

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

August 22, 2014

Ref. No.: GLS-3716
PSF No.: 13HD- 201
PSF No.: 14HD-066

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

HAWAII

Consent to 10-Year Term Extension of General Lease No. S-3716, Hawaiian Fresh Products, Inc., Lessee, Pursuant to Act 207, Session Laws of Hawaii 2011; Amendment of Terms and Conditions Regarding Allowed Use, Kanoelehua Industrial Lots, Lot 1-A, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-2-050:015.

Purpose of the amendment is to change the Character of Use Provision from, "Soft Drink Manufacturing purposes," to "uses allowed under the County of Hawaii zoning code, ML-20, limited industrial."

APPLICANT AND REQUEST:

Hawaiian Fresh Products, Inc., a Hawaii corporation.

Improvements to leasehold property financed by lessee pursuant to Act 207, Session Laws of Hawaii 2011 and Section 171-36, Hawaii Revised Statutes in an amount of \$93,130.00.

In order for the Lessee to amortize this expenditure, they are requesting an extension of General Lease No. S-3716 of 10 years, commencing on October 29, 2017 and expiring on October 28, 2027 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, Lot 1-A, Kanoelehua Industrial Lots situated at Waiakea, South Hilo, Hawaii, identified by Tax Map Key: (3) 2-2-050:015, as shown on the attached map labeled Exhibit A.

AREA:

24,200 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:
YES ___ NO x

CHARACTER OF USE:

Soft drink manufacturing purposes.

TERM OF LEASE:

Original term of 55 years, commencing on October 29, 1962 and expiring on October 28, 2017.

Requested extension of 10 years commencing on October 29, 2017 and expiring on October 28, 2027 for an aggregate term (initial 55 year term plus extension) of 65 years.

ANNUAL RENTAL:

\$18,480.00 Due in quarterly installments of \$4,620.00 on the 29th day of January, April, July and October of each year.

RENTAL REOPENINGS:

Rental reopenings in the original term were at the end of the 20th, 30th, 40th and 50th years of the term. The last rental reopening occurred on October 29, 2012, therefore, staff is recommending the rental reopening for the extended term be scheduled for October 29, 2017.

Rent for the extended term shall be determined by an immediate appraisal that will project rent for the period of October 29, 2017 through October 28, 2027. The appraiser shall be selected by the State but paid for by 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:

In 2013, Hawaiian Fresh Products made substantial improvements to the leasehold property, which involved the repair/replacement of the building's metal roof, gutters, roof

vents and downspouts. Hawaii Roofing Coating Company Invoice Number 1673, dated July 11, 2013, indicated expenditures for the improvements totaled \$93,130.00. (Exhibit B)

By letter dated August 6, 2013, Mr. Melvin Tsubota, General Manager, Hawaii Roofing Coating Company, Inc., attests that the 24-gauge Zinclaume Metal Roof has a life expectancy of 20 years or more. (Exhibit C)

By letter dated April 22, 2014, Mr. Robert G. Bloom, Jr., Certified General Appraiser, Bloom Appraisers, Inc., provided a consulting letter regarding the economic useful life of the improvements of the leasehold property located at 270 E. Kawili Street, Hilo, Hawaii 96720. Mr. Bloom estimates the total depreciated value of the improvements before the new roof was added at \$530,000 and after installation of the new roof, the depreciated value increased by \$195,000, for a total of \$730,000, with a useful life expectancy that exceeds forty (40) years. (Exhibit D)

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:

1. Applicant shall be required to pay for an appraisal for the rental reopening scheduled for October 29, 2017 for the 10 year extended term of the lease. The appraisal shall not be subject to arbitration.

REMARKS:

The subject lease was originally issued to Hilo Soda works in connection to Act 32, Session Laws of Hawaii 1962, authorizing the leasing or leasing with option to purchase of public lands to victims of natural disaster through direct negotiation for other than residential or agricultural purposes.

At its meeting of March 6, 1964, the lease was subsequently amended to change the lessee name to Masaru Shindo dba: Hilo Soda Works as it was discovered that "Hilo Soda Works" was solely a trade name used by Mr. Masaru Shindo.

At its meeting of November 19, 1999, the Land Board approved the assignment of General Lease No. S-3716 from estate of Masaru Shindo to the appropriate heirs listed as the "Assignors."

At its meeting of February 25, 2000, Item D-6, the Land Board approved consent to assignment of General Lease No. S-3716, Tamae Shindo, Calvin K. Shindo, Howard R. Shindo and Sandra M. DeLeon, as Assignors, to Hawaiian Fresh Products, Inc.

By letter dated August 8, 2013, Mr. Roy Nakamoto, Attorney at Law, on behalf of Hawaiian Fresh Products, Inc., requested a ten (10) year term extension of General Lease No. S-3716. The extension is being requested pursuant to Act 207, Session Laws of Hawaii 2011¹ and Section 171-36, Hawaii Revised Statutes. Receipts on file indicate that improvements, which involved the repair and replacement of the warehouse roof, were completed in 2013 at a cost of \$93,130.

Subject leasehold is located off Kawili Street, adjacent to a State parcel under EO 1249 to the Department of Education for its Hawaii Community College on its west boundary. Other adjacent properties, which are held in fee, include two half acre lots to the east and a one and a half acre off its south boundary.

The Department of Land and Natural Resources, Land Division (DLNR-LD) recently retained the services of the consulting firm, Munekiyo & Hiraga, Inc. (MHI), for the purposes of providing feasibility study and land use planning analysis services for the Kanoehua Industrial Area².

Staff reviewed the file and can report that Lessee is in compliance with all terms and conditions of the lease. Liability and fire insurance are current, with an expiration date of 5/25/2014. A surety bond in the amount of \$28,800 through First Insurance Company of Hawaii is on file. The Lessee has never been cited for any illegal or unlawful activity on the State property.

There are no outstanding rental reopening issues.

No agency comments were solicited on the request because it involves a lease extension; not a new disposition.

Staff is recommending that a rental reopening be scheduled at the original expiration date of the lease. The reopening will address the extended 10 year period of the lease and the appraisal fee is to be paid by the lessee.

In preparing the above recommendation for a 10-year term extension of General Lease No. S-3716, staff noticed that the "Character of Use" of the lease as written, was for Soft Drink Manufacturing purposes. It appears that on February 2000, at time the lease was

¹ Act 207, Session Laws of Hawaii 2011 amends Section 171-36(b) of the Hawaii Revised Statutes by allowing the Lessee to extend or modify the fixed rental period of the lease: provided that the aggregate of the initial term and any extension granted shall not exceed sixty-five years.

² Most of the DLNR leases in this area were established pursuant to Act 4, First Special Session of 1960 resulting from the destruction of the Hilo bay front caused by the 1960 tsunami.

assigned from the Shindo Family to Hawaiian Fresh Products, Inc., the character of use was never changed to properly reflect its current/proposed use. Staff contacted Mr. Roy Nakamoto, Attorney for Hawaii Fresh Products, Inc., to confirm Hawaiian Fresh Products' business operations. Mr. Nakamoto confirmed that Hawaiian Fresh Products currently collects papayas from the local farmers, then processes and packs the papayas for sale at the local markets or for export to over-seas markets.

AMEND LEASE TERMS:

As the lease was issued by direct negotiations instead of public auction, the Board has authority to amend the lease to change the character of use provision and make other amendments.

One of the provisions of the lease is that the lessee:

“use the leased land for the first five (5) years of the term of the lease for the same business use or undertaking in which the Lessee was engaged at the time of the natural disaster or a use designated by the Board; provided, however, that the Lessee may devote or place said demised premises to a use other than soft drink manufacturing in character, with the prior written consent of the Board, which consent shall not be unreasonably or arbitrarily withheld...”

A change in the character of use from “soft drink manufacturing” to “uses allowed under the County of Hawaii zoning code, ML-20, limited industrial,” would benefit the State by allowing a wider range of uses and thereby making the property more appealing/valuable for future leasing.³

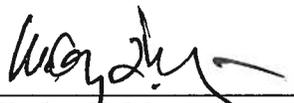
RECOMMENDATION: That the Board:

1. Subject to the Applicant fulfilling the Applicant requirement listed above, Authorize a 10-Year Term Extension of General Lease No. S-3716, 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

³ Although the use restriction by its terms applied only to the first five years of the lease, it is not clear what uses were intended to be allowed after the first five years. Accordingly staff is recommending the amendment of this provision for the sake of clarity.

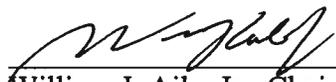
- C. Such other conditions as may be prescribed by the Chairperson which are in the best interests of the State.
- 2. Authorize the Amendment of General Lease No. S-3716, Hawaiian Fresh Products, Inc., Lessee, to Change the Character of Use from "Soft Drink Manufacturing" to "Uses allowed under the current County of Hawaii Zoning Code, ML-20, limited industrial":
 - A. The standard terms and conditions of the most current consent to change in character of use document form, as may be amended from time to time; and
 - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interest of the State.

Respectfully Submitted,



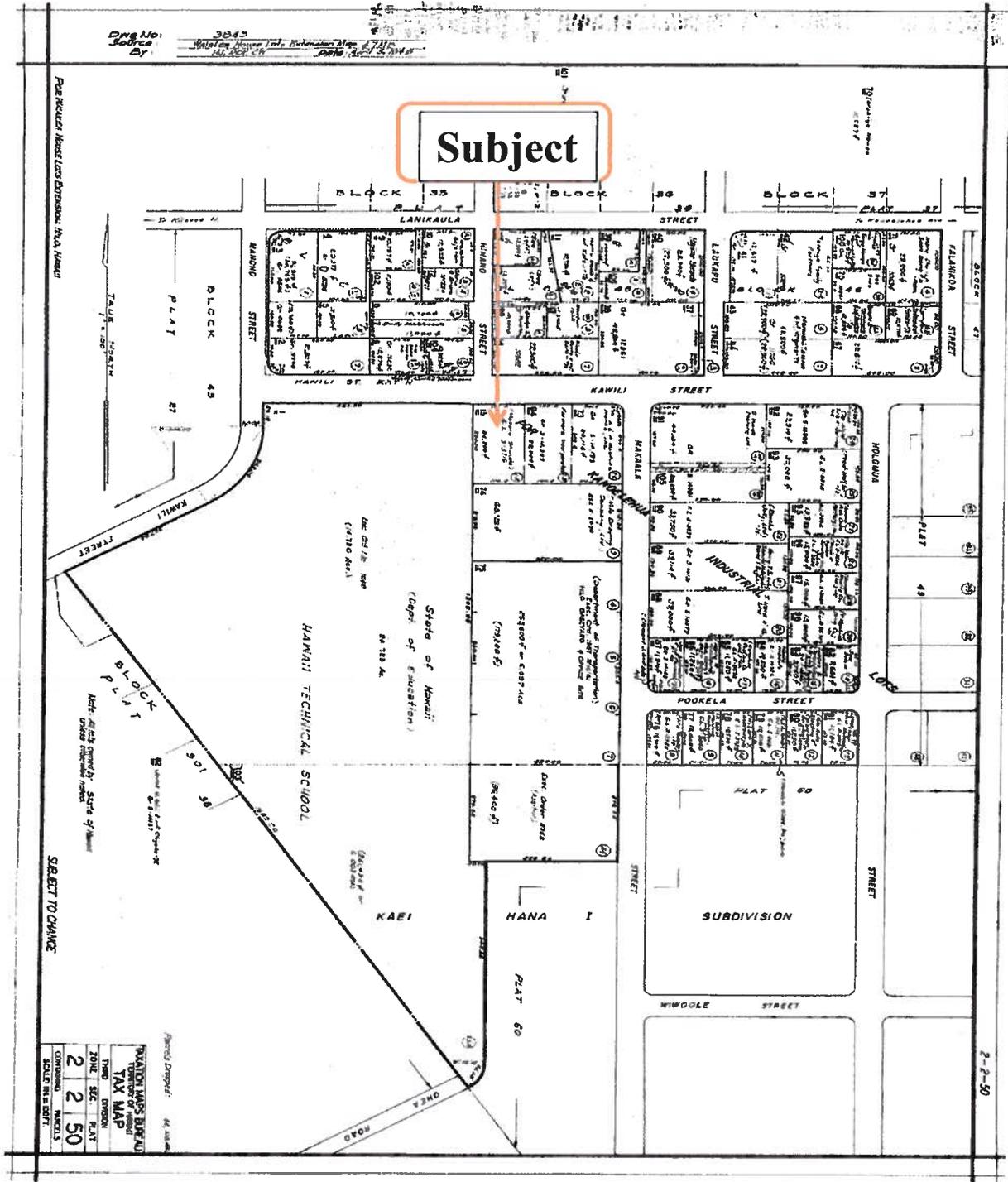
Wesley T. Matsunaga
Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson

ka



Orig No. 3845
Source By: Multiple Owner Lots, Reversion Map of 7/11/14
HAWAII STATE

Page Number: Next Less Dimension: 100.00

Block 49
Block 50
Block 51
Block 52
Block 53
Block 54
Block 55
Block 56
Block 57
Block 58
Block 59
Block 60

Subject to Change

HAWAIIAN BUREAU OF LAND MANAGEMENT	
TAX MAP	
ZONE	PLAT
2	2
50	50
SHEET NO. 50	

EXHIBIT A



BLNR- Consent to Term Extension
 GLS-3716; Hawaiian Fresh Products
 TMK: (3) 2-2-050:015

March 14, 20:

Hilo Roof Coating Inc.
 16-216 Wiliama Place
 Keaau, HI 96749

RECEIVED

JUL 30 2013

Invoice

Date	Invoice#
7/11/2013	1673

Bill To
Hawaiian Fresh Products, Inc. 270 E. Kawili Street Hilo, Hawaii 96720

Terms

Due Upon Receipt

Description	Amount
Furnished & installed new 22 gauge built-in gutter with straps, 10 new filon roof, 8 metal z purlins. New 24 gauge, prepainted zinclaume metal roof. Roof fasteners provided stainless steel roofing screws. Furnished and installed 22 gauge, prepainted aluminum roof vents with stainless steel screens. Furnished & installed conunercial 6 inc aluminum seamless gutter with two 4" pvc downspouts	93,130.00
Purchase Price: (Tax Included)	\$ 93,130.00
Less Down-Payment:	- 29,630.70
Installed 11 Additional Metal Z Purlins: Metal Z Purlins@ \$350.00 Each	+ 3,850.00
TOTAL AMOUNT DUE:	\$ 67,349.30
Thank You For Choosing HRC.	Total \$93,130.00

EXHIBIT B



Contractor Uc. C-10491

August 06, 2013

Hawaiian Fresh Products, Inc.
270 E. Kawili Street
Hilo, Hawaii 96720

Re: Prepainted Zinclaume Metal Roof

To whom it may concern,

The life expectancy of the 24 gauge, prepainted, zinalume metal roof is approximately 20 years or more.

It has been a pleasure serving you, and we want you to know that we deeply appreciate your business.

Most Sincerely,

Melvin Tsubota
General Manager

EXHIBIT C

Bloom Appraisers Inc.
Serving Hawaii Since 1973
120 Pauahi Street Suite 205, Hilo Hawaii 96270
Telephone 808-961-3704
Fax-808-961-4600

2014 JUL 18 11:08

RECEIVED
LAND DIVISION
HILO, HAWAII

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April 22, 2014

State of Hawaii
Department of Land and Natural Resources
Land Division
Attention: Mr. Wes Matsunaga Land Agent
75 Aupuni Street
Suite 204
Hilo, Hawaii 96720

RE: Consulting Letter regarding the Economic life of the existing improvements of the Leasehold property located 270 E Kawili Street Hilo, Hawaii 96720. Tax Map Key for the subject property is (3) 2-2-050-015. Application is attached for extension of the existing State Lease S-3716, which expires January 16, 2016, for 10 additional years. Lessee is Hawaiian Fresh Products Inc. See Cost Summary Report as of 5/19/2014.

Before and after approach:

Positive impact that the new roof added to life expectancy of the improvements was as follows:

Total Deprecation was estimated @61.4% before the new roof was added. Estimated Replacement Cost Depreciated value: \$535,000.

Total Deprecation was estimated @47.1% after the new roof was completed.
Depreciated value: \$730,000.

Change in market conditions with new roof was estimated to be \$195,000

Dear Mr. Matsunaga Land Agent

Request from Jerel I. Yamamoto Attorney at Law for Mr. Toshi Aoki CEO Hawaiian Fresh Products Inc. attached is my consulting letter regarding the economic life of the existing Warehouse and office improvements with a new roof attached to the above referenced property. Subject property was built in 1964 and consists of 17,776 square feet.

EXHIBIT D

Page 2 Hawaiian Fresh Products, Inc.

Subject property was built in 1963, and in my opinion, when the new roof was added the subject's life expectancy exceeded 40 years. I have attached the invoices showing the improvements have been completed and under warranty until September 26, 2032.

Thank you for a most interesting assignment and please contact me if I can be of further assistance.


Robert G. Bloom, Jr., CGA-162
Certified General Appraiser
License Expires 12-31-2015

Attachments:

Summation Approach for the improvements before and after the roof was installed.

Warranty agreement and Billing invoice showing payments have been completed and the subject property is under warranty for next 20 years beginning September 26, 2012.

Appraisers Qualifications