

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

June 12, 2020

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

PSF: 20HD-040

Hawai'i

Authorize the Chairperson to Approve and Execute a Development Agreement for 30-Year Extensions of Lease Terms and to Execute Lease Extension Documents Pertaining to:

General Lease No S-3592; Hawaii Planing Mill, Ltd. dba HPM Building Supply, Lessee; Waiakea, South Hilo, Hawaii, Tax Map Keys: (3) 2-2-032:067 and 078;

General Lease No. S-3609; Hawaii Planing Mill, Ltd., Lessee; Waiakea, South Hilo, Hawaii, Tax Map Keys: (3) 2-2-032:068 and 070; and

General Lease No. S-3611; Hawaii Planing Mill, Ltd., as to an undivided 80% interest, and William MacKenzie, Trustee under that certain Indenture of Trust created March 26, 1955, by Nelle Wood Carlsmith for the benefit of Carl Wendell Carlsmith, Edith Mattson Carlsmith and Donn Wendell Carlsmith, as to an undivided 20% interest, Lessees; Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-2-032:021.

APPLICANT AND REQUEST:

Development Agreement for Lease Extension:

This submittal is made on behalf of the following three leases, which are consolidated for this specific request because the development agreement proposing improvements benefits all three leases as a whole, the leases premises are physically contiguous and are currently being operated for the benefit of a single business concern - Hawaii Planing Mill, Ltd. dba HPM Building Supply.

The lessees are requesting extensions of General Lease No. S-3592, General Lease No. S-3609 and General Lease No. S-3611 (collectively referred to as "Three Leases") of 30 years, commencing on January 16, 2026 and expiring on January 15, 2056 for an aggregate

term (initial term plus all extensions) of 95 years.<sup>1</sup> The proposed improvements will benefit all Three Leases that are being managed by, under the auspices and for the benefit of the single functioning business entity of Hawaii Planing Mill, Ltd. dba HPM Building Supply, a major lumber and building supply company on the island of Hawaii. The lessees are collectively referred to herein as “Lessee.”

Lease GL No.	Lessee
S-3592	Hawaii Planing Mill, Ltd., dba HPM Building Supply
S-3609	Hawaii Planing Mill, Ltd.
S-3611	Hawaii Planing Mill, Ltd., as to an undivided 80% interest, and William MacKenzie, Trustee under that certain Indenture of Trust created March 26, 1955, by Nelle Wood Carlsmith for the benefit of Carl Wendell Carlsmith, Edith Mattson Carlsmith and Donn Wendell Carlsmith, as to an undivided 20% interest

LEGAL REFERENCE:

Sections 171-191 and -192, Hawaii Revised Statutes (HRS), as amended, and Act 149, Session Laws of Hawaii 2018.

LOCATION:

- General Lease No S-3592: Portion of Government lands of Lots 6 and 15, Waiakea Business and Industrial Lots situated at Waiakea, South Hilo, Hawaii, identified by Tax Map Keys: (3) 2-2-032:067 and 078, as shown on the attached map labeled in Exhibit A.
- General Lease No. S-3609: Portion of Government lands of Lots 5, 10, 11, 12, 13 and 14, Waiakea Business and Industrial Lots situated at Waiakea, South Hilo, Hawaii, identified by Tax Map Keys: (3) 2-2-032:068 and 070, as shown on the attached map labeled Exhibit in A.
- General Lease No. S-3611: Portion of Government lands of Lots 7, 8, 9, 16, 17 and 18, Waiakea Business and Industrial Lots situated at Waiakea, South Hilo, Hawaii, identified by Tax Map Key: (3) 2-2-032:021, as shown on the attached map labeled Exhibit A.

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<sup>1</sup> Initial term of 55 years commencing on 1/16/1961 and expiring on 1/15/2016. Board previously approved a 10-year extension at its meeting of 10/24/2014, Item D-4 (GL S-3592), Item D-5 (GL S-3609) and Item D-6 (GL S-3611).

AREA:

General Lease No. S-3592: 0.778 acre, more or less.

General Lease No. S-3609: 2.363 acres, more or less.

General Lease No. S-3611: 2.334 acres, 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:

General Lease No. S-3592: To be used solely for uses allowed under the current County of Hawaii Zoning Code, ML-20, limited industrial purposes.

General Lease No. S-3609: To be used solely for uses allowed under the current County of Hawaii Zoning Code, ML-20, limited industrial purposes.

General Lease No. S-3611: For the first 5 years, for the same business use in which the Lessee was engaged at the time of the natural disaster, provided that the Lessee may use for other than wholesale-retail/building materials, with prior written consent of the Board.

TERMS OF LEASES:

All Three Leases were initially issued for a term of 55 years, expiring on January 15, 2016. On October 24, 2014, the Board approved an extension of 10 years for the Three Leases, commencing on January 16, 2016 and expiring on January 15, 2026.<sup>2</sup>

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<sup>2</sup> Board action of October 24, 2014, Agenda Items D-4 (GL S-3592), D-5 (GL S-3609) and D-6 (GL S-3611). The lease extension document for GL S-3611 was executed by Hawaii Planing Mill, Ltd., holding an undivided 80% interest, but not William MacKenzie, Trustee under that certain Indenture of Trust created March 26, 1955, by Nelle Wood Carlsmith for the benefit of Carl Wendell Carlsmith, Edith Mattson Carlsmith and Donn Wendell Carlsmith, holder of the remaining undivided 20% interest. HPM will be responsible for securing the appropriate approval and documentation necessary to effectuate the development agreement and lease extension process.



ANNUAL RENTAL:

- General Lease No S-3592: Current rent is \$27,100.00, due in semi-annual installments of \$13,550.00 on January 16 and July 16 of each year.
- General Lease No. S-3609: Current rent is \$71,000.00, due in semi-annual installments of \$35,500.00 on January 16 and July 16 of each year.
- General Lease No. S-3611: Current rent is \$74,000.00, due in semi-annual installments of \$37,000.00 on January 16 and July 16 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 January 16, 2016. The Board previously approved a 10-year extension of the Three Leases at its meeting of October 24, 2014, Item D-4 (GL S-3592), Item D-5 (GL S-3609) and Item D-6 (GL S-3611) for the period January 16, 2016 through January 15, 2026.

The rent for the 30-year extended term of January 16, 2026 through January 15, 2056 has been determined by an appraisal review report approved by the Chairperson of the Board. Lessee has accepted the annual lease rent for the period January 16, 2026 through January 15, 2036. Exhibit B.

PROPOSED IMPROVEMENTS:

The Lessee's development plan proposes to repair, replace renovate and otherwise complete general improvements to structures and facilities located on the Three Leases, including but limited to roofs, HVAC systems, LED lighting, flooring, bathrooms and the exterior façade. A complete list of improvements in the development plan is attached as Exhibit C.

The proposed improvements are projected to be in-service at various intervals, but not later than end of year 2025. Accordingly, to ensure timely compliance, staff recommends that the Board require the Lessee to procure, develop and obtain a completion bond and materialmen's bond, or equivalent assurance, in an amount to be specified in the development agreement.

DCCA VERIFICATION:

Hawaii Planing Mill, Ltd., dba HPM Building Supply:

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

Lessee William MacKenzie, Trustee under that certain Indenture of Trust created March 26, 1955, by Nelle Wood Carlsmith for the benefit of Carl Wendell Carlsmith, Edith Mattson Carlsmith and Donn Wendell Carlsmith, as a trustee or trust, is not required to register with the DCCA.

#### BACKGROUND:

General Lease No. S-3592 was issued to Hiroaki Kono dba Hilo Transportation Company commencing on January 16, 1961 for a term of fifty-five (55) years pursuant to Act 4, First Special Session of 1960 (Act 4), which authorized the direct issuance of leases to victims of a natural disaster (tsunami). Through mesne assignments with Board consent, the current lessee is Hawaii Planing Mill, Ltd., dba HPM Building Supply.

General Lease No. S-3609 was issued to Hawaii Transportation Co., Ltd. commencing on January 16, 1961 for a term of fifty-five (55) years pursuant to Act 4. Through mesne assignments with Board consent, the current lessee is Hawaii Planing Mill, Ltd.

General Lease No. S-3611 was issued to Hawaii Planing Mill, Ltd. commencing on January 16, 1961 for a term of fifty-five (55) years pursuant to Act 4. Through mesne assignments with Board consent, the current lessees are Hawaii Planing Mill, Ltd., as to an undivided 80% interest, and William MacKenzie, Trustee under that certain Indenture of Trust created March 26, 1955, by Nelle Wood Carlsmith for the benefit of Carl Wendell Carlsmith, Edith Mattson Carlsmith and Donn Wendell Carlsmith, as to an undivided 20% interest.

GL S-3592, GL S-3609 and GL S-3611 are all located on contiguous parcels under the management of Hawaii Planing Mill, Ltd. The improvements were and will be performed on structures and facilities on all Three Leases.

#### LEASE EXTENSION:

With the Lessee's current lease set to expire on January 15, 2026, the Lessee is requesting additional 30-year extensions of each of the Three Leases pursuant to Act 149, Session Laws of Hawaii 2018 (Act 149) in order to amortize the cost of additional improvements to the property. Act 149 allows extensions of up to 40 years beyond the original lease term for leases located in the Hilo Community Economic District (HCED) based on "substantial improvements" to the lease premises:

"Substantial improvements" means any renovation, rehabilitation, reconstruction, or construction of the existing improvements, including minimum requirements for off-site and on-site improvements, the cost of which equals or exceeds thirty per cent of the market value of the existing improvements that the lessee or the lessee and developer install, construct, and complete by the date of completion of the total development.



The subject leases are located within the HCED as defined in Act 149. Lessee's proposed improvements include the replacement of the roofs on two structures on the property along with replacement and renovations to the premises' HVAC, lighting, flooring, exterior façade and bathrooms at a cost in excess of \$2,207,927 (Exhibit C).<sup>3</sup> An appraisal evaluation performed by a certified appraiser has determined that the economic life of the proposed improvements will exceed the thirty-year period necessary to amortize the refurbishments. The appraiser, contracted by the Lessee, determined the market value of the current improvements to be \$6,680,000. Lessee's proposed expenditure of \$2,207,000 represents 33.0% of the value of the existing improvements, and Lessee is only seeking a 30-year extension of the lease. Accordingly, Lessee's proposed expenditure appears to justify the requested 30-year extension under Act 149.

The subject parcels are located in an area served by aging and/or substandard infrastructure. The area also includes numerous other DLNR parcels currently encumbered by long-term leases that have been extended and are scheduled to expire within the next ten years. Most of the DLNR leases in this area were established pursuant to Act 4, First Special Session of 1960 and Act 32, Sessions Laws of Hawaii 1962 resulting from the destruction of the Hilo bay front caused by the 1960 tsunami. Businesses that were severely impacted by the tsunami were given the opportunity to relocate to the newly created industrial area of Kanoelehua. These acts provided the lessees with an option to purchase the land within two years. Several businesses exercised this option creating an industrial area of mixed DLNR leases and fee simple properties.

Act 149 also stipulates that prior to entering into a development agreement, the lessee shall submit to the Board the plans and specifications for the total development being proposed. The Board shall review the plans and specifications and determine: 1) Whether the development proposed is of sufficient worth and value to justify the extension; 2) The estimated time to complete the improvements and expected date of completion; 3) The minimum revised annual rent based on the fair market value of the lands to be developed, as determined by an appraiser for the Board, and the percentage rent where gross receipts exceed a specified amount.

The Lessee has submitted plans and specifications for the total development and a proposed development agreement outlining the terms and conditions required in compliance with Act 149 and Section 171-192(a), HRS, as amended, and the Lessee has accepted the minimum revised annual rent based on the fair market value of the lands as determined by the Board's appraiser.

Upon the Board's approval of the terms and conditions of the development agreement as set forth above, staff is recommending that the Chairperson be authorized to approve and execute the development agreement once it is finalized and thereafter to execute the lease extension documents.

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<sup>3</sup> The improvements will be self-financed. Lessee is also having a solar photovoltaic (PV) system installed at the premises, but the value of the PV system is not included in the improvement value calculation as it will be paid for and owned by a third-party vendor who will sell electricity to Lessee.

There are no outstanding rental reopening issues. The Lessee is current with rent, insurance and performance bond.

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 requirement listed above:

1. Authorize the Chairperson to approve and execute a development agreement for 30-year extensions of the terms of the subject Three Leases and thereafter to execute lease extension documents for the Three Leases pursuant to Act 149 Session Laws of Hawaii 2018 and Section 171-192, HRS, as amended, 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 development agreement and lease extension document forms conforming with Section 171-192, HRS, and Act 149 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,



Gordon C. Heit  
District Land Agent

APPROVED FOR SUBMITTAL:

*Suzanne D. Case*

Suzanne D. Case, Chairperson

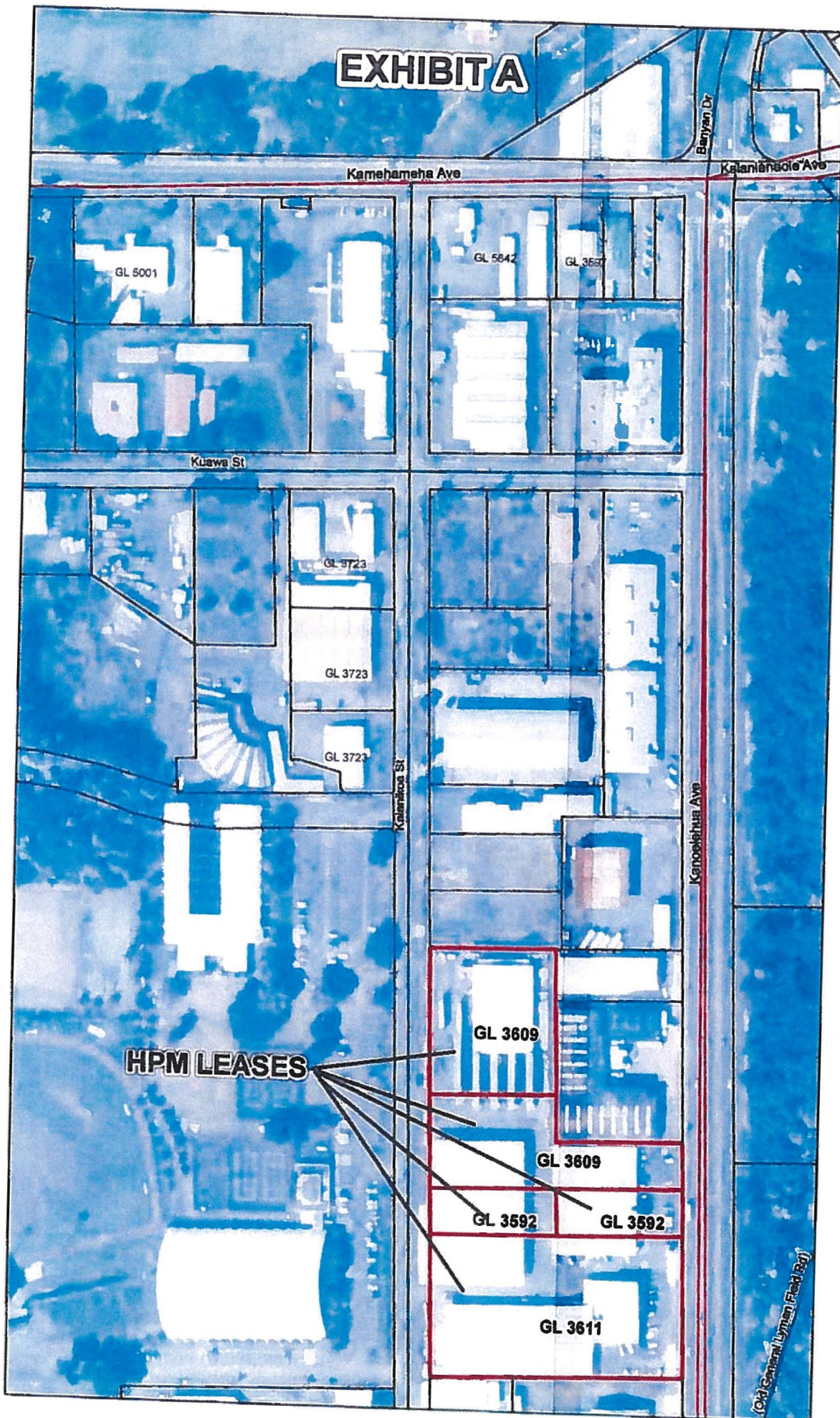
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# EXHIBIT A





# EXHIBIT B

DAVID Y. IGE  
GOVERNOR OF HAWAII



SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE  
MANAGEMENT

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
LAND DIVISION

75 Aupuni Street, Room 204  
Hilo, Hawaii 96720  
PHONE: (808) 961-9590  
FAX: (808) 961-9599

February 28, 2020

Mr. Adam Bauer  
HPM Building Supply  
16-166 Melekahiwa Street  
Keaau, Hawaii 96749

Dear Mr. Bauer:

Subject: Notice of Appraisal for Proposed Extension of Lease Term Pursuant to Act 149, Session Laws of Hawaii 2018, General Lease Nos. S-3592, 3609, and 3611, Hawaii Planing Mill, Ltd., dba HPM Building Supply, Lessee, located at Waiakea Business and Industrial Lots, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-2-032:021, 067, 068, 070, and 078

With regard to the above referenced request, we have received an independent appraisal dated February 20, 2020 establishing the lease rent for the proposed 30-year extension period beginning January 16, 2026 and continuing through January 15, 2056. The appraisal review report has been approved by the Chairperson of the Board of Land and Natural Resources.

The following are the lease rent amounts for the initial 10-year reopening period scheduled to begin January 16, 2026.

<u>Lease Number</u>	<u>Effective Date</u>	<u>Annual Lease Rent</u>
GL S-3592	01/16/26 – 01/15/36	\$ 42,317.00
GL S-3609	01/16/26 – 01/15/36	\$108,185.00
GL S-3611	01/16/26 – 01/15/36	\$106,884.00

Please indicate your acceptance or rejection by completing the following and returning a signed copy to this office. If you are rejecting our proposed rent determination, you must hire your own appraiser and give us his/her name with your rejection notification. Please note that you must hire an appraiser that is licensed in the State of Hawaii as a Certified General Appraiser (CGA).



If you have any questions, please feel free to contact me at the Hawaii District Land Office at 961-9590. Thank you.

Sincerely,



Gordon C. Heit  
District Land Agent

cc: Land Board Member  
Central Files  
District Files

The Undersigned:

X

**Accepts** the proposed annual lease rent for General Lease Nos. S-3592, S-3609, and S-3611 offered by the State of Hawaii Department of Land and Natural Resources.

\_\_\_\_\_

**Rejects** the proposed annual lease rent for General Lease Nos. S-3592, S-3609, and S-3611 offered by the State of Hawaii Department of Land and Natural Resources and hereby appoints the following appraiser:

\_\_\_\_\_  
Appraiser Name

\_\_\_\_\_  
Phone no.

  
\_\_\_\_\_  
Lessee

3/13/2020

\_\_\_\_\_  
Date

\_\_\_\_\_  
Lessee

\_\_\_\_\_  
Date

# EXHIBIT C

EXHIBIT - REVISED 2019-08-12  
Hawaii Planing Mill, Ltd, dba HPM Building Supply's  
DEVELOPMENT PLAN  
for the Leasehold Improvements as part of the  
State of Hawaii DLNR Lease Extension for HPM's Hilo Properties  
Surrounding 380 Kanoelehua Avenue

Market value of the as-is improvements, as of 10/26/2019	\$ 6,680,000
Value of additional leasehold improvements required (30% of market value)	2,004,000

<b>IMPROVEMENTS RECENTLY COMPLETED</b>	<b>Actual</b>	<b>In Service Date</b>
Renovate Plumbing/Electrical and Paint Outdoor Service Counters	327,354	1/2018
<b>PROPOSED IMPROVEMENTS</b>		
Repair gate at back fence	15,877	2019
Replace Lumber Warehouse roof	122,746	2019
Replace HVAC system in Home Design Center/Purchasing building	110,035	2019
Replace HVAC system in Retail/Contractor Sales building	201,200	2019
Replace Retail/contractor sales fluorescent lighting with LED	32,724	2020
Replace Warehouse fluorescent lighting with LED	27,378	2020
Renovate Lumber/Will-Call Counters	65,000	2020
Renovate Retail building exterior façade	280,000	2021
Renovate Design Center exterior façade	274,000	2021
Create tie-in between Retail building and Design Center	14,000	2021
Project Management*, (10% of 2021 Improvement Projects)	56,800	2021
Replace Retail and Contractor Sales flooring	167,848	2022
Replace Home Design Center flooring	54,740	2022
Renovate Home Design Center and Retail/Contractor Sales bathrooms	160,000	2022
Project Management*, (10% of 2022 Improvement Projects)	38,259	2022
Replace Retail/Contractor Sales roof	259,967	2025
<b>Total</b>	<b>2,207,927</b>	
Install Solar PV system, PPA	3,070,681	2020
<b>Total with Solar PV</b>	<b>5,278,608</b>	

\*Project Management - HPM consistently contracts with a professional Construction Project Manager to act as HPM's Owner Representative for all major construction-related capital improvements. The 10-percent fee is an industry standard and is always built into HPM's cost of construction as a capitalized expense.