

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

February 25, 2022

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

OAHU

Consent to Stock Purchase Agreement Regarding General Lease No. S-5564 between The John M. Leary Revocable Trust dated April 15, 1995, Seller, and Allen Evans and Ryan Evans, Buyer; Island Demo, Inc., Lessee, Moanalua, Honolulu, Oahu, Tax Map Key: (1) 1-1-064:007.

APPLICANT:

The John M. Leary Revocable Trust dated April 15, 1995, Seller, and Allen Evans and Ryan Evans, Buyer.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands situated at Moanalua, Honolulu, Oahu, Tax Map Key: (1) 1-1-064:007, as shown on the attached map labeled **Exhibits A-1 and A-2**.

AREA:

9,642 square feet, more or less.

TRUST LAND STATUS:

Section 5(e) lands of the Hawaii Admission Act

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

CHARACTER OF USE:

Industrial purposes.

TERM OF LEASE:

35 years, commencing on March 1, 1999 and expiring on February 28, 2034.

ANNUAL RENTAL:

\$56,900, due in semi-annual payments. Last rental reopening occurred on March 1, 2019 and next rental reopening is scheduled for March 1, 2029.

STOCK PURCHASE AGREEMENTCONSIDERATION:

\$750,000

RECOMMENDED PREMIUM

Pursuant to the lease condition, "Assignment", "... the sale or transfer of 20% or more of ownership interest or stocks by dissolution, merger of any other means shall be deemed an assignment for purposes of this paragraph and subject to the right of the Lessor to impose the foregoing premium.

As described in the Remarks section below, the Lessee is operating the recycling facility at the location comprising both State and private parcels. As shown on the aerial photo at Exhibit A-2, the subject State parcel is mainly used as an open storage and crushing yard. There are no substantial improvements on the State parcel other than a perimeter wall abutting Nimitz Highway. Office, parking, storage containers and other supporting facilities are housed on the private property.

Lessee provided financial profit and loss statements for the period ending December 2018, noting that the stock purchase agreement was signed on November 30, 2018. From the 2018 profit and loss statement, the total asset of the Lessee was about \$676,000, making up both current and fixed assets. Subtracting the total asset value (\$676,000) from the consideration (\$750,000), the remaining portion (\$74,000) could be attributed to the business goodwill of the Lessee. Based on the above-mentioned, staff believes no assignment premium pursuant to the subject lease is appropriate.

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>X</u>	NO <u> </u>
Registered business name confirmed:	YES <u>X</u>	NO <u> </u>
Applicant in good standing confirmed:	YES <u>X</u>	NO <u> </u>

HRS CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules (HAR) §11-200.1-15 and the Exemption

List for the Department of Land and Natural Resources reviewed and concurred on by the Environmental Council on November 10, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to General Exemption Type No. 1, "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing" under Part 1, item 40, which states, "leases of state land involving negligible or no expansion or change of use beyond that previously existing". The request is a de minimis action that will probably have minimal or no significant effect on the environment and should be declared exempt from the preparation of an environmental assessment and the requirements of §11-200.1-17, HAR.

REMARKS:

The subject lease S-5564 was sold by public auction in late 1990s. In addition to the subject State parcel, the seller leases the adjoining private property and combined two sites into one construction and demolition debris recycling and transfer station.

Recently, the buyer contacted the department and advised that 100% of the ownership of the Lessee was transferred back in 2018. Pursuant to the lease, any transfer of 20% or more of the ownership in Lessee shall be deemed to be a transfer subject to Board approval. Staff therefore submits the request for Board consent to the stock purchase agreement dated November 30, 2018 between the seller and the buyer.

Staff did not solicit comments from other government agencies as there are no changes to the existing uses on the property.

Staff conducted an inspection recently and noted that the Lessee is in compliance with the terms and conditions of the lease, including rent, liability insurance, and performance bond provision.

There are no other pertinent issues or concerns. Staff recommends the Board consent to the stock purchase agreement as described above.

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1, HAR, this project will probably have minimal or no significant effect on the environment and is therefore, exempt from the preparation of an environmental assessment as a de minimis action.
2. Consent to the Stock Purchase Agreement relating to General Lease No. S-5564 between The John M. Leary Revocable Trust dated April 15, 1995, Seller, and Allen Evans and Ryan Evans, Buyer, subject to the following:

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

Respectfully Submitted,

Barry Cheung

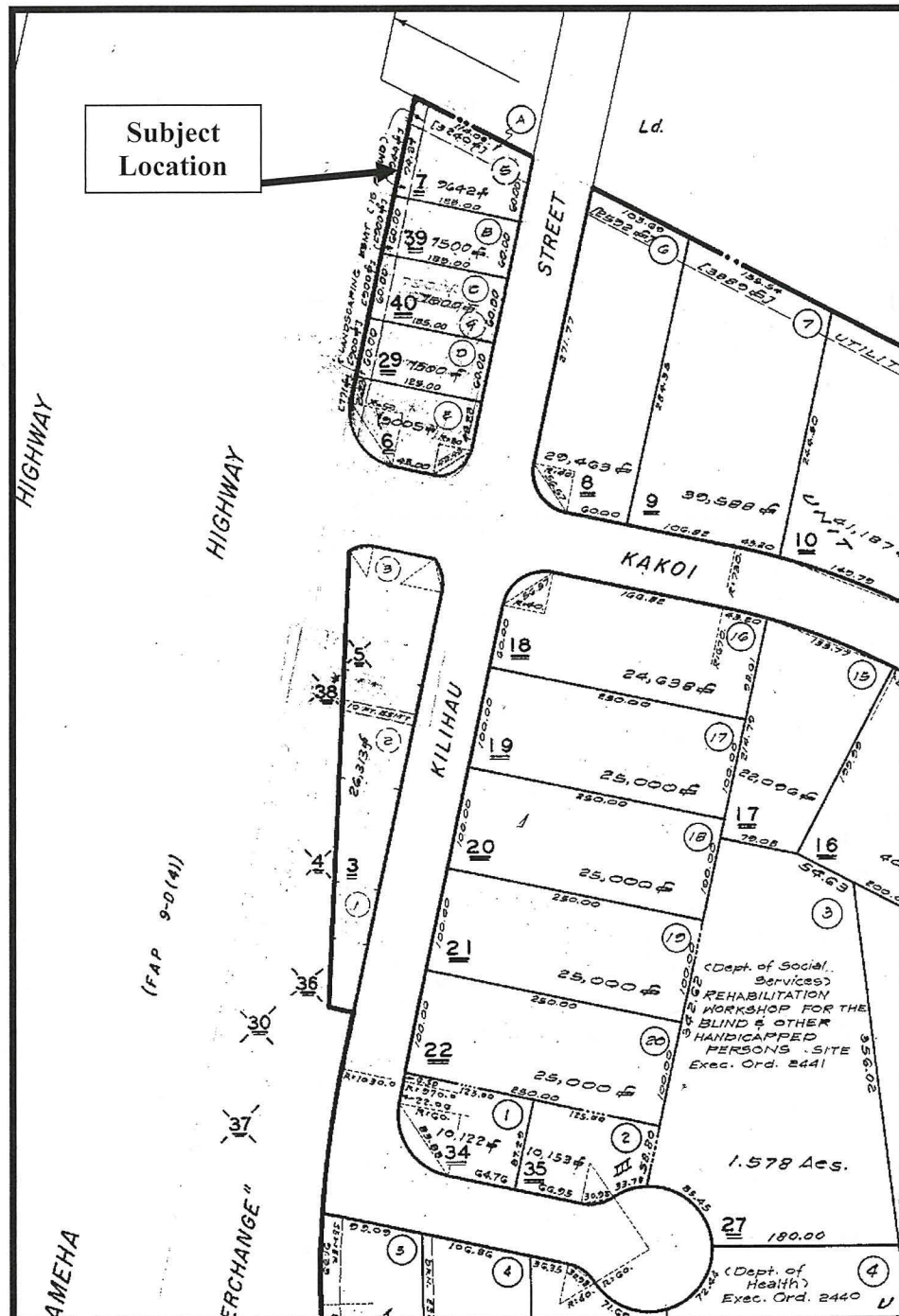
Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:

Suzanne D. Case

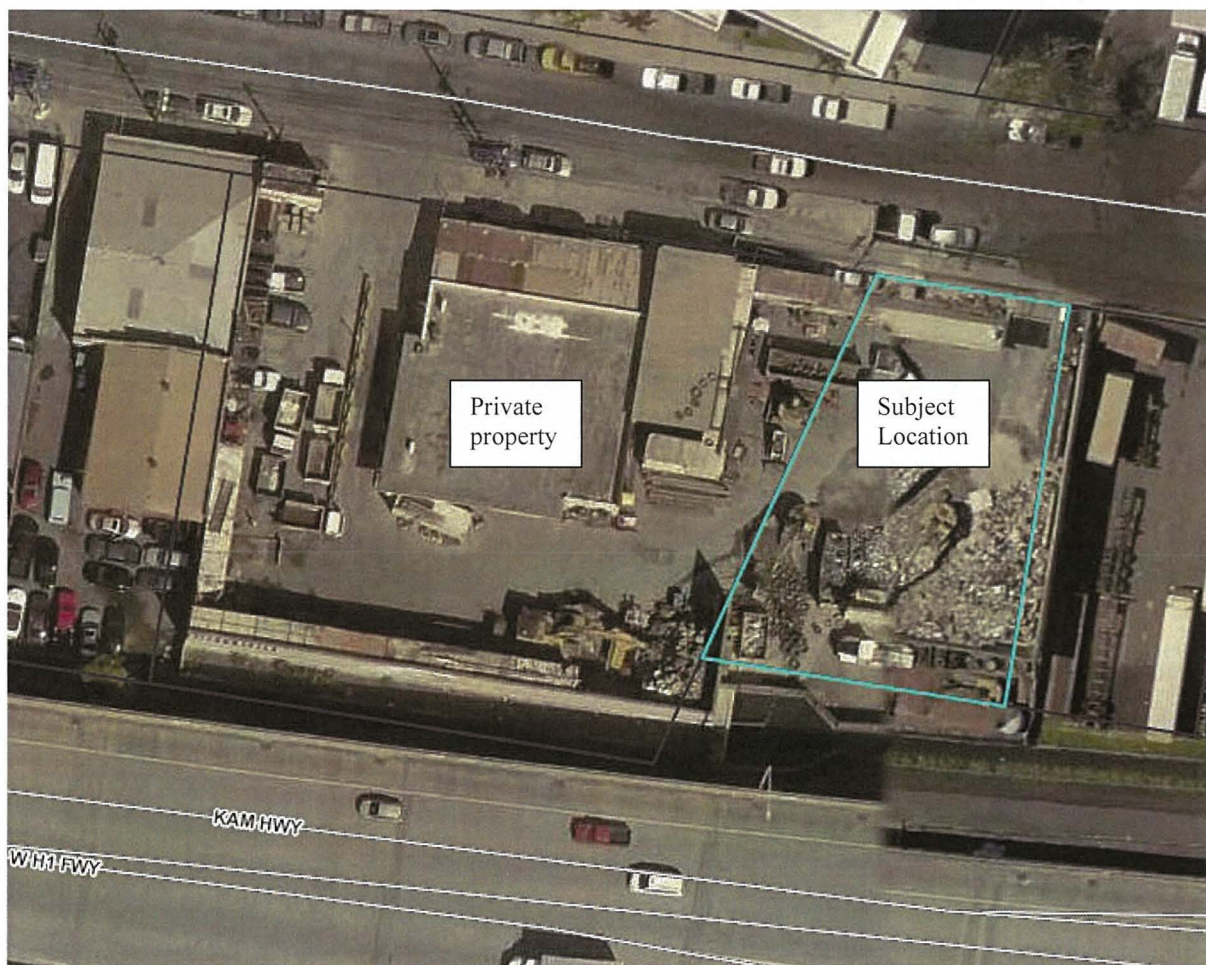
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Suzanne D, Case, Chairperson



TMK (1) 1-1-064:007

EXHIBIT A-1



TMK (1) 1-1-064:007

EXHIBIT A-2