Withdrawal from Governor’s Executive Order No. 3518 and Reset Aside to Department of Transportation for Highway Purposes, Issuance of Right-of-Entry Permit for Construction Parcels; Kahana, Koolauloa, Oahu, Tax Map Key: (1) 5-2-002: Portions of 001, (1) 5-2-005: Portions of 001, 021, 022, and 023, and portions of Kahana Stream.

CONTROLLING AGENCY (of subject executive order):

Department of Land and Natural Resources, Division of State Parks

APPLICANT (requesting set aside):

Department of Transportation, Highways Division

LEGAL REFERENCE:

Section 171-11 and 55, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Kahana, Koolauloa, Oahu, Tax Map Key: (1) 5-2-002: Portions of 001, 5-2-005: Portions of 001, 021, 022, 023, and portions of Kahana Stream, as shown on the attached maps labeled Exhibit A1 and A2.

AREA:

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<th>Tax Map Key</th>
<th>Area (sq. ft.)</th>
<th>Purposes</th>
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BLNR – Withdrawal from GEO No. 3518 and Reset Aside to DOT

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March 10, 2017

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*Portions of Kahana Stream not encumbered by EO 3518

Proposed Set aside 41,776 square feet
Construction ROE 162,471 square feet

ZONING:

State Land Use District: Conservation
City and County of Honolulu LUO: P-1

TRUST LAND STATUS:

Acquired after Statehood, i.e. non-trust lands (for parcels noted above); and Section 5(b) lands of the Hawaii Admission Act (for Kahana Stream)

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

CURRENT USE STATUS:

Other than the portions of Kahana Stream, the rest of the requested parcels are encumbered by Governor’s Executive Order No. 3518 setting aside to Department of Land and Natural Resources, Division of State Parks for Kahana Valley State Park purposes.

PURPOSE OF SET ASIDE:

Highway purposes.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

Act 218, Session Laws of Hawaii 2012 (Exhibit B) exempts the project from State requirements under Chapter 343, Hawaii Revised Statutes.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

1) Process and obtain subdivision at Applicant’s own cost;
2) Conservation District Use Permit; and
3) Provide survey maps and descriptions according to State DAGS standards, including Land Court maps and at Applicant's own cost.

REMARKS:

The requested parcels have been set aside to Division of State Parks under EO 3518 for Kahana Bay State Parks purposes since 1991.

Department of Transportation, Highways Division (DOT), in relation to the Federal Aid Project No. BR-083-I(55) for the replacement of South Kahana Stream Bridge, requests the withdrawal of certain portions of the State Parks area and re-set aside for highway purposes. In addition, other portions of the same State Parks will be required during the construction stage. Therefore, a right-of-entry permit during the construction period for parcels is also required.

For the Board’s information, the utility company will send in separate request pertaining to the proposed easement area on Exhibits A1 and A2 at a later date.

Department of Planning and Permitting (DPP) recommend a subdivision application be filed in addition to a Conservation District Use Application required by the Office of Conservation and Coastal Lands. Furthermore, DOT will also provide certification of “no-rise” determination indicating that there will be no increase in the base flood elevation as required by DPP.

State Parks Division (see Exhibit C), Department of Health, Department of Forestry and Wildlife, and Department of Parks and Recreation have no objections/comments to the subject request. State Historic Preservation Division, Division of Aquatic Resources, Commission on Water Resource Management, Department of Hawaiian Homelands, Office of Hawaiian Affairs, Department of Facility Maintenance, and Board of Water Supply have not responded to solicitation for comments before the response deadline.

There are no other pertinent issues or concerns and staff does not have any objection to the request.

RECOMMENDATION: That the Board, subject to the Applicant fulfilling all of the Applicant Requirements listed above:

1. Approve of and recommend to the Governor issuance of an executive order withdrawing 41,776 square feet, more or less from the Governor’s Executive Order No. 3518 and subject to the following:
   
   A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
   
   B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular
or special session next following the date of the setting aside;

C. Review and approval by the Department of the Attorney General; and

D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

2. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to Department of Transportation under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:

A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;

B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;

C. Review and approval by the Department of the Attorney General; and

D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

3. Issuance of an immediate right-of-entry permit to Department of Transportation under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:

A. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time;

B. The right-of-entry permit shall expire upon issuance of the executive order;

C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:

Suzanne D. Case, Chairperson
TMK (1) 5-2-002 and (1) 5-2-005

EXHIBIT A2
A BILL FOR AN ACT

RELATING TO TRANSPORTATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that the department of transportation is charged with the implementation of the bridge rehabilitation and replacement program for bridges with a sufficiency rating of less than eighty to be designed and constructed. There are currently seven hundred fifty-six state-owned bridges, of which two hundred fifty-six are functionally obsolete and thirty-nine are structurally deficient.

Functionally obsolete bridges are defined as bridges with geometric deficiencies such as being too narrow. Structurally deficient bridges are defined as bridges with a poor assessment of the structural condition of the bridge, including the waterway opening adequacy.

There are currently thirty bridges under the jurisdiction of the department of transportation that are either functionally obsolete or structurally deficient and that are in the design phase that are planned for rehabilitation and replacement, in addition to the Hana highway bridge preservation plan, which needs to move forward for construction.

EXHIBIT B
The purpose of this Act is to expedite construction projects for the bridge rehabilitation and replacement program by providing temporary exemptions from certain state and county requirements.

SECTION 2. Beginning July 1, 2012, and ending June 30, 2017, the department of transportation and any of its contractors shall be exempt from state requirements under the following, but only to the extent necessary to expedite the projects enumerated under section 3 of this Act:

(1) Chapter 68, Hawaii Revised Statutes, historic preservation;
(2) Part II of chapter 171, Hawaii Revised Statutes, public lands;
(3) Chapter 174C, Hawaii Revised Statutes, state water code;
(4) Chapter 180, Hawaii Revised Statutes, soil and water conservation districts;
(5) Chapter 180C, Hawaii Revised Statutes, soil erosion and sediment control;
(6) Chapter 183, Hawaii Revised Statutes, forest reserves, water development, and zoning;
(7) Chapter 183D, Hawaii Revised Statutes, wildlife;
1  (8) Chapter 184, Hawaii Revised Statutes, state parks and
2  recreation areas;
3  (9) Chapter 195, Hawaii Revised Statutes, natural area
4  reserves system;
5  (10) Chapter 195D, Hawaii Revised Statutes, conservation of
6  aquatic life, wildlife, and land plants;
7  (11) Chapter 198D, Hawaii Revised Statutes, Hawaii
8  statewide trail and access system;
9  (12) Chapter 205, Hawaii Revised Statutes, land use
10  commission;
11  (13) Chapter 205A, Hawaii Revised Statutes, coastal zone
12  management;
13  (14) Chapter 341, Hawaii Revised Statutes, environmental
14  quality control;
15  (15) Chapter 342B, Hawaii Revised Statutes, air pollution;
16  (16) Chapter 342D, Hawaii Revised Statutes, water
17  pollution;
18  (17) Chapter 342E, Hawaii Revised Statutes, nonpoint source
19  pollution management and control;
20  (18) Chapter 342F, Hawaii Revised Statutes, noise
21  pollution;
(19) Chapter 343, Hawaii Revised Statutes, environmental impact statements; and
(20) Chapter 344, Hawaii Revised Statutes, state environmental policy.

SECTION 3. The following bridges and projects shall be exempt from the requirements specified under section 2 of this Act:

(1) Farrington highway, replacement of Maipalaoa bridge, on Oahu;
(2) Farrington highway, replacement of Makaha bridges numbers 3 and 3A, on Oahu;
(3) Kalanianaole highway, Inoaole stream bridge replacement, in Waimanalo, Oahu;
(4) Kamehameha highway, Kaipapau stream bridge, on Oahu;
(5) Hawaii belt road, Umauma stream bridge, on Hawaii;
(6) Waiehu beach road, Iao stream bridge rehabilitation, vicinity of Wailuku, on Maui;
(7) Kaumualii highway, Omao bridge rehabilitation, on Kauai;
(8) Kuhio highway, Kapaia bridge replacement, on Kauai;
(9) Kamehameha highway, south Kahana stream bridge replacement, on Oahu;
(10) Hana highway bridge preservation plan and projects, on Maui; and

(11) Kamehameha Highway, Franklin D. Roosevelt Bridge rehabilitation, on Oahu.

SECTION 4. If the construction of a project granted an exemption under this Act is not completed by June 30, 2017, the governor may authorize in writing before that date the continuation of construction of the project until completion. If so authorized, the project shall continue to be exempt as provided under this Act.

SECTION 5. If any part of this Act is found to be in conflict with federal requirements that are a prescribed condition for the allocation of federal funds to the State, the conflicting part of this Act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding shall not affect the operation of the remainder of this Act in its application to the agencies concerned. The rules under this Act shall meet federal requirements that are a necessary condition to the receipt of federal funds by the State.

SECTION 6. This Act shall take effect on July 1, 2012.
S.B. NO. 2010
S.D. 2
H.D. 1

APPROVED this 5 day of JUL, 2012

GOVERNOR OF THE STATE OF HAWAII
MEMORANDUM

TO: State Agencies:
   x_DOH (Environmental Planning)
   x_DHHL
   x_DLNR-Aquatic Resources
   x_DLNR-Forestry & Wildlife
   x_DLNR-Historic Preservation
   x_DLNR-State Parks
   x_DLNR-Conservation and Coastal Lands
   x_DLNR-Water Resource Management
   x_Office of Hawaiian Affairs

City Agencies:
   x_Planning & Permitting
   x_Parks & Recreation
   x_Facility Maintenance
   x_Board of Water Supply

FROM: Barry Cheung, District Land Agent

SUBJECT: Withdrawal from Governor’s Executive Order No. 3518 and Reset Aside to DOT for Highway Purposes, Issuance of Right-of-Entry Permit for Construction Parcels.

LOCATION: Kahana, Koolauloa, Oahu. Tax Map Key: (1) 5-2-002: portions of 001, (1) 5-2-005: portions of 001, 021, 022, and 023, and portions of Kahana Stream.

APPLICANT: Department of Transportation, Highways Division.

Transmitted for your review and comment is a copy of the draft Land Board submittal for the above referenced request involving State lands. We would appreciate your comments on this application. Please submit any comments by February 10, 2017. If no response is received by this date, we will assume your agency has no comments. If you have any questions about this request, please contact my office at 587-0430. Thank you.

Enclosure

( ) We have no objections.
( ) We have no comments.
( ) Comments are attached.

Signed: [Signature]

Date: 1-18-17

EXHIBIT C