

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

January 11, 2019

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

Land Board Members:

SUBJECT: SALE OF LEASE AT PUBLIC AUCTION FOR DOCKSIDE FUEL SALES, CONVENIENCE STORE, OVER-THE-COUNTER SNACK BAR, NON-EXCLUSIVE EASEMENT FOR PIPELINES FOR THE TRANSMISSION OF PETROLEUM PRODUCTS AND SALE OF ICE PURPOSES, HE'EIA KEA HARBOR, HE'EIA, KOOLAUPOKO, OAHU, TAX MAP KEY: (1) 4-6-006: POR. 067 AND PIPELINE EASEMENT. DECLARE THAT, AFTER CONSIDERING THE POTENTIAL EFFECTS OF THE PROPOSED PROJECT 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.

REQUEST:

Sale of lease at public auction for dockside fuel sales, convenience store, over-the-counter snack bar, non-exclusive easement for pipelines for the transmission of petroleum products and sale of ice purposes.

LEGAL REFERENCE:

Sections 171-14, -16, -17, and other applicable sections of Chapters 171, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at He'eia Kea Harbor, He'eia, Koolaupoko, Oahu, hereinafter referred to as the "Premises" as shown on the map labeled **EXHIBIT A1 and A2** and attached hereto. Said premises are a portion of Governor's Executive Order No. 4325.

AREA:

Parcel 1: Containing an area of 980 square feet, more or less
Parcel 2: Containing an area of 1,020 square feet, more or less
Parcel 3: Containing an area of 2,244 square feet, more or less
Pipeline Easement: Containing an area of 970 square feet, more or less

ZONING:

State Land Use District: Urban
C&C of Honolulu CZO: P-2 (General Preservation)

TRUST LAND STATUS:

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

CURRENT USE STATUS:

Vacant. Formerly encumbered under Boating Lease No. B-11-1, Sandbar Group, Inc., for dockside fueling operations, petroleum storage, convenience store, ship chandlery and a non-exclusive easement for subsurface pipeline for the transmission of petroleum products.

CHARACTER OF USE:

Parcel 1 – Petroleum storage tanks and facilities, and a waste oil containment system.
Parcel 2 – Dockside fueling operations and sewage pump-out system.
Parcel 3 – Convenience store, ships chandlery, over-the-counter snack bar and ice house.
Pipeline Easement – Subsurface pipeline for the transmission of petroleum products extending from Parcel 1 to Parcel 2, and for the installation, repair, maintenance and replacement of said subsurface pipeline.

LEASE TERM:

Thirty-Five (35) years from the commencement date of the lease.

COMMENCEMENT DATE:

To be determined by the Chairperson.

MINIMUM UPSET ANNUAL RENTAL AND PERCENTAGE RENT:

To be determined by staff or independent appraisal establishing fair market rent, subject to review and approval by the Chairperson. The appraisal shall determine the upset rent for the premises for the first five years of the lease, as well as an appropriate stepped increase (as a percentage increase over the base rent of the immediately preceding 5-year period)

for the second and third 5-year periods to provide the successful bidder with a known rent for the first 15 years of the lease. The appraiser procured to determine the upset rent shall also separately determine the percentage rent.

METHOD OF PAYMENT:

The minimum upset rent shall be paid monthly, in advance, and the percentage rent shall be paid monthly, in arrears.

RENTAL REOPENINGS:

At the end of the 15th, 25th years of the lease term, by staff or 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. Notwithstanding the foregoing, the successful bidder shall pay percentage in the event the rent is waived.

PROPERTY CHARACTERISTICS:

Utilities — Water, individual wastewater system, electricity and telephone

Existing Improvements – Wood frame structure containing approximately 1,059 sq. ft. built in 1975, fuel tanks, fuel pump together with the associated infrastructure including pipelines and a freestanding metal ice facility.

Legal access to property - Staff has verified that there is legal access to the premises from Kamehameha Highway.

Encumbrances – Staff has verified that the premises are currently unencumbered.

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

In accordance with 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 No. 47 that states "Leases of State land involving negligible or no expansion or change of use beyond that previously existing." Once the lease is acquired, should the successful bidder desire to change the use materially from the use made by the prior lessee under Boating Lease No. B-11-1, the successful bidder will be responsible for compliance with Chapter 343, HRS, with respect to any increased

development or change in use of the property from the previously existing use. See attached Exemption Notification.

REMARKS:

The premises consist of three non-contiguous parcels containing a total of 4,244 sq. ft., and pipeline easement land containing 970 sq. ft. located at He’eia Kea Harbor. The parcels are zoned P-2 under the City and County of Honolulu’s Land Use Ordinance (LUO). The proposed use is allowed under the LUO with a conditional use permit.

The premises were previously encumbered under Boating Lease B-11-1, awarded via public auction for similar purposes, and issued to Sandbar Group, Inc. (Sandbar) for a term of thirty-five (35) years (lease).

The lease, which began April 1, 2011, was to expire on March 31, 2046. However, due to Sandbar’s repeated noncompliance with the lease terms, staff issued a Notice of Default on several occasions, culminating with a request for the Board of Land and Natural Resources (Board) to terminate the lease.

At its meeting of June 25, 2018, under agenda item J-5, the Board authorized the termination of the lease. The premises are currently unencumbered as a result.

Staff seeks to sell the lease at public auction in order to provide the commercial and recreational boaters who use He’eia Kea Harbor with the variety of services they have requested.

The following State and City and County of Honolulu agencies were consulted on this action with the results indicated:

Agency:	Comment:
Division of Aquatic Resources	See comments attached as EXHIBIT B
Office of Conservation and Coastal Lands	No response by suspense date
Office of Hawaiian Affairs	No response by suspense date
COH Department of Planning and Permitting	No response by suspense date
COH Department of Facilities Maintenance	No objections
Board of Water Supply	No objections, no comments

Staff received exemption confirmation from Land Division.

RECOMMENDATION:

That the Board of Land and Natural Resources:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, Hawaii Administrative Rules, this project will

probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.

2. Authorize the sale of a lease at public auction 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 Lease form, as may be amended from time to time;
 - b. The successful bidder will be responsible for compliance with Chapter 343, HRS, with respect to any increased development or change in use of the property from the previously existing use;
 - 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.

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:

- A1. Heeia Kea Lease Parcels Map
- A2. Heeia Kea Lease Parcels Photo
- B. Heeia Kea Lease Sell