

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

September 26, 2014

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

PSF: 14HD-084

Hawaii

Consent to Lease Term Extension Pursuant to Act 207, Session Laws of Hawaii 2011, General Lease No. S-3598, Mauna Kea Infrared, LLC, Lessee; Amendment of Terms and Conditions Regarding Allowed Use, Assignment and Sublease Provisions for General Lease No. S-3598; Lot 17, Kanoelehua Industrial Lots, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-2-050:085.

APPLICANT AND REQUEST:

Mauna Kea Infrared, LLC, lessee, a Hawaii corporation.

Pursuant to Act 207, Session Laws of Hawaii 2011 and Section 171-36, Hawaii Revised Statutes, the lessee has self-financed improvements to the leasehold property in the amount of \$19,574.00.

In order for the Lessee to amortize these expenditures, Lessee is requesting an extension of General Lease No. S-3598 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) 2-2-050:085, as shown on the attached map labeled Exhibit A.

AREA:

11,250 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:

Contracting 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.

Requesting extension of 10 years commencing on January 16, 2016 and expiring on January 15, 2026.

ANNUAL RENTAL:

Current rent is \$12,840.00, due in semi-annual installments of \$6,420.00 on January 16th and July 16th 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 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 Lessee. As a condition of the Board's discretionary approval of the lease extension, the appraised rent for the extension period will be determinative and not subject to arbitration.

IMPROVEMENTS:

The Lessee's business requires the use of highly sensitive and expensive precision scientific equipment to design and produce sophisticated infrared photographic instruments for large-scale telescopes within both the public and private sectors. Therefore, the entire 4,400 sf warehouse was gutted and remodeled, the electrical system was replaced, the roof was replaced, insulation was installed in the roof and walls to reduce temperature fluctuations and sound transmission. The first floor was redesigned

to include entry and reception areas, new offices, bathroom with shower, workroom, laboratory and clean room. A new mezzanine floor was added creating two new offices and a breakroom/storage area. These improvements were completed generally in the period between 2002 and 2005 at a cost of \$283,251.00. The lessee is also proposing to replace the roof on the 1,600 sf rear storage building. The cost of the roof improvements is estimated to be an additional \$19,574.00 (refer to Exhibit B). The request for extension is based solely on the planned roof replacement.

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 pay for an immediate appraisal of the projected rent payable during the 10-year extension, from January 16, 2016 to January 15, 2026.

Applicant will be required to provide receipts for payment of proposed improvements to Land Division staff prior to January 16, 2016.

REMARKS:

General Lease No. S-3598 (GL S-3598) was initially awarded to Honolulu Roofing Co., Ltd. (Hilo Branch) 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 December 2, 1983, the Board of Land and Natural Resources (Board) under agenda item F-1-a, consented to the assignment of GL S-3598 from Honolulu Roofing Co., Ltd. “assignor” to John and Patricia Butler “assignee”.

Over the following years the Board consented to 3 additional assignments of GL S-3598 as follows:

- 06/27/1987 (F-1-d) from John and Patricia Butler to Daryl F. Kayl, Esther L. Kayl, Richard M. Fuller and Jeanne A. Fuller
- 04/08/1994 (F-1-a) from Daryl F. Kayl, Esther L. Kayl, Richard M. Fuller and Jeanne A. Fuller to Daryl F. Kayl and Esther L. Kayl
- 10/26/2001 (D-2) from Daryl F. Kayl and Esther L. Kayl to Mauna Kea Infrared, LLC

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 2011¹ to amortize the cost of substantial improvements made to the property, including proposed roof replacement on the rear storage building.

Mauna Kea Infrared, LLC designs and produces sophisticated high-tech infrared photographic instruments for large-scale telescopes within both the public and private sectors, which requires the use of highly sensitive and expensive precision scientific equipment in a controllable environment. This necessitates continual upgrades to the production facility.

Since acquiring the lease in January 2002, the lessee has made substantial repairs and improvements to the property. These improvements include replacing the 4,400 sf roof, gutting the interior of the building and installing insulation both in the roof and exterior walls which was covered with finished drywall. Replacing and upgrading the entire electrical system, creating an entry, reception area, bathroom with shower, workroom, laboratory and clean room on the first floor. The addition of mezzanine along one half of the building provided room for two new offices, a break room and storage area. All improvements utilized upgraded materials and were done in compliance with County Code (refer to Exhibit C).

The Lessee is also proposing to replace the aged roof on the 1,600 sf metal storage building located at the rear of the property. This building is currently used to store various pieces of large equipment used by the Lessee.

On March 10, 2014, 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 based on the previous lessee expenditures of \$283,251.00.

The subject property is located in an area served by aging, but well maintained infrastructure. The area also includes numerous other DLNR properties currently encumbered by long-term leases which are scheduled to expire around the same time.

Since the implementation of Act 207, SLH 2011, there are seven lessees within the Kanoelehua Industrial Area (KIA) that have been granted 10-year lease extensions; five of which are located within the same section as the subject lease.

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

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.

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 development strategy for the future of the KIA. Staff will return to the Board at a later date to report on the consultant's findings and recommendations.

The Lessee is in compliance with the terms and conditions of the lease. The Lessee is current with rent, insurance and performance bond.

Because the lease was issued by direct negotiation instead of public auction, the Board has the 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 contracting 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 “contracting” 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.

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

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 Applicant.

RECOMMENDATION:

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

1. Authorize the extension of General Lease No. S-3598 to Mauna Kea Infrared, 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. Mauna Kea Infrared, LLC shall complete the proposed improvements as described above and submit to Land Division staff, receipts verifying payment for the improvements by January 15, 2016, or the lease extension shall 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-3598 to change the character of use from “contracting” 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,



Candace Martin
Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson



PROPOSAL #2492

IVAN MOCHIDA CONTRACTING, INC

Company Certificate No. 82C-0133
 Registered Professional Engineer, Metal Building
 1100 Kaula Street, Hilo, Hawaii 96720
 Phone (808) 931-9717 Fax (808) 934-9794

CLIENT: MAUNA KEA INFRASTRUCTURE LLC		DATE: 08/20/2018
PROJECT: 21 POUKELA ST HILLO, HI 96721		PROJECT: MAUNA KEA INFRASTRUCTURE
PROJECT:		PROJECT:
PROJECT:		PROJECT:
Net Price: NO. SEVEN THOUSAND FIVE HUNDRED DOLLARS ONLY (\$7,500.00)		
Total Price: \$19,574.00		
Total Price: \$19,574.00		
*****PAYMENTS MADE BY CREDIT CARD WILL INCUR ADDITIONAL SERVICE CHARGE*****		
I, the undersigned, hereby certify that the above information is true and correct to the best of my knowledge and belief.		
Signature:		Title: President
Name: Ivan Mochida		Title: President

We hereby warrant our work to be in accordance with the above information.

RE: Mauna Kea Infrared, LLC

Re-Roof

Includes:

1. **2x4 purlins** - install 4 purlins 8' x 20' long, 14 @
2. **Remove existing garage roof**, approx. 15' x 64' and replace with **HPM Pattern 89** 24 ga. metal roof
3. **Roofing** will be 24 ga. prepainted material, screwed down with stainless steel screws
4. **All flashing** to be 24 ga. prepainted material to match roof.
 - Flashing:
 - a. **Rake flashing** approx. 23' long
 - b. **Roof to wall flashing** approx. 23' long
 - c. **Roof to CMU wall** approx. 64' long
 - d. **CMU cap flashing** approx. 64' long
5. **Haul away** all unwanted metal roofing and construction debris

Excludes:

1. Any other item not specifically mentioned in this bid
2. Any cost incurred or extra work needed due to unforeseen circumstances
3. Storage of metal building or building materials
4. Repair of rigid frame (this work to be done by others)

***NOTES:**

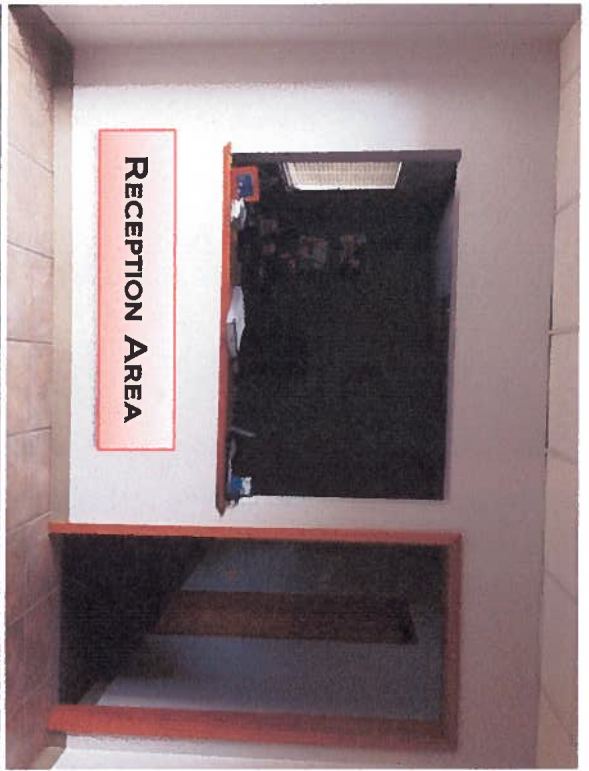
Revised July 1, 2018, Bid #24 SD, HD1, CD1 & A, 105 Season Lakes of Hawaii will be on-site during the bid process. Subcontractor/contractor is to be bonded from contractor's gross income tax and will be bonded by except their personal credit. All subcontractors are to be bonded at the rate of July 1, 2018. The contractor must state their gross income tax bonding or the contractor's net worth as of July 1, 2018. The contractor will be responsible for their own bonding. All items will be merged in this bid.

Price is for materials only including all material costs except for any subcontractors or other subcontractors. Price is for materials only including all material costs except for any subcontractors or other subcontractors. We are not responsible for our suppliers or subcontractors. The contractor is to be bonded from contractor's gross income tax and will be bonded by except their personal credit. All subcontractors are to be bonded at the rate of July 1, 2018. The contractor must state their gross income tax bonding or the contractor's net worth as of July 1, 2018. The contractor will be responsible for their own bonding. All items will be merged in this bid.

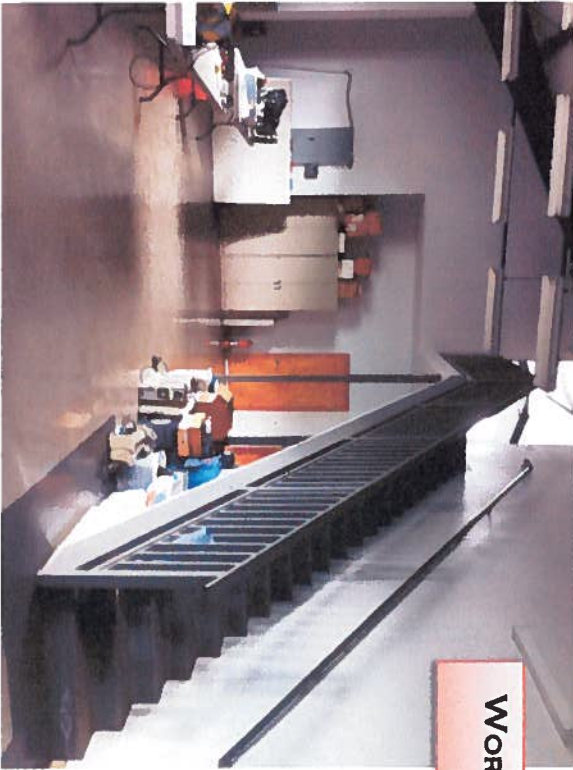
EXHIBIT C



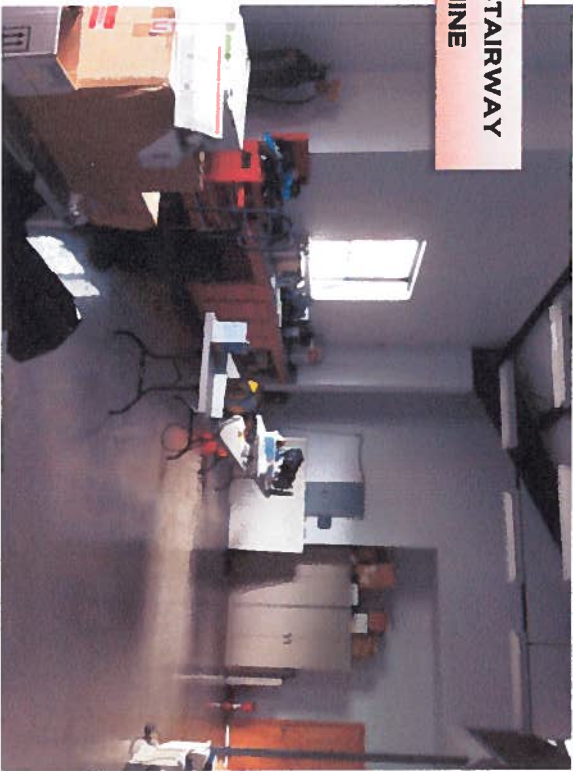
ENTRY AREA & BATHROOM



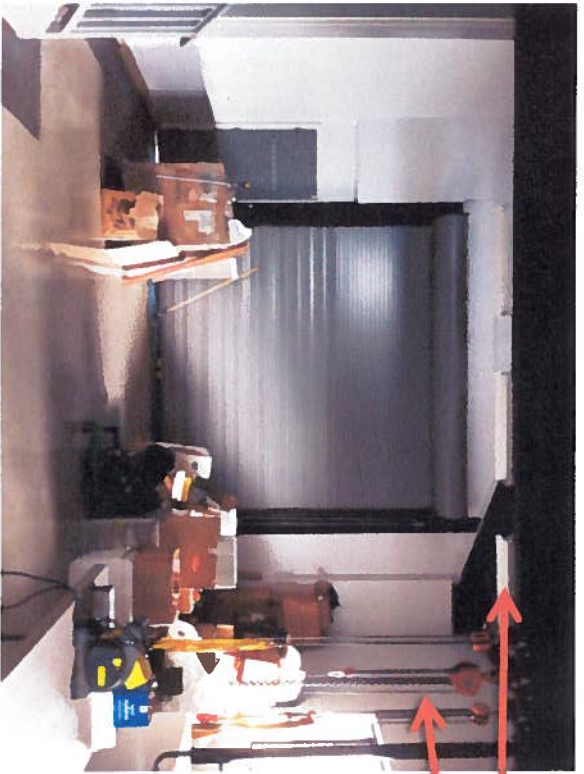
RECEPTION AREA



WORKROOM W/STAIRWAY TO MEZZANINE



WORKROOM W/STAIRWAY TO MEZZANINE



**REAR ROLLUP DOOR IN WORKROOM WITH
HOIST APPARATUS AT TOP AND RIGHT**



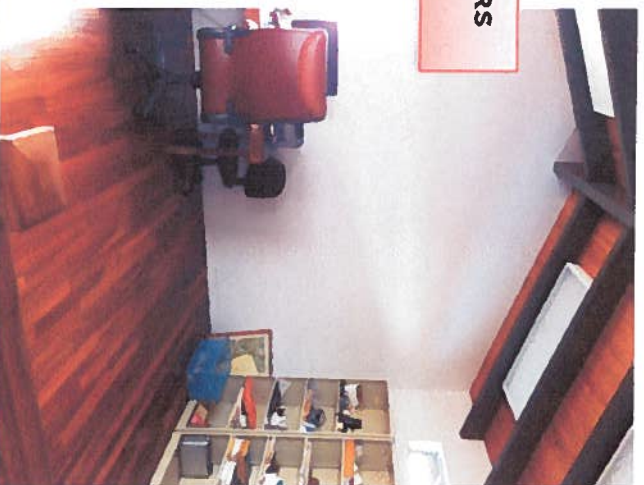
**CLEAN ROOM WITH DOORS FOR
HOIST FROM WORKROOM**



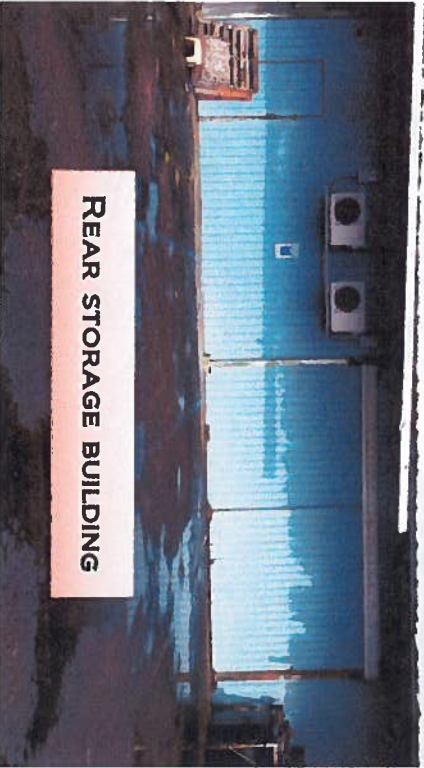
UPSTAIRS STORAGE AREA



ONE OF UPSTAIRS OFFICES



REAR STORAGE BUILDING



ROOF OF STORAGE BUILDING

