

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

March 12, 2021

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

Land Board Members:

SUBJECT: Sale of Lease at Public Auction of Fast Lands for Maritime Related Activities, Honokohau Harbor, Keahuolu, North Kona, Hawaii, Tax Map Key: (3) 7- 4-008: Por. 003.

Declare that, After Considering the Potential Effects of the Proposed Project 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.

REQUEST:

Sale of lease at public auction for maritime activities to support tour operations purposes.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands situated at Honokohau Harbor, Keahuolu, North Kona, Hawaii, hereinafter referred to as the "Premises" as shown on the map labeled **EXHIBITS A-1, A-2 and A-3** and attached hereto.

AREA:

Approximately 3,300 square feet or .0758 acres, more or less

ZONING:

State Land Use District: Urban, Conservation County of Hawaii: Open

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:

Encumbered under Revocable Permit No. 36 issued to Atlantis Submarines Hawaii, LLC, for maritime activities to support submarine tour operations.

CHARACTER OF USE:

Marine business, lite industrial and commercial storage uses allowed by the County of Hawaii Zoning Ordinance.

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:

Determined by independent appraisal establishing fair market rent, subject to review and approval by the Chairperson. The appraisal determined the upset rent for the premises for the first five years of the lease at the greater of \$6,160 per annum or five percent of gross receipts, as well as a stepped increase for the second 5-year period at the greater of \$6,801 or five percent of gross receipts and the greater of \$7,884 or five percent of gross receipts for the third 5-year period to provide the successful bidder with a known rent for the first 15 years of the lease.

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.

PROPERTY CHARACTERISTICS:

Utilities — Water, individual wastewater system, electricity and telephone

Existing Improvements – Four small wood structures containing approximately 970 sq. ft., and a shipping container with approximately 160 sq. ft., all owned by the current permittee.

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

Encumbrances – Revocable Permit No. 36 issued to Atlantis Submarines Hawaii, LLC

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 November 10, 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. 40: "Leases of State land involving negligible or no expansion or change of use beyond that previously existing."

REMARKS:

The premises consist of 3,300 square feet or .0758 acres, more or less. The four wood structures and shipping container, owned by the permittee, comprising an area of approximately 970 sq. ft. and 160 sq. ft., respectively, are situated on the premises.

The parcel is zoned Open under the County of Hawaii's zoning code and Conservation, Urban under the State Land Use District.

The premises are encumbered under Revocable Permit No. 36 ("RP36") issued to Atlantis Submarine Hawaii, LLC. The monthly rental of \$3,182.70 per month was determined via an in-house appraisal using GKM, Inc.'s subtenant rents as comparables.

Staff identified the lands underlying RP36 for sale of lease at public auction pursuant to the Board's directive to convert revocable permits to long-term disposition, where possible. In this instance, staff will require that prospective bidders possess a valid commercial mooring permit at the Honokohau Small Boat Harbor in the immediate vicinity of the of the subject lands.

Staff procured an appraisal from Brian Goto of the Benevente Group to determine the upset rent for the proposed auction lease. The appraiser concluded an upset rent of \$6,160 per annum.

The disparity between the in-house appraisal and the one conducted by Mr. Goto is that the former utilized comparables from commercial space leases, whereas the appraisal concluded an upset rent based on the unimproved land value of the subject premises.

RECOMMENDATION:

That the Board of Land and Natural Resources:

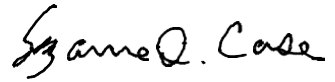
1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1, Hawaii Administrative Rules, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the sale of a lease at public auction covering the subject area for 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:

A handwritten signature in black ink that reads "Suzanne D. Case". The signature is written in a cursive style with a horizontal line underneath the name.

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

Attachment:

- A-1 Subject Premises Location of Island of Hawaii
- A-2 Subject Premises in Honokohau Small Boat Harbor
- A-3 Photo of Area

Exhibit A-1

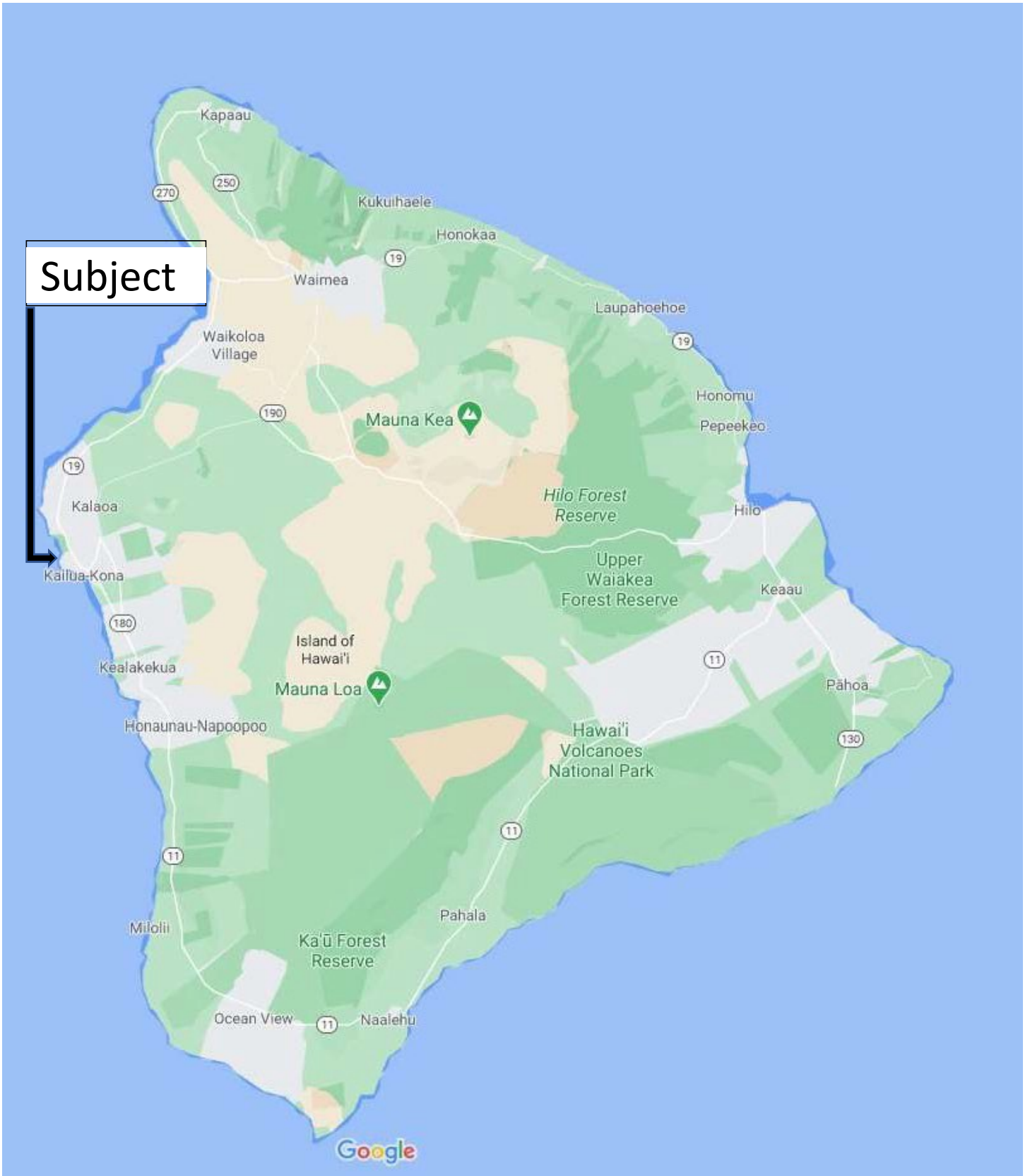


Exhibit A-2



Exhibit A-3

