

State of Hawai'i  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Division of State Parks  
Honolulu, Hawai'i

June 26, 2020

Board of Land and Natural Resources  
State of Hawai'i  
Honolulu, Hawai'i

O'ahu

REQUEST TO APPROVE LICENSE OF FEDERAL PROPERTY FROM THE UNITED STATES OF AMERICA TO DIVISION OF STATE PARKS FOR STATE PARK PURPOSES, AT MAKUA, WAIANAE, AND O'AHU, TAX MAP KEY: (1) 8-1-1:1, 2, 9, 10 AND 8-2, 1:2, 9, 10.

**REQUEST:**

Approval of a license of federal property for state park purposes for five (5) years on behalf of the Department of the Department of Land and Natural Resources (DLNR), Division of State Park (DSP), whose mailing address is P.O. Box 621, Honolulu, Hawaii 96809 and the United States of America, the Secretary of the Army, whose mailing address is Department of Army, U.S. Army Engineer District, Honolulu, Fort Shafter, Hawaii 96858-5440

**LEGAL REFERENCE:**

HRS § 171-30, Hawaii Revised Statutes, as amended.

**LOCATION:**

Lands situated at Makua, Waianae, Oahu, identified by Tax Map Keys: (1) 8-1-1:1, 2, 9, 10 and 8-1-1:2, 9, 10 consisting of approximately 11.11 acres as shown on the attached map labeled **Exhibit A**.

**AREA:**

Approximately 11.11 acres.

**TRUST LAND STATUS:**

Not applicable (Federal lands are being leased by the State of Hawaii).

**CURRENT USE STATUS:**

Normal beach park operations.

**CHARACTER OF USE:**

Normal beach park operations.

**LEASE TERM:**

Five (5) years

**COMMENCEMENT DATE:**

Upon receipt of a fully executed license.

**ANNUAL RENT SCHEDULE:**

Gratis

**METHOD OF PAYMENT:**

Not applicable.

**RENTAL INCREASES:**

Not applicable.

**PERFORMANCE BOND:**

Not applicable.

**CHAPTER 343 ENVIRONMENTAL ASSESSMENT:**

Not applicable.

**DCCA VERIFICATION:**

Not applicable.

**APPLICANT REQUIREMENTS:**

Not applicable.

## **BACKGROUND:**

The Board of Land and Natural Resources (BLNR) at its meeting of March 8, 1996, under agenda item D-4 authorized entering into a lease with the United States of America. Some of the Federal Beach lands are within or adjacent to state lands currently encumbered by Governor's Executive Order No. 3338 issued to the Department of Land and Natural Resources, Division of State Parks for outdoor recreation and historic site purposes. The lease would optimize the overall management at Ka'ena Point State Park, Makua Beach Section by the Division of State Park. Lease no. DACA84-1-96 was executed by all parties on November 12, 1996.

Mr. Michael Mauman, Lead Realty Specialist, Real Estate Branch, US Army Corp of Engineers, Honolulu District inquired if the State was interested in entering a new lease. Staff was directed to initiate the necessary action to secure a five (5) year lease for Division of State Parks (DSP) purposes. An initial board submittal was submitted for the five-year lease was submitted and approved by the board on September 28, 2018. However, the lease was never executed. The board submittal with the lease is attached as **Exhibit B**. Therefore, after an agreement with all parties, a license agreement is now advised and is attached as **Exhibit C**.

## **DISCUSSION:**

Division of State Parks desires to maintain the working relationship with the US Army Corp. The parcels oceanside of Farrington Highway at Makua Valley are being utilized as part of the Ka'ena Point State Park. Makua Beach has been subject to years of unauthorized camping due to DSP's intent to allow for traditional fishing practices that inadvertently allowed for the public to use the area after hours for camping, parties, and illicit consumption of alcohol. In doing so the public would leave large amounts of rubbish, burnt debris and nails from the illegal fires and jeopardize public safety and destroy coastal vegetation by driving trucks along the beach. In addition, there is no comfort station in this park unit and after the weekend the adjacent beach vegetation would be contaminated by larger amounts of human waste.

DSP has subsequently initiated a policy to eliminate vehicular access to the beach and ceasing overnight use by leaving the gate closed and locked to the interior coastal access road – which was generally supported by the Waianae community in recognition of the adverse impacts that Makua was being subjected to. A considerable amount of the abuse was exacerbated due to social media promoting Makua Beach as an unrestricted beach party area and therefore triggering large numbers of the public coming from all parts of Oahu to camp and engage in illicit activity on the weekends when the gates were open for lateral beach access. Now the gates are closed, and the public must park in the adjacent parking area and walk to the beach. Portions of the lateral coastal road are within the subject of the license. The license will provide DSP with uniform regulatory oversight along the beach access road and the odd portions of the federal parcels that abut the land of Makua Beach that is under jurisdiction of the Division.

**RECOMMENDATIONS:**

The Division of State Parks is requesting that the Board of Land and Natural Resources approve the request to execute the license with the United States of America, between the Secretary of the Army on behalf of the Department of Land and Natural Resources, Division of State Parks under the terms and conditions cited above, which are incorporated by reference and further subject to the following:

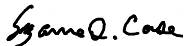
1. Authorize the Chairperson or her representative to negotiate and approve terms of the license, subject to review and approval by the Deputy Attorney General.
2. Authorize the Chairperson to prescribe other terms and conditions as may serve the interests of the state.

Respectfully submitted,



Curt A. Cottrell  
Administrator  
Division of State Parks

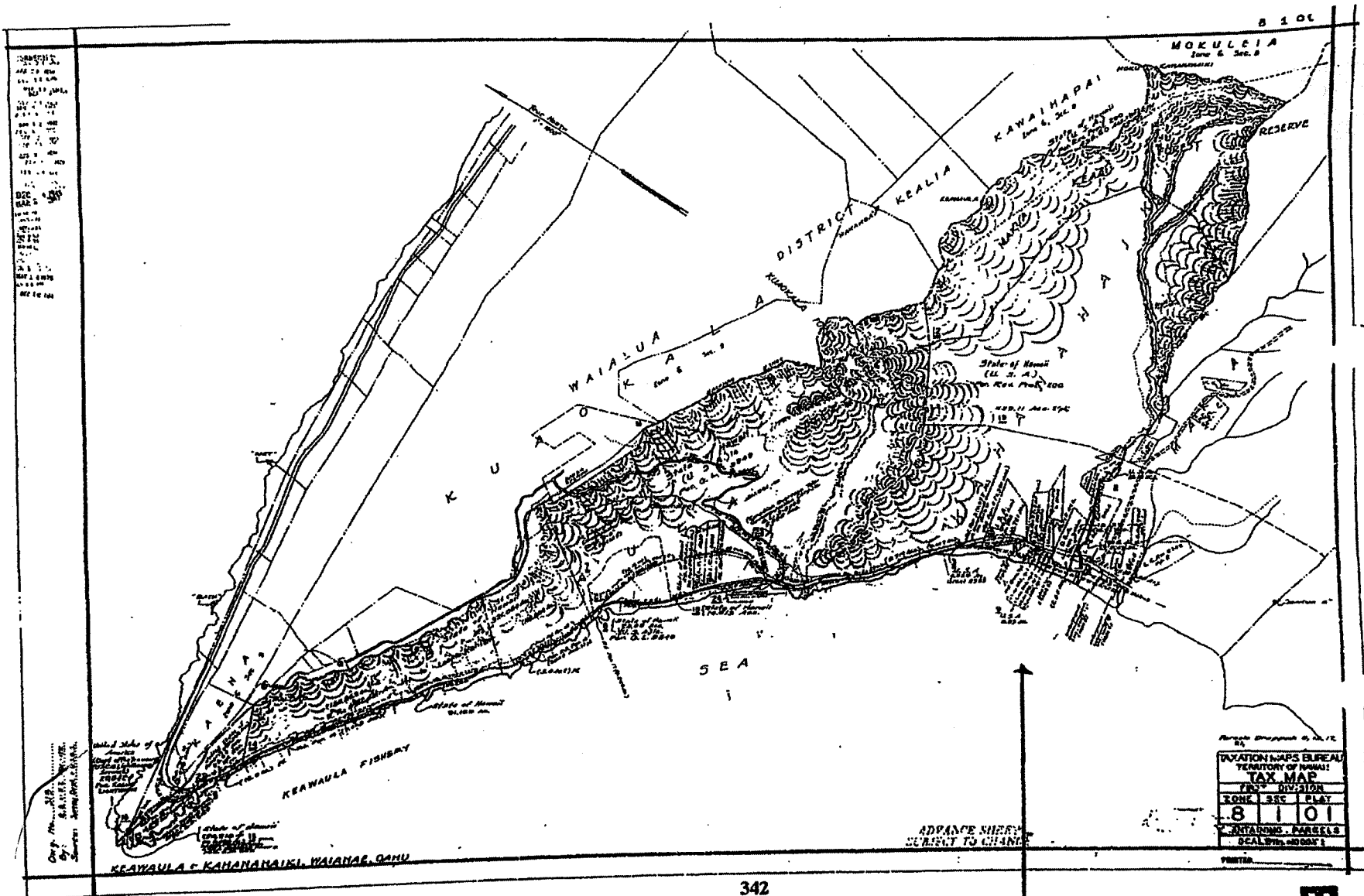
APPROVED FOR SUBMITTAL:



SUZANNE D. CASE  
Chairperson  
Board of Land and Natural Resources

**ATTACHMENTS:**

Exhibit A – subject area  
Exhibit B – Board Submittal with lease  
Exhibit C – license



**EXHIBIT A**

344

**SUBJECT TO CHANGE**

MAKELA, MAIANDAS, OAHU

TAXATION MAPS BUREAU			
TERRITORY OF HAWAII			
TAX MAP			
FIRST	DIVISION	SEG.	FLAT
8	2	01	
CONTAINING			PARTS OF
SCALE: 1" = 100'			







EXHIBIT B

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
DIVISION OF STATE PARKS  
Honolulu, Hawai'i 96813

September 28, 2018

Board of Land and Natural Resources  
State of Hawai'i  
Honolulu, Hawai'i

O'ahu

Request to Renew a Lease with the United States of America of Federal Property for State Park Purposes, between the Secretary of the Army on Behalf of the Department of Land and Natural Resources, Division of State Parks, at Makua, Waianae, O'ahu, Tax Map Keys: (1) 8-1-1:1, 2, 9 10 and 8-2-1:2, 9, 10.

**REQUEST:**

Renew a lease of federal property for state park purposes for five (5) years on behalf of the Department of Land and Natural Resources (DLNR), Division of State Parks (DSP), whose mailing address is P.O. Box 621, Honolulu, Hawaii 96809 and the United States of America, the Secretary of the Army, whose mailing address is Department of Army, U.S. Army Engineer District, Honolulu, Fort Shafter, Hawaii 96858-5440.

**LEGAL REFERENCE:**

HRS § 171-30, Hawaii Revised Statutes, as amended

**LOCATION:**

Lands situated at Makua, Waianae, Oahu, identified by Tax Map Keys: (1) 8-1-1:1, 2, 9, 10 and 8-1-1:2, 9, 10 consisting of approximately 11.11 acres, as shown on the attached map labeled Exhibit A.

**AREA:**

Approximately 11.11 acres.

**TRUST LAND STATUS:**

Not applicable (Federal lands are being leased by the State of Hawaii).

**CURRENT USE STATUS:**

Normal beach park operations.

**CHARACTER OF USE:**

Normal beach park operations.

**LEASE TERM:**

Five (5) years

**COMMENCEMENT DATE:**

Upon receipt of a fulling executed lease

**ANNUAL RENT SCHEDULE:**

Gratis

**METHOD OF PAYMENT:**

Not applicable

**RENTAL INCREASES:**

Not applicable

**PERFORMANCE BOND:**

Not applicable

**CHAPTER 343 ENVIRONMENTAL ASSESSMENT:**

Not applicable

**DCCA VERIFICATION:**

Not applicable

**APPLICANT REQUIREMENTS:**

Not applicable

## **BACKGROUND:**

The Board of Land and Natural Resources (BLNR) at its meeting of March 8, 1996, under agenda item D-4 authorized entering into a lease with the United States of America. Some of the Federal beach lands are within or adjacent to State lands currently encumbered by Governor's Executive Order No. 3338 issued to the Department of Land and Natural Resources, Division of State Parks for outdoor recreation and historic site purposes. The lease would optimize the overall management of Ka'ena Point State Park, Makua Beach Section by the Division of State Park. Lease no. DACA84-1-96 was executed by all parties on November 12, 1996.

Mr. Michael Mauman, Lead Realty Specialist, Real Estate Branch, US Army Corp of Engineers, Honolulu District inquired if the State was interested in entering a new lease. Staff was directed to initiate the necessary action to secure a five (5) year lease for Division of State Park (DSP) purposes. Staff concurs that for concerted management and regulatory authority this action is warranted.

## **DISCUSSION:**

Division of State Parks desires to maintain the working relationship with the US Army Corp. The parcels oceanside of Farrington Highway at Makua Valley are being utilized as part of the Ka'ena Point State Park. Makua Beach has been subject to years of unauthorized camping due to DSP's intent to allow for traditional fishing practices that inadvertently allowed for the public to use the area after hours for camping, parties, and illicit consumption of alcohol. In doing so the public would leave large amounts of rubbish, burnt debris and nails from the illegal fires and jeopardize public safety and destroy coastal vegetation by driving trucks along the beach. In addition, there is no comfort station in this park unit and after weekend the adjacent beach vegetation would be contaminated by larger amount of human waste.

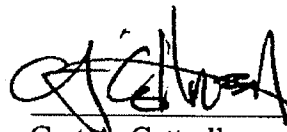
DSP has subsequently initiated a policy to eliminate vehicular access to the beach and ceasing overnight use by leaving the gates closed and locked to the interior coastal access road - which was generally supported by the Waianae community in recognition of the adverse impacts that Makua was being subject to. A considerable amount of the abuse was exacerbated due to social media promoting Makua Beach as an unrestricted beach party area and therefore triggering large numbers of the public coming from all parts of Oahu to camp and engage in illicit activity on the weekends when the gates were open for lateral beach access. Now the gates are closed, and the public must park in the adjacent parking area and walk to the beach. Portions of the lateral coastal road are within the subject lease area. The renewal of this lease will provide DSP with uniform regulatory oversight along the beach access road and the odd portions of the federal parcels that abut the land of Makua Beach that is under the jurisdiction of the Division.

**RECOMMENDATION:**

The Division of State Parks is requesting that the Board of Land and Natural Resources approve the request to renew the lease with the United States of America, between the Secretary of Army on Behalf of the Department of Land and Natural Resources, Division of State Parks under the terms and conditions cited above, which are incorporated by reference and further subject to the following:

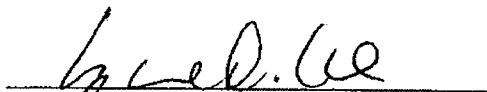
1. Authorize the Chairperson or her representative to negotiate and approve terms for a five (5) year lease, subject to review and approval by the Deputy Attorney General.
2. Authorize the Chairperson to prescribe other terms and conditions as may best serve the interests of the State.

Respectfully Submitted,



Curt A. Cottrell  
Administrator  
Division of State Parks

APPROVED FOR SUBMITTAL:



Suzanne Case  
Chairperson  
Department of Land & Natural Resources

Attached:

- Exhibit A - subject area  
Exhibit B - draft Lease

DEPARTMENT OF THE ARMY LICENSE

LOCATED ON

MAKUA MILITARY RESERVATION

HONOLULU COUNTY, HAWAII

**THE SECRETARY OF THE ARMY**, hereinafter referred to as the Secretary, under authority of his general administrative powers, hereby grants to the **State of Hawaii, through its Department of Land and Natural Resources, for its Division of State Parks** with its principal address at **1151 Punchbowl St #310, Honolulu, HI 96813**, hereinafter referred to as the Grantee, a license for 11.11 acres of land, more or less, over, across, in and upon lands of the United States, as identified in Exhibit A, attached hereto and made a part hereof, hereinafter referred to as the premises. The Grantee acknowledges they have maintained continuous use and occupation of the premises since the February 28, 2011 expiration of lease DACA84-1-01-20, in accordance with the terms and conditions of said expired lease.

**THIS LICENSE** is granted subject to the following conditions:

**1. TERM**

This license is granted for a term of **FIVE (5)** years, beginning **January 1, 2020** and ending **December 31, 2025**.

**2. CONSIDERATION**

The consideration for this license shall be the construction, operation, and maintenance of the premises for the benefit of the general public in accordance with the terms and conditions hereinafter set forth.

**3. NOTICES**

All correspondence and notices to be given pursuant to this license shall be addressed, if to the Grantee, to

Department of Land and Natural Resources  
Division of State Parks  
1151 Punchbowl St Suite 310  
Honolulu, HI 96813

and, if to the United States

U.S. Army Corps of Engineers  
Honolulu District  
Attn: Chief, Real Estate Branch (CEPOH-PPR)  
Bldg 230,  
Fort Shafter, HI 96858-5440

or as may from time to time otherwise be directed by the parties. Notice shall be deemed to have been duly given if and when enclosed in a properly sealed envelope, or wrapper, addressed as aforesaid, and deposited postage prepaid in a post office regularly maintained by the United States Postal Service.

#### **4. AUTHORIZED REPRESENTATIVES**

Except as otherwise specifically provided, any reference herein to "Secretary", "District Engineer", "Installation Commander", or "said officer" shall include their duly authorized representatives. Any reference to "Grantee" shall include any duly authorized representatives.

#### **5. SUPERVISION BY THE DISTRICT ENGINEER/INSTALLATION COMMANDER**

The use and occupation of the premises shall be subject to the general supervision and approval of the **District Engineer, Honolulu District / U.S. ARMY GARRISON COMMAND, HAWAII** hereinafter referred to as said officer, and to such rules and regulations as may be prescribed from time to time by said officer.

#### **6. APPLICABLE LAWS AND REGULATIONS**

The Grantee shall comply with all applicable Federal, state, county and municipal laws, ordinances and regulations wherein the premises are located.

#### **7. CONDITIONAL USE BY GRANTEE**

The exercise of the privileges herein granted shall be:

- a. without cost or expense to the United States;
- b. subject to the right of the United States to improve, use or maintain the premises;
- c. subject to other outgrants of the United States on the premises;
- d. personal to the Grantee, and this license, or any interest therein, may not be transferred or assigned.

#### **8. CONDITION OF PREMISES**

The Grantee acknowledges that it has inspected the premises, knows its condition, and understands that the same is granted without any representations or warranties whatsoever and without any obligation on the part of the United States.

**9. COST OF UTILITIES**

The Grantee shall pay the cost, as determined by the officer having immediate supervision over the premises, of producing and/or supplying any utilities and other services furnished by the Government or through Government-owned facilities for the use of the Grantee, including the Grantee's proportionate share of the cost of operation and maintenance of the Government-owned facilities by which such utilities or services are produced or supplied. The Government shall be under no obligation to furnish utilities or services. Payment shall be made in the manner prescribed by the officer having such jurisdiction.

**10. PROTECTION OF PROPERTY**

The Grantee shall keep the premises in good order and in a clean, safe condition by and at the expense of the Grantee. The Grantee shall be responsible for any damage that may be caused to property of the United States by the activities of the Grantee under this license, and shall exercise due diligence in the protection of all property located on the premises against fire or damage from any and all other causes. Any property of the United States damaged or destroyed by the Grantee incident to the exercise of the privileges herein granted shall be promptly repaired or replaced by the Grantee to a condition satisfactory to said officer, or at the election of said officer, reimbursement made therefor by the Grantee in an amount necessary to restore the property to a condition satisfactory to said officer.

**11. RESERVED**

**12. RESTORATION**

On or before the expiration of this license or its termination by the Grantee, the Grantee shall vacate the premises, remove the property of the Grantee, and restore the premises to a condition satisfactory to said officer. If, however, this license is revoked, the Grantee shall vacate the premises, remove said property and restore the premises to the aforesaid condition within such time as the District Engineer may designate. In either event, if the Grantee shall fail or neglect to remove said property and restore the premises, then, at the option of said officer, the property shall either become the property of the United States without compensation therefor, or said officer may cause the property to be removed and no claim for damages against the United States or its officers or agents shall be created by or made on account of such removal and restoration work. The Grantee shall also pay the United States on demand any sum which may be expended by the United States after the expiration, revocation, or termination of this license in restoring the premises.

**13. NON-DISCRIMINATION**

The Grantee shall not discriminate against any person or persons or exclude them from participation in the Grantee's operations, programs or activities because of race, color, religion, sex, age, handicap or national origin in the conduct of operations on the premises. The Grantee will comply with the Americans with Disabilities Act and attendant Americans with Disabilities Act Accessibility Guidelines (ADAAG) published by the Architectural and Transportation Barriers Compliance Board.

#### 14. TERMINATION

This license may be terminated by the Grantee at any time by giving the District Engineer at least ten (10) days notice in writing provided that no refund by the United States of any consideration previously paid shall be made and provided further, that in the event said notice is not given at least ten (10) days prior to the rental due date, the Grantee shall be required to pay the consideration for the period shown in the Condition on **CONSIDERATION**.

#### 15. ENVIRONMENTAL PROTECTION

a. Within the limits of their respective legal powers, the parties to this license shall protect the premises against pollution of its air, ground and water. The Grantee shall comply with any laws, regulations, conditions, or instructions affecting the activity hereby authorized if and when issued by the Environmental Protection Agency, or any Federal, state, interstate or local governmental agency having jurisdiction to abate or prevent pollution. The disposal of any toxic or hazardous materials within the premises is specifically prohibited. Such regulations, conditions, or instructions in effect or prescribed by said Environmental Protection Agency, or any Federal, state, interstate or local governmental agency are hereby made a condition of this license. The Grantee shall not discharge waste or effluent from the premises in such a manner that the discharge will contaminate streams or other bodies of water or otherwise become a public nuisance.

b. The Grantee will use all reasonable means available to protect the environment and natural resources, and where damage nonetheless occurs from the grantee's activities, the Grantee shall be liable to restore the damaged resources.

c. The Grantee must obtain approval in writing from said officer before any pesticides or herbicides are applied to the premises.

#### 16. HISTORIC PRESERVATION

The Grantee shall not remove or disturb, or cause or permit to be removed or disturbed, any historical, archaeological, architectural or other cultural artifacts, relics, remains or objects of antiquity. In the event such items are discovered on the premises, the Grantee shall immediately notify said officer and protect the site and the material from further disturbance until said officer gives clearance to proceed.

#### 17. DISCLAIMER

This license is effective only insofar as the rights of the United States in the premises are concerned; and the Grantee shall obtain any permit or license which may be required by Federal, state, or local statute in connection with the use of the premises. It is understood that the granting of this license does not preclude the necessity of obtaining a Department of the Army permit for activities which involve the discharge of dredge or fill material or the placement of fixed structures in the waters of the United States, pursuant to the provisions of Section 10 of the Rivers and Harbors Act of 3 March 1899 (33 U.S.C. § 403), and Section 404 of the Clean Waters Act (33 U.S.C. § 1344).



**18. MINIMUM WAGE REQUIREMENT (EXECUTIVE ORDER 13658)**

a. Any reference in this section to "prime contractor" or "contractor" shall mean the Grantee and any reference to "contract" shall refer to the License.

b. The parties expressly stipulate this contract is subject to Executive Order 13658, the regulations issued by the Secretary of Labor in 29 CFR part 10 pursuant to the Executive Order, and the following provisions.

c. Minimum Wages.

(1) Each worker (as defined in 29 CFR 10.2) engaged in the performance of this contract by the prime contractor or any subcontractor, regardless of any contractual relationship which may be alleged to exist between the contractor and worker, shall be paid not less than the applicable minimum wage under Executive Order 13658.

(2) The minimum wage required to be paid to each worker performing work on or in connection with this contract between January 1, 2015 and December 31, 2015 shall be \$10.10 per hour. The minimum wage shall be adjusted each time the Secretary of Labor's annual determination of the applicable minimum wage under section 2(a)(ii) of Executive Order 13658 results in a higher minimum wage. Adjustments to the Executive Order minimum wage under section 2(a)(ii) of Executive Order 13658 will be effective for all workers subject to the Executive Order beginning January 1 of the following year. If appropriate, the contracting officer, or other agency official overseeing this contract shall ensure the contractor is compensated only for the increase in labor costs resulting from the annual inflation increases in the Executive Order 13658 minimum wage beginning on January 1, 2016. The Secretary of Labor will publish annual determinations in the Federal Register no later than 90 days before such new wage is to take effect. The Secretary will also publish the applicable minimum wage on [www.wdol.gov](http://www.wdol.gov) (or any successor Web site). The applicable published minimum wage is incorporated by reference into this contract.

(3) The contractor shall pay unconditionally to each worker all wages due free and clear and without subsequent deduction (except as otherwise provided by 29 CFR 10.23), rebate, or kickback on any account. Such payments shall be made no later than one pay period following the end of the regular pay period in which such wages were earned or accrued. A pay period under this Executive Order may not be of any duration longer than semi-monthly.

(4) The prime contractor and any upper-tier subcontractor shall be responsible for the compliance by any subcontractor or lower-tier subcontractor with the Executive Order minimum wage requirements. In the event of any violation of the minimum wage obligation of this clause, the contractor and any subcontractor(s) responsible therefore shall be liable for the unpaid wages.

(5) If the commensurate wage rate paid to a worker on a covered contract whose wages are calculated pursuant to a special certificate issued under 29 U.S.C. 214(c), whether hourly or piece rate, is less than the Executive Order minimum wage, the contractor must pay the Executive Order minimum wage rate to achieve compliance with the Order. If the commensurate wage due under the certificate is greater than the Executive Order minimum wage, the contractor must pay the 14(c) worker the greater commensurate wage.

d. Withholding. The agency head shall upon its own action or upon written request of an

authorized representative of the Department of Labor withhold or cause to be withheld from the prime contractor under this or any other Federal contract with the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay workers the full amount of wages required by Executive Order 13658.

e. **Contract Suspension/Contract Termination/ Contractor Debarment.** In the event of a failure to pay any worker all or part of the wages due under Executive Order 13658 or 29 CFR part 10, or a failure to comply with any other term or condition of Executive Order 13658 or 29 CFR part 10, the contracting agency may on its own action or after authorization or by direction of the Department of Labor and written notification to the contractor, take action to cause suspension of any further payment, advance or guarantee of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this clause may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the contractor in default with any additional cost. A breach of the contract clause may be grounds for debarment as a contractor and subcontractor as provided in 29 CFR 10.52.

f. The contractor may not discharge any part of its minimum wage obligation under Executive Order 13658 by furnishing fringe benefits or, with respect to workers whose wages are governed by the Service Contract Act, the cash equivalent thereof.

g. Nothing herein shall relieve the contractor of any other obligation under Federal, State or local law, or under contract, for the payment of a higher wage to any worker, nor shall a lower prevailing wage under any such Federal, State, or local law, or under contract, entitle a contractor to pay less than \$10.10 (or the minimum wage as established each January thereafter) to any worker.

**h. Payroll Records.**

(1) The contractor shall make and maintain for three years records containing the information specified in paragraphs (h)(1) (i) through (vi) of this section for each worker and shall make the records available for inspection and transcription by authorized representatives of the Wage and Hour Division of the U.S. Department of Labor:

(i) Name, address, and social security number.

(ii) The worker's occupation(s) or classification(s).

(iii) The rate or rates of wages paid.

(iv) The number of daily and weekly hours worked by each worker.

(v) Any deductions made; and

(vi) Total wages paid.

(2) The contractor shall also make available a copy of the contract, as applicable, for inspection or transcription by authorized representatives of the Wage and Hour Division.

(3) Failure to make and maintain or to make available such records for

inspection and transcription shall be a violation of 29 CFR part 10 and this contract, and in the case of failure to produce such records, the contracting officer, upon direction of an authorized representative of the Department of Labor, or under its own action, shall take such action as may be necessary to cause suspension of any further payment or advance of funds until such time as the violations are discontinued.

(4) The contractor shall permit authorized representatives of the Wage and Hour Division to conduct investigations, including interviewing workers at the worksite during normal working hours.

(5) Nothing in this clause limits or otherwise modifies the contractor's payroll and recordkeeping obligations, if any, under the Davis-Bacon Act, as amended, and its implementing regulations; the Service Contract Act, as amended, and its implementing regulations; the Fair Labor Standards Act, as amended, and its implementing regulations; or any other applicable law.

i. The contractor (as defined in 29 CFR 10.2) shall insert this clause in all of its covered subcontracts and shall require its subcontractors to include this clause in any covered lower-tier subcontracts. The prime contractor and any upper-tier subcontractor shall be responsible for the compliance by any subcontractor or lower-tier subcontractor with this contract clause.

j. Certification of Eligibility.

(1) By entering into this contract, the contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed pursuant to section 5 of the Service Contract Act, section 3(a) of the Davis-Bacon Act, or 29 CFR 5.12(a)(1).

(2) No part of this contract shall be subcontracted to any person or firm whose name appears on the list of persons or firms ineligible to receive Federal contracts.

(3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

k. Tipped employees. In paying wages to a tipped employee as defined in section 3(t) of the Fair Labor Standards Act, 29 U.S.C. 203(t), the contractor may take a partial credit against the wage payment obligation (tip credit) to the extent permitted under section 3(a) of Executive Order 13658. In order to take such a tip credit, the employee must receive an amount of tips at least equal to the amount of the credit taken; where the tipped employee does not receive sufficient tips to equal the amount of the tip credit the contractor must increase the cash wage paid for the workweek so that the amount of cash wage paid and the tips received by the employee equal the applicable minimum wage under Executive Order 13658. To utilize this proviso:

(1) The employer must inform the tipped employee in advance of the use of the tip credit;

(2) The employer must inform the tipped employee of the amount of cash wage that will be paid and the additional amount by which the employee's wages will be considered increased on account of the tip credit;

(3) The employees must be allowed to retain all tips (individually or through a pooling arrangement and regardless of whether the employer elects to take a credit for tips received); and

(4) The employer must be able to show by records that the tipped employee receives at least the applicable Executive Order minimum wage through the combination of direct wages and tip credit.

l. Antiretaliation. It shall be unlawful for any person to discharge or in any other manner discriminate against any worker because such worker has filed any complaint or instituted or caused to be instituted any proceeding under or related to Executive Order 13658 or 29 CFR part 10, or has testified or is about to testify in any such proceeding.

m. Disputes concerning labor standards. Disputes related to the application of Executive Order 13658 to this contract shall not be subject to the general disputes clause of the contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR part 10. Disputes within the meaning of this contract clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the workers or their representatives.

n. Notice. The contractor must notify all workers performing work on or in connection with a covered contract of the applicable minimum wage rate under the Executive Order. With respect to service employees on contracts covered by the Service Contract Act and laborers and mechanics on contracts covered by the Davis-Bacon Act, the contractor may meet this requirement by posting, in a prominent and accessible place at the worksite, the applicable wage determination under those statutes. With respect to workers performing work on or in connection with a covered contract whose wages are governed by the FLSA, the contractor must post a notice provided by the Department of Labor in a prominent and accessible place at the worksite so it may be readily seen by workers. Contractors that customarily post notices to workers electronically may post the notice electronically provided such electronic posting is displayed prominently on any Web site that is maintained by the contractor, whether external or internal, and customarily used for notices to workers about terms and conditions of employment.

o. If a duly authorized representative of the United States discovers or determines, whether before or subsequent to executing this contract, that an erroneous determination regarding the applicability of Executive Order 13658 was made, contractor, to the extent permitted by law, agrees to indemnify and hold harmless the United States, its officers, agents, and employees, for and from any and all liabilities, losses, claims, expenses, suits, fines, penalties, judgments, demands or actions, costs, fees, and damages directly or indirectly arising out of, caused by, related to, resulting from or in any way predicated upon, in whole or in part, the erroneous Executive Order 13658 determination. This includes contractor releasing any claim or entitlement it would otherwise have to an equitable adjustment to the contract and indemnifying and holding harmless the United States from the claims of subcontractors and contractor employees.

## **19. PAID SICK LEAVE (EXECUTIVE ORDER 13706)**

a. Any reference in this section to "prime contractor" or "contractor" shall mean the Grantee and any reference to "contract" shall refer to the License. This contract is subject to

Executive Order 13706, the regulations issued by the Secretary of Labor in 29 CFR part 13 pursuant to the Executive Order, and the following provisions.

**b. Paid Sick Leave.**

(1) The contractor shall permit each employee (as defined in 29 CFR 13.2) engaged in the performance of this contract by the prime contractor or any subcontractor, regardless of any contractual relationship that may be alleged to exist between the contractor and employee, to earn not less than 1 hour of paid sick leave for every 30 hours worked. The contractor shall additionally allow accrual and use of paid sick leave as required by Executive Order 13706 and 29 CFR part 13. The contractor shall in particular comply with the accrual, use, and other requirements set forth in 29 CFR 13.5 and 13.6, which are incorporated by reference in this contract.

(2) The contractor shall provide paid sick leave to all employees when due free and clear and without subsequent deduction (except as otherwise provided by 29 CFR 13.24), rebate, or kickback on any account. The contractor shall provide pay and benefits for paid sick leave used no later than one pay period following the end of the regular pay period in which the paid sick leave was taken.

(3) The prime contractor and any upper-tier subcontractor shall be responsible for the compliance by any subcontractor or lower-tier subcontractor with the requirements of Executive Order 13706, 29 CFR part 13, and this clause.

**c. Withholding.** The contracting officer shall, upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the prime contractor under this or any other Federal contract with the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay employees the full amount owed to compensate for any violation of the requirements of Executive Order 13706, 29 CFR part 13, or this clause, including any pay and/or benefits denied or lost by reason of the violation; other actual monetary losses sustained as a direct result of the violation, and liquidated damages.

**d. Contract Suspension/Contract Termination/Contractor Debarment.** In the event of a failure to comply with Executive Order 13706, 29 CFR part 13, or this clause, the contracting agency may on its own action or after authorization or by direction of the Department of Labor and written notification to the contractor, take action to cause suspension of any further payment, advance, or guarantee of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this clause may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the contractor in default with any additional cost. A breach of the contract clause may be grounds for debarment as a contractor and subcontractor as provided in 29 CFR 13.52.

**e.** The paid sick leave required by Executive Order 13706, 29 CFR part 13, and this clause is in addition to a contractor's obligations under the Service Contract Act and Davis-Bacon Act, and a contractor may not receive credit toward its prevailing wage or fringe benefit obligations under those Acts for any paid sick leave provided in satisfaction of the requirements of Executive Order 13706 and 29 CFR part 13.

f. Nothing in Executive Order 13706 or 29 CFR part 13 shall excuse noncompliance with or supersede any applicable Federal or State law, any applicable law or municipal ordinance, or a collective bargaining agreement requiring greater paid sick leave or leave rights than those established under Executive Order 13706 and 29 CFR part 13.

**g. Recordkeeping.**

(1) Any contractor performing work subject to Executive Order 13706 and 29 CFR part 13 must make and maintain, for no less than three (3) years from the completion of the work on the contract, records containing the information specified in paragraphs (i) through (xv) of this section for each employee and shall make them available for inspection, copying, and transcription by authorized representatives of the Wage and Hour Division of the U.S. Department of Labor:

- (i) Name, address, and Social Security number of each employee;
- (ii) The employee's occupation(s) or classification(s);
- (iii) The rate or rates of wages paid (including all pay and benefits provided);
- (iv) The number of daily and weekly hours worked;
- (v) Any deductions made;
- (vi) The total wages paid (including all pay and benefits provided) each pay period;
- (vii) A copy of notifications to employees of the amount of paid sick leave the employee has accrued, as required under 29 CFR 13.5(a)(2);
- (viii) A copy of employees' requests to use paid sick leave, if in writing, or, if not in writing, any other records reflecting such employee requests;
- (ix) Dates and amounts of paid sick leave taken by employees (unless a contractor's paid time off policy satisfies the requirements of Executive Order 13706 and 29 CFR part 13 as described in § 13.5(f)(5), leave must be designated in records as paid sick leave pursuant to Executive Order 13706);
- (x) A copy of any written responses to employees' requests to use paid sick leave, including explanations for any denials of such requests, as required under 29 CFR 13.5(d)(3);
- (xi) Any records reflecting the certification and documentation a contractor may require an employee to provide under 29 CFR 13.5(e), including copies of any certification or documentation provided by an employee;
- (xii) Any other records showing any tracking of or calculations related to an employee's accrual or use of paid sick leave;
- (xiii) The relevant covered contract;

(xiv) The regular pay and benefits provided to an employee for each use of paid sick leave; and

(xv) Any financial payment made for unused paid sick leave upon a separation from employment intended, pursuant to 29 CFR 13.5(b)(5), to relieve a contractor from the obligation to reinstate such paid sick leave as otherwise required by 29 CFR 13.5(b)(4).

(2)

(i) If a contractor wishes to distinguish between an employee's covered and non-covered work, the contractor must keep records or other proof reflecting such distinctions. Only if the contractor adequately segregates the employee's time will time spent on non-covered work be excluded from hours worked counted toward the accrual of paid sick leave. Similarly, only if that contractor adequately segregates the employee's time may a contractor properly refuse an employee's request to use paid sick leave on the ground that the employee was scheduled to perform non-covered work during the time she asked to use paid sick leave.

(ii) If a contractor estimates covered hours worked by an employee who performs work in connection with covered contracts pursuant to 29 CFR 13.5(a)(i) or (iii), the contractor must keep records or other proof of the verifiable information on which such estimates are reasonably based. Only if the contractor relies on an estimate that is reasonable and based on verifiable information will an employee's time spent in connection with non-covered work be excluded from hours worked counted toward the accrual of paid sick leave. If a contractor estimates the amount of time an employee spends performing in connection with covered contracts, the contractor must permit the employee to use her paid sick leave during any work time for the contractor.

(3) In the event a contractor is not obligated by the Service Contract Act, Davis-Bacon Act, or the Fair Labor Standards Act to keep records of an employee's hours worked, such as because the employee is exempt from the FLSA's minimum wage and overtime requirements, and the contractor chooses to use the assumption permitted by 29 CFR 13.5(a)(1)(iii), the contractor is excused from the requirement in paragraph (1)(d) of this section to keep records of the employee's number of daily and weekly hours worked.

(4)

(i) Records relating to medical histories or domestic violence, sexual assault, or stalking, created for purposes of Executive Order 13706, whether of an employee or an employee's child, parent, spouse, domestic partner, or other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship, shall be maintained as confidential records in separate files/records from the usual personnel files.

(ii) If the confidentiality requirements of the Genetic Information Nondiscrimination Act of 2008 (GINA), section 503 of the Rehabilitation Act of 1973, and/or the Americans with Disabilities Act (ADA) apply to records or documents created to comply with the recordkeeping requirements in this contract clause, the records and documents must also be maintained in compliance with the confidentiality requirements of the GINA, section 503 of the

Rehabilitation Act of 1973, and/or ADA as described in 29 CFR 1635.9, 41 CFR 60-741.23(d), and 29 CFR 1630.14(c)(1), respectively.

(iii) The contractor shall not disclose any documentation used to verify the need to use 3 or more consecutive days of paid sick leave for the purposes listed in 29 CFR 13.5(c)(1)(iv) (as described in 29 CFR 13.5(e)(1)(ii)) and shall maintain confidentiality about any domestic abuse, sexual assault, or stalking, unless the employee consents or when disclosure is required by law.

(5) The contractor shall permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.

(6) Nothing in this contract clause limits or otherwise modifies the contractor's recordkeeping obligations, if any, under the Davis-Bacon Act, the Service Contract Act, the Fair Labor Standards Act, the Family and Medical Leave Act, Executive Order 13658, their respective implementing regulations, or any other applicable law.

**h.** The contractor (as defined in 29 CFR 13.2) shall insert this clause in all of its covered subcontracts and shall require its subcontractors to include this clause in any covered lower-tier subcontracts.

**i. Certification of Eligibility.**

(1) By entering into this contract, the contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed pursuant to section 5 of the Service Contract Act, section 3(a) of the Davis-Bacon Act, or 29 CFR 5.12(a)(1).

(2) No part of this contract shall be subcontracted to any person or firm whose name appears on the list of persons or firms ineligible to receive Federal contracts currently maintained on the System for Award Management Web site, <http://www.SAM.gov>.

(3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

**j. Interference/Discrimination.**

(1) A contractor may not in any manner interfere with an employee's accrual or use of paid sick leave as required by Executive Order 13706 or 29 CFR part 13. Interference includes, but is not limited to, miscalculating the amount of paid sick leave an employee has accrued, denying or unreasonably delaying a response to a proper request to use paid sick leave, discouraging an employee from using paid sick leave, reducing an employee's accrued paid sick leave by more than the amount of such leave used, transferring an employee to work on non-covered contracts to prevent the accrual or use of paid sick leave, disclosing confidential information contained in certification or other documentation provided to verify the need to use paid sick leave, or making the use of paid sick leave contingent on the employee's finding a replacement worker or the fulfillment of the contractor's operational needs.



(2) A contractor may not discharge or in any other manner discriminate against any employee for:

- (i) Using, or attempting to use, paid sick leave as provided for under Executive Order 13706 and 29 CFR part 13;
- (ii) Filing any complaint, initiating any proceeding, or otherwise asserting any right or claim under Executive Order 13706 and 29 CFR part 13;
- (iii) Cooperating in any investigation or testifying in any proceeding under Executive Order 13706 and 29 CFR part 13; or
- (iv) Informing any other person about his or her rights under Executive Order 13706 and 29 CFR part 13.

**k. Waiver.** Employees cannot waive, nor may contractors induce employees to waive, their rights under Executive Order 13706, 29 CFR part 13, or this clause.

**l. Notice.** The contractor must notify all employees performing work on or in connection with a covered contract of the paid sick leave requirements of Executive Order 13706, 29 CFR part 13, and this clause by posting a notice provided by the Department of Labor in a prominent and accessible place at the worksite so it may be readily seen by employees. Contractors that customarily post notices to employees electronically may post the notice electronically, provided such electronic posting is displayed prominently on any Web site that is maintained by the contractor, whether external or internal, and customarily used for notices to employees about terms and conditions of employment.

**m. Disputes concerning labor standards.** Disputes related to the application of Executive Order 13706 to this contract shall not be subject to the general disputes clause of the contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR part 13. Disputes within the meaning of this contract clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives."

**n.** If a duly authorized representative of the United States discovers or determines, whether before or subsequent to executing this contract, that an erroneous determination regarding the applicability of Executive Order 13706 was made, contractor, to the extent permitted by law, agrees to indemnify and hold harmless the United States, its officers, agents, and employees, for and from any and all liabilities, losses, claims, expenses, suits, fines, penalties, judgments, demands or actions, costs, fees, and damages directly or indirectly arising out of, caused by, related to, resulting from or in any way predicated upon, in whole or in part, the erroneous Executive Order 13658 determination. This includes contractor releasing any claim or entitlement it would otherwise have to an equitable adjustment to the contract and indemnifying and holding harmless the United States from the claims of subcontractors and contractor employees.

## **20. SPECIAL CONDITIONS**

**Grantee's financial obligation and commitment.** Grantee's financial obligation and commitment to make payments or reimbursements of any kind under this Agreement shall be contingent upon the availability and allotment by the Director of the Department of Budget and

Finance of public funds to the Department of Land and Natural Resources to make such payment or reimbursement.

**THIS LICENSE** is not subject to Title 10, United States Code, Section 2662, as amended.

**IN WITNESS WHEREOF** I have hereunto set my hand by authority/direction of the  
Secretary of the Army this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
**JOSEPH M. GATTI**  
Real Estate Contracting Officer  
Real Estate Division  
Los Angeles District

Lessee, the STATE OF HAWAII, by its Board of Land and Natural Resources, has caused the seal of the Department of Land and Natural Resources to be hereunto affixed and these presents to be executed this day \_\_\_\_\_ of \_\_\_\_\_, 20\_\_\_\_\_.

Approved by the Board of  
Land and Natural Resources  
at its meeting(s) held on  
September 28, 2018.

STATE OF HAWAII

\_\_\_\_\_  
**SUZANNE D. CASE**  
Chairperson  
Board of Land and  
Natural Resources

APPROVED AS TO FORM:

\_\_\_\_\_  
**JULIE H. CHINA**  
Deputy Attorney General

Exhibit A

MAKUA MILITARY RESERVATION - Portions of Tracts makai of Kaena Pt. Road  
Total acres = 11.11 acres, more or less

Portion of Tract 5, 3.50 acres

Portion of U.S. Civil No. 485

R.P. 2327, L.C. Aw. 5565 to Kamaka.

Portion of Tract 6, 1.19 acres

Portion of U.S. Civil No. 485

R.P. 1077, L.C. Aw 5667, Ap. 1 to Kaheana (0.25 acre)

Portion of U.S. Civil No. 485

R.P. 6092, Ap. 2 to Moo (0.01 acre)

R.P. 1078, L.C. Aw. 9055, Ap. 2 to Kanae (0.15 acre)

R.P. 1077, L.C. Aw. 5667, Ap. 2 to Kaheana (0.26 acre)

R.P. 1038, L.C. Aw. 6134, Ap. 2 to Nika No Kalua (0.26 acre)

R.P. 2362, L.C. Aw. 5556, Ap. 2 to Kalauli (0.26 acre)

Portion of Tract 7, 2.21 acres

Portion of U.S. Civil No. 485

R.P. 391, L.C. Aw. 9053, to Kealohua

Portion of Tract 9, 1.88 acres

Portion of U.S. Civil No. 485

R.P. 3634, L.C. Aw. 9054, to Kawaa

Portion of Tract 10, 1.42 acres

Portion of U.S. Civil 485

R.P. 396, L.C. Aw. 9705, to Hoewaa

Portion of Tract 11, 0.06 acre

Portion of U.S. Civil No. 485

R.P. 461, L.C. Aw. 9052, Ap. 2 to Kahueai

All of Tract 18, 0.46 acre

Portion of U.S. Civil No. 485

R.P. 1076, L.C. Aw. 9706, Ap. 3 to Kauhi (0.38 acre)

R.P. 476, L.C. Aw. 9707, Ap. 2 to Puiwa (0.079 acre)

Portion of Tract 19, 0.18 acre

R.P. 5464, L.C. Aw. 9709, Ap. 1 to Kuli

Portion of Tract 20, 0.21 acre

R.P. 368, L.C. Aw. 236 K, to Kalama

**LICENSE NO. DACA84-3-17-0187**  
**Supersedes No. DACA84-1-01-20**

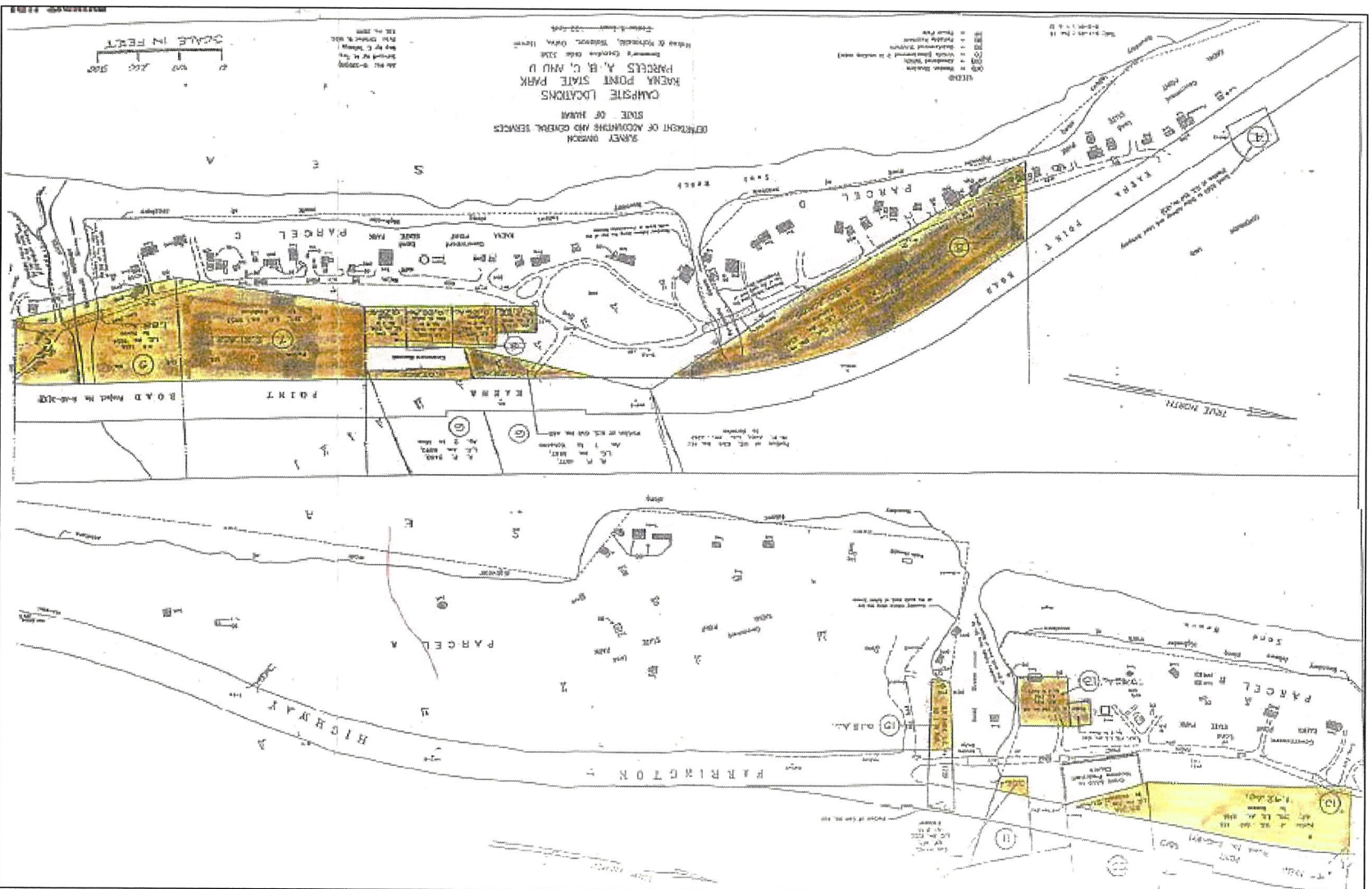


Exhibit B

RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

TO: Directorate of Public Works  
ATTN: Environmental Division  
U.S. Army Garrison, Hawaii  
Schofield Barracks, HI 96857-5013 (Stop 253)

DATE: \_\_\_\_\_

FROM: State of Hawaii  
Department of Land and Natural Resources  
P.O. Box 621  
Honolulu, Hawaii 96809

1. PROJECT TITLE: Renew lease DACA84-1-96-06 expiring on 28 Feb 01.

2. DESCRIPTION OF PROPOSED ACTION (*This is the most important component of the REC and needs to clearly describe the proposed action. Include location map and site plan*):

Renew Makua Military Reservation land lease granted to the State of Hawaii for state park purposes.

3. DATE OR DURATION OF PROPOSED ACTION: Five years.

4. IT HAS BEEN DETERMINED THAT THIS ACTION (*choose one*):

a. Is adequately covered in the following EA/EIS (*provide name and date*): \_\_\_\_\_

b. Is categorically excluded under CX A-29, AR 200-2, appendix A. This action has been evaluated in accordance with paragraph 4-2 of AR 200-2 and meets the required CX screening criteria (*complete CX Screening Criteria Checklist on the Environmental Considerations Checklist and attach to the REC*).

Exhibit C  
Page 1 of 7



PROPOSED ACTION: Renew lease DACA84-1-96-06 expiring on 28 Feb 01.

**CX SCREENING CRITERIA**

	YES	NO
1. This is not a major Federal action significantly affecting the quality of the human environment.	<u>X</u>	<u>      </u>
2. Minimal or no individual or cumulative effects on the environment.	<u>X</u>	<u>      </u>
3. There are no environmentally controversial changes to existing environmental conditions.	<u>X</u>	<u>      </u>
4. No greater scope or size than normally experienced for a particular category of action.	<u>X</u>	<u>      </u>
5. No potential for degradation of already existing poor environmental conditions.	<u>X</u>	<u>      </u>
6. Will not degrade an environment that remains close to its natural condition.	<u>X</u>	<u>      </u>
7. Will not involve the use of unproven technology.	<u>X</u>	<u>      </u>
8. There are no threatened or endangered species and their (critical) habitats.	<u>X</u>	<u>      </u>
9. There are no significant archaeological materials or historic places listed or eligible for the National Register of Historic Places.	<u>      </u>	<u>X (see pg. 4)</u>
10. There are no other statutorily protected resources.	<u>X</u>	<u>      </u>
11. Will not use hazardous or toxic substances (e.g., asbestos, lead-containing paints, PCBs, or similar substances) that may come in contact with surrounding natural environment, except in applicable controlled conditions.	<u>X</u>	<u>      </u>
12. Will not adversely affect prime or unique agricultural lands, wetlands, coastal zones, wilderness areas, aquifers, flood plains, wild and scenic river areas, or other areas of critical environmental concern.	<u>X</u>	<u>      </u>

Exhibit C  
Page 3 of 7

**ENVIRONMENTAL IMPACT ANALYSIS** (Consider both construction and operational impacts. Any "YES" or "MAY" answers need to be explained in the "Discussion" section at the end of this checklist.)

YES NO MAY

1. AIR QUALITY

- a. Will the proposal cause air emissions such as smoke, dust, suspended particles, noxious gases, or toxic air pollutants?
- b. Will the proposal create objectionable odors?

\_\_\_\_\_ X \_\_\_\_\_

\_\_\_\_\_ X \_\_\_\_\_

2. WATER QUALITY

- a. Will proposal result in alteration of streams or other water bodies?
- b. Will there be discharges (liquids or solid material) into surface waters?
- c. Will proposal potentially impact groundwater resources?
- d. Is there potential for accidental spills of hazardous or toxic substances near or in a body of water?
- e. Is the proposed action within a flood plain or wetland?
- f. Will there be an increase in storm water runoff from the site?
- g. Will the construction area involve five acres or more?

\_\_\_\_\_ X \_\_\_\_\_

\_\_\_\_\_ X \_\_\_\_\_

\_\_\_\_\_ X \_\_\_\_\_

\_\_\_\_\_ X \_\_\_\_\_

\_\_\_\_\_ X \_\_\_\_\_

\_\_\_\_\_ X \_\_\_\_\_

\_\_\_\_\_ X \_\_\_\_\_

3. TOPOGRAPHY AND SOILS

- a. Will there be alterations to topography, i.e. site grading?
- b. Will there be potential increase in soil erosion, either on or off site?
- c. Will there be disturbance or disposal of potentially contaminated soils?

\_\_\_\_\_ X \_\_\_\_\_

\_\_\_\_\_ X \_\_\_\_\_

\_\_\_\_\_ X \_\_\_\_\_

4. NATURAL RESOURCES

- a. Will the proposal result in a change in the diversity of species, or numbers of any species of plants or animals?
- b. Will the proposal impact existing fish or wildlife habitat?
- c. Will the action alter or significantly impact environmentally sensitive areas, i.e. wetlands, flood plains, critical habitat, prime farmland, coastal zones?

\_\_\_\_\_ X \_\_\_\_\_

\_\_\_\_\_ X \_\_\_\_\_

\_\_\_\_\_ X \_\_\_\_\_

5. ARCHAEOLOGICAL/HISTORIC RESOURCES

- a. Will the proposal alter or destroy an archeological or historical site or structure that is on or eligible for inclusion in the National Register of Historical Places?
- b. Will the proposal require any excavation, trenching, or grading activity?

\_\_\_\_\_ X \_\_\_\_\_

\_\_\_\_\_ X \_\_\_\_\_



**ENVIRONMENTAL IMPACT ANALYSIS** (Consider both construction and operational impacts. Any "YES" or "MAY" answers need to be explained in the "Discussion" section at the end of this checklist.)

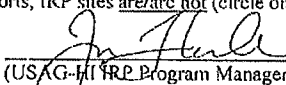
	YES	NO	MAY
<b>6. LAND USE</b>			
a. Will the proposal alter the present land use of an area?		X	
b. Will the proposal result in a change to the installation Master Plan?		X	
<b>7. HAZARDOUS MATERIALS AND WASTE DISPOSAL</b>			
a. Will the proposal result in demolition, disposal, or replacement of existing facilities?		X	
b. Will the proposal result in the use, treatment, storage, and/or disposal of hazardous materials or wastes?		X	
c. Will there be a risk of explosion or release of hazardous substances including, but not limited to, oil pesticides, chemicals, or radiation?		X	
d. Will the proposal result in the generation of solid waste that must be disposed of either on-site or off-site by contractors?		X	
e. Will there be replacement or removal of either above or underground storage tanks?		X	
f. Will there be potential for exposure of population to non-ionizing radiation (RF, electromagnetic, or microwave)?		X	
<b>8. NOISE ENVIRONMENT</b>			
a. Will there be any changes to the numbers and types of aircraft, vehicles, or weapon systems that could effect noise levels?		X	
b. Will the proposal effect a noise sensitive land use or activity?		X	
<b>9. TRAFFIC</b>			
a. Will the proposal generate or increase vehicular traffic?		X	
b. Will there be a requirement to construct, reroute or alter roadways?		X	
<b>10. UTILITIES SYSTEMS</b>			
a. Will the proposal require electrical power or alterations to the existing system?		X	
b. Will the proposal require water or alterations to the existing system?		X	
c. Will the proposal require wastewater disposal or alterations to the existing system?		X	
d. Will the proposal require alterations to the existing drainage system?		X	

Exhibit C  
Page 5 of 7

ENVIRONMENTAL BASELINE SURVEY (EBS)  
FOR  
REAL ESTATE TRANSACTION

**INSTRUCTIONS:** DPW Real Estate Branch will complete paragraph 2, DPW Environmental Division will complete paragraph 3, the proponent will complete paragraphs 4-6 and sign at the bottom and submit to the Environmental Division for approval.

1. PURPOSE. To provide a baseline from which to assess future environmental cleanup responsibility.
2. DESCRIPTION OF THE PROPOSED REAL ESTATE TRANSACTION:
  - a. From: U.S. Army Garrison, Hawaii
  - b. To: State of Hawaii, Department of Land and Natural Resources, Division of State Parks
  - c. Property Description: Makua Military Reservation parcels located oceanside of Farrington Highway.
3. RECORDS SEARCH. Based on a records search of Army Installation Restoration Program (IRP) reports, IRP sites are/are not (circle one) present on the property.  

  
(USAG-HI IRP Program Manager)

5/25/01  
(Date)
4. SITE VISIT. Based on a site visit, obvious signs of contamination are/are not (proponent must circle one) present on the property proposed for transfer. Obvious signs of contamination include unusual odors, stained soils, stressed vegetation, abandoned drums of unknown contents, etc.
5. DISCLOSURE. The proposed use of the property by the organization indicated below will not involve use, generation, storage, or disposal of hazardous substances on the property.
6. CONCLUSION. There is no reason to suspect any past releases of hazardous substances or disposal of hazardous wastes on the subject property. Any future cleanup of contamination on the property will be the sole responsibility of the proponent organization, represented by the undersigned.

PROONENT OF THE REAL PROPERTY TRANSACTION:

  
GEORGE E. LANGLOT

Realty Officer

7/05/00

(Date signed)

(808) 656-1027 ext 1110

(Telephone no.)

Real Property Planning Branch, Directorate of Public Works  
(Organization)

APPROVED BY:

  
(Chief, Environmental Division)

(Date)

5/21/01

CEFOH-PPR

29 January 2019

MEMORANDUM FOR FILE

SUBJECT: DACA84-1-01-20, Term of Outgrant Renewal in Holdover Tenancy

The subject lease is for state park purposes at Makua Military Reservation, HI and was issued to the State of Hawaii, Department of Land and Natural Resources for its Division of State Parks for the term March 1, 2001 through February 28, 2006. The Lease was extended via Supplemental Agreement No. 1 for 5 additional years (3/1/06 – 2/29/2011). The newest directive to renew was not received from DPW until April 4, 2017. Therefore, the latest renewal was not initiated until well after the expiration of subject Lease.

Completion of this current renewal will result in a time gap from the 2/28/2011 expiration of the subject previous outgrant to the effective date of the new outgrant (Lease No. DACA84-1-17-187).

**It is hereby noted that the subject expired outgrant will remain in effect through holdover tenancy status during the period from March 1, 2011 until the effective date of renewal lease No. DACA84-1-17-187.**

Note there is no monetary consideration required for this leasehold under the terms and conditions of the expired outgrant.

  
NICKIE A. PERRY  
REALTY SPECIALIST