HONOLULU CITY COUNCIL

KE KANIHELA O KE KALANA O HONOLULU

CITY AND COUNTY OF HONOLULU

ORDINANCE _____

BILL 35 (2025)

A BILL FOR AN ORDINANCE

RELATING TO LEASE AND RENTAL OF CITY REAL PROPERTY.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this ordinance is to amend Chapter 38, Revised Ordinances of Honolulu 2021, ("Lease and Rental of City Real Property, Including Fees") to address the lease and rental of City real property.

SECTION 2. Chapter 38, Article 1, Revised Ordinances of Honolulu 2021, ("General Provisions") is amended to read as follows:

"§ 38-1.1 Purpose.

The purpose of this chapter is to establish a uniform procedure for the lease or rental of real property owned by the city, with the exception of [~~the~~] city [~~hall building~~] office buildings, including Honolulu Hale, Kapalāma Hale, Kapolei Hale, and the Mayor Frank F. Fasi municipal building. Any and all office spaces located within the [~~subject two~~] city office buildings shall be reserved for the exclusive use by agencies of the city."

"§ 38-1.2 Scope.

The scope of this chapter includes the policy that the lease or rental of real property of the city or the award of concessions shall require public advertisements and [~~bids~~] solicitations, except under specific circumstances. This chapter also includes the required [~~bidding~~] procedures, [~~and attendant terms of agreements~~] requirements and restrictions, and penalties."

"§ 38-1.3 Definitions.

For the purposes of this chapter, the following definitions apply unless the context clearly indicates or requires a different meaning.

Affiliated organization. Any individual, organization, or agency that operates to support any program performed or sponsored by the federal, State, or City government, as determined by the affiliated federal, State, or City government agency in writing; provided that the written determination is included in the contract file.

Agency. Any office, department, board, commission, or other governmental unit of the city, including the council and its offices.

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BFS Director. The director of budget and fiscal services.

Child Care Operator. Any individual, organization, or agency that operates a "child care facility," as such term is defined in Hawaii Revised Statutes, Section 346-151.

Concession. [~~The grant to a private individual, partnership, or corporation of the privilege to conduct operations essentially retail in nature, involving the sale of goods, wares, merchandise, or services to the general public, such as restaurants, retail stores, parking facilities, golf driving ranges, canoe storage facilities (halaus), in or on land or buildings owned or controlled by the City and County of Honolulu.~~] Any individual, organization, or agency that operates a "concession," as such term is defined in Hawaii Revised Statutes, Section 102-1.

Community Development. Community development is a process where the conditions of social and economic progress are driven by the participation of individuals in the community, as determined by the Managing Director in writing, provided that the written determination is included in the contract file.

Council. The city council of the City and County of Honolulu.

DLM Director. The director of department of land management.

Disadvantaged Business Enterprise. A disadvantaged business enterprise (DBE) is a small, for-profit business that is at least 51% owned and controlled by individuals who are socially and economically disadvantaged, as defined by the U.S. Small Business Administration, as determined by the Managing Director in writing, provided that the written determination is included in the contract file.

Economic Development. Economic developments creates the conditions for improved quality of life by expanding the capacity of individuals, businesses, and communities to maximize the use of their talents and skills to support innovation, job creation, and private investment, as determined by the Managing Director in writing, provided that the written determination is included in the contract file. Economic Development involves both qualitative and quantitative growth, as well as social and environmental aspects.

[~~***Director***. The director of budget and fiscal services.~~]

Managing Director. The managing director of the City and County of Honolulu.

Nonprofit Organization. An association, corporation, or other entity, organized and operated exclusively for religious, charitable, scientific, literary, cultural, educational, recreational, or other nonprofit purposes, no part of the assets, income, or earnings of which inures to the benefit of any individual or member thereof, and whose charter or other enabling act contains a provision that, in the event of dissolution, the assets owned by such association, corporation, or other entity shall be distributed to another association, corporation, or other entity organized and operated exclusively for nonprofit purposes, and which further qualifies for exemption from the general excise tax provisions of HRS Chapter 237, as amended, and under § 501 of the Internal Revenue Code of 1954, as amended. Such nonprofit organization must not merely be a sponsor of the event, production, attraction, or activity being given, but must actively promote, produce, stage, or conduct such event, production, attraction, or activity."

SECTION 3. Chapter 38, Article 2, Revised Ordinances of Honolulu 2021, ("Bidding Requirement and Procedures"), as amended, is repealed.

SECTION 4. Chapter 38, Revised Ordinances of Honolulu 2021 ("Lease and Rental of City Real Property, Including Fees"), is amended by adding a new Article 2 to read as follows:

"ARTICLE 2: LEASING PROCEDURES

§ 38-2.1 Solicitations required.

Unless expressly excepted or addressed in this chapter, no real property owned by or under the jurisdiction of the city, including any building or land or space in any building or land, shall be leased, except under contract awarded under public advertisement in the manner provided hereinafter.

§ 38-2.2 Call for solicitations.

The DLM Director shall call for solicitations, accept solicitations, and award leases on terms, conditions, and rentals approved by the corporation counsel, as to form and legality. "Solicitations" as used herein may include Requests for Qualifications (RFQs), Requests for Bids (RFBs), Requests for Proposals (RFPs), or any similar solicitation. Solicitations may be for individual properties or a portfolio of properties. Solicitations may be for the award of a lease together with another contract (for example, a development contract), but shall not include concessions.

§ 38-2.3 Publication for solicitations.

(a) Publication of the solicitation shall be made a reasonable time before the response deadline set forth in the solicitation. The DLM Director shall have discretion to determine how notice may be published, and may include publication in a newspaper of general circulation, notice by mail to all persons on any applicable bidders mailing list, publication by any public or private telecommunication information network, or any other method of publication it deems to be effective.

(b) Such public announcement shall include, but not be limited to, the following information:

(1) Description of the lease objectives;

(2) Description of the leased premises;

(3) Term of the lease;

(4) Amount and type of government funds, if any, available; and

(5) A description of where to find more information on the lease.

(c) The DLM Director may require the party requesting the publication of the solicitation to deposit with the DLM Director a certified check or cash equal to or greater than the estimated cost of publishing the advertisement for solicitations, before such advertisement is published. The cost of publication may be deducted from the deposit and retained by the city if the party fails to submit a solicitation.

§ 38-2.4 Selection.

All solicitation responses shall be delivered to the DLM Director in the manner stated in the solicitation, and shall be opened by the DLM Director at the hour and place to be stated in the solicitation. The DLM Director may reject any or all solicitations and waive any defects, when in the DLM Director's opinion, such rejection or waiver will be for the best interest of the city. Solicitation responses shall be evaluated pursuant to the criteria stated in the solicitation. If stated in the solicitation, the city may negotiate the lease with the offeror(s).

§ 38-2.5 Council approval, notice to council.

(a) Approval Required.

Except as otherwise provided in (b) below, the lease shall be submitted by the DLM Director to the council for approval by resolution; provided that the council, before approval by resolution, may add, delete, or amend any term or condition of the lease. If the lease is being awarded together with another contract or contracts (for example, a development contract), the other contract(s) must be concurrently submitted to council for joint approval by resolution, and the council may add, delete, or amend any term or condition of the other contract(s). Following approval by resolution, the DLM Director has the ability to make clarifying and non-substantive revisions to effectuate the intent of the lease and/or the other contract(s).

(b) Approval Not Required.

Council approval by resolution is not required for lease awards where:

(1) The term of the lease does not exceed five years.

(2) The tenant is any political or governmental subdivision of the federal, State, or county governments; or

(3) The tenant is a Nonprofit Organization, a Disadvantaged Business Enterprise, Child Care Operator, or an organization involved in Community Development or Economic Development, and the full unexpired lease term is less than ten years.

(c) Report to Council.

Within the first quarter of every fiscal year, the DLM Director shall submit a report to Council notifying it of all lease awards that were issued in the preceding fiscal year without Council approval."

SECTION 5. Chapter 38, Article 3, Revised Ordinances of Honolulu 2021, ("Exceptions to Bidding Requirements"), as amended, is repealed.

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SECTION 6. Chapter 38, Revised Ordinances of Honolulu 2021 ("Lease and Rental of City Real Property, Including Fees"), is amended by adding a new Article 3 to read as follows:

"ARTICLE 3: LEASING REQUIREMENTS, RESTRICTIONS, EXCEPTIONS

§ 38-3.1 Lease Requirements.

Except as otherwise provided, the following restrictions shall apply to all leases:

(a) No lease may be offered with nominal rent, without a specific finding by the DLM Director, and subject to City Council approval by resolution, that nominal rent serves the public interest;

(b) No lease with an initial or extension term longer than ten years may be offered without requirement of (i) a $125,000.00 qualified improvement of the property; (ii) an equivalent provision of goods or services to the City, each to the satisfaction of the DLM Director in their absolute discretion; or (iii) a specific finding by the DLM Director, and subject to City Council approval by resolution, that waiver of the above requirement serves the public interest. For purposes of this section, a "qualified improvement" shall mean any permanent and capital improvement made to the property, ownership of which will revert to the City at the expiration of the lease;

(c) No lease shall be for a longer term than seventy-five years, except with respect to any lease of city property used for affordable housing, where the DLM Director may extend any existing lease upon the following terms:

   a. The lessee be obligated to make any necessary rehabilitation to ensure the quality of the affordable units, to the satisfaction of the DLM Director;

   b. The lease rent may be renegotiated;

   c. The DLM Director issues a specific finding, subject to City Council approval by resolution, that:

      i. the city continues to have the public need for the affordable housing located on the leased land and is reasonably likely to continue to have such public need for the period for which the lease is being extended;

ii. The lease extension will support the lessee's ability to finance any necessary rehabilitation and continued upkeep of the affordable units; and

iii. The lessee has experience operating, rehabilitating, and owning or leasing multi-family housing for low-moderate income persons.

(d) No lease shall be made to any person who is in arrears in the payment of taxes, rents, or other obligations owed to the city;

(e) No lease shall be transferable or assignable, in whole or in part, without the prior approval of the DLM Director, provided that the DLM Director may condition or withhold its approval in their absolute discretion;

(f) No subleasing shall be permitted, in whole or in part, without the prior approval of the DLM Director, provided that the DLM Director may condition or withhold its approval in their absolute discretion; and

(g) Such other terms and conditions as the DLM Director deems advisable to more nearly effectuate the purposes of the city charter and of this chapter.

(h) In all cases where a specific finding is required by the DLM Director, such specific finding shall include an evaluation of:

a. The request being made pursuant to section (a), (b), or (c) hereof, and the proposed justification therefor;

b. The impact of the request as it relates to the lessee's financial circumstances and capacity;

c. Comparable market conditions and circumstances; and

d. The public interest served by the request.

§ 38-3.3 Solicitations not required.

(a) The DLM Director may award contracts to lease property on terms and conditions approved by the corporation counsel as to form and legality, without issuing a solicitation when:

(1) Eminent domain or unused real property. Real property or improvements thereon, or both, acquired by the city by eminent domain proceedings, negotiated purchase, or exchange in lieu thereof, or where immediate use of the property acquired is not necessary, as determined by the DLM Director in writing, provided that the written determination shall be included in the contract file, and further provided that the term of the lease does not exceed five years.

(2) Nonprofit Organization, other Organizations. Real property or improvements thereon, or both, are leased to any Nonprofit Organization, an Affiliated Organization, a Disadvantaged Business Enterprise, a Child Care Operator, or an organization involved in Community Development or Economic Development;

(3) Accessory uses. Real property or improvements thereon, or both, are leased to contractors who are awarded city construction contracts for use as a field office and storage of equipment and supplies relating to the awarded city construction contract. Rental shall be at the fair market rent and limited to the duration of the construction contract only;

(4) Governmental subdivisions. Real property or improvements thereon, or both, are leased or rented for the use of any political or governmental subdivision of the federal, State, or county governments;

(5) Emergencies. A situation of an unusual or compelling urgency creates a threat to life, public health, welfare, or safety by reason of major natural disaster, epidemic, riot, fire, or such other reason as may be determined by the DLM Director in writing, provided that the written determination shall be included in the contract file.

(6) Employee of the City and County of Honolulu or the State of Hawaii. Real property and improvements thereon are leased or rented to employees of the city or the State as supplied perquisite housing;

(7) Thirty-day period or less. Real property or improvements thereon, or both, are leased for a period not to exceed 30 days. No extension of such lease shall be permitted without calling for public solicitations; and

(8) Activities without charge. For activities set aside without any charge, provided that such lessee or tenant does not engage in any concessions.

(b) In each case where a solicitation is not used, the DLM Director must include a justification in its transmittal to council for approval, as required in Section 2.5(a), or in its report to council, as required in Section 2.5(c).

§ 38-3.4 Solicitations under separate provisions.

Article 2 and Article 3 hereof do not apply to the following:

(1) Concessions. Concessions will be awarded in accordance with Article 4.

(2) Property under Department of Enterprise Services. The rental for the use of facilities for events or attractions at the Neal S. Blaisdell Center, the Tom Moffatt Waikiki Shell or other properties under the jurisdiction of the Department of Enterprise Services will be in accordance with Articles 6 through 9;

(3) Grounds of City Hall and the Mayor Frank F. Fasi Municipal Building. The rental and use of the grounds of City Hall and the Mayor Frank F. Fasi Municipal Building will be in accordance with Article 11; and

(4) Telecommunications facilities. City property leased for use as telecommunications facilities will be in accordance with Article 12.

§ 38-3.5 Bidding not required—Outdoor dining services.

The city department or agency designated by the mayor under § 13-20.3 may issue permits for outdoor dining services pursuant to that section without calling for public bids."

SECTION 7. Chapter 38, Article 4, Revised Ordinances of Honolulu 2021, ("Terms of Agreements"), as amended, is repealed.

SECTION 8. Chapter 38, Revised Ordinances of Honolulu 2021 ("Lease and Rental of City Real Property, Including Fees"), is amended by adding a new Article 4 to read as follows:

"ARTICLE 4: CONCESSIONS

§ 38-4.1 Bidding required.

Unless expressly excepted in this chapter, no concession or concession space in any building or on any land owned by or under the jurisdiction of the city shall be leased or rented, except under contract let under public advertisement for sealed tenders in the manner provided hereinafter.

§ 38-4.2 Call for bids.

The BFS Director shall call for bids, accept bids, and award concessions on terms, conditions, and rentals approved by the corporation counsel, as to form and legality.

§ 38-4.3 Qualification of bidders.

Before any prospective bidder shall be entitled to submit any bid required under this chapter, the bidder shall, not less than six calendar days before the day designated for opening bids, give written notice to the BFS Director of the bidder's intention to bid, and the BFS Director shall satisfy the BFS Director of the prospective bidder's financial ability, experience, and competence to carry out the terms and conditions of any contract that may be awarded. For this purpose, the BFS Director may require prospective bidders to submit answers, under oath, to questions contained in a questionnaire setting forth a complete statement of the experience, competence, and financial standing of such prospective bidders. Whenever it appears to the BFS Director that any prospective bidder is not fully qualified and able to carry out the terms and conditions of the contract that may be awarded, the BFS Director may, after affording such prospective bidder an opportunity to be heard, refuse to receive or consider any bid offered by such prospective bidder. All information contained in the answers to questionnaires shall remain confidential, and any government officer or employee who knowingly divulges or permits to be divulged any such information to any person not fully entitled thereto shall be subject to penalties as provided by law. Questionnaires so submitted shall be returned to the bidders after having served their purpose.

§ 38-4.4 Advertisement for bids.

(a) Publication of a call for tenders for the awarding of concessions or concession spaces shall be made at least on three separate days in a daily newspaper of general circulation in the city.

(b) Such public announcement shall include but not be limited to the following information:

(1) Description of the concession and the objectives for it;

(2) Location;

(3) Scope of the award or lease;

(4) Length of the award or lease;

(5) Amount and type of government funds, if any, available for the project; and

(6) Description of any special requirements of unique features.

§ 38-4.5 Cost of publication.

The BFS Director may require the party requesting the publication of a call for tenders to deposit with the BFS Director a certified check or cash equal to or greater than the estimated cost of publishing the advertisement for bids, before such advertisement is published. The cost of publication may be deducted from the deposit and retained by the city if the party fails to submit a bid.

§ 38-4.6 Bids—Opening—Rejection.

The time of opening of such tenders shall not be less than five days after the last publication. All bids shall be sealed and delivered to the BFS Director, and shall be opened by the BFS Director at the hour and place to be stated in the call for tenders, in the presence of all bidders who attend, and may be inspected by any bidder. The BFS Director may reject any or all bids and waive any defects, when in the BFS Director's opinion, such rejection or waiver will be for the best interest of the city. Upon completion of the evaluation and selection process, the BFS Director shall file a written report with the city clerk, including the results with the successful bidder. The city clerk, upon receipt of the written report, shall post same for public inspection under an appropriate title on the bulletin board on which meeting notices of the council, including its agenda, are posted and such report shall be a public record.

§ 38-4.7 Bids—Withdrawals.

No bidder may withdraw such bid for a period of 60 days after the opening thereof.

§ 38-4.8 Deposits to accompany bid.

All bids shall be accompanied by a deposit of legal tender or by a certified check payable to the BFS Director drawn on a bank doing business within the State, for or in a sum equal to 5 percent of the amount bid, but in no event, to be less than $50; provided that when the amount bid exceeds $50,000, the certificate of deposit or certified check shall be $2,500 plus 2 percent of the amount in excess thereof.

§ 38-4.9 Forfeiture of deposits—Return.

If the BFS bidder to whom the contract is awarded fails or neglects to enter into the contract and furnish satisfactory security as required by this article, within 10 days after the award or within such further time as the BFS Director may allow, the BFS Director shall pay the deposit into the treasury as a realization of the city. If the contract is entered into and the security furnished within the required time, the deposit shall be returned to the successful bidder. Deposits made by the unsuccessful bidders shall be returned to them after the contract is entered into or, if the contract is not entered into, after the expiration of 60 days after the opening of the bids or after the director publishes another call for tenders, whichever is sooner.

§ 38-4.10 Bond in lieu of deposit.

In lieu of the deposit of legal tender or a certified check, a bid may be accompanied by a surety bond naming the city as obligee, with the bidder as principal, and a surety company, authorized to do business as such in this State, as surety, in a penal sum equal to the deposit required under § 38-5.8, conditioned upon the bidder entering into the contract and furnishing the required security within 10 days after the award or within such further time as the director may allow.

§ 38-4.11 Contract execution—Award to highest responsible bidder.

All such contracts shall be in writing, shall be executed by the BFS Director in the name of the city, and shall be made with the highest responsible bidder, if such bidder shall qualify by providing the security required herein below. If the highest and best bid or any other bid has been rejected, or if the bidder to whom the contract was awarded has failed to enter into the contract and furnish satisfactory security, the BFS

Director may, in the BFS Director's discretion, award the contract to the next highest responsible bidder.

§ 38-4.12 Security deposit.

Before any contract is entered into, the bidder shall give security for compliance therewith by deposit of an amount equal to two months' rental or other charge required under the contract. In lieu thereof, the BFS Director may accept good and sufficient bond for the amount, naming the city as obligee, with the bidder as principal, and a surety company authorized to do business as such in this State, as surety.

§ 38-4.13 Surety on bond—Justification.

If the surety or sureties on such bond shall be other than a surety company authorized to do business under the laws of this State, there shall be not more than four such sureties who shall severally justify such amounts as, taken together, will aggregate the full amount of the bond; provided that in the case of such sureties, they shall deposit with the BFS Director certified checks or certificates of deposit (payable on demand on or after such period as the director may stipulate) or bonds, stocks, or other negotiable securities, or execute and deliver to such officer a deed or deeds of trust of real property, all of such character as shall be satisfactory to the BFS Director, in security equal to the full cash value of 100 percent of the amount for which each surety shall have assumed. The BFS Director may waive the necessity of furnishing such security, in cases where the BFS Director is satisfied as to the financial responsibility of the proposed surety or sureties; provided that if there be but one personal surety, the surety shall justify the full amount of the bond.

§ 38-4.14 Violation voids contract.

After the effective date of this chapter, any contract awarded or executed in violation of this chapter shall be void and of no effect.

§ 38-4.15 Competitive sealed proposals.

(a) Notwithstanding anything to the contrary in this chapter, the city may award a concession by competitive sealed proposals when:

(1) Such property or improvements, or both, will be used for cultural, arts, nature, sports, recreational, historical, or other similar activities open to the public;

(2) The council approves of the use of such process by ordinance or resolution in advance of the issuance of the request for proposals; and

(3) The BFS director determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to the city.

Factors to be considered in determining whether competitive sealed bidding is not practicable or not advantageous include:

(4) Whether the award determination involves the consideration of factors in addition to financial return to the city;

(5) Whether oral or written discussions may need to be conducted with offerors concerning technical and financial aspects of their proposals;

(6) Whether offerors may need to be afforded the opportunity to revise their proposals, including revision of the financial return to the city; and

(7) Whether an award may need to be based upon a comparative evaluation as stated in the request for proposals of differing financial return, quality, and contractual factors, to determine the most advantageous offering to the city. Quality factors may include technical and performance capability and the content of the technical proposal.

(b) Proposals shall be solicited through a request for proposals.

(c) Public notice of the request for proposals shall be given in the same form and manner for advertisements for bids.

(d) Proposals shall be opened so as to avoid disclosure of contents to competing offerors during discussion. A register of proposals shall be prepared and shall be open for public inspection after the contract award.

(e) The request for proposals shall state the relative importance of:

(1) Financial return to the city; and

(2) Other evaluation factors.

(f) Discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and revisions may be permitted after submissions and before award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.

(g) Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the city, taking into consideration the financial return to the city and the evaluation factors set forth in the request for proposals. No other factors or criteria shall be used in the evaluation. The contract file shall contain the basis on which the award is made.

§ 38-4.16 Term of concessions.

The term of any concession must not exceed a period of 25 years; provided that any concession term longer than five years must be authorized by resolution by the council, as deemed necessary in the public interest.

§ 38-4.17 Bidding not required—Concessions.

The BFS Director may award concessions on terms and conditions approved by the corporation counsel as to form and legality without issuing a solicitation when:

(1) Activities without charge. Concessions or concession spaces that are set aside without any charge for events, productions, attractions, or activities, including the exhibition and sale of handcrafts, works of art, produce, or products of a nonprofit organization, as defined in Article 1, or its members as long as the sale of any craft items, works of art, produce, or products are made by the member of the organization who actually makes, creates, grows, or gathers the items being sold, and as long as all net profits earned by the nonprofit organization from the concession are to be applied to the expenses of the organization incurred in connection with events or activities directly related to the purpose for which it has been organized;

(2) Periods of two days or less. Concessions or concession spaces that are set aside for a period or periods of time not to exceed two successive days without any charge:

(A) For the exhibition and sale of works of art by artists who actually produce the works of art being exhibited and sold;

(B) For the exhibition and sale of handcrafted items being exhibited and sold; and

(C) For the display and sale of fruits and vegetables, seafoods, and prepared but not manufactured food products by the person who actually grows or gathers the fruits and vegetables, catches the seafoods, or prepares the food products being displayed and sold;

(3) Handicapped or blind persons. Concessions or concession spaces that are set aside for the use of handicapped or blind persons or any nonprofit organization primarily engaged in physical rehabilitative programs.

(A) Definition. For the purposes of this subdivision, "handicapped or blind persons" includes those persons referred to as "blind or visually handicapped persons" in HRS § 102-14.

(B) Nonprofit private corporations. The word "persons" contained herein includes a nonprofit private corporation that has been exempted from taxation as prescribed under § 501 of the Internal Revenue Code of 1986, as amended, and its articles of incorporation or association must have a provision contained therein that the primary objective of the corporation is to service, aid or abet, or assist the handicapped or blind persons.

(C) No rent, except for maintenance cost. Notwithstanding any provisions to the contrary contained herein, the director shall assess no rent for leasing or renting of concessions or concession space to handicapped or blind persons, including any vending machines assigned to such vendors; provided that for real property, including improvements thereon, the director shall assess the cost of maintenance of that portion of such real property leased or rented to handicapped or blind persons;

(4) Governmental subdivisions. Concessions or concession spaces that are set aside for the use of any political or governmental subdivision of the federal, State, or county governments;

(5) Nonprofit beachboy concessions. Concessions or concession spaces that are set aside for beachboys licensed by the State department of transportation.

(A) Policy. The council finds that Hawaiian beachboys are rooted in the State's historical and cultural traditions and that there is a need for the city to provide for concessions available to licensed beachboys on beach property under the jurisdiction of the city.

(B) Definition. "Nonprofit beachboy concession" is the grant to a qualified beachboy association of the privilege to conduct operations essentially retail in nature, involving the rental of surfboards, bodyboards, or canoes. A qualified beachboy association is an association that is dedicated to the preservation of the beachboy tradition and is incorporated as a nonprofit corporation in accordance with State law.

(C) Special conditions to be met when providing beachboy concessions on beach park property under the jurisdiction of the city. The following special conditions govern the award of nonprofit beachboy concessions on beach park property under the jurisdiction of the city:

(i) The department of parks and recreation shall designate specific sites on the beach for each beachboy concession and shall locate the sites so as not to impede access to and use of the beach by the public;

(ii) A beachboy concession may offer to provide instruction for the use of rental equipment incidental to the rental of the equipment, and may offer the sale of canoe rides incidental to the rental of canoes; and

(iii) The department of parks and recreation shall establish policies to ensure that the use of the nonprofit beachboy concessions is restricted to beachboys who are licensed pursuant to Hawaii Administrative Rules Chapter 82, Title 19 (department of

transportation), and that such concessions are operated to provide equal opportunity for use by all licensed beachboys.

(D) Fees and charges for beachboy concessions. The department of parks and recreation is authorized to set the fees charged by the beachboy concessions.

(E) Rules. The director of parks and recreation shall adopt rules pursuant to HRS Chapter 91 necessary for the purposes of this subdivision;

(6) Beach and ocean-related recreational services. Concessions or concession spaces that provide for beach- or ocean-related recreational services; provided that the concessions are awarded to the responsible offeror whose proposal is determined to be most advantageous, taking into consideration prices and evaluation factors set forth in the request for proposals;

(7) Nonprofit zoo, botanical garden, and unique park concessions. Concessions or concession space at city zoos, botanical gardens, or parks that are designated by the director of parks and recreation, in the director's sole discretion, as environmentally, culturally, historically, or operationally unique that are set aside for use by support groups and are incorporated as nonprofit corporations in accordance with State law, for the purpose of supporting city aims and goals for the zoo, botanical gardens, and designated parks; provided that each support group shall annually submit to the director of parks and recreation and the council an audited financial statement of the revenues and expenditures of that support group;

(8) Zoo, botanical garden, and unique park concessions. Concessions or concession spaces that are located within or at city zoos, botanical gardens, or city parks that are designated by the director of parks and recreation, in the director's sole discretion, as environmentally, culturally, historically, or operationally unique; provided that the concessions are awarded to the responsible offeror whose proposal is determined to be the most advantageous, taking into consideration prices and evaluation factors set forth in the request for proposals;

(9) Vending machines. Concession spaces that are leased or rented for vending machines, except insurance vending machines;

(10) Public pay telephones. Concession spaces that are leased or rented for public pay telephones;

(11) Hans L'Orange baseball facility. Concessions or concession spaces at the Hans L'Orange baseball facility that are set aside without charge to the permittee of a professional sports activity; provided that the period of use of such concessions or concession space is limited to the term of the permit. For the purposes of this subdivision, the following definitions apply unless the context clearly indicates or requires a different meaning.

Permittee. The promoter, sponsor, exhibitor, league, or other person who obtains a permit for the purposes of conducting a professional sports activity at a professional sports facility for which admission fees are charged.

Professional Sports Activity. A game, event, exhibition, or activity of a recognized sport for which admission fees are charged and in which the participants receive compensation in return for participation in the sport.

Hans L'Orange Baseball Facility. The playing field, bleachers, stands, and other areas of the facility enclosed by a fence;

(12) Parking stalls for shared micromobility vehicles. Concessions or concession spaces, including parking stalls, set aside for shared micromobility vehicle businesses. For the purposes of this subdivision, "shared micromobility vehicle business" has the same meaning as defined in § 15-31.1;

(13) Lei vendors. Concessions or concession spaces for the purposes of the sales of lei and lei-related products;

(14) Automated teller machines. Concession spaces for the purposes of placement and operation of automated teller machines;

(15) Permits revocable with notice of 30 days or less. Concessions or concession spaces that are contracted through permits revocable on notice of 30 days or less; provided that no such permits are issued for more than a one-year period;

(16) Sole source concessions. Concessions that furnish goods or services for which there is only one source, as determined by the director in writing; provided that the written determination is included in the contract file; or

(17) Concessions without charge. Concessions or concession spaces set aside without any charge."

SECTION 9. The title of Chapter 38, Article 7, Revised Ordinances of Honolulu 2021, ("Rental Schedule"), as amended, is amended to read as follows:

"ARTICLE 7: DEPARTMENT OF ENTERPRISE SERVICES FACILITY RENTAL SCHEDULE"

SECTION 10. The title of Chapter 38, Article 8, Revised Ordinances of Honolulu 2021, ("Concessions"), as amended, is amended to read as follows:

"ARTICLE 8: DEPARTMENT OF ENTERPRISE SERVICES CONCESSIONS"

SECTION 11. The title of Chapter 38, Article 8, Revised Ordinances of Honolulu 2021, ("Nonprofit Organizations"), as amended, is amended to read as follows:

"ARTICLE 9: DEPARTMENT OF ENTERPRISE SERVICES FACILITIES - NONPROFIT ORGANIZATIONS"

SECTION 12. Ordinance material to be repealed is bracketed and stricken. New material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the Revisor of Ordinances need not include the brackets, the material that has been bracketed and stricken, or the underscoring.

HONOLULU CITY COUNCIL

KE KANIHELA O KE KALANA O HONOLULU

CITY AND COUNTY OF HONOLULU

ORDINANCE _____

BILL 35 (2025)

A BILL FOR AN ORDINANCE

SECTION 13. This ordinance takes effect upon its approval.

INTRODUCED BY:

Tommy Waters (br)

DATE OF INTRODUCTION:

MAR 28 2025

Honolulu, Hawai'i

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____ , 20___ .

RICK BLANGIARDI, Mayor
City and County of Honolulu

(T – 9/2023)

Report Title:
Relating to the Lease and Rental of City Real Property; Revised Ordinances of Honolulu 2021, Chapter 38 ("Lease and Rental of City Real Property, Including Fees"); Department of Land Management

Description:
The purpose of this bill is to amend ROH Chapter 38, particularly Articles 1 through 4, to streamline the process by which the City leases property.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.