

August 21, 2024

Board of Land and Natural Resources
c/o Dawn N. S. Chang, Chairperson
1151 Punchbowl St.
Honolulu, HI 96813

Subject: Bluewater Shrimp International, LLC Revocable Permit 138 at Ala Wai Small Boat Harbor

Aloha Chair Chang and Board of Land and Natural Resources,

We want to thank the Board of Land and Natural Resources (BLNR), the Department of Land and Natural Resources (DLNR), and Division of Boating and Ocean Recreation (DOBOR) for their support in authorizing and issuing a revocable permit (RP) to Blue Water Shrimp International LLC (BWSI) for a portion of the old haul out lot at Ala Wai Harbor and for giving us an opportunity to make the case why DLNR should extend our RP. The following addresses, obligations, parking, the extension of the existing RP, future community engagement, and rent.

First of all, I take full responsibility for management not being aligned with the state's requirements. I delegated the management of this area, believing it was being managed accordingly. I've been juggling a lot of balls and dropped this one. I learned that DOBOR recommended cancellation of our RP at the June 28, 2024, BLNR meeting. I humbly ask for your consideration to extend our use of the Ala Wai Gateway lot for another year. We have paid all outstanding obligations, and are caught up with reporting requirements.

BWSI would like to expand the Hawaiian cultural experience, consistent with the August 2022, University of Hawaii Vision Report (UHVR). The Gateway to Waikiki should be an introduction to the best our local culture has to offer. In addition to Hawaiian music, hula, Hawaiian arts, harbor cleaning, and genki ball events, we'd like to add a surf community center with surf videos, and lived streaming. The proximity to Duke Kahanamoku's residence, and famous surf spots (Bowls, Rockpiles, Kaisers & Inbetweens) are a natural fit. Our Facebook page has examples of what we've accomplished so far. <https://www.facebook.com/PauHanaPlace>

To date, we've addressed several UHVR stakeholder concerns, such as food vending, security, homelessness, landscaping, pedestrian access from Ala Moana Blvd., additional public restrooms, shade, area maintenance, cultural, environmental education and open community gather space. Going forward, parking will be needed if we are to remain viable, which would require the rest of the Gateway lot.

We currently have a mobile food concession (1 truck) near the Hilton Lagoon (Lagoon) and two (2) trucks at the Waikiki Gateway location (Gateway). The Lagoon location is doing well. However, the Gateway location has been losing money. Revenue are comparable, but the high cost of operations is much higher at the Gateway.

The single truck in the Lagoon location (300 sq. ft.) has an abundance of foot traffic from the Hilton Hawaiian Village Resort, the lagoon, surfers, paddlers, beach goers and locals who have access to free parking, and property tax is not required.

The Gateway is 9,000 sq. ft., requires additional maintenance staff that clean the restrooms, and the entire lot (approx. 42,000 sq. ft.). Unlike the free amenities surrounding the Lagoon truck area, the vacant Gateway dirt lot had to be cultivated to be attractive to clientele. Please see the photos that follow. The 8,000 sq. ft. deck, landscaping, tents etc. cost approx. \$500,000. In addition, we provide a 10 stalled, air-conditioned restroom, which is open to the public. The open area was rolled flat, and is maintained at no cost to the state. We sponsor live Hawaiian music, Hawaiian community events, and have sponsored Genki ball events. It was our hope that the costs to improve (what was once a dumping ground for demolished road construction material) would be justified by increased revenue. The return on investment has been a net lose. Property taxes were an unexpected additional \$20,000/year cost. The following is a financial comparison between the Gateway and Lagoon operations:

Description (Monthly Estimates)	Gateway (2 trucks):	Lagoon (1 truck):
REVENUES: (Jun. '23-Jul. '24)	\$106,350.00	\$97,050.00
EXPENSES:		
Base Rent	\$11,700.00	\$4,525.00
Add'l Rent 10% of Gross Revenues	\$480.00	\$5,800.00
Property Tax	\$1,800.00	\$00.00
Live Music	\$7,000.00	\$00.00
Restroom (Amortized 15 Yrs.)	\$400.00	\$00.00
Restroom Repairs	\$1,200.00	\$00.00
Day Maintenance	\$2,000.00	\$00.00
Night Cleaner	2,400.00	\$00.00
Propane	3,000.00	\$00.00
Trash	\$2,250.00	\$600.00
Electricity	\$2,500.00	\$00.00
Overhead	\$39,230.00	\$29,500.00
Labor	\$37,200.00	\$24,800.00
Food Costs (25%)	\$26,600.00	\$24,250.00
Total Costs	\$137,800.00	\$89,500.00
Net Profit or Loss	(\$31,450.00)	\$7,550.00
Note: Other Costs (Deck etc.)	\$500,000.00	

In short, Gateway's costs are much higher than Lagoon's. Gateway is turning out to be much harder and more costly than we originally anticipated. We're concerned that it could turn into another Honey Bee USA or Hard Rock Cafe, located at the Kalakaua gateway to Waikiki. We believe that parking is necessary for this venture to be successful. From the moment parking ceased, there has been a substantial drop in revenues. We learned that existing harbor parking is not adequate to meet the needs of Kapuna and other clientele.

To date, investments to try to make this area viable, have been substantial, approximately \$500,000. We are currently not covering our operational costs and need help in generating traffic to our establishment. We would like to propose a win-win public private partnership, in the spirit of the UH Vision Report (UHVR).

<https://dlnr.hawaii.gov/dobor/files/2022/08/VISION-REPORT-DOBOR-AWSBH-20220825.pdf>

DOBOR's Ala Wai Canal debris boom maintenance, requires access from Holomoana St. which is procured and paid for by the state. We propose providing a public service, by assuming responsibility for cleaning the debris boom and maintenance of the grounds as long as the open area can be available for non-exclusive free public parking and community events. This would be consistent with providing a public purpose within the Public Precinct zoned land. DOBOR could then redirect funds towards maintaining other areas of the harbor.

Your rules may allow for an immediate Right of Entry (ROE), for "non-exclusive" public service uses, for gratis rent. At the Boards 12-14-14, meeting, item J-2, Delegation of Authority, rent is required for "exclusive" use. Please see **Appendix A**. The proposed 25,000 sq. ft. area would be non-exclusive and open to the public. The area would include the current 10 stalled air-conditioned restroom and free parking. Both would be public accommodations. BWSI is proposing to provide and maintain the restroom, boom debris maintenance, landscaping, and grounds maintenance at no charge to the state. As a public accommodation, we are hoping that this area would not be taxed by the county. This would be a win-win situation for the state, the public and BWSI. Paying market rent for an additional 25,000 sq. ft is not feasible. The county property taxes alone would be approx. \$56,000/yr. or \$4,630/mo.

Our long term plan would be to make larger long term investments if a long term lease can be acquired through public auction. In the mean time, in consideration for capital outlays, and the potential of developing a working business model, we ask that RP 138 be reissued to include terms, that would give us rights to fixtures that we've built. The language regarding keeping existing improvements, would be similar to what was approved for

Kaneohe Yacht Club in Board Submittal 9-23-22, Item J-2, number 3 of the "Recommendation:" regarding the ownership of existing pier improvements. See **Appendix B**. We ask that the spirit of that intent also apply to any subsequent dispositions, such as the issuance of another RP to another entity. This would be similar to what I understand was done for the Ice House that became Dolphin Excursions in Waianae. If an RP is issued to another entity, BWSI would like the right to receive compensation for the value of the fixtures, including but not limited to the deck. The taking of this asset for the benefit of another permittee or lessee, at no cost, would not be consistent with precedent, nor a good faith counter proposal by DOBOR. We only ask that we be treated the same as past DOBOR Revocable Permit holders. Essentially, we are offering to fund the testing of ideas that could help to facilitate a workable business model, which would help the state to avoid another HoneyBee situation.

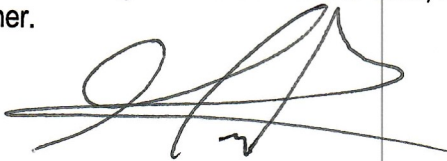
We are also requesting a renegotiation of the base rent (subject to HRS 171-55). The current submittal, 8-23-24, J-1, recommends that rent be increased. At the 6-28-24, J-1 meeting, (at 2:27 to 2:27:48) a motion was passed to extend the RP for 90 day at the same rent. Therefore, we ask that the recommendation to raise our rent be denied at least until the 90 days has expired.

We ask that the rent be reduce to the same rent as the concession agreement (\$4,525) and reduce the percentage rent to five percent (5%) vs ten percent (10%). Our request is based upon the need to offset the costs of providing the public services of a public restroom, community gathering place, cultural enrichment, grounds maintenance, future debris boom maintenance, and the added burden of county property tax. The cost of these services may or may not result in more revenue for us, which is a risk we are willing to take if the state can meet us half way. If revenues increase, then the 5% of gross receipts, in excess of the new base rent, would automatically increase the rent. The state would be guaranteed public benefits, and we are risking more capital, that these actions "may" or "may not" result in more revenues.

We appreciate the Boards wisdom and discernment in their motion. We are concerned that staff ignored the Board's directive and is recommending a rent after just 60 days, and has already concluded that they would be recommending cancellation prior to the lapsing of 90 day time frame even though obligations have been satisfied. Staff was instructed to return with an alternate viable funded plan for displacing BWSI, before making this recommendation. My understanding of the rationale for an Request For Proposal and Public Private Partnership was that harbor funding was not adequate for proper maintenance and repair of the harbor facilities. So we wonder how DOBOR plans to fund their development plan.

In summary, we humbly request the opportunity to manage the entire haul out lot to enhance the viability of our operations. We are making this proposal in the spirit of the Public Private Partnership concept and implementation of UHVR recommendations as a win-win situation between BWSI, the state and for the Hawaiian and local communities. We totally agree with the sentiments expressed by the Board about the potential of this turning into another HoneyBee; that culture and kapuna matter; that parking is needed; that we need to return at least a portion of Waikiki back to the locals; that a financially viable, pono, plan is needed; that there needs to be a sound rationale for leaving this area vacant; and that unwanted activities will return. If you should have any questions, we would be glad to meet with the chair, DOBOR and/or BLNR to discuss this proposal and our concerns further.

Sincerely,



Gilbert Sakeguchi II
Member/Manager

Attachments: Photos
Appendix A
Appendix B

APPENDIX A

State of Hawaii
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Boating and Ocean Recreation
Honolulu, Hawaii

December 12, 2014

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

STATEWIDE

DELEGATION OF AUTHORITY TO ISSUE RIGHT-OF-ENTRY PERMITS ON
STATE LANDS AND FACILITIES UNDER THE JURISDICTION OF
THE DIVISION OF BOATING AND OCEAN RECREATION

BACKGROUND:

As landowner, the Department of Land and Natural Resources, Division of Boating and Ocean Recreation (DOBOR) receives numerous requests for the short term temporary use of public lands for a variety of purposes. These requests range from a few hours to 30 days. These requests are for sites on lands encumbered by way of executive order under the jurisdiction of DOBOR. Some of these requests include but are not limited to the following uses:

- Beach activities - surf meets, beach weddings, beach Olympics, volleyball tournaments, swim races, triathlons, canoe races, fishing tournaments, special events, and funerals
- Scientific, engineering or archaeological studies, soils investigations or surveys
- Storage of construction materials or equipment for abutting property
- Land and building maintenance activities on State land or abutting private property
- Filming of movies or television shows
- Construction and management, maintenance, demolition, debris removal, tree trimming
- Salvage operations, temporary roadway access/pass through,
- Emergency operations, helicopter landing site for special events, service vehicles
- Miscellaneous - fireworks display, geography field trips

There are three main instances in which the Department issues Rights-of-Entry Permits (ROE):

- 1) ROE to enter public lands encumbered by a lease, executive order, or other encumbrance. Staff obtains approval from the Board of Land and Natural Resources (Board) for these requests.
- 2) ROE for construction and/or management that precede a land disposition, e. g., set aside, lease, or utility easement. Normally, these requests are approved at the same time the disposition is approved.

- 3) ROE unencumbered public lands for a minor, temporary use that does not involve a land disposition to enter. These ROE are issued by the Chairperson.

DEFINITIONS:

A. Right-of-Entry Permit

Staff would like to clarify the use of terminology. Staff is unsure as to where the term ROE first arose. There is no reference to ROE in either Hawaii Revised Statutes (HRS) Chapter 171, or real estate dictionaries. In standard real estate terminology, it would appear we are granting "licenses." According to "The Language of Real Estate" by John W. Reilly, a license is a "permission or authority to do a particular act on the land or property of another, usually on a nonexclusive basis. A license is a personal, revocable and nonassignable right, but unlike an easement, it is not considered an interest in the land itself."

In Chapter 171, HRS, however, a "license" specifically refers to granting a privilege to enter land to remove some sort of material (e.g., sand, timber, soil, rock, etc.). Furthermore, the authority to issue the right to temporarily use State land is established under Section 171-55, Permits. Therefore, staff is recommending that we clarify the terminology by calling them ROE and define this term as an expressed, temporary right to enter State land for a specified purpose that is in writing.

B. "Activity" or "Use"

A wide spectrum of activities occurs on DOBOR property. There are so many varying uses that the question arises of what uses or activities should require a ROE. For areas that the public is not allowed access to, it is clear that any temporary activity or use would require a ROE.

For lands where the public is invited, we have been advised by the Department of the Attorney General that ROE may be required only when an applicant desires to have exclusive use of a certain area or desired to engage in an activity that is otherwise restricted pursuant to rule. A ROE authorizes the permittee to exclude others from the designated area or engage in the restricted activity. If a person or organization does not obtain a permit from the Department, they have no right to keep others out of the area.

AUTHORITY:

Pursuant to HRS § 171-55, the Board of Land and Natural Resources (Board) may: "issue permits for the temporary occupancy of state lands or an interest therein on a month-to-month basis by direct negotiation without public auction, under conditions and rent which will serve the best interests of the State, subject, however, to those restrictions as may from time to time be expressly imposed by the Board."

Pursuant to HAR § 13-231-3 (a)(9), a Miscellaneous Permit is defined as: "A use Permit which authorizes use of a small boat harbor or an offshore mooring for other purposes as may be authorized by the department in its use permit and is consistent with these rules and applicable laws."

ANALYSIS:

A. Variables to Impact Delegation of Authority to Issue ROE's:

Taking into consideration the parameters under which ROE's are issued, staff identified the following variables which may affect the delegation of authority:

1. Type of Activity: Temporary use permits are intended to grant permission to enter the premises to perform a particular activity, to exercise a certain privilege or to carry on a particular business. Activities with greater liability or risks to the State should be approved at higher levels.
2. Length of Use: Temporary use Permits are intended for temporary uses. The longer the duration of the activity, (e.g. in excess of 30 days) the more factors come into play, e.g. risk, liability. Therefore, we are recommending the longer the term of use, the higher the approval level.
3. Impact on Resource and on Public Access and the Enjoyment of Public Lands. The greater the impact on the resources and on public access, higher approval level should be obtained.
4. Emergency Nature of Activity: Public health and safety concerns should be accounted for in the delegation of authority to ensure that the Department can act promptly and appropriately in emergencies.

In certain cases the Chairperson may deem that a specific request may be of scale, type or impact on the public resources that the applicants request should be brought before the Board for approval.

DOBOR requests the Board delegate authority to the Chairperson, and to DOBOR at various levels, to issue ROE's for the temporary uses as described above, pursuant to Section 171-55, HRS, for public lands under the management of the Division of Boating and Ocean Recreation. The levels of delegation of authorization are proposed and provided in the recommendations section below.

B. Rent

Should there be a monetary gain from the use of state lands under the jurisdiction of DOBOR, the rent shall be \$.25 per square foot with a minimum rent of \$100.00 per day.

There are certain types of uses which may not warrant charging rent, including engineering, scientific, surveys, or possibly educational field trips or school sports events such as swimming or paddle sports. Staff is recommending that the Chairperson have the authority to waive the rent in these cases.

RECOMMENDATION:

That the Board:

1. Delegate authority to the Chairperson, DOBOR Administrator, DOBOR Planning and Coordination Office and DOBOR District Managers to issue ROE's on behalf of DOBOR pursuant to HRS § 171-55 for public lands under the jurisdiction and management of DOBOR:
 - a. The Chairperson shall have the authority to issue ROE's for uses that are:
 - 1) On encumbered State land to DOBOR;
 - 2) Any length in duration;
 - 3) Address an emergency situation; or
 - 4) Otherwise necessary to serve the best interests of the State.
 - b. The DOBOR Administrator shall have authority to issue ROE's permits for uses that are:
 - 1) Encumbered State land to DOBOR;
 - 2) Do not involve a land use in the Conservation District;***
 - 3) No more than one month in duration;
 - 4) Pose minimal liability to the State; and
 - 5) Have minimal impact on resources and on public access and enjoyment of public lands.
 - c. Authority to issue temporary use permits shall be delegated to the DOBOR Property Management Section and District Managers for uses that are:
 - 1) On encumbered State lands to DOBOR; and
 - 2) No more than one week in duration; and
 - 3) Pose minimal liability to the State; and
 - 4) Have minimal impact on resources and on public access and enjoyment of public lands.

2. Establish the rent for ROE's at \$0.25 per square foot per day with a minimum of \$100.00, provided that the rent may be waived for:
 - a. Any government-related project;
 - b. Uses where no entity involved in the use intends to profit monetarily; or

Respectfully submitted,



Edward R. Underwood
Administrator

APPROVED FOR SUBMITTAL:



William J. Aila, Jr.
Chairperson

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Boating and Ocean Recreation
Honolulu, Hawaii 96813

APPENDIX B

September 23, 2022

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

Land Board Members:

SUBJECT: Reissuance of Revocable Permit No. 121 to Kaneohe Yacht Club to for the Purpose of Clarifying Recreational Boat Pier Ownership Upon Termination, Kaneohe Bay, Kaneohe, Koolaupoko, Oahu, Seaward of Tax Map Key: (1) 4-4-022:032

And

Request Authorization to Enter into a Memorandum of Agreement with Kaneohe Yacht Club for an Access Easement Through Tax Map Key: (1) 4-4-022:032

And

Declare the Project Exempt from Requirements of Chapter 343, Hawaii Revised Statutes and Title 11, Chapter 200.1, Hawaii Administrative Rules

APPLICANT:

Kaneohe Yacht Club ("KYC"), a Domestic Nonprofit Corporation, whose mailing address is 44-503 Kaneohe Bay Dr., Kaneohe, Hawaii 96744

LEGAL REFERENCE:

HRS §171-13 and 55, Hawaii Revised Statutes, as amended.

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Boating and Ocean Recreation
Honolulu, Hawaii 96813

September 23, 2022

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

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Declare the Project Exempt from Requirements of Chapter 343,
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Administrative Rules

APPLICANT:

Kaneohe Yacht Club ("KYC"), a Domestic Nonprofit Corporation, whose mailing address
is 44-503 Kaneohe Bay Dr., Kaneohe, Hawaii 96744

LEGAL REFERENCE:

HRS §171-13 and 55, Hawaii Revised Statutes, as amended.

LOCATION:

A portion of Government submerged lands situated in Kaneohe Bay, Kaneohe, Island of Oahu, Seaward of Tax Map Key: (1) 4-4-022:032, hereinafter referred to as the "Premises" as shown on the maps labeled **Exhibits A-1, A-2 and A-3** and attached hereto.

AREA:

Approximately 6.5 Acres or 283,140 square feet, more or less, of submerged lands as depicted on **Exhibit A-3**.

ZONING:

State Land Use District: Conservation
City & County of Honolulu LUO: Conservation

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act YES
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

Encumbered by Revocable Permit No. 121, to Kaneohe Yacht Club.

CHARACTER OF USE:

Recreational boat pier purposes, no liveboards allowed.

COMMENCEMENT DATE:

July 1, 2022

MONTHLY RENTAL:

The greater of one thousand thirty and no/100 dollars (\$1,030.00) per month, or ten percent (10%) of gross receipts, whichever is greater. The minimum monthly rent shall be payable in advance by the first of each and every month. Gross receipt reports and any associated increased payments shall be due and payable ten (10) calendar days after the end of the preceding month.

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

HRS CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Section 11-200.1-15, Hawaii Administrative Rules (HAR) and the Exemption List for the Department of Land and Natural Resources, reviewed and concurred 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 1, "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving minor expansion or minor change of use beyond that previously existing," Item No. 44, which states, "Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing."

DCCA VERIFICATION:

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

JUSTIFICATION FOR REVOCABLE PERMIT:

The revocable permit is temporary in nature. Staff anticipates the sale of a lease, for the submerged lands, at public auction, to take place in the current calendar year.

REMARKS:

At its meeting on January 11, 2019, under agenda item D-7, the Board approved the change in the monthly rental, effective March 1, 2019, to \$1,000/mo. or 10% of gross revenues, whichever is greater. The Board also recommended that Land Division transfer the revocable permit to the Division of Boating and Ocean Recreation ("DOBOR"). At its meeting on July 26, 2019, under agenda Item D-6, the Board approved Set-Aside to DOBOR, issuance of a Management Right of Entry and transfer of Revocable Permit No. S-5407 to DOBOR.

At its meeting on December 13, 2019, under agenda item J-4, the Board approved the Continuation of the revocable permit from January 1, 2020, through June 30, 2020.

At its meeting on June 26, 2020, under agenda item J-1, the Board approved the Continuation of the revocable permit from July 1, 2020, through June 30, 2021.

At its meeting on June 25, 2021, under agenda item J-2, the Board approved the Continuation of Revocable Permit No. S-5407 from July 1, 2021, through June 30, 2022. Staff subsequently requested the most current version of the revocable permit from the Department of the Attorney General to ensure that it included the most up-to-date environmental language. Revocable Permit No. 121 was executed November 1, 2021.

At its meeting on June 24, 2022, under agenda item J-1, the Board approved the Continuation of the revocable permit from July 1, 2022, through June 30, 2023.

Kaneohe Yacht Club constructed the recreational boat piers (“improvements”) currently situated on the premises and has the right, under Revocable Permit No. 121, to remove the improvements from the premises **prior** to the termination of the revocable permit. In the event KYC fails to remove the improvements and the Board elects to retain them, then under the terms of the revocable permit, ownership of the piers will transfer to the state. The Department of the Attorney General has advised that if the permittee is the successful bidder at the upcoming public auction and wishes to retain ownership of the improvements, it must remove them prior to the termination of its permit because if left in place, the improvements will become the property of the state. Staff views this scenario as inequitable.

Staff is therefore requesting the Board’s authorization to revise the existing revocable permit to state that in the event the permittee is the successful bidder at public auction, and becomes the lessee, Kaneohe Yacht Club will own the improvements for the lease term and any extension of the lease.

Furthermore, staff would like to address the possible scenario that if the permittee is not the successful bidder by adding language to the reissued revocable permit that the permittee has the option to: 1) sell the improvements to the successful bidder at the appraised fair market value prior to the start of the new lease; 2) remove the improvements to the satisfaction of the state within six (6) months of termination of the revocable permit and conduct a Phase I environmental site assessment of the Premises; or 3) do nothing and have the improvements become the property of the state.

The Department of the Attorney General has also advised staff that the state requires access to the subject submerged lands for routine site inspections. Staff worked with its Deputy AG to draft a Memorandum of Agreement (“MOA”) to allow staff to enter and cross Kaneohe Yacht Club’s adjacent fast lands (TMK: (1) 4-4-022:032) for the purpose of performing any public or official duties or permitted lease purposes (**Exhibit B**). Kaneohe Yacht Club has indicated to staff that it has no objection to signing the MOA. Staff requests the Board’s authorization for the Chairperson to enter the MOA on behalf of the Board of Land and Natural Resources with Kaneohe Yacht Club.

Kaneohe Yacht Club has not had a lease, easement, or other disposition of state lands terminated within the last five years due to non-compliance with such terms and conditions.

RECOMMENDATION:

That the Board of Land and Natural Resources:

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.
2. Authorize the Chair to enter into a Memorandum of Agreement with Kaneohe Yacht Club for an access easement through their adjacent fast lands, identified as Tax Map Key: (1) 4-4-022:032, for maintenance and management purposes.
3. Authorize the reissuance of revocable permit 121 to Kaneohe Yacht Club, as of July 1, 2022, covering the subject area for recreational boat pier purposes, under the terms and conditions cited above, specifically stating that, in the event the permittee is the successful bidder at public auction and becomes the lessee, Kaneohe Yacht Club will own the improvements for the lease term and any extension of the lease. In the event the permittee is not the successful bidder, the permittee shall have the option to: 1) sell the improvements to the successful bidder at the appraised fair market value; 2) remove the improvements to the satisfaction of the state within six (6) months of termination of the revocable permit and conduct a Phase I environmental site assessment of the Premises; or 3) do nothing and have the improvements become the property of the state, at which time the state shall have the option of keeping the improvements or requiring the permittee to remove the improvements and conducting the Phase I at no cost to the state.
 - a. The standard terms and conditions of the most current revocable permit 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,



EDWARD R. UNDERWOOD, Administrator
Division of Boating and Ocean Recreation

APPROVED FOR SUBMITTAL:

Suzanne D. Case

SUZANNE D. CASE, Chairperson
Board of Land and Natural Resources

Attachment:

- A-1 Location of Kaneohe Bay on Island of Oahu Map
- A-2 Aerial Map of Kaneohe Bay
- A-3 Aerial Map of KYC's location in Kaneohe Bay
- B Memorandum of Agreement

**Kaneohe Yacht Club
Island of Oahu**

Exhibit A-1

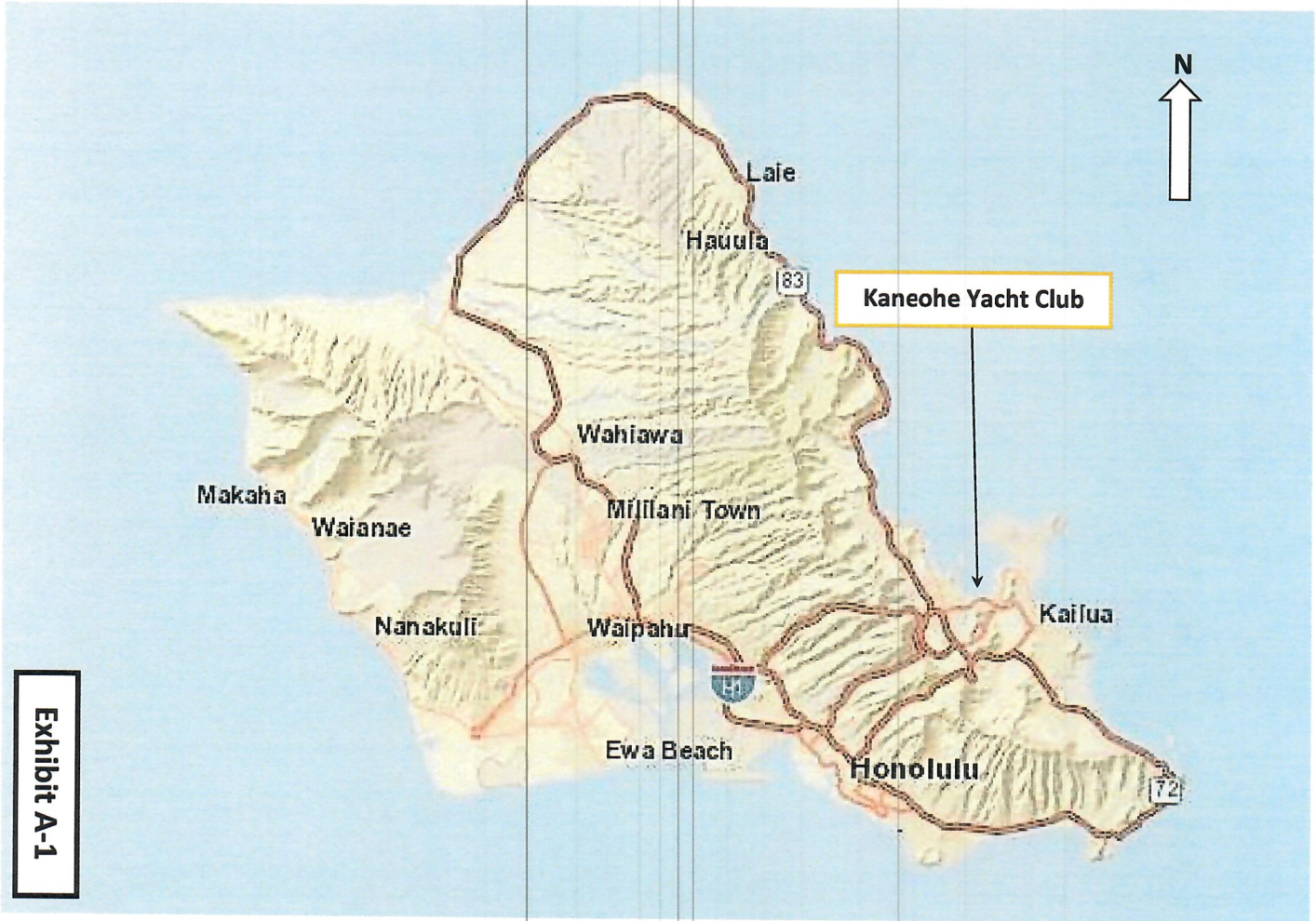


Exhibit A-1

Exhibit A-1

Kaneohe Bay

Exhibit A-2

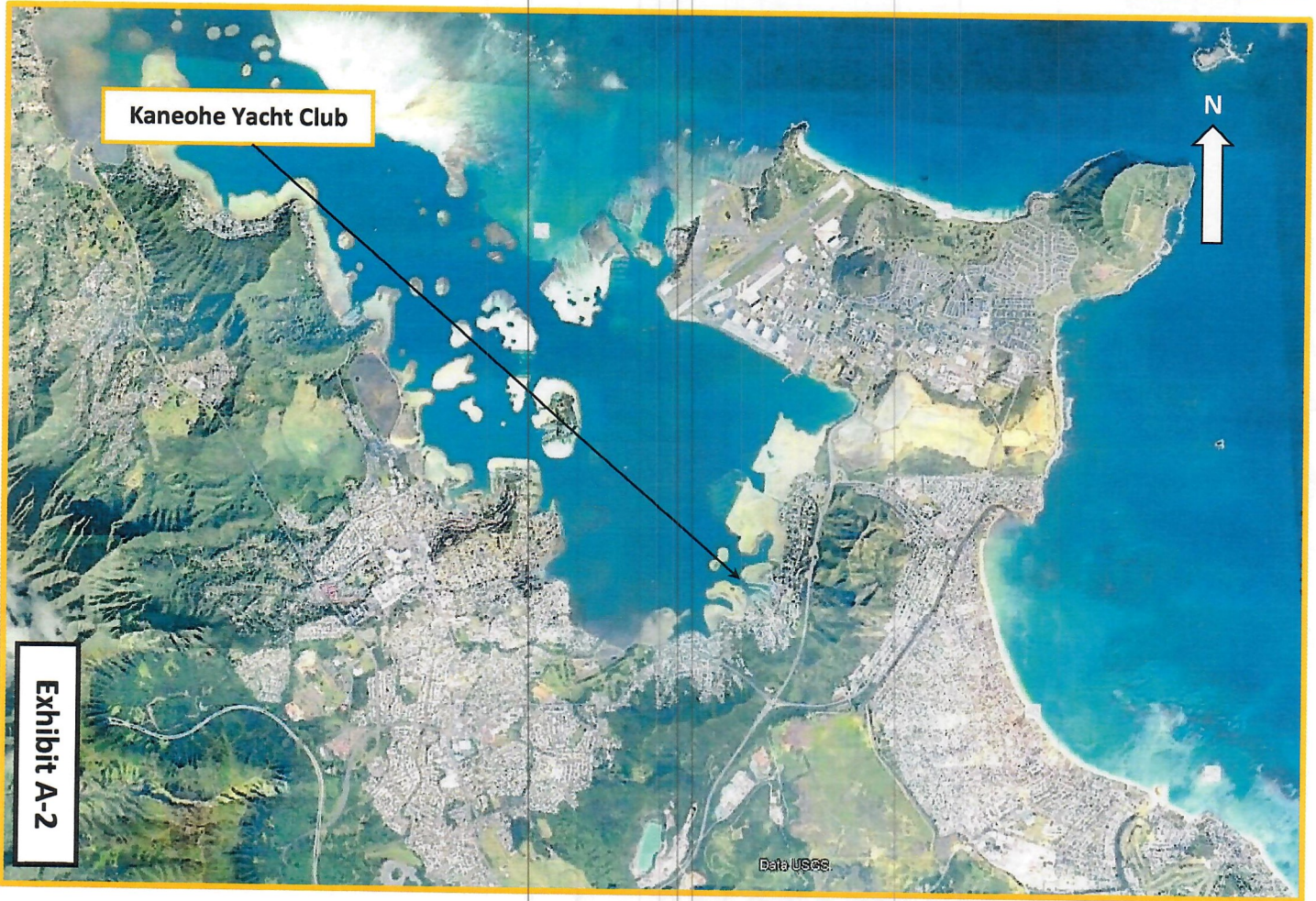


Exhibit A-2

Exhibit A-2

Kaneohe Bay

Exhibit A-3

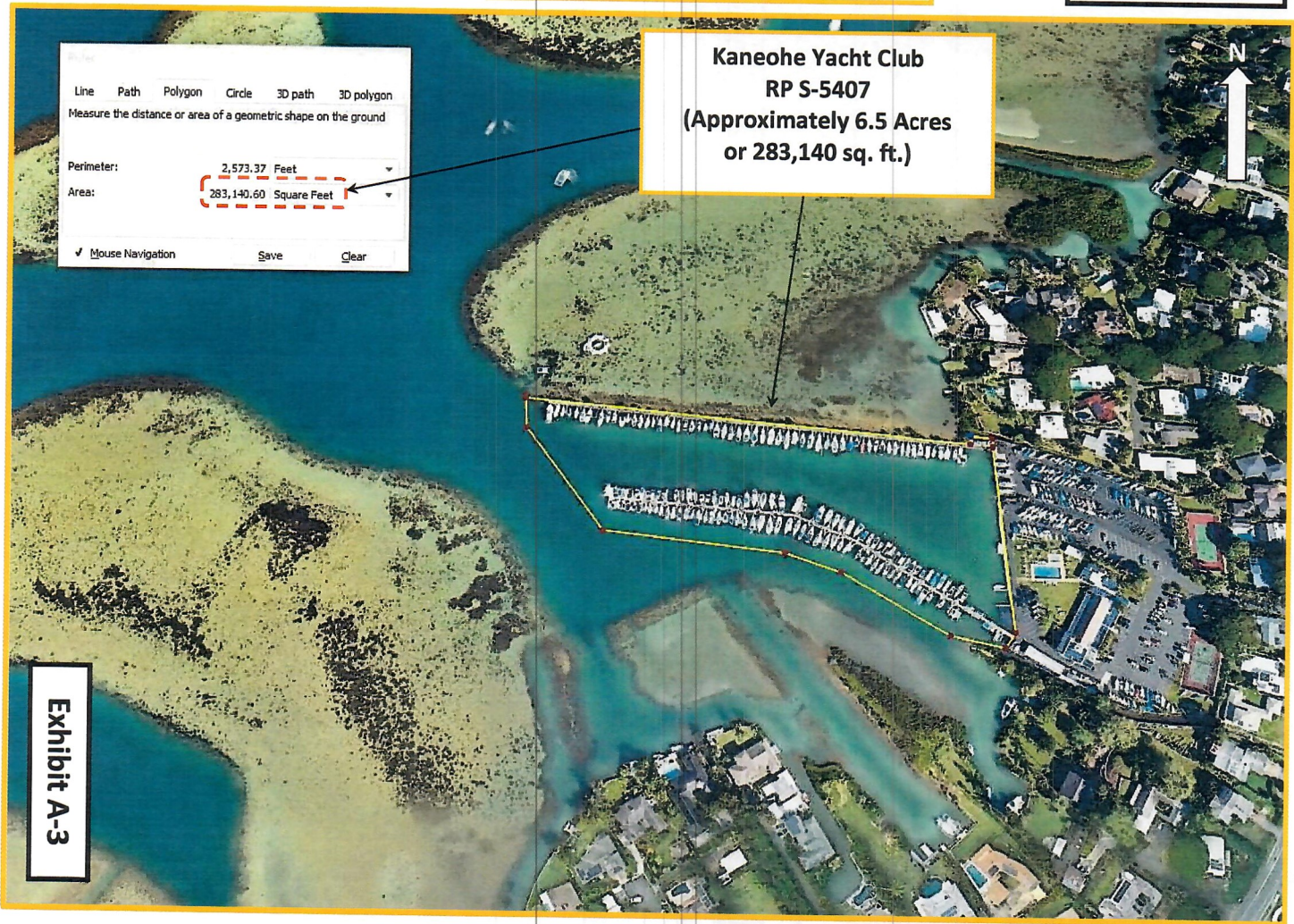


EXHIBIT B

MEMORANDUM OF AGREEMENT
BETWEEN
KANEHOE YACHT CLUB, A HAWAII NONPROFIT CORPORATION
AND
THE STATE OF HAWAII, BY ITS BOARD OF LAND AND NATURAL RESOURCES
FOR THE DIVISION OF BOATING AND OCEAN RECREATION
FOR
DEPARTMENT OF LAND AND NATURAL RESOURCES ACCESS THROUGH
PREMISES (TAX MAP KEY: (1) 4-4-022:032)
TO THE SUBMERGED LANDS
SEAWARD OF TAX MAP KEY: (1) 4-4-022:032

This Memorandum of Agreement (MOA) is made and entered into on this _____ day of _____ 2022, by and between KANEHOE YACHT CLUB, a Hawaii nonprofit corporation, whose address is 44-503 Kaneohe Bay Drive, Hawaii 96744, hereinafter referred to as ("KYC") and the STATE OF HAWAII, by its BOARD OF LAND AND NATURAL RESOURCES, whose address is 1151 Punchbowl Street, Honolulu, Hawaii 96813, hereinafter referred to as ("BLNR"), for the DIVISION OF BOATING AND OCEAN RECREATION, whose address is 4 Sand Island Access Road, Honolulu Hawaii 96819, hereinafter referred to as ("DLNR").

RECITALS

WHEREAS, KYC owns the fee simple title to the real property located at 44-503 Kaneohe Bay Drive, Kaneohe, Hawaii 96744, further identified as tax map key (1) 4-4-022:032 acquired by that certain Deed dated November 9, 1978, recorded in the State of Hawaii, Bureau of Conveyances in Book 13309, Page 478, and by that certain Deed dated September 11, 1985, recorded aforesaid in Book 18942, Page 116, as shown on map attached hereto and made a part hereof ("Premises");

WHEREAS, the Kaneohe Bay submerged lands located in Kaneohe on the Island of Oahu, Hawaii, seaward of Tax Map Key (1) 4-4-022:032 (Submerged Lands) are owned by the State of Hawaii and under the management and authority of DLNR by Executive Order No. 4664;

WHEREAS, the State of Hawaii by its Board of Land and Natural Resources has issued Revocable Permit #121 ("RP") to KYC to occupy and use the adjacent Submerged Lands for recreational boat pier purposes;

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WHEREAS, DLNR intends to lease at public auction Submerged Lands for a term of fifty-five (55) years ("Lease"); and

WHEREAS, this MOA will provide DLNR access to the Submerged Lands from the Premises for the duration of the RP and any subsequently issued Lease.

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, it is mutually agreed that both parties hereto will adhere to the following duties and obligations:

KYC shall:

Allow the DLNR, its agents or representatives, to enter and cross the Premises for the purpose of performing any public or official duties or permitted Lease purpose, with respect to the Submerged Lands. DLNR shall provide KYC with reasonable notice of its intent to enter and cross the Premises.

DLNR's Responsibilities:

The DLNR shall be responsible for injury caused by the DLNR's officers and employees in the course and scope of their employment to the extent that the DLNR's liability for such damage or injury has been determined by a court or otherwise agreed to by the DLNR. The DLNR shall pay for such damage and injury to the extent permitted by law provided that an appropriation is enacted for that purpose.

The DLNR shall not be liable or responsible for any loss or damage sustained by KYC or anyone claiming by, through or under KYC by reason of the act or omission of any lessee, tenant, licensee or other occupant of the surrounding lands of KYC.

The DLNR's financial obligation and commitment to make payments or reimbursements of any kind under this MOA 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.

Nonsubstantive amendments or amendments. Nonsubstantive amendments or amendments for management efficiencies may be made by mutual agreement of the parties and be executed by a written supplement approved by the BLNR Chairperson and KYC and attached hereto and made a part hereof.

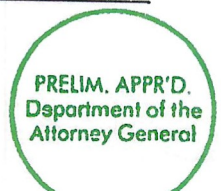
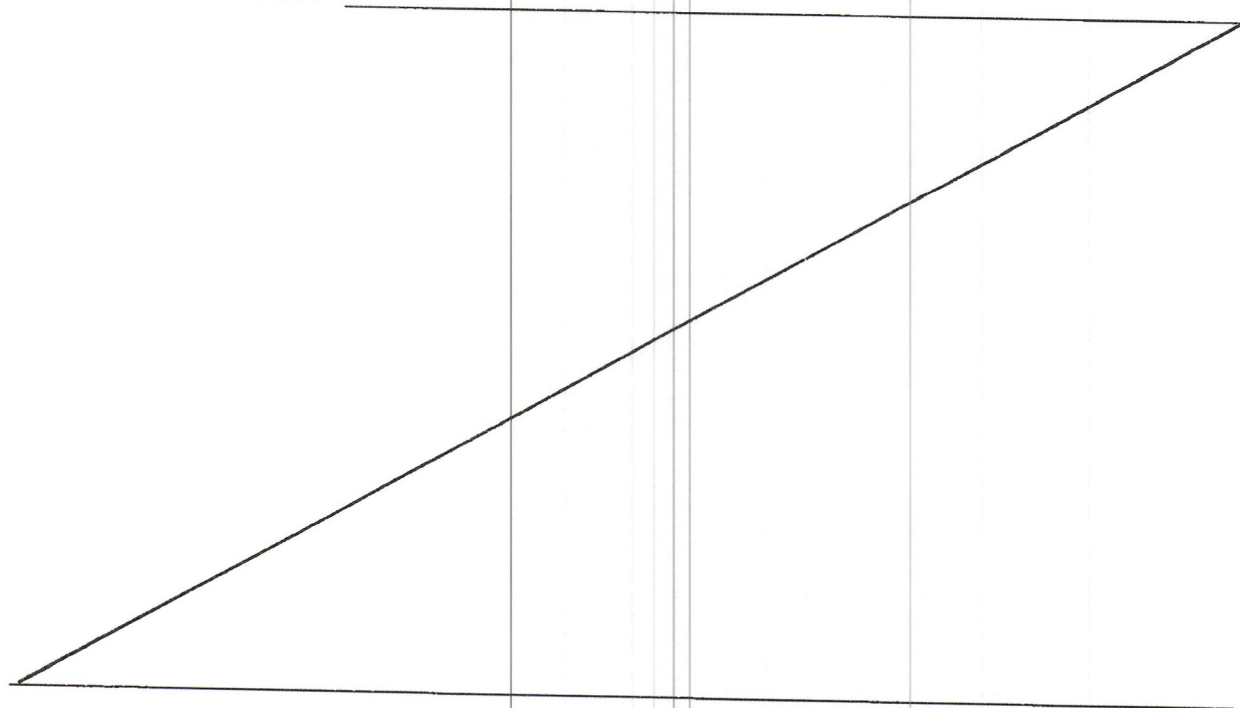
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Term. This MOA shall be coterminous with the revocable permit or Lease.

Termination. This MOA may not be terminated by KYC prior to the expiration of the term of the Lease, for any reason. KYC desires to further the DLNR interest in providing and facilitating DLNR access to the Submerged Lands through the Premises. DLNR shall have the right and option, for a period of twelve (12) months upon termination of the MOA, to enter the Premises to access the Submerged Lands.

KYC's Authority. KYC affirms that it has the full right, title, power, and legal authority to sign this MOA to affect the Premises in the capacities as shown and executed and as notarized.

Counterparts. The parties hereto agree that this instrument may be executed in counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one and the same agreement, binding all of the parties hereto, notwithstanding all of the parties are not signatory to the original or the same counterparts. For all purposes, including, without limitation, recordation, filing and delivery of this instrument, duplicate unexecuted and unacknowledged pages of the counterparts may be discarded and the remaining pages assembled as one document.



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IN WITNESS WHEREOF, KYC and 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 the parties hereto have executed this MOA as of the date first above written.

STATE OF HAWAII

Approved by the Board of Land and Natural Resources at its meeting held on _____.

By _____
SUZANNE D. CASE
Chairperson
Board of Land
and Natural Resources

DLNR

APPROVED AS TO FORM:

JULIE H. CHINA
Deputy Attorney General

Dated: _____

KANEOHE YACHT CLUB, a Hawaii
non-profit corporation

By _____
Its _____

By _____
Its _____

KYC



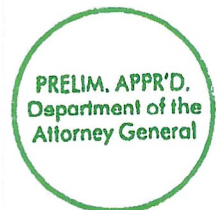
MOA - Kaneohe Yacht Club Access Easement

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this _____ day of _____, 20____,
before me personally appeared _____,
to me personally known, who, being by me duly sworn or affirmed,
did say that such person executed the foregoing instrument as
the free act and deed of such person, and if applicable in the
capacity shown, having been duly authorized to execute such
instrument in such capacity.

Notary Public, State of Hawaii

My commission expires: _____



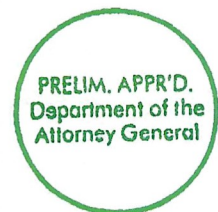
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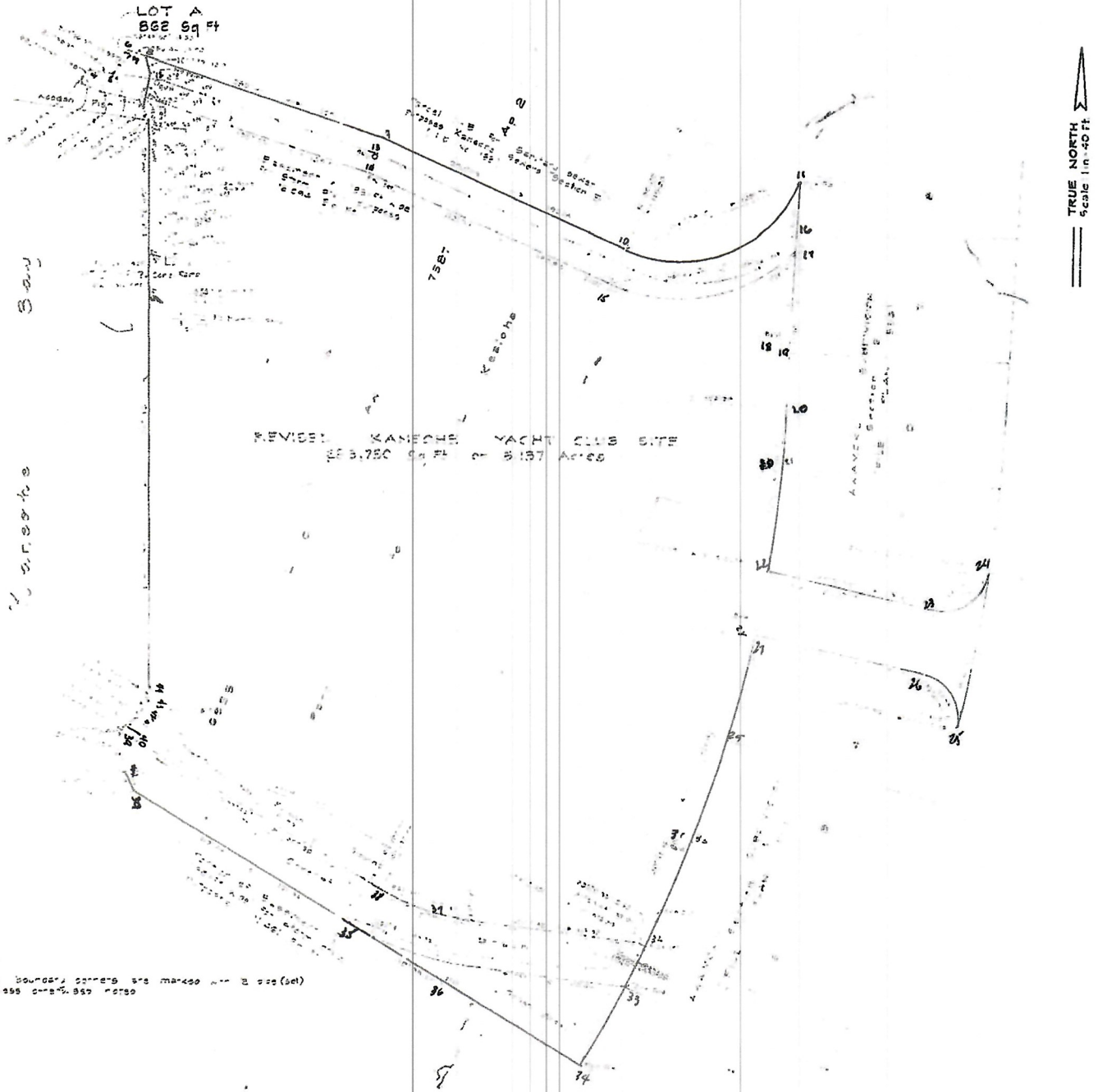
My commission expires: _____



MOA - Kaneohe Yacht Club Access Easement

ATTACHMENT

LOCATION OF PREMISES FOR DLNR ACCESS TO SUBMERGED LANDS
FOR
MEMORANDUM OF AGREEMENT ("MOA")



NOTE
A. Boundary corners are marked with 2 inch (set)
cross hairs/flag notes

PRELIM. APPR'D.
Department of the
Attorney General



Blue Water Shrimp International LLC (Blue Water Shrimp) has 2 locations at Ala Wai Harbor.

BWSI has 2 trucks approximately at the Gateway to Waikiki located next to the Prince Hotel.

The Gateway location was a vacant dirt lot, with occasional tour boats that dock at the adjacent piers. It's clientele is a mix of foot traffic, condo residents, and locals that are limited to parking that requires walking from distant parking.

Approximately 2,500 ft. (or 1/2 mile) Diamond Head, BWSI has a single truck near the Hilton Lagoon.

The Lagoon has the advantage of an abundance of clientele, tourists and locals, beautiful amenities, and free parking.





Lagoon Amenities



Gateway Amenities

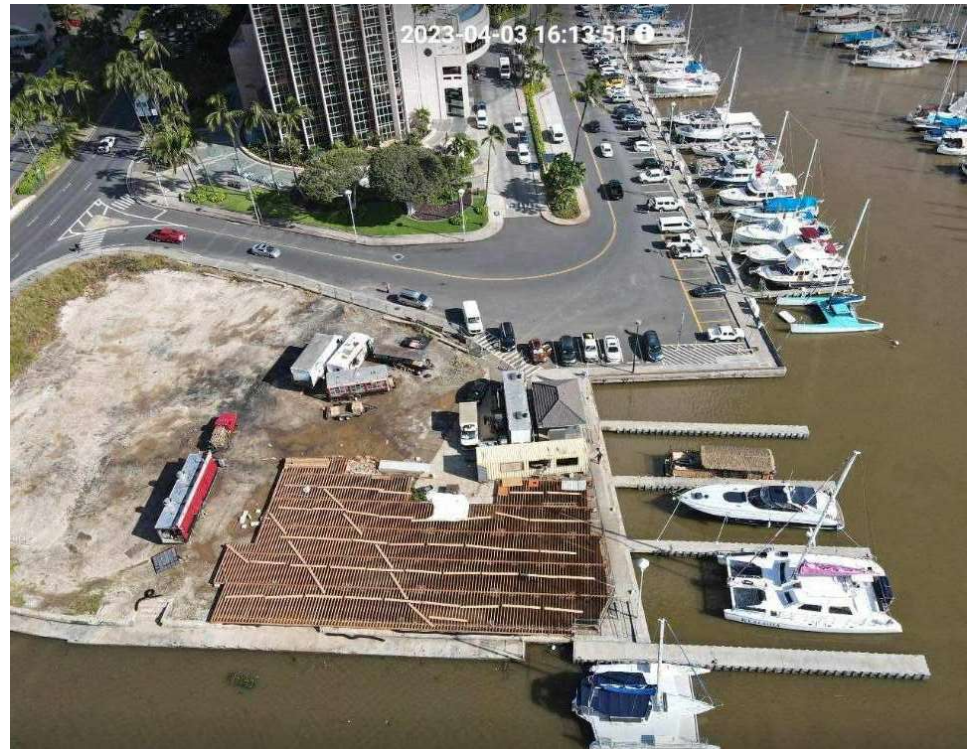


Food Truck



RP Area

Unlike the Lagoon location, the Gateway started with a vacant dirt lot, that was initially filled with construction debris.



After construction debris was removed (by the state) BWSI invested heavily in developing the lot to be more attractive to potential clientele.



Ukelele Tuesdays



Hawaiian Music and Dancing

After several months of development, without generating any revenue, the property was transformed into a more attractive setting.



Cultural and environmental impact is also a part of our mission. We've sponsored cultural outreach and harbor cleaning initiatives.



**Parents And
Children Together**

**BUILDING THE
RELATIONSHIPS
THAT MATTER MOST**

March 31, 2023

Mr. Mark Evenson
Blue Water Shrimp International LLC
DBA Pau Hana Place Waikiki

Dear Mr. Evenson,

I am writing to express our deepest gratitude for your support and partnership in the Water Warriors Pilot Project. Thanks to your generosity and leadership, 11 of 12 youth completed the project, investing 231 hours in harbor clean up and made 1000 Genki Balls with the Genki Ala Wai Project.

The TRY Center's mission is to provide evidence-based prevention and intervention services for youth living in high-risk communities in Kalihi and Halawa. We are grateful for your support in providing opportunities for them to build positive peer and adult relationships, learn new skills, and participate in positive, supervised activities that prevent their participation in risky behaviors.

The Water Warrior Pilot Project (WWPP) was an outstanding success, focusing on cleaning trash from the Ala Wai Boat Harbor for eight consecutive Wednesdays in the months of February - March of 2023. We are grateful for our partnership with the Jr. Masters Swim Program, who provided volunteer lifeguards as well as water safety instructions for our youth prior to the launch of the WWPP.

The youth have expressed their gratitude for this project which allowed them to be engaged and contributing members of our community, and are particularly grateful for the opportunity to have gained competence, experience, and the opportunity to earn a meaningful stipend. We are proud of their accomplishments and the positive impact they have had on our community.

Once again, thank you for your support of the WWPP of PACT. We look forward to continued collaboration in our mission to create safe and promising futures for Hawaii's children, individuals, and families.

Sincerely,



JoYi K. Rhyss
Program Director, Youth Programs

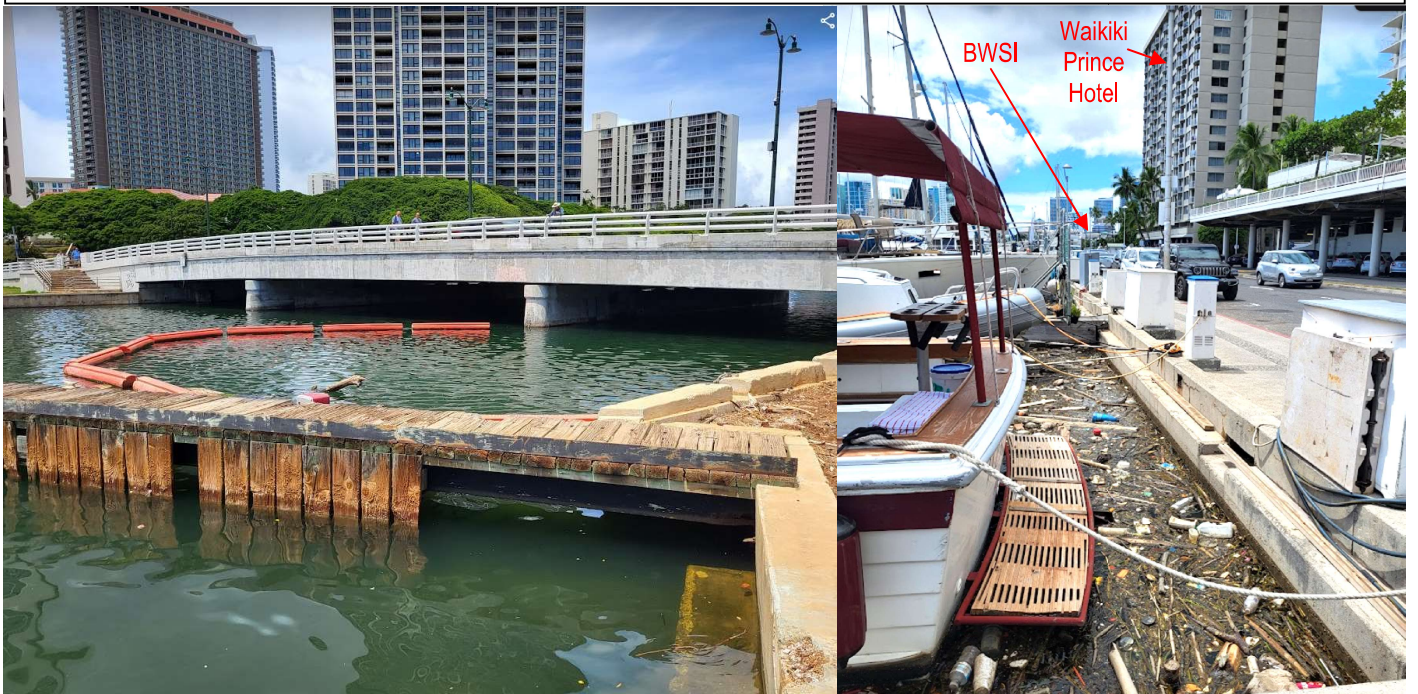
1485 Linapuni Street, Suite 105
Honolulu, Hawaii 96819

OFFICE (808) 847-3285
FAX (808) 841-1485
EMAIL admin@pacthawaii.org

ParentsAndChildrenTogether.org



Parking is needed to make this venture viable. We're currently losing approximately \$10,000 every month. A public private partnership maintenance agreement can be a win-win situation for BWSI and the state. BWSI would maintain the debris boom, the vacant lot, and clean and disposal of neighboring slip debris. It is our hope that free parking, maintained at our expense, could have a positive impact on our business.





An access way is currently needed for Ala Wai Canal debris boom maintenance contractors. We believe that this burden limits the potential of this area. Our proposal would lift this burden from the state, would make this area available for parking, and other uses; and has the potential of increasing our chances of success.