

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

December 13, 2019

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

PSF No.: 17HD-028

Hawaii

Authorize the Issuance of a Request for Qualifications / Request for Proposals for Lease of Improved Public Lands; Waiakea, South Hilo, Hawaii, Tax Map Keys: (3) 2-1-005: 033, 034, 035 and 045.

REQUEST:

Authorize the issuance of a Request for Qualifications / Request for Proposals (RFQ/RFP) to select a potential lessee of improved public lands at Waiakea, South Hilo, Hawaii.

APPLICANT:

Department of Land and Natural Resources (Department or DLNR), Land Division.

LEGAL REFERENCE:

Sections 171-6, -16, 18, 17, 19, 35, 36, 41, 59, and other applicable sections of Chapter 171, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands situated at Waiakea, South Hilo, Hawaii, identified by Tax Map Keys: (3) 2-1-005: 033, 034, 035 and 045, as shown on the attached maps labeled Exhibit A.

AREA:

1.83 acres, more or less.

ZONING:

State Land Use District: Urban

County of Hawaii CZO: Hotel and Resort (V-.75)

The parcel is also located within the Special Management Area and tsunami inundation zone.

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:

Under Revocable Permit No. S-7905 to Tower Development, Inc. for security and property management purposes.

PROPERTY CHARACTERISTICS:

Utilities – Electricity, water and sewer

Elevation – Approximately three to eleven feet above sea level

Legal access to property – Staff has verified that there is legal access to the property from Banyan Drive.

Subdivision – Staff has verified that the subject property consists of four legally subdivided lots. However, existing structures cross lot lines.

Encumbrances – Staff has verified that the following encumbrances exist on the property:
Revocable Permit No. S-7905 to Tower Development, Inc. for security and property management purposes.

STATUTORY AUTHORITY:

HRS §171-59(a) provides that a lease of public land may be disposed of through negotiation upon a finding by the Board of Land and Natural Resources (Board) that the public interest demands it and provides a process under which the Board may select the lessee.

The process requires that public notice of the disposition be given, that applications be solicited from prospective lessees, and that the Board evaluate the applications according to criteria established by the Board and determine which applicants meet the criteria. If only one applicant meets the criteria, the Board may dispose of the lease by negotiation. If two or more applicants meet the criteria, the Board shall select the lessee who submits the highest offer contained in a sealed bid deposited with the Board. Relevant excerpts of HRS §171-59(a) are attached as Exhibit B.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules (HAR) §11-200.1-15 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on 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 that states, “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 that states, “Leases of state land involving negligible or no expansion or change of use beyond that previously existing;”
- Exemption Class No. 7 that states, “Interior alterations involving things such as partitions, plumbing, and electrical conveyances,” Item 1 that states, “Interior alterations and renovations to offices, buildings or structures that do not increase the floor area or change the maximum occupancy to include:
 - a. installation of office partitions, utility outlets or connections, air conditioning, lighting, and security systems;
 - b. renovations required to bring existing structures into compliance with current building codes and applicable health, safety, and access regulations;
 - c. renovations that will result in energy or other operational/cost savings; or
 - d. other similar interior alterations;” and
- Exemption Class No. 8 that states, “Demolition of structures, except those structures located on any historic site as designated in the National Register or Hawaii Register as provided for in the National Historic Preservation Act of 1966, Public Law 89-665, or Chapter 6E, Hawaii Revised Statutes,” Item No. 2 that states, “Demolition and removal of existing structures, facilities, utilities, and other improvements on state lands, except those structures located on any historic site as designated in the National Register or Hawaii Register as provided for in the National Historic Preservation Act of 1966, 16 U.S.C. §§470 et. seq., as amended, or Haw. Rev. Stat. Chapter 6E.”

See Exhibit C attached.

BACKGROUND:

The subject property was previously encumbered under General Lease Nos. 3265, 3266, 3267 and S-4252 issued through mesne assignments to William J. Kimi, Jr., dba Uncle Billy’s Hilo Bay Hotel. The hotel was operated as a sole proprietorship until October 1967 when Mr. Kimi incorporated the business as Hilo Bay Hotel, Inc. As a result of this action, the Board, at its meeting of June 27, 1969 (supplemental agenda), consented to the assignment of lease from William J. Kimi, Jr., as assignor, to Hilo Bay Hotel, Inc., as assignee. The four leases were set to expire on March 14, 2015.

At its meeting of February 27, 2015, item D-3, the Board authorized a one-year holdover

of the four leases to be immediately followed by the issuance of a month-to-month revocable permit.

At its meeting of February 12, 2016 under agenda item D-3, the Board consented to the assignment of General Lease Nos. 3265, 3266, 3267 and S-4252, Hilo Bay Hotel, Inc., assignor, to Savio HBH Development Company, LLC (Savio), assignee, and approved the issuance of a single month-to-month revocable permit to (RP S-7879) Savio upon the expiration of the leases. The revocable permit was intended as an interim measure to keep the hotel in operation until such time that the Banyan Drive Hawaii Redevelopment Agency (BDHRA), organized under the supervision of the County of Hawaii, Planning Department, developed a long-term conceptual plan for the future of the Banyan Drive resort area.¹

The Department procured the services of Erskine Architects, Inc. to conduct a detailed analysis of the property to determine whether to demolish or rehabilitate the existing structures on the property. In the June 2016 report prepared by Erskine Architects, Inc. (Erskine Report), a number of life and safety issues at the property were identified including unsafe stairwells, fire safety issues and advanced termite damage throughout the common areas and much of the lodging areas.

The Department provided a copy of the Erskine Report to the Planning Department. This resulted in the County conducting an inspection of the property through its Department of Public Works (DPW), Building Division. In addition, the Fire Department also conducted an inspection based on information provided in the Erskine Report.

At its meeting of June 9, 2017, under agenda Item D-5, as amended, the Board approved the after-the-fact renewal of RP S-7879 to Savio from March 14, 2017 to June 9, 2017, at the then current ground rent of \$2,984.00 per month. During discussions regarding the condition of the property, the Board determined that the hotel should cease operation sooner than later. With that in mind, the Board approved an extension of RP S-7879 from June 10, 2017 to the close of business on July 14, 2017, at no cost. This would allow the permittee, Savio, a reasonable amount of time to close the hotel, lay off staff, remove personal property from the premises, and to perform all other actions necessary to shut down the operations of the hotel. The Board further specified that in the event the County inspectors provided notice to the Department of an urgent health and safety concern or violation at the hotel, then the Chairperson would be authorized to immediately shut down the hotel.

Also at its meeting of June 9, 2017, under agenda Item D-6, the Board authorized the publication of a Request for Interest (RFI) to gauge whether there is interest among prospective developers in obtaining a long-term lease of the subject land for hotel-resort

¹ The BDHRA approved a conceptual plan at its meeting in November 2016. However, the plan has not been presented to the Planning Commission or the County Council for confirmation.

purposes that would include an obligation to conduct an environmental assessment (EA) or environmental impact statement (EIS) for the demolition of the existing structures on the site and construction of a new hotel thereon, secure the permitting and approvals needed for the demolition and new construction, complete the demolition, and construct a new hotel.

As a result of the County DPW Building Division and Fire Department inspections, Mayor Harry Kim wrote a letter to the Chairperson dated June 16, 2017 with the recommendation that the hotel should be vacated immediately.² Upon receipt of the Mayor's letter, the Chairperson directed the immediate closure of the hotel. Land Division staff contacted Savio and measures were taken to relocate the guests then occupying the hotel rooms. Hotel services were effectively ended on June 19, 2017.

At its meeting of July 14, 2017, under agenda Item D-2, as amended, the Board approved the issuance of a revocable permit to Tower Development, Inc. (Tower), an affiliate of WHR LLC, who is the lessee of the neighboring Grand Naniloa Hotel Hilo. Revocable Permit No. S-7905 was thereafter issued to Tower for security and property management purposes. The permit, which remains in effect, specifies that the property shall not be used for hotel-resort or lodging purposes.

REMARKS:

Redevelopment of the subject property has proven to be a challenge. The land is improved with a 146-room hotel constructed in phases between 1966-1970. A remaining useful life study completed in June 2014 indicated that the improvements at that time had a remaining useful life of 5-10 years. An architectural study completed in June 2016 by Erskine Architects, Inc. (Erskine Report) determined that hotel should be demolished. A copy of the Erskine Report recommendations as they relate to the subject property is attached as Exhibit D.

However, the Department has no money to demolish the existing hotel. The Department procured R.M. Towill Corporation (RM Towill) as a consultant to estimate the cost of demolition. RM Towill's report issued in February 2018 determined the demolition cost would be \$8,287,605.

The RFI that the Board approved at its meeting of June 9, 2017 was published on March 7, 2018 with responses due by April 30, 2018. Only Tower responded to the RFI, explaining that it could contribute \$1.5 million toward the site demolition work, but would require a rent credit for any demolition expense above that amount. This means that the State would still need to bear the lion's share of any demolition costs for the existing hotel in the event of a complete teardown and rebuild.

² A formal Notice of Violation was sent via Certified Mail dated 6/22/17 to Permittee and the Hawaii District Land Office.

During the 2019 legislative session, the Department sought capital improvement project (CIP) funds to demolish the hotel, but the legislature declined to appropriate funds. The Department also supported administration bills to increase the amount of a rent credit for major development projects, but the bills did not pass.³ Under current law, rent credits are capped at one year for substantial improvements to commercial property. See HRS §171-6.

Although the County of Hawaii established BDHRA in 2016 to master plan the Waiakea Peninsula, BDHRA has no money to pay for an EA/EIS to facilitate a master plan. To compound matters, under the EA/EIS laws, the Board cannot authorize the issuance of a lease to a party for demolition of an obsolete building and construction of a new one without an EA/EIS first being conducted. That puts the Department in a “Catch-22” situation because a developer will typically not be interested in paying for the EA/EIS unless the developer has the certainty of a land lease for the site.

Accordingly, in an effort to break the stalemate preventing much needed redevelopment at Banyan Drive, staff has been exploring alternatives for the Uncle Billy’s property that would not trigger an EA or EIS. The Erskine Report did contain an alternative recommendation for repair of the hotel:

ALTERNATIVE RECOMMENDATION: If the buildings are not demolished, the obvious alternative would be to REPAIR them. The way in which repairs are handled could be extremely challenging, the associated costs could be prohibitive, and the construction schedules could be time consuming. As such, the types of repairs and the order in which the repairs are phased should be highly scrutinized. Repairs should be done proportionately over several years so that the repair cost does not exceed 50% of the taxable value of the property. Prior to starting any repair or improvement project, the architect and/or engineers who will design the repairs should work closely with the [authorities having jurisdiction] to ensure that grandfathering in of non-conformities can remain in place. Repairs to address the health, safety and welfare of the public, as well as repair and maintenance projects to prolong the remaining useful life of the building should be performed first.

The Erskine Report goes on to list recommended repairs. See Exhibit D.

The Erskine Report was made available to Tower who nevertheless believes that rehabilitation of the property is feasible under the alternative recommendation from the report. Based on the interest expressed by Tower, staff is proposing that the property be put out to lease for renovation, demolition, or partial renovation and partial demolition. The use of the site under any renovation would be limited to hotel and/or apartment use.

3 Although House Bill 1026 and Senate Bill 1252 Senate Draft 1 did not pass in the 2019 legislative session, they are still alive and can be taken up in the 2020 session.

Staff believes the proposed RFQ/RFP process is in accordance with the requirements of HRS §171-59(a) and is preferable to the public auction process for selecting a lessee for the subject property. A lease for hotel/apartment purposes is the highest and best use under County zoning.

- Request for Qualifications/Request for Proposals (RFQ/RFP):

HRS §171-59(a) provides that a lease of public land may be disposed of through negotiation (rather than by public auction) upon a finding by the Board that the public interest demands it. HRS §171-59(a) also provides a process under which the Board may select the lessee. This process entails the public solicitation of applications/proposals from prospective lessees and allows the Board to select the lessee based on its evaluation of the applications/proposals.

Renovation of the existing hotel improvements originally constructed between 1966-1970 will involve significant effort (e.g., obtaining Special Management Area approval or at least review, possible lot consolidation and re-subdivision, building permit approval, etc.) and a substantial investment. The property consists of four separate lots and existing structures cross lots lines. A prospective lessee under the new lease will need to consult with the County Planning Department to determine if lot consolidation and re-subdivision will be required as part of any rehabilitation. The improvements contain hazardous materials that will require remediation as outlined in the Erskine Report and RM Towill report. A portion of the property is occupied by a convenience store that remains in operation. Careful planning will be required to protect the health and safety of the store operator, its employees and customers if the store is to remain in operation during the renovation work. Additionally, the property currently has 38 parking spaces on site. County of Hawaii Zoning Code requires a total of 214 spaces for this property. The property currently has two parking stalls accessible to persons with disabilities when the law requires seven, and it has no loading spaces when the law requires four, including one loading zone accessible to persons with disabilities. Further, the property is located on the shoreline and a long-term lessee of the property will need to develop plans and contingencies for sea level rise.⁴ Staff believes the renovation efforts, lot consolidation/re-subdivision, safeguarding of the convenience store occupants, resolution of the parking stall and loading zone shortage, and sea level rise planning, are best undertaken by a private lessee with the necessary expertise and financial capacity.

Due to the expertise and substantial investment required to renovate, demolish, or partially renovate and partially demolish the hotel under the conditions described above, staff believes a lease for the property should be issued by direct negotiation with a lessee selected via a public RFQ/RFP rather than via the public auction process. The RFQ/RFP process will allow the Board to evaluate prospective lessees based on a variety of factors,

⁴ In 2014, a consultant procured by the Department issued a report evaluating the impact of sea level rise on this and other State properties at Waiakea Peninsula. The study found that the subject land is not predicted to experience a substantial property loss due to a three-foot sea level rise.

such as the applicant's qualifications (e.g., experience, expertise, and financial capacity), and proposed renovation plans for the property (e.g., the feasibility of the renovation plans and the proposed benefits to the State), whereas the public auction process would award the lease based solely on the highest lease rent bid at the auction.

The proposed RFQ/RFP process is in accordance with HRS §171-59. The RFQ phase of the RFQ/RFP process provides for the Chairperson to establish criteria for selection of the lessee and determine which applicants meet the criteria as required under HRS §171-59. If there is more than one applicant that meets the RFQ criteria, the RFP phase provides for the qualified applicants to submit proposals, and the Board will select the highest offer (i.e., the best proposal).

Staff is requesting the Board authorize the Chairperson to issue the RFQ/RFP, establish the evaluation criteria, evaluate the qualifications of the applicants, solicit proposals from the qualified applicants (if there is more than one qualified applicant), evaluate the proposals, select the best proposal, and present the proposal to the Board for approval at a meeting open to the public. Upon the Board's approval of the selected applicant, the DLNR will enter negotiations with the selected applicant of a development agreement and proposed lease. The development agreement and lease will be submitted to the Board for approval at a meeting open to the public. An outline of the proposed process is provided as Exhibit E.

The following is a brief summary of proposed evaluation criteria for both the RFQ and RFP stages:

Request for Qualifications (RFQ). Staff anticipates the applicants will be evaluated based on criteria that include, at a minimum, the following:

- **Experience and Expertise.** The applicant shall possess the appropriate experience and expertise in successfully planning, designing, permitting, developing, financing, constructing, managing and operating projects comparable (in size, complexity, scope and services) to the renovation, demolition, or partial renovation/demolition, and operation of the building on the subject property.
- **Financial Capacity.** The applicant shall possess the financial resources and the proven ability to arrange debt and equity financing for projects comparable to the renovation and operation of the subject property.

Request for Proposals (RFP). Staff anticipates the proposals of the qualified applicants will be evaluated based on criteria that include, at a minimum, the following:

- **Renovation and Business Plan.** The soundness and feasibility of the applicant's renovation proposal including applicant's plan for renovating, demolishing, or partially renovating and partially demolishing the hotel,

consolidating and re-subdividing the parcels, safeguarding the convenience store operator, its employees and customers during renovation, addressing the parking and loading zone situation to the County's satisfaction, planning for sea level rise, as well as management, marketing, and financial plans for the subject property, and the extent to which the applicant's proposal meets the Department's development goals and objectives for the property.

- **Community Benefits.** Any additional benefits arising from and unique to applicant's proposal that will benefit the community of Banyan Drive, Hilo, and Hawaii Island.
- **Financial Plan.** The applicant's ability to fund/finance the applicant's proposed renovations and proposed operations.
- Proposed Development Agreement and Lease:

DLNR will negotiate a development agreement with the selected applicant. Staff anticipates the development agreement will include various obligations that must be satisfied by the selected applicant (obtaining all necessary permits, etc.), and that upon satisfaction of all such terms and conditions, the Board will issue a 65-year ground lease to the selected applicant to allow demolition, renovation, or partial demolition and partial renovation of the hotel.

The development agreement may also address issues such as the selected applicant's obligations to construct or bond improvements and provisions that address the determination of the lease rent to be paid under the lease.

- RFQs/RFPs for Two Banyan Drive Projects to Issue Simultaneously:

Also before the Board at today's meeting is a request to issue an RFQ/RFP for another project at Banyan Drive – the former Country Club Condominium Hotel designated as Tax Map Key: (3) 2-1-005:020. Staff intends to issue the RFQs/RFPs for both projects separately but simultaneously, use the same response deadline for submissions for both projects and use the same review committees to evaluate the submissions and select the best proposals for each project. Although the RFQs/RFPs for the two projects will be moving forward on parallel tracks, submissions for each project will be evaluated independently from the other. In other words, the evaluation committee will recommend the highest offer/best proposal for each site to the Board for selection.

Staff circulated a draft of this submittal to the State and County of Hawaii (COH) agencies listed in the table below with the results indicated:

Agency	Comment
DLNR-Engineering	General comments on flood hazard zones. See Exhibit F attached.
DLNR-Historic Preservation	No response by suspense date.
DLNR-Office of Conservation and Coastal Lands	No comments (land not in conservation district).
Office of Hawaiian Affairs	No response by suspense date.
COH-Planning Department	No response by suspense date.
COH-Banyan Drive Hawaii Redevelopment Agency	No response by suspense date.
COH-Department of Public Works	General comments regarding applicable flood zone, and requirements for runoff and construction. See Exhibit G attached.
COH-Department of Water Supply	No objections.
COH-Fire Department	No response by suspense date.
COH-Department of Environmental Management	No comments.

The proposed use has continued since 1966 and will continue. Such use has resulted in no known significant impacts, whether immediate or cumulative, to the natural, environmental and/or cultural resources in the area. As such, staff believes that the proposed use would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1, 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.
2. Find that the public interest demands that a lease of the subject property be disposed of through negotiation pursuant to §171-59(a), HRS, as amended.
3. Delegate the authority to the Chairperson to (i) issue a request for qualifications / request for proposals consistent with HRS § 171-59(a) for the selection of the lessee; (ii) establish the criteria for evaluating and selecting the lessee; (iii) accept and evaluate the applications submitted by prospective lessees; and (iv) make a preliminary determination and recommendation to the Board of the best applicant.

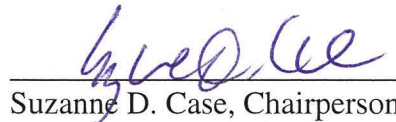
4. Authorize the Chairperson to modify the RFQ/RFP process or requirements if in the best interest of the State and consistent with HRS §171-59.

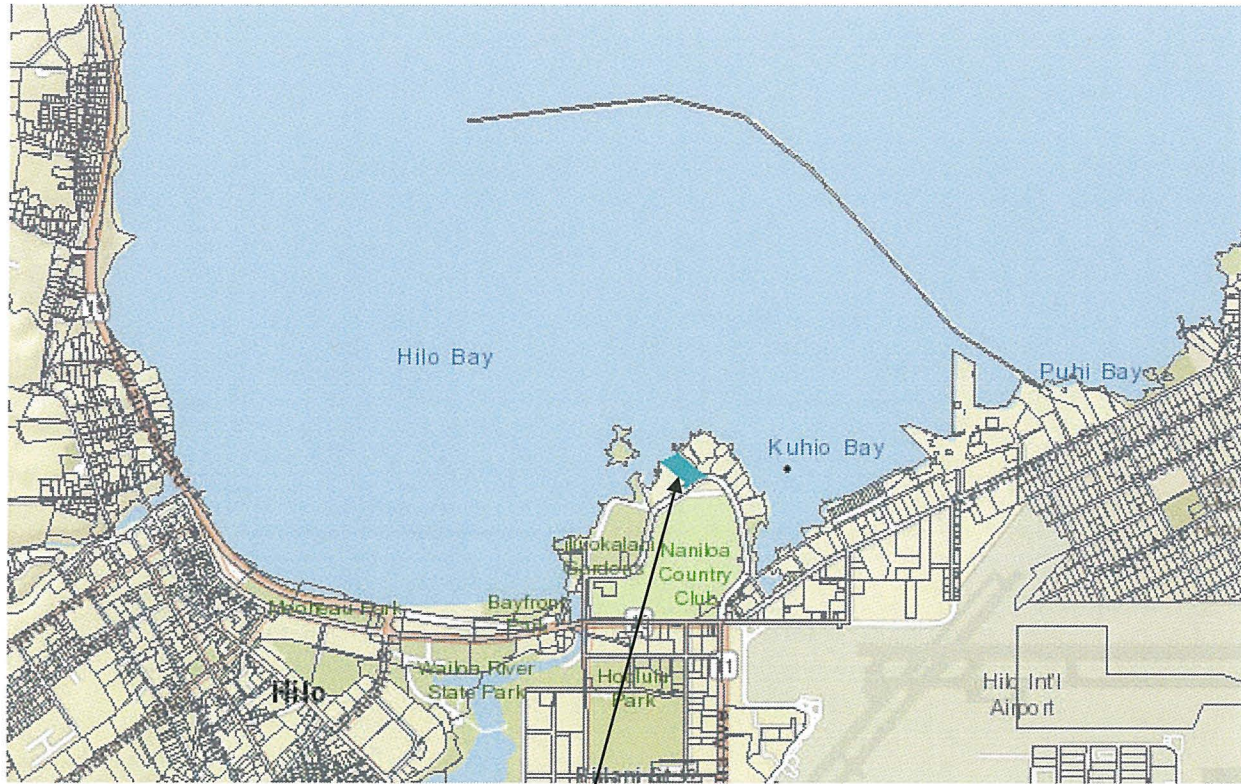
Respectfully Submitted,



Kevin E. Moore
Assistant Administrator

APPROVED FOR SUBMITTAL:


Suzanne D. Case, Chairperson



Former Uncle Billy's Hilo Bay Hotel
 TMKs: (3) 2-1-005:033, 034, 035
 & 045





Former Uncle Billy's Hilo Bay Hotel
TMKs: (3) 2-1-005:033, 034, 035 & 045

EXHIBIT A

EXCERPT OF SECTION 171-59, HAWAII REVISED STATUTES

§171-59 Disposition by negotiation. (a) A lease of public land may be disposed of through negotiation upon a finding by the board of land and natural resources that the public interest demands it. Where the public land is being sought under this section by a sugar or pineapple company, and the company is the owner or operator of a mill or cannery, then, for the purposes of this section, the economic unit shall be that acreage of public land which when taken together with the lands already owned or controlled or available to the company, when cultivated is found by the board to be necessary for the company's optimum mill or cannery operation. In all other cases, public land to be sold under this section shall be an economic unit as provided in section 171-33(3).

After a determination is made to negotiate the disposition of a lease, the board shall:

(1) Give public notice as in public auction, in accordance with the procedure set forth in section 171-16(a), of its intention to lease public land through negotiation setting forth the minimum conditions thereunder, the use for which the public land will be leased. Any person interested in securing the lease shall file an application with the board not later than forty-five days after the first publication of the notice;

(2) Establish reasonable criteria for the selection of the lessee; provided that where the intended use of the land is agriculture, the department of agriculture shall establish the criteria;

(3) Determine the applicants who meet the criteria for selection set by the board or the department of agriculture, as the case may be, and notify all applicants of its determination. Any applicant may examine the basis of the determination, which shall be in writing, to ascertain whether or not the conditions and criteria established by the board or the department of agriculture were followed; provided that if any applicant does not notify the board of the applicant's objections, and the grounds therefor, in writing, within twenty days of the receipt of the notice, the applicant shall be barred from proceeding to seek legal remedy for any alleged failure of the board to follow the conditions and criteria.

If only one applicant meets the criteria for selection of the lessee, the board may, after notice as provided in (3), above, dispose of the lease by negotiation.

If two or more applicants meet the criteria for the selection of the lessee, the board shall select the lessee who submits the highest offer contained in a sealed bid deposited with the board.

DAVID Y. IGE
GOVERNOR OF HAWAII



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

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

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

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

December 13, 2019

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200.1, Hawaii Administrative Rules (HAR)

Project Title: Authorize the Issuance of a Request for Qualifications/Request for Proposals for Lease of Improved Public Land.

Project / Reference No.: PSF No. 17HD-028.

Project Location: Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-1-005: 033, 034, 035 and 045.

Project Description: The subject property is currently improved with a 146-room hotel under month-to-month Revocable Permit No. S-7905 to Tower Development, Inc. for security and property management purposes. The Department of Land and Natural Resources intends to issue a Request for Qualifications/Request for Proposals (RFQ/RFP) for a new long-term lease of the property for hotel and/or apartment purposes. The lessee selected through the RFQ/RFP process would then be able to demolish, renovate, or partially demolish and partially renovate the existing structures on the land consistently with the exemption classes and item numbers referenced below.

Chap. 343 Trigger(s): Use of State Land

Exemption Class No. and Description: In accordance with HAR Section 11-200.1-15 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on 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 that states, "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 that states, "Leases of state land involving negligible or no expansion

EXHIBIT C

or change of use beyond that previously existing,” Exemption Class No. 7 that states, “Interior alterations involving things such as partitions, plumbing, and electrical conveyances,” Item 1 that states, “Interior alterations and renovations to offices, buildings or structures that do not increase the floor area or change the maximum occupancy to include:

- a. installation of office partitions, utility outlets or connections, air conditioning, lighting, and security systems;
- b. renovations required to bring existing structures into compliance with current building codes and applicable health, safety, and access regulations;
- c. renovations that will result in energy or other operational/cost savings; or
- d. other similar interior alterations;” and

Exemption Class No. 8 that states, “Demolition of structures, except those structures located on any historic site as designated in the National Register or Hawaii Register as provided for in the National Historic Preservation Act of 1966, Public Law 89-665, or Chapter 6E, Hawaii Revised Statutes,” Item No. 2 that states, “Demolition and removal of existing structures, facilities, utilities, and other improvements on state lands, except those structures located on any historic site as designated in the National Register or Hawaii Register as provided for in the National Historic Preservation Act of 1966, 16 U.S.C. §§470 et. seq., as amended, or Haw. Rev. Stat. Chapter 6E.”

**Cumulative Impact of
Planned Successive
Actions in Same Place
Significant?:**

No. The use of the land for hotel/apartment purposes is compliant with county zoning requirements, and such use has existed since 1966. Staff believes there are no cumulative impacts involved.

**Action May Have
Significant Impact on
Particularly Sensitive
Environment?:**

No. There are no particularly sensitive environmental issues involved with the proposed use of the property. The property has been used for hotel and apartment purposes since 1966. The property is located on the shoreline, but a sea level rise study commissioned in 2014 showed that a three-foot sea level rise would not have a significant impact on the use of the property.

Analysis:

The subject land has been improved with a 146-room hotel and used for hotel and apartment purposes since 1966. A new lease for hotel and/or apartment purposes will involve negligible or no expansion or change of use beyond that previously existing.

Consulted Parties:

Agencies listed in the attached submittal.

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.

EXCERPT OF JUNE 2016 REPORT OF ERSKINE ARCHITECTS, INC.

3.2.3 Uncle Billy's Hilo Bay Hotel

PRIMARY RECOMMENDATION is DEMOLISH: Some of the structures comprising Uncle Billy's are in extremely poor condition and bordering on a state of dilapidation. The remaining useful life was estimated to be at 5-10 years, and that was back in 2014. The parking lot is undersized, does not meet the required parking count, but is in good condition otherwise. All of the structures, exterior walkways, pool area and landscaping are dated in appearance and worn. Large trees surrounding the West Wing have been unmanaged and allowed to grow to a point where their roots have undermined the building and appears to have damaged the structure. The West Wing, South Wing, and Lobby areas appear to be in the poorest physical condition. The North and East Wings do not fare much better, but appear to be in a slightly better condition. There is evidence of termite damage all around the hotel. The termite damage in the Lobby area is highly visible in the structural and non-structural components of the building frame. Evidence of termite damage appears on almost every wooden surface of the Lobby. Each of the wings and Lobby contain areas of non-compliance when compared against the current major codes, including a few areas that need to be improved to address HSW concerns. The building wings and hotel grounds do not meet accessibility standards. Of the areas tested for hazardous materials, a significant amount of asbestos containing materials and lead paint was identified. The opinion of probable cost to address the areas of distress is significant and exceeds the taxable value of the property. The operator of the property has also informed the DLNR that there are major leaking problems with the roof, and the leaks are not contained to any particular area, but are spread throughout.

There are considerable areas of concern with Uncle Billy's. Of particular concern is the stair tower located on the makai end of the West Wing, which is in a state of disrepair and unsafe. In the West Wing, the ground floor walkway that provides access to the guest rooms has been enclosed, impeding ground floor escape. The common area walkway that is relied upon for egress is undulating because of the roots from the nearby trees upheaving the surface of the walkway. Access to the makai exit is non-compliant in terms of accessibility and maneuvering clearances. Exiting toward the mauka direction is not along an accessible means of egress. Two unprotected laundry rooms are located at the point of exit discharge into the Lobby area. In the North Wing, in the case of a fire, there are no compliant accessible means of egress out of the building. An elevator is included in the North Wing, but it is located in a dead end corridor. In the East Wing, the ground floor door of the mauka stairwell is locked and does not include a lever to operate the door from the outside. This is another safety concern as fire rescue personnel would have a difficult time accessing the stair in the case of an emergency. The other stair tower is not protected by 1-hour rated construction. None of the stair towers in Uncle Billy's meet exiting, fire protection or accessibility requirements and all are considered non-compliant. None of the buildings contain fire sprinklers or adequate fire protection devices. Fire extinguishers appear old and not regularly tested. Surface mounted fire extinguisher cabinets also partially block maneuvering near the doors leading into the stair towers.

The North, West, and East Wings are four stories high. The overall floor area of Uncle Billy's is expansive. Both the height of the building and floor area exceeds that allowable by the current building code. The open Lobby is damaged by termite infestation and includes an unprotected restaurant and two unprotected laundry rooms. The Lobby, restaurant area, and laundry rooms are not fire separated from the hotel guest rooms. This is of particular concern because Uncle Billy's is constructed primarily out of wood, is unprotected by a fire sprinkler system, exceeds the allowable height and building area, contains inadequate fire protection devices and the fire exits out of this building do not comply with building or accessibility code.

Because of the numerous areas of distress described above, the recommendation for this property is DEMOLISH. The opinion of probable cost to address the areas of distress is excessive, especially when compared to the taxable value of the property and/or the physical condition of the buildings. The cost of the repairs will exceed 50% of the taxable value of the property, even if improvements were spread out over a number of years. To address the areas of distress, portions of the building not intended to be

repaired or improved would be required to conform to current land use regulations and/or building codes. This would result in a domino effect of planning and design challenges that would require numerous regulatory reviews and approvals, thereby resulting in excessive design fees and lengthy delays. The extent and likely cost of the construction work necessary to address the areas of distress is prohibitive. It would require lengthy shut downs of portions of the building and be extremely challenging from a marketing or logistical standpoint for management. Unfortunately, this property is comprised of several smaller parcels of land making it more difficult to redevelop. The property could realize a significant loss of use due to the presence of internal property lines and setbacks that would need to be respected in any new development; unless the individual parcels were consolidated into one larger parcel.

Uncle Billy's is considered an iconic hotel and held in high regard by many in the public. Strong public opposition can be anticipated to any announcement of demolition of this nostalgic piece of Banyan Drive. Regardless of public opposition, the building contains numerous life safety issues, various building and accessibility code violations, fire protection concerns, large quantities of hazardous materials, drastically exceeds the allowable building height and floor area given its wooden construction, unprotected and comprised stair towers, does not include a fire sprinkler system and has extensive termite damage; the protection of the health, safety and welfare of the public should take precedence. Furthermore, the cost to retrofit and repair Uncle Billy's is excessively cost prohibitive.

The demolition of a four story structure along the shoreline is a difficult, timely, and expensive endeavor. The demolition phase will require several years to complete and be expensive. A considerable amount of reports, studies, and surveys will need to be conducted, reviewed, and approved by the authorities having jurisdiction before a demolition permit can be applied for. Some of the reports, studies and surveys may include, but is not limited to the following; botanical survey, avian and terrestrial mammal survey, air quality study, noise study, marine and water quality study, archaeological survey plan, inventory and monitoring plan, cultural impact assessment, engineering report(s), soils testing and solid waste management plan and special management area permit. Additional environmental engineering for the survey, testing, and identification of hazardous materials is also warranted. The myriad of regulatory bodies that would be charged with reviewing the reports, studies and surveys may include but is not limited to the following; US Army Corps of Engineers, State DLNR, State DOH, County Department of Environmental Management, County Planning Department, County Building Division, County Engineering Division, County of Hawai'i Fire Department, County DWS, HELCO, and others.

ALTERNATIVE RECOMMENDATION: If the buildings are not demolished, the obvious alternative would be to REPAIR them. The way in which repairs are handled could be extremely challenging, the associated costs could be prohibitive, and the construction schedules could be time consuming. As such, the types of repairs and the order in which the repairs are phased should be highly scrutinized. Repairs should be done proportionately over several years so that the repair cost does not exceed 50% of the taxable value of the property. Prior to starting any repair or improvement project, the architect and/or engineers who will design the repairs should work closely with the AHJ's to ensure that grandfathering in of non-conformities can remain in place. Repairs to address the health, safety and welfare of the public, as well as repair and maintenance projects to prolong the remaining useful life of the building should be performed first. The following minimum repairs include, but are not limited to the following:

- **CONSOLIDATE THE PROPERTY:** Consolidate the individual lots into a single lot.
- **FIRE PROTECTION STRATEGY:** Assess the existing overall fire protection strategy of the buildings in totality.
- **PHYSICAL TESTING OF FIRE PROTECTION DEVICES:** Test all fire protection devices (fire alarm panel, pull boxes, emergency lighting, strobes, horns, smoke detectors, fire extinguishers, etc.) throughout all of the buildings. Repair and/or improve the overall fire protection system and all fire protection devices so that the buildings are in compliance with the current County Fire Code.
- **HAZARDOUS MATERIALS ABATEMENT PLAN:** Assess locations of hazardous materials to determine where the materials are located and how they may be impacted by the repairs being contemplated. Develop a hazardous materials abatement plan.

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- **ROOF REPAIRS:** The roofs for all remaining existing structures should be repaired. The repairs include complete removal of all existing roof finishes, including the flashings. The roof decks should be inspected for water or termite damage and repaired. A completely new roofing system with flashing of all penetrations and edges, along with gutters and downspouts should be installed.
- **IMPROVEMENT OF LIGHTING:** Improve lighting in all common areas so that they are properly illuminated. Install emergency lighting in all common areas.
- **EXIT SIGNS:** Install properly illuminated exit signs with directional arrows.
- **COORDINATION WITH THE COUNTY:** Confirm with the County that the non-conforming parking lot will be grandfathered in and that the proposed improvements will not trigger new parking requirements. Or, identify existing and/or new off-site parking areas that can support the redevelopment and satisfy the County's parking requirements.
- **DEMOLISH THE WEST WING, LOBBY AND RESTAURANT:** Demolish the West Wing of the hotel, the Lobby and shuttered restaurant. The Lobby should be demolished to allow for access to the West Wing work. Remove all large trees with invasive roots.
- **NEW WEST WING:** Construct a new four-story West Wing of the hotel in the same location as the existing West Wing. The new West Wing should be constructed to comply with accessibility requirements. The West Wing will house modern hotel rooms, properly enclosed and 1-hour fire rated stair towers, fire sprinklers and support spaces.
- **NEW LOBBY, RESTAURANT and KITCHEN:** After the new West Wing is completed, a new accessible and code compliant Lobby should be constructed in the same place as the existing. The Lobby would be designed so that it was constructed in the spirit of the original Lobby. The Lobby would contain 2 or 3 new elevators and elevator lobbies. The elevators would provide an accessible path from the Lobby to each of the floor levels in all three wings of the hotel. A new protected Laundry room, properly separated from the hotel wings and lobby would also be constructed. The reception area would be opened to the lobby and be accessible. An accessible route leading down toward the existing swimming pool would be constructed. The new lobby would also include a covered drop off area, luggage holding area, lobby seating areas, male and female restrooms, hotel office(s); hotel facilities support space(s), electrical and communications closets and storage.
- **NORTH WING HSW REPAIRS:** Replace, or if possible, repair the makai end stair tower so that it is protected by not less than 1-hour rated construction. Replace all stair tower doors and door frames so that they are 45 minute rated minimum and properly labeled. All door hardware should be replaced. Doors should latch properly and meet clearance requirements after installation. Approach, entry and exit at doors should be assessed, and where structurally practicable, be improved to address accessibility maneuvering clearances. Proper signage, lighting and building emergency exit diagrams should be installed inside the stair tower. Accessible signage should be installed at each floor level, both inside and outside of the stair tower. Any penetrations into the stair tower should be removed, encapsulated or fire stopped so that the 1-hour rating is not compromised. Address exit discharge so that it's along an accessible route. Construct a new accessible and code compliant mauka end stair tower that connects the new Lobby to each floor level of the hotel. The new mauka stair tower could potentially serve both the North Wing and East Wing.
- **NORTH WING WINDOWS:** Install guardrails at all common area windows where needed.
- **NORTH WING EXISTING ELEVATOR:** Demolish the existing elevator and address the dead end corridor condition.
- **EAST WING HSW REPAIRS:** Replace, or if possible, repair the makai end stair tower so that it is protected by not less than 1-hour rated construction. Replace all stair tower doors and door frames so that they are 45 minute rated minimum and properly labeled. All door hardware should be replaced. Doors should latch properly and meet clearance requirements after installation. Approach, entry and exit at doors should be assessed, and where structurally practicable, be improved to address accessibility maneuvering clearances. Proper signage, lighting and building emergency exit diagrams should be installed inside the stair tower. Accessible signage should be installed at each floor level, both inside and outside of the stair

EXHIBIT D

tower. Any penetrations into the stair tower should be removed, encapsulated or fire stopped so that the 1-hour rating is not compromised. Address exit discharge so that it's along an accessible route. Construct a new accessible and code compliant makai end stair tower that connects the new Lobby to each floor level of the East Wing. There is a possibility that a single stair tower could act as the North Wing mauka stair tower and East Wing makai stair tower. The hardware at the fire door at the ground level of East Wing mauka stair tower should be replaced.

It is important to note that by addressing the HSW issues noted above, other anticipated and unanticipated code compliance measures will be triggered. At the on-set of future repair projects, the owner and their designers should work closely with the AHJ to ascertain to as much of an extent as possible, other code compliance measures that the AHJ's will require before design drawings are advanced too far. The types of code compliance measures and other requirements that might be imposed by the AHJ's could potentially be so onerous, that the repair project under contemplation would need to be halted due to structural impracticability, scheduling concerns, land-use compliance measures or simply be too expensive.

OUTLINE OF PROPOSED PROCESS

1. Board of Land and Natural Resources (the "Board") authorizes issuance of RFQ/RFP
2. DLNR publishes notice of, and issues, RFQ
3. DLNR (or an evaluation committee) reviews applicants' submitted qualifications and determines which applicants meet the evaluation criteria
4. If more than one qualified applicant, DLNR issues RFP to the qualified applicants (or to a "short list" of qualified applicants)
5. DLNR (or an evaluation committee) evaluates proposals and selects applicant with best proposal for recommendation to the Board
6. DLNR presents selected applicant to the Board for approval (at a public meeting)**
7. DLNR enters into exclusive negotiations with selected applicant of a development agreement and proposed lease
8. DLNR presents development agreement and proposed lease to the Board for approval (at a public meeting)**
9. DLNR and selected applicant execute development agreement
10. Selected applicant undertakes due diligence and seeks approvals and permits (e.g., SMA assessment, building permits)**
11. If selected applicant satisfies all terms/conditions of the development agreement, DLNR issues lease to selected applicant

**Public review/comment opportunities

**DEPARTMENT OF LAND AND NATURAL RESOURCES
ENGINEERING DIVISION**

LD/Russell Y. Tsuji

**Ref: Authorize the Issuance of a Request for Qualifications / Request for
Proposals for Lease of Improved Public Lands
TMK(s): (3) 2-1-005:003, 034, 035 and 045
Location: Waiakea, South Hilo, Island of Hawaii
Applicant: Department of Land and Natural Resources, Land Division**

COMMENTS

The rules and regulations of the National Flood Insurance Program (NFIP), Title 44 of the Code of Federal Regulations (44CFR), are in effect when development falls within a Special Flood Hazard Area (high risk areas). State projects are required to comply with 44CFR regulations as stipulated in Section 60.12. Be advised that 44CFR reflects the minimum standards as set forth by the NFIP. Local community flood ordinances may stipulate higher standards that can be more restrictive and would take precedence over the minimum NFIP standards.

The owner of the project property and/or their representative is responsible to research the Flood Hazard Zone designation for the project. Flood Hazard Zones are designated on FEMA's Flood Insurance Rate Maps (FIRM), which can be viewed on our Flood Hazard Assessment Tool (FHAT) (<http://gis.hawaiiinfip.org/FHAT>).

If there are questions regarding the local flood ordinances, please contact the applicable County NFIP coordinating agency below:

- Oahu: City and County of Honolulu, Department of Planning and Permitting (808) 768-8098.
- Hawaii Island: County of Hawaii, Department of Public Works (808) 961-8327.
- Maui/Molokai/Lanai: County of Maui, Department of Planning (808) 270-7253.
- Kauai: County of Kauai, Department of Public Works (808) 241-4896.

Signed: _____

for

Carty S. Chang

CARTY S. CHANG, CHIEF ENGINEER

Date: _____

10/7/19

EXHIBIT F

Harry Kim
Mayor

Wil Okabe
Managing Director



David Yamamoto, P.E.
Director

Allan G. Simeon, P.E.
Deputy Director

County of Hawai'i
DEPARTMENT OF PUBLIC WORKS
Aupuni Center
101 Pauahi Street, Suite 7 · Hilo, Hawai'i 96720-4224
(808) 961-8321 · Fax (808) 961-8630
public_works@hawaiicounty.gov

OCTOBER 18, 2019

ATTN: KEVIN MOORE
STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
P.O. BOX 621
HONOLULU, HI 96809

RECEIVED
LAND DIVISION
2019 OCT 21 AM 10:47
DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

SUBJECT: REQUEST FOR QUALIFICATIONS / REQUEST FOR PROPOSALS
UNCLE BILLY'S HILO BAY HOTEL
SOUTH HILO DISTRICT, ISLAND OF HAWAII
TMK: (3) 2-1-005:033, 034, 035, and 045

We received the subject dated October 1, 2019 and have the following comments:

The subject parcels are in an area designated as Flood Zone X, AE, and VE on the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA). Flood Zone AE and VE are the Special Flood Hazard Area inundated by the 100-year coastal flood (1% chance of occurring in any given year); Flood Zone VE with velocity hazard (wave action). All construction within Flood Zones AE and VE shall comply with the requirements of Hawaii County Code, Chapter 27, Floodplain Management.

All development-generated runoff shall be disposed of on site and not directed toward any adjacent properties. A drainage study meeting the approval of the Department of Public Works may be required for any proposed development.

All activities shall comply with the requirements of Hawaii County Code, Chapter 10, Erosion and Sedimentary Control.

Construction within the County right-of-way shall comply with HCC, Chapter 22, County Streets.

Should there be any questions concerning this matter, please contact Ms. Melanie DeMello in our Engineering Division at (808) 961-8927.

Melanie DeMello

for BEN ISHII, Division Chief
Engineering Division

MD