

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

April 25, 2014

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

13HD-119

Hawaii

**Approve a 10-year Extension of Lease Term Pursuant to Act 207, Session Laws of Hawaii 2011, General Lease No. S-3619, Mattos Electric, LLC, Lessee, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-2-049:013.**

APPLICANT AND REQUEST:

Mattos Electric, LLC, a Hawaii Limited Liability Company.

Pursuant to Act 207, Session Laws of Hawaii 2011, the lessee has self-financed improvements to the leasehold property in the amount of approximately \$24,659. In order for the Lessee to amortize this expenditure, it is requesting an extension of General Lease No. S-3619 of 10 years, commencing on February 6, 2016 and expiring on February 5, 2026 for an aggregate term of 65 years (initial 55 year term plus the 10 year extension).

LEGAL REFERENCE:

Sections 171-36, Hawaii Revised Statutes, as amended.  
Act 207, Session Laws of Hawaii 2011

LOCATION:

Portion of Government lands of Kanoiehua Industrial Lots situated at Waiakea, South Hilo, Hawaii, identified by Tax Map Key: (3) 2-2-049:013, as shown on the attached map labeled Exhibit A.

AREA:

13,975 square feet, more or less.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act  
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CHARACTER OF USE:

Uses allowed under the current County of Hawaii Zoning Code, ML-20, limited industrial.

TERM OF LEASE:

Original term of 55 years, commencing on February 6, 1961 and expiring on February 5, 2016.

Requested extension of 10 years commencing on February 6, 2016 and expiring on February 5, 2026.

ANNUAL RENTAL:

Current rent is \$15,120.00, due in semi-annual installments of \$7,560.00 on February 6th and August 6th of each year.

RENTAL REOPENINGS:

Reopenings in the original term were at the end of the 20<sup>th</sup>, 30<sup>th</sup>, 40<sup>th</sup>, and 50<sup>th</sup> years of the term. The last rental reopening occurred on February 6, 2011.

Rent for the extended term shall be determined by an immediate appraisal that will project rent for the period February 6, 2016 through February 5, 2026. The appraiser shall be selected by the State but paid for by the lessee. As a condition of the Board's discretionary approval of the lease extension, the appraised rent for the extension period shall be determinative and not subject to arbitration.

IMPROVEMENTS COMPLETED:

The Lessee has made major improvements to the property. These improvements include replacing the entire electrical system including the addition of a security system, replacing portions of the metal roof and purlins, replacing about half of the 10' overhanging canopy, painting the exterior of the building, replacing termite-damaged framing of mezzanine and interior walls, adding a common area restroom, and converting 903 square feet from warehouse to office space with new laminate flooring, finished and painted sheetrock walls and new fluorescent light fixtures.

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>X</u>	NO
Registered business name confirmed:	YES <u>X</u>	NO
Applicant in good standing confirmed:	YES <u>X</u>	NO

APPLICANT REQUIREMENTS:

Applicant shall be required to pay for an appraisal for an immediate rental reopening.

REMARKS:

General Lease No. S-3619 (GL S-3619) was awarded directly to Gordon M. Ishii dba No-D-Lay Top Shop, pursuant to Act 4, Special Session Laws of Hawaii 1960, which provided for the direct issuance of leases to natural disaster victims who were affected by the 1960 tsunami that struck Hilo and other areas of the State.

The lease is for fifty-five years commencing February 6, 1961 and expiring on February 5, 2016. Rental for the first 2 years was waived with a set rental amount of \$510.00 per year for the following 18 years. Rental renegotiations for fair market rent were scheduled for the 20<sup>th</sup>, 30<sup>th</sup>, 40<sup>th</sup> & 50<sup>th</sup> years of the lease term. Character of use was for auto trimming purposes.

At its meeting of August 28, 1970, item F-5, the Board granted consent to the assignment of GL S-3619 to Club 11 Partners.

At its meeting of November 20, 1970, item F-1, the Board granted consent to the assignment of GL S-3619 to Mauna Kea Electric, Inc.

At its meeting of May 25, 1979, item F-1-a, the Board consented to an additional charge mortgage for the purpose of short-term working capital.

By way of lease amendment dated March 24, 1983 and approved by the Board at its meeting of August 27, 1982, GL S-3619 was amended to postpone the 1<sup>st</sup> scheduled renegotiation of rent until the 21<sup>st</sup> year due to adverse economic climate.

At its meeting of May 25, 2012, item D-4, the Board granted consent to the assignment of GL S-3619 to Mattos Electric, LLC. The Board also approved amendments which changed the character of use and updated the terms and conditions to reflect current language regarding assignments, subletting, insurance and bond requirements.

At its meeting of February 28, 2014, item D-3, the Board granted consent to Mattos Electric, LLC, lessee, to sublease portions of GL S-3619 to PTSH, Inc. and Will Kill Termites & Pests LLC. Both subleases expire on October 31, 2015 and will not be

renewed as the lessee plans to use the sublet space for a lighting and solar showroom.

The current 55-year lease is set to expire on February 5, 2016. The lessee is requesting a 10-year extension pursuant to Act 207, Session Laws of Hawaii 2011<sup>1</sup> to amortize the cost of substantial improvements made to the subject property.

Since acquiring the lease in May 2012, the lessee has made substantial repairs and improvements to the property. These improvements include replacing the entire electrical system, the addition of a security system, replacing portions of the metal roof and purlins, replacing about half of the 10' overhanging canopy, painting the exterior of the building, replacing termite-damaged framing of mezzanine and interior walls, adding a common area restroom, and converting an additional 903 square feet from warehouse to office space with new laminate flooring, finished and painted sheetrock walls and new fluorescent light fixtures.

On June 25, 2013, Hussey Appraisal Group Hawaii, lessee consultant, tendered its report regarding the economic life and financing terms of the completed improvements upon the leasehold premises. The report indicated the estimated economic life of the improvements to be 40 to 55 years or more with total lessee expenditures of \$24,659.

Since the implementation of Act 207, SLH 2011, there are five lessees within the Kanoehua Industrial Area (KIA) that have been granted 10-year lease extensions; two of which are located in the same block as the subject lease (refer to Exhibit A).

The East Hawaii economic region is unique in that a majority of the available land suitable for commercial and/or industrial use is under the management of either the Department of Land and Natural Resources (DLNR) or the Department of Hawaiian Home Lands (DHHL). As one of the largest stake holders of commercial/industrial land in East Hawaii, DLNR recognizes the need for a comprehensive analysis of land use in the area in order to develop an economic strategy that will encourage new enterprises in addition to supporting the established businesses.

With this concept in mind, DLNR-Land Division recently retained the services of the consulting firm, Munekiyo & Hiraga, Inc., for the purpose of providing a feasibility study and land use planning analysis for the KIA.

Key elements of the study/analysis will be to:

- Determine the market demand for the KIA properties, particularly the demand for industrial-commercial use or some other use for long-term leasing (30 years or more).
- Determine whether some properties should be consolidated and

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<sup>1</sup> Act 207, Session Laws of Hawaii 2011 amends Section 171-36(b) of the Hawaii Revised Statutes by extending the aggregate of the initial term and any extension granted to not exceed sixty-five years.

reconfigured to maximize the utility of the land in view of the results from the above findings.

- Assess the feasibility and desirability of placing management of the leasehold properties under a master lease from the State for industrial, commercial or other uses permitted by the applicable zoning.

The results of the study will be used to assist DLNR in formulating a use strategy for the future of the KIA and create an economic region that will benefit both the public and private sectors. However, good planning does not happen overnight; Departmental reviews, revisions and approvals may extend the timeframe for a well-conceived final plan. Many of the key elements aforementioned require lengthy administrative processes which could take several years to accomplish.

The lessee is compliant with all terms and conditions of the lease including rent, insurance and performance bond. The leased premises have been used substantially for the purpose for which they were leased and in conformance with County zoning.

The last rental reopening occurred on February 6, 2011, which was the final reopening for the term of the lease. There are no outstanding rental reopening issues.

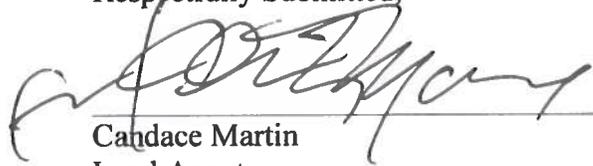
#### RECOMMENDATION:

That the Board, subject to the Applicant fulfilling the Applicant requirement listed above:

1. Approve a 10-year Extension of Lease Term Pursuant to Act 207, Session Laws of Hawaii 2011, General Lease No. S-3619, Mattos Electric LLC 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 lease extension form, as may be amended from time to time;
  - B. Review and approval by the Department of the Attorney General; and

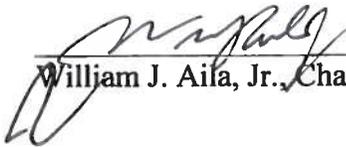
- C. Such other conditions as may be prescribed by the Chairperson which are in the best interests of the State.

Respectfully Submitted,



Candace Martin  
Land Agent

APPROVED FOR SUBMITTAL:



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William J. Aila, Jr., Chairperson

**EXHIBIT A**

