

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Division of Boating and Ocean Recreation  
Honolulu, Hawaii 96819

June 13, 2025

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

Land Board Members:

**SUBJECT:** Issuance of an Eleemosynary Lease by Direct Negotiation to E Ala Voyaging Academy, a certified tax exempt 501(c)(3) organization, for Storing and Maintaining the Voyaging Canoe E Ala as well as Engaging in Educational Activities that include Polynesian Navigation and Hawaiian Cultural Practices; in Waianae Small Boat Harbor, Waianae-Kai, Waianae, Oahu, Hawaii, Tax Map Key: (1) 8-5-002: portion of 044; and

Declare the Project Exempt from Preparation of an Environmental Assessment under Chapter 343, Hawaii Revised Statutes and Title 11, Chapter 200.1, Hawaii Administrative Rules.

**APPLICANT:**

E Ala Voyaging Academy, a Hawaii non-profit corporation and 501(c)(3) organization. Copy of IRS Determination Letter as attached as **Exhibit A**.<sup>1</sup>

**LEGAL REFERENCE:**

Sections §171-6 and -43.1, Hawaii Revised Statutes ("HRS"), as amended.

**LOCATION:**

Portion of Government lands situated at Waianae Small Boat Harbor, Oahu, Hawaii, Tax Map Key: (1) 8-5-002: portion of 044 hereinafter referred to as the "Premises" as shown on the maps labeled **Exhibit B-1 thru B-3** and attached hereto.

**AREA:**

7,937 square feet, more or less.

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<sup>1</sup> Determination Letter dated February 24, 2014 currently found on IRS website.  
<https://apps.irs.gov/app/eos/>

ZONING:

State Land Use District: Urban  
City and County of Honolulu: P-1 Restricted Preservation District, P-2 General  
Preservation District, R-5 Residential District

TRUST LAND STATUS:

Section 5(b) lands of the Hawai'i Admission Act  
DHHL 30% entitlement lands pursuant to the Hawai'i State Constitution: No

CURRENT USE STATUS:

General Lease No. 0001 issued to E Ala Voyaging Academy for storing and maintaining the voyaging canoe E Ala as well as engaging in educational activities that include Polynesian navigation and Hawaiian cultural practices.

CHARACTER OF USE:

Storing and maintaining the voyaging canoe E Ala as well as engaging in educational activities that include Polynesian navigation and Hawaiian cultural practices.

LEASE TERM:

Twenty (20) years.

COMMENCEMENT DATE:

September 1, 2026.

MONTHLY RENTAL:

One Hundred and No/100 Dollars (\$100.00) per month.

METHOD OF PAYMENT:

Due monthly.

SECURITY DEPOSIT:

Twice the monthly rent.

RENTAL REOPENINGS:

Not applicable.

PERFORMANCE BOND:

Not applicable.

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," Part 1, Item No. 45, which states, "Use of lands and waters by those exercising traditional and customary practices for minor non-commercial purposes pr for gaining the traditional ecological knowledge."

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

APPLICANT REQUIREMENTS:

None.

BACKGROUND:

E Ala Voyaging Academy ("the Academy") originated from the efforts of the Wai'anae Hawaiian Civic Club in 1981, inspired by the Hōkūle'a's groundbreaking voyages to Tahiti using traditional, non-instrument navigation. The organization evolved into a Native Hawaiian 501(c)(3) nonprofit in 2014, serving the Wai'anae community and the broader Hawai'i region. Its core mission is to preserve and revitalize traditional Hawaiian voyaging practices through contemporary applications, empowering the community through cultural education and fostering kuleana (responsibility) to the 'āina (land) and kai (sea). E Ala Voyaging Academy's vision is rooted in perpetuating the knowledge of our kupuna (ancestors) to ensure a sustainable future.

Central to the Academy's work is "E ALA", a 45-foot double-hulled canoe built in 1981 and launched from Pōka'i Bay, Wai'anae, in 1982. The Wai'anae Hālau Wa'a (canoe house) was constructed in 2015 at a total cost of \$700,000—funded by a \$500,000 appropriation from the Hawai'i State Legislature and \$200,000 from the Boating Special Fund to support the Academy's restoration and educational efforts.

That same year, the E Ala Voyaging Academy requested a direct lease for approximately 9,920 square feet of land, underlying the Hālau Wa'a. Lease rates are typically established via appraisal or public auction; however, in this case, the Division applies a

baseline rate of \$0.25 per square foot, resulting in a proposed monthly rent of \$2,480. Alternatively, amortizing the \$700,000 construction cost over 30 years at a 3.9% interest rate would yield monthly payments of approximately \$3,310. As a nonprofit, the Academy expressed that it could not afford market rent and formally requested a reduced lease rate.

At its meeting on September 25, 2015, under agenda item J-2, the Board of Land and Natural Resources ("Board") authorized the issuance of a ten-year lease to E Ala Voyaging Academy with a monthly rental of \$100.<sup>2</sup> This lease permitted the premises be used for storing and maintaining the "E ALA" canoe and conducting educational programs focused on Polynesian navigation and Hawaiian cultural traditions

REMARKS:

In its current application, the E Ala Voyaging Academy has reiterated its inability to afford market-level rent and has formally requested a nominal rent due to its nonprofit status.

HRS §171-43.1, Lease to eleemosynary organizations, states that the Board may lease public lands at nominal consideration by direct negotiation—without public auction—to 501(c)(1) or 501(c)(3) organizations certified by the Internal Revenue Service. The statute requires that the lands be used in accordance with the organization's charter and tax-exempt purpose.

E Ala Voyaging Academy's determination letter is included as Exhibit A. The Academy's stated purpose is "To restore and maintain the E Ala, a double-hulled voyaging canoe in order to provide comprehensive Hawaiian voyaging canoe training and education to prepare students for open-ocean voyaging and to promote personal achievement, teamwork, and pride in the Hawaiian culture. Learning from the past to secure a better future," which is consistent with the proposed use of the land.

The Academy continues to utilize E Ala as an educational and cultural resource, engaging students and community members in Hawaiian and Polynesian maritime traditions. In response to past water damage sustained by the canoe, high school and college students participated in the restoration by rebuilding essential components.

To further its educational mission, the following activities are planned:

1. Placement of a donated storage container adjacent to the Hālau for secure storage of materials, tools, and equipment.
2. Supervised canoe restoration sessions involving high school students, college students, and adult volunteers.
3. Scheduled school group visits with instructional programming.

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<sup>2</sup> September 25, 2015, item J-2, Board of Land and Natural Resources submittal can be found at <https://files.hawaii.gov/dlnr/meeting/submittals/150925/J-2.pdf>

4. Regular staff and board meetings.
5. Fundraising events and community engagement meetings.
6. Organized sails utilizing the nearby harbor ramp in compliance with DOBOR regulations.

As a 501(c)(3) nonprofit, E Ala Voyaging Academy qualifies for direct lease negotiation under the statute. However, since §171-43.1 does not allow for lease extensions, staff recommends issuing a new twenty-year lease. This would provide E Ala Voyaging Academy with the stability needed for long-term planning and fundraising. The Board may also consider alternative lease terms if deemed appropriate.

E Ala Voyaging Academy has proposed a nominal lease rent of \$100 per month. Staff supports this request, contingent on the Academy assuming full responsibility for the maintenance of the Hālau Wa'a and the leased premises, including upkeep of submeters and payment of all utility services such as water and electricity.

E Ala Voyaging Academy has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions. There are no other pertinent issues or concerns, and staff recommends the Board authorize the requested amendment approve the request. There are no more pertinent issues or concerns. Staff recommends the Board issue a direct lease to the Applicant according to the terms and conditions 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. Authorize the issuance of a direct lease to E Ala Voyaging Academy covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
  - 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,



RH

MEGHAN L. STATTS, Administrator  
Division of Boating and Ocean Recreation

APPROVED FOR SUBMITTAL:



DAWN N.S. CHANG, Chairperson  
Board of Land and Natural Resources

Attachments:

- Exhibit A     IRS Determination Letter
- Exhibit B-1   Location on Oahu
- Exhibit B-2   Location within Waianae Small Boat Harbor
- Exhibit B-3   Image of the Hālau Wa'a
- Exhibit C     General Lease No. 0001

## EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200.1, HAR

Project Title:	<p>Issuance of a Direct Lease to E Ala Voyaging Academy for Storing and Maintaining the Voyaging Canoe E Ala as well as Engaging in Educational Activities that include Polynesian Navigation and Hawaiian Cultural Practices; Waianae Small Boat Harbor, Waianae-Kai, Waianae, Oahu, Hawaii, Tax Map Key: (1) 8-5-002: portion of 044; And</p> <p>Declare the Project Exempt from Requirements of Chapter 343, Hawaii Revised Statutes and Title 11, Chapter 200.1, Hawaii Administrative Rules.</p>
Project / Reference No.:	None
Project Location:	Waianae Small Boat Harbor, Waianae-Kai, Waianae, Oahu, Hawaii, Tax Map Key: (1) 8-5-002: portion of 044
Project Description:	Issuance of a Direct Lease to E Ala Voyaging Academy for Storing and Maintaining the Voyaging Canoe E Ala as well as Engaging in Educational Activities that include Polynesian Navigation and Hawaiian Cultural Practices.
Chap. 343 Trigger(s):	Use of State lands
Exemption Class No(s):	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," Part 1, Item No. 40, which states, "Leases of state land involving negligible or no expansion or change of use beyond that previously existing."
Cumulative Impact of Planned Successive Actions in Same Place Significant?	Activities in the subject area have resulted in no known significant impact to the natural and environmental resources in the area.
Action May have Significant Impact on Particularly Sensitive Environment?	The requested area is a portion of the Waianae Small Boat Harbor that is visited by the community, tourists, and commercial operators and is impacted by human activity. Staff believes there would be no significant impact to sensitive environmental or ecological receptors.
Analysis:	Based on the above mentioned, staff believes there would be no significant impact to the environment.
Consulted Parties:	None
Declaration:	The Board find that this project will probably have minimal or no significant effect on the environment and declares that this project is exempt from the preparation of an environmental assessment.

## Exhibit A

INTERNAL REVENUE SERVICE  
P. O. BOX 2508  
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: **FEB 24 2014**

E ALA VOYAGING ACADEMY  
85-979 FARRINGTON HWY STE C  
WAIANAE, HI 96792

Employer Identification Number:  
47-1801165  
DLN:  
17053316345004  
Contact Person:  
JOSEPH R HERR ID# 31128  
Contact Telephone Number:  
(877) 829-5500  
Accounting Period Ending:  
December 31  
Public Charity Status:  
170(b)(1)(A)(vi)  
Form 990 Required:  
Yes  
Effective Date of Exemption:  
September 10, 2014  
Contribution Deductibility:  
Yes  
Addendum Applies:  
No

Dear Applicant:

We are pleased to inform you that upon review of your application for tax exempt status we have determined that you are exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code. Contributions to you are deductible under section 170 of the Code. You are also qualified to receive tax deductible bequests, devises, transfers or gifts under section 2055, 2106 or 2522 of the Code. Because this letter could help resolve any questions regarding your exempt status, you should keep it in your permanent records.

Organizations exempt under section 501(c)(3) of the Code are further classified as either public charities or private foundations. We determined that you are a public charity under the Code section(s) listed in the heading of this letter.

For important information about your responsibilities as a tax-exempt organization, go to [www.irs.gov/charities](http://www.irs.gov/charities). Enter "4221-PC" in the search bar to view Publication 4221-PC, Compliance Guide for 501(c)(3) Public Charities, which describes your recordkeeping, reporting, and disclosure requirements.

Sincerely,



Director, Exempt Organizations

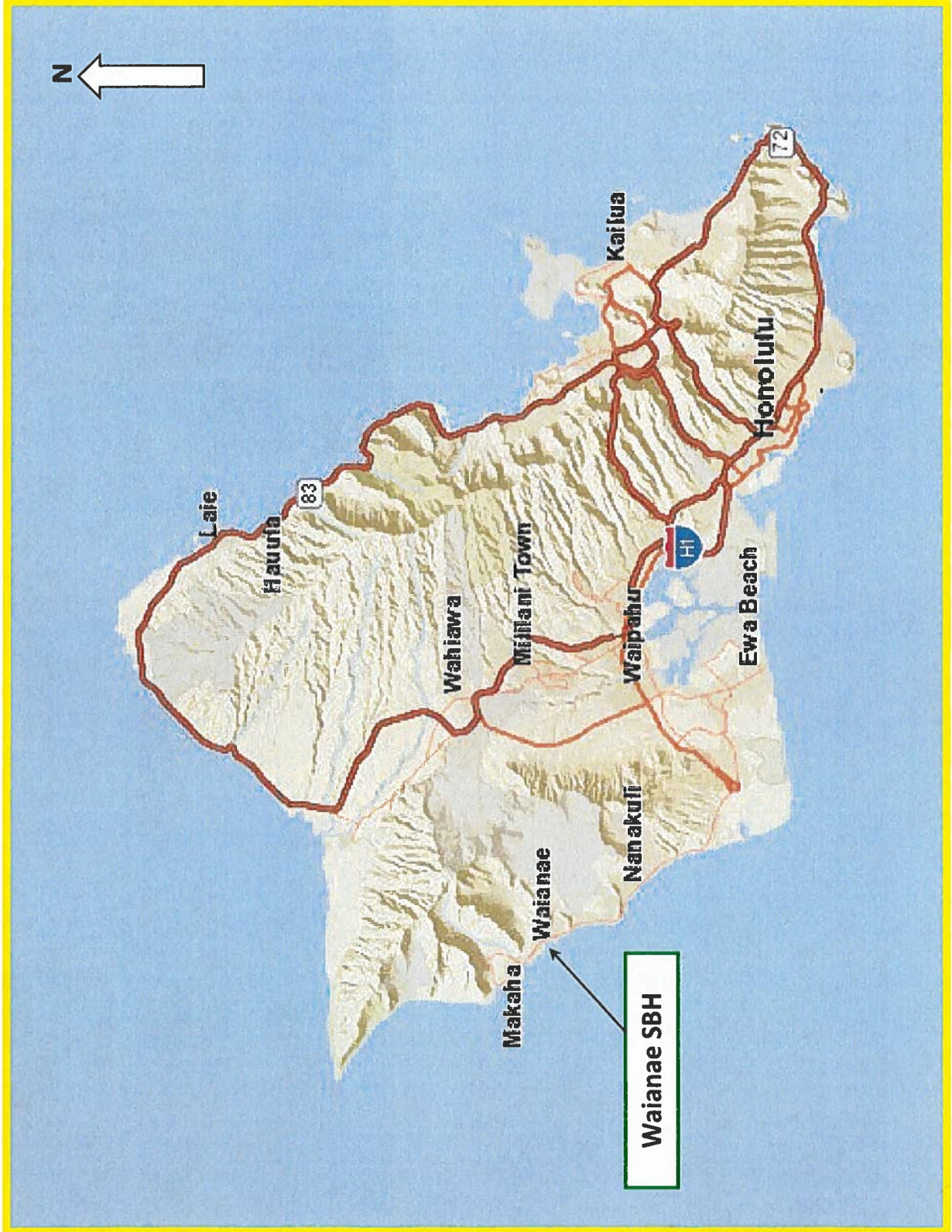
Letter 947

JRH 1/24/15



# OAHU

Location on Oahu





**Exhibit B-2**

**Waianae Small Boat Harbor**



**Exhibit B-2**



**Exhibit B-3**

**Waianae Small Boat Harbor**



**Exhibit B-3**

## Exhibit C

[illegible]

Total Number of Pages:  
Tax Map Key No. (1) 8-5-002:Portion of 044

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

GL0001

between

STATE OF HAWAII

and

E ALA VOYAGING ACADEMY, a Hawaii nonprofit corporation  
situate at Waianae-Kai, Waianae, Oahu, Hawaii  
containing an area of 7937 square feet



## TABLE OF CONTENTS

	<u>Page</u>
TERM OF LEASE .....	1
ANNUAL RENTAL .....	1
INTEREST RATE/SERVICE CHARGE .....	1
RESERVATIONS:	
1. Minerals and waters .....	2
2. Ownership of improvements .....	2
AGREEMENTS AND COVENANTS BETWEEN PARTIES:	
1. Payment of rent .....	3
2. Taxes, assessments, etc.....	3
3. Utility services .....	3
4. Covenant against discrimination .....	3
5. Sanitation .....	3
6. Waste and unlawful, improper or offensive use of premises .....	3
7. Compliance with laws .....	3
8. Inspection of premises .....	4
9. Improvements .....	4
10. Repairs to improvements .....	4
11. Liens .....	4
12. Character of use .....	4
13. Assignments, etc. ....	4
14. Subletting .....	5
15. Release and indemnity .....	5
16. Costs of litigation .....	5
17. Liability insurance .....	5
18. Bond, performance .....	7
19. Lessor's lien .....	7
20. Mortgage .....	7
21. Breach .....	7
22. Condemnation .....	8
23. Right to enter .....	8
24. Inspection by prospective bidders .....	9
25. Acceptance of rent not a waiver .....	9
26. Extension of time .....	9



# TABLE OF CONTENTS (cont'd)

	<u>Page</u>
27. Justification of sureties .....	9
28. Waiver, modification, reimposition of bond and liability insurance provisions .	10
29. Quiet enjoyment .....	10
30. Surrender .....	10
31. Non-warranty .....	11
32. Hazardous materials.....	11
33. Hawaii law .....	11
34. Exhibits - Incorporation in lease .....	11
35. Headings .....	11
36. Partial invalidity .....	12
 SPECIAL CONDITIONS:	
37. Withdrawal .....	12
38. Fire and extended coverage insurance .....	12
39. Non-use and abandonment .....	13
40. Audit and examination of books, etc. ....	13
41. Termination by either party .....	13
42. Clearances .....	13
43. Certification of tax exemption .....	13
44. Time of essence .....	14
45. Historic preservation .....	14
46. Removal of trash .....	14
47. Phase I environmental site assessment.....	14
48. Survey and boundary stakeout .....	14
 DEFINITIONS .....	 15
SIGNATURE PAGE .....	16
ACKNOWLEDGMENT PAGE .....	17





STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

GL0001

THIS LEASE, made this 1st day of September, 2016, by and between the STATE OF HAWAII, hereinafter referred to as the "Lessor," by its Board of Land and Natural Resources, called the "Board," and E ALA VOYAGING ACADEMY, a Hawaii nonprofit corporation, whose address is 85-979 Farrington Highway, Suite C, Waianae, Hawaii 96792, hereinafter referred to as the "Lessee."

WITNESSETH:

The Lessor, pursuant to Section 171-43.1, Hawaii Revised Statutes, and for and in consideration of the rent to be paid and of the terms, covenants and conditions herein contained, all on the part of the Lessee to be kept, observed and performed, does lease unto the Lessee, and the Lessee does lease from the Lessor the premises situate at Waianae-Kai, Waianae, Oahu, Hawaii, identified as "Waianae Small Boat Harbor, Lease Area 1," more particularly described in Exhibit "A" and delineated on Exhibit "B," both attached hereto and made parts hereof.

TO HAVE AND TO HOLD the leased premises unto the Lessee for the term of ten (10) years, commencing on the 1st day of September, 2016, up to and including the 31st day of August, 2026, unless sooner terminated as hereinafter provided, the Lessor reserving and the Lessee yielding and paying to the Lessor at the Office of the Department of Land and Natural Resources, Honolulu, Oahu, State of Hawaii, an annual rental as provided hereinbelow, payable in advance, without notice or demand, in equal monthly installments of each and every year during the term, the sum of ONE THOUSAND TWO HUNDRED AND NO/100 DOLLARS (\$1200.00) per annum.

The interest rate on any and all unpaid or delinquent rentals shall be at one percent (1%) per month, plus a service charge of FIFTY AND NO/100 DOLLARS (\$50.00) a month for each delinquent payment.

RESERVING UNTO THE LESSOR THE FOLLOWING:

1. Minerals and waters. (a) All minerals as hereinafter defined, in, on or under the premises and the right, on its own behalf or through persons authorized by it, to prospect for, mine and remove the minerals and to occupy and use so much of the surface of the ground as may be required for all purposes reasonably extending to the mining and removal of the minerals by any means whatsoever, including strip mining. "Minerals," as used herein, shall mean any or all oil, gas, coal, phosphate, sodium, sulphur, iron, titanium, gold, silver, bauxite, bauxitic clay, diaspore, boehmite, laterite, gibbsite, alumina, all ores of aluminum and, without limitation thereon, all other mineral substances and ore deposits, whether solid, gaseous or liquid, including all geothermal resources, in, on, or under the land, fast or submerged; provided, that "minerals" shall not include sand, gravel, rock or other material suitable for use and used in general construction in furtherance of the Lessee's permitted activities on the premises and not for sale to others. (b) All surface and ground waters appurtenant to the premises and the right on its own behalf or through persons authorized by it, to capture, divert or impound the same and to occupy and use so much of the premises required in the exercise of this right reserved; provided, however, that as a condition precedent to the exercise by the Lessor of the rights reserved in this paragraph, just compensation shall be paid to the Lessee for any of Lessee's improvements taken.

2. Ownership of improvements. The ownership of all improvements of whatever kind or nature, including but not limited to fences located on the land prior to or on the commencement date of this lease, excluding those improvements constructed during the term of this lease unless provided otherwise.

SUBJECT TO the rights of native tenants and to regulatory rights and ownership rights (if any) of the State of Hawaii established pursuant to state law including chapter 6E, Hawaii Revised Statutes, over prehistoric or historic remains found in, on, or under the land. \_\_\_\_\_





THE LESSEE COVENANTS AND AGREES WITH THE LESSOR AS FOLLOWS:

1. Payment of rent. The Lessee shall pay the rent to the Lessor at the times, in the manner and form provided in this lease and at the place specified above, or at any other place the Lessor may from time to time designate, in legal tender of the United States of America.

2. Taxes, assessments, etc. The Lessee shall pay or cause to be paid, when due, the amount of all taxes, rates, and assessments of every description as to which the premises or any part, or any improvements, or the Lessor or Lessee, are now or may be assessed or become liable by authority of law during the term of this lease; provided, however, that with respect to any assessment made under any betterment or improvement law which may be payable in installments, Lessee shall be required to pay only those installments, together with interest, which becomes due and payable during the term of this lease.

3. Utility services. The Lessee shall be responsible for obtaining any utility services and shall pay when due all charges, duties and rates of every description, including water, sewer, gas, refuse collection or any other charges, as to which the premises or any part, or any improvements, or the Lessor or Lessee may become liable for during the term, whether assessed to or payable by the Lessor or Lessee.

4. Covenant against discrimination. The use and enjoyment of the premises shall not be in support of any policy which discriminates against anyone based upon race, creed, sex, color, national origin, religion, marital status, familial status, ancestry, physical handicap, disability, age or HIV (human immunodeficiency virus) infection.

5. Sanitation. The Lessee shall keep the premises and improvements in a strictly clean, sanitary and orderly condition.

6. Waste and unlawful, improper or offensive use of premises. The Lessee shall not commit, suffer or permit to be committed any waste, nuisance, strip or unlawful, improper or offensive use of the premises or any part, nor, without the prior written consent of the Lessor, cut down, remove or destroy, or suffer to be cut down, removed or destroyed, any trees now growing on the premises.

7. Compliance with laws. The Lessee shall comply with all of the requirements of all municipal, state, and federal



authorities and observe all municipal, state and federal laws applicable to the premises, now in force or which may be in force.

8. Inspection of premises. The Lessee shall permit the Lessor and its agents, at all reasonable times during the lease term, to enter the premises and examine the state of its repair and condition.

9. Improvements. The Lessee shall not at any time during the term construct, place, maintain and install on the premises any building, structure or improvement of any kind and description except with the prior written approval of the Chairperson and upon those conditions the Chairperson may impose, including any adjustment of rent, unless otherwise provided in this lease. The Lessee shall own these improvements until the expiration or other termination of the lease, at which time the ownership shall at the option of the Lessor, remain and become the property of the Lessor or shall be removed by Lessee at Lessee's sole cost and expense.

Upon termination and/or expiration of the lease and if desired by the Lessor, the Lessee at its expense, shall remove any and all improvements installed or constructed upon the premises and restore said premises to a condition satisfactory to the Lessor.

10. Repairs to improvements. The Lessee shall, at its own expense, keep, repair, and maintain all buildings and improvements now existing or hereafter constructed or installed on the premises in good order, condition and repair, reasonable wear and tear excepted.

11. Liens. The Lessee shall not commit or suffer any act or neglect which results in the premises, any improvement, or the leasehold estate of the Lessee becoming subject to any attachment, lien, charge, or encumbrance, except as provided in this lease, and shall release, indemnify, defend, and hold the Lessor harmless from and against all attachments, liens, charges, and encumbrances and all resulting expenses.

12. Character of use. The Lessee shall use or allow the premises leased to be used solely for storing and maintaining the voyaging canoe E Ala as well as engaging in educational activities that include Polynesian navigation and Hawaiian cultural practices.

13. Assignments, etc. The Lessee shall not transfer,

assign, or permit any other person to occupy or use the premises or any portion or transfer or assign this lease or any interest, either voluntarily or by operation of law, and any transfer or assignment made shall be null and void; provided that with the prior written approval of the Board the assignment and transfer of this lease or any portion may be made only if it is to a non-profit corporate successor of the Lessee.

14. Subletting. The Lessee shall not rent or sublet the whole or any portion of the premises.

15. Release and indemnity. The Lessee shall release, indemnify, defend, and hold the Lessor harmless from and against any claim or demand for loss, liability, or damage, including claims for bodily injury, wrongful death, or property damage, arising out of or resulting from: 1) any act or omission on the part of Lessee relating to Lessee's use, occupancy, maintenance, or enjoyment of the premises; 2) any failure on the part of the Lessee to maintain the premises and sidewalks, roadways and parking areas adjacent thereto in Lessee's use and control, and including any accident, fire or nuisance, growing out of or caused by any failure on the part of the Lessee to maintain the premises in a safe condition; and 3) from and against all actions, suits, damages, and claims by whomsoever brought or made by reason of the Lessee's non-observance or non-performance of any of the terms, covenants, and conditions of this lease or the rules, regulations, ordinances, and laws of the federal, state, municipal or county governments.

16. Costs of litigation. In case the Lessor shall, without any fault on Lessor's part, be made a party to any litigation commenced by or against the Lessee (other than condemnation proceedings), the Lessee shall pay all costs, including reasonable attorney's fees, and expenses incurred by or imposed on the Lessor; furthermore, the Lessee shall pay all costs, including reasonable attorney's fees, and expenses which may be incurred by or paid by the Lessor in enforcing the covenants and agreements of this lease, in recovering possession of the premises, or in the collection of delinquent rental, taxes, and any and all other charges.

17. Liability insurance. The Lessee shall procure and maintain, at its cost and expense and acceptable to the Lessor, in full force and effect throughout the term of this lease, general liability insurance, or its equivalent, with an insurance company or companies licensed or authorized to do business in the State of Hawaii with an AM Best rating of not less than "A-" or other comparable and equivalent industry rating, in an amount of

at least \$1,000,000.00 for each occurrence and \$2,000,000.00 aggregate, and with coverage terms acceptable to the Chairperson of the Board. The policy or policies of insurance shall name the State of Hawaii as an additional insured. A copy of the policy or other documentation required by the Lessor shall be filed with the State of Hawaii, Department of Land and Natural Resources. The insurance shall cover the entire premises, including all buildings, improvements, and grounds and all roadways or sidewalks on or adjacent to the premises in the use or control of the Lessee.

The Lessee, prior to entry and use of the premises or within fifteen (15) days from the effective date of this lease, whichever is sooner, shall furnish the Lessor with a policy(s) or other documentation required by the Lessor showing the policy(s) to be initially in force, keep the policy(s) or other documentation required by the Lessor on deposit during the entire lease term, and furnish a like policy(s) or other documentation required by the Lessor upon each renewal of the policy(s). This insurance shall not be cancelled, limited in scope of coverage, or nonrenewed until after thirty (30) days written notice has been given to the Lessor. The Lessor may at any time require the Lessee to provide Lessor with copies of the insurance policy(s) that are or were in effect during the lease period or other documentation required by the Lessor.

The Lessor shall retain the right at any time to review the coverage, form, and amount of the insurance required by this lease. If, in the opinion of the Lessor, the insurance provisions in this lease do not provide adequate protection for the Lessor, the Lessor may require Lessee to obtain insurance sufficient in coverage, form, and amount to provide adequate protection. The Lessor's requirements shall be reasonable but shall be designed to assure protection for and against the kind and extent of the risks which exist at the time a change in insurance is required. The Lessor shall notify Lessee in writing of changes in the insurance requirements and Lessee shall deposit copies of acceptable insurance policy(s) or other documentation required by the Lessor thereof, with the Lessor incorporating the changes within thirty (30) days of receipt of the notice.

The procuring of the required policy(s) of insurance shall not be construed to limit Lessee's liability under this lease nor to release or relieve the Lessee of the indemnification provisions and requirements of this lease. Notwithstanding the policy(s) of insurance, Lessee shall be obligated for the full and total amount of any damage, injury, or loss caused by Lessee's negligence or neglect connected with this lease.



It is agreed that any insurance maintained by the Lessor will apply in excess of, and not contribute with, insurance provided by Lessee's policy.

18. Bond, performance. The Lessee shall, at its own cost and expense, within fifteen (15) days from the effective date of this lease, procure and deposit with the Lessor and thereafter keep in full force and effect during the term of this lease a good and sufficient surety bond, conditioned upon the full and faithful observance and performance by Lessee of all the terms, conditions, and covenants of this lease, in an amount equal to two times the annual rental then payable. This bond shall provide that in case of a breach or default of any of the lease terms, covenants, conditions, and agreements, the full amount of the bond shall be paid to the Lessor as liquidated and ascertained damages and not as a penalty.

19. Lessor's lien. The Lessor shall have a lien on all the buildings and improvements placed on the premises by the Lessee, on all property kept or used on the premises, whether the same is exempt from execution or not and on the rents of all improvements and buildings located on the premises for all Lessor's costs, attorney's fees, rent reserved, for all taxes and assessments paid by the Lessor on behalf of the Lessee, and for the payment of all money provided in this lease to be paid by the Lessee, and this lien shall continue until the amounts due are paid.

20. Mortgage. Lessee shall not mortgage, hypothecate, or pledge the premises, any portion, or any interest in this lease.

21. Breach. Time is of the essence in this agreement. If the Lessee shall fail to pay the rent, or any part thereof, at the times and in the manner provided in this lease and this failure shall continue for a period of more than thirty (30) days after delivery by the Lessor of a written notice of breach or default and demand for cure, by personal service, registered mail or certified mail to the Lessee and to each holder of record having a security interest in the premises, or if the Lessee shall become bankrupt, or shall abandon the premises, or if this lease and premises shall be attached or taken by operation of law, or if any assignment is made of the Lessee's property for the benefit of creditors, or if Lessee shall fail to observe and perform any of the covenants, terms, and conditions contained in this lease and on its part to be observed and performed, and this failure shall continue for a period of more than sixty (60) days after delivery by the Lessor of a written notice of breach or

default and demand for cure, by personal service, registered mail or certified mail to the Lessee at its last known address and to each holder of record having a security interest in the premises, the Lessor may, subject to the provisions of Section 171-21, Hawaii Revised Statutes, at once re-enter the premises, or any part, and upon or without the entry, at its option, terminate this lease without prejudice to any other remedy or right of action for arrears of rent or for any preceding or other breach of contract; and in the event of termination, at the option of the Lessor, all buildings and improvements shall remain and become the property of the Lessor or shall be removed by Lessee; furthermore, Lessor shall retain all rent paid in advance to be applied to any damages.

22. Condemnation. If at any time, during the term of this lease, any portion of the premises should be condemned, or required for public purposes by any county or city and county, the rental shall be reduced in proportion to the value of the portion of the premises condemned. The Lessee shall be entitled to receive from the condemning authority (a) the value of growing crops, if any, which Lessee is not permitted to harvest and (b) the proportionate value of the Lessee's permanent improvements so taken in the proportion that it bears to the unexpired term of the lease; provided, that the Lessee may, in the alternative, remove and relocate its improvements to the remainder of the premises occupied by the Lessee. The Lessee shall not by reason of the condemnation be entitled to any claim against the Lessor for condemnation or indemnity for leasehold interest and all compensation payable or to be paid for or on account of the leasehold interest by reason of the condemnation shall be payable to and be the sole property of the Lessor. The foregoing rights of the Lessee shall not be exclusive of any other to which Lessee may be entitled by law. Where the portion taken renders the remainder unsuitable for the use or uses for which the premises were leased, the Lessee shall have the option to surrender this lease and be discharged and relieved from any further liability; provided, that Lessee may remove the permanent improvements constructed, erected and placed by it within any reasonable period allowed by the Lessor.

23. Right to enter. The Lessor or the County and their agents or representatives shall have the right to enter and cross any portion of the premises for the purpose of performing any public or official duties; provided, however, in the exercise of these rights, the Lessor or the County shall not interfere unreasonably with the Lessee or Lessee's use and enjoyment of the premises.



24. Inspection by prospective bidders. The Lessor shall have the right to authorize any person or persons to enter upon and inspect the premises at all reasonable times following a published notice for its proposed disposition for purposes of informing and apprising that person or persons of the condition of the lands preparatory to the proposed disposition; provided, however, that any entry and inspection shall be conducted during reasonable hours after notice to enter is first given to the Lessee, and shall, if the Lessee so requires, be made in the company of the Lessee or designated agents of the Lessee; provided, further, that no authorization shall be given more than two years before the expiration of the term of this lease.

25. Acceptance of rent not a waiver. The acceptance of rent by the Lessor shall not be deemed a waiver of any breach by the Lessee of any term, covenant, or condition of this lease, nor of the Lessor's right of re-entry for breach of covenant, nor of the Lessor's right to declare and enforce a forfeiture for any breach, and the failure of the Lessor to insist upon strict performance of any term, covenant, or condition, or to exercise any option conferred, in any one or more instances, shall not be construed as a waiver or relinquishment of any term, covenant, condition, or option.

26. Extension of time. Notwithstanding any provision contained in this lease, when applicable, the Board may for good cause shown, allow additional time beyond the time or times specified in this lease for the Lessee to comply, observe, and perform any of the lease terms, conditions, and covenants.

27. Justification of sureties. Any bonds required by this lease shall be supported by the obligation of a corporate surety organized for the purpose of being a surety and qualified to do business in the State of Hawaii, or by not less than two personal sureties, corporate or individual, for which justifications shall be filed as provided in Section 78-20, Hawaii Revised Statutes; provided, however, the Lessee may furnish a bond in like amount, conditioned as aforesaid, executed by it alone as obligor, if, in lieu of any surety or sureties, it shall also furnish and at all times thereafter keep and maintain on deposit with the Lessor security in certified checks, certificates of deposit (payable on demand or after a period the Lessor may stipulate), bonds, stocks or other negotiable securities properly endorsed, or execute and deliver to the Lessor a deed or deeds of trust of real property, all of a character which is satisfactory to Lessor and valued in the aggregate at not less than the principal amount of the bond. It is agreed that the value of any securities which may be accepted

and at any time thereafter held by the Lessor shall be determined by the Lessor, and that the Lessee may, with the approval of the Lessor, exchange other securities or money for any of the deposited securities if in the judgment of the Lessor the substitute securities or money shall be at least equal in value to those withdrawn. It is further agreed that substitution of sureties or the substitution of a deposit of security for the obligation of a surety or sureties may be made by the Lessee, but only upon the written consent of the Lessor and that until this consent is granted, which shall be discretionary with the Lessor, no surety shall be released or relieved from any obligation.

28. Waiver, modification, reimposition of bond and liability insurance provisions. Upon substantial compliance by the Lessee with the terms, covenants, and conditions contained in this lease on its part to be observed or performed, the Lessor at its discretion may in writing, waive or suspend the performance bond or improvement bond requirements or both or may, in writing, modify the particular bond(s) or liability insurance requirements by reducing its amount; provided, however, that the Lessor reserves the right to reactivate the bonds or reimpose the bond(s) or liability insurance in and to their original tenor and form at any time throughout the term of this lease.

29. Quiet enjoyment. The Lessor covenants and agrees with the Lessee that upon payment of the rent at the times and in the manner provided and the observance and performance of these covenants, terms, and conditions on the part of the Lessee to be observed and performed, the Lessee shall and may have, hold, possess, and enjoy the premises for the term of the lease, without hindrance or interruption by the Lessor or any other person or persons lawfully claiming by, through, or under it.

30. Surrender. The Lessee shall, at the end of the term or other sooner termination of this lease, peaceably deliver unto the Lessor possession of the premises in a clean and orderly condition, together with all improvements existing or constructed thereon or Lessee shall remove such improvements, at the option of the Lessor. Furthermore, upon the expiration, termination, or revocation of this lease, should the Lessee fail to remove any and all of Lessee's personal property from the premises, after notice thereof, the Lessor may remove any and all personal property from the premises and either deem the property abandoned and dispose of the property or place the property in storage at the cost and expense of Lessee, and the Lessee does agree to pay all costs and expenses for disposal, removal, or storage of the personal property. This provision shall survive the termination of the lease.





31. Non-warranty. The Lessor does not warrant the conditions of the premises, as the same are being leased as is.

32. Hazardous materials. Lessee shall not cause or permit the escape, disposal or release of any hazardous materials except as permitted by law. Lessee shall not allow the storage or use of such materials in any manner not sanctioned by law or by the highest standards prevailing in the industry for the storage and use of such materials, nor allow to be brought onto the premises any such materials except to use in the ordinary course of Lessee's business, and then only after written notice is given to Lessor of the identity of such materials and upon Lessor's consent which consent may be withheld at Lessor's sole and absolute discretion. If any lender or governmental agency shall ever require testing to ascertain whether or not there has been any release of hazardous materials by Lessee, then the Lessee shall be responsible for the reasonable costs thereof. In addition, Lessee shall execute affidavits, representations and the like from time to time at Lessor's request concerning Lessee's best knowledge and belief regarding the presence of hazardous materials on the premises placed or released by Lessee.

Lessee agrees to release, indemnify, defend, and hold Lessor harmless, from any damages and claims resulting from the release of hazardous materials on the premises occurring while Lessee is in possession, or elsewhere if caused by Lessee or persons acting under Lessee. These covenants shall survive the expiration or earlier termination of the lease.

For the purpose of this lease "hazardous material" shall mean any pollutant, toxic substance, hazardous waste, hazardous material, hazardous substance, or oil as defined in or pursuant to the Resource Conservation and Recovery Act, as amended, the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, the Federal Clean Water Act, or any other federal, state, or local environmental law, regulation, ordinance, rule, or by-law, whether existing as of the date hereof, previously enforced, or subsequently enacted.

33. Hawaii law. This lease shall be construed, interpreted, and governed by the laws of the State of Hawaii.

34. Exhibits - Incorporation in lease. All exhibits referred to are attached to this lease and hereby are deemed incorporated by reference.

35. Headings. The article and paragraph headings herein are inserted only for convenience and reference and shall

in no way define, describe or limit the scope or intent of any provision of this lease.

36. Partial invalidity. If any term, provision, covenant or condition of this lease should be held to be invalid, void or unenforceable, the remainder of this lease shall continue in full force and effect and shall in no way be affected, impaired or invalidated thereby.

#### SPECIAL CONDITIONS:

37. Withdrawal. The Lessor shall have the right to withdraw the premises, or any portion, at any time during the term of this lease upon giving reasonable notice and without compensation, except as otherwise provided in the lease, for public uses or purposes, including residential, commercial, industrial, or resort developments, for constructing new roads or extensions, or changes in line or grade of existing roads, for rights of way and easements of all kinds, and shall be subject to the right of the Board to remove soil, rock or gravel as may be necessary for the construction of roads and rights of way within or without the premises; provided, that upon the withdrawal, or upon the taking which causes any portion of the land originally leased to become unusable for the specific use or uses for which it was leased, the rent shall be reduced in proportion to the value of the land withdrawn or made unusable, and if any permanent improvement constructed upon the land by the Lessee is destroyed or made unusable in the process of the withdrawal or taking, the proportionate value shall be paid based upon the unexpired term of the lease.

38. Fire and extended coverage insurance. The Lessee, at its cost and expense, shall procure and maintain at all times during the term of this lease, fire and extended coverage insurance with an insurance company(s) licensed to do business in the State of Hawaii, insuring all buildings and improvements erected on the leased land in the joint names of Lessor and Lessee, with the standard mortgage clause for Mortgagee, if any, as their interest may appear, in an amount equal to the replacement cost of the facilities, and shall pay the premiums at the time and place required under the policy.

In the event of total or partial loss, any proceeds derived from the policy(s) shall be used by the Lessee for rebuilding, repairing, or otherwise reinstating the same buildings in a good and substantial manner according to plans and specifications approved in writing by the Board; provided, however, that with the approval of the Lessor, the Lessee may

instead surrender this lease and pay the balance owing on any mortgage. Upon surrender of the lease, the Lessee shall then receive that portion of the insurance proceeds which the unexpired term of this lease, at the time of the loss or damage, bears to the whole of the term, with the Lessor to be paid the balance of the proceeds.

The Lessee shall furnish the Lessor on or before the commencement date of this lease, a policy or other documentation required by the Lessor showing the policy(s) or other documentation required by the Lessor to be in full force and effect and shall furnish a like policy or other documentation required by the Lessor upon each renewal of the policy(s). Each policy(s) or other documentation required by the Lessor shall contain or be accompanied by an assurance of the insurer not to cancel the insurance, limit the scope of the coverage, or fail or refuse to renew the policy(s) until after thirty (30) days written notice has been given to the Lessor.

All rights or claims of subrogation against the State of Hawaii, its officers, employees, and agents are waived.

39. Non-use and abandonment. If the Lessee shall, at any time for a continuous period of one (1) year, fail or cease to use said premises for the purposes stated in Paragraph 12 herein, or abandon all or any portion of said premises, this lease shall cease and terminate.

40. Audit and examination of books, etc. Lessee shall at all times maintain full and accurate records relating to Lessee's operations and activities upon and in connection with said leased premises. Lessor reserves the right to audit, examine, and to make copies of all Lessee's books, accounts, records, and receipts, during regular working hours upon reasonable notice given by Lessor.

41. Termination by either party. The Lessor and Lessee, by mutual agreement, may terminate this lease at any time without cause, provided that the Lessor and the Lessee are not in breach of any condition herein at the time of the mutual agreement to terminate. This provision can be waived by the parties, provided such waiver is in writing and signed by both parties.

42. Clearances. The Lessee shall be responsible for obtaining all necessary federal, state or county clearances.

43. Certification of tax exemption. The Lessee shall

be certified to be tax exempt under Sections 501(c)(1) or 501(c)(3) of the Internal Revenue Code of 1986, as amended. The premises shall be used by the Lessee for the purposes for which its charter was issued and for which it was certified by the Internal Revenue Service.

44. Time of essence. Time is of the essence in all provisions of this lease.

45. Historic preservation. In the event any historic properties or burial sites, as defined in section 6E-2, Hawaii Revised Statutes, are found on the premises, the Lessee and the Lessee's agents, employees and representatives shall immediately stop all land utilization or work or both and contact the Historic Preservation Office in compliance with chapter 6E, Hawaii Revised Statutes.

46. Removal of trash. The Lessee shall be responsible for the removal of all illegally dumped trash upon the premises within ninety (90) days from the date of execution of the lease and shall so notify the Lessor in writing at the end of ninety (90) days.

47. Phase I environmental site assessment. Prior to the termination of this lease or the assignment of the leasehold, Lessee shall conduct a Phase I environmental site assessment and conduct a complete abatement and disposal, if necessary, satisfactory to the standards required by the Federal Environmental Protection Agency and the Department of Land and Natural Resources. Any assignment or voluntary termination by the Lessee will not be approved by the Board of Land and Natural Resources unless this evaluation and abatement provision has been executed. This provision shall survive and continue in effect after termination of this lease.

48. Survey and boundary stakeout. The Lessee shall be solely responsible for any survey and boundary stakeout of the leased premises.

Definitions.

1. The use of any gender shall include all genders, and if there is more than one lessee, then all words used in the singular shall extend to and include the plural.

2. As used in this lease, unless clearly repugnant to the context:

(a) "Chairperson" means the Chairperson of the Board of Land and Natural Resources of the State of Hawaii or his successor.

(b) "Lessee" means and includes the Lessee, its officers, employees, invitees, successors or permitted assigns.

(c) "Holder of record of a security interest" means a person who is the owner or possessor of a security interest in the land leased and who has filed with the Department of Land and Natural Resources and with the Bureau of Conveyances of the State of Hawaii a copy of this interest.

(d) "Premises" means the land leased and all buildings and improvements now or hereinafter constructed and installed on the land leased.

(e) "Waste" includes, but is not limited to, (1) permitting the premises, or any portion, to become unduly eroded or failure to take proper precautions or make reasonable effort to prevent or correct the erosion; (2) permitting a substantial increase in noxious weeds in uncultivated portions of the premises; and (3) failure to employ all of the usable portions of the premises.


(f) "Days" shall mean calendar days, unless otherwise specified. \_\_\_\_\_



IN WITNESS WHEREOF, 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 caused these presents to be executed the day, month and year first above written.

STATE OF HAWAII

Approved by the Board of Land and Natural Resources at its meeting held on September 25, 2015.

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

LESSOR


E ALA VOYAGING ACADEMY, a Hawaii nonprofit corporation

By X   
Alvin Parker  
Its Executive Director

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

LESSEE

APPROVED AS TO FORM:

  
COLIN J. LAU  
Deputy Attorney General

Dated: 8/22/16



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

On this 31st day of August, 2016,  
before me appeared Alvin Parker and  
N/A to me personally known, who,  
being by me duly sworn, did say that they are the Executive Director  
and N/A, respectively of E ALA VOYAGING ACADEMY, a  
Hawaii nonprofit corporation, and that said instrument was signed  
in behalf of said corporation by authority of its Board of  
Directors, and the said Alvin Parker and  
N/A acknowledged said instrument to  
be the free act and deed of said corporation.

  
Notary Public, State of Hawaii

Sherry R. Nagai

My commission expires: MAR - 9 2018

Doc. Date: Not Dated # Pages 21

Notary Name: Sherry R. Nagai First Circuit

Doc. Description State of Hawaii Dept.  
of Land And Natural Resources 610001

  
Notary Signature

8-31-16

Date



STATE OF HAWAII  
SURVEY DIVISION  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
HONOLULU

C.S.F. No. 25,530

July 29, 2016

WAIANAЕ SMALL BOAT HARBOR

LEASE AREA 1

Waianae-Kai, Waianae, Oahu, Hawaii

Being a portion of the Government (Crown) Land of Waianae comprised of the following:

- A. Portions of Tract 1, Parcel 2 of Waianae-Kai Military Reservation, Presidential Executive Order 8109 dated May 3, 1939 conveyed to the State of Hawaii by the United States of America by deed dated April 11, 1964 and recorded in Liber 4738, Page 178 (Land Office Deed S-20993).
- B. Portion of the Former 40-Foot Railroad Right-of-Way conveyed to the State of Hawaii by Oahu Railway and Land Company by deed dated September 11, 1961 and recorded in Liber 4135, Pages 239-240 (Land Office Deed S-18222).

Being also a portion of Part 1 of Waianae Small Boat Harbor, Governor's Executive Order 4385.

Beginning at the southeast corner of this parcel of land, the true azimuth and distance from the easterly corner of Part 1 of Waianae Small Boat Harbor, Governor's Executive Order 4385 and the westerly corner of Part B of Waianae Regional Park, Governor's Executive Order 3177 being: 96° 50' 23" 382.19 feet, the coordinates of said point of beginning referred to Government Survey Triangulation





C.S.F. No. 25,530

July 29, 2016

Station "PAHEEHIEE NEW" being 1970.51 feet North and 9220.32 feet West, thence

running by azimuth measured clockwise from True South:-

1. 90° 00' 64.00 feet along the remainder of Part 1 of Waianae Small Boat Harbor, Governor's Executive Order 4385;
2. 128° 00' 33.73 feet along the remainder of Part 1 of Waianae Small Boat Harbor, Governor's Executive Order 4385;
3. 180° 00' 43.60 feet along the remainder of Part 1 of Waianae Small Boat Harbor, Governor's Executive Order 4385;
4. 218° 27' 30" 39.12 feet along the remainder of Part 1 of Waianae Small Boat Harbor, Governor's Executive Order 4385;
5. 270° 00' 59.18 feet along the remainder of Part 1 of Waianae Small Boat Harbor, Governor's Executive Order 4385;
6. 308° 27' 30" 9.03 feet along the remainder of Part 1 of Waianae Small Boat Harbor, Governor's Executive Order 4385;



C.S.F. No. 25,530

July 29, 2016

7. 360° 00'

89.38 feet along the remainder of Part 1 of Waianae  
Small Boat Harbor, Governor's Executive  
Order 4385 to the point of beginning and  
containing an AREA OF 7937 SQUARE  
FEET.

SURVEY DIVISION  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
STATE OF HAWAII

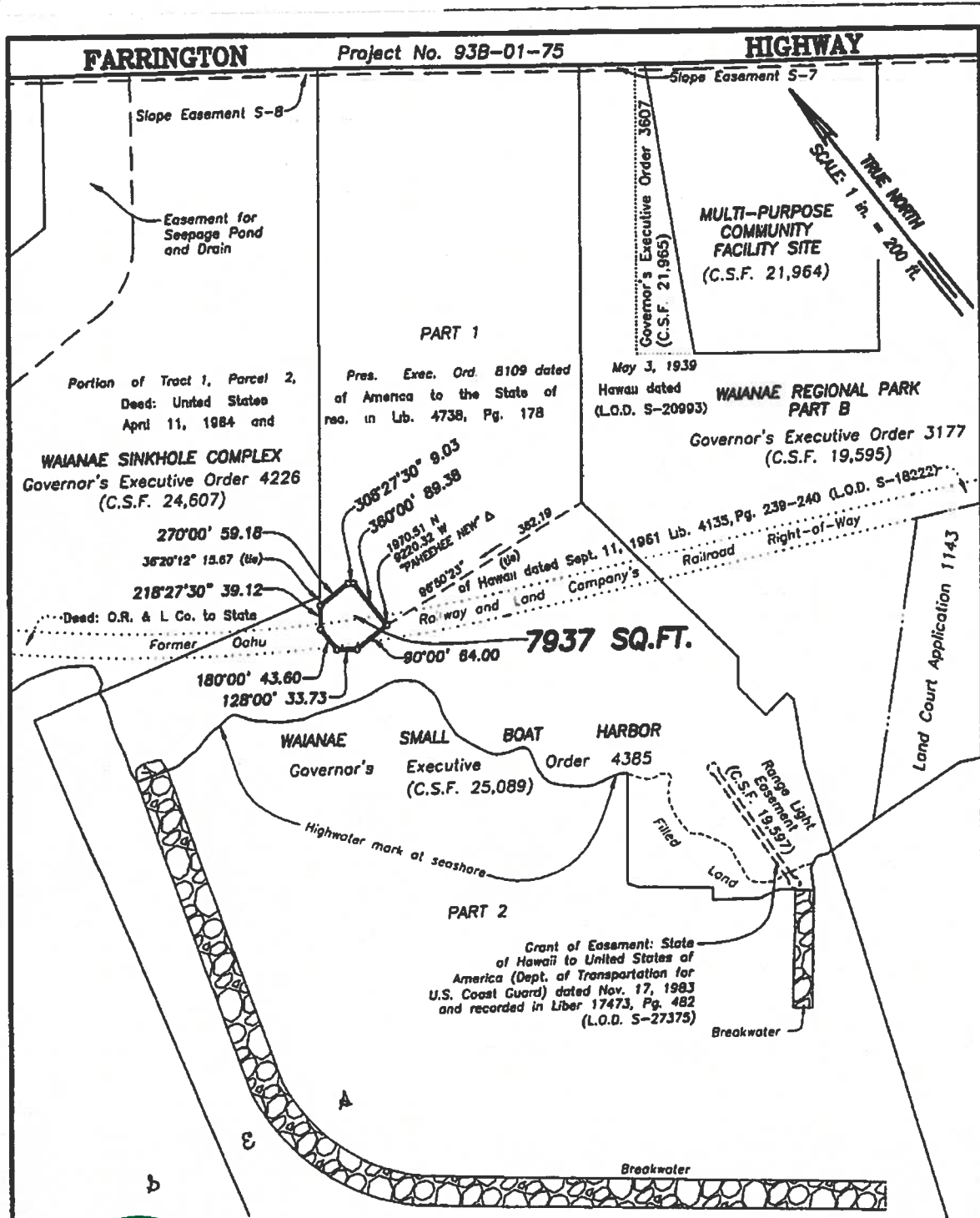
By: \_\_\_\_\_

*Gerald Z. Yonashiro*  
Gerald Z. Yonashiro  
Land Surveyor

rk

Compiled from map and desc. furn.  
by ParEn, Inc. dba Park Engineering.  
Said map and desc. have been examined  
and checked as to form and mathematical  
correctness but not on the ground by the  
Survey Division.





FIELD. APP'D.  
Department of the  
Attorney General

REDUCED NOT TO SCALE

# **WAIANAE SMALL BOAT HARBOR LEASE AREA 1 EXHIBIT "B"**

Waianae-Kai, Waianae, Oahu, Hawaii

Scale: 1 inch = 200 feet

Job 0-129(16)

C. BK.

TAX MAP 8-5-02: Por. 44

C.S.F. NO. 25,530

**SURVEY DIVISION  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
STATE OF HAWAII**

MAC July 29, 2016