

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

November 14, 2014

Ref. No.: GLS-3620

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

HAWAII

Approve a 10-Year Term Extension of General Lease No. S-3620, Chika Nakano Repair Shop, Inc., Lessee, Pursuant to Act 207, Session Laws of Hawaii 2011, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-2-49:04.

Amend General Lease No. S-3620, Chika Nakano Repair Shop, Inc., Lessee, Regarding Provisions for Character of Use, Assignments, Subletting, and Phase I Environmental Site Assessment, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-2-49:04.

APPLICANT AND REQUEST:

Proposed improvements to leasehold property will be financed by the Lessee, Chika Nakano Repair Shop, Inc. pursuant to Act 207, Session Laws of Hawaii and Sections 171 36(b) in the amount of approximately \$93,000.00.

In order for Lessee to fully amortize its expenditures, the Lessee is requesting a 10-year extension of General Lease No. S-3620. The extension shall commence on February 6, 2016 and expiring on February 5, 2026 for an aggregate term (initial 55 year term plus 10-year extension) of 65 years.

LEGAL REFERENCE:

Act 207, Session Laws of Hawaii 2011  
Sections 171 36(b)(3), Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Lot 44, Kanoelehua Industrial Lots, situated at Waiakea, South Hilo, Hawaii, identified by Tax Map Key: (3) 2-2-049:004, as shown on the attached map labeled Exhibit A.

AREA:

26,317 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:

For the first 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 premises to a use or uses other than service station and/or repair shop with the prior written consent of the Board.

TERM OF LEASE:

55 years, commencing on February 6, 1961 and expiring on February 5, 2016. Last rental reopening occurred on February 6, 2011

Request for extension of 10-years commencing on February 6, 2016 and expiring on February 5, 2026.

ANNUAL RENTAL:

\$21,000.00 Due in semi-annual installments of \$10,500.00 on the 6<sup>th</sup> Day of February and August of every 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 of February 6, 2016 through February 5, 2026, if the Board grants the request.

PROPOSED IMPROVEMENTS:

The Lessee proposes to implement facility upgrades of \$93,000, which will include the replacement of the fuel distribution pumps (\$80,000) and replacement of the chain link fence around the leasehold perimeter for \$13,000.00.

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:

1. Pay for an appraisal for the rental reopening for the 10-year extension, scheduled for February 6, 2016.
2. Provide a performance bond in an amount equal to twice the annual rental amount for the extended period of the lease.
3. Complete approximately \$93,000.00 worth of improvements to the lease premises by February 5, 2016, and provide the Hawaii District Land Office (HDLO) with copies of receipts for the improvements made.

REMARKS:

General Lease No. S-3620 was originally issued to Shoichi Muramoto, dba: Mura's Repair Shop for a term of fifty-five (55) years pursuant to Act 4, First Special Session of 1960, which authorized the direct issuance of leases to victims of natural (tsunami) disaster.

The lease, which commenced on February 6, 1961 is scheduled to expire on February 5, 2016, and was restricted to service station and repair shop use for the first five years. The Lessee, within a year of acquiring the lease, was required to complete construction of improvements at a total cost or value not less than \$20,000.

On December 7, 1974, an agreement of sale was executed between Mr. Shoichi Muramoto, Seller, to Chikara Nakano and Bertha Y. Nakano, as Buyers.

At its meeting of April 25, 1975, item F-1-f, the Board of Land and Natural Resources approved the consent to assignment of General Lease No. S-3620, Shoichi Muramoto, Assignor, to Chikara Nakano and Bertha Y. Nakano, Assignee.

At its meeting of August 27, 1982, the Board of Land and Natural Resources approved the amendment of General Lease No. S-3620, which included:

1. For the first two years, rent shall be waived.

2. For the next nineteen (19) years, the sum of \$1,650 per annum.
3. The annual rental hereinabove reserved shall be reopened and redetermined at the expiration of the 21<sup>st</sup>, 30<sup>th</sup>, 40<sup>th</sup> and 50<sup>th</sup> years.

At its meeting February 14, 1986, item F-1-1, the Land Board approved consent to assignment of General Lease No. S-3620, Chikara Nakano and Bertha Y. Nakano, Assignor, to Nakano Auto Repair Shop, Inc., Assignee.

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. The current tax assessed value of the land and improvements is \$997,000 (\$546,000 for the land and \$451,000 for the building). The Board has previously approved other lease extensions in the vicinity of General Lease No. S-3620, as indicated in Exhibit A.

The Lessee's current 55-year lease is set to expire on February 5, 2016 and 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 repairs to the property, which includes replacement of perimeter fencing and facility upgrades, at a cost of approximately \$93,000.00. (Exhibit B)

Since the implementation of Act 207, SLH 2011, there have been several leases within the Kanoelehua Industrial Area that have been granted a ten year extension. Four of these leases are direct leases awarded as a result of Act 4. The other leases although in the Kanoelehua Industrial Area, are along Railroad Avenue and were awarded through a public auction.

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 a government agency. As one of the largest stakeholders of commercial/industrial land in the Hilo area, the Department of Land and Natural Resources understands the need for a comprehensive analysis of the area in order to develop an economic strategy that will encourage new enterprises in addition to supporting the established businesses.

The Land Division has recently retained the services of the consulting firm Munekiyo & Hiraga, Inc. for the purpose of providing a feasibility study and analysis of the Kanoelehua Industrial Area in order to determine the future direction of this very important economic area of East Hawaii.

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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.

Key elements of the study/analysis will:

- Determine the market demand for the KIAA properties, particularly the demand for commercial/industrial 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 commercial, industrial or other uses permitted by the applicable zoning.

The results of the study will be used to assist the department in determining the future of the Kanoelehua Industrial Area and create an economic region that will benefit not only the people of East Hawaii, but the State as well.

The leased premises have been used substantially for the purpose for which it was leased. There are no outstanding rental reopening issues.

Staff is of the opinion that an expenditure of \$93,000.00 in improvements does justify a 10-year extension, as permitted under Act 207, SLH 2011.

As a condition to the granting of the extension, in attempts to bring up to date various lease terms and conditions consistent with current lease language, staff is recommending that the lease be amended to modify and/or insert provisions relating to:

1. **Character of Use:** (Condition 21)

To change the character of use from “use or uses other than repair shop and/or service station” to “uses allowed under the County of Hawaii Zoning Code, ML-20, limited industrial.”

Staff is of the thought that by allowing a wider range of uses consistent with the County Zoning Code, it would thereby make the property more appealing/valuable for future leasing.

2. **Assignments, etc:** (Condition 22)

Delete portion of the assignment provision of the current lease which states, “...that the Lessee may sublet a part of the leasehold premises without approval of the Board.”

Staff believes that requiring prior written approvals of the Board for consents to subleases is preferred, which will enable the Division to better monitor the Lessee’s operations and its use of the leasehold property.

3. **Subletting:**

Insert a condition regarding Subletting, which contains current lease language that states: “Lessee shall not rent or sublet the whole or any portion of the premises, without the prior written approval of the Board.”

**4. Phase I, Environmental Site Assessment:**

Insert a condition requiring a Phase I, environmental site assessment to be conducted prior to expiration of the lease, as included in the most current lease document form, which states:

“Phase I, environmental site assessment. Prior to the termination of this lease of the leasehold, Lessee shall conduct a Phase I, environmental site assessment and conduct a complete abatement and disposal, if necessary, satisfactory to the standards required by the Federal Environmental Protection Agency and the Department of Land and Natural Resources. Any assignment or voluntary termination by the Lessee will not be approved by the Board of Land and Natural Resources unless this evaluation and abatement provision has been executed. This provision shall survive and continue in effect after termination of this lease.”

A cost analysis and estimate of useful life expectancy of the proposed improvements for the Chika Nakano Repair Shop were conducted by Hussey Appraisal Group Hawaii, Inc. The analysis of the improvements confirmed total costs will be \$92,597.26, with an expected useful life on the improvements exceeding a minimum of 10 years.


**RECOMMENDATION:** That the Board:

1. Subject to the Applicant fulfilling the Applicant requirements listed above, Approve a 10-Year Term Extension of General Lease No. S-3620, 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. Lessee shall complete its proposed repairs/replacement of the perimeter fence and facility upgrades by February 5, 2016, and submitting to Land Division staff receipts verifying payment for the improvements;
  - 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-3620, to: i) Change Condition 21. Character of Use, by changing the permitted use from “...use or uses other than repair shop and/or service station..” to “uses allowed under the County of Hawaii Zoning Code, ML-20, limited industrial,” ii) Modify Condition 22. Assignment, etc. with current language used by the Department of the Attorney

General for assignments, iii) Insert a Condition for Subletting, utilizing current language as approved by the Office of the Attorney General, and iv) Insert a provision requiring a Phase I, environmental site assessment be conducted prior to expiration of the lease. The amendment of the lease 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 amendment of lease 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 interest of the State.

Respectfully Submitted,



Wesley T. Matsunaga  
Land Agent

APPROVED FOR SUBMITTAL:

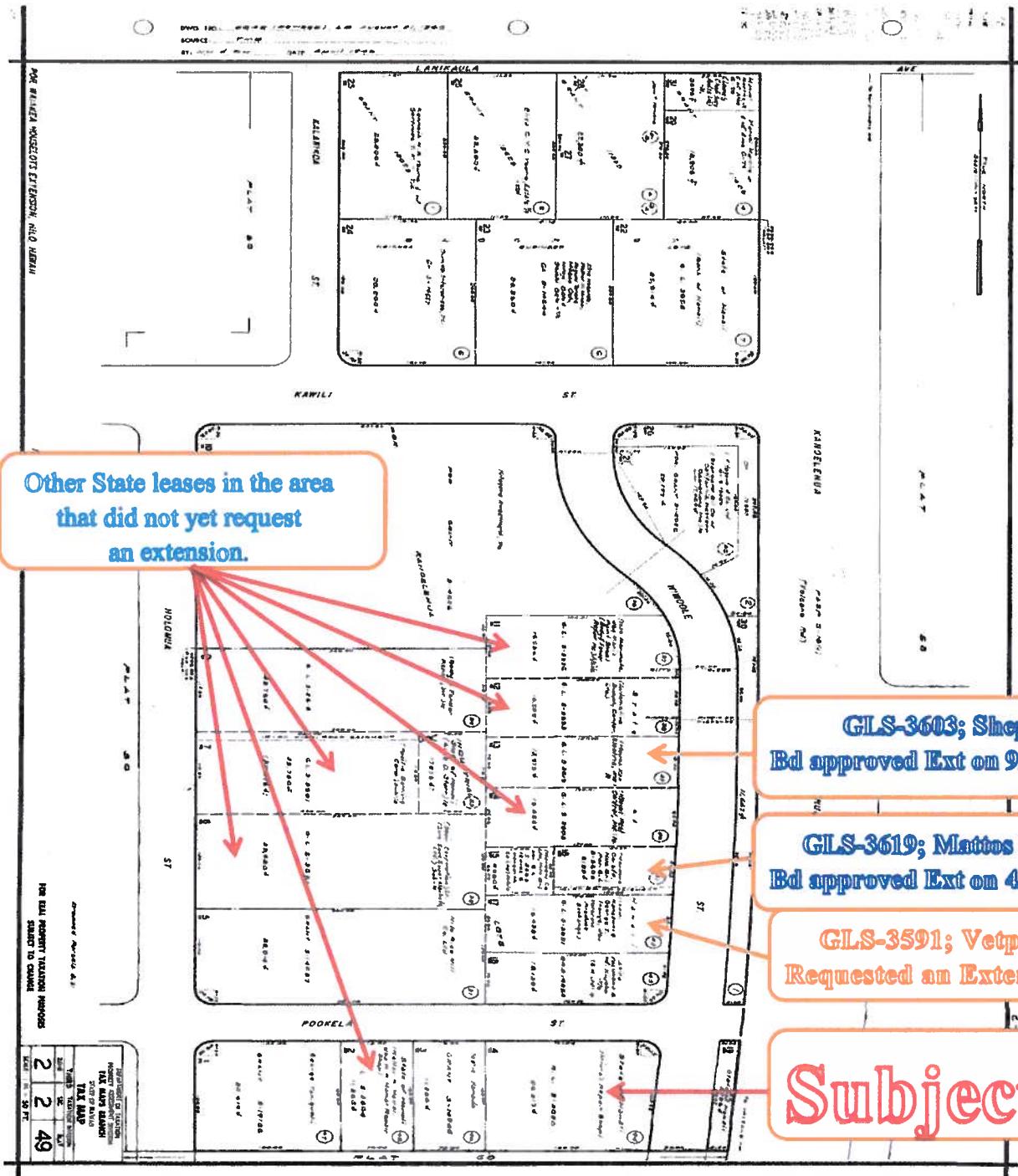


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William J. Aila, Jr., Chairperson







# EXHIBIT A



