



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
HARBORS DIVISION
79 S. NIMITZ HIGHWAY
HONOLULU, HAWAII 96813

IN REPLY REFER TO:
HAR-O
9971.19

**NOTICE OF PUBLIC AUCTION FOR THE SALE AND DISPOSITION
OF 280' STEEL-MAST SAILING VESSEL; FALLS OF CLYDE
PURSUANT TO HAWAII REVISED STATUTES § 266-27**

Notice is hereby given that the "FALLS OF CLYDE" vessel ("vessel") is being offered for sale by the STATE OF HAWAII, DEPARTMENT OF TRANSPORTATION HARBORS DIVISION ("State"), pursuant to Hawaii Revised Statutes ("HRS") § 266-27.

By submitting a bid, the bidder agrees to all terms herein. The vessel shall be sold AS-IS, WHERE-IS WITH ALL FAULTS AND NO WARRANTIES EXPRESSED OR IMPLIED INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OR REPRESENTATIONS AS TO THE CONDITION OF: (1) THE VESSEL (SUCH AS, BUT NOT LIMITED, TO IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE); OR (2) ANY ITEMS ON THE VESSEL. LIKEWISE, THE STATE MAKES NO REPRESENTATION OR WARRANTY AS TO THE EXISTENCE OR NON-EXISTENCE OF LIENS OR ENCUMBRANCES. The winning bidder purchases the vessel at its own risk and the State makes no representation as to the validity of title and the ability of the winning bidder to register and/or document the vessel. The State also makes no guarantees or warranties to the existence or non-existence of defects, no sale will be invalid if defects are discovered, and the State as well as its employees and officers assume no responsibility or liability.

Potential bidders may inspect the vessel and its contents at their own risk at 9:00 AM, Friday, (February 15, 2019) at Pier 7, Honolulu Harbor. Requests for an inspection of the vessel and its contents may be arranged by calling the Honolulu Harbor Master's office at 808-587-2060. Potential bidders inspect the vessel and its contents at their own risk and release the State from any and all claims, losses, damages, liabilities, deaths, injuries, judgments, fees, costs and expenses (including reasonable attorneys' fees and expenses) related to, arising from or associated with the inspection of the vessel or its contents.

By submitting a bid, the bidder acknowledges that it relied solely on its own inspection and due diligence and not on information from the State.

A performance bond in the amount of \$1,500,000.00 guaranteeing the removal of the vessel from Honolulu Harbor by the date required herein, shall accompany each bid. This performance bond can be in the form of cash, letter of credit from a local bank, or a fully negotiable insurance instrument issued by a firm authorized to do business in the State of Hawaii. Bids must be delivered in person or by courier to the Department of Transportation, Oahu Harbors District, 700 Fort Street, Pier 11 Gallery, Honolulu, Hawaii 96813, no later than February 28, 2019 at 11:00 AM. Bids must be in a sealed envelope with return name and address to identify bidder. Public announcement of the winning bidder will be made on February 28, 2019 at 1:00 PM at Pier 7, Honolulu Harbor.

The winning bidder shall be the bidder who offers the highest bid for the vessel. If no bid is received, the State may sell the vessel by negotiation, dispose of the vessel as junk, donate the vessel to any governmental agency, or any other action allowable by law.

The winning bidder accepts responsibility for and agrees to release, indemnify, defend and hold harmless the State and its employees and officers from and against any and all claims, losses, damages, liabilities, deaths, injuries, judgments, fees, costs and expenses (including reasonable attorneys' fees and expenses) related to, arising from or associated with the winning bidder's, its agents', its employees', its representatives', or its contractors' acts or omissions arising out of or related to the bidding and purchase of the vessel including, but not limited to, removal of the vessel.

The winning bidder shall permanently remove the entire vessel from Honolulu Harbor, at sole cost and risk to the winning bidder, **within sixty (60) calendar days** from the issuance of the Bill of Sale. The winning bidder must comply with any and all Federal and State laws, rules, ordinances, orders, and regulations including, but not limited to, HRS Chapters 6E and 343 as well as any requirements of any governmental agencies including, but not limited to, the Advisory Council on Historic Preservation, the Environmental Protection Agency, the U.S. Coast Guard, the National Oceanic and Atmospheric Administration, and any other agency, if applicable.

The sale includes the subject vessel plus any contents and fixtures which are on the vessel. The winning bidder must pay 10% of the winning bid amount at the fall of the hammer. The remainder shall be paid or remitted in the form of a Bank Cashier's or Certified Check drawn on U.S. banks **within thirty (30) calendar days** from the issuance of the Bill of Sale. The winning bidder shall pay, process, and be responsible for all transfer of ownership paperwork. Any and all Bank Checks should be payable to the Department of Transportation – Harbors Division Special Fund" and delivered to the Department of Transportation, Oahu Harbors District, 700 Fort Street, Pier 11 Gallery, Honolulu, Hawaii 96813.

If the winning bidder fails to satisfactorily and timely pay sums as described herein, fails to remove the vessel by the required deadline, or otherwise fails to comply with any of the terms herein, the State may cancel the bill of sale to the winning bidder, the winning bidder shall forfeit any money paid to the State, and the State may sell the vessel by negotiation, dispose of the vessel as junk, donate the vessel to any governmental agency, or take any other action allowable by law.



DEREK J. CHOW
Deputy Director of Transportation
Harbors Division



Date