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GLENN M. OKIMOTO  
DIRECTOR

**STATE OF HAWAII**  
**DEPARTMENT OF TRANSPORTATION**  
**HARBORS DIVISION**  
79 So. Nimitz Hwy., Honolulu, Hawaii 96813-4898

Deputy Directors  
FORD N. FUCHIGAMI  
JAN S. GOUVEIA  
RANDY GRUNE  
JADINE URASAKI

IN REPLY REFER TO:

**HAR-PM**  
**5365.11**

June 17, 2011

Mr. Bruce Johnson, CEO  
Fresh Island Fish, LLC  
312 Alamaha Street, Unit G  
Kahului, Hawaii 96732

Dear Mr. Johnson:

**Subject: Request for Waiver of Performance Bond Requirement, Harbor Lease No. H-05-24, Unit FV8, Domestic Commercial Fishing Village, Pier 38, Honolulu Harbor, Island of Oahu**

This is in response to your request for a waiver of the performance bond requirement for the subject lease. We acknowledge your company's substantial financial investment in the construction of improvements for which a rental waiver of one (1) year was provided. A review of your lease payment history indicates that past payments were received on a timely basis and your account is current.

In accordance with Paragraph 46 of the subject lease, "Upon substantial compliance by the LESSEE of the terms, covenants, and conditions herein contained on its part to be observed and performed, the LESSOR at its discretion, may waive or suspend the performance bond and/or improvement bond requirement, or modify the same by reducing the amount thereof; provided, however, that the LESSOR reserves the right to reactivate or reimpose said bond in and to their original tenor and form at any time throughout the term of this lease."

In view of your good credit history and completion of improvements, the division feels that reducing the amount required under the performance bond requirement to equal one quarter of the annual rental amount then owed is in order. In keeping with Paragraph 46 of the lease, the bond amount shall be automatically restored to its original annual requirement if there is a violation of any term or condition of the lease, including a failure to keep rental payments current.

HARBORS DIVISION

JUL - 1 12:08

ITEM M-1

Mr. Bruce Johnson  
June 17, 2011  
Page 2

HAR-PM  
5365.11

Please indicate your acceptance below of the conditions for the proposed reduction in the performance bond amount and return a signed copy of this letter. Upon receipt of your acceptance we will proceed to request the approval of the Board of Land and Natural Resources.

Please contact Ms. Patti Miyashiro, Property Manager, at 587-1942 if there are any questions.

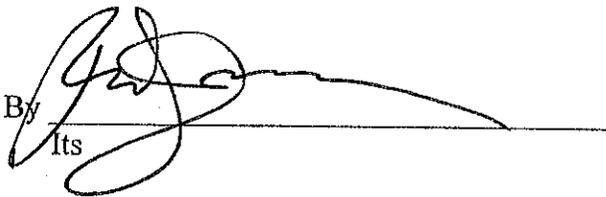
Sincerely,



RANDY GRUNE  
Deputy Director, Department of Transportation  
Harbors Division

ACCEPT  DO NOT ACCEPT

FRESH ISLAND FISH, LLC

By   
Its \_\_\_\_\_

Date 6/27/11

LINDA LINGLE  
GOVERNOR



RODNEY K. HARAGA  
DIRECTOR

Deputy Director  
BRUCE Y. MATSUI  
BARRY FUKUNAGA  
BRENNON T. MORIOKA  
BRIAN H. SEKIGUCHI

IN REPLY REFER TO:

STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
HARBORS DIVISION  
79 SO. NIMITZ HWY., HONOLULU, HAWAII 96813-4898

August 12, 2005

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

OAHU

AMENDMENT TO PRIOR LAND BOARD ACTION OF SEPTEMBER 10,  
2004, UNDER AGENDA ITEM M-1, REGARDING ISSUANCE OF A LEASE  
BY DIRECT NEGOTIATION TO FRESH ISLAND FISH COMPANY, INC.,  
ADJACENT TO PIER 38, HONOLULU HARBOR, OAHU

At its meeting of September 10, 2004, under agenda Item M-1, the Land Board authorized the issuance of a lease by direct negotiation to Fresh Island Fish Company, Inc. (FIF), as shown on the attached Exhibit "A." The Gas Company LLC currently holds a revocable permit for a large portion of the area to be leased to FIF, and will be vacating the area subsequent to obtaining clearance from the Department of Health. The applicant, FIF, would like to send its consultants, together with its contractors and sub-contractors, to the proposed lease site in order to perform a Site Environmental Assessment, as required by the lease.

The consultants, its contractors and sub-contractors will be performing environmental testing and drilling monitoring wells on the site, together with performing environmental remediation, if necessary. The Harbors Division is requesting that the Land Board approve the inclusion of this right-of-entry to agenda Item M-1 to allow FIF and its consultants, contractors and sub-contractors to enter the site prior to the issuance of the lease and commencement of construction on the leasehold lot to perform a site environmental assessment and related remediation work if necessary.

Approved by the Board  
at its meeting held on

RECOMMENDATION:

8/12/05

That the Board amends its action of September 10, 2004, under agenda Item M-1,

ITEM M-3

by including a right-of-entry to Fresh Island Fish Company, Inc., together with its consultants, contractors and sub-contractors, to the proposed leasehold lot for the purposes of performing a site environmental assessment, related environmental work and remediation work, if necessary, subject to the following terms and conditions:

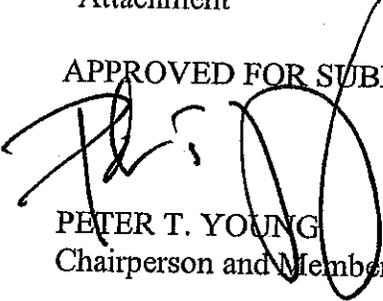
1. All other terms and conditions of the Land Board action of September 10, 2004, under agenda Item M-1, remain the same.
2. Such other terms and conditions as may be prescribed by the Director of Transportation that best serve the interest of the State.

Respectfully submitted,

  
RODNEY K. HARAGA  
Director of Transportation

Attachment

APPROVED FOR SUBMITTAL:

  
PETER T. YOUNG  
Chairperson and Member





RODNEY K. HARAGA  
DIRECTOR

Deputy Director  
BRUCE Y. MATSUI  
LINDEN H. JOESTING  
BRIAN H. SEKIGUCHI

STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

IN REPLY REFER TO:

September 10, 2004

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

OAHU DIVISION

-8 P254

OAHU

**Issuance of Lease by Direct Negotiation, Fresh Island Fish Company, Inc.,  
Pier 38, Honolulu Harbor, Island of Oahu, Tax Map Key No. 1st/1-5-42-6  
(Portion)**

**APPLICANT:**

Fresh Island Fish Company, Inc., whose business and mailing address is  
312 Alamaha Street, Unit G, Kahului, Hawaii 96732

**LEGAL REFERENCE:**

Section 171-11, 16 (c), 17, 33, 35, 36, 41, and 59 (b) Hawaii Revised Statutes, as  
amended.

**LOCATION:**

Pier 38, Kapalama, Honolulu Harbor, Oahu, being Lot 8 of the Domestic  
Commercial Fishing Village, also being a portion of Parcel 6 of Tax Map Key  
No: 1st/1-5-42, as shown on the attached map labeled Exhibit "A".

**AREA:**

27,364 square feet of fast land

**ZONING:**

State Land Use District: Urban District  
City and County of Honolulu: I-3 (Waterfront Industrial)

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

9/10/04

EXHIBIT "A"

**STATUS:** Encumbered by Governor's Executive Order No. 1346, issued to the Harbors Division, Department of Transportation.

**LAND TITLE STATUS:**

Subsection 5 (a) of the Hawaii Admission Act (non-ceded).

**CHARACTER OF USE:**

Construction, installation, operation, use, maintenance and repair of improvements necessary for the storage, processing and wholesale distribution of seafood products and retail sales of seafood products and ancillary uses.

**CHAPTER 343, OEQC REQUIREMENTS:**

The Harbors Division had both Draft and Final Environmental Assessments done for the Domestic Commercial Fishing Village Project, and a Finding of No Significant Impact was found for the project in June of 1998. The subject lease falls under the aforesated Environmental Assessments.

**LEASE TERM:**

Thirty-five (35) Years, the commencement date to be determined by the Director of Transportation.

**LEASE RENTAL:**

Subject to the waiver of lease rental provided below, the annual lease rental for the first twenty-five years of the lease term, as determined by independent appraisal, shall be as follows:

Years 1 through 5	\$ 76,616.46
Years 6 through 10	\$ 88,108.93
Years 11 through 15	\$101,325.27
Years 16 through 20	\$116,524.06
Years 21 through 25	\$134,002.67
Years 26 through 35	Rental Renegotiation

The annual rental for each five (5)-year periods for the first twenty-five (25) years of the lease is based on a 115% increase of the last year of the previous five (5)-year period.

**WAIVER OF LEASE RENTAL:**

The provisions of the lease require the lessee to make substantial improvements to the premises, in an amount not less than \$1,000,000.00, including, without limitation, constructing and installing utility lines, equipment and appurtenances necessary for the purpose of the lease. As a result, the lessee's obligation to pay rent to the State during the period of such construction shall be waived for a period not to exceed one year, and the waiver of rental shall terminate as of the date the lessee occupies the premises and commences operations.

**REMARKS:**

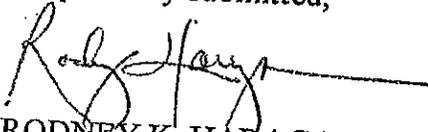
The lease, by direct negotiation rather than by public auction, is appropriate in this instance in order to provide the applicant a facility wherein they would be able to continue the close association necessary for convenient and efficient processing of fresh fish. Concurrent to this objective is the desire to consolidate major commercial fishing activities in a modern and more efficient environment where the complete range of seafood processing can be accomplished.

This lease for Lot 8 of the Pier 38 Domestic Commercial Fishing Village will be submitted to the Department of the Attorney General for review and approval as to form.

**RECOMMENDATION:**

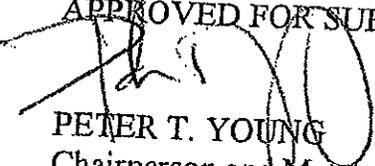
That the Board authorizes the disposition of a lease via direct negotiation for the stated purpose, subject to the terms and conditions outlined above, and such terms as may be prescribed by the Director of Transportation.

Respectfully submitted,

  
RODNEY K. HARAGA  
Director of Transportation

Attachment

**APPROVED FOR SUBMITTAL:**

  
PETER T. YOUNG  
Chairperson and Member





**STATE OF HAWAII**  
**DEPARTMENT OF TRANSPORTATION**  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

GLENN M. OKIMOTO  
DIRECTOR

Deputy Directors  
JADE T. BUTAY  
FORD N. FUCHIGAMI  
RANDY GRUNE  
JADINE URASAKI

IN REPLY REFER TO:

Board of Land and  
Natural Resources  
Honolulu, Hawaii

OAHU

REQUEST TO REDUCE THE PERFORMANCE BOND REQUIREMENT; HARBOR LEASE NO. H-05-24 ISSUED TO FRESH ISLAND FISH, LLC, UNIT FV 8, DOMESTIC COMMERCIAL FISHING VILLAGE, PIER 38, HONOLULU HARBOR, IWILEI, HONOLULU, OAHU, TMK: 1ST/1-5-42 (PORTION)

**BACKGROUND:**

Harbor Lease No. H-05-24 ("Lease") was issued by direct negotiation on September 5, 2005 for a term of thirty-five (35) years for the construction, installation, operation, use, maintenance and repair of improvements necessary for the storage, processing, and wholesale distribution of seafood products and ancillary services and products, including but not limited to, the operation of a seafood restaurant and retail sales of seafood products and produce. The current annual rent is \$88,108.93 and is paid in monthly installments in the amount of \$7,342.41. Under the Lease, Fresh Island Fish, LLC ("Lessee") is required to post a performance bond equivalent to the annual rental amount. Currently the required bond amount is \$88,108.93 and the Lessee is in compliance.

**REMARKS:**

Lessee has requested for a waiver of the performance bond requirement as a result of the company's substantial financial investment in the construction of improvements. Paragraph 8 of the subject Lease required the Lessee to make substantial improvements to the lease area in an amount not less than two million dollars (\$2,000,000), including, without limitation, constructing and installing utility lines, equipment and appurtenances necessary for the purpose of the lease. As a result of the improvements made by Lessee their obligation to pay rent was waived during the first year of the lease.

Paragraph 46 of the subject Lease provides for a waiver or modification of the performance bond provision upon substantial compliance by the Lessee of the terms, covenants, and conditions of the Lease. It also reserves the right of the State to reactivate or reimpose the bond if need be at any time throughout the term of the Lease.

Records indicate that in addition to the completion of the improvements constructed on the property, Lessee's lease payments have been received on a timely basis and the account is current. In view of the Lessee's good financial standing, Staff recommends the Board reduce the performance bond requirement to an amount equal to three (3) months rent or one quarter (1/4) of the annual rental amount then owed, subject to the condition that in the event that the Lessee violates any term or condition of the Lease in the future, then the Director of the Department of Transportation may, upon thirty (30) days written notice, reimpose the full performance bond requirement (equivalent to the anticipated annual rental payable for that year). The Lessee's failure to thereupon timely post the required bond as required shall be deemed a material default and the State may terminate the Lease and pursue all other rights and remedies it may have.

**RECOMMENDATION:**

That the Board reduces the performance bond requirement for Harbor Lease No. H-05-24 to an amount equivalent to three (3) months of rent or one quarter (1/4) of the annual rental amount then owed, further subject to the following:

In the event the Lessee violates any term or condition of the Lease in the future, then the Director of Transportation may, with thirty (30) days written notice, require that the full performance bond (equivalent to the anticipated annual rental payable for that year) be posted. The failure to timely post the required bond shall be deemed a material default and the State may terminate the Lease and pursue all other rights and remedies it may have.

Respectfully submitted,



GLENN M. OKIMOTO, Ph.D.  
Director of Transportation

APPROVED FOR SUBMITTAL:



WILLIAM J. AILA, JR.  
Chairperson and Member

