

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

September 22, 2017

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

PSF No.:15OD-098

OAHU

Amend Prior Board Action on September 25, 2015, Agenda Item D-16: *Issuance of Immediate Management Right-of-Entry Permit to City and County of Honolulu, for the Use by the Board of Water Supply for Due Diligence Purposes, Honouliuli, Ewa, Oahu, Tax Map Key: (1) 9-1-018:portion of 008.*

The Amendment is to Authorize the Chairperson to Extend the Right-of-Entry until Completion of the Due Diligence.

BACKGROUND:

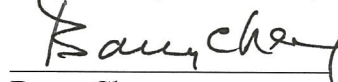
At its prior meeting on September 25, 2015, under agenda item D-16 (See **Exhibit 1**), the Board authorized the issuance of a right-of-entry permit to the Board of Water Supply ("BWS") for due diligence purposes in relation to a new water tank at the subject location. The right-of-entry will expire on October 26, 2017.

BWS requests an extension to allow its consultant to prepare the conceptual design and pursue satisfactory compliance with the requirements of Chapter 343, Hawaii Revised Statutes. BWS' request is attached as **Exhibit 2**. Staff recommends the Board authorize the Chairperson to approve extension of the subject right-of-entry until the completion of the due diligence.

RECOMMENDATION:

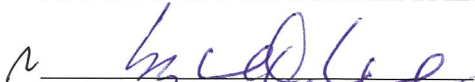
That the Board amend its prior action on September 25, 2015, item D-16 by authorizing the Chairperson to approve extension of the subject right-of-entry until the completion of the due diligence.

Respectfully Submitted,



Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:


Suzanne D. Case, Chairperson

AMENDED

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

September 25, 2015

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

PSF No.:15OD-098

OAHU

Approval in Principle for the Issuance of Direct Lease to City and County of Honolulu, for the Use by the Board of Water Supply, for Water Tank Purposes; Issuance of Immediate Management Right-of-Entry Permit for Due Diligence Purposes, Honouliuli, Ewa, Oahu, Tax Map Key: (1) 9-1-018:portion of 008.

APPLICANT:

City and County of Honolulu, for the use by the Board of Water Supply ("BWS").

LEGAL REFERENCE:

Section 171-55 and 95, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Honouliuli, Ewa, Oahu, identified by Tax Map Key: (1) 9-1-018:portion of 008, as shown on the map attached as **Exhibit A**.

AREA:

2.164 acres, more or less, subject to review and approval by the Department of Accounting and General Services, Survey Division.

ZONING:

State Land Use District: Urban
City and County of Honolulu LUO: AG-1

TRUST LAND STATUS:

Acquired after Statehood, i.e. non-ceded

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

as amended
APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON
September 25, 2015

EXHIBIT "1"
D-16

CURRENT USE STATUS:

Encumbered by Revocable Permit No. 7402, Larry Jefts, Permittee for agriculture purposes.

CHARACTER OF USE:

Water tank for recycled water purposes.

LEASE TERM:

Sixty-five (65) years

COMMENCEMENT DATE:

The first day of the month to be determined by the Chairperson.

ANNUAL RENT:

25% of fair market annual rent to be determined by independent appraiser, subject to review and approval by the Chairperson. See REMARKS Section

METHOD OF PAYMENT:

Semi-annual payments, in advance.

RENTAL REOPENINGS:

11th - 20th year – 130% of the rent payable at commencement date;

21st - 30th year – 160% of the rent payable at commencement date; and

To be followed by rental reopening for every ten (10) years thereafter for the rest of the lease term, by staff or independent appraisal.

PERFORMANCE BOND:

Not applicable

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The applicant will conduct an environmental assessment pursuant to Chapter 343, HRS. The subject request for a direct lease, depending on the outcome of such environmental assessment will be returned to the Board for final approval.

In accordance with Hawaii Administrative Rule Section 11-200-8 and the exemption list for the Department of Land and Natural Resources approved by the Environmental Council on June 5, 2015, the subject request for issuance for right-of-entry is exempt from the preparation of an environmental assessment pursuant to Exemption Class 5, that states "basic data collection, research, experimental management and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource." (**Exhibit B**)

DCCA VERIFICATION:

Not applicable. Government agency.

APPLICANT REQUIREMENTS: Applicant shall be required to:

1. Pay for an appraisal to determine initial rent;
2. Process and obtain subdivision at Applicant's own cost; and
3. Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

The State acquired through condemnation the subject parcel from the Estate of James Campbell in mid 1990s, subject to a lease to Larry G. Jefts. At its meeting on January 28, 2005 (Item D-22), the Board authorized the issuance of a revocable permit to Jefts in light of the expiration of the lease and other planned uses of the parcel.

On January 11, 2008, under agenda item D-15, the Board approved of and recommended to the Governor the issuance of an executive order setting aside a 3.504-acre portion of the subject parcel (hatched area on Exhibit A) to BWS for water tank reservoir purposes. Governor's Executive Order No. 4307 was issued in November 2010.

Recently, BWS requested a land disposition over the subject 2.164-acre portion of Parcel 8 (area outlined in blue on Exhibit A) for the purpose of a three (3) million gallon storage tank that will improve the reliability of the R-1 recycled water system. The proposed tank will serve the various developments in the East Kapolei area undertaken by public [e.g. UH West Oahu campus, DHHL, HHFDC] and private entities. The existing access easement serving EO 4307 (outlined in green on Exhibit A) will also provide access to the proposed new water tank. Staff understands the requested area is not currently utilized by the permittee under RP 7402. Accordingly, no rent adjustment is necessary to RP 7402.

Land Division ("LD") has retained the service of a planning consultant to develop a master plan for the parcels managed by LD in East Kapolei (parcels outlined in yellow on Exhibit A), including the subject Parcel 8. The master plan will formulate the long term planning over these income generating parcels. LD has been helping programs undertaken by other sister agencies of the Department with revenue generated from the

leases/permits managed by LD. The parcels in this area are the ones which possess development potential and LD does not want to lose the opportunity of any future development/revenue.

When BWS initially discussed with LD about their project, BWS offered to purchase the subject parcel. Nevertheless, such purchase would require at least two-thirds majority vote from both houses of the Legislative pursuant to 171-64.7, HRS. BWS eventually agreed with LD that a purchase would not be the best option. Therefore, LD recommends the Board authorize the issuance of a lease subject to a rental assessed at a nominal rate of 25% of the fair market value.

Applicant 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.

Department of Parks and Recreation, Department of Transportation, Highways Division, Department of Facility Maintenance, and State Historic Preservation Division have no objection/comment to the request.

Department of Health, Department of Hawaiian Home Lands, Commission on Water Resource Management, Department of Planning and Permitting, and Office of Hawaiian Affairs have not responded to the solicitation for comment before the deadline.

Upon finalization of the subject area, acreages for RP 7402 will be reduced accordingly.

RECOMMENDATION: That the Board:

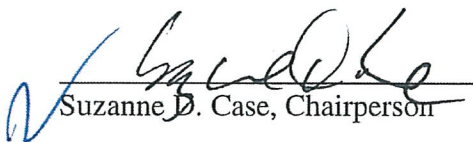
1. Approve in principle for the issuance of a direct lease to the City and County of Honolulu, Board of Water Supply.
2. At its own cost, the City and County of Honolulu, Board of Water Supply shall pursue satisfactory compliance with Chapter 343, Hawaii Revised Statutes within twenty-four (24) months of the Land Board's approval;
3. Should the City and County of Honolulu, Board of Water Supply fail to obtain satisfactory compliance with Chapter 343, Hawaii Revised Statutes within twenty-four (24) months of the Land Board's approval, the Land Board's approval shall be considered rescinded;
4. City and County of Honolulu, Board of Water Supply shall acknowledge the following:
 - A. All costs associated with the necessary compliance with Chapter 343, Hawaii Revised Statutes shall be the responsibility of the City and County of Honolulu, Board of Water Supply; and

- B. This action is an approval in principle and does not provide any assurance of a direct lease and such approval of a direct lease shall be subject to consideration by the Land Board under a separate action after satisfactorily complying with Chapter 343, Hawaii Revised Statutes.
- 5. Declare that, after considering the potential effects of the requested right-of-entry as provided by Chapter 343, HRS, and Chapter 11-200, 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.
- 6. Authorize the issuance of an immediate right-of-entry permit to the City and County of Honolulu, Board of Water Supply for conducting due diligence pertaining to environmental assessment compliance for the requested leases 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 right-of-entry permit form, as may be amended from time to time; and
 - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

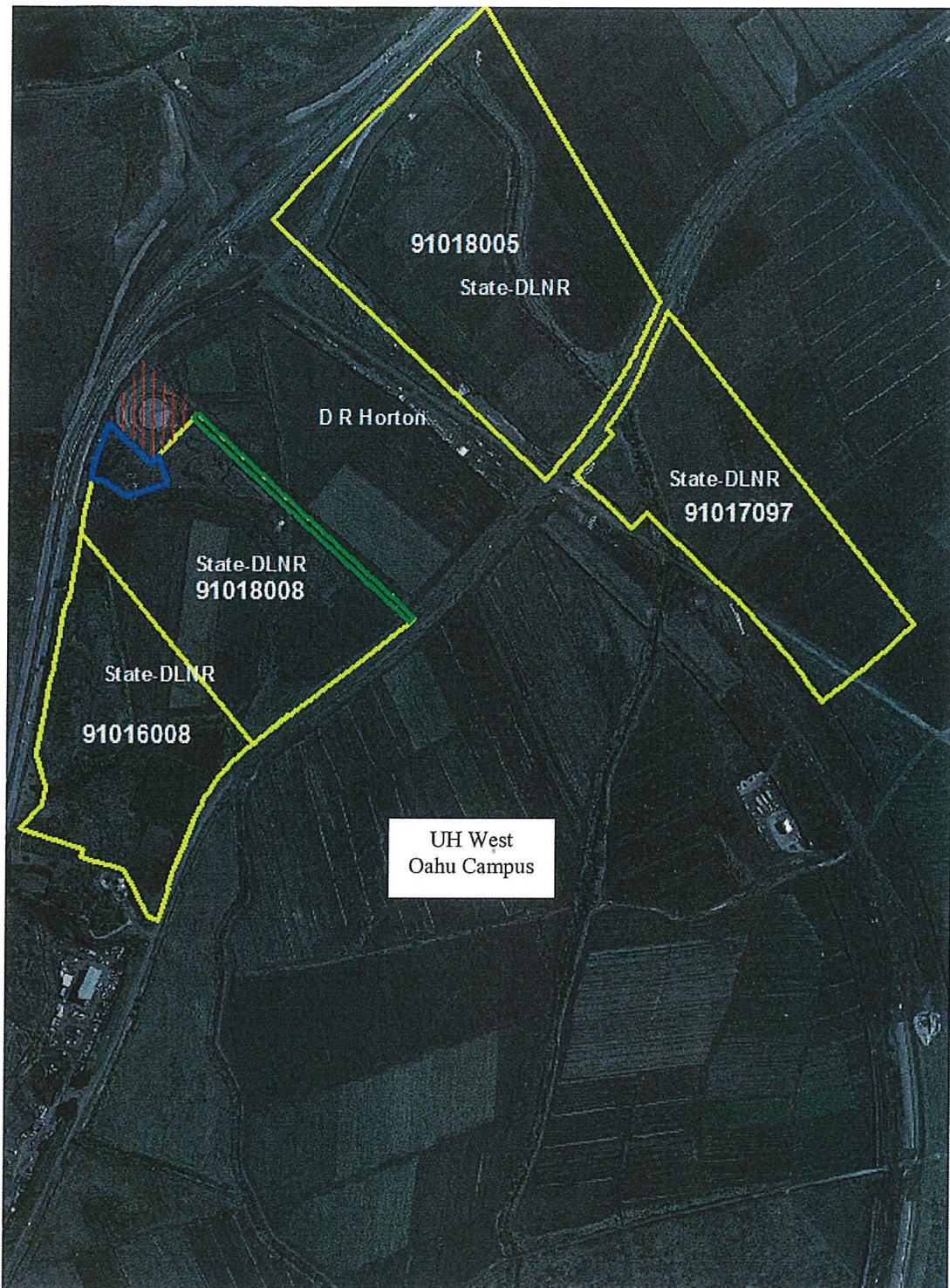

Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:


Suzanne D. Case, Chairperson

Land Board Meeting: September 25, 2015; D-16: Approved as amended.

Approved as amended. The Board amended the staff submittal by deleting all references to "Approval in Principle", deleting recommendations 1-4 and renumbering the remaining recommendations as 1 and 2.



TMK (1) 9-1-018:008 portion

EXHIBIT A

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title: Issuance of Right-of-Entry Permit for Due Diligence Purposes

Project / Reference No.: PSF 15OD-098

Project Location: Honouliuli, Ewa, Oahu, TMK (1) 9-1-018:portion of 018.

Project Description: The requested right-of-entry is to facilitate Board of Water Supply conducts environmental assessment for the proposed water tank for recycled water purposes.

Chap. 343 Trigger(s): Use of State Land

Exemption Class No.: In accordance with Hawaii Administrative Rule Section 11-200-8 and the exemption list for the Department of Land and Natural Resources approved by the Environmental Council on June 5, 2015, the subject request for issuance for right-of-entry is exempt from the preparation of an environmental assessment pursuant to Exemption Class 5, that states "basic data collection, research, experimental management and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource."

The requested right-of-entry is to allow the applicant conduct due diligence on the property for the preparation of an environmental assessment. As such staff believes that the request for a right-of-entry should be exempt from the preparation of an environmental assessment would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

Consulted Parties: Agencies as noted in the submittal.

Recommendation: It is recommended that the Board find that this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.



Suzanne D. Case, Chairperson
Date 8/28/15

EXHIBIT B

BOARD OF WATER SUPPLY

CITY AND COUNTY OF HONOLULU
630 SOUTH BERETANIA STREET
HONOLULU, HI 96843
www.boardofwatersupply.com



July 13, 2017

KIRK CALDWELL, MAYOR

BRYAN P. ANDAYA, Chair
DAVID C. HULIHEE
KAPUA SPROAT
KAY C. MATSUI

ROSS S. SASAMURA, Ex-Officio
FORD N. FUCHIGAMI, Ex-Officio

ERNEST Y. W. LAU, P.E.
Manager and Chief Engineer

ELLEN E. KITAMURA, P.E.
Deputy Manager and Chief Engineer

Ms. Suzanne D. Case, Chairperson
Board of Land and Natural Resources
State of Hawaii
Department of Land and Natural Resources
P. O. Box 621
Honolulu, Hawaii 96809

Dear Ms. Case:

Subject: Request for Extension of Time to the Management Right-of-Entry Permit for Due Diligence Purposes, Honouliuli, Ewa, Oahu, Tax Map Key: (1) 9-1-018: Portion of 008, Reference No. 15OD-098, Issued to the Board of Water Supply

We request an 18 month extension of the subject Management Right-of-Entry (ROE) permit for due diligence purposes. This would extend the ROE permit from October 26, 2017 to April 26, 2019.

When the ROE permit was issued to the Board of Water Supply (BWS) in October, 2015, funds were budgeted for the following fiscal year (2017) to procure an engineering consultant to assist with the due diligence requirements. The consultant procurement process, scope and fee negotiations and contract execution took several months, which delayed the issuance of the notice to proceed to our consultant to May 22, 2017. The additional time would allow BWS' consultant to prepare the conceptual design and pursue satisfactory compliance with the requirements of Chapter 343, Hawaii Revised Statutes.

We appreciate your favorable consideration of our request considering the circumstances.

If you have any questions, please contact Michael Matsuo of our Land Division, at 748-5951.

Very truly yours,

ERNEST Y. W. LAU, P.E.
Manager and Chief Engineer

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DEPT. OF LAND
& NATURAL RESOURCES
STATE OF HAWAII

RECEIVED
LAND DIVISION
2017 JUL 21 AM 10:51
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EXHIBIT "2"