

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

September 27, 2024

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

PSF No.:23KD-054

Kauai

Amend Prior Board Action of July 28, 2023, Item D-4 (as Subsequently Amended by the Board Actions of August 25, 2023, Item D-1, October 27, 2023, Item D-1, and February 9, 2024, Item D-5), *Issuance of Direct Lease to The Gas Company, LLC for Storage Site and Tank Farm, Operating Yard, Related Activities and Appurtenant Pipelines to Said Tanks, Nawiliwili, Lihue, Kauai Tax Map Key: (4) 3-2-003:030.*

The purpose of the prior amendments was to issue a one (1) year holdover of General Lease S-425 and to include a decommissioning bond for the removal of all trade fixtures and other equipment on the property.

The purpose of the current amendment is to change the lease commencement date from the first day of the month to be determined by the Chairperson to a fixed commencement date of September 9, 2024.

BACKGROUND:

At its meeting of July 28, 2023, Item D-4, the Board of Land and Natural Resources (Board) approved the issuance of a direct lease to The Gas Company, LLC (TGC) for storage site and tank farm, operating yard, related activities and appurtenant pipelines to said tanks, Nawiliwili, Lihue, Kauai.

At its meeting of August 25, 2023, under agenda Item D-1, the Board amended its prior action approving a one-year holdover. The Board also included a recommendation for staff to research what a decommissioning bond would cost for the removal of all trade fixtures and other equipment on the property and to return to the Board at a later date with a recommendation on including a removal bond requirement in the new lease to TGC.

At its meeting of October 27, 2023, under agenda Item D-5, the Board amended its prior

action approving a one-year holdover.

At its meeting of February 9, 2024, under agenda Item D-5, the Board amended its prior actions approving the inclusion of a decommissioning bond requirement in the new lease for the removal of all trade fixtures and other equipment on the property at lease expiration or earlier termination.

REMARKS:

At its meeting of July 28, 2023, Item D-4, the Board approved a new lease to TGC and approved a lease commencement date of “[t]he first day of the month to be determined by the Chairperson.” At its meeting of August 25, 2023, under agenda item D-1, the Board amended its prior action by approving a one-year holdover of General Lease No. S-4250 to TGC extending the lease expiration date to September 8, 2024. However, the commencement date set forth in the July 28, 2023 action was not changed, creating a conflict because the new lease will need to commence on September 9, 2024, which is the day immediately following the expiration of the one-year holdover, and not on the first day of September, October, or any other month. Accordingly, the purpose of this request is to change the commencement date of the new lease to TGC to September 9, 2024.¹

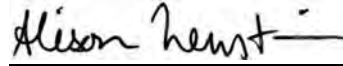
RECOMMENDATION: That the Board:

1. Amend its prior Board action of July 28, 2023, Item D-4 (as subsequently amended by the Board actions of August 25, 2023, Item D-1, October 27, 2023, Item D-1, and February 9, 2024, Item D-5), as set forth above;
2. Use September 9, 2024 as the commencement date as stated above in the new general lease to TGC; and
3. Except as amended hereby, all terms and conditions listed in its approval of July 28, 2023, Item D-4 (as subsequently amended by the Board actions of August 25, 2023, Item D-1, October 27, 2023, Item D-1, and February 9, 2024, Item D-5) to

¹ The new lease to TGC has not been issued yet due to delays in procuring the appraisal of the new lease rent. Staff expects the appraisal to be concluded soon at which time the Department of the Attorney General can finalize the lease with the correct commencement date of September 9, 2024. In the meantime, TGC continues to pay rent under the expired lease in a de facto holdover, which is \$75,860 per annum. When the new lease is issued, there will be a “lookback” or “true-up” to charge the appraised rent under the new lease back to its September 9, 2024 commencement date, with TGC being required to make up any difference promptly.

remain the same.

Respectfully Submitted,



Alison Neustein
District Land Agent

APPROVED FOR SUBMITTAL:

RT



Dawn N. S. Chang, Chairperson