

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

JADE T. BUTAY  
DIRECTOR

Deputy Directors  
LYNN A.S. ARAKI-REGAN  
DEREK J. CHOW  
ROSS M. HIGASHI  
EDWIN H. SNIFFEN

IN REPLY REFER TO:

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

OAHU

AMEND PRIOR BOARD ACTION OF APRIL 13, 2018, AGENDA ITEM M-9, FOR CORRECTION TO A PREVIOUSLY APPROVED ISSUANCE OF A LEASE BY NEGOTIATION TO TOELL U.S.A. CORPORATION, AT 701 NORTH NIMITZ HIGHWAY, PIERS 24 AND 25, HONOLULU HARBOR, OAHU, TO ADD TAX MAP KEY NO. (1) 1-5-038-011 (P) WITH (1) 1-5-038: 004 (P), 005 (P), 055, 058

**LEGAL REFERENCE:**

Sections 171-6, 171-11, 171-13, 171-17, 171-35, 171-36, and 171-59, Hawaii Revised Statutes (HRS), as amended.

**APPLICANT:**

Toell U.S.A. Corporation ("TOELL"), a domestic profit corporation, whose mailing address is 98-790 Moanalua Road, Aiea, Hawaii 96701.

**CHARACTER OF USE:**

The development, construction, use and maintenance of a new facility and the reconstruction, repair, use, and maintenance of the existing facilities for receiving, loading, and unloading cargo containers; forming plastic bottles; purifying water; filling of bottles; and packing, storing, and loading final products for shipping.

**LOCATION:**

Portion of Government lands situated at 701 North Nimitz Highway, Honolulu, Hawaii 96817, at Piers 23 and 24, Honolulu Harbor, Honolulu, Oahu, as shown on the attached map labeled Exhibit A.

**AREA:**

After a re-survey of the metes and bounds, the demised area is reduced from 29,581 square feet of warehouse space to 27,545. The annual rent will be reduced according to appraisal. The 2,962 square feet for at-grade parking remains unchanged

**ITEM M-10**

**CONSIDERATION:**

See previous Board of Land and Natural Resources Approval of Item M-9, at its April 13, 2018, Board meeting.

**ZONING:**

State Land Use Commission:	Urban
City and County of Honolulu:	I-3, Waterfront Industrial

**TERM OF LEASE:**

See previous Board of Land and Natural Resources Approval of Item M-9, at its April 13, 2018, Board meeting.

**COMMENCEMENT DATE:**

On the first day of the month to be determined by the Director of Transportation.

**CURRENT USE STATUS:**

The project site presently consists of a large industrial warehouse located adjacent to Pier 23 of Honolulu Harbor. The paved lot surrounding the warehouse is used for parking. No other improvements are located on the site. The existing structure will be the subject of the proposed improvements.

**LAND TITLE STATUS:**

Owned by State of Hawaii; management and control of the property was transferred to the Department of Transportation by Executive Order No. 2903.

**CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:**

The DOTH reviewed the Draft Environmental Assessment submitted by TOELL and issued an Anticipated Finding of No Significant Impact (DEA-AFONSI) to the Office of Environmental Quality Control ("OEQC") on November 28, 2017. OEQC published the DOTH DEA-AFONSI on December 8, 2017.

**APPLICANT REQUIREMENTS:**

See previous Board of Land and Natural Resources Approval of Item M-9, at its April 13, 2018, Board meeting.

**REMARKS:**

While finalizing the terms of the lease, the Attorney General's office, in consultation with the Survey Division of the Department of Accounting and General Services, provided comments during April 2019 to the metes and bounds description stated in the previous Board of Land and Natural Resources Approval of Item M-9, at its April 13, 2018, Board meeting. The attached map marked as Exhibit A was provided by the Survey Division.

The Harbors Division addressed the Survey Division's comments and corrected the description of the metes and bounds (Exhibit B) and map (Exhibit C). The Submittal corrects the error to the metes and bounds, excludes lands managed by the Highways Division and includes approximately 656 square feet of a portion of Parcel 11. As a result of the re-survey, the demised area is reduced from 29,581 square feet to 27,545 square feet.

**RECOMMENDATION:**

That the Board authorizes the correction to the metes and bounds description and map to exclude lands managed by the Highways Division and correctly include the survey of lands to include a portion of TMK (1) 1-5-011 along with TMKs (1) 1-5-038: 004 (P), 005 (P), 055, 058, to a previously approved lease to Toell U.S.A. Corporation.

Respectfully submitted,



for

JADE T. BUTAY  
Director of Transportation

**APPROVED FOR SUBMITTAL:**



SUZANNE CASE  
Chairperson and Member  
Board of Land and Natural Resources

Atts.: Exhibits A, B and C





TOELL U.S.A.  
NIMITZ FACTORY

LEASE AREA 1

Being portions of  
Lot 5 (Map 2) and  
Lot 13-B (Map 8)  
of Land Court Consolidation 82

Situate at Kaholaloa, Kauluwela and Kaliu, Honolulu, Oahu, Hawaii

Beginning at the Southwest corner of this parcel of land, the direct azimuth and distance to the Southwest corner of Lot 5 of Land Court Consolidation 82 as shown on Map 2 being 353°51'12" 34.45 feet, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUNCHBOWL" being 127.80 feet North and 7,216.96 feet West, thence running by azimuths measured clockwise from true South:

- |    |          |  |
|----|----------|--|
| 1. | 107° 00' | 8.25 feet along the remainder of Lot 5<br>(Map 2) of Ld. Ct. Cons. 82;   |
|    |          | Thence along same, on a curve to<br>the right with a radius of 25.00<br>feet, the chord azimuth and<br>distance being: |
| 2. | 132° 28' | 21.50 feet;  |
| 3. | 157° 56' | 22.01 feet along the remainder of Lot 5<br>(Map 2) of Ld. Ct. Cons. 82;  |
| 4. | 75° 38'  | 13.99 feet along the remainder of Lot 5<br>(Map 2) and Lot 13-B (Map 8) of<br>Ld. Ct. Cons. 82;                        |
| 5. | 165° 38' | 26.93 feet along the remainder of Lot 13-B<br>(Map 8) Ld. Ct. Cons. 82;  |
| 6. | 254° 54' | 3.10 feet along same;  |
| 7. | 167° 41' | 16.69 feet along same;   |
| 8. | 173° 13' | 6.14 feet along same;  |
| 9. | 140° 32' | 16.29 feet along same;   |

Thence along Nimitz Highway on a curve to the right with a radius of 90.00 feet, the chord azimuth and distance being:

10. 240° 35' 11.5" 14.49 feet;

Thence along same on a curve to the right with a radius of 90.00 feet, the chord azimuth and distance being:

11. 254°54' 10" 30.32 feet;

Thence along same on a curve to the left with a radius of 1,034.00 feet, the chord azimuth and distance being:

12. 260° 39' 25" 142.25 feet;

Thence along same on a curve to the left with a radius of 1,034.00 feet, the chord azimuth and distance being:

13. 254° 34' 20.5" 77.24 feet;

14. 320° 26' 2.55 feet along the remainder of Lot 5 (Map 2) of Ld. Ct. Cons. 82;

15. 346° 23' 40.22 feet along same;

16. 256° 02' 16.70 feet along same;

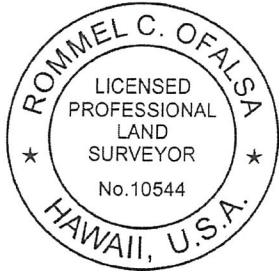
17. 356° 58' 21.86 feet along same;

18. 346° 32' 25.14 feet along same;

19. 347° 31' 15.13 feet along same;

20. 76° 16'

237.17 feet along same to the point of  
beginning and containing an area  
of 27,545 Sq. Ft.



Descriptions Prepared By:

 Exp. 4/30/20

Rommel C. Ofalsa  
Licensed Professional Land Surveyor  
Certificate Number 10544

May 17, 2019

SOH # 161022

TMK: (1) 1-8-038: 004, 011, 055, & 058

EXHIBIT B







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

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

**April 13, 2018**

**OAHU**

ISSUANCE OF A LEASE BY NEGOTIATION TO TOELL U.S.A. CORPORATION,  
AT 701 NORTH NIMITZ HIGHWAY AT PIERS 23/24, HONOLULU HARBOR,  
OAHU, TAX MAP KEY NOS. (1) 1-5-038: 004 (POR.), 005 (POR.), 055, 058

**LEGAL REFERENCE:**

Sections 171-6, 171-11, 171-13, 171-17, 171-35, 171-36, and 171-59, Hawaii Revised  
Statutes, as amended.

**APPLICANT:**

Toell U.S.A. Corporation ("Toell U.S.A."), a domestic profit corporation, whose mailing  
address is 98-790 Moanalua Road, Aiea, Hawaii 96701

**CHARACTER OF USE:**

The development, construction, use and maintenance of a new facility and the  
reconstruction, repair, use, and maintenance of the existing facilities for the purpose of  
receiving and the loading cargo containers; forming plastic bottles; purifying water;  
filling of bottles; and packing, storing, and loading final products for shipping.

**LOCATION:**

Portion of Government lands situated at 701 North Nimitz Highway, Honolulu, Hawaii  
96817 at Piers 23/24, Honolulu Harbor, Honolulu, Oahu, as shown on the attached map  
labeled Exhibit "A." As stated below, said lands have been set aside to the State of  
Hawaii Department of Transportation ("DOT") by Executive Order No. 2903.

**AREA:**

The area comprises of two areas: 29,581 square feet of warehouse space and 2,962 square  
feet for at-grade parking.

**ITEM M-9**

## CONSIDERATION:

The lease rental is based on an appraised fair market value for the parcels with consideration for the following:

- Pursuant to §171-17, Hawaii Revised Statutes, the lease rental of lands to be disposed of by negotiation shall be no less than the value determined by a disinterested appraiser whose services were contracted by the DOT. The applicant has agreed to the values resulting from the DOT appraisal as further described below.
- Pursuant to §171-6 (7), Hawaii Revised Statutes, the DOT may “reduce or waive the lease rental at the beginning of the lease on any lease of public land to be used for any agricultural or pastoral use, or for resort, commercial, industrial, or other business use where the land being leased requires substantial improvements to be placed thereon; provided that such reduction or waiver shall not exceed two years for land to be used for any agricultural or pastoral use, or exceed one year for land to be used for resort, commercial, industrial, or other business use;” (emphasis added). Both the DOT and the applicant agree to a lease rental waiver for the first year of the lease term. The required substantial improvements are described under Applicant Requirements below.
- Both parties are in agreement on a one-time adjustment to lease payments in the amount of \$380,111 to cover the costs to be incurred by the applicant which include the removal and demolition of conveyor systems and certain structures in lieu of the DOT completing this work, and other costs. The adjustment will be amortized over the first 20 years of the lease term and will cease at Year 21 at the time of the first rent reopener.

Based on the appraised market value and the aforementioned waiver and adjustments, the annual lease rent for the fast lands will be as follows:

Years 2-10: \$248,110  
Years 11-15: \$312,620  
Years 16-20: \$350,130  
Years 21-30: Reopened rent  
Years 31-40: Reopened rent

## ZONING:

State of Land Use Commission: Urban  
City and County of Honolulu: I-3, Waterfront Industrial

## TERM OF LEASE:

Forty (40) years. Twenty (years) fixed rent, with rent reopeners at years 21 and 31.

**COMMENCEMENT DATE:**

On the first day of the month to be determined by the Director of Transportation.

**CURRENT USE STATUS:**

Warehouse, storage.

**LAND TITLE STATUS:**

Owned by State of Hawaii; management and control of the property was transferred to the DOT by Executive Order No. 2903.

**CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:**

The DOT submitted to the Office of Environmental Quality Control (OEQC) a Final Environmental Assessment with a Finding of No Significant Impact (FEA-FONSI) on March 23, 2018.

**APPLICANT REQUIREMENTS:**

Toell U.S.A. shall:

- a. Proceed with any and all requirements attendant to the completion of the lease terms and provisions, including but not limited to, providing DOT with its development plans for the subject property as soon as practicable;
- b. Invest a minimum of \$8,000,000 in improvements (with a minimum of \$4,000,000 in to the existing building) and infrastructure improvements two years of the effective date of the lease; and
- c. Comply with any other restrictions and/or conditions that may be imposed by the Board of Land and Natural Resources and the DOT, as may be deemed necessary.

**REMARKS:**

*Applicant's Background*

Toell U.S.A. Corporation is a small business domiciled in the Hawaii and currently runs operations at its Moanalua factory located at 98-790 Moanalua Road in Aiea. Toell U.S.A. manufactures its products locally and exclusively for foreign export; Toell U.S.A. does not market any product within the State or within the United States. At current production levels, Toell U.S.A. exports by commercial container shippers approximately 2,000 40-foot containers per year of its product to Japan for distribution and consumption in various markets in Asia. The corporation seeks to expand its operation to a second location for production closer to Honolulu Harbor to facilitate shorter times for transport and export processes.



*Direct Negotiation*

DOT recognizes the applicant's operation as a "maritime-related" as defined by §171-59(b), Hawaii Revised Statutes, as "a purpose or activity that requires and is directly related to the loading, off-loading, storage, or distribution of goods and services of the maritime industry." (emphasis added). DOT also affirms that this lease encourages competition within maritime operations which includes container shipping operations, and pursuant to the same section of the law, the DOTH proposes to dispose of the subject property by negotiation rather than by public auction.

The reason for exempting these operations from public auction, as explained in Conference Committee Report prepared by the Hawaii State Legislature upon passage of the legislation enacting the provision for the exemption, is to "prevent larger operations from squeezing the smaller ones out" and to ensure both "service to the public and the preservation of competition in addition to income." (Conference Committee Report 96, Senate Bill 1403, House Draft 1, Conference Draft 1, Regular Session of 2003)

Additionally, increases in exports further encourages competition among the transport companies that serve the routes that include the markets for the export. Most containers outbound from Hawaii are empty and do not generate wharfage revenue to the DOT. As such, there is an interest in encouraging competition among operations, like those of this applicant, that produce goods for export that rely on ocean surface transport as these operations result in filled cargo containers outbound from Hawaii to generate revenue.

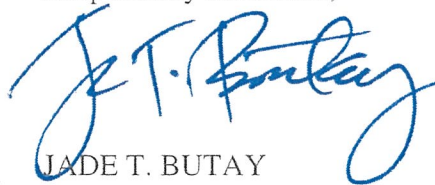
*Start of Construction*

The DOT and the applicant are in the negotiations of the lease conditions, with a desire to execute a lease to facilitate the start of construction before November 1, 2018. Under a separate submittal, the DOT requests the Board's consideration and approval of a construction right of entry to allow the applicant's contractors to access the site and prepare for the construction of improvements.

**RECOMMENDATION:**

That the Board authorizes the issuance of a lease by negotiation to the applicant covering the subject area for the purposes cited above, subject to the terms and conditions outlined above and incorporated herein by reference, and such terms and conditions as may be prescribed by the Director of Transportation.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "J. T. Butay", is written over the printed name.

JADE T. BUTAY  
Director of Transportation

APPROVED FOR SUBMITTAL:

A handwritten signature in blue ink, appearing to read 'Suzanne Case', is positioned above the printed name.

SUZANNE CASE  
Chairperson and Member  
Board of Land and Natural Resources



Exhibit A



**Project Location Aerial Photograph**

Source: Google Earth  
Environmental Assessment

**Figure 2**

Toell U.S.A Facility  
Honolulu, Hawaii