

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Division of Boating and Ocean Recreation  
Honolulu, Hawaii 96819

April 13, 2018

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

Land Board Members:

SUBJECT: AMENDMENT TO PRIOR BOARD AUTHORIZATION, ITEM J-12, FEBRUARY 9, 2018, FOR A PUBLIC AUCTION OF A LEASE FOR PURPOSES OF LANDSCAPING, MAINTENANCE, STORAGE OF SMALL BOATS AND TRAILERS AND OTHER MARITIME RELATED ACTIVITIES AT MALA WHARF AND SURROUNDING AREAS, ALAMIHI, LAHAINA, MAUI, HAWAII, IDENTIFIED BY TAX MAP KEY: (2) 4-5-005:019 (POR)

AND

DECLARE PROJECT EXEMPT FROM REQUIREMENTS OF CHAPTER 343, HRS, AND TITLE 11, CHAPTER 200, HAWAII ADMINISTRATIVE RULES

REQUEST:

Authorize Public Auction of a Lease for maritime related purposes.

LEGAL REFERENCE:

Hawaii Revised Statutes (HRS), Sections 171-14, 16, 17, as amended, and HRS Section 200-2.5, as amended.

LOCATION:

Portion of Government lands situated at Mala Wharf and Surrounding Areas, Alamihi, Lahaina, Maui, Hawaii, identified by TMK: (2) 4-5-005:019 (por.) hereinafter referred to as the "Premises" as shown on the map labeled EXHIBIT A and attached hereto.

AREA:

Approximate area of 18,644 square feet.

ZONING:

State Land Use District: Urban  
County of Maui: CZO: R2 Residential

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act: YES  
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

Division of Boating and Ocean Recreation (DOBOR), Revocable Permit No. 47, to A&K Ventures, LLC, Inc., which operates and maintains landscaping, maintenance, storage of small boats and trailers and other maritime related activities at Mala wharf and surrounding areas. The RP is issued on a month-to-month basis only.

CHARACTER OF USE:

For small boat harbor and maritime related purposes. The successful bidder shall occupy and use the Premises for the landscaping, maintenance, storage of small boats and trailers and other maritime related activities at Mala Wharf and surrounding areas.

LEASE TERM:

Up to thirty-five (35) years depending on the amount of improvements made to the facility and as approved by the Chairperson.

COMMENCEMENT DATE:

The date of auction if the current occupant is the successful bidder, otherwise, sixty (60) days after the date of auction; provided if such date is not on the first day of any month, the commencement date shall be the first day of the month following such date; furthermore, the Chairperson may amend the commencement date for good cause.

MINIMUM UPSET BASE ANNUAL RENT:

In addition to the provisional uses as mentioned above, DOBOR had the area appraised in 2016 by an independent appraiser selected by the State of Hawaii pursuant to section 103D-304, HRS, Procurement of Professional Services and Chapter 3-122, Hawaii Administrative Rules (HAR), Source Selection and Contract Formation.

The current monthly base rent is THREE THOUSAND SIX HUNDRED FOURTEEN AND NO/100 DOLLARS (\$3,614.00) or percentage rent of ten percent (10%) of monthly gross sales, whichever is greater.

The rent charged is fair under the circumstances based upon said appraisal, current use, market demand and prevailing economic conditions.

METHOD OF PAYMENT:

Base rent shall be payable in advance, without notice or demand, in equal monthly installments on the first (1<sup>st</sup>) day of each and every month. Percentage rent shall be payable on the fifteenth (15<sup>th</sup>) day of the month, if applicable.

PERFORMANCE BOND:

Twice the base annual rental amount.

PROPERTY CHARACTERISTICS:

The Premises area is improved/paved land of approximate 18,644 square feet.

Utilities: Water, sewer and electricity

Slope: Level to street grade.

Legal Access: Regular access off the main road of the Mala Wharf for Small Boat Harbor access.

Subdivision: The Premises is a legally subdivided separate individual lot.

Encumbrances: The parcel is encumbered by Hawaii Executive Order (“EO”) No. 4315 which states it is for Mala Wharf and surrounding areas, to be under the control and management of the State of Hawai’i, Department of Land and Natural Resources, Division of Boating and Ocean Recreation.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

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, dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, Item No. 47, that states “leases of state land involving negligible or no expansion or change of use beyond that previously existing.” (See EXHIBIT B)

REMARKS:

On February 9, 2018, DOBOR came before the Board of Land and Natural Resources (Board) with Item J-12, requesting to authorize a public auction of a lease for purposes of landscaping, maintenance, storage of small boats and trailers and other maritime related activities at Mala Wharf and surrounding areas. The Board approved Item J-12; however, the Deputy AG informed us that DOBOR needed to comply with Chapter 343 prior to the auction and issuance of a lease of State

lands. DOBOR reviewed the current activities taking place on the property and consulted with the existing lessee and determined that there will be no expansion or change of use beyond what currently exists. DOBOR is requesting the reauthorization to lease the Premises through public auction and declare the project exempt from the requirements of Chapter 343, HRS and Title 11 Chapter 200 HAR.

RECOMMENDATION:

That the Board of Land and Natural Resources:

- 1) Reauthorize the public auction of a lease covering the subject area for maritime purposes 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 boating general lease form, as may be amended from time to time;
  - b. Residential use shall not be allowed on the Premises;
  - 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.
- 2) Declare the project exempt from Chapter 343, HRS and Title 11, Chapter 200, HAR.

Respectfully Submitted,



EDWARD R. UNDERWOOD, Administrator  
Division of Boating & Ocean Recreation

APPROVED FOR SUBMITTAL:



SUZANNE D. CASE, Chairperson  
Board of Land and Natural Resources

Attachment:

- A. Arial map of Mala Wharf, Lahaina, Maui
- B. Declaration of Exemption





# Mala Wharf

Lahaina, Maui, Hawaii

## Legend

Mala Wharf

Mala Wharf





DAVID Y. IGE  
GOVERNOR OF  
HAWAII



SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA  
FIRST DEPUTY

JEFFREY T. PEARSON, P.E.  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

March 19, 2018

**EXEMPTION OF NOTIFICATION**

Regarding the preparation of an environmental assessment under the authority of  
Chapter 343, HRS and Section 11-200-8, HAR

Project Title:	Public Auction of a Lease
Project Number:	To be determined
Project Location:	Alamihi, Lahaina, Maui, Hawaii, TMK No: (2) 4-5-005:019 Portion
Chapter 343 Trigger(s):	Use of State Lands
Project Description:	Public auction for small boat harbor and maritime related purposes. The successful bidder shall occupy and use the Premises for the landscaping, maintenance, storage of small boats and trailers and other maritime related activities at Mala Wharf and surrounding areas. The successful bidder may also occupy and use the premises for any other uses permitted under applicable County zoning, subject to the prior approval of the Chairperson of the Board and the successful bidder's compliance with Chapter 343, Hawaii Revised Statutes.
Consulted Parties:	Office of Conservation and Coastal Lands; Land Division Both agencies concurred with the proposed exemption notification.
Exemption Class & Description:	Exemption Class 1: Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing.  Item 47: Leases of state land involving negligible or no expansion or change of use beyond that previously existing.
Determination:	It is declared that this project will likely have minimal or no significant impact on the environment and is therefore exempt from the preparation of an environmental assessment under the above exemption classes.

**EXHIBIT B**