

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

October 4, 2022

To: Chairman and Members, Hawaiian Homes Commission

From: Peter Kahana Albinio, Jr., Acting Administrator,
Land Management Division ~~KA~~

Subject: Authorize a One-Year Holdover for Various General Leases in portions of
Moanalua Kai (Mapunapuna/Shafter Flats), Island of O‘ahu, TMK (1) 1-1-064:
various

RECOMMENDED MOTION/ACTION

- A. Authorize a one-year holdover for General Lease No. S-4113, S-4114, S-4117, S-4118, S-4119, S-4120, S-4121, S-4122, S-4124, S-4125, and S-4126 (“Moanalua Kai general leases”) for the period of October 10, 2022 to October 9, 2023, under the terms and conditions cited below, which are by this reference incorporated herein and further subject to the following:
1. The standard terms and conditions of the most current holdover of lease form, as may be amended from time to time;
 2. Review and approval by the Department of the Attorney General; and
 3. Such other terms and conditions as may be prescribed by the Chairman to best serve the interests of the State.

DISCUSSION

The original fifty-five (55) year lease terms for the Moanalua Kai general leases were originally awarded by the Department of Land and Natural Resources (DLNR) by public auction to various commercial tenants for a term of fifty-five (55) years commencing on October 10, 1967. These existing improvements on these parcels are used for commercial/light industrial purposes. In April 1986, DHHL took title the Moanalua Kai general properties by way of a land exchange between DLNR and DHHL. The current lease terms are set to expire on October 9, 2022 and the identified lessees have expressed a desire to extend their respective lease terms.

On August 15 2022, the Hawaiian Homes Commission (HHC) approved a ten (10) year extension of lease term for the Moanalua Kai general leases that were current in their rental payment to DHHL (See Exhibit “A” attached). The Commission also authorized that one or more of the Moanalua Kai general leases could not be extended if “the benefit to the trust from the redevelopment of the leased parcel or parcels outweigh the benefit of the existing lease.”

The expiration of the general leases would place tenants into a holdover status pursuant to HRS § 171-40. HRS § 171-40 authorizes a one year extension of an original lease, thereby creating a “holdover period” for the original lease. If approved, the holdover period acts as a lease extension. The HHC has the authority to extend leases it approves: (1) the lessee’s holdover status and its extension request; and (2) if the matter is brought to the HHC prior to October 9, 2022.

The one (1) year time frame provided by HRS § 171-40 will provide DHHL with the necessary additional time needed to complete appraisals and ensure that all statutory and regulatory requirements are met for the ten (10) year lease extensions that were previously approved.

AUTHORIZATION

- Section 204(a)(2) of the Hawaiian Homes Commission Act, 1920, as amended; and
- HRS § 171-40 Expired leases; holdover

RECOMMENDATION

The Land Management Division respectfully requests approval of the motion as stated.

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

August 15-16, 2022

To: Chairman and Members, Hawaiian Homes Commission

From: Peter "Kahana" Albinio, Jr., Acting Administrator
Land Management Division *KA*

Subject: Approval to Extension of Lease Term scheduled to expire in October 2022, for various General Leases, and Authorization to Issue a Request for Proposal to redevelop and mitigate drainage in portions of, Moanalua Kai (Mapunapuna/Shafter Flats), Island of Oahu (various TMKs)

RECOMMENDED MOTION/ACTION

That the Hawaiian Homes Commission approve and grant consent to the following:

A. A 10 year extension of lease term and modified fixed rental period for each of the respective General Leases identified in the list attached hereto as Exhibit "A" (which General Leases are currently scheduled to expire on October 9, 2022), as authorized under Chapter 171-36(b)(c), Hawaii Revised Statutes, as amended ("HRS"), so that the aggregate of the original 55 year term and the extended 10 year term span a total of 65 years, with such extended General Leases therefore being set to expire on October 9, 2032, subject to the following terms and conditions:

1. Upon approval of the extension of the subject General Leases, the Department of Hawaiian Home Lands ("DHHL") shall hire one or more independent appraisers in the manner provided for in the General Leases to determine the lease rents for the respective 10 year extension periods beginning October 10, 2022, subject to the review and approval of the Chairman of the Hawaiian Homes Commission.
2. Notwithstanding anything to the contrary set forth in the subject General Leases as amended, the lease rents for the respective 10 year extension periods shall not be less than the rents in place immediately preceding the effective date of the extension of the respective lease terms.
3. Each LESSEE shall continue to pay the monthly lease rent currently due under their General Lease through December 31, 2022, after which date they shall commence paying the new lease rent as determined by an independent appraiser as set forth in paragraph A.1. above. On or before January 5, 2023, each LESSEE shall pay LESSOR a catch-up payment in the amount of the difference between the monthly rent paid to

LESSOR and the new monthly lease rent due as set forth herein for the months of October (prorated), November and December, 2022.

4. A one-time lease extension fee will be assessed by LESSOR to each LESSEE. The extension fee shall be 20% of the new annual lease rent established as set forth herein and shall be due and payable (without interest) in 12 successive monthly installments commencing January 2023.

5. The Amendment document for the extension of the lease term of each of the subject General Leases shall be subject to the review and approval of the Department of the Attorney General.

6. The Chairman of the Hawaiian Homes Commission is authorized to negotiate and document any additional terms and conditions which are customary or necessary to effect the intended amendments of the subject General Leases as set forth herein.

7. Except as otherwise modified herein, all other terms and conditions of the subject General Leases shall continue and remain in full force and effect.

B. The preparation and issuance of a Request for Proposal (RFP) for a developer agreement land disposition for the parcels identified in the list attached hereto as Exhibit "B", as follows:

1. The Department shall advertise and request proposals for the design and master development of a new, integrated commercial/industrial complex on the subject parcels, which design and development shall address and mitigate the drainage and periodic flooding conditions that affect all of the DHHL Moanalua Kai (Mapunapuna/Shafter Flats) properties.

2. All appropriate terms and conditions of the RFP and the resulting land disposition shall be in accordance with the requirements of HRS Chapter 171, Section 204(a)(2) and /or Section 220.5 of the HHCA of 1920, as amended and shall be approved by the Chairman of the Hawaiian Homes Commission.

3. The Department is authorized to expend budgeted funds for the purpose of conducting an appraisal and environmental assessment, if necessary, of the subject parcels in furtherance of their master development; and

4. The Department is authorized to retain legal counsel and such other consultants, as necessary, for the purpose of lease negotiations and to establish the final terms and conditions of the master development agreement.

DISCUSSION

Extension of Lease Terms

The General Leases to be extended were originally awarded by the State of Hawaii, Department of Land and Natural Resources to various commercial tenants for a term of fifty-five (55) years commencing on October 10, 1967. By way of a land exchange between the State of Hawaii, Department of Land and Natural Resources and DHHL consummated in April 1986, DHHL took title to all of the Moanalua Kai (Mapunapuna/Shafter Flats) properties (more specifically described in the Exchange Deed attached as Exhibit “C”) and became the long term LESSOR under the respective General Leases. The following is pertinent information on these General Leases:

Lessee:	Various
Location:	Moanalua Kai (Mapunapuna/Shafter Flats)
Tax Map Key No.:	(1) 1-1-064: various (See Exhibit “A”)
Land Area:	Ranging in sizes from 10,122/sq ft to 47,657/sq ft
Term:	55 years; 10/10/1967 – 10/09/2022
Annual Ren:	Various
Character of Use:	Commercial/Light Industrial
Site Improvements:	Existing improvements are older, typical industrial open canopy/warehouse building structures, all of which are constructed with steel framing, and a service station facility that consists of fuel dispensing tanks and a well-maintained asphalt/concrete driveway for fuel truck access. Perimeter chain link fencing surrounds some of the parcels. The improvements appear to be in old/worn condition and deferred maintenance appears to be necessary.
Mortgagee:	None
Compliance	The present commercial/light industrial use of the properties would be legally permitted under the current City and County of Honolulu zoning ordinances, if applicable. The respective lessees have all been productive tenants and are current on all rent obligations.

Since the respective current lease terms are scheduled to expire as of October 9, 2022, the lessees have indicated a desire to extend their respective lease terms on several occasions via electronic mail, and teleconference meetings to date. The requested lease extensions would provide some certainty for the respective lessees that they will be able to maintain their existing business operations, thus providing an incentive to conduct deferred maintenance and improvements to their premises. The extensions also are an opportunity for DHHL to reset and improve on lease

rents. Therefore, as authorized under HRS Chapter 171, an extension of the current 55 year terms to maximum 65 year terms are requested.

RFP for Developer Agreement Land Disposition

DHHL seeks to enter into a developer agreement land disposition for the purposes of: (1) re-development of the parcels identified in Exhibit “B” as a new, integrated commercial/industrial complex; and (2) drainage and flooding mitigation for all of DHHL’s Moanalua Kai (Mapunapuna/Shafter Flats) properties. Such improvements are critical to improve the financial return to DHHL on its revenue generating properties. Furthermore, master developer interest should be high given the favorable current market conditions for leasing commercial/light industrial space in this general area.

AUTHORIZATION

Act 114, enacted into law by the 1994 Hawaii Legislature, amends Section 171-36, Hawaii Revised Statutes, relating to Lease restrictions; generally. §171-36(b)(c), HRS, allows for extensions to a lease term.

Section 204(a)(2) of the Hawaiian Homes Commission Act, 1920, as amended, reads in part... “In the management of any retained available lands not required for leasing under Section 207(a), the Department may dispose of such lands to the public, including native Hawaiians, on the same terms, conditions, restrictions and uses applicable to the disposition of public lands as provided in Chapter 171, Hawaii Revised Statutes, provided that the Department may not sell or dispose of such land in fee simple...”

Section 220.5 of the Hawaiian Home Commission Act, as amended, also authorizes the Department to enter into project developer agreements with a qualified developer for commercial or multi-purpose projects, subject to Section 171-60(a)(3).

Section 10-4-1 of the Department’s Administrative Rules, as amended, states in part that... “The Department may lease, license or otherwise deal with any available lands as may not be immediately needed for the purposes of the Act as provided by Section 204(a)(2) of the act and Chapter 171, HRS, upon such terms and conditions as to it may deem fair reasonable.”

RECOMMENDATION

Land Management Division respectfully requests approval of the motion as stated.

Moanalua Kai - Mapunapuna/Shafter Flats General Lease Dispositions expiring as of 10/9/2022

Lease No.	Lessee	Current Annual Rent	Expiration Date	TMK	
1	S-4113	U-Haul of Hawaii, Inc.	\$189,870	10/9/2022	1-1-064:008
2	S-4114	U-Haul of Hawaii, Inc.	\$245,247	10/9/2022	1-1-064:009
3	S-4117	Lease Properties, LTD	\$278,800	10/9/2022	1-1-064:012
4	S-4118	Lease Properties, LTD	\$278,800	10/9/2022	1-1-064:013
5	S-4119	GP Energy Company LLC	\$316,442	10/9/2022	1-1-064:014
6	S-4120	Frank & Sally White	\$181,200	10/9/2022	1-1-064:015
7	S-4121	Safety Systems and Signs Hawaii	\$185,200	10/9/2022	1-1-064:016
8	S-4122	Pacific Transfer, LLC	\$102,300	10/9/2022	1-1-064:017
9	S-4124	Lease Properties, LTD	\$162,200	10/9/2022	1-1-064:019
10	S-4125	Lease Properties, LTD	\$162,200	10/9/2022	1-1-064:020
11	S-4126	Living the Word	\$117,560	10/9/2022	1-1-064:021
		\$2,219,819			



Exhibit "A"
Agenda Item No. F-3

87-54281

RECORDATION REQUESTED BY:

AFTER RECORDATION, RETURN TO:
Hawaiian Home Lands
RETURN BY: MAIL () PICKUP ()

APR 16 1986
20572 1

EXCHANGE DEED

THIS INDENTURE, made and entered into effective as of the 23rd day of April, 1986, by and between the STATE OF HAWAII, by its Board of Land and Natural Resources, hereinafter referred to as the "GRANTOR", and the Department of Hawaiian Home Lands, State of Hawaii by its HAWAIIAN HOMES COMMISSION, hereinafter referred to as the "GRANTEE",

WITNESSETH THAT:

WHEREAS, by Section 204(3), Hawaiian Homes Commission Act, 1920 and Section 171-50(d), Hawaii Revised Statutes, the GRANTEE and GRANTOR, respectively, are empowered to exchange lands designated as "available lands" in the Hawaiian Homes Commission Act for public lands of the State of Hawaii of equal value;

WHEREAS, the exchange of "available lands" for public lands has been approved by two-thirds of the members of the Board of Land and Natural Resources at its meeting held on Dec. 14, 1985;

WHEREAS, said exchange has been approved by the Hawaiian Homes Commission at its meetings held on November 30, 1984 and March 21, 1986;

WHEREAS, the lands of the GRANTOR have an appraised value of SEVENTEEN MILLION THREE HUNDRED FIFTY-SEVEN THOUSAND FIVE HUNDRED AND NO DOLLARS (\$17,357,500) as of September 8, 1983;

WHEREAS, the lands of the GRANTEE have an appraised value of SEVENTEEN MILLION FOUR HUNDRED TWENTY-ONE THOUSAND TWO HUNDRED AND NO DOLLARS (\$17,421,200.00) also as of September 8, 1983; and

20572 2

WHEREAS, the GRANTEE, in order to perfect this exchange, and in consideration of that Settlement Agreement dated November 30, 1984 entered into between departments of the State of Hawaii, namely GRANTOR, GRANTEE, and the Department of Transportation, waives the payment by GRANTOR of the sum of SIXTY-THREE THOUSAND SEVEN HUNDRED AND NO DOLLARS (\$63,700), the difference based on appraised values as of September 8, 1983 between said lands to be exchanged;

NOW, THEREFORE, the GRANTOR, in consideration of the conveyance to it of the lands hereinafter described, does hereby remise, release and forever quitclaim unto the said GRANTEE, its successors and assigns, all of its right, title and interest in and to the following parcels of land, more particularly described in Exhibit A, attached hereto and made a part hereof:

TMK	IDENTITY - SHAFER FLATS INDUSTRIAL DEVELOPMENT	AREA
1-1-64-8	Lot 6, Unit I	29,463 sq. ft.
1-1-64-9	Lot 7, Unit I	39,588 sq. ft.
1-1-64-10	Lot 8, Unit I	41,187 sq. ft.
1-1-64-11	Lot 9, Unit I	44,000 sq. ft.
1-1-64-12	Lot 10, Unit I	44,000 sq. ft.
1-1-64-13	Lot 11, Unit I	44,000 sq. ft.
1-1-64-14	Lot 12, Unit I	44,000 sq. ft.
1-1-64-15	Lot 13, Unit I	40,000 sq. ft.
1-1-64-16	Lot 14, Unit I	40,000 sq. ft.
1-1-64-17	Lot 15, Unit I	22,096 sq. ft.
1-1-64-18	Lot 16, Unit I	24,638 sq. ft.
1-1-64-19	Lot 17, Unit I	25,000 sq. ft.
1-1-64-20	Lot 18, Unit I	25,000 sq. ft.
1-1-64-21	Lot 19, Unit I	25,000 sq. ft.
1-1-64-22	Lot 20, Unit I	25,000 sq. ft.
1-1-64-31	Lot 5, Unit III	20,787 sq. ft.
1-1-64-32	Lot 4, Unit III	21,448 sq. ft.
1-1-64-33	Lot 3, Unit III	22,964 sq. ft.
1-1-64-34	Lot 1, Unit III	10,122 sq. ft.
1-1-64-35	Lot 2, Unit III	10,122 sq. ft.
Total Area (13.822 Acres)		602,103 sq. ft.

TO HAVE AND TO HOLD the same, together with all the rights, easements, privileges and appurtenances thereunto belonging, or in anywise appertaining or held and enjoyed therewith, unto said GRANTEE, its successors and assigns, forever, and subject to the existing general leases affecting the respective parcels.

AND the GRANTEE, in consideration of the aforesaid conveyance, does hereby remise, release and forever quitclaim unto said GRANTOR, its successors and assigns, all of its right, title and interest in and to the following parcels of land, more particularly described in Exhibit B, attached hereto and made a part hereof:

TMSK	IDENTITY	AREA
3d Div. 2-1-12:22 (Por)	Area 5 General Lyman Field	87.667 Acres
3d Div. 2-1-12:30	Area 6 General Lyman Field	3.928 Acres
3d Div. 6-7-01:8 (Por)	Parcel 1 Kamuela Airport	40.682 Acres
2d Div. 5-2-04:84 (Por)	Tract B Molokai Airport	11.176 Acres
2d Div. 5-2-04:83 (Por)	Tract E-1 Molokai Airport	2.941 Acres
2d Div. 5-2-04:84 (Por)	Tract E-2 Molokai Airport	0.107 Acres
2d Div. 5-2-04:8 (Por)	Area 6 Molokai Airport	20.784 Acres
	Total Area	167.285 Acres
2d Div. 5-2-04: Pors. of 55, 57 & 102	Avigation Easement Area 3-A Molokai Airport	37.502 Acres
	Total Avigation Easement Area	37.502 Acres

TO HAVE AND TO HOLD the same, together with all the rights, easements, privileges and appurtenances thereunto belonging, or in anywise appertaining or held and enjoyed therewith, unto said GRANTOR, its successors and assigns, forever.

Rentals for Exhibit A and Exhibit B lands shall be prorated as of the effective date hereof. Department of Hawaiian Home Lands General Lease Nos. 210, 211, and 212 shall terminate on the effective date hereof.

IN WITNESS WHEREOF, the STATE OF HAWAII, by its Board of Land and Natural Resources, has caused the seal of the Department of Land and Natural Resources to be hereunto affixed and these presents to be duly executed this 23rd day of April, 1986, and the HAWAIIAN HOMES COMMISSION, has caused these presents to be duly executed by the Chairman of the Hawaiian Homes Commission this 16th day of April, 1986, both effective as of the day and year first above set forth.

APPROVED BY THE BOARD OF LAND AND NATURAL RESOURCES AT ITS MEETING HELD ON

Dec. 14, 1986

Department of Lands and Natural Resources
STATE OF HAWAII

By: *S. Ono*
Chairman and Member
Board of Land and Natural Resources

And By: *[Signature]*
Member
Board of Land and Natural Resources

Department of Hawaiian Home Lands
STATE OF HAWAII

By: *[Signature]*
Chairman, Hawaiian Homes Commission

APPROVED:

[Signature]
Governor of Hawaii

APPROVED:

Donald Paul Wood
Secretary of the Interior
United States of America

APPROVED AS TO FORM
AND LEGALITY:

[Signature]
Deputy Attorney General
Dated: 3/24/80

APPROVED AS TO FORM
AND LEGALITY:

[Signature]
Deputy Attorney General
Dated: April 21, 1980

STATE OF HAWAII }
CITY AND COUNTY OF HONOLULU } SS.

On this 16th day of April, 19 80,
before me personally appeared Georgiana K. Padeken, to me
personally known, who, being by me duly sworn, did say that she
is Chairman of the Hawaiian Homes Commission and the person
described in and who executed the foregoing instrument and
acknowledged to me that she executed the same freely and
voluntarily for the use and purposes therein set forth.

[Signature]
Notary Public, State of Hawaii

My commission expires 2-20-81

U.S.

STATE OF HAWAII }
CITY AND COUNTY OF HONOLULU } SS.

On this ___ day of _____, 19____,
before me personally appeared _____
and _____, to me personally known, who, being
by me duly sworn, did say that they are _____
and _____ of the Board of Land and Natural
Resources and the persons described in and who executed the
foregoing instrument and acknowledged to me that they executed
the same freely and voluntarily for the use and purposes
therein set forth.

Notary Public, State of Hawaii

My commission expires _____