

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

January 09, 2015

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

PSF: 14HD-085

Hawaii

**Approve a 10-Year Term Extension of General Lease No. S-3600, Hilo Mechanical, Inc., Lessee, Pursuant to Act 207, Session Laws of Hawaii 2011 and an Amendment of Terms and Conditions Regarding Allowed Use, Assignment and Sublease Provisions for General Lease No. S-3600; Lot 29, Kanoelehua Industrial Lots, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-2-050:097.**

APPLICANT AND REQUEST:

Hilo Mechanical, Inc., lessee, a Hawaii corporation.

Proposed improvements to the leasehold property will be financed by the lessee pursuant to Act 207, Session Laws of Hawaii 2011 and Section 171-36, Hawaii Revised Statutes in an amount of approximately \$46,000.00.

In order for the Lessee to fully amortize its expenditure, Lessee is requesting an extension of General Lease No. S-3600 of 10 years, commencing on January 16, 2016 and expiring on January 15, 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 Kanoelehua Industrial Lots situated at Waiakea, South Hilo, Hawaii, identified by Tax Map Key: (3) 2-2-050:097, as shown on the attached map labeled Exhibit A.

AREA:

15,000 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:

Sheetmetal, plumbing, heating purposes (current character of use in lease).

TERM OF LEASE:

Original term of 55 years, commencing on January 16, 1961 and expiring on January 15, 2016.

Request for an extension of 10 years commencing on January 16, 2016 and expiring on January 15, 2026.

ANNUAL RENTAL:

Current rent is \$14,750.00, due in semi-annual installments of \$7,375.00 on January 16<sup>th</sup> and July 16<sup>th</sup> of each year.

RENTAL REOPENINGS:

Rental 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 January 16, 2011, therefore, staff is recommending the rent for the extended term be determined by an immediate appraisal that will project the rent for the extension period of January 16, 2016 through January 15, 2026. The appraiser shall be selected by the State and paid for by the Lessee.

PROPOSED IMPROVEMENTS:

The lessee proposes to resurface the leaking roof with a rubberized liquid membrane and replace the skylights, gutters and deteriorated sections of siding. The cost of the roof and siding improvements is estimated to be \$46,000.00

DCCA VERIFICATION:

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

#### APPLICANT REQUIREMENTS:

Applicant shall be required to:

1. Pay for an immediate appraisal to determine the rent payable during the 10-year extension, from January 16, 2016 to January 15, 2026.
2. Complete approximately \$46,000.00 of proposed improvements to the lease premises by January 15, 2016, and provide the Hawaii District Land Office with copies of receipts for the improvements made prior to February 29, 2016.

#### BACKGROUND:

General Lease No. S-3600 (GL S-3600) was initially issued to Durant Realty Co., Ltd. pursuant to Act 4, First 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 was for a term of 55 years commencing on January 16, 1961 and expiring January 15, 2016.

At its meeting of September 14, 1990, under agenda item F-1-c, the Board approved the assignment of GL S-3600 from Durant Realty Co., Ltd. “assignor” to Hilo Mechanical, Inc. “assignee”. However, Hilo Mechanical, Inc. was the sublessee since its incorporation in 1973.

The current 55-year lease is set to expire on January 15, 2016 and 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 planned improvements to the property, including roof refurbishment at a cost in excess of \$46,000.00.

On July 17, 2014, Hussey Appraisal Group Hawaii, lessee consultant, tendered its report regarding the economic life and value of the proposed improvements to the leasehold premises. The report stated the estimated economic life of the improvements is 40 to 55 years or more. The \$46,351 estimated cost of refurbishment translates into an increase in building improvement value of \$11.59 per square foot (\$46,351/4000sf.).

#### EXTENSION REMARKS:

Since the implementation of Act 207, SLH 2011, there have been nine leases within the Kanoelehua Industrial Area that have been granted ten year extensions. Six of these leases are direct leases, while three others were awarded through the public auction

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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 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.

process. Refer to Exhibit B.

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 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.

#### AMENDMENT REMARKS:

Due to the lease being issued by direct negotiation 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 or uses other than sheetmetal, plumbing, heating in character, with the prior written consent of the Board, which consent shall not be unreasonably or arbitrarily withheld; provided,

further, that should the Lessor consent to a change in the character of the use, it shall be upon such terms and conditions as set by the Lessor.”

A change in the character of use from “sheetmetal, plumbing, heating” 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.

Also, the lease contains language which allows the Lessee to sublease portions of the property without Board approval, consent or knowledge. Staff believes the better practice is to require prior Board consent for all subleases. Therefore, Staff is recommending the assignment/sublease provision in the lease be amended to reflect the current language for assignments and subleases.

The Lessee is in compliance with the terms and conditions of the lease. The Lessee is current with rent, insurance and performance bond. A recent inspection showed good maintenance of the property and existing structures.

Staff is recommending that the rent payable for the 10-year extension period commencing January 16, 2016 be determined by immediate appraisal. The appraiser will be selected by the State but the appraisal fee will be paid by the Applicant.

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

#### RECOMMENDATION:

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

1. Authorize the extension of General Lease No. S-3600 to Hilo Mechanical, Inc. 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. Hilo Mechanical, Inc. shall complete the proposed improvements as described above by January 15, 2016 and submit to the Hawaii District Land Office copies of receipts verifying payment for the improvements by February 29, 2016, or be subject to cancellation.
  - C. Review and approval by the Department of the Attorney General; and

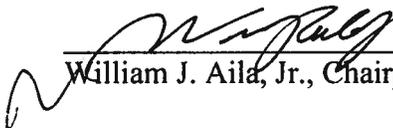
- D. Such other conditions as may be prescribed by the Chairperson which are in the best interests of the State.
2. Authorize the amendment of General Lease No. S-3600 to change the character of use from “sheetmetal, plumbing, heating” to “uses allowed under the current County of Hawaii Zoning Code, ML-20, limited industrial”, and to update the lease provision titled “Assignments, etc.” (section 22 of the lease) with the current language used by the Department of the Attorney General for assignment and subleasing provisions. The amendment of the lease shall further be subject to the following:
- A. The standard terms and conditions of the most current consent to change in character of use and amendment of lease document forms, as may be amended from time to time;
  - B. Review and approval by the Department of the attorney general; and
  - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



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Candace Martin  
Land Agent

APPROVED FOR SUBMITTAL:



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William J. Aila, Jr., Chairperson



**EXHIBIT B**

