

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

February 9, 2007

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

OAHU

Issuance of a sublease to Slow Down Town LLC., dba Down Town at the HISAM for a restaurant, bar and grill, including related activities such as catering for events; retail and office use at the No. 1 Capitol District (formerly the Hemmeter Building), Honolulu, Oahu, Tax Map Key: (1) 2-1-17-001.

APPLICANT:

Slow Down Town LLC, dba Down Town at the HISAM, 250 South Hotel Street, Honolulu, Hawaii 96813, as sublessee or tenant.

CONTROLLING AGENCY AND LEGAL REFERENCE:

DAGS is the lessee under a Chapter 37D, Hawaii Revised Statutes (HRS) financing agreement, which was used to purchase the building around December 2000. Funds for the purchase were raised through the issuance of certificates of participation (COPs). When all lease payments are made over the 20 year term, title to the property will be transferred to the Board of Land and Natural Resources (BLNR). The BLNR will then be asked to recommend to the Governor, the set aside of the property to DAGS.

Under Chapter 26-6, HRS, DAGS has the authority to operate and manage public buildings. The Friends of HISAM was established as a nonprofit group pursuant to Chapter 9-23, HRS, to work effectively with DAGS, the State Foundation on Culture and the Arts (Foundation) to enhance and support the work of the Hawaii State art museum, its ancillary programs, and amenities. The statute allows the Friends of HISAM to operate concessions or other for-profit business enterprises within or on the grounds of the state art museum as directed by the Foundation, or to enter into contracts as approved by and with the Foundation, for the operation of such enterprises. Funds generated by the Friends shall be used as supplemental funds that may be expended for the following purposes:

1. Employing personnel as required to operate and maintain the museum and ancillary programs for education, cultural, and promotional purposes;
2. Planning and development of state art museum programs;
3. Construction, repairs, replacements, additions, and extensions of state art museum facilities;
4. Operational and maintenance costs of state art museum and

- ancillary programs and amenities;
- 5. Administrative costs of the state art museum; and
- 6. Doing other things necessary to accomplish the purposes of this chapter, including the adoption, amending, or repeal of rules pursuant to chapter 91.

ZONING:

State Land Use District: Urban and located in the Capitol Special Design District
 City & County of Honolulu
 CZO: BMX-4 (Central Business mixed use)

TRUST LAND STATUS:

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

CURRENT USE STATUS:

Various state agencies currently occupy the building's leasable space, including the State Foundation on Culture and the Arts (SFCA), which is administratively attached to DAGS. The Hawaii State Art Museum (HISAM) occupies a major portion of the 2nd floor and is run and operated by SFCA.

LOCATION AND AREA:

Premises located on a portion of the ground floor of the No. 1 Capitol District, comprising approximately 2,656 square feet (kitchen 842 s.f., café 1,434 s.f., office/storage 380 s.f.) at 250 South Hotel Street, Honolulu, Hawaii 96813, together with the tenant's right to increase outdoor seating including the poolside area by a maximum of 1,005 s.f. (See Exhibit A)

TERM:

Fifty-nine (59) months, commencing with the approval of this sublease by the Board of Land and Natural Resources. Sublessee has an option to extend the term of the lease for an additional fifty-nine (59) months.

RENT AMOUNT:

The proposed basic monthly rent is the greater of:

Modified Gross Rent for the period:

First 3 months	\$0.00 per sq. ft. per month
Next 3 months	\$1.00 per sq. ft. per month (\$2,656.00)
Next 36 months	\$2.00 per sq. ft. per month (\$5,312.00)
Next 17 months	\$2.12 per sq. ft. per month (\$5,630.72)

or

Percentage Rent:

Eight (8) percent (8%) of sublessee's gross receipts for food and all other receipts including beverage, retail and catering both on or off the Premises.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The controlling agency shall be responsible for ensuring compliance with Chapter 343, HRS.

DCCA VERIFICATION:

Place of business registration confirmed: Yes No_
Registered business name confirmed: Yes No_
Applicant in good standing confirmed: Yes No_

REMARKS:

Both the Department of Accounting and General Services (DAGS) and the Friends of the Hawaii State Art Museum (Friends of HISAM) will be designated as sublessors or landlords.

The sublease with Slow Down Town LLC, dba Down Town at the HISAM will be subject to the terms and conditions of the Lease Purchase Agreement, which is the financing lease that the State entered into to acquire the property. If there are any conflicts between this sublease and the Lease Purchase Agreement, the terms of the Lease Purchase Agreement shall prevail.

Under the lease financing arrangement using certificates of participation (COP), investors receive exemptions from federal income tax. This exemption can be jeopardized should the State permit an excessive amount of non-government use in the building. DAGS has reviewed this proposed leasing arrangement with the Department of Budget & Finance's General Advice Counsel for compliance and to maintain tax benefits for the investors.

An agreement will be developed to identify specific costs and responsibilities between DAGS and the Friends of HISAM, as Landlord.

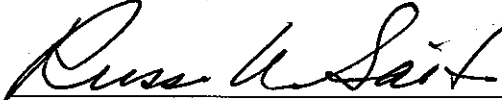
RECOMMENDATION:

That the Board consent to the sublease by DAGS and the Friends of HISAM, as sublessor, and Slow Down Town LLC, dba Down Town at the HSAM, as sublessee, subject to any applicable conditions cited above which are by this reference incorporated herein and further subject to the following:

1. Consent by the insurer of the financial guaranty insurance policy for the COP financing, and any other approvals or consents required under the Lease Purchase Agreement.

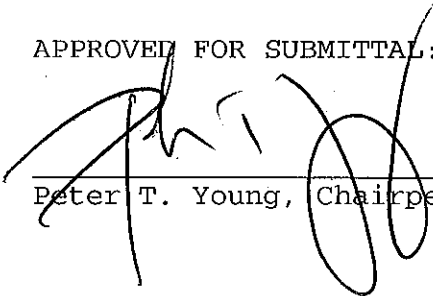
2. Review and approval by the Department of the Attorney General as to form for the new sublease;
3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Russ K. Saito,
State Comptroller

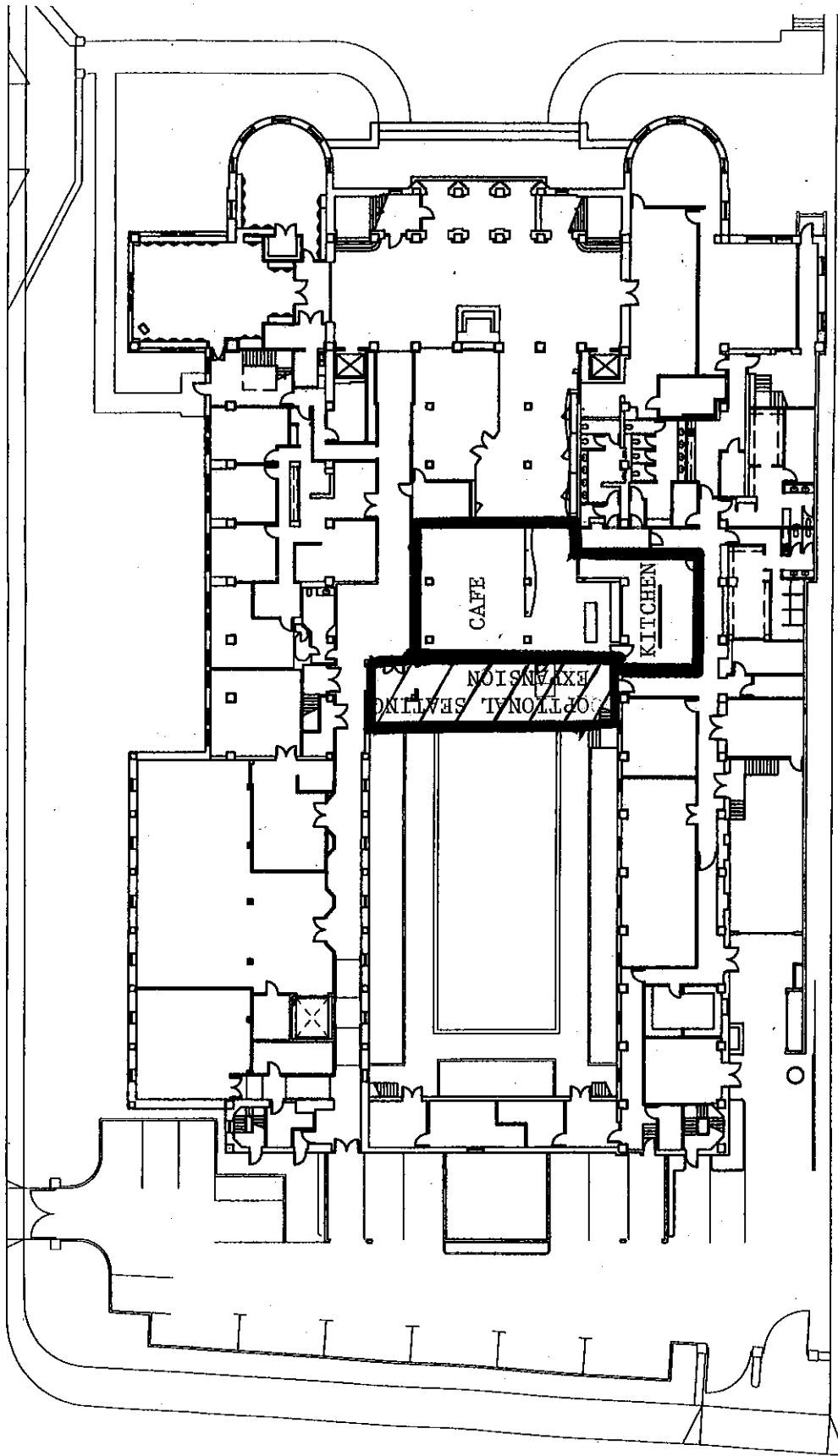
APPROVED FOR SUBMITTAL:



Peter T. Young, Chairperson

NO. 1 CAPITOL DISTRICT BUILDING

RICHARDS STREET



SOUTH BERETANIA

EXHIBIT A