

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

December 1, 2010

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

Hawaii

Consent to Assign General Lease No. S-5700, George Y. Tamashiro and Suzuko Tamashiro, Assignor, to Hiram Rivera, Assignee, Kealakehe, South Kona, Hawaii, Tax Map Key: 3<sup>rd</sup>/7-4-20:18 & 20.

APPLICANT:

George Y. Tamashiro and Suzuko Tamashiro, as Assignor, to Hiram Rivera, Married, spouse of Brenda Rivera, Tenant in Severalty, as Assignee.

LEGAL REFERENCE:

Section 171-36(a)(5), Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Kealakehe, North Kona, Hawaii, identified by Tax Map Key: 3<sup>rd</sup>/7-4-20:18 & 20, as shown on the attached map labeled Exhibit A.

AREA:

4.015 acres, more or less.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CHARACTER OF USE:

Industrial, commercial and transportation purposes.

TERM OF LEASE:

55 years, commencing on February 16, 1972 and expiring on February 15, 2027. Last rental reopening occurred on February 16, 2007; next rental reopening is scheduled for February 16, 2017.

ANNUAL RENTAL:

\$160,000.00.

CONSIDERATION:

\$ 1,000,000.00.

RECOMMENDED PREMIUM:

Not applicable as the lease does not allow for a premium.

DCCA VERIFICATION:

Both the Assignor and Assignee are individuals and, as such, are not required to register with DCCA.

REMARKS:

On March 30, 1964, American Factors (AMFAC) issued the Department of Transportation (DOT), Harbors Division, a 45-year sublease, for warehouse and marshalling purposes, in consideration for the removal of an existing warehouse on Kailua-Kona Wharf. By letter dated April 1, 1970, AMFAC notified DOT it was interested in upgrading the property subleased to DOT, which resulted in DOT having to again relocate its terminal freight shed.

At its meeting of July 9, 1970, the Board of Land and Natural Resources (BLNR), under agenda item F-4, approved a set aside to DOT, Harbors Division, for its freight terminal site, together with two (2) non-exclusive easements for access purposes (GEO No. 2565). The subject site consisted of 4.015 acres of State lands a Kealakehe, North Kona, Hawaii.

The BLNR, at its meeting of July 13, 1971, Item J-13, approved the issuance of a 55-year lease by public auction, with provisions to sublease back to the State upon completed construction of the terminal transit shed. Lease No. H-72-1 was issued to AMFAC as the sole and successful bidder at the upset at the upset price, for industrial, commercial and

transportation purposes and uses accessory thereto as approved by the DOT. By sublease dated January 15, 1974 and running co-terminus with Lease No. H-72-1, AMFAC subleased 10,000 square feet of warehouse space back to the DOT as a provision of the lease.

Act 272, Session Laws of Hawaii 1991, authorized the Department of Land and Natural Resources (DLNR) as the agency responsible for the overseeing and administering the boating and coastal areas programs under the Division of Boating and Ocean Recreation (DOBOR). The DLNR is to provide for the orderly transition of the jurisdictional responsibilities for the boating and coastal areas program from the DOT to DOBOR. As a result of the act, the EO and the long term lease were transferred to DOBOR.

The DOT had requested the cancellation of GEO 2565 for the freight terminal site as the subject property no longer benefited the DOT or DOBOR as originally intended due to its distance from the nearest commercial harbor. As the property has been leased to AMFAC and subsequently assigned to a trucking company under a long-term lease, the property is obviously not being utilized for boating purposes.

At its meeting of March 2, 1983 under agenda item J-11, the Board consented to the assignment of lease from AMFAC, Inc. Assignor to AMFAC Property Development Corp., Assignee.

Again at its meeting of October 21, 1983 under agenda item J-22, the Board consented to the assignment of lease from Assignor to AMFAC Property Development Corp., Assignor to Richard Minoru Jitchaku and George Y. Tamashiro, Assignees.

Further at its meeting of March 31, 1987 under agenda item J-3, the Board consented to the assignment of lease from Richard Minoru Jitchaku and George Y. Tamashiro, Assignor, to George Y. and Suzuko Tamashiro, Assignee.

At its meeting of February 27, 2009, under agenda item D-8, the Board consented to a special installment agreement with the Lessee resulting from back rent in the amount of \$215,833.41. The current amount owed, \$102,167.96 will be paid off as part of the escrow closing.

The Lessee, Mr. Tamashiro is in poor health and has difficulty in managing the day-to-day responsibilities of the property. He has entered into a sales agreement with Mr. Rivera for the purchase of the leasehold property.

The Assignee, Hiram Rivera is the president of a general engineering contracting business in the West Hawaii district. He has extensive knowledge in housing, subdivision and commercial development. The Assignee's current plan is to continue with the same subleases currently occupying the property.

The Assignee 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 Lessee is compliant with all lease terms and conditions including rent, insurance and performance bond. The Lessee has not had a notice of default issued for any lease violation. Last rental reopening occurred on February 16, 2007; next rental reopening is scheduled for February 16, 2017. There are no outstanding rental reopening issues.

RECOMMENDATION:

That the Board consent to the assignment of General Lease No. S-5700 from George Y. Tamashiro and Suzuko Tamashiro, as Assignor, to Hiram Rivera, as Assignee, subject to the following:

1. The standard terms and conditions of the most current consent to assignment form, as may be amended from time to time;
2. Review and approval by the Department of the Attorney General; and
3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Gordon C. Heit  
Land Agent



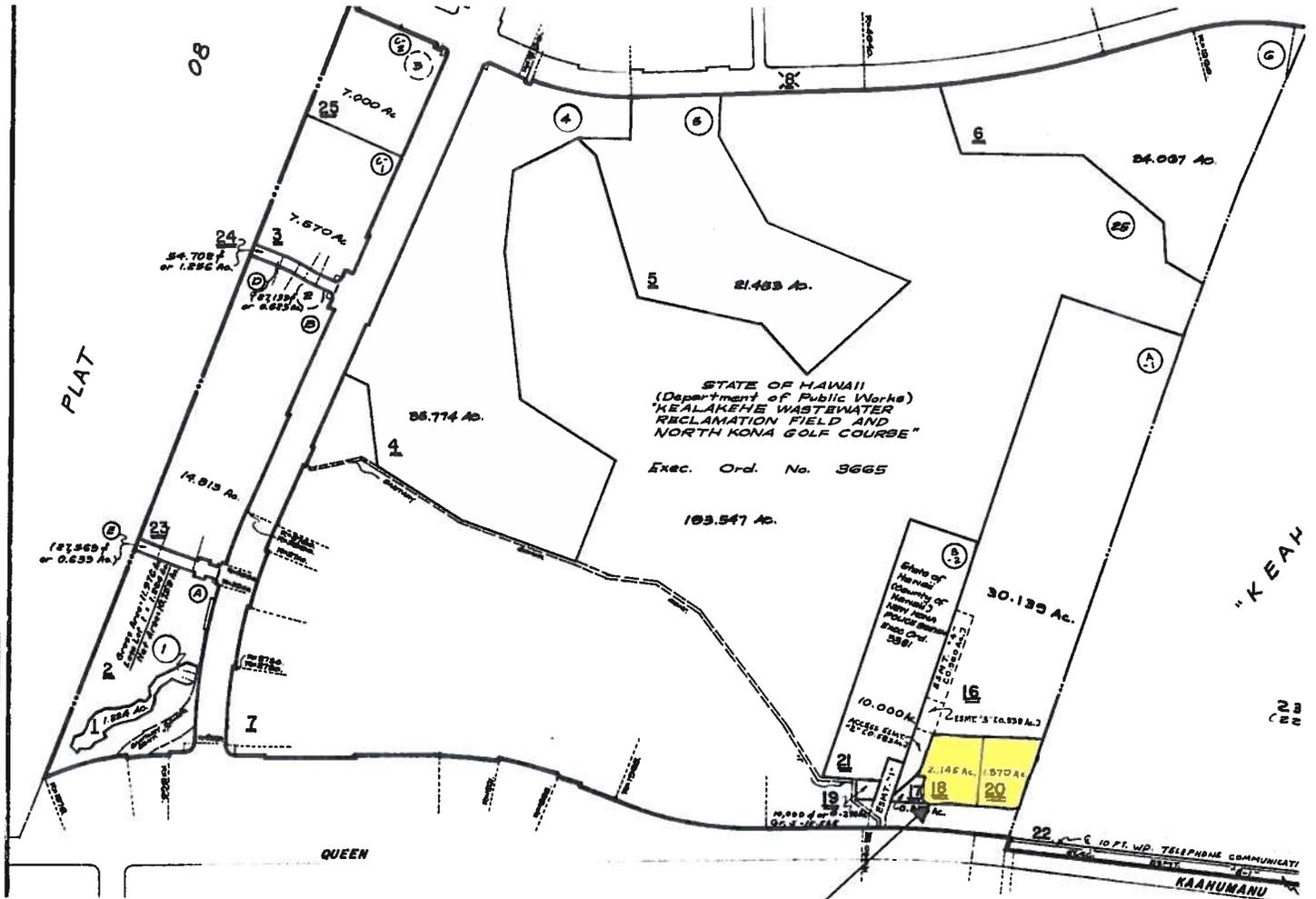
APPROVED FOR SUBMITTAL:

  
\_\_\_\_\_  
Laura H. Thielen, Chairperson

W

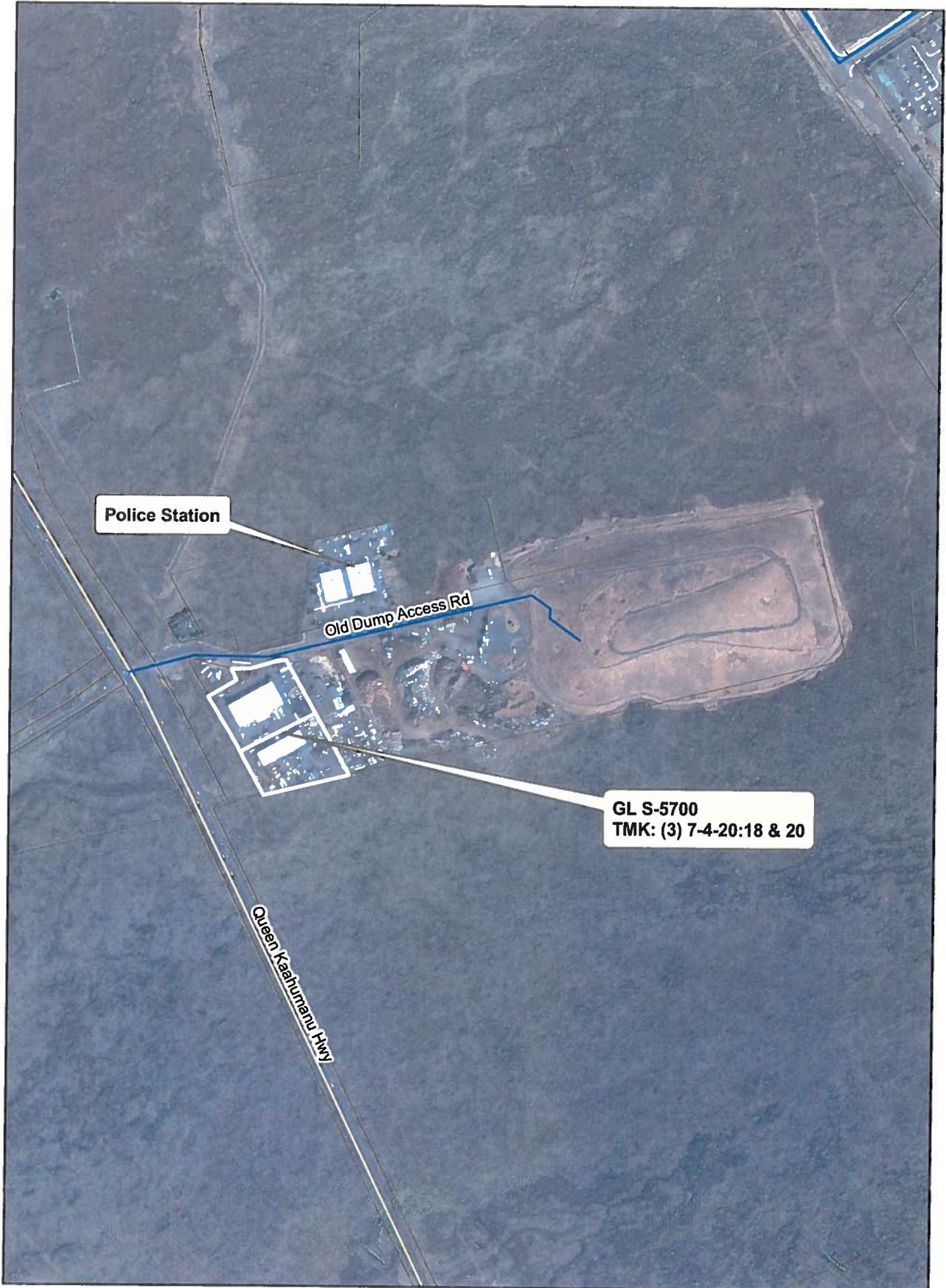
# EXHIBIT A

TMK: 3<sup>RD</sup>/7-4-20:18 & 20



GL S-5700

# GL S-5700



Police Station

Old Dump Access Rd

GL S-5700  
TMK: (3) 7-4-20:18 & 20

Queen Kahumanu Hwy

