

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

March 8, 2013

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

Kauai

Consent to Extension of Lease Term, General Lease No. S-4023, T & Y, LLC,  
Lessee, Nawiliwili Harbor Lots, Lihue, Kauai, Tax Map Key: (4) 3-2-004:011.

APPLICANT AND REQUEST:

Lessee, T & Y, LLC for extension of General Lease No. S-4023 to amortize self-financed improvements in the amount of \$50,000.00. In order for the Lessee to amortize this expenditure, the Lessee is requesting a 10-year extension of General Lease No. S-4023, commencing on November 17, 2021 and expiring on November 16, 2031 for an aggregate term (initial term plus extension) of 65 years.

LEGAL REFERENCE:

Sections 171-36(b), Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Nawiliwili situated at Nawiliwili Town Lots, Lihue, Kauai, identified by Tax Map Key: (4) 3-2-004:011, as shown on the attached map labeled Exhibit A.

AREA:

.618 acres, more or less.

ZONING:

State Land Use District: Urban  
County of Kauai CZO: General Industrial

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

LEASE CHARACTER OF USE:

Business purposes.

TERM OF LEASE:

55 years, commencing on November 17, 1966 and expiring on November 16, 2021.  
Requested extension of 10 years commencing on November 17, 2021 and expiring on  
November 16, 2031.

LEASE ANNUAL RENTAL:

Current rent is \$36,750.00, due in quarterly installments of \$9,187.50 on February 17, May  
17, August 17 and November 17 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 November 17, 2006.

Reopenings for the extended term shall be on March 8, 2013 (immediate reopening),  
with one additional reopening on April 1, 2023.

CHAPTER 343 – ENVIROMENTAL ASSESSMENT:

See Exhibit 'B' attached.

LESSEE'S SELF-FINANCED IMPROVEMENTS:

T & Y, LLC has submitted a summary expenditure account for the subject parcel, Staff has  
reviewed the report and conducted a site inspection on December 28, 2011. Staff confirms  
the expenses incurred to renovate the existing building relate to the lease property.

DCCA VERIFICATION:

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

APPLICANT REQUIREMENTS:

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

REMARKS:

General Lease No. S-4023 was sold at public auction to Tetsuro Maeda and Yoshio Hiranaka dba: T & Y Partners in 1966 for business purposes. At its meeting of August 26, 2011, under agenda item D-2, the Board of Land and Natural Resources consented to the assignment of General Lease No. S-4023 from Tetsuro Maeda and Yoshio Hiranaka dba: T & Y Partners, Assignor, to T & Y, LLC, a domestic limited liability company (Lessee), as Assignee.

The Lessee is now requesting an extension of General Lease No. S-4023 so that the expense incurred in making extensive renovations to the property can be amortized. The Lessee replaced the entire warehouse roof with new metal roofing and several walls that were corroded at a cost of \$50,000.00 in 2011. Lessee will also incur more expenses to replace other corroded walls as deemed necessary.

The Lessee has provided an appraisal report dated April 30, 2012 from Steven Nishimura and Associates, Inc., completed by Steven J. Nishimura, CRA-34, regarding the economic life of the improvements to the leasehold property. According to the appraiser, the life expectancy of the improvements is estimated to be 40 years. The economic life would last beyond the termination date of the extended lease.

The Kauai District Land Office conducted a site inspection on the lease on December 28, 2011 and confirmed that renovations were done to the existing building. A copy of the inspection report is attached as Exhibit C.

The Lessee is compliant with all lease terms and conditions, including no defaults and current on rent payments.

The Lessee has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

The last rental reopening occurred on November 17, 2006. The next rental reopening is scheduled for November 17, 2016. There are no outstanding rental reopening issues.

The leased premises has been utilized and maintained by the Lessee substantially for the purpose for which they were leased.

Staff has not solicited agency comments on this matter because it involves the extension of an existing lease and not a new disposition.

Staff is recommending that the Board consent to the request from the Lessee, T & Y, LLC,


for an extension of General lease No. S-4023 for an additional 10 years.<sup>1</sup>

RECOMMENDATION:

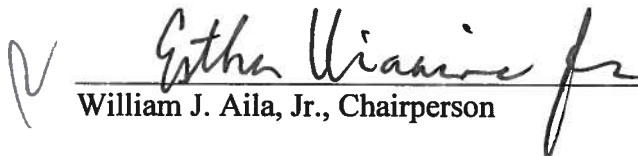
That the Board, subject to the Applicant fulfilling the Applicant requirements listed above:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the extension of General Lease No. S-4023, T & Y 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 document form, 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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Maryin Mikasa  
Land Agent

APPROVED FOR SUBMITTAL:

  
\_\_\_\_\_  
William J. Aila, Jr., Chairperson

<sup>1</sup> The subject premises adjoins one other State parcel, TMK (4) 3-2-004:014 (Parcel 14), that is under a lease from the Board. See Exhibit A. This lease, General Lease No. S-4575 to Hiroshi Azeka, expires on November 29, 2017. Accordingly, there may be an opportunity in the future to redevelop the subject property with Parcel 14, and perhaps issue a single lease for the consolidated area. Staff advocated for non-extension and redevelopment of a Hilo lease under similar circumstances recently. At its meeting of December 14, 2012, Item D-5, however, the Board approved the extension. Accordingly, staff is recommending the extension in this case for the sake of consistency.





STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
LAND DIVISION

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

February 4, 2013

## EXEMPTION NOTIFICATION

regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title: Consent to Extension of Lease Term, General Lease No. S-4023, T & Y, LLC, Lessee

Project / Reference No.: N/A

Project Location: Nawiliwili Town Lots, Lihue, Kauai, Tax Map Key: (4) 3-2-004:011

Project Description: Ten-year extension of business lease.

Chap. 343 Trigger(s): Use of State Encumbered Lands

Exemption Class No.: In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, the subject request is exempt from the preparation of an environmental assessment under the following:

Exemption Class No. 1, which states, "Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing."

The extension of General Lease No. S-4023 involves no change in use from that previously existing – business.

**EXHIBIT 'B'**

Consulted Parties:

N/A


Recommendation:

The subject land is currently under lease to T & Y, LLC for business purposes pursuant to General Lease No. S-4023. An extension of lease will permit the lessee to continue its present operations for an additional 10 years. As such, the proposed lease extension would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

The extension of the lease will probably have no minimal or no significant effect on the environment. It is recommended that the Board of Land and Natural Resources find that the proposed action is exempt from the preparation of an environmental assessment.



\_\_\_\_\_  
William J. Aila, Jr., Chairperson



\_\_\_\_\_  
Date



**INSPECTION REPORT**  
Business

**General Information**

Document Number: GLS 4023

Character of Use: Business

Inspection Date: December 28, 2011 Inspection Time: 1:30pm

Land Agent: Marvin Mikasa *mm*

**TENANT INFORMATION**

Name: T & Y, LLC

Home Phone: \_\_\_\_\_

Address: \_\_\_\_\_

Business Phone: \_\_\_\_\_

\_\_\_\_\_

Fax: \_\_\_\_\_

Contact Person: Russell Maeda

Contact Phone: \_\_\_\_\_

**SITE INFORMATION**

TMK: (4) 3-2-004:011

Area: .618 acres, more or less

Site Address: 3285 Waapa Road

Lihue, Hawaii 96766

**FISCAL INFORMATION**

ITEM	N/A	CURRENT= COMPLIANCE	DEFAULT = NON-COMPLIANCE	COMMENTS
Rent		X		
Liability Insurance		X		
Fire Insurance		X		
Bond		X		

**FIELD INSPECTION RESULTS** (refer to Field Inspection Worksheet)

ITEM	N/A	COMPLIANCE	NONCOMPLIANCE	COMMENTS
Subleases		X		
Improvements		X		
Premises		X		Clean, orderly, fenced
Character of Use		X		





ITEM	SATISFACTORY?			COMMENTS/NOTES
	N/A	YES	NO	
Other:				









