

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

December 11, 2015

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

Ref: 05OD-130

OAHU

Rescind Prior Board Action of July 8, 2005, Item D-17, Withdrawal from General Lease No. S-4488, University of Hawaii, Lessee; Set Aside to Department of Transportation, Harbors Division for Maritime Purposes; and Issuance of a Management and Construction Right-of-Entry; Kalihi, Honolulu, Oahu, TMK (1) 1-2-025:portion of 017.

The purpose of the request is to rescind the approval to withdraw from General Lease No. S-4488.

BACKGROUND:

At its meeting of July 8, 2005, under agenda item D-17, the Board approved to withdraw about one acre from the leased premises to the University of Hawaii ("UH") under General Lease No. 4488. The withdrawal was to facilitate the harbor development undertaken by the Department of Transportation, Harbors Division ("DOT"). Upon consummation of the withdrawal document, the withdrawn area would be set aside for maritime purposes. A copy of the 2005 submittal is attached as **Exhibit 1**.

During this period, DOT started negotiation with UH regarding the relocation of the entire operation under GL 4488 to make way for the harbor master development. Eventually, agreement was reached between DOT and UH, as portions of UH's programs will be relocated to another site in the harbor, with the move-out date planned in 2016. UH will operate the remaining programs at another State parcel across the Sand Island Bridge, and the lease was approved by the Board on September 25, 2015.

To date, UH has not executed the withdrawal document pursuant to the 2005 approval, and DOT is anxious to move on with the project and finalization of the set aside process. With the relocation agreed, DOT and UH concur that the approval to withdraw is a moot issue.

Staff recommends the Board rescind the approval to withdraw back in 2005. Upon approval of

today's request, staff will work with DOT and the Department of the Attorney General to finalize the set-aside to DOT. Staff did not solicit comments from agencies other than DOT and UH, as the request is for housekeeping purposes only.

RECOMMENDATION: That the Board:

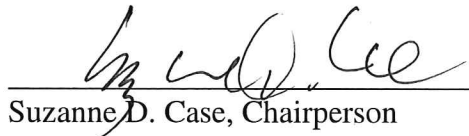
1. Rescind Recommendation 1 of its prior Board action of July 8, 2005, under agenda item D-17 regarding the withdrawal from General Lease No. S-4488.
2. All terms and conditions listed in its July 8, 2005 approval to remain the same.

Respectfully Submitted,



Barry Cheung  
District Land Agent

APPROVED FOR SUBMITTAL:

  
Suzanne D. Case, Chairperson

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

July 8, 2005

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

PSF No.: 05OD-130

Oahu

Withdrawal from General Lease No. S-4488, University of Hawaii, Lessee; Set Aside to Department of Transportation, Harbors Division for Maritime Purposes; and Issuance of a Management and Construction Right-of-Entry; Kalihi-Kai, Honolulu, Oahu, TMK (1) 1-2-025:Portion of 17.

APPLICANT:

Department of Transportation-Harbors Division

LEGAL REFERENCE:

Section 171-6(19) and 11, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Kalihi-Kai, Honolulu, Oahu, identified by Tax Map Key: (1) 1-2-025:Portion of 17, as shown on the attached maps labeled Exhibits A and B.

AREA:

One (1) acre, more or less.

ZONING:

State Land Use District: Urban  
County of Honolulu CZO: Industrial (I-2)

TRUST LAND STATUS:

Section 5(a) lands of the Hawaii Admission Act

**EXHIBIT "L"**

**ITEM D-17**

APPROVED BY THE BOARD OF  
LAND AND NATURAL RESOURCES  
AT ITS MEETING HELD ON  
JUL - 8 2005

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution:  
YES \_\_\_\_ NO X

CURRENT USE STATUS:

General Lease No. S-4488 (gratis); University of Hawaii, Lessee, for University of Hawaii controlled marine expeditionary and oceanographic research center purposes. Term of 65 years, commencing 2/23/1973 and expiring 2/22/2038.

General Lease No. S-3906; Hawaiian Electric Company, Lessee, for electrical transmission line purposes. Commencing March 11, 1965 and expiring March 10, 2030. (Does not affect the subject area).

Land Office Deed No. S-26677; City and County of Honolulu, Grantee, for perpetual non-exclusive easement for water pipeline purposes. (Does not affect the subject area).

Land Office Deed No. S-27151; City and County of Honolulu, Grantee, for perpetual non-exclusive easement for water pipeline purposes. (Does not affect the subject area).

PURPOSE OF SET ASIDE:

Maritime purposes.

RECOMMENDED ADJUSTMENT TO GL S-4488 RENT:

Not applicable. (Leased at gratis). In addition, Condition #3 of General Lease No. S-4488 provides that the state has, "The right to withdraw the demised land, or any portion thereof, at any time during the term of this lease upon the giving of reasonable notice by the Board and without compensation..."

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

This action before the Board is merely a transfer of management jurisdiction and does not constitute a use of State lands or funds, and therefore, this action is exempt from the provisions of Chapter 343, HRS, relating to environmental impact statements. Inasmuch as the Chapter 343 environmental requirements apply to Applicant's use of the lands, the Applicant shall be responsible for compliance with Chapter 343, HRS, as amended.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Process and obtain subdivision at Applicant's own cost;



- 2) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost; and
- 3) Obtain written concurrence from the University of Hawaii for the withdrawal from General Lease No. S-4488.

REMARKS:

The subject area involves a portion of land leased to the University of Hawaii (UH) at gratis under General Lease No. S-4488 (GL4488) for a marine expeditionary and oceanographic research center. Said lease covers 16.069 acres, including the area known as "Snug Harbor".

As part of a larger effort to expand the infrastructure improvements in Honolulu Harbor, the Governor's Hawaii Harbor Task Force (HHTF) is planning to utilize approximately 3.8 acres of a parcel adjacent to the UH site, identified as TMK (1) 1-5-41:02, and supplement it with a 1 acre portion of the UH site on parcel 17 for maritime purposes. (See Exhibits A and B).

The Department of Transportation-Harbors Division (DOT) therefore requests the Land Board's approval to withdraw approximately one (1) acre from GL4488 and issue to them a set aside and immediate management right-of-entry over the subject area. HHTF has informed staff that UH has essentially agreed to the withdrawal and is working out the details with the HHTF staff and surveyor.

Staff notes that DOT has a current request to withdraw approximately 700 square feet from GL4488 to be set aside to them for another purpose related to its homeland security program. However, the area in question is situated on the banks on the opposite side of the property facing the harbor and is on the outside of UH's perimeter fence.

Government agencies solicited for comment were given approximately one (1) month to respond by June 30, 2005. As of June 27, 2005, only the County's Department of Planning and Permitting responded, but had no comment. No other response was submitted, but may still be en route. Based on the rate in which comments are typically processed, and the haste in which this request is being submitted, staff feels all comments submitted prior to the Land Board Meeting should be held in consideration. Although, staff does not anticipate any agency concerns will deter the Board's approval of this request.

RECOMMENDATION: That the Board, subject to the Applicant fulfilling the Applicant requirements above:

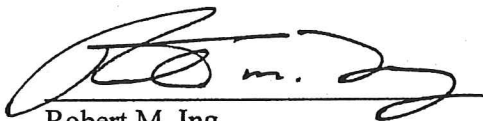
1. Approve the withdrawal of approximately one (1) acre from General Lease No. S-

4488, as generally described in Exhibits A and B, 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 withdrawal document 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.
2. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to the Department of Transportation-Harbors Division 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. Authorize the immediate issuance of a management and construction right-of-entry permit to the Department of Transportation-Harbors Division 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.

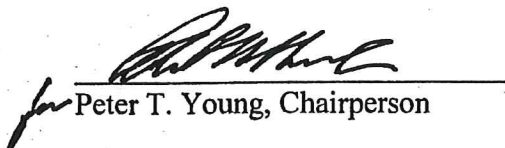
July 8, 2005

Respectfully Submitted,

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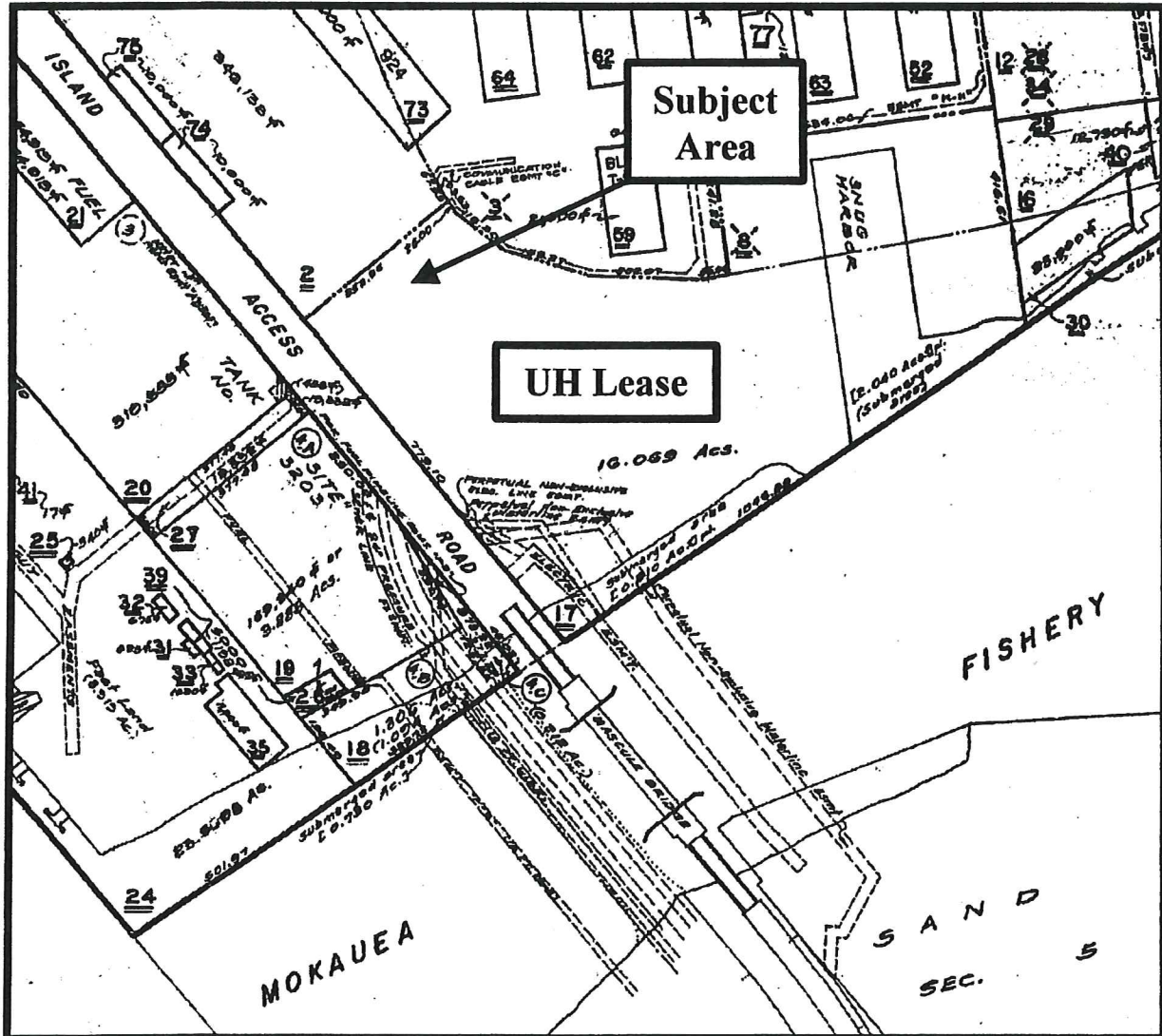
Robert M. Ing,  
Land Agent

APPROVED FOR SUBMITTAL:

A handwritten signature in black ink, appearing to read "Peter T. Young", written over a horizontal line. To the left of the signature is a small, stylized mark that looks like "for".

Peter T. Young, Chairperson





Withdrawal from GL4488,  
Set Aside & ROE to DOT-Harbors  
for maritime purposes.  
TMK: (1) 1-2-025:Portion 17

**EXHIBIT A**



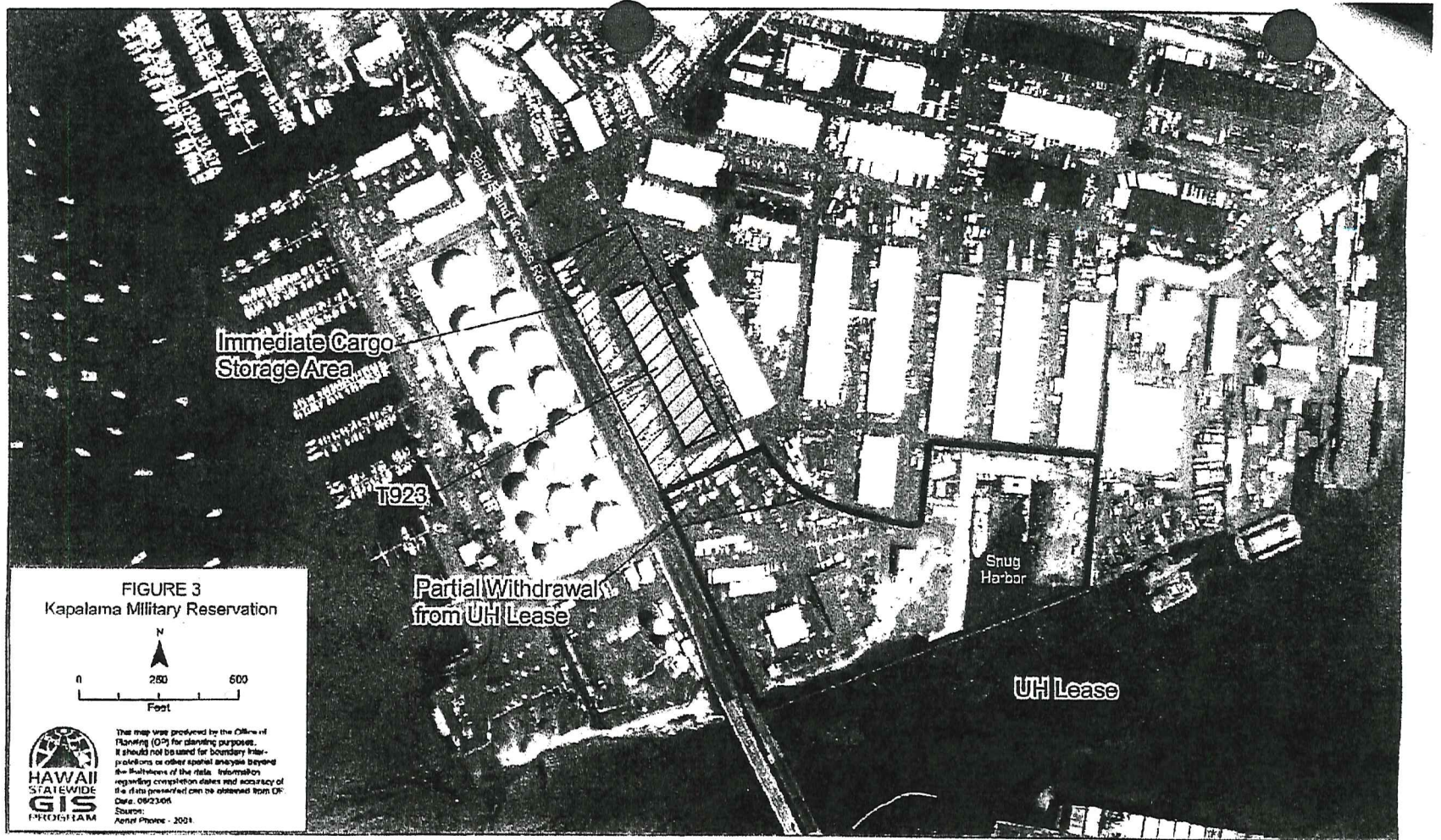


EXHIBIT B