue, in vicinity of the Yamada lease, which was also awarded through the public auction process.

Staff reviewed the file and can report that Lessee is in compliance with all terms and conditions of the lease. Liability and fire insurance are current, with an expiration date of June 30, 2014. The performance bond was waived. The Lessee has never been cited for any illegal or unlawful activity on the State property.

Yamada Consolidated, Inc. 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.

The last rental reopening was scheduled for 11/5/2011, but is currently in arbitration.

Staff was notified that Yamada Consolidated, Inc., is in the process of withdrawing from the arbitration, but a formal agreement has not yet been accepted/approved.

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<sup>3</sup> Lease extensions only give the State ground rent; the lessee continues to own the improvements in the extension period.



**RECOMMENDATION:** That the Board:

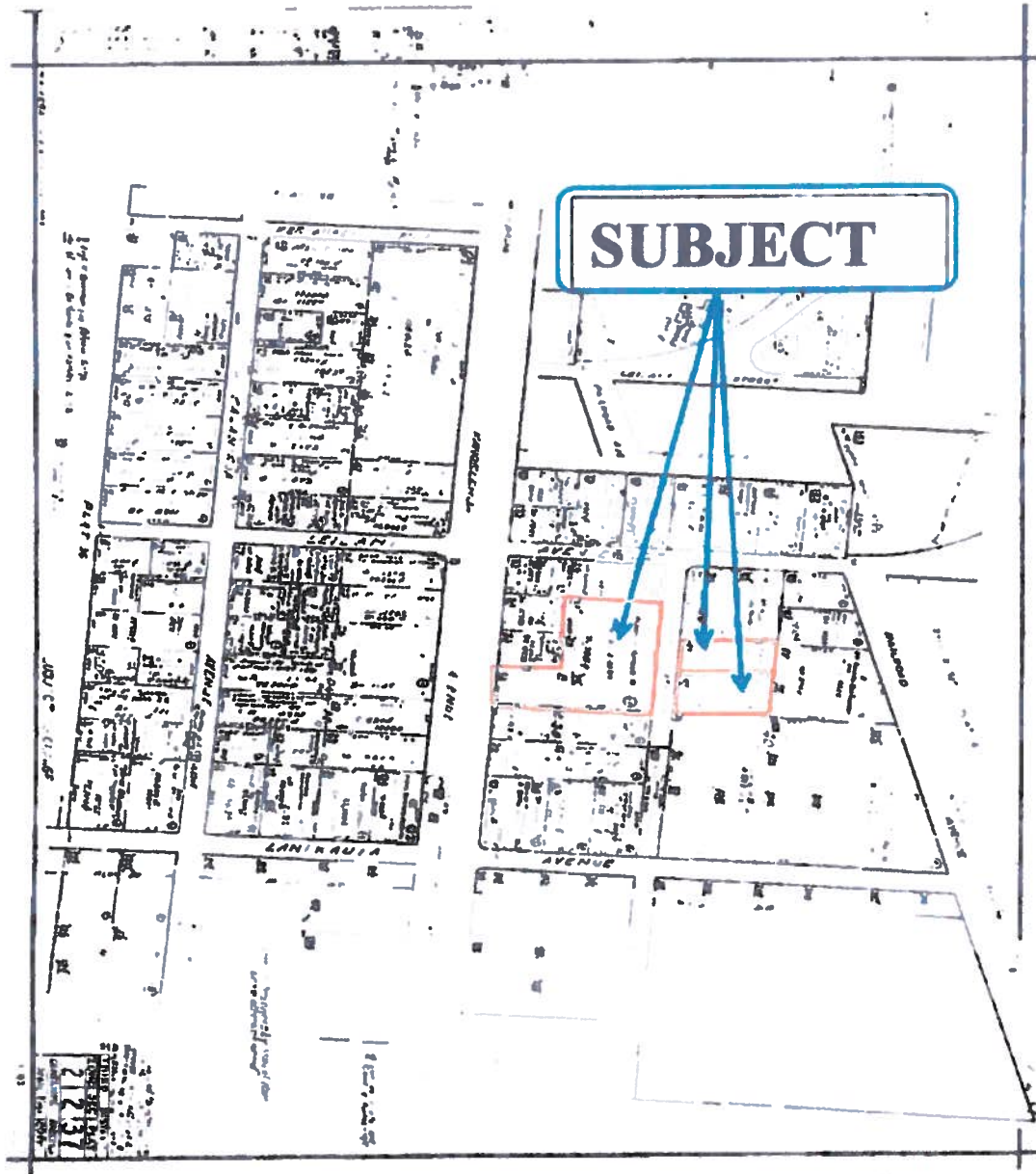
1. Subject to the Applicant fulfilling the Applicant requirement listed above, Authorize a 10-Year Term Extension of General Lease No. S-3583, under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
  - A. The standard terms and conditions of the most current lease extension form, as may be amended from time to time;
  - B. Lessee shall repair/replace the roof and gutters of its office building and garage, in an amount of at least \$20,000 and submit to the Hawaii District Land Office receipts for expenditures by December 31, 2014, or the lease extension shall be subject to cancellation;
  - C. Provide a performance bond/ security deposit, equal to the annual rental amount within 30 days of this Board action;
  - D. Review and approval by the Department of the Attorney General; and
  - E. Such other conditions as may be prescribed by the Chairperson which are in the best interests of the State.

Respectfully Submitted,

  
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Wesley T. Matsunaga  
Land Agent

APPROVED FOR SUBMITTAL:

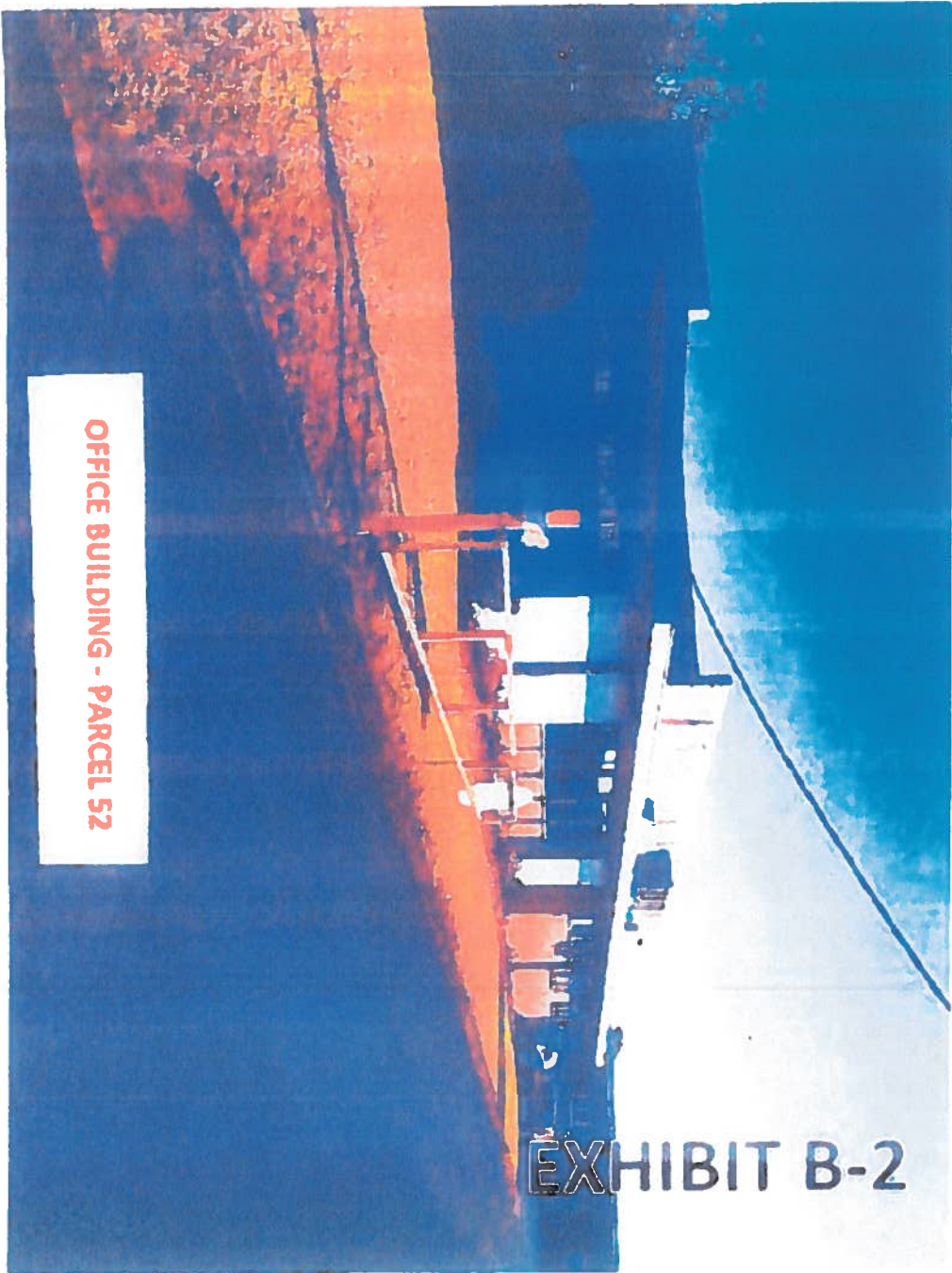
  
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William J. Aila, Jr., Chairperson



**EXHIBIT A**



**EXHIBIT B-1**



OFFICE BUILDING - PARCEL 52

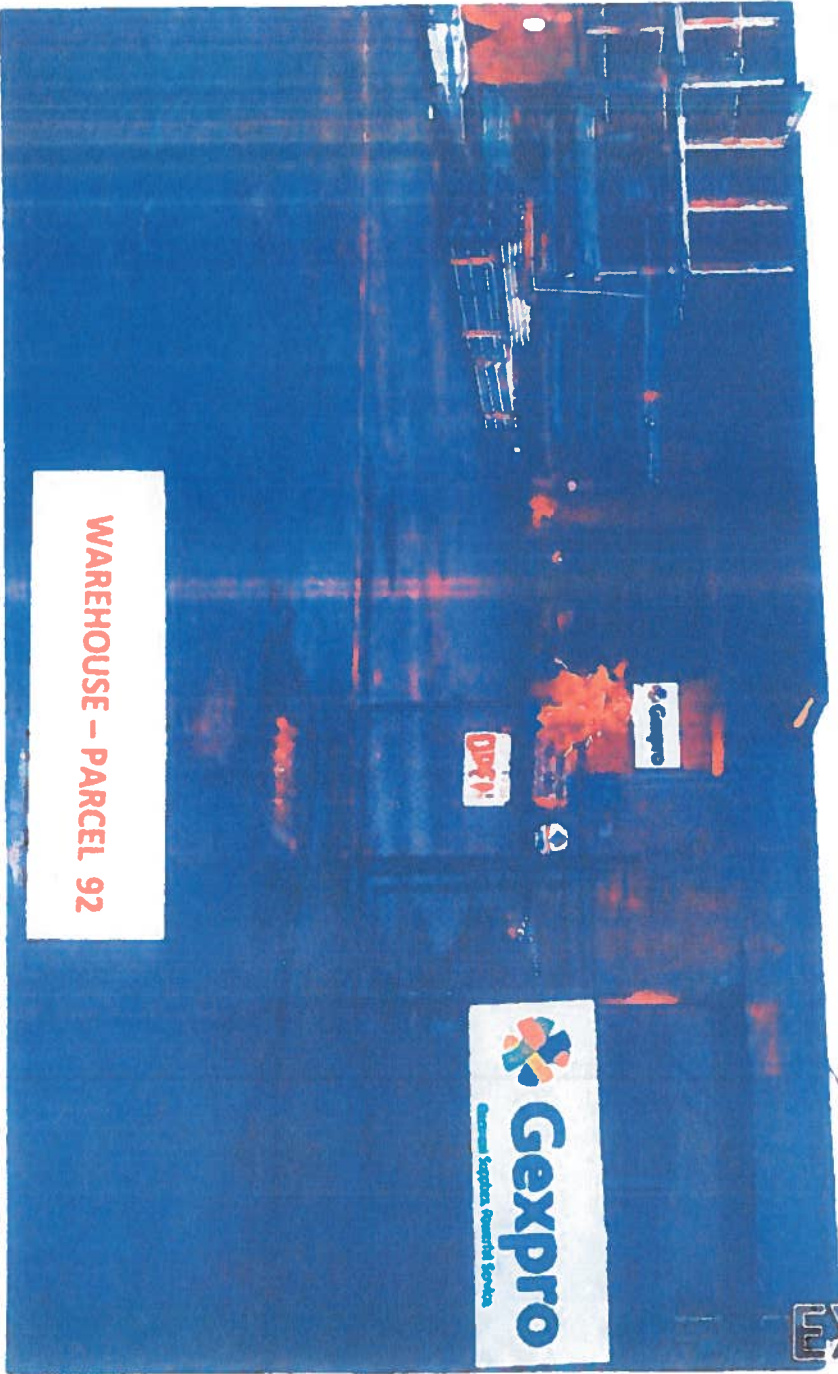
EXHIBIT B-2





**WAREHOUSE-Parcel 52**

**EXHIBIT B-3**



WAREHOUSE - PARCEL 92

  
**Gexpro**  
Soluções Logísticas, Operacionais e Comerciais

EXHIBIT B-4





EXHIBIT B-5