

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

January 22, 2016

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

PSF No. 15OD-200

OAHU

Consent to the Assignment and Assumption of Sublease under General Lease No. S-5975, Reduce Reuse Recyclers Services Hawaii LLC, dba RRR Recycling Services Hawaii, as Lessee/Sublandlord, Locations Investment, Inc., as Subtenant/Assignor, to WSC Capital LLC, as Assignee, Waikiki, Honolulu, Oahu, Tax Map Key: (1) 2-7-036:079.

APPLICANT:

Reduce Reuse Recyclers Services Hawaii LLC, dba RRR Recycling Services Hawaii, a domestic limited liability company, as Lessee/Sublandlord;

Locations Investment, Inc., a domestic profit corporation, Subtenant/Assignor; and

WSC Capital LLC, a domestic limited liability company, as Assignee.

LEGAL REFERENCE:

Section 171-36(a)(6), Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Waikiki, Honolulu, Oahu, identified by Tax Map Key: (1) 2-7-036:079, as shown on the map attached as **Exhibit 1**.

MASTER LEASE AREA:

24,407 square feet, 0.56 acre, more or less.

SUBLEASE AREA:

18,300 square feet, 0.42 acre, more or less.

TRUST LAND STATUS:

Non-ceded; Section 5(a) of the Admission Act.
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

MASTER LEASE CHARACTER OF USE:

Commercial parking lot or garage purposes. No ancillary structures or uses shall be permitted except as authorized by the Chairperson.

On August 5, 2009, the Chairperson approved the State HI-5 redemption center as an ancillary use to the parking operation, as the number of parking stalls would not be less than the stalls available under the previous revocable permit.

SUBLEASE CHARACTER OF USE:

Commercial parking lot or garage purposes.

TERM OF MASTER LEASE:

15 years, commencing on October 1, 2009 and expiring on September 30, 2024.

TERM OF SUBLEASE:

15 years, commencing on October 1, 2009 and expiring on September 30, 2024.

ANNUAL RENTAL OF MASTER LEASE:

\$85,000.00 or three (3) per cent of the annual gross revenues, whichever amount is greater.

ANNUAL RENTAL OF SUBLEASE

\$63,996.00 annually.

RECOMMENDED ADJUSTMENT TO LEASE RENTAL:

None.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council on June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, item 47. See Exemption Notification attached as **EXHIBIT 2**.

DCCA VERIFICATION:

LESSEE:

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

ASSIGNOR:

Place of business registration confirmed: YES x NO ___
Registered business name confirmed: YES x NO ___
Good standing confirmed: YES x NO ___

ASSIGNEE:

Place of business registration confirmed: YES x NO ___
Registered business name confirmed: YES x NO ___
Good standing confirmed: YES x NO ___

REMARKS:

At a public auction held on June 29, 2009, Reduce Reuse Recyclers Services Hawaii LLC, dba RRR Recycling Services Hawaii ("RRR") was the highest and final bidder for a lease of the subject land. General Lease No. S-5975 dated September 14, 2009 was subsequently issued to RRR. At its meeting on September 11, 2009, item D-4, the Board consented to the sublease between RRR and Locations Investment, Inc. ("Locations"), who was the owner of the adjacent private property identified as tax map key (1) 2-7-036:003 ("Parcel 3") for commercial parking or garage purposes over a portion of the master lease area.

In April 2015, Locations conveyed Parcel 3 to WSC Capital LLC ("WSC") as evidenced by the deed recorded as T-9235346 on April 15, 2015. On August 27, 2015, Locations executed an Assignment and Assumption of Sublease ("Assignment") with WSC. Pursuant to the Assignment, the Board's consent to assign the Sublease is now requested, with Locations as the Assignor, and with WSC, as the Assignee. Effective as of December 14, 2015, RRR had endorsed the "Consent to Assign Sublease of General Lease S-5975" to WSC.

Pursuant to the Board's amended sublease rent participation policy as of August 24, 2012, under item D-14, "If the lessee subleases improvements are not owned by the State, the Board shall not receive any portion of sublease rents from subleasing improved space unless: (i) that right and method of calculation are specifically stated in the lease, or (ii) participation in sublease rents is warranted considering the age of the improvements (including but not limited to the extent to which the improvements have been depreciated or amortized), lessee's expenditures to maintain the same in relation to sublease revenues, and the extent to which the lessee actually occupies and uses the lease premises for its own business."

The sublease area provides a parking facility for visitors to the offices and restaurant on Parcel 3 now owned by WSC. Under the terms of the Assignment, the rental payment will remain unchanged. As such, there will be no sandwich rent for the Board to participate in.

The proposed use would involve negligible or no expansion or change in the use of the subject area beyond that previously existing.

There are no known lease compliance issues. Further, there are no rental reopening issues since the next rent reopening period will not occur until October 1, 2019. RRR does not indicate any objection to the subject request.

Staff did not solicit comments regarding the subject request due to the housekeeping nature of the subject request. Staff has no objection to the subject request.

RECOMMENDATION: That the Board

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 on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Consent to the Assignment and Assumption of Sublease under General Lease No. S-5975, Reduce Reuse Recyclers Services Hawaii LLC, dba RRR Recycling Services Hawaii, as Lessee/Sublandlord, Locations Investment Inc., as Subtenant/Assignor, to WSC Capital LLC, as Assignee, subject to any applicable conditions cited above which are by this reference incorporated herein and further subject to the following terms and conditions:
 - A. The standard terms and conditions of the most current consent to sublease form, as may be amended from time to time;
 - B. Review and approval by the Department of the Attorney General; and
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

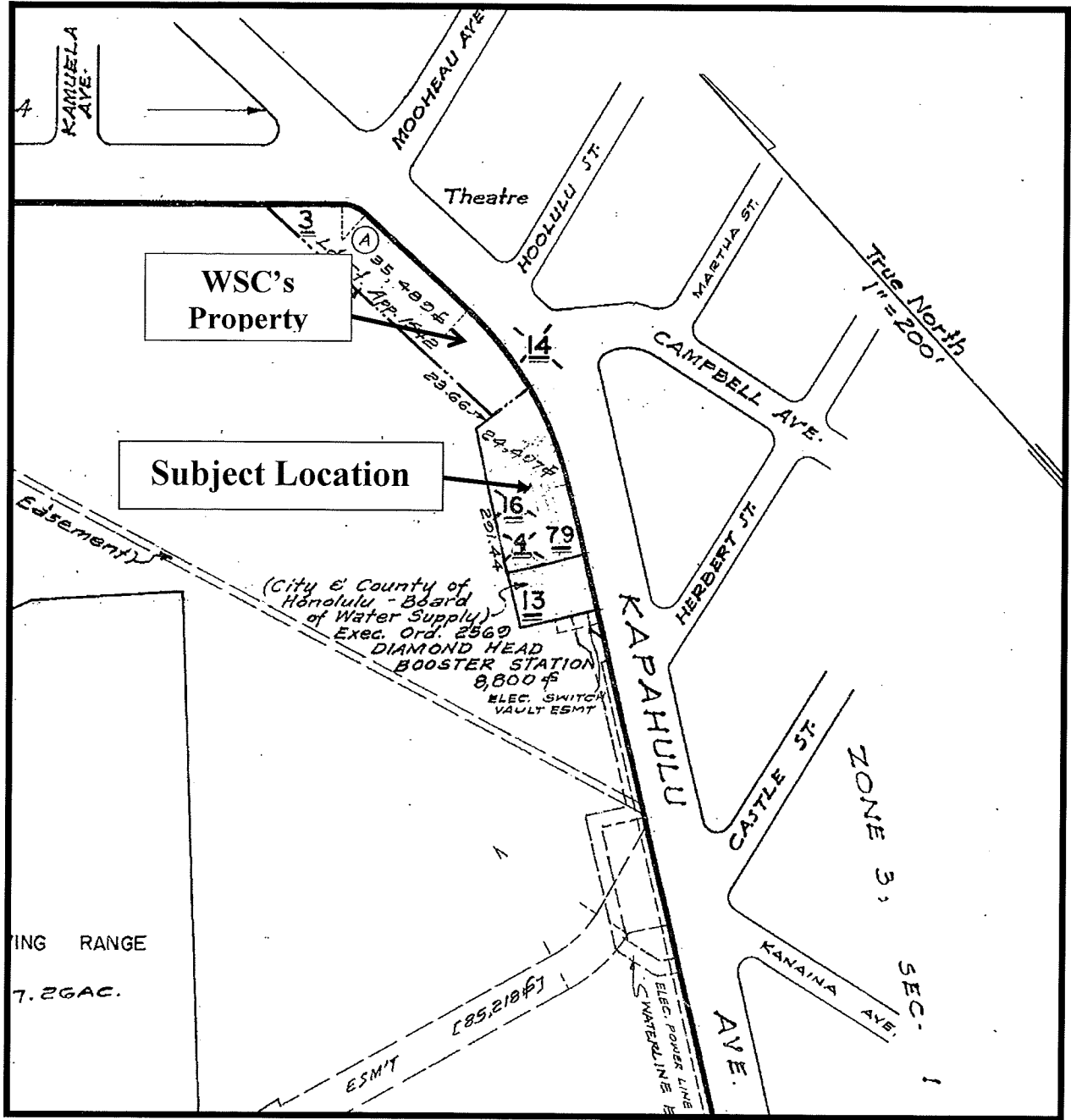


Timmy Chee
Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson



TMK (1) 2-7-036:079

EXHIBIT 1

EXEMPTION NOTIFICATION

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

Project Title: Consent to the Assignment and Assumption of Sublease under GL S-5975

Project / Reference No.: 15OD-200

Project Location: Waikiki, Honolulu, Oahu, TMK (1) 2-7-036:079

Project Description: Consent to Assignment and Assumption of Sublease

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

Exemption Class No.: In accordance with the exemption list approved by the Environmental Council on June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, item 47 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".

The character of use for the subject site is to remain unchanged, for commercial parking lot or garage purposes. As such, staff believes that the subject request would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

Consulted Parties: Not applicable.

Recommendation: It is recommended 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.

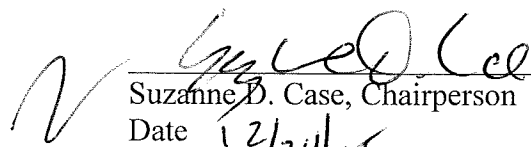

Suzanne D. Case, Chairperson
Date 1/24/15

EXHIBIT 2