

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Boating and Ocean Recreation
Honolulu, Hawaii 96813

August 12, 2010

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

Hawaii

Consent to Sublease, Harbor Lease No. H-82-4, GKM, Inc., a Hawaii Corporation,
Lessee to Sublessee, The Commander, CG SILC - Product Line Division,
Portfolio Management Branch, on behalf of the UNITED STATES OF AMERICA
(United States Coast Guard), Honokohau Harbor, Kealakehe, Kailua-Kona, Hawaii,
Tax Map Key: (3) 7-04-008: 42

APPLICANT:

GKM, Inc. , a Hawaii corporation, dba Gentry's Kona Marina, located at 74-425
Kealakehe Parkway, Kealakehe, Honokohau, North Kona, Hawaii, 96740, Lessee, as
Sublessor, to The Commander, CG SILC - Product Line Division, Portfolio Management
Branch, on behalf of the UNITED STATES OF AMERICA, (The United States Coast
Guard) as Sublessee.

LEGAL REFERENCE:

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

LOCATION AND AREA:

The premises containing fast and submerged lands in the Honokohau Boat Harbor, Kona,
Hawaii comprising an area of 177,860 square feet or 4. 083 acres.
TMK: (3) 7-04-008: 42.
Please see "EXHIBIT 1"

SUBLEASE LOCATION AND AREA:

Space No. 15 containing approximately 1,152 Square Feet
Please see "EXHIBIT 2"

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act.

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON
AUG 12 2010

Item J-3

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

YES X NO __

LEASE CHARACTER OF USE:

The lease, relative to "use", reads in its entirety:

". . . [F]or the construction of certain improvements which shall be used principally for marine or marine-related activities which shall include the following:

Sales:

1. Marine hardware and supplies
2. Marine paints and other finish material

Services:

1. The construction, operation and maintenance of a boat haul-out facility for boat repair and storage
2. Repair facility for the maintenance and repair of boats
3. Marine workshop facilities
4. Rigging and swaging for vessels
5. Administrative offices for boat repair and storage facilities
6. The submerged land shall be used exclusively for the berthing of vessels for servicing and repair and the adjacent land area for use as a work dock area. The Lessee is advised that the Lessor intends to authorize by separate lease the operation of a full fledged restaurant within the boundaries of the Honokohau Boat Harbor.

The following additional marine-related activities may also be conducted within the demised premises upon prior written approval by the Lessor:

Sales:

1. Sailboats and power boats and other water craft (new and brokerage)
2. Charts, maps and nautical publications

3. Navigation instruments and supplies
4. Marine electrical and electronic gear and radios
5. Fishing tackle, lures, ice and fresh bait
6. Outboard and inboard engines and supplies

Services:

1. Sail making, canvas goods and repair
2. Repair and maintenance of marine electrical and electronic equipment
3. Marine surveys
4. The construction, operation and maintenance of vessels and marine equipment storage facilities
5. Scuba/skin diving services associated with marine repair and salvage
6. Repair and maintenance of marine instruments and navigation equipment
7. Marine upholstery, draperies and interior finishes
8. Repair facility for the maintenance and repair of boats
9. Cold storage facility or ice house
10. Vending machines for the sale of sandwiches, snacks, hot and cold drinks, candies, cigarettes, etc.
11. Other related activities as approved in writing by the Lessor

The Lessee is made aware that the Lessor does not guarantee that the additional permitted activities listed above shall be for the exclusive use of the Lessee within the boundaries of the Honokohau Boat Harbor. "

SUBLEASE CHARACTER OF USE:

Office Space for the United States Coast Guard.

TERM OF LEASE:

The lease was originally for Thirty-five (35) years, commencing on April 1, 1984 and expiring on March 31, 2019. On March 24, 2006 the Board approved the extension of Harbor Lease No. H-82-4 for an additional Twenty (20) years, from April 1, 2019 to March 31, 2039.

TERM OF SUBLEASE:

“Term: To have and to hold the Premises with their appurtenances for the term beginning on TBD 2010 through September 30, 2010, subject to termination and renewal rights as may be hereinafter set forth. The "Termination date" of the term is March 31, 2014.”

“Renewal Options: This sublease may be renewed at the option of the Government for the following terms: Four (4) successive one (1) year terms provided appropriations are granted by Congress, and provided notice is given in writing to GKM, Inc. at least 30 days before the end of the original sublease term or any renewal term; all other terms and conditions of this sublease shall remain the same during any renewal term. Said notice shall be computed commencing with the day after the date of mailing.”

ANNUAL RENTAL:

Currently \$70,500 per annum, payable \$17,625 quarterly. GKM, Inc. normally pays in advance prior to the first day of each quarter and current at this time.

SUBLEASE RENTAL:

“Rent: The Government shall pay GKM, Inc. an annual rent of \$23,430. 72 at the rate of \$1,952. 84 per month (1152sf x \$1. 69/sf). The prorated amount for the period TBD, 2010 through September 30, 2010 will be \$ TBD, payable monthly and paid in arrears, provided appropriations are granted by Congress, all as more specifically set forth on Exhibit “B”, attached hereto and made a part hereof. Rent for any lesser period shall be prorated. Electronic (ACH) rent payments shall be made payable to GKM, Inc. and processed as explained in paragraph 26.”

RECOMMENDED ADJUSTMENT TO LEASE RENTAL:

None. The sublease rent participation policy, approved by the Board on May 26, 2000, Item D-24, and amended January 26, 2001, Item D-8, is as follows:

"The lessee is paying fair market rent and is only subleasing improvements that are not owned by the State pursuant to paragraph 1. c. of the policy. According to the policy, the "Board shall not receive any portion of sublease rents from subleasing improved space unless that right and method of calculation are specifically stated in the lease".

GKM, Inc. is proposing to sublease improved space. No method of calculation for sublease rent participation is stated in the lease. Therefore, there is no recommended adjustment to the lease rental.

DCCA VERIFICATION:

SUBLESSOR:

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>

SUBLESSEE:

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>

REMARKS:

The subletting provision provides:

"Subletting. That the LESSEE shall not rent or sublet the whole or any portion of the demised premises, without written approval of the Director and the Board pursuant to Section 171-11 and 171-36(a)(6). The Director shall have the right to deny uses contrary to the primary purpose of the lease. The Board shall have the right to review and approve the rent to be charged to the proposed sublessee and, if necessary, revise the rent and rent structure charged to the LESSEE by the LESSOR in light of the rental rate charged to the proposed sublessee by the LESSEE; provided, further, that the rent may not be revised downward. "

GKM, 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 Division of Boating and Recreation has reviewed the use clause of the proposed sublessee and believes that it is considered to be marine or marine-related. The Division recommends approval of this sublease as an office space for the United States Coast Guard.

RECOMMENDATION:

That the Board consent to the subject sublease under Harbor Lease No. H-82-4 between GKM, Inc., as Sublessor, The Commander, CG SILC - Product Line Division, Portfolio Management Branch, on behalf of the UNITED STATES OF AMERICA as Sublessee, for Space No. 15, commencement date upon approval of Board's consent to sublease. Subject to the following terms and conditions:

1. Any amendment to the Sublease must be approved in writing by the Chairperson;
2. Sublessee must comply with all Federal, State, and County requirements;
3. The standard terms and conditions of the most current consent to sublease form, as may be amended from time to time;
4. Review and approval by the Department of the Attorney General; and
5. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



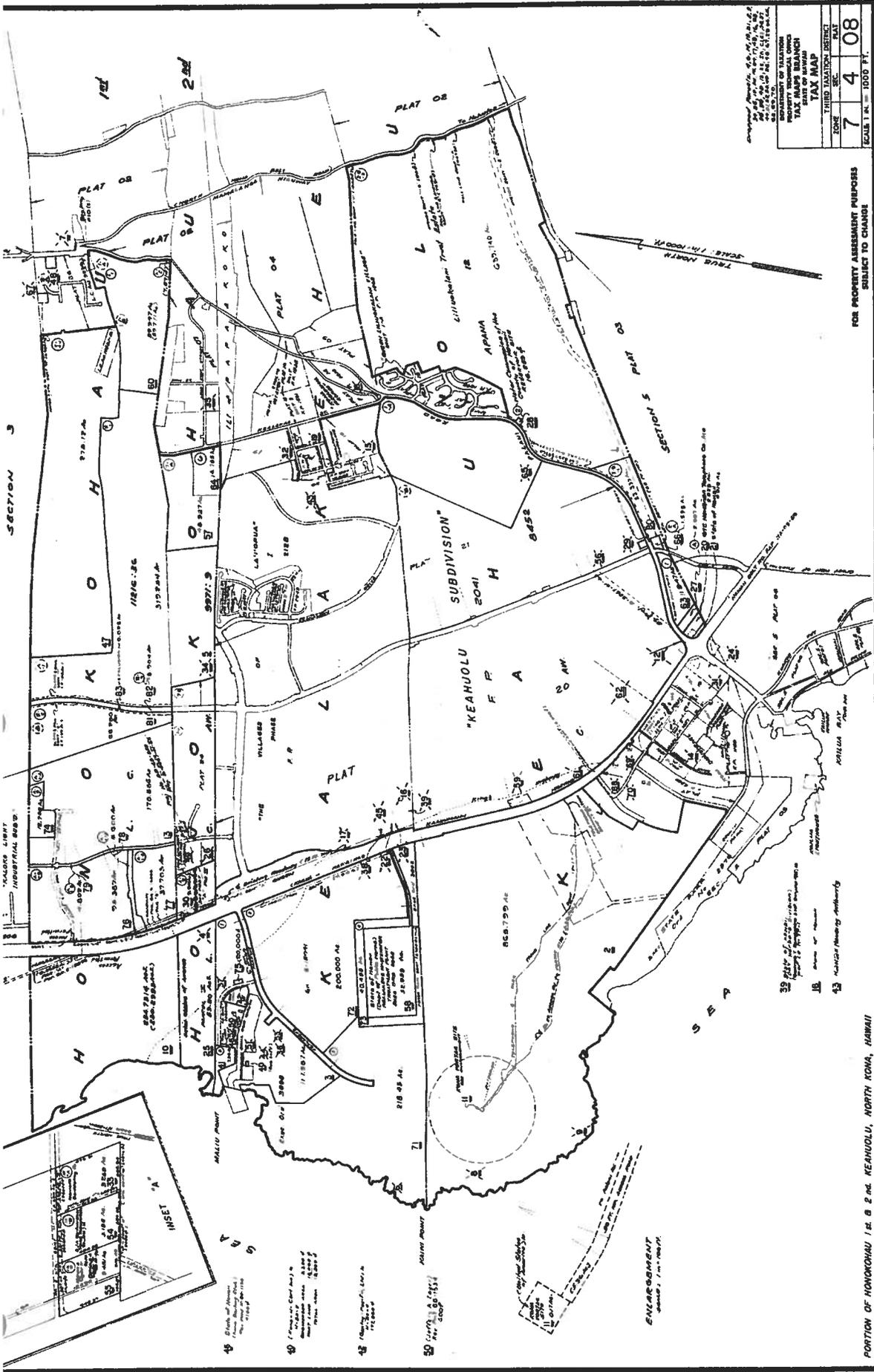
Edward R. Underwood
Administrator

Attachments

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson



DEPARTMENT OF TAXATION
 PROPERTY TECHNICAL OFFICE
 1505 KALANOAU AVENUE
 HONOLULU, HAWAII 96813
TAX MAP
 ZONE: 7
 TRIM: 4
 DISTRICT: 08
 SCALE: 1" = 1000 FT.

FOR PROPERTY ASSESSMENT PURPOSES
 SUBJECT TO CHANGE

DWG NO. 8956 (Revised)
 DATE: March 5, 1997
 BY: K.M.A./L.L.
 CHECKED: M.P.P./L.L.
 5000 Lili'uokalani Drive
 Honolulu, HI 96813

EXHIBIT 1

