

State of Hawaii
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Boating and Ocean Recreation
Honolulu, Hawaii

June 14, 2013

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

OAHU

SALE OF CONCESSION BY SEALED BID FOR THE OPERATION OF A BEACH
CONCESSION SERVICES AT WAIKIKI FORT DERUSSY BEACH, ISLAND OF OAHU,
HAWAII, TMK NO. (1) 2-6-005:08

REQUEST:

Sale of a concession contract by sealed bid for Beach Concession Services

LEGAL REFERENCE:

Section §171-56, and Chapter §102 Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government land situated at Waikiki Fort DeRussy Beach, Island of Oahu,
TMK No. (1) 2-6-005:008, being a portion of Governor's Executive Order No. 1786 and
as shown on attached map labeled Exhibit A.

AREA:

1,050 square feet, more or less; for a temporary work area for operation of a beach
concession service during the day hours.

ZONING:

State Land Use District: Urban
City and County of Honolulu CZO: Public Precinct

TRUST LAND TITLE STATUS:

Section 5(a) lands of the Hawaii Admission Act.
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution:

Item J-6

YES: NO:

REMARKS:

The Division of Boating and Ocean Recreation (DOBOR) requests the Board of Land and Natural Resources (Board) approval for an offering by sealed bid, a portion of State land for the operation of a Beach Concession Service.

The proposed concession site is planned to be situated on Waikiki, Fort DeRussy Beach which is to be found near the Makai end of Paoa Place and Duke Kahanamoku County Park and positioned between the Hilton and the Hale Koa Hotels. Each of these hotels maintains a beach concession operation. The Hale Koa Hotel has a concession on private property that is set back from the shore line path and to the south Diamond Head edge of the hotel property. The Hilton concession is to the north of the Pier, fronting the Hilton Hotel and is under DLNR Land Division's jurisdiction.

The proposed concession is anticipated to provide a healthy competition of beach services in this portion of the beach as it does on the Diamond Head side of Waikiki. The concessionaire shall offer the rental of ocean recreation equipment, lounge chairs, umbrellas, and the sale of incidental items such as suntan lotion, and sunglasses. In addition may provide instruction of ocean sports activities, and ocean related activities as approved by the Chairperson.

All components such as concession stand, surfboard racks, beach gear and water sports items shall be temporary and mobile in design and function. All equipment and stand shall be removed each evening by 8:00 P.M. and set up shall not commence earlier than 5:00 A.M. each morning.

The concessionaire will be required to work closely with the DOBOR staff during beach events or weather conditions require the temporary closure or relocation for the safety and management of the beach. Although the concessionaire is located exclusively on the beach, it may not preset or reserve areas on the beach surrounding the concession area. The Chairperson would reserve the right to approve or disapprove the type of activities to be provided, limit the type of equipment the concessionaire may be allowed to offer the public, and approve any overnight storage on the beach, during the off hours.

CURRENT USE STATUS:

Open beach, and beach activities.

CHAPTER 343-ENVIRONMENTAL ASSESSMENT:

Considering a beach concession once operated at this site, the use will be for beach boy services, beach equipment. There will be no buildings constructed, which DOBOR feels this concession would be exempt under the following exempt class:

"§11-200-8 Exempt Classes of Action states:

A. Chapter 343, HRS, states that a list of classes of actions shall be drawn up which, because they will probably have minimal or no significant effect on the environment, may be declared exempt by the proposing agency or approving agency from the preparation of an environmental assessment provided that agencies declaring an action exempt under this section shall obtain the advice of other outside agencies or individuals having jurisdiction or expertise as to the propriety of the exemption. Actions declared exempt from the preparation of an environmental assessment under this section are not exempt from complying with any other applicable statute or rule. The following list represents exempt classes of action:

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;
2. Replacement or reconstruction of existing structures and facilities where the new structure will be located generally on the same site and will have substantially the same purpose, capacity, density, height, and dimensions as the structure replaced;
3. Construction and location of single, new, small facilities or structures and the alteration and modification of the same and installation of new, small, equipment and facilities and the alteration and modification of same, including, but not limited to:
 - a. Single-family residences less than 3,500 square feet not in conjunction with the building of two or more such units;
 - b. Multi-unit structures designed for not more than four dwelling units if not in conjunction with the building of two or more such structures;
 - c. Stores, offices, and restaurants designed for total occupant load of twenty persons or less per structure, if not in conjunction with the building of two or more such structures; and
 - d. Water, sewage, electrical, gas, telephone, and other essential public utility services extensions to serve such structures or facilities; accessory or appurtenant structures including garages, carports, patios, swimming pools, and fences; and, acquisition of utility easements;"
4. Minor alterations in the conditions of land, water, or vegetation;"

CONCESSION:

Scope of Concession:

The Concession shall provide beach services for the rental of ocean recreation equipment, lounge chairs, umbrellas, and the sale of incidental items such as suntan lotion, hats and sunglasses. In addition the concessionaire may provide instruction of ocean sports activities, and ocean related activities as approved by the Chairperson.

All components such as concession stand, surfboard racks, beach gear and water sports items shall be temporary and mobile in design and function. All equipment and stand shall be removed each evening by 8:00 P.M. and set up shall commence no earlier than 5:00 A.M. each morning.

The concession shall work closely with DOBOR staff during special events or should weather conditions require temporary closure or relocation, for the safety and management of the beach. Even though located on the beach, the concessionaire may not preset or reserve any portion of the beach outside of the designated area with chairs and umbrellas, including other equipment when it is not actively in use by patrons. The Chairperson would reserve the right to approve or disapprove the type of concession activities, any overnight storage, items for sale and limit the type of rental equipment the concessionaire may be allowed.

Contract Term:

Fifteen (15) years

Area:

1,150 square feet, more or less for a temporary work area during the day hours.

Commencement Date:

As determined by the Chairperson

Concession Fee:

The concession fee shall be determined by the successful bid, not less than the upset bid, and as approved by the Chairperson.

Concession Fee Reopening.

The monthly concession fee shall increase by five percent (5%) over the previous period's monthly concession fee at the end of the fifth (5th) and tenth (10th) years.

Upset fee for the Concession Fee:

The upset fee of no less than \$20,000.00 per month, or as approved by the Chairperson.

Bidding Processes:

Chapter 102-2 and 171-56

Security Deposit:

Twice the monthly concession fee throughout the entire term of the agreement or provide a bond in an amount not less than twice the amount of the monthly concession in accordance with Chapter §102.

METHOD OF PAYMENT:

Monthly payments, in advance.

RECOMMENDATIONS:

That the Board:

- A. Declare that after considering the potential effects of the proposed disposition 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.
- B. Authorize the issuance of a concession contract by sealed bid, for a beach concession, under the terms and conditions cited above, which are by this reference incorporated herein and subject to the following:
 1. The Chairperson shall be authorized to prescribe the terms and conditions of the offering by sealed bids, approve the issuance, and award of the concession contract;
 2. The standard terms and conditions of the most current concession contract form, as may be amended from time to time.
 3. Review and approval by the Department of the Attorney General; and
 4. The Permittee shall provide liability insurance in an amount to be determined by the Department that names the State of Hawaii as an additional insured.
 5. Any such other terms and conditions as may be prescribed by the Chairperson to best serve the interest of the State.

Sale of Concession by Sealed Bid for the
Operation of a Beach Concession Services
at Waikiki Fort DeRussy Beach, Island of Oahu,
Hawaii, TMK No. (1) 2-6-005:08

June 14, 2013

Item J-6

Respectfully submitted,



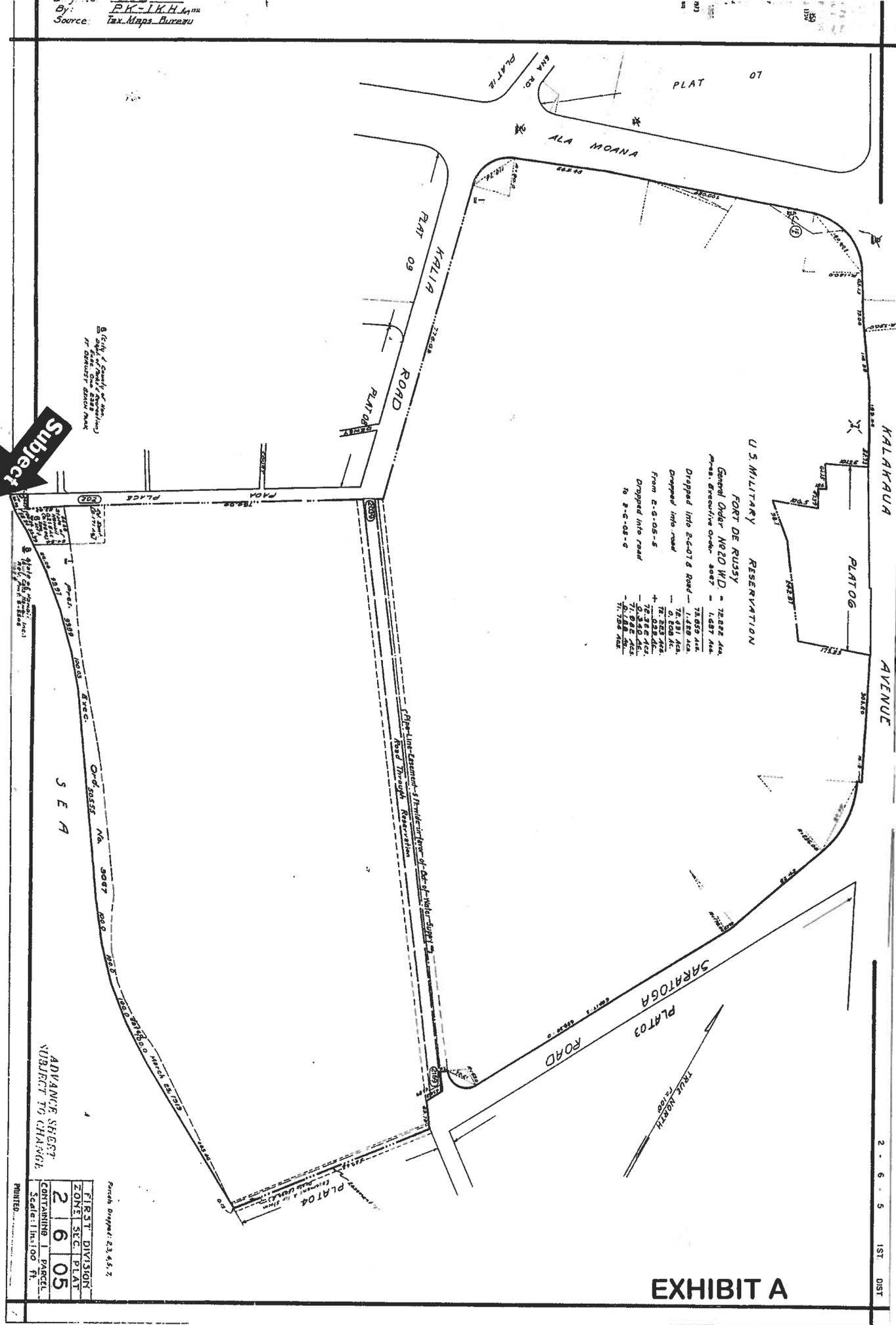
Edward R. Underwood
Administrator

Attachment: Exhibit A

APPROVED FOR SUBMITTAL



William J. Aila, Jr.
Chairperson and Member



U.S. MILITARY RESERVATION
 FORT DE RUSSEY
 General Order No 20 WD - 72222 Aca.
 Pres. Executive Order 5087 - 1487 Aca.
 Dropped into road - 72650 Aca.
 Dropped into road - 72431 Aca.
 From E-G-05-5 - 72253 Aca.
 Dropped into road - 72282 Aca.
 To 2-C-02-6 - 72282 Aca.
 To 2-C-02-6 - 71,794 Aca.

Subject

ADVANCE SHEET
 SUBJECT TO CHANGE

Parcel Dropped 23,447

FIRST DIVISION	1
ZONE SEC. PLAT	2 6 05
CONTAINING PARCEL	1
Scale: 1 in = 100 ft.	

EXHIBIT A