

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

June 25, 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 for marine business, and other maritime and harbor related light industrial and commercial storage use purposes, Maalaea Small Boat Harbor, Maalaea, Waikapu, Wailuku, Maui Tax Map Keys: (2) 3-6-001:034, 002 (por)

and

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 marine business, and other maritime and harbor related light industrial, commercial storage and other uses allowed under the county zoning ordinance.

LEGAL REFERENCE:

171-14, -16, -17, -41 and other applicable sections of Chapters 171, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Maalaea Small Boat Harbor, Maalaea, Waikapu, Wailuku, Maui, hereinafter referred to as the "Premises" as shown on the maps labeled Exhibits A attached hereto.

AREA:

Approximately 23,522 square feet or .54 acres, more or less.

ZONING:

State Land Use District: Urban/Conservation
County of Maui CZO: BR (Business-Resort), M-1 (Light Indust.), Open, Park

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:

Encumbered by Revocable Permit No.17, issued to Maalaea Boat and Fishing Club for operation of a boat and fishing club and management of boat haul out for self-repair dry dock services for the permittee and public.

CHARACTER OF USE:

Marine business, and other maritime and harbor related light industrial, commercial storage and other uses allowed under the county 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:

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 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. In the event of subletting, the gross receipts of the subtenant shall be included as part of the lessee's gross receipts and lessee shall pay a percentage based on the total gross receipts.

RENTAL REOPENINGS:

At the end of the 15th, 25th years of the lease term, by staff or independent appraisal.

PERFORMANCE BOND:

Twice the annual base rental amount.

RENT WAIVER:

In the event the tenant makes improvements to, or demolishes, the existing building exceeding \$100,000, the rent may be waived for a maximum period of twelve (12) calendar months.

PROPERTY CHARACTERISTICS:

Existing Improvements: Two story wood structure consisting of approximately 5,000 square feet of commercial space and a winch house, consisting of approximately 600 square feet, which contains Maalaea Boat and Fishing Club's winch to haul boats up the ramp to the haul out and tools.

Utilities: Water, access to the harbor's wastewater system, electricity and telephone are available.

Legal Access to the Property: Staff has verified that there is legal access to the premises from Honoapiilani Highway.

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 a two-story wood structure containing approximately 5,000 square feet, which is currently unoccupied, and yard area, containing an approximately 600 square foot winch house, being used as a haul out.

The portion of the premises being used as a haul out is currently encumbered by Revocable Permit No. 17, issued to Maalaea Boat and Fishing Club for operation of a boat and fishing club and management of boat haul out for self-repair dry dock services for the permittee and public.

Staff has spoken to a representative of the permittee, who has expressed interest in bidding on both the building and the area it currently occupies. A representative from the club stated that they are a 501(c)(6) entity. Staff has also recently received inquiries on the building by a restaurant operator. Notwithstanding Maalaea Boat and Fishing Club's non-profit status, staff is recommending the lease be sold at public auction, and the lease rent be set at fair market value, given the interest it has received in the property.

The permittee has expressed its willingness to convey its improvements (i.e. the winch and winch house) to the winning bidder of the lease auction, assuming the permittee is not the high bidder. Staff will procure an appraisal to determine the value of the improvements.

RECOMMENDATION:

That the Board of Land and Natural Resources:

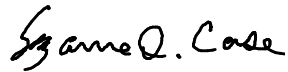
1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1, Hawaii Administrative Rules, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the sale of a lease at public auction covering the subject area for marine business, and other maritime and harbor related light industrial, commercial storage and other uses allowed under the county zoning ordinance, 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. 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,



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

APPROVED FOR SUBMITTAL:



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

Attachment:
Exhibit A – Site Plan

Exhibit A

