

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

April 26, 2024

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

Ref: 12OD-084

OAHU

Amend Prior Board Action of March 24, 2023, Item D-4, Issuance of Direct Lease to Maunalua Fishpond Heritage Center for Conservation, Biological and Cultural Revitalization, Education and Scientific Research Purposes, Honolulu, Oahu, Tax Map Key: (1) 3-7-002:018 and 077.

The purpose of the amendment is to reserve access rights to the State to inspect the freshwater restoration project improvements on the subject premises.

BACKGROUND:

At its meeting of March 24, 2023, under agenda item D-4,¹ the Board of Land and Natural Resources (Board) approved the issuance of a direct lease to Maunalua Fishpond Heritage Foundation for conservation, biological and cultural revitalization, education, and scientific research purposes. A lease document was sent to the applicant in June 2023 requesting for signature. The consummation of the lease was delayed due to the restoration of freshwater flow into the fishpond project described below.

At its meeting of December 7, 2023, under agenda item L-2, the Board authorized the Chairperson to enter into a Use and Occupancy Agreement with the Department of Transportation (DOT) regarding the new trench collection system and conveyance pipe which will be partly installed within DOT's right-of-way. The remaining parts of the system will be installed on the subject parcels. Division of Aquatic Resources has been tasked with the goal to restore the freshwater flow into the Kalauhahai Fishpond at the subject parcels and out through the historic auwai into Maunalua Bay.

Further, Commission on Water Resource Management, at its meeting of December 19, 2023, under agenda item B-2, approved the well construction permit at the subject parcel for fishpond restoration use.

In anticipation of future monitoring or maintenance of the freshwater system to be performed by the Engineering Division or Division of Aquatic Resources, staff recommends the Board expressly reserve the right to the State to access the freshwater improvements installed on the subject parcels. Suggested revised language to lease paragraph 23 is underscored and italicized as shown below.

¹ <https://dlnr.hawaii.gov/wp-content/uploads/2023/03/D-4-1.pdf>

Paragraph 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, including, without limitation, the inspection, monitoring, and maintenance of Lessor’s freshwater flow system located partially within the premises; 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.

RECOMMENDATION: That the Board:

1. Amend its prior Board action of March 24, 2023, under agenda item D-4 by revising paragraph 23 of the lease as described above.
2. Affirm that, except as amended hereby, all terms and conditions listed in its March 24, 2023 approval shall remain the same.

Respectfully Submitted,

Barry Cheung

Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:



Dawn N. S. Chang, Chairperson *PCM*

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