

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

May 11, 2018

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

PSF No.: 17HD-153

Hawaii

Sale of Lease at Public Auction for Industrial Purposes, Waiakea, South Hilo,  
Hawaii, Tax Map Key: (3) 2-2-032:085 and 086.

REQUEST:

Sale of lease at public auction for industrial purposes as allowed under County zoning.

LEGAL REFERENCE:

Sections 171-6, -13, -14, -14.5, -16, -17 and other applicable sections of Chapter 171, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Kanoelehua Industrial Lots situated at Waiakea, South Hilo, Hawaii, identified by Tax Map Key: (3) 2-2-032:085 (parcel 1) & 086 (parcel 2), as shown on the attached map labeled Exhibit A.

AREA:

- Parcel 1: 34,877 square feet, more or less
- Parcel 2: 29,497 square feet, more or less

Subject to confirmation by the Department of Accounting and General Services, Survey Division.

ZONING:

State Land Use District: Urban  
County of Hawaii CZO: ML 20, limited industrial

TRUST LAND STATUS:

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

CURRENT USE STATUS:

Previously encumbered under General Lease No. S-3723 to Constructors Hawaii, Inc. for industrial purposes. Lease expired 11/29/2017.

CHARACTER OF USE:

Industrial purposes as allowed under County zoning.

LEASE TERM:

Thirty (30) years from the commencement date of the lease.

COMMENCEMENT DATE:

Sixty (60) days after the date of sale; provided that 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; and further provided that the Chairperson may amend the commencement date for good cause.

MINIMUM UPSET ANNUAL RENT:

To be determined by independent appraisal, subject to review and approval by the Chairperson. The appraisal shall determine the upset rent for land and improvements for the first 10 years of the lease, as well as a percentage increase for the second 10-year period of the lease to provide the successful bidder with rent certainty for the first 20 years of the lease. Rent for the remaining 10-year period of the lease shall be determined by independent appraisal. The appraiser procured to determine the upset rent shall also separately determine the fair market value of the existing improvements on the land.

METHOD OF PAYMENT:

Semi-annual payments, in advance.

RENTAL REOPENINGS:

At the end of the 20<sup>th</sup> year of the lease term, by independent appraisal.

PERFORMANCE BOND:

Twice the annual rental amount.

**RENT WAIVER:**

The rent may be waived for a maximum period of twelve (12) calendar months upon a completion of substantial improvements to the subject parcel. "Substantial improvements" for purposes of the lease will mean renovations or new construction with a value equal to at least 50% of the appraised value of the existing improvements<sup>1</sup>. Plans shall be submitted and approved within one year of the execution date of the lease.

**IMPROVEMENT BOND:**

Amount of the cost of any improvements made to the premises.

**PROPERTY CHARACTERISTICS:**

- Utilities – Water, electricity, phone, sewer
- Existing improvements – Several warehouse structures. One large and two open warehouses and one enclosed structure. Perimeter fencing encloses both properties.
- Legal access to properties – Staff has verified that there is legal access to both properties from Kalanikoa Street.
- Subdivision – Staff has verified that the subject properties to be auctioned are two legally subdivided lots. However, the two lots will be offered at auction under a single lease because existing improvements straddle the lot line between the two parcels.
- Encumbrances – Staff has verified that the parcel 1 is currently encumbered by a right-of-entry/revocable permit to Pacific Waste, Inc. Parcel 2 is currently unencumbered.

**CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:**

In accordance with the Exemption List for the Department of Land and Natural Resources Environmental Impact Statement Exemption List", approved by the Environmental Council and 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 as stated in the Exemption Notification attached as Exhibit B.

**REMARKS:**

**Background:**

The subject properties were previously encumbered under General Lease No. S-3723 and was sold at public auction to S.K. Oda, Limited and commencing on November 30, 1962. The term of lease was for 55 years and expired November 29, 2017.

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<sup>1</sup> HRS 171-6(7)



At its meeting of February 23, 2018, Item D-4, the Board approved the issuance of an interim right-of-entry permit pending issuance of a revocable permit to Pacific Waste, Inc. (PWI) over a portion of parcel 1. Right-of-entry permit No. 4345 was issued to PWI on April 3, 2018. The monthly rent is \$2,700.00.

### **Lease at Public Auction:**

Staff is recommending that the Board authorize the auction of a new 65-year industrial lease for both of the subject parcels and the improvements thereon as a single unit because existing improvements straddle the lot line between the two parcels. County zoning for this area is “Limited Industrial” (ML-20) and is consistent with the intended purpose of this lease auction proposal. The proposed subject leases are described as follows:

- Parcel 085 is a 34,877-square foot fenced in lot with a 7,500-square foot office/warehouse structure on it. The warehouse is in fair condition although there was noticeable leaking from portions of the roof. The office area is also in need of significant repair and maintenance work. Also on the property are two open carport structures with concrete floors. These structures are in good condition and would only require minor repair work. PWI<sup>2</sup> has been utilizing a portion of this property with the two carports as its East Hawaii baseyard. As noted above, the Board approved PWI’s temporary use of the property while preparations are made for a long-term lease.
- Parcel 086 is a 29,497-square foot, fenced in lot with a 15,000-square foot open warehouse and parking area. The warehouse was most recently utilized by HPM Building Supplies, Inc. for storage purposes. This warehouse is in fair condition with minor repairs needed for the roof. The open storage/parking lot area is also in need of repairs and possible resurfacing.

As a result of researching the various underwriting policies of local banking institutions, staff has found that the rent structure can significantly impact the terms and conditions of available financing. The most limiting policy is that both the amortization period and term of the loan will be restricted to the fixed rental period of the lease. As a result, staff is recommending that the appraisal to determine the upset rent for the first 10 years of the lease also determine the percentage increase in rent for the second 10 years of the lease, thereby giving the successful bidder known rent for the first 20 years of the lease. The banks have indicated that the fixed increase is much more manageable in their lending policies since it is a known number and can be incorporated into the borrower’s business plan. This would allow the lending institution to offer a more typical 20-year amortization loan with a balloon in 10 to 15 years which would result in a realistic financing package.

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<sup>2</sup> PWI maintains a commercial waste disposal business. PWI has been utilizing approximately 20,000-square feet of the property as a storage site for its East Hawaii operations in addition to its operations on the Kona side of the Island of Hawaii. PWI has submitted a request for a month-to-month revocable permit. The proposed use is consistent with the county zoning (limited industrial).



If the successful bidder(s) elects to make substantial improvements<sup>3</sup> to the premises, then it will be entitled to a rent waiver for the first 12 months of the lease. However, staff recognizes that the lessee should not be charged rent on the increased value of the improvements attributed to its investment in the property. Accordingly, the lease will contain a provision that the rental reopening at the end of the 20<sup>th</sup> year of the lease term shall exclude the value of any improvements made to the premises by the lessee.

A request for comments was distributed to various government agencies and their responses are included below.

County of Hawaii Agencies	Comments
Environmental Management	Comments Below
Fire Department	No Objections
Planning	No Objection
Police Department	No Comments
Public Works	No Response
Water Department	No Objections
State of Hawaii Agencies	Comments
DLNR-Historic Preservation	No Response
DHHL	No Response
DOH-Environmental Management	No Response
DOT-Highways Division	No Objections
Other Agencies	Comments
Office of Hawaiian Affairs	No Response
Corps of Engineers	No Comments

The County of Hawaii, Department of Environmental Management noted parcel 085 is currently not connected to the County sewer system and that a sewer lateral is not currently provided to the parcel. It is currently unknown what type of wastewater disposal system is used for the property. However, should the facility be used by more than 20 persons, the facility could be found to be in violation of USEPA Large Capacity Cesspool closure requirements.

Staff recommends that the public auction notice and lease expressly provide that the subject land and improvements will be leased “AS IS, WHERE IS”, with all faults and defects whether latent or patent, and that it will be the lessee’s obligation to maintain and repair any

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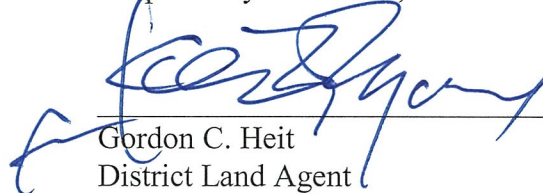
<sup>3</sup> “Substantial improvements” mean renovations or new construction with a value equal to at least 50% of the appraised value of the existing improvements.

improvements now located or hereafter constructed on the premises at its sole cost and expense.

RECOMMENDATION: That the Board:

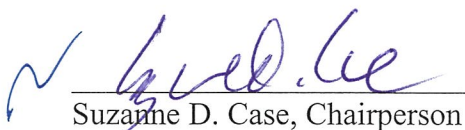
1. Find the area to be an economic unit in terms of the intended use.
2. Find that the subject area is not suitable for hunting, nor will it become so during the term of the lease.
3. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
4. Authorize the sale of a lease at public auction covering the subject areas for business, commercial or industrial 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 business, commercial or industrial general lease form, as may be amended from time to time;
  - b. The public auction notice and lease shall expressly provide that the subject land and improvements will be leased "AS IS, WHERE IS", with all faults and defects whether latent or patent, and that it will be the lessee's obligation to maintain and repair any improvements now located or hereafter constructed on the premises at its sole cost and expense;
  - 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.

Respectfully Submitted,



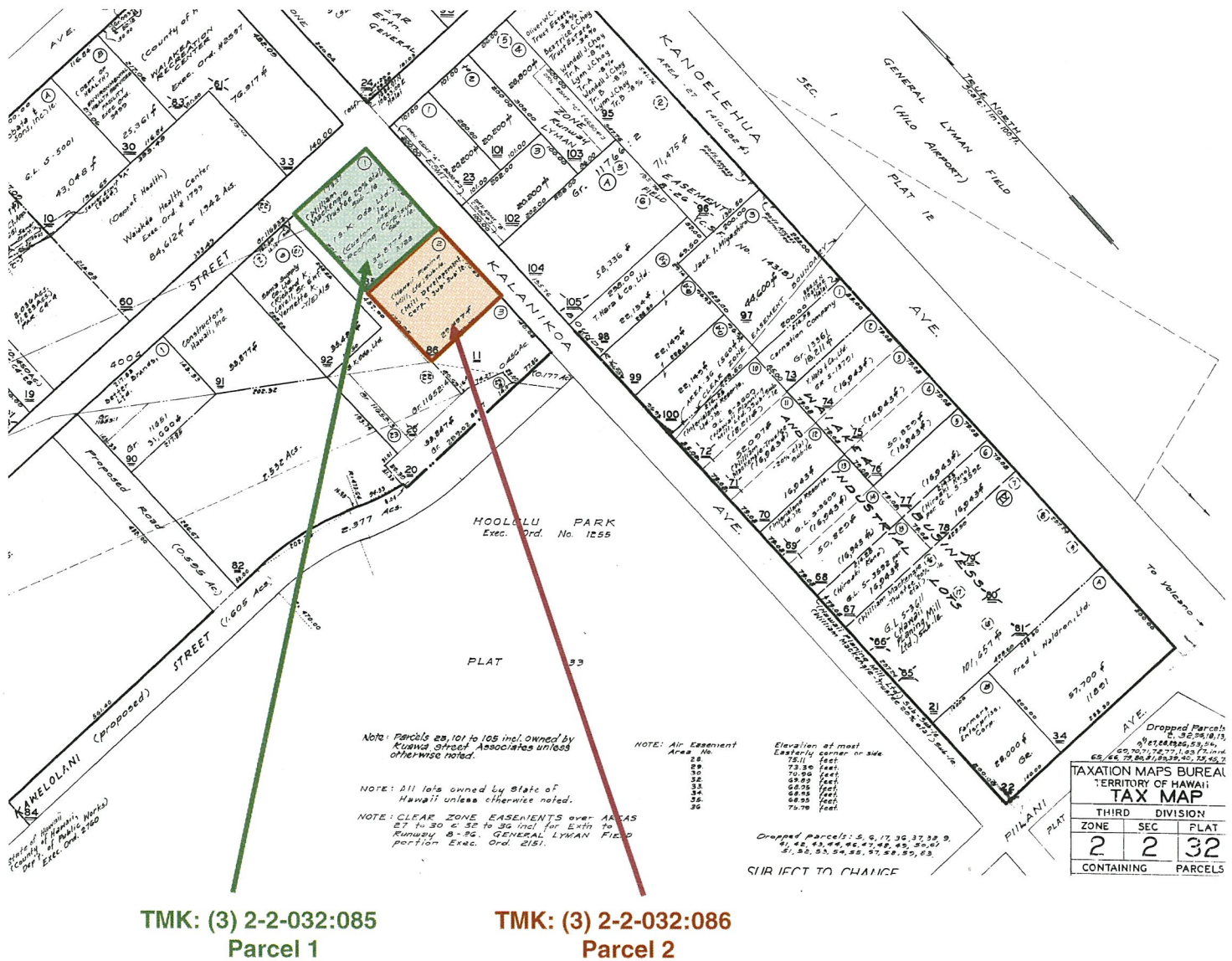
Gordon C. Heit  
District Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

**TMK: (3) 2-2-032:085, 086**

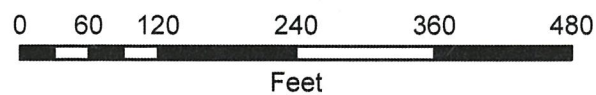




# Industrial Lease Auction



**EXHIBIT A**





**GENERAL LEASE No. S-3723 FINAL INSPECTION**



VIEW FROM KUAWA ST. – Parcel :085



REAR VIEW – Parcel :085



**GENERAL LEASE No. S-3723 FINAL INSPECTION**



**KALANIKOA ST. ENTRANCE – Parcel :085**



**OPEN STORAGE SHED – Parcel :085**



**GENERAL LEASE No. S-3723 FINAL INSPECTION**



KALANIKOA ST. VIEW – Parcel :086



VIEW OF WAREHOUSE – Parcel :086



**GENERAL LEASE No. S-3723 FINAL INSPECTION**



WAREHOUSE INTERIOR – Parcel 086



WAREHOUSE INTERIOR – Parcel :086



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

May 11, 2018

**EXEMPTION NOTIFICATION**

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

<b>Project Title:</b>	Sale of General Lease at Public Auction for Industrial Purposes.
<b>Project / Reference No.:</b>	PSF No. 17HD-153
<b>Project Location:</b>	Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-2-032:085, 086.
<b>Project Description:</b>	The subject parcels were previously encumbered under GL S-3723 for industrial purposes and expired in 2017. The sale of lease through public auction would assist in reducing the demand for warehouse space in the Hilo industrial area.
<b>Chap. 343 Trigger(s):</b>	Use of State Land
<b>Exemption Class No. and Description:</b>	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 and dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, Item 47 that states "Leases of State land involving negligible or no expansion or change of use beyond that previously existing."
<b>Cumulative Impact of Planned Successive Actions in Same Place Significant?:</b>	No. The sale of State land at public auction for industrial purposes is a continuation of the previous use of the property and is compliant with county zoning requirements. Staff believes there are no cumulative impacts involved.
<b>Action May Have Significant Impact on Particularly Sensitive Environment?:</b>	No. There are no particular sensitive environmental issues involved with the proposed use of the properties.

**Exhibit B**



**Analysis:**

There is currently a need for warehouse space in the Hilo industrial area. The two parcels being made available for lease are fully developed and ready for use. However, due to the age of the structures, there will be a need for repairs, renovations and possible improvements. Therefore, staff believes that this intended use would result in no significant impact to the natural, environmental and/or cultural resources in the area, and that it should be found to be exempt from the preparation of an environmental assessment.

**Consulted Parties:**

County of Hawaii Agencies	Comments
Environmental Management	Comments Below
Fire Department	No Objections
Planning	No Objection
Police Department	No Comments
Public Works	No Response
Water Department	No Objections
State of Hawaii Agencies	Comments
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**Recommendation:**

That the Board find this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.