

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

June 26, 2020

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 COMMERCIAL PURPOSES, KE'EHĪ SMALL BOAT HARBOR, KALIWA AND MOKAUEA, KALIHI, HONOLULU, OAHU, HAWAII TAX MAP KEYS: (1) 1-2-025:043, :023, :022 (PORTION) (1) 1-2-023:038 AND :032 (PORTION)

AND

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 commercial purposes.

LEGAL REFERENCE:

Sections 200-2.5, 171-14, -16, -17, -36 and other applicable sections of Chapters 171, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Ke'ehi Small Boat Harbor, Honolulu, Island of Oahu, hereinafter referred to as the "Premises" as shown on the maps labeled **Exhibits A-1, A-2 and**

A-3 attached hereto. Said premises are a portion of Governor’s Executive Order Nos. 2308 and 2404.

AREA:

Current: Approximately 3,500 square feet of fast land and 1,800 square feet of submerged lands. 1,000 square foot building on the fast land.

Proposed: Approximately 4,000 square feet fast land, 9,500 square feet submerged land with piers for docking vessels and 1,400 square feet submerged land to be maintained.

All measurements are approximate and would be surveyed for a DAGS CSF Map.

ZONING:

State Land Use District: Urban
Honolulu City and County CZO: I-2 Intensive Industrial and I-3 Waterfront Industrial

TRUST LAND STATUS:

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

CURRENT USE STATUS:

Currently encumbered by Revocable Permit (RP) No. 1 issued to Cates Marine Services, LLC for the staging and docking of vessels used for transport to and from open ocean fish farm and other uses allowable under applicable county zoning.

CHARACTER OF USE:

Marine equipment storage, aquaculture, marine salvage and debris removal and uses allowed by HRS 200-2.5 and the Honolulu City and County Zoning Ordinance. Permissible uses may include any use that will complement or support the ocean-recreation or maritime activities of state boating facilities.

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 (5) 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 fifteen (15) years of the lease. The appraiser procured to determine the upset rent shall also separately determine the percentage rent to be paid in excess of the minimum rent.

METHOD OF PAYMENT:

The lessee's rent shall be the base rent or percentage of gross receipts, whichever is greater. 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 and 25th years of the lease term, by staff or independent appraisal.

PERFORMANCE BOND:

Twice the annual base rental amount.

MINIMUM IMPROVEMENTS:

A condition of the lease shall be that the 1,000 sq. ft. structure and pier be brought up to current Honolulu City and County Zoning Ordinance Code.

CONSTRUCTION BOND:

Equal to the amount of minimum improvements.

RENT WAIVER:

The rent may be waived for a maximum period of twelve (12) calendar months.

PROPERTY CHARACTERISTICS:

Utilities: Water, individual wastewater system, electricity and telephone.

Existing Improvements: Corrugated metal warehouse structure and piers.

Legal Access to the Property: Staff has verified that there is legal access to the premises from Sand Island Access Road.

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 March 3, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 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 No. 4: *“Operation, repair and maintenance, of existing structures and facilities, including baseyards, offices, cabins, sheds, and fencing.”*

Item No. 40: *“Leases of State land involving negligible or no expansion or change of use beyond that previously existing.”*

REMARKS:

The Premises are located in EO 2308 and 2404 to the Department of Transportation Harbors Division (DOTH). Act 272 1991 conveyed management authority of all small boat facilities from DOTH to DOBOR pending a formal set-aside.

At its April 27, 2001 meeting, under agenda item J-1, the board approved the issuance of a revocable permit to Cates International, Inc. as a staging area, docking of vessel (for the transport to and from open ocean fish farm) and storage of feed in conjunction with fish farming activity located off Ewa Beach. In 2015, Cates International, Inc. changed its name to Cates Marine Services, LLC (CMS). Therefore, the permittee has been operating in this location since 2001.

Marine equipment storage, aquaculture, marine salvage and debris removal are appropriate uses for this area and are needed marine activities on the east coast of Oahu. The use has been expanded to meet the needs of the marine community.

The current revocable permit (rp) includes 3,500 sq. ft. of fast land and 1,800 sq. ft. of submerged lands. A 1,000 sq. ft. corrugated metal structure is located within the 3,500 sq. ft. of fast land.

The corrugated metal structure is very old and rusted. Staff recommends that a condition of the lease is that the structure be renovated or replaced.

Staff is recommending that the proposed lease area be expanded to include an additional 500 sq. ft. of fast land for a total of approximately 4,000 sq. ft. The additional land would increase the usability and stewardship of this isolated piece of land.

Staff recommends increasing the submerged land from 1,800 sq. ft. to 12,900 sq. ft. The large increase in area is justified for maintenance, renovation and increased utility of the project area.

Staff recommends that the proposed 12,900 sq. ft. of submerged lands would include 1,400 sq. ft. and 2,000 sq. ft. to be maintained by the lessee. The 1,400 sq. ft. of submerged lands are located next to a Sand Island Access Road bridge, which abuts the northern portion of the project area. This area is routinely impacted by vegetation, dumping and homeless people seeking shelter. It is believed that the overgrown vegetation attracts unwanted activity that has a history of impacting the project area. Staff recommends that this area be included in the lease area.

An existing pier Makai of the project needs to be repaired. Staff recommends adding the pier and the surrounding submerged lands to the existing RP area with the condition that the piers be renovated or replaced. In the past, this pier was accessed by way of a metal bridge from the Keehi Marine Center property. The bridge access is not appropriate for this pier. Access to the pier should be through the project area from Sand Island Access Road and is an appropriate configuration for this pier. The additional submerged lands, surrounding the renovated pier, account for the increase from 1,800 sq. ft. to 9,500 sq. ft. Staff recommends the addition of the pier and surrounding submerged lands in order to incentivize needed pier repairs as well as adding value and utility to the lease area.

Approximately 2,000 sq. ft. of submerged lands, south of the project area, has a history of vegetation impacting the pier area. Staff recommends that maintenance of this area be a condition of the lease. The added stewardship of this area, which abutting the new pier area, further justifies the increase in submerged lands.

The Department of Transportation Harbors Division (DOTH) was contact regarding the proposed project. DOTH has no objections to the action if the following concerns could be addressed:

- 1) DOTH requested that the mangrove that encroaches on to their area be removed prior to issuing a lease. Staff recommends that the winning bidder be required to remove mangrove from the proposed lease area that encroaches onto DOTH lands.
- 2) DOTH requests that the lease state that mooring is allowed only within the lease area. Tying vessels to baseyard mooring could be a violation of the lease.
- 3) DOTH has concerns about a feral cat population in the area which has caused storm water runoff issues with higher contamination from the cat feces. They would like lease language prohibiting the encouragement of feral cats for the sake of the environment. Staff recommends that the lessee be prohibited from keeping, cleaning or feeding animals on the premises.

At its June 24, 2016, meeting under agenda item D-7, the board approved the revocable permit task force's finds and recommendations to convert revocable permits to long-term dispositions, where possible.

At its June 28, 2019, meeting under agenda item J-2, the board approved the renewal of RP 1 to Cates Marines Services, LLC. Staff indicated that a long-term lease is an appropriate disposition for this property and would begin work to sell a lease at public auction.

Staff believes that this submittal achieves this objective.

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 11-200.1, 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 marine equipment storage, aquaculture, marine salvage and debris removal 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. Waiver of rent for a maximum of twelve (12) calendar months upon substantial completion of the items included under “MINIMUM IMPROVEMENTS.”
 - c. That the winning bidder be required to remove vegetation from the submerged land in the lease areas.
 - d. Address DOTH concerns by: 1) requiring the removal vegetation from the proposed lease area that encroaches onto DOTH lands; 2) incorporate language that mooring is allowed only within the lease area. Tying vessels to baseyard mooring could be a violation of the lease; 3) incorporate language into the lease prohibited from keeping, cleaning or feeding animals on the premises.
 - e. Review and approval by the Department of the Attorney General; and
 - f. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

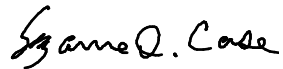
Respectfully Submitted,

FOR



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

APPROVED FOR SUBMITTAL:



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

Attachment:

- A-1 Map of Oahu
- A-2 Ke'ehi Proposed Lease Premises in Relation to Ke'ehi Small Boat Harbor
- A-3 Ke'ehi Proposed Lease Area

Exhibit A-1

Island of Oahu - Ke'ehi Small Boat Harbor



Exhibit A-1

Exhibit A-2

Ke'ehi Small Boat Harbor



**Proposed
Lease Area**

Exhibit A-2

Exhibit A-3

Proposed Lease Area



○ 4,000 sq. ft. Fast Land (1,000 sq. ft. bldg.)
○ 9,500 sq. ft. Submerged
○ 1,400 sq. ft. Submerged Maintenance Area 1
○ 2,000 sq. ft. Submerged Maintenance Area 2

NOTE: All measurements are approximate and will be finalized and formally surveyed with a DAGS CSF Map.