

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

December 11, 2015

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

Statewide

Amend Prior Board Approval of August 14, 2015, Item D-12, to Authorize Negotiation and Execution of Memorandum of Agreement among the Board of Land and Natural Resources, the Department of Defense and the Department of Accounting and General Services for Civil Defense Warning Sirens on Land Under the Direct Management of the Department of Land and Natural Resources, at Various Locations, Statewide.

The amendment is to clarify that upon the execution of the MOA among the DLNR, DOD and DAGS, the Land Division will submit a license agreement and report on the compliance with Hawaii Revised Statutes Chapter 343 for each siren site.

BACKGROUND:

At its meeting on August 14, 2015, item D-12, the Board approved the negotiation and execution of an MOA among the DLNR, DOD and DAGS, for civil defense warning sirens on lands under the direct management of the DLNR. A copy of the approved submittal is attached as **Exhibit 1**.

Subsequently, staff consulted with the Department of Attorney General, who recommended that the Land Division obtain approval from the Board for the license agreement for each siren site and report on compliance with Hawaii Revised Statutes Chapter 343. Attached is a revised draft MOA (**Exhibit 2**) that includes this condition. The MOA attached as Exhibit 2 is redlined to show changes from the version attached to the August 14, 2015 Board action.

RECOMMENDATION:

That the Board approve the revised Memorandum of Agreement substantially in the form attached at Exhibit 2, subject to review and approval by the Department of the Attorney General, providing that the Land Division will present to the Board for approval each siren site that Department of Defense and Department of Accounting and General

Services plan to install on lands under the direct management of the Department of Land and Natural Resources, at various locations, statewide.

Respectfully Submitted,



Kevin E. Moore
Assistant Administrator

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson



Attachments

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

August 14, 2015

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

Statewide

Authorize Negotiation and Execution of Memorandum of Agreement among the Board of Land and Natural Resources, the Department of Defense and the Department of Accounting and General Services for Civil Defense Warning Sirens on Land Under the Direct Management of the Department of Land and Natural Resources, at Various Locations, Statewide

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON
August 14, 2015

APPLICANT:

The Department of Land and Natural Resources ("Department"), Land Division.

LEGAL REFERENCE:

Sections 171-6, -11 and -95, Hawaii Revised Statutes ("HRS"), as amended.

LOCATION:

Typically for each location, 16 square feet, more and less, within the tax map key parcels listed on **Exhibit A**.

CONSIDERATION:

Gratis.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The State Department of Defense ("DOD") shall be responsible for ensuring compliance with HRS, Chapter 343.

BACKGROUND:

DOD is implementing the State's new civil defense disaster warning and communications system (the "Project") throughout the State of Hawaii. The Department of Accounting and General Services ("DAGS") is DOD's agent to implement this Project which involves a major overhaul of the existing siren network. Some sirens are between 25 to

40 years old and have exceeded their useful economic life. Other sirens have malfunctioned, failing to sound, and the equipment's termite infested wooden poles are decaying.

The Project is designed to reinforce the reliability of the warning sirens by replacing, installing and/or upgrading the sirens at nearly 500 specific locations throughout the four (4) counties and six (6) major islands, statewide, including approximately 25 sites under the direct control or management of the Department. Aging siren equipment will be replaced and the control and communications components on all sirens will be modernized. The streamlined technology with satellite and cellular communications will enable DOD to monitor and control every siren throughout the State from a centralized location.

In the past, DOD and DAGS requested the Board of Land and Natural Resources ("Board") to issue perpetual, non-exclusive easements as the form of disposition for the sirens. However, the process for each easement would require DAGS to provide survey maps and legal descriptions, which is part of the easement document prepared by the Department of the Attorney General. In addition, for Oahu, designation of easement is required by the City's Department of Planning and Permitting ("DPP"). According to DAGS, the funding allotted for the Project is limited, and does not account for the hiring of licensed land surveyors to prepare the relevant maps and legal descriptions as well as comply with the DPP process for each Oahu site.

As an alternative to the cost-prohibitive process of easements for each site, DOD established a Memorandum of Agreement ("MOA") which DOD intends to enter into with State and County Agencies where the warning sirens and related equipment reside. The MOA provides the framework for the respective responsibilities among the parties. DOD has entered into MOAs with the City and County of Honolulu, and the Counties of Maui, Hawaii and Kauai. To date, a few sirens have been installed on park lands managed by the City and County of Honolulu and the County of Kauai. A site-referenced license agreement, including construction drawings and maps of the equipment, and setting forth the terms and conditions of use, will be issued by DOD for each siren location.

On October 24, 2014, agenda item D-7, the Board approved DOD's request to enter into agreements for civil defense warning sirens on State lands managed by other departments and agencies of the State, the City and County, or County having jurisdiction thereof at various locations, statewide. (See **Exhibit B** attached, which is a copy of the approved October 24, 2014 Board action, without its lengthy exhibits). The board submittal did not include the siren sites under the direct management of the Department. Therefore, staff today requests approval for the Chairperson to negotiate and execute an MOA among the Department, DOD, and DAGS for the Project on the Department's unencumbered lands, as well as those lands specifically set aside to or used by the various divisions of the Department.

Attached is a “draft” copy of the Memorandum of Agreement (**Exhibit C**), which delineates the responsibilities of the Department, the DOD and DAGS for the State’s new civil defense disaster warning and communications system.

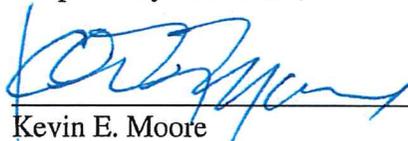
A draft of this submittal was disseminated to all divisions of the Department for review and comment. The respondents were the Division of Boating and Ocean Recreation who had no objections and the Division of Forestry and Wildlife (“DOFAW”) who “recommends ongoing consultation as the project proceeds, ensuring DOFAW has a chance to evaluate any potential impact to native flora and fauna that may occur as a result of this effort.” The Office of Conservation and Coastal Lands’ (“OCCL”) comments are attached as **Exhibit D**, and the Engineering Division’s comments are attached as **Exhibit E**. OCCL notes that 21 of the proposed siren sites are in the conservation district, and that work to replace existing sirens or install new sirens may trigger OCCL’s regulatory oversight, depending on the siren location. Nothing in today’s staff submittal is intended to exempt this project from OCCL’s regulatory requirements. In fact, paragraph 1.f.5 and 3.d.6 of the proposed MOA obligate DOD and DAGS, respectively, to comply with all applicable Federal, State and County laws applicable to the project.

The Division of Aquatic Resources, Division of State Parks and State Historic Preservation Division did not respond for request for comments by the suspense date.

RECOMMENDATION:

That the Board authorize the Chairperson to negotiate terms and conditions, and sign on behalf of the Department and the Board of Land and Natural Resources a Memorandum of Agreement among the Board, Department of Defense and the Department of Accounting and General Services under the terms and conditions cited above, and subject to review and approval as to form by the Department of the Attorney General.

Respectfully Submitted,



Kevin E. Moore
Assistant Administrator

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

| LOCATION | TMK | Siren ID No. |
|----------------------------------|--|--------------|
| Sand Island Park | (1) 1-5-041:006 | OA130 |
| Makua Cave | (1) 8-2-001:001 | OA328 |
| Heeia Kea State Park | (1) 4-6-005:009 | OA414 |
| Malaekahana Beach Park | (1) 5-6-001:024 | OA429 |
| Sacred Falls Park | (1) 5-3-011:009 | OA423 |
| Wahiawa State of Hawaii Baseyard | (1) 7-3-007:005 | OA214A |
| Waimanalo Town BWS | (1) 4-1-015:016 | OA402B |
| Ala Wai Yacht Harbor | (1) 2-3-037:012 | OA118A |
| | | |
| Big Beach – Makena | (2) 2-1-006:030 | MA158 |
| Waianapanapa | (2) 1-3-005:009 | MA305 |
| Hamoia – 2 | (2) 1-4-007:009 | MA304A |
| Kaupo | (2) 1-7-003:001 or 006, or 1-7-002:044 | MA308 |
| Kipahulu | (2) 1-6-009:001 or 1-3-001:001 | MA309 |
| Old Lahaina Cannery | (2) 4-5-005:001 or 003 | MA403 |
| | | |
| Hapuna Beach Park | (3) 6-6-002:035 | HA404 |
| MacKenzie State Park | (3) 1-3-007:026 | HA931 |
| Hoopuloa | (3) 8-9-004:008 | HA707 |

Exhibit “A”

D-7

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

October 24, 2014

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

STATEWIDE

Authorize and Consent to the State of Hawaii, Department of Defense Entering Into Agreements for Civil Defense Warning Sirens on State Lands Managed by Other Departments or Agencies of the State, the City and County, or County, at Various Locations, Statewide

APPLICANT

The State of Hawaii, Department of Defense (“DOD”), Office of Civil Defense/Emergency Management

REQUEST

DOD is requesting that the Board authorize and consent to it entering into agreements for civil defense warning sirens on State lands managed by other departments or agencies of the State, the City and County, or County (“State and County Agencies”) having jurisdiction thereof, at various locations, statewide

STATUTORY PROVISIONS

Hawaii Revised Statutes (“HRS”), Chapter 171, §171-11 and §171-95, and any other applicable sections of Chapter 171, as amended

§171-11 Public purposes, lands set aside by the governor; management. “Lands while so set aside for such use or purpose or when acquired for roads and streets shall be managed by the department, agency, city and county, county, or other political subdivisions of the State having jurisdiction thereof, unless otherwise provided by law. Such department, agency of the State, the city and county, county, or other political subdivisions of the State in managing such lands shall be authorized to exercise all of the powers vested in the board in regard to the issuance of leases, easements, licenses, revocable permits, concessions, or rights of entry covering such lands for such use as may be consistent with the purposes for which the lands were set aside on the same terms, conditions, and

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

October 24, 2014 LD

D-7

Exhibit “B”

Board of Land and Natural Resources
Authorization and Consent to Agreements for
DOD Civil Defense Sirens, Statewide
October 24, 2014
Page 2

restrictions applicable to the disposition of public lands, as provided by this chapter all such dispositions being subject to the prior approval of the board; provided that any nonrenewable dispositions granting rights for a period not in excess of fourteen days shall not require (1) the approval of the board or ...” (emphasis added)

§171-95 Disposition to governments, governmental agencies, public utilities, and renewable energy producers. “(a) Notwithstanding any limitations to the contrary, the board of land and natural resources may, without public auction: ... (6) Waive or modify building and other requirements and conditions contained in deeds, patents, sales agreements, or leases held by the governments and agencies whenever such waiver or modification is beneficial to the State.”

LICENSE AREA

Site specific; however, approximately 16 square feet, more or less, for each siren location.

APPLICANT TERMS AND CONDITIONS

DOD shall be responsible for providing the State of Hawaii, Department of Land and Natural Resources with fully executed copies of agreements it enters into with State and County Agencies for the Project within thirty (30) days of execution.

ENVIRONMENTAL ASSESSMENT – HRS, CHAPTER 343

DOD shall be responsible for ensuring compliance with HRS, Chapter 343.

BACKGROUND

Hawaii’s hurricane season is June through November. In August 2014, as Hurricane Iselle approached the State, a hurricane warning was issued for the island of Hawaii; however, just before making landfall the hurricane was downgraded to a tropical storm. Nevertheless, the island sustained the brunt of the storm’s heavy winds and rains which resulted in some flooding, damaged homes, downed power and telephone lines, fallen albizia trees, and roads which were blocked by debris.

DOD routinely conducts alert and accountability exercises to ensure optimal response times should disaster, such as Hurricane Iselle, strike in Hawaii. The State’s civil defense warning system is integral to the early detection and communication of imminent disasters that pose a potential threat to public health and safety in Hawaii.

A Public Health and Safety Project. DOD is implementing the State’s new civil defense disaster warning and communications system (the “Project”). The State of Hawaii, Department of Accounting and General Services (“DAGS”) is DOD’s consultant for the

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Authorization and Consent to Agreements for
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Project which involves a major overhaul of the existing siren network. Some sirens are between 25 to 40 years old, and have exceeded their useful economic life. Other sirens have malfunctioned, failing to sound, and the equipment's termite infested wooden poles are disintegrating.

The Project is designed to fortify the trustworthiness of warning sirens by replacing, installing, and/or upgrading sirens at more than 500 site specific locations throughout four (4) counties and six (6) major islands, statewide. Aging siren equipment will be replaced, and the control and communications components on all sirens will be modernized. Very high frequency and trunked radio networks will be replaced and upgraded with redundant satellite and cellular communications. The streamlined technology will enable DOD to monitor and control every siren throughout the State from a centralized location by way of common communications infrastructure.

A Manner of Disposition. For similar purposes in the past, DOD requested the Board issue perpetual, non-exclusive easements as a manner of disposition. However, the process for each easement would necessitate DAGS providing survey maps and legal descriptions that are required for the preparation of the easement document by the State of Hawaii, Department of the Attorney General. In addition, the City and County of Honolulu (the "City") require easements be designated by its Department of Planning and Permitting ("DPP"). The financial funding for the Project is limited, and precludes the ability to incur expenses to hire licensed surveyors to prepare the required maps and descriptions for each siren location, or the DPP process.

Alternatively, DOD established a Memorandum of Agreement ("MOA") and a License Agreement (collectively, "Agreements"). DOD intends to enter into Agreements with State and County Agencies having jurisdiction over State lands upon which the warning sirens and related equipment would reside. The MOA provides a framework of responsibility of each political subdivision in which each will jointly manage its own efforts in fulfilling the planning, design, construction, implementation, maintenance, and control of the sirens and equipment. DOD has entered into an MOA with the City, and the Counties of Maui, Hawaii, and Kauai (see attached **Exhibit A**). The License Agreement is designed to be site-specific to each siren location. It will include a site map with illustrated renderings of the siren and equipment, together with any other terms and conditions imposed by each of the respective agencies having jurisdiction (see attached **Exhibit B**).

A Board Consent Under HRS. §171-11. On June 1, 2011, the City and DOD entered into an MOA for the Project. HRS §171-11 provides that Board approval is required for dispositions over land set aside to an agency for public purposes in excess of fourteen (14) days. At its meeting on April 25, 2014, under Agenda Item D-8, the Board consented to the License Agreement for the Project between the City and DOD (see attached **Exhibit C**). The Board action included its blanket consent to license agreements encompassing thirteen (13) siren locations on State lands managed by the City pursuant to Governor's executive orders.

Board of Land and Natural Resources
Authorization and Consent to Agreements for
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Page 4

Furthermore, the Board extended its consent to license agreements encompassing other locations managed by the City, subject to the same manner of disposition. Moreover, staff informed the Board of its intent to return at a later date to request the Board similarly consent to license agreements for various siren locations, statewide:

“Because the great number of sirens needing improvements, the sirens are being implemented incrementally. Thus, there are other sirens under jurisdiction of other agencies pursuant to other executive orders. Depending on the discussion between DOD/DAGs and those agencies, staff will bring the request for consent under 171-11, HRS, using similar approach, to the Board at a later date.”

HRS §171-95 provides that the Board may waive or modify requirements and conditions contained in leases held by the governments and agencies whenever such waiver or modification is beneficial to the State (for example, a waiver of a condition contained in leases concerning its requirement to obtain prior approvals from the Board for consents).

REMARKS

The Project is integral to public safety and consistent with the stipulated public use of State lands managed by State and County Agencies, including but not limited to schools, harbors, airports, and beach parks. Since DOD is likewise an instrumentality of the State, it too is mandated to act in the best interests of the State.

At more than 500 siren locations statewide, the number of locations is voluminous. For DOD to request the Board’s consent to each Agreement for each siren location on a piecemeal basis would be time intensive for all agencies involved, including the Board. Alternatively, the Board’s blanket consent to the Agreements would simplify and streamline the time and efforts required by all parties to the Project. The intent is to give all parties the flexibility to jointly manage and fulfill its own efforts pursuant to the Agreements in a timely manner. DOD’s ability to process the Agreements in a timely manner is critical to each siren location, and DOD wishes to obtain all appropriate authorizations as soon as possible. DOD has construction contractors in each County that are ready to install and/or replace the sirens. The Board’s blanket consent would give DOD the flexibility to move the Project forward by allowing its contractors to proceed upon the execution of the Agreements.

Staff recommends the Board authorize and consent to DOD entering into Agreements for civil defense warning sirens on State lands managed by State and County Agencies having jurisdiction thereof, at various locations, statewide, subject to the Agreements being processed by DOD and its Deputy Attorney General. DOD shall be responsible to review and approve the Agreements to protect the best interests of the State. As such, it would not be necessary to also have the Board, its staff, and its assigned Deputy Attorney General to further review and approve the Agreements prior to further processing. The Agreements may include variations of the MOA and License Agreements attached as Exhibits A and B,

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Authorization and Consent to Agreements for
DOD Civil Defense Sirens, Statewide
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Page 5

respectively. To the extent DOD has already entered into Agreements with State and County Agencies for the Project, staff recommends the Board consent to these executed Agreements retroactively to the instrument's effective date therein eliminating a need to further process the Board's consent to those Agreements, after the fact.

The recommended Board actions contemplate alleviating unnecessary steps in the consent process that are intended to protect the best interests of the State.

RECOMMENDATION

That the Board, subject to the terms and conditions cited above which are incorporated herein in their entirety by reference, and further subject to other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State of Hawaii:

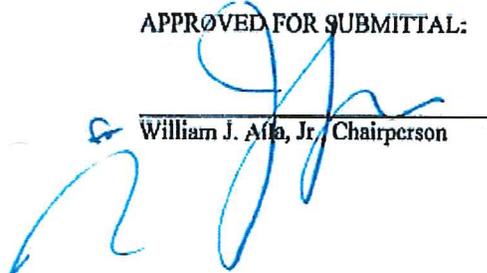
- authorize and consent to the State of Hawaii, Department of Defense entering into agreements for civil defense warning sirens on State lands managed by other departments or agencies of the State, the City and County, or County having jurisdiction thereof, at various locations, statewide.

Respectfully Submitted,



Kevin E. Moore, Acting Administrator

APPROVED FOR SUBMITTAL:



William J. Afa, Jr., Chairperson

MEMORANDUM OF AGREEMENT
AMONG THE
DEPARTMENT OF LAND AND NATURAL RESOURCES,
DEPARTMENT OF DEFENSE,
AND
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

This **MEMORANDUM OF AGREEMENT (“MOA”)**, entered into on this _____ day of _____, 20__, by and among the DEPARTMENT OF LAND AND NATURAL RESOURCES, by its Board of Land and Natural Resources, whose address is 1151 Punchbowl Street, Honolulu, Hawai‘i 96813 (“DLNR”), the DEPARTMENT OF DEFENSE, whose address is 3949 Diamond Head Road, Honolulu, Hawai‘i 96816 (“DOD”), and the DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES, whose address is Kalanimoku Building, 1151 Punchbowl Street, Honolulu, Hawai‘i 96813 (“DAGS”), collectively, the “Parties”.

The purpose of this MOA is to coordinate the implementation, including planning, design and construction, of the State’s new civil defense disaster warning and communications systems (the “Project”) throughout the State of Hawai‘i on lands under the direct control or management of the DLNR. DAGS is DOD’s agent to implement the Project which involves a major overhaul of the existing siren network to reinforce the reliability of warning sirens by replacing, installing and/or upgrading sirens at more than 500 sites throughout the four (4) counties and six (6) major islands, statewide, including approximately 25 sites under the direct control or management of the DLNR. Aging siren equipment will be replaced, and the control and communications component on all sirens will be modernized. A streamlined technology with satellite and cellular communication will enable DOD to monitor and control every siren throughout the State from a centralized location.

Hawai‘i Revised Statutes (“HRS”) Chapter 127A, Emergency Management, §127A-3 provides in part that the Hawaii Emergency Management Agency (HEMA), established within DOD, shall coordinate the statewide outdoor siren warning system; monitor and issue alerts and warnings; and coordinate emergency and disaster response and recovery activities. Additionally, HRS §127A-9 provides in part that the State, the counties, any owner or operator of a public utility or critical infrastructure facility, and private-sector or nonprofit organizations shall not be

Exhibit “C”

civily liable for the death of or injury to persons, or property damage, as a result of any act or omission in the course of the employment or duties under this chapter, except in cases of willful misconduct, gross negligence, or recklessness, persons engaged in emergency management functions pursuant to this chapter, including volunteers whose services are accepted by any authorized person.

At its meeting of October 24, 2014, agenda item D-7, the Board of Land and Natural Resources (“Board”) authorized and consented to DOD entering into agreements for civil defense warning sirens on State lands managed by other departments or agencies of the State, the City and County, or County (“State and County Agencies”) having jurisdiction thereof at various locations, statewide.

At its meeting of _____, 2015, agenda item D-__, the Board authorized and consented to DOD, DLNR and DAGS entering into this MOA, which is intended to relate to the DLNR’s unencumbered lands, as well as those lands specifically set aside to or used by the various divisions of the DLNR.

With more than 500 siren locations statewide, the Board’s blanket consent to the agreements would simplify and streamline the time and efforts required by all parties to the Project.

NOW THEREFORE, in consideration of the mutual covenants and promises herein made, the parties do hereby agree as follows:

1. DOD’s responsibilities are as follows:
 - a. Maintain a list of proposed locations for sirens and related equipment.
 - b. Participate in meetings with the DLNR to discuss siren sites.
 - c. Submit listings of siren sites for review and concurrence.
 - d. Seek appropriations for siren warning projects, and where such appropriations are made, fund the design and construction of the sirens and related equipment.
 - e. Initiate a License Agreement with the DLNR (including, without limitation, its Division of State Parks, Land Division, Division of Boating and Ocean Recreation, Division of Forestry and Wildlife, and the Kahoolawe Island Reserve Commission) which will address site specific issues for existing and new siren sites.
 - f. Ensure that the License Agreement conditions of access for the installation, operation, repair and maintenance of the sirens and related equipment shall include:

- 1) DOD's contractor shall obtain a right-of-entry permit for the installation of the siren and related equipment at each siren site.
 - 2) DOD shall require its contractor to procure and maintain, during the life of each right-of-entry permit and any extensions thereof, comprehensive general liability insurance covering bodily injury and property damage with limits not less than \$1,000,000 combined single limit per occurrence and including the following extensions: (1) contractual liability to cover liability assumed under the right-of-entry permit; and (2) all insurance that may be required under the laws, ordinances or rules or regulations of any governmental authority. All required policies of insurance shall name the DLNR, DOD, and DAGS, and their elected and appointed officials, employees and agents as additional insured and provide that the policy will not be canceled, terminated, lapsed, or materially changed without 30 days' prior written notice to the DLNR.
 - 3) DOD's contractor shall maintain and exercise due care to keep the area surrounding the siren site clear and safe for public use during the term of the right-of-entry permit.
 - 4) DOD's contractor shall restore the siren site to a condition that is substantially similar to that which existed prior to the commencement of the contractor's activity under each right-of-entry permit.
 - 5) DOD, its officers, employees, agents, contractors, and subcontractors shall comply with and satisfy all applicable statutes, ordinances, rules and regulations of the Federal, State and County governments in performing its work at each siren site.
 - 6) DOD, through its officers, employees, agents, contractors, or subcontractors shall obtain and ensure compliance with HRS Chapter 343, as amended.
2. DLNR's responsibilities are as follows:
- a. Identify, review and approve the proposed location of the siren sites on lands under the direct control or management of the DLNR.
 - b. Assist DOD in the coordination with the appropriate DLNR divisions to obtain the siren site approvals.

- c. Participate with DOD and DAGS, when necessary, in the siren acceptance.
 - d. Review and approve the construction plans provided by DOD for the installation of the sirens and related equipment.
 - e. Grant DAGS, DOD and their contractors a license to install, operate, and maintain sirens and related equipment on the siren sites approved by the DLNR.
 - f. Issue right-of-entry permits to DAGS' and DOD's contractors for approved siren sites.
3. DAGS' responsibilities are as follows:
- a. Provide DOD staff with technical services and overview coordination support for the implementation of DOD siren projects on DLNR controlled siren sites.
 - b. Procure the design consultants, negotiate and approve the consultants' fees, prepare the design contracts and make payments using funding appropriated for this purpose.
 - c. Oversee the design, bidding, and construction phases of the work in accordance with all applicable regulatory requirements. Prepare the construction contracts and make payments.
 - d. When overseeing design and construction phase work for DOD sirens and related equipment:
 - 1) DAGS' consultants and contractors will process a right-of-entry permit for the installation of the siren and related equipment at each siren site.
 - 2) DAGS shall require its consultants and contractors to procure and maintain, during the life of each right-of-entry permit and any extensions thereof, comprehensive general liability insurance covering bodily injury and property damage with limits not less than \$1,000,000 combined single limit per occurrence and including the following extensions: (1) contractual liability to cover liability assumed under the right-of-entry permit; and (2) products and completed operations coverage; and all insurance that may be required under the laws, ordinances or rules or regulations of any governmental authority. All required policies of insurance

shall name the DLNR, its elected and appointed officials, employees and agents as additional insured and provide that the policy will not be canceled, terminated, lapsed, or materially changed without 30 days' prior written notice to the DLNR.

- 4) DAGS' consultants and contractors shall maintain and exercise due care to keep the area surrounding the siren site clear and safe for public use during the term of the right-of-entry permit.
- 5) DAGS' consultants and contractors shall restore the siren site to a condition that is substantially similar to that which existed prior to the commencement of the contractor's activity under each right-of-entry permit.
- 6) DAGS, its officers, employees, agents, consultants, contractors, and subcontractors shall comply with and satisfy all applicable statutes, ordinances, rules and regulations of the Federal, State and County governments in performing its work at each siren site.

4. Modifications. Any extensions, changes or alterations to this MOA shall be agreed to by all affected parties in writing before being undertaken.

5. Termination. Any party to this MOA shall have the privilege, with or without cause, to cancel or annul this MOA at any time upon written notice given thirty (30) days in advance of such termination.

IN WITNESS THEREOF, the parties have executed this MOA on the day, month, and year mentioned above.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

STATE OF HAWAI'I
DEPARTMENT OF LAND AND NATURAL
RESOURCES

By _____
SUZANNE D. CASE
Chairperson

APPROVED AS TO FORM:

Deputy Attorney General

STATE OF HAWAI'I
DEPARTMENT OF DEFENSE

By _____
ARTHUR J. LOGAN
Adjutant General

APPROVED AS TO FORM:

Deputy Attorney General

STATE OF HAWAI'I
DEPARTMENT OF ACCOUNTING AND
GENERAL SERVICES

By _____
DOUGLAS MURDOCK
Comptroller

APPROVED AS TO FORM:

Deputy Attorney General

ST-16-2

DAVIN Y. IGE
GOVERNOR OF HAWAII



RECEIVED
OFFICE OF CONSERVATION AND COASTAL LANDS
SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

2015 JUL -8 P 12:29

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION
DEPT OF LAND & NATURAL RESOURCES
STATE OF HAWAII

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

July 7, 2015

MEMORANDUM

TO:
FROM:

- DLNR Agencies:**
- Div. of Aquatic Resources
 - Div. of Boating & Ocean Recreation
 - Engineering Division
 - Div. of Forestry & Wildlife
 - Div. of State Parks
 - Commission on Water Resource Management
 - Office of Conservation & Coastal Lands
 - Historic Preservation

RECEIVED
LAND DIVISION
2015 JUL 10 PM 3:01
DEPT OF LAND & NATURAL RESOURCES
STATE OF HAWAII

TO:

FROM:
SUBJECT:

Russell Y. Tsuji, Land Administrator
Authorize Negotiation and Executive of Memorandum of Agreement among the Board of Land and Natural Resources, the Department of Defense, the Department of Accounting and General Services, for Civil Defense Warning Sirens on Land Under the Direct Management of the Department of Land and Natural Resources, at Various Locations, Statewide

LOCATION:
APPLICANT:

Statewide
DLNR – Land Division

Transmitted for your review and comment on the above referenced document. We would appreciate your comments on this document. Please submit any comments by **July 21, 2015**.

If no response is received by this date, we will assume your agency has no comments. If you have any questions about this request, please contact Lydia Morikawa at 587-0410. Thank you.

Attachments

- We have no objections.
- We have no comments.
- Comments are attached.

Signed:
Print Name: ALEX ROY
Date: 7/10/2015

cc: Central Files

Exhibit "D"

REF: OCCL: AJR

COR: ST-16-02

under the jurisdiction of the OCCL. Additionally, the designated "Siren ID No." is provided after the TMK for additional reference.

Oahu

- (1) 8-2-001:001 (OA130) – Conservation District (CD) *Limited* and *Resource* Subzones
- (1) 5-3-011:009 (OA423) – CD *Protective* and *Resource* Subzones (portion of parcel)

Maui

- (2) 2-1-006:030 (MA158) – CD *Protective* Subzone (portion of parcel)
- (2) 1-3-005:009 (MA305) – CD *General* and *Resource* Subzones
- (2) 1-4-007:009 (MA304A) – CD *Protective* Subzone (portion of parcel)
- (2) 1-7-003:001 (MA308) – CD *Limited* Subzone
- (2) 1-7-003:006 (MA308) – CD *Limited* Subzone
- (2) 1-7-002:044 (MA308) – CD *General* Subzone (portion of parcel)
- (2) 1-3-001:001 (MA309) – CD *Protective* and *Resource* Subzone (portion of parcel)

Hawai'i

- (3) 6-6-002:035 (HA404) – CD *Resource* Subzone (portion of parcel)
- (3) 1-3-007:026 (HA931) – CD *Resource* Subzone
- (3) 8-9-004:008 (HA707) – CD *General* Subzone

The type of permit required for each site is based on the style of the proposed land use (i.e., replacement, new tower, or maintenance). When the site design has been finalized the OCCL will be able to provide a more complete regulatory and permitting framework for each project site. Should you have any additional questions or concerns regarding this letter or the rules regarding the conservation district, please feel free to contact Alex J. Roy, M.Sc. of the Office of Conservation and Coastal Lands staff at 808-587-0316 or via email at alex.j.roy@hawaii.gov

Thank you.

CC: DAGS

DEPARTMENT OF LAND AND NATURAL RESOURCES
ENGINEERING DIVISION

LD/Russell Y. Tsuji

REF: Authorize Negotiation and Execution of MOA Among BLNR, DOD, and DAGS for Civil
Defense Warning Sirens on Land Under Direct Mgmt of DLNR, Various Locations on Oahu,
Maui, and Hawaii

Oahu.050

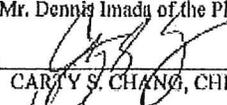
COMMENTS

- () We confirm that the project site, according to the Flood Insurance Rate Map (FIRM), is located in Flood Zone ____.
- () Please take note that the project site according to the Flood Insurance Rate Map (FIRM), is located in Zone ____.
- () Please note that the correct Flood Zone Designation for the project site according to the Flood Insurance Rate Map (FIRM) is ____.
- (X) Please note that the project(s) located in the Flood Hazard Zones (A, AO, AH, AE, AEF, V, VE, and XS) must comply with the rules and regulations of the National Flood Insurance Program (NFIP) presented in Title 44 of the Code of Federal Regulations (44CFR), whenever development within a Special Flood Hazard Area is undertaken. If there are any questions, please contact the State NFIP Coordinator, Ms. Carol Tynu-Beam, of the Department of Land and Natural Resources, Engineering Division at (808) 587-0267.

Please be advised that 44CFR indicates the minimum standards set forth by the NFIP. Your Community's local flood ordinance may prove to be more restrictive and thus take precedence over the minimum NFIP standards. If there are questions regarding the local flood ordinances, please contact the applicable County NFIP Coordinators below:

- (X) Mr. Mario Su Li at (808) 768-8098 of the City and County of Honolulu, Department of Planning and Permitting.
- (X) Mr. Carter Romero (Acting) at (808) 961-8943 of the County of Hawaii, Department of Public Works.
- (X) Ms. Carolyn Cortez at (808) 270-7253 of the County of Maui, Department of Planning.
- () Mr. Stanford Iwamoto at (808) 241-4896 of the County of Kauai, Department of Public Works.
- () The applicant should include project water demands and infrastructure required to meet water demands. Please note that the implementation of any State-sponsored projects requiring water service from the Honolulu Board of Water Supply system must first obtain water allocation credits from the Engineering Division before it can receive a building permit and/or water meter.
- () The applicant should provide the water demands and calculations to the Engineering Division so it can be included in the State Water Projects Plan Update.
- () Additional Comments: _____
- () Other: _____

Should you have any questions, please call Mr. Dennis Imadu of the Planning Branch at 587-0257.

Signed: 
CARY S. CHANG, CHIEF ENGINEER

Date: 7/21/15

Exhibit "F"

MEMORANDUM OF AGREEMENT

AMONG THE

DEPARTMENT OF LAND AND NATURAL RESOURCES,

DEPARTMENT OF DEFENSE,

AND

DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

This **MEMORANDUM OF AGREEMENT (“MOA”)**, entered into on this _____ day of _____, 20__, by and among the ~~BOARD DEPARTMENT~~ OF LAND AND NATURAL RESOURCES, by its ~~Chairperson~~~~Board of Land and Natural Resources~~, whose address is 1151 Punchbowl Street, Honolulu, Hawai‘i 96813 (“DLNR”), the DEPARTMENT OF DEFENSE, whose address is 3949 Diamond Head Road, Honolulu, Hawai‘i 96816 (“DOD”), and the DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES, whose address is Kalanimoku Building, 1151 Punchbowl Street, Honolulu, Hawai‘i 96813 (“DAGS”), collectively, the “Parties”.

The purpose of this MOA is to coordinate the implementation, including planning, design and construction, of the State’s new civil defense disaster warning and communications systems (the “Project”) throughout the State of Hawai‘i on lands under the direct control or management of the DLNR. DAGS is DOD’s agent to implement the Project which involves a major overhaul of the existing siren network to reinforce the reliability of warning sirens by replacing, installing and/or upgrading sirens at more than 500 sites throughout the four (4) counties and six (6) major islands, statewide, including approximately 25 sites under the direct control or management of the DLNR. Aging siren equipment will be replaced, and the control and communications component on all sirens will be modernized. A streamlined technology with satellite and cellular communication will enable DOD to monitor and control every siren throughout the State from a centralized location.

Hawai‘i Revised Statutes (“HRS”) Chapter 127A, Emergency Management, §127A-3 provides in part that the Hawaii Emergency Management Agency (~~HEMA~~), established within DOD, shall oversee and coordinate the statewide outdoor siren warning system; monitor and issue alerts and warnings; and coordinate emergency and disaster response and recovery activities. Additionally, HRS §127A-9 provides in part that the State, the ~~county~~~~counties~~, any owner or operator of a public utility or critical infrastructure facility, and private-sector or nonprofit organizations shall not be civilly liable for the death of or injury to persons, or property

Exhibit 2

damage, as a result of any act or omission in the course of the employment or duties ~~under this chapter~~, except in cases of willful misconduct, gross negligence, or recklessness, persons engaged in emergency management functions pursuant to this chapter, ~~including volunteers whose services are accepted by any authorized person.~~

At its meeting of ~~August 14, 2015~~~~October 24, 2014~~, agenda item D-~~127~~, the Board of Land and Natural Resources (“~~BLNR Board~~”) authorized ~~the Chairperson and consented to negotiate and enter sign a memorandum of agreement with DOD and DAGS regarding the responsibilities of DLNR, DOD and DAGS entering into agreements for new and existing civil defense warning and communications system sirens on State lands managed by other departments or agencies of the State, the City and County, or County (“State and County Agencies”) having jurisdiction thereof at various locations, statewide.~~

At its meeting of _____, 2015, agenda item D ____, the Board authorized and consented to ~~DOD, DLNR and DAGS entering into this MOA, which is intended to relate to the DLNR’s unencumbered land or lands, as well as those lands specifically set aside to a division or used by the various divisions of the DLNR.~~

~~With more than 500 siren locations statewide, the Board’s blanket consent to the agreements would simplify and streamline the time and efforts required by all parties to the Project.~~

NOW THEREFORE, in consideration of the mutual covenants and promises herein made, the parties do hereby agree as follows:

1. DOD’s responsibilities are as follows:
 - a. Maintain a list of proposed locations for sirens and related equipment.
 - b. Participate in meetings with the DLNR to discuss siren sites.
 - c. Submit listings of siren sites for review and concurrence.
 - d. Seek appropriations for siren warning projects, and where such appropriations are made, fund the design and construction of the sirens and related equipment.
 - e. Initiate negotiating a License Agreement(s) with the DLNR (including, without limitation, its Division of State Parks, Land Division, Division of Boating and Ocean Recreation, Division of Forestry and Wildlife, and the Kahoolawe Island Reserve Commission) ~~which will address site specific issues~~ for existing and new siren sites.

- f. Ensure that the ~~License Agreement~~ conditions of access for the installation, operation, repair and maintenance of the sirens and related equipment in the license agreement(s) shall include:
- 1) DOD's contractor shall obtain a right-of-entry permit for the installation of the siren and related equipment at each siren site.
 - 2) DOD shall require its contractor to procure and maintain, during the life of each right-of-entry permit and any extensions thereof, comprehensive general liability insurance covering bodily injury and property damage with limits not less than \$1,000,000 combined single limit per occurrence and including the following extensions: (1) contractual liability to cover liability assumed under the right-of-entry permit; and (2) all insurance that may be required under the laws, ordinances or rules or regulations of any governmental authority. All required policies of insurance shall name the DLNR, DOD, and DAGS, and their elected and appointed officials, employees and agents as additional insured and provide that the policy will not be canceled, terminated, lapsed, or materially changed without 30 days' prior written notice to the DLNR.
 - 3) DOD's contractor shall maintain and exercise due care to keep the area surrounding the siren site clear and safe for public use during the term of the right-of-entry permit.
 - 4) DOD's contractor shall restore the siren site to a condition that is substantially similar to that which existed prior to the commencement of the contractor's activity under each right-of-entry permit.
 - 5) DOD, its officers, employees, agents, contractors, and subcontractors shall comply with and satisfy all applicable statutes, ordinances, rules and regulations of the Federal, State and County governments in performing its work at each siren site.
 - 6) DOD, through its officers, employees, agents, contractors, or subcontractors shall obtain and ensure compliance with HRS Chapter 343, as amended, prior to the BLNR authorizing the Chairperson to sign a license agreement(s) for new and existing civil defense warning and communications system sirens on State unencumbered land or land set aside to a division of DLNR. -

2. DLNR's responsibilities are as follows:

- a. ~~Review.~~ Identify, review and approve the proposed location of the siren sites on lands under the direct control or management of the DLNR.
- b. Seek BLNR approval to locate the sirens on lands under the jurisdiction of BLNR.
- ~~cb.~~ Assist DOD in the coordination with the appropriate DLNR divisions to obtain the siren ~~sitesite~~ approvals.
- ~~de.~~ Participate with DOD and DAGS, when necessary, in the siren site acceptance.
- ~~ed.~~ Review and approve the construction plans provided by DOD for the installation of the sirens and related equipment.
- f. Subject to BLNR approval, e-Grant DAGS, ~~DOD~~ and/or DOD ~~their~~ contractors a license to install, operate, and maintain sirens and related equipment on the siren sites ~~approved by the DLNR.~~
- ~~gf.~~ Issue right-of-entry permits to DAGS' and DOD's contractors for approved siren sites.

3. DAGS' responsibilities are as follows:

- a. Provide DOD staff with technical services and overview coordination support for the implementation of DOD siren projects on DLNR controlled siren sites.
- b. Procure the design consultants, negotiate and approve the consultants' fees, prepare the design contracts and make payments using funding appropriated for this purpose.
- c. Oversee the design, bidding, and construction phases of the work in accordance with all applicable regulatory requirements. Prepare the construction contracts and make payments.
- d. When overseeing design and construction phase work for DOD sirens and related equipment:
 - 1) DAGS' consultants and contractors will process a right-of-entry permit for the installation of the siren and related equipment at each siren site.
 - 2) DAGS shall require its consultants and contractors to procure and maintain, during the life of each right-of-entry permit and any extensions thereof, comprehensive general liability insurance

covering bodily injury and property damage with limits not less than \$1,000,000 combined single limit per occurrence and including the following extensions: (1) contractual liability to cover liability assumed under the right-of-entry permit; and (2) products and completed operations coverage; and all insurance that may be required under the laws, ordinances or rules or regulations of any governmental authority. All required policies of insurance shall name the DLNR, its elected and appointed officials, employees and agents as additional insured and provide that the policy will not be canceled, terminated, lapsed, or materially changed without 30 days' prior written notice to the DLNR.

34) DAGS' consultants and contractors shall maintain and exercise due care to keep the area surrounding the siren site clear and safe for public use during the term of the right-of-entry permit.

45) DAGS' consultants and contractors shall restore the siren site to a condition that is substantially similar to that which existed prior to the commencement of the contractor's activity under each right-of-entry permit.

56) DAGS, its officers, employees, agents, consultants, contractors, and subcontractors shall comply with and satisfy all applicable statutes, ordinances, rules and regulations of the Federal, State and County governments in performing its work at each siren site.

4. Modifications. Any extensions, changes or alterations to this MOA shall be agreed to by all affected parties in writing before being undertaken.

5. Termination. Any party to this MOA shall have the privilege, with or without cause, to cancel or annul this MOA at any time upon written notice given thirty (30) days in advance of such termination.

IN WITNESS THEREOF, the parties have executed this MOA on the day, month, and year mentioned above.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

STATE OF HAWAI'I
DEPARTMENT OF LAND AND NATURAL
RESOURCES

By _____
SUZANNE D. CASE
Chairperson

APPROVED AS TO FORM:

Deputy Attorney General

STATE OF HAWAI'I
DEPARTMENT OF DEFENSE

By _____
ARTHUR J. LOGAN
Adjutant General

APPROVED AS TO FORM:

Deputy Attorney General

STATE OF HAWAI'I
DEPARTMENT OF ACCOUNTING AND
GENERAL SERVICES

By _____
DOUGLAS MURDOCK
Comptroller

APPROVED AS TO FORM:

Deputy Attorney General