

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

November 8, 2024

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

HAWAII

Assess Lease Assignment Premium in Connection with the Board's Prior Action of June 14, 2024, Item D-2, Approved as Amended, *Consent to Assign General Lease Nos. S-4303, S-4379, S-5656 and S-5848, Big Island Toyota, Inc., Assignor, to Servco Pacific Inc., Assignee, Waiakea House Lots Extension, Hilo, Hawaii, TMK: (3) 2-2-058:015 (GLS-4303 & GLS-4379), TMK: (3) 2-2-058:017 (GLS-5656); Waiakea House Lots, Hilo, Hawaii, TMK: (3) 2-2-037:063 (GLS-5848).*

BACKGROUND:

At its meeting of June 14, 2024, under agenda Item D-2, the Board of Land and Natural Resources (Board) approved, as amended, a request for consent to assignment of the subject leases from Big Island Toyota, Inc. (BIT), a Hawaii corporation, as Assignor, to Servco Pacific Inc. (Servco), a Hawaii corporation, as Assignee. A copy of the June 14, 2024 Board action, approved as amended, is attached hereto as Exhibit 1 and incorporated by reference.

Because of the way the parties structured their Asset Purchase Agreement for the transaction, staff was unable to calculate an appropriate lease assignment premium at the time the matter was brought to the Board in June 2024. Staff recommended that BIT be required to pay for an independent appraisal to determine the amount a willing buyer would pay a willing seller for the assignment of the leases so that staff could make the calculations. The parties additionally represented that they intended to close the sale by July 1, 2024 and requested that the Board consent to the assignment subject to the resolution of the lease assignment premium issue at a later date. Staff therefore included a recommendation that BIT be required to deposit \$100,000 in an escrow account for the payment of a potential premium and proposed the inclusion of language in the consent to assignment of lease instrument specifically making it subject to rescission by the Board if BIT failed to make payment of any premium the Board

may determine to be due. The Board amended the staff recommendation by increasing the amount of the escrow deposit from \$100,000 to \$400,000. See Exhibit 1.

As explained below, staff now has the information in needs to make a recommendation to the Board on a lease assignment premium.

## REMARKS

Staff procured an appraiser to determine the amount a willing buyer would pay a willing seller for the assignment of the leases. The notice to proceed was issued to the appraiser on June 21, 2024 and BIT paid the appraisal cost as required. Staff also worked with BIT on escrow instructions and the establishment of an escrow account. BIT deposited the required \$400,000 into escrow on August 23, 2024.

In the meantime, staff submitted a request to the Department of the Attorney General for preparation of the consent to assignment of leases including the rescission language noted above if the lease assignment premium were not paid. The Consent to Assignment of General Lease Nos. S-4303 and S-4379; General Lease No. S-5656; and General Lease No. S-5848 (Consent) from BIT to Servco was fully executed as of September 25, 2024 and two originals were provided to BIT's counsel on October 1, 2024 so that the parties could close their transaction. A copy of the Consent is attached as Exhibit 2.

The appraisal report on the lease values was received on September 16, 2024 and approved on September 20, 2024, and a copy was promptly provided to BIT's counsel along with staff's calculation of the lease assignment premium payable to the State. BIT's counsel responded on September 26, 2024 with some concerns about the appraisal and the assignment of lease premium calculations, which led to the appraiser making revisions to the appraisal report. The revised appraisal report was received at Land Division on October 18, 2024 and provided to BIT's counsel on October 22, 2024. Under the revised appraisal report, the appraiser found the market values of the leases to be as follows:

GLS-4303	-	\$1,070,000
GLS-4379	-	\$1,610,000
GLS-5848	-	\$ 80,000
GLS-5656	-	\$ 40,000

For purposes of calculating the assignment of lease premium, staff assumed that the above amounts were paid for the respective leases as part of the BIT-Servco transaction. The lease assignment premium policy, a copy of which is attached

as Exhibit 3,<sup>1</sup> is based on Section 171-36(a)(5), HRS, which provides in relevant part as follows:

No lease shall be transferable or assignable, except by devise, bequest, or intestate succession; provided that with the approval of the board, the assignment and transfer of a lease or unit thereof may be made in accordance with current industry standards, as determined by the board; provided further that prior to the approval of any assignment of lease, the board shall have the right to review and approve the consideration to be paid by the assignee and may condition its consent to the assignment of the lease on payment by the lessee of a premium based on the amount by which the consideration for the assignment, whether by cash, credit, or otherwise, exceeds the depreciated cost of improvements and trade fixtures being transferred to the assignee; . . . .

(Emphasis added).

Accordingly, the policy and calculations contained therein are intended to determine the amount the consideration paid for the assignment of the leases exceeds the depreciated cost of improvements and trade fixtures transferred to the assignee. Below staff evaluates each of the four leases under the policy starting with GLS-5656, which is unimproved and therefore requires no calculations to determined depreciated cost of improvements.

#### GLS-5656

As indicated in Exhibit A of Exhibit 1 attached, GLS-5656 has no vertical improvements on it, though it is paved. The County of Hawaii Real Property Tax Office records show \$0 for building value. As a result, there are no construction costs to determine and no depreciation calculations to run. About 22 years of the lease term have elapsed to date. Under the assignment of lease evaluation policy, the State is therefore entitled to 30% of the appraised purchase price of the lease, which, as noted above, was determined to be \$40,000. Thirty percent of \$40,000 is \$12,000. See lease assignment premium calculations attached as Exhibit 4-A.

#### GLS-5848

As shown in Exhibit A of Exhibit 1 attached, GLS-5848 does have vertical improvements on it consisting of a warehouse valued by the Real Property Tax Office at \$273,600. However, the lease was sold at public auction with a January 1, 2006 commencement date with the improvements, meaning the improvements

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<sup>1</sup> The policy attached as Exhibit 2 is taken from GLS-4303 and GLS-4379, which were consolidated into a single parcel governed by one lease extension document in 1998. The same policy is attached to GLS-5848 and GLS-5656.

are owned by the State and not subject to depreciation under the policy. Taking the same approach use for GLS-5656, between 18-19 years of the lease term have elapsed to date. Under the assignment of lease evaluation policy, the State is entitled to 35% of the appraised purchase price of the lease, which was determined to be \$80,000. Thirty-five percent of \$80,000 is \$28,000. See lease assignment premium calculations attached as Exhibit 4-B.

### GLS-4303 & GLS-4379

As noted above and explained in greater detail in the June 14, 2024 staff submittal (Exhibit 1), in 1995 the Board approved the consolidation of the parcels under these leases into a single parcel and approved the extension of the leases for the parcel resulting from the consolidation. Accordingly, for purposes of applying the assignment of lease evaluation policy, the leases are treated as a single lease.

For GLS-4303 and GLS-4379, the lease premises are improved with buildings constructed by BIT and its predecessors-in-interest. The County of Hawaii's records show building permits pulled for this premises beginning in 1973 (\$50,000), with substantial investments in 1977 (\$200,000), 1997 (\$689,350 for office building/conversion), and 2001 (\$1,235,900 for warehouse building).<sup>2</sup>

As explained in the June 14, 2024 staff submittal, David S. De Luz, Sr. acquired these two leases in 1978 for a recited nominal consideration of \$1. Staff therefore disregarded the improvements made before 1978 in calculating the depreciated cost of improvements but did factor in the substantial improvements made in 1997 and 2001 for office building/conversion and warehouse building in the total amount of \$1,996,547.<sup>3</sup> Applying the Honolulu construction cost index and straight-line depreciation from 2001 to present results in an adjusted depreciated cost of improvements of \$1,543,990. Subtracting that amount from the imputed purchase price of \$2,680,000 for these leases results in an excess of \$1,145,010, of which the State is entitled to a 5% share under the assignment of lease premium policy, or \$57,250. See Exhibit 4-C.

### RECOMMENDATION:

That the Board:

- A. Authorize the assessment of lease assignment premiums on the Consent to Assignment of General Lease Nos. S-4303 and S-4379; General Lease No. S-5656; and General Lease No. S-5848 from Big Island Toyota, Inc.,

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<sup>2</sup> County records show additional permits pulled over the years for the property. Staff only lists the permits that appear to be for major structural improvements here.

<sup>3</sup> Adding \$689,350 and 1,235,900 results in a total of \$1,925,250. However, staff adjusted the 1997 cost of \$689,350 for inflation to 2001 values to reach a total of \$1,996,547 in 2001 dollars.

as Assignor, to Servco Pacific Inc., in the following amounts:

GLS-4303 & GLS 4379	-	\$57,250
GLS-5848	-	\$28,000
GLS-5656	-	\$12,000
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Total Premium Assessed	-	\$97,250

and direct that the premium be paid out of escrow to the State of Hawaii, Department of Land and Natural Resources, within 30 days of the Board's action on this matter, or the consent to assignment of leases dated September 25, 2024 shall be rescinded.

- B. Acknowledge that, upon the Department's receipt of the \$97,250 lease assignment premium within the time allowed under recommendation A above, the payment condition set forth at page 4, paragraph 1 of the Consent to Assignment of General Lease Nos. S-4303 and S-4379; General Lease No. S-5656; and General Lease No. S-5848 from Big Island Toyota, Inc., as Assignor, to Servco Pacific Inc. shall be deemed fully satisfied and the rescission clause therein of no further force or effect.

Respectfully Submitted,

*Dan Gushiken*

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Dan K. Gushiken  
Land Agent

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APPROVED FOR SUBMITTAL:



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Dawn N. S. Chang, Chairperson

# EXHIBIT 1

**AMENDED**

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

June 14, 2024

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

HAWAII

Consent to Assign General Lease Nos. S-4303, S-4379, S-5656 and S-5848, Big Island Toyota, Inc., Assignor, to Servco Pacific Inc., Assignee, Waiakea House Lots Extension, Hilo, Hawaii, TMK: (3) 2-2-058:015 (GLS-4303 & GLS-4379), TMK: (3) 2-2-058:017 (GLS-5656); Waiakea House Lots, Hilo, Hawaii, TMK: (3) 2-2-037:063 (GLS-5848)

APPLICANT:

Big Island Toyota, Inc., a Hawaii corporation, as Assignor, to Servco Pacific Inc., a Hawaii corporation, as Assignee.

LEGAL REFERENCE:

Section 171-36(a)(5), Hawaii Revised Statutes, as amended.

LOCATION:

GLS-4303 & GLS-4379: Portion of Government lands of Waiakea House Lots Extension situated at Hilo, Hawaii, identified by Tax Map Key: (3) 2-2-058:015.

GLS-5656: Portion of Government lands of Waiakea House Lots Extension, Hilo, Hawaii, identified by Tax Map Key: (3) 2-2-058:017.

GLS-5848: Portion of Government lands of Waiakea House Lots, Hilo, Hawaii, identified by Tax Map Key: (3) 2-2-037:063.

\*Maps labeled Exhibit A (2 pages), attached for reference.

*as amended*  
APPROVED BY THE BOARD OF  
LAND AND NATURAL RESOURCES  
AT ITS MEETING HELD ON  
June 14, 2024 KH

**EXHIBIT 1**

AREA:

GLS-4303 & GLS-4379: 1.5037 acres (65,500 sq. ft.), more or less.

GLS-5656: 0.8953 acres (39,000 sq. ft.), more or less.

GLS-5848: 0.8953 acres (39,000 sq. ft.), 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:

GLS-4303: Industrial purposes.

GLS-4379: General industrial purposes (operation of a scrap metal yard, junk yard and similar type operation shall be prohibited).

GLS-5656: General industrial purposes.

GLS-5848: General industrial purposes.

TERM OF LEASE:

GLS-4303: Original Term: 40 years, commencing on June 11, 1970 and expiring on June 10, 2010.

Extended Term: 25 years, commencing on June 9, 2010, and expiring on June 10, 2035.

Amended & Restated Term: 65 years, commencing on June 11, 1970, and expiring June 10, 2035. The next rental reopening is set for June 10, 2030.

GLS-4379: Original Term: 37 years, commencing on June 14, 1973, and expiring on June 13, 2010.

Extended Term: 25 years, commencing on June 9, 2010, and expiring on June 10, 2035.

Amended & Restated Term: 65 years, commencing on June 11, 1970, and expiring June 10, 2035. The next rental reopening is set for June 10, 2030.

GLS-5656: 30 years, commencing on August 28, 2002, and expiring on August 27, 2032. The only rental reopening for this term was on August 28, 2017.

GLS-5848: 20 years, commencing on January 1, 2006, and expiring on December 31, 2026. The only rental reopening for this term was on January 1, 2016.

ANNUAL RENTAL:

GLS-4303: \$27,210.00 annually.

GLS-4379: \$35,870.00 annually.

GLS-5656: \$31,700.00 annually.

GLS-5848: \$33,850.00 annually.

RECOMMENDED PREMIUM:

See discussion in Remarks section.

DCCA VERIFICATION:

ASSIGNOR:

Place of business registration confirmed:	YES
Registered business name confirmed:	YES
Good standing confirmed:	YES

ASSIGNEE:

Place of business registration confirmed:	YES
Registered business name confirmed:	YES
Good standing confirmed:	YES

APPLICANT REQUIREMENTS:

Applicant Big Island Toyota, Inc. (BIT) shall be required to:

1. Pay for an independent appraisal to be procured by the State to determine the fair market value of all four of the subject leases, i.e., the amount a willing buyer would pay to a willing seller to acquire the leases and leasehold improvements thereon.
2. Deposit \$100,000 in an escrow account to be applied toward a lease assignment premium if one is determined to be due to the State in this transaction. If the premium comes out higher than \$100,000, BIT will

need to make up the difference within 30 days of the Board action assessing the premium. If the difference is not paid to the State within the time allowed, the consent to assignment of lease will be subject to rescission by the Board. If the premium is lower than \$100,000, the excess will be released to BIT.

## BACKGROUND:

### General Lease Nos. S-4303 and S-4379:

At a public auction held in 1970, GLS-4303 was awarded to the highest bidder, Kwiki Pacific, Ltd., and subsequently, assigned to Economy Motors, Inc. pursuant to the consent given by the Board of Land and Natural Resources (BLNR or Board) at its meeting of September 24, 1971 under agenda item F-1. The BLNR consented to the assignment of GL S-4303 from Economy Motors, Inc., assignor, to David S. De Luz, Sr., assignee, at its meeting dated October 13, 1978, item F-1-g. The staff submittal recites a nominal consideration of \$1.00 for this assignment.

At a public auction held in 1973, GLS-4379 was awarded to the highest bidder, Economy Motors, Inc. The BLNR subsequently consented to the assignment of GLS-4379 from Economy Motors, Inc., assignor, to David S. De Luz, Sr., assignee, at its meeting dated October 13, 1978, item F-1-g. The staff submittal recites a nominal consideration of \$1.00 for this assignment.

At its meeting of June 23, 1995, under agenda item F-10, the BLNR approved, as amended, the lessee's request to extend the terms of both leases, modifying the fixed rental periods, authorizing the consolidation of Lots 5, 6, & 7 of Block 48, Waiakea House Lots, and consenting to a mortgage covering both leased premises. The BLNR's approvals and consent to the mortgage allowed the lessee to construct a new showroom and storage facilities.

In 1996, the consolidation of Lots 5, 6, & 7 into Lot 5-A received final approval from the County of Hawaii, Planning Commission. Consequently, and for real property tax purposes, the County of Hawaii Real Property Tax Division dropped Parcel 36 (previously Lot 6 & 7; 39,000 sq. ft.), which was the parcel previously identified with GLS-4379, into Parcel 15 (previously Lot 5; 26,500 sq. ft.), which is the parcel identified with GLS-4303. As a result, Parcel 15 (currently Lot 5A; 65,500 sq. ft.) includes both leases, GLS-4303 and GLS-4379.

At its meeting of August 10, 2001, item D-18, the BLNR approved the amendment and restatement of GLS-4303 and GLS-4379, David S. De Luz, Sr., as Lessee, to reflect the consolidated parcels, among other things. Hence, GLS-4303 and GLS-4379 have a combined annual rent that covers a single property identified by both leases. The property has been, and will continue to be, used as the sales/administration and parts/service buildings of the Toyota dealership business operating on the property.

General Lease No. S-5656:

At its meeting of May 23, 1997, item D-14, the BLNR approved the sale of thirty-year lease at public auction for industrial purposes under GLS-5656, situate at Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-2-058:017.

On August 1, 1997, using the Direct Sales Comparison approach, staff appraiser set the upset annual rent at \$16,000.00.

At public auction on August 28, 2002, GLS-5656 was sold to Big Island Toyota, Inc. for the successful bid of \$16,000.00 per annum. On August 28, 2017, the annual rent was reopened at \$31,700.00 per annum.

General Lease No. S-5848:

At its meeting of November 19, 2004, Item D-16, the BLNR approved the sale of a twenty-year lease at public auction for general industrial purposes under GLS-5848. It was sold to successful bidder, David S. De Luz Sr., Trustee of the David S. De Luz Sr. Trust, commencing on January 1, 2006, and expiring December 31, 2026. The annual rent was reopened on January 1, 2016 at \$33,850.00 per annum.

General Lease Nos. S-4303, S-4379, & S-5848:

At its meeting of December 11, 2015, item D-4, the BLNR consented to the assignment of GLS-4303 and GLS-4379, from David S. De Luz Sr., also known as David De Luz, as Assignor, and GLS-5848, David S. De Luz Sr., Trustee of the David S. De Luz Sr. Revocable Trust dated October 23, 1991 (De Luz Trust), as amended, as Assignor, to Big Island Toyota, Inc. (BIT), as Assignee. The reason for the assignment was to change the name of these three leases to BIT, a single corporate entity, rather than having some of the leases in the name of a person or Trust.<sup>1</sup> Requesting consent to assignment of the leases was the only way to accomplish the desired change in title. BIT is a De Luz family-owned and operated business. David S. De Luz Sr., De Luz Trust and BIT are an affiliated individual, trust, and corporation, respectively. The 2015 assignment was essentially intended to consolidate ownership of the leases in a single family corporation, and as such, there was no consideration exchanged among the parties and no premium charged for the assignments.

Although the Board approved the transfer of GLS-4303, GLS-4379, and GLS-5848, the consent documents have not been finalized to date. Staff is currently working with the Department of the Attorney General to complete the documentation.

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<sup>1</sup> The fourth lease referenced in this submittal, GLS-5656, was already in the name of BIT, who was the successful bidder at auction.

## REMARKS

The present request for consent to assign GLS-4303, GLS-4379, GLS-5656 and GLS-5848 is in connection with BIT's agreement to sell its dealership to Servco Pacific Inc. (Servco) on terms and conditions set forth in the Asset Purchase Agreement dated October 21, 2022, as amended by First, Second, Third, and Fourth Amendments (APA).

Servco, founded in 1919, is Hawaii's largest private company with operations in the United States and Australia. Servco owns a diverse group of automotive businesses including exclusive distributorships of Toyota, Lexus, and Subaru in Hawaii. Servco is one of the top 30 largest automotive dealer groups based in the U.S. Servco is also an active investor in venture capital, owning majority shares in Fender Musical Instruments Corporation, the world's largest electric guitar, bass, and amplifier company.

Servco intends to continue the subject leases as a Toyota auto dealership, aiming to uphold the established reputation of the business and preserve existing relationships with current employees, customers, and vendors.

BIT is currently compliant with all terms & conditions of the three subject leases and has not had a lease, permit, easement or other disposition terminated within the last five years due to non-compliance with such terms and conditions.

### Lease Assignment Premium Analysis:

As originally issued at public auction in the early 1970s, GLS-4303 and GLS-4379 did not include a lease assignment premium provision. But when the Board approved the consolidation and extension of those leases in 1995, the Department of the Attorney General updated the extended and consolidated lease document to include the lease assignment premium provision and other standard lease conditions in use at the time. With respect to GLS-5656 and GLS-5848, those leases were issued more recently and included the lease assignment premium provision as originally sold at public auction. Accordingly, the lease assignment premium analysis needs to be conducted for all four leases.

Unfortunately, staff does not have enough information to conduct a proper analysis. The parties' APA provides that the total purchase price for the transaction, which includes assets other than the State leases, will be the total of the following:

1. Goodwill (per the parties, this is the Toyota franchise value):  
\$42,500,000;
2. Fixed Assets and Leasehold Improvements – an amount equal

- to their depreciated net book value not to exceed \$1,057,711;<sup>2</sup>
3. Parts Inventory – at Big Island Toyota’s cost;
  4. New Vehicle Inventory – at Big Island Toyota’s cost; and
  5. Used Vehicle Inventory – mutually agreed price for each vehicle.

The parties assigned no separate purchase price to the leases themselves. The table below shows the depreciated net book value assigned to the leasehold improvements and fixed assets in BIT’s applications to the Department for consent to assignment of the leases:

Lease No.	Parties’ Depreciated Net Book Value	Tax Assessed Value
GLS-4303 & GLS-4379	\$403,926	Land: \$1,186,900 Building: \$2,889,400 Total: \$4,076,300
GLS-5656	\$41,592	Land: \$706,700 Building: \$0 Total: \$706,700
GLS-5848	\$8,727	Land: \$706,700 Building: \$273,600 Total: \$980,300
Totals:	\$454,245	\$5,763,300

The leases have between 2½ - 11 years remaining on their terms, so staff would not expect the leases to sell at tax assessed value in an open market.<sup>3</sup> However, staff would expect a willing buyer to pay more than the depreciated net book values the parties have set in their APA.<sup>4</sup>

For sake of comparison, the Board recently consented to the assignment of another lease in the Kanoiehua Industrial Area of Hilo at its meeting of April 12, 2024, Item D-1. In that case, Hawaiian Fresh Products, Inc. (HFP) sold a lease with a land area of 24,200 sf improved with a warehouse and office and expiring

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2 The tax consequences of assigning the depreciated net book value of improvements as the sales price for the lease would likely result in zero (\$0) gain and likewise no taxes owed.

3 Although the leases are eligible for an extension under Act 149 Session Laws of Hawaii 2018 (Act 149), staff has not received an extension application to date.

4 In its application for consent to assignment, BIT states that even if the amount paid for the leases exceeded the depreciated cost of improvements in the manner calculated in the lease assignment premium policy attached to the lease, the State would not be entitled to a premium as to GLS-4303 and GLS-4379 because more than 50 years have run on those leases since their issuance in the early 1970s. But because of the 1978 assignment, the count starts from that year resulting in at least small percentage of any excess potentially due to the State.

in October 2027 to Hilo Products, Inc. (HPI) for \$445,000, or about \$18.39/sf. The BIT leases have a combined area of 143,500 sf with improvements on the premises of GLS-4303, GLS-4379 and GLS-5848. Using the same per-square-foot purchase price from the HFP/HPI transaction, the market value of the subject leases with improvements could be as much as \$2,638,965 or even higher because the BIT leases generally have longer terms remaining on them.

While the mathematical analysis in the preceding example is admittedly oversimplified, appraisers do refer to comparable sales when determining fair market value. To assist staff in completing the lease assignment premium, staff is including an applicant requirement above that BIT pay for an independent appraisal to be procured by the State to determine what a willing buyer would pay to a willing seller for BIT's leasehold interest under the subject leases.<sup>5</sup>

Staff additionally asked BIT for the actual sales price paid when De Luz acquired GLS-4303 and GLS-4379 in 1978. This information is relevant under the lease assignment premium policy, which resets the percentage share due to the State upon each assignment. The consideration paid for the previous assignment becomes the basis for calculating the premium due, if any.<sup>6</sup> However, BIT does not have information on the 1978 transaction and is willing to stipulate to \$1 per lease for GLS-4303 and GLS-4379 as recited in the staff submittal from 1978. Once staff has the appraisal reports mentioned above, staff will conduct the lease assignment premium analysis called for under the leases using \$1 per lease for GLS-4303 and GLS-4379 as the basis.

Staff normally prepares a complete lease assignment premium analysis for presentation to the Board prior to recommending consent to assignment. In this case, however, BIT and Servco have indicated they need to close this transaction by July 1, 2024. Accordingly, staff is willing to make a recommendation for consent now provided that BIT satisfy the appraisal requirement as noted above and additionally agree to deposit \$100,000 in escrow to be applied toward a lease assignment premium if one is determined to be due to the State in this transaction. If the premium comes out higher than \$100,000, BIT will need to make up the difference within 30 days of the Board action assessing the premium. If the difference is not paid to the State within the time allowed, the consent to assignment of lease will be subject to rescission by the Board. If the premium assessed is lower than \$100,000, the excess will be

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<sup>5</sup> Staff believes that requiring BIT to pay for an appraisal of the fair market value of the leases is a reasonable condition of consenting to the assignment.

<sup>6</sup> Alternatively, the lease assignment premium policy also contemplates that the date of construction of the improvements can be used as the base year for purposes of calculating whether a premium is due to the State, which may be appropriate in this case where the improvements were constructed after the 1978 assignment. Staff will likely run calculations under both alternatives for the Board's review when staff returns with a recommendation on this matter.

released to BIT.

Finally, the parties have informed staff that, in the event the Board consents to the assignment, Servco will need to take possession of the leases as of July 1, 2024, which should be after the Board consent but will likely be prior to the time the Department of the Attorney General prepares the formal consent instrument for execution by BIT and the Chairperson. Staff has no objection to Servco taking possession as of July 1, 2024 provided that BIT satisfies the applicant requirements above.

RECOMMENDATION:

That the Board, subject to the Applicant Big Island Toyota, Inc. fulfilling the Applicant Requirements above, consent to the assignment of General Lease Nos. S-4303, S-4379, S-5656 and S-5848 from Big Island Toyota, Inc., as Assignor, to Servco Pacific Inc., as Assignee, subject to the following:

1. The standard terms and conditions of the most current consent to assignment form, as may be amended from time to time; provided, however that the consent shall additionally require Big Island Toyota, Inc. to:
  - a. Pay for an independent appraisal to be procured by the State to determine the fair market value of all four of the subject leases, i.e., the amount a willing buyer would pay to a willing seller to acquire the leases and leasehold improvements thereon; and
  - b. Deposit \$100,000 in escrow to be applied toward a lease assignment premium if one is determined to be due to the State as part of the assignment. If the premium is determined to be higher than \$100,000, Big Island Toyota, Inc. shall make up the difference within 30 days of the Board action assessing the premium. If the difference is not paid to the State within the time allowed, the consent to assignment of lease shall be subject to rescission by the Board. If the premium assessed is lower than \$100,000, the excess shall be released to Big Island Toyota, Inc.
2. Review and approval by the Department of the Attorney General; and

June 14, 2024

3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

*Dan Gushiken*

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Dan K. Gushiken  
Land Agent

APPROVED FOR SUBMITTAL:



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Dawn N. S. Chang, Chairperson

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*km*

*RT*

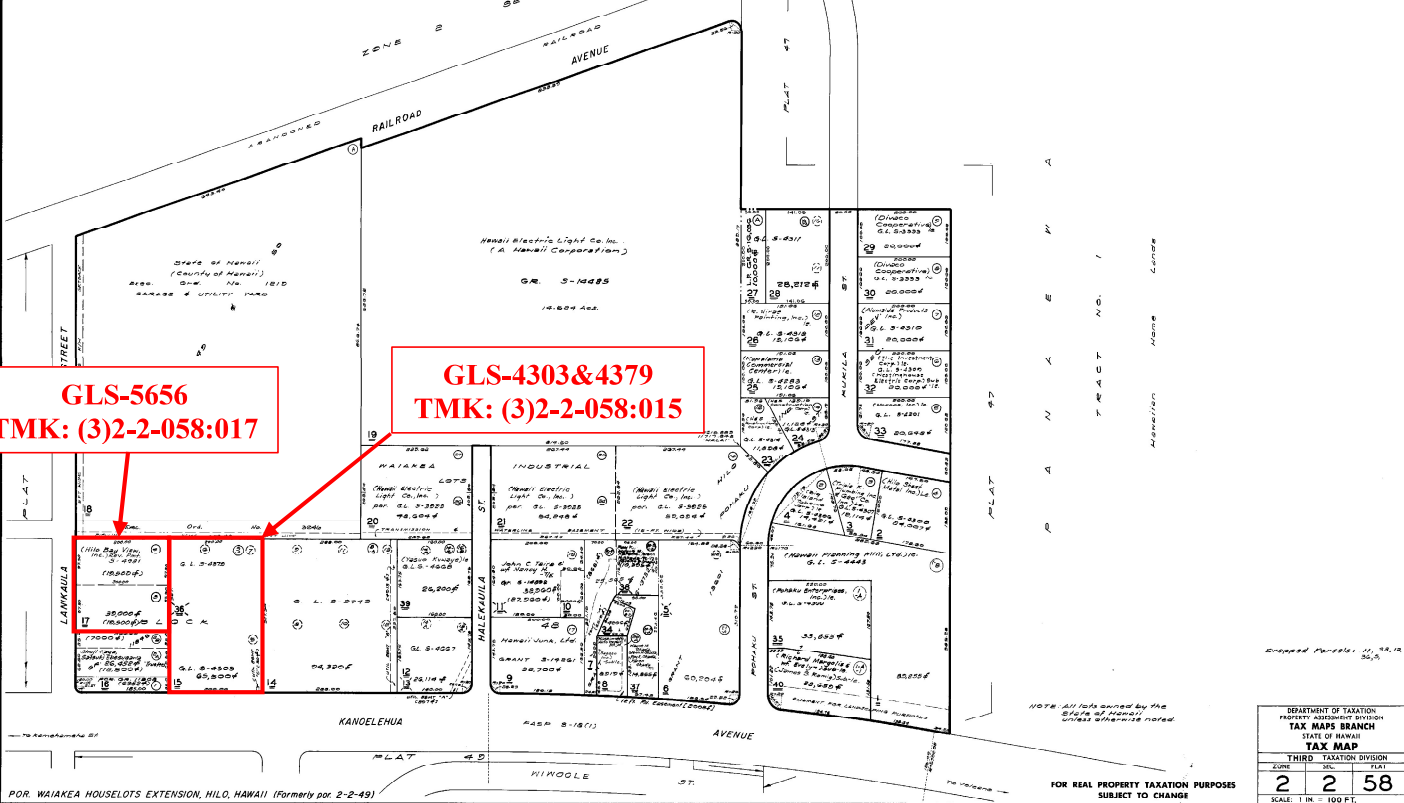
Land Board Meeting: June 14, 2024; D-2 Approved as amended.

**Approved as amended.** The Board approved the consent but amended paragraph 1b. of the Recommendation section increasing the deposit into escrow to pay for the assignment premium from \$100,000.00 to \$400,000.00.

# Exhibit A (TMK)

**GLS-5656  
TMK: (3)2-2-058:017**

**GLS-4303&4379  
TMK: (3)2-2-058:015**



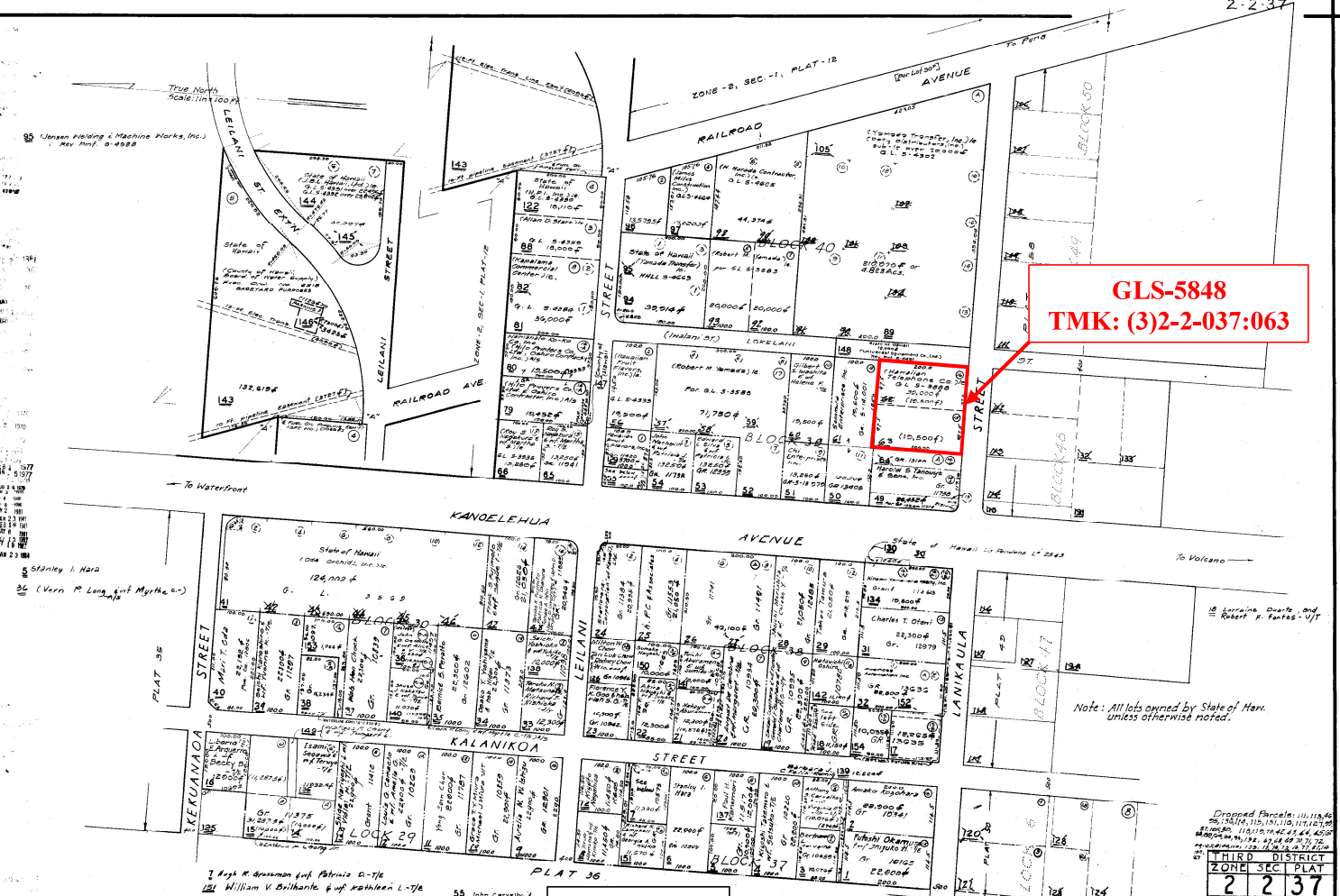
DEPARTMENT OF TAXATION  
PROPERTY ASSESSMENT DIVISION  
TAX MAPS BRANCH  
STATE OF HAWAII  
TAX MAP

THIRD TAXATION DIVISION		
ZONE	SEC	PLAT
2	2	58

SCALE: 1 IN. = 100 FT.

2-2-37

**GLS-5848  
TMK: (3)2-2-037:063**



Dropped Parcels: 11, 113, 46, 55, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200

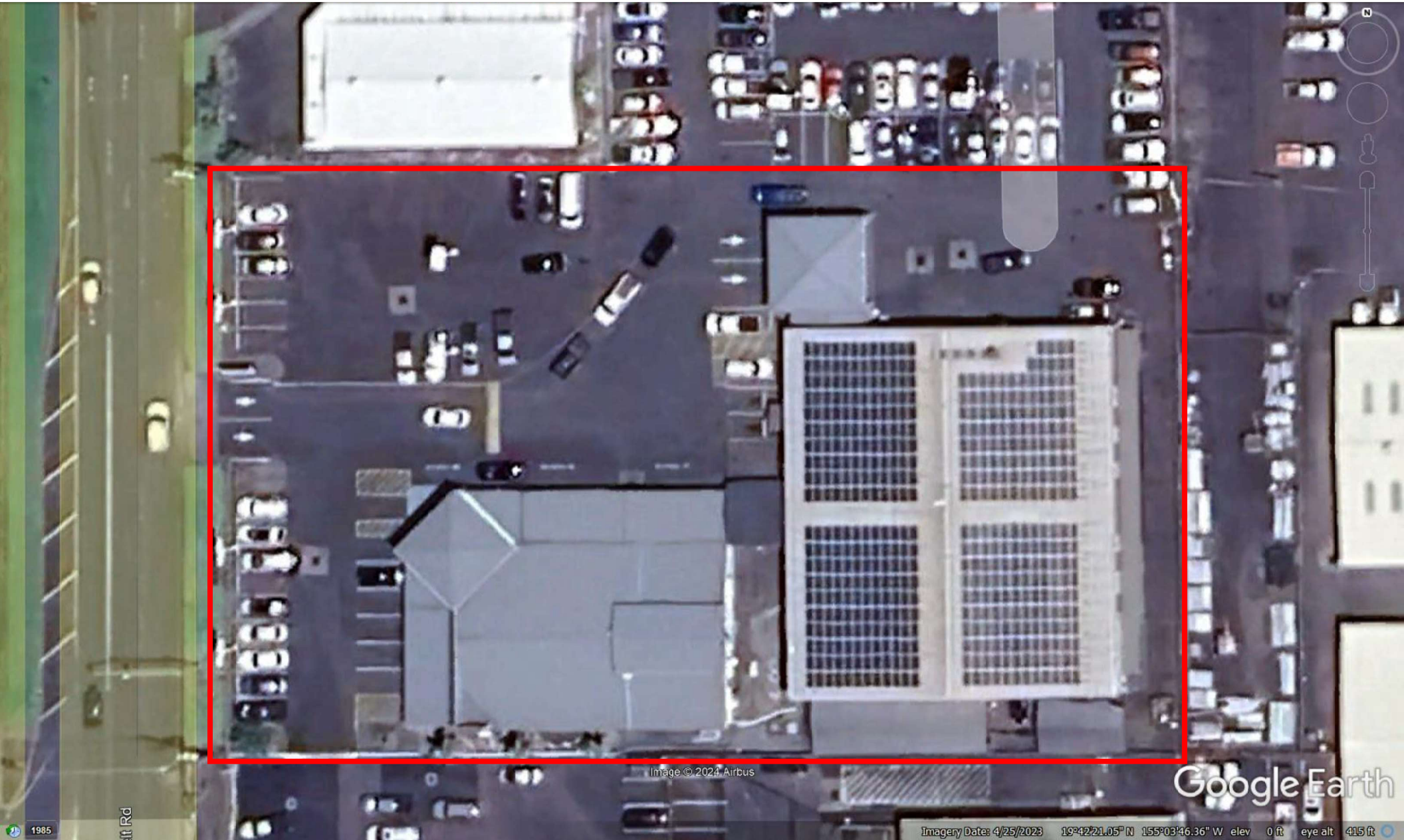
THIRD DISTRICT		
ZONE	SEC	PLAT
2	2	37

CONTAINING PARCELS  
Scale: 1 in. = 100 ft.

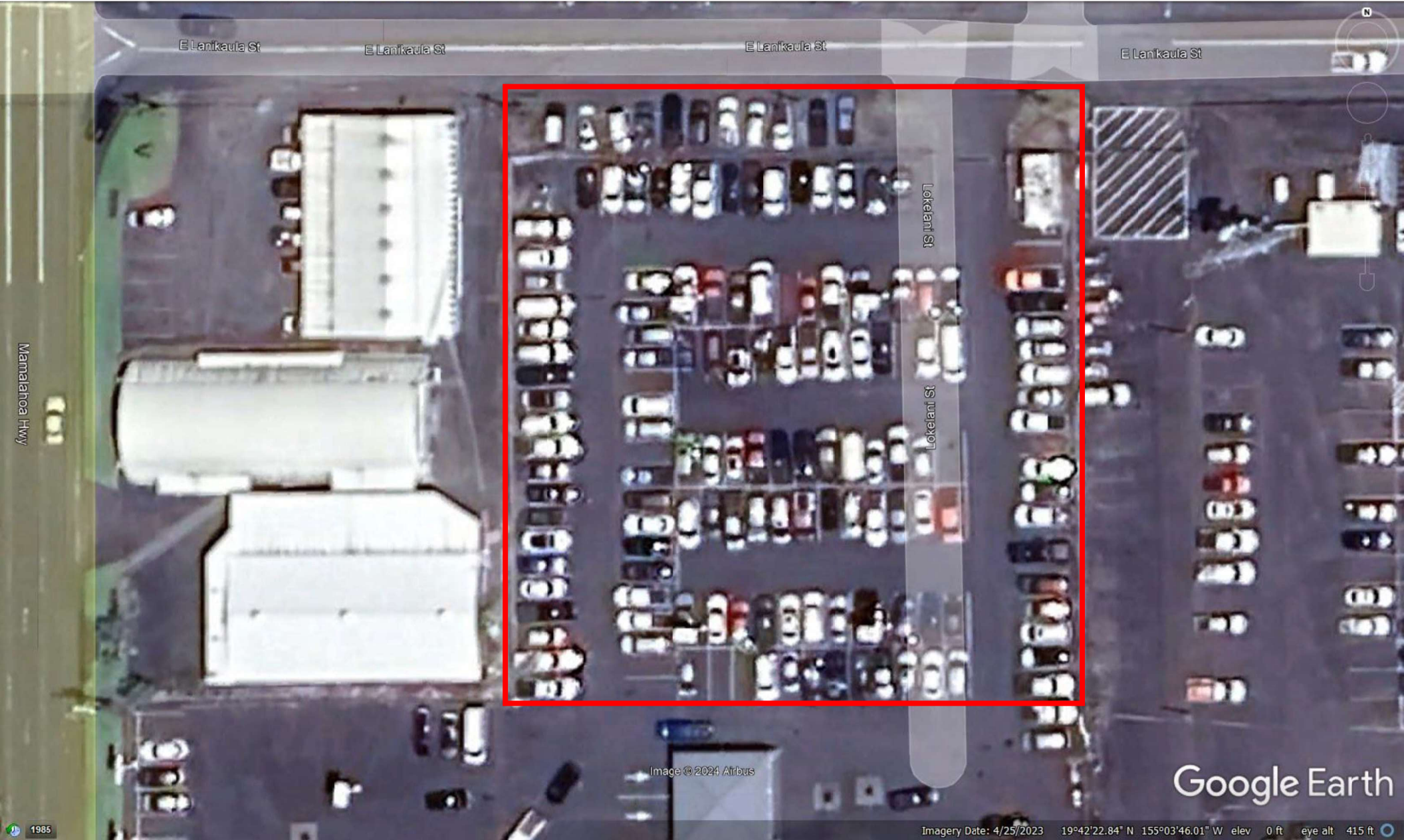
# Exhibit A (Aerial View)



**GLS-4303 & GLS-4379**  
**TMK: (3) 2-2-058:015**



**GLS-5656**  
**TMK: (3) 2-2-058:017**



**GLS-5848**  
**TMK: (3) 2-2-037:063**



**Exhibit A**  
**(Photos)**

**GLs S-4303 & S-4379**  
**TMK: (3) 2-2-058:015**  
**Sales/Admin and Parts/Service Center**



**GLS-5656  
TMK: (3) 2-2-058:015  
Service Department Parking**



**GLS-5848**  
**TMK: (3) 2-2-037:063**  
**Car Care Center**



# EXHIBIT 2



recorded in the State of Hawaii, Bureau of Conveyances in Liber 13477 and page 732, consent thereto given by the State of Hawaii, Board of Land and Natural Resources by instrument executed November 21, 1978, recorded aforesaid in Liber 13477 Page 736; and

WHEREAS, both General Lease No. S-4303 and General Lease No. S-4379 were extended by that certain unrecorded Extension of General Lease Nos. S-4303 and S-4379 dated June 9, 1998; and

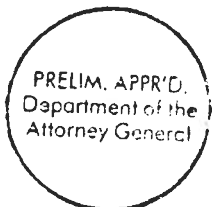
WHEREAS, General Lease No. S-4303 and General Lease No. S-4379 were amended by that certain unrecorded Amendment of General Lease Nos. S-4303 and S-4379 dated October 25, 2000; and

WHEREAS, General Lease No. S-4303 and General Lease No. S-4379 were further amended and restated by that certain Amendment and Restatement of General Lease Nos. S-4303 and S-4379 dated January 9, 2002, and recorded aforesaid as Doc. No. 2002-024967 ("Amendment and Restatement"), and to which the lots under General Lease No. S-4303 and General Lease No. S-4379 were consolidated and is now known as "WAIAKEA INDUSTRIAL LOTS, LOT B, BLOCK 48"; and

WHEREAS, by that certain Assignment of Lease dated \_\_\_\_\_, recorded aforesaid as Document No. \_\_\_\_\_, General Lease No. S-4303 and General Lease No. S-4379 were assigned to Big Island Toyota, Inc., a Hawaii corporation, consent thereto given by the State of Hawaii, by instrument executed \_\_\_\_\_, and recorded aforesaid as Document No. \_\_\_\_\_.

2. WHEREAS, Lessor under General Lease No. S-5656 dated October 21, 2002, leased to Big Island Toyota, Inc., a Hawaii corporation, as "Lessee," recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2005-150268.

3. WHEREAS, Lessor under unrecorded General Lease No. S-5848 dated February 24, 2006, leased to DAVID S. DE LUZ, SR., Trustee of the David De Luz, Sr. Revocable Trust, dated October 23, 1991, as amended, and vested to DAVID S. DE LUZ, JR., JAN DE LUZ, WAYNE K. DE LUZ, and JACQUELINE DE LUZ WATANABE, as Successor Co-Trustees of the David De Luz, Sr. Revocable Trust, established by Trust Agreement dated October 23, 1991, as amended and restated, pursuant to the Vesting Order



electronically filed in the Third Circuit Court, State of Hawaii in 1TR18100003 on January 9, 2020, and recorded in the Bureau of Conveyances as document no. A-74080263, with full powers to sell, mortgage, lease or otherwise deal with the property, as "Lessee," and assigned to Big Island Toyota, Inc. by that certain Assignment of Lease effective \_\_\_\_\_, and recorded in the Bureau of Conveyances of the State of Hawaii as Document No. \_\_\_\_\_, consent thereto given by the State of Hawaii, Bureau of Conveyances as Document No. \_\_\_\_\_.

NOW THEREFORE, CONSENT is hereby given by the STATE OF HAWAII, by its Board of Land and Natural Resources, Lessor under General Lease No. S-4303, General Lease No. S-4379, General Lease No. S-5656, and General Lease No. S-5848 (hereinafter sometimes collectively referred to as the "Leases") to the assignment of Leases from BIG ISLAND TOYOTA, INC., a Hawaii corporation, (hereinafter collectively referred to as the "Assignor" under the Leases) as follows:

A. Assignment of Lease dated \_\_\_\_\_, 20\_\_\_\_, and recorded in the Bureau of Conveyances of the State of Hawaii as Document No. \_\_\_\_\_, from BIG ISLAND TOYOTA, INC., a Hawaii corporation, whose address is 811 Kanoelehua Avenue, Hilo, Hawaii 96720, as "Assignor," to SERVCO PACIFIC INC., a Hawaii corporation, whose address is P.O. Box 2788, Honolulu, Hawaii 96803, as "Assignee";

B. Assignment of Lease effective \_\_\_\_\_, 20\_\_\_\_, and recorded in the Bureau of Conveyances of the State of Hawaii as Document No. \_\_\_\_\_, from BIG ISLAND TOYOTA, INC., a Hawaii corporation, whose address is 811 Kanoelehua Avenue, Hilo, Hawaii 96720, as "Assignor," to SERVCO PACIFIC INC., a Hawaii corporation, whose address is P.O. Box 2788, Honolulu, Hawaii 96803, as "Assignee"; and

C. Assignment of Lease effective \_\_\_\_\_, 20\_\_\_\_, and recorded in the Bureau of Conveyances of the State of Hawaii as Document No. \_\_\_\_\_, from BIG ISLAND TOYOTA, INC., a Hawaii corporation, whose address is 811 Kanoelehua Avenue, Hilo, Hawaii 96720, as "Assignor," to SERVCO PACIFIC INC., a Hawaii corporation, whose address is P.O. Box 2788, Honolulu, Hawaii 96803, as "Assignee";

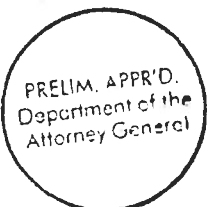


SUBJECT, HOWEVER, to:

1. The consents to assignments of General Lease Nos. S-4303, S-4379, S-5656, and S-5848 are subject to the Assignment of Lease Evaluation Policy ("Policy") adopted by the Board of Land and Natural Resources on December 15, 1989 and attached to Amendment and Restatement as Exhibit A, the application of which determines whether a payment of an assignment premium is due upon the assignment of the Leases. The Board of Land and Natural Resources requires an independent appraisal of fair market value of the leases, i.e., the amount a willing buyer would pay to a willing seller to acquire the Leases and leasehold improvements thereon, in order to properly apply the Policy. Pending the completion of the independent appraisal and calculations under the Policy, Assignor shall deposit into escrow FOUR HUNDRED THOUSAND AND NO/100 DOLLARS (\$400,000.00) to be applied toward the lease assignment premium if one is determined to be due to the State of Hawaii. The parties acknowledge and agree that Assignor deposited the required amount with Title Guaranty Escrow Services, Inc. on August 23, 2024 under Escrow No. 2117322419501. If the assignment premium due to the State of Hawaii is determined to be higher than \$400,000, the Assignor shall pay the difference to the Department of Land and Natural Resources no later than thirty (30) days after the Board of Land and Natural Resources' action assessing the premium. If the difference is not paid within such thirty (30) days, the consents to assignments of the General Lease Nos. S-4303, S-4379, S-5656, and S-5848 are subject to rescission. If the assignment premium is lower than \$400,000.00 the balance of said funds will be released pursuant to the terms of the escrow agreement.

2. The provisions of Section 171-21, Hawaii Revised Statutes, as amended, relating to the rights of holder of security interest.

IT IS UNDERSTOOD that except as provided herein, should there be any conflict between the terms of the Leases and the terms of the assignment, the former shall control; and further, that except as provided herein, this consent shall not in any manner be construed as varying in any respect the terms and conditions of the Leases; and also that no further assignment of any interest under the Leases shall be made without the written consent of the Board of Land and Natural Resources being first obtained and endorsed thereon.




FURTHERMORE, Assignor hereby acknowledges that the Lessor's consent to assignment of the Leases, does not release the Assignor from any and all responsibilities, obligations, liabilities, and claims respecting or arising under or out of said Leases.

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 25<sup>th</sup> day of September, 2024.

STATE OF HAWAII

Approved as amended by the Board of Land and Natural Resources at its meeting held on June 14, 2024.

By   
DAWN N.S. CHANG  
Chairperson  
Board of Land and Natural Resources

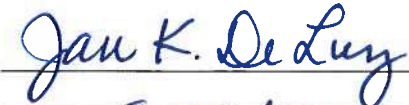
APPROVED AS TO FORM:

LESSOR

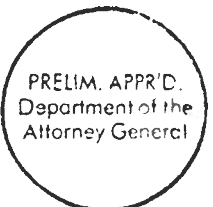
  
CINDY YOUNG  
Deputy Attorney General

Dated: August 29, 2024

BIG ISLAND TOYOTA, INC., a Hawaii Corporation

By   
Its Secretary

ASSIGNOR

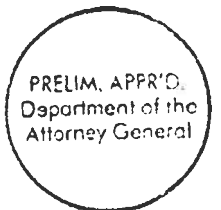


STATE OF HAWAII )  
 ) SS.  
COUNTY OF HAWAII )

On this 06 day of SEPTEMBER, 2024,  
before me appeared JAN DELUZ,  
to me personally known, who, being by me duly sworn, did say  
that he/she is the SECRETARY, of BIG ISLAND  
TOYOTA, INC., a Hawaii corporation, and that the foregoing  
instrument was signed in behalf of said corporation by authority  
of its Board of Directors, and the said JAN DELUZ  
acknowledged said instrument to be the free act and deed of said  
corporation.



[Signature]  
Notary Public, State of Hawaii  
KELSON MINAMOTO  
My commission expires: SEPT. 28, 2025



# EXHIBIT 3

ASSIGNMENT OF LEASE EVALUATION POLICY

1. Enabling Statute.

Act 104, effective May 24, 1989, amended Chapter 171-36(a)(5) to read in part:

"... provided further that prior to the approval of any assignment of lease, the board shall have the right to review and approve the consideration to be paid by the assignee and may condition its consent to the assignment of the lease on payment by the lessee of a premium based on the amount by which the consideration for the assignment, whether by cash, credit, or otherwise, exceeds the depreciated cost of improvements and trade fixtures being transferred to the assignee;" (revision underlined)

2. Qualifying Leases.

This policy shall be applicable to the subject lease.

3. Prior Approval.

Prior to giving its consent to an assignment, DLNR must receive (i) the name, legal composition and address of any proposed assignee, (ii) a complete copy of the purchase agreement and the proposed assignment agreement, including the total consideration to be paid by the assignee for the assignment whether by cash, credit or otherwise, and (iii) the best available financial statement or balance sheet no older than 1 year prior to date of purchase agreement of the proposed assignee or any other such statement, audited or certified as correct by a financial officer of the proposed assignee.

Assignments of lease shall not be entered into until the Attorney General has reviewed the proposed assignment and the Land Board have given their approval. Such assignments shall be entertained only if they meet the criteria set forth in Section 171-36(a)(5), HRS.

4. Qualifications of Assignee.

If qualification was required of a lessee as a pre-condition of the lease, the prospective assignee must also be qualified to assume the lease.

5. Consideration to be Paid.

Prior to review by the Attorney General and approval by the Land Board, the lessee (assignor) must present with written evidence of the consideration to be paid by the assignee and any other cost data that the state may require.

6. Payment of Premium.

The act permits the state to receive from the lessee (assignor) a premium based on the amount by which the consideration for the assignment, whether by cash, credit, or otherwise, exceeds the depreciated cost of improvements and trade fixtures being transferred to the assignee. The value of the inventory of merchandise and any other tangible assets in the sale of a business shall be deducted from the consideration paid. The appropriate cost index is then applied to determine the adjusted depreciated cost.

All lessees shall be required to furnish the state with the actual costs of construction of all improvements and renovations within 30 calendar days after its completion as well as the purchase costs of all trade fixtures acquired for the lessee's operation on the premises within 30 calendar days after their purchase. Lessees shall be required to furnish evidence of the actual costs by copy of the construction contract, receipts or otherwise. Lessees shall also be required to furnish an inventory of all personal property placed on the premises. Records of all costs incurred by the lessee for construction of improvements or renovations as well as trade fixtures submitted by the lessee shall be maintained in the lease file and shall include the Construction Cost Index for Apartments, Hotels, Office Buildings (CCI) and the Honolulu Consumer Price Index for All Urban Consumers (CPI) as published by the U.S. Department of Labor, Bureau of Labor Statistics for the year construction is completed.

The replacement cost for improvements or renovations is calculated by using the CCI for the evaluation year divided by the CCI for the year in which the improvements or renovations were completed (base year). The result is then multiplied by the original cost of the improvements or renovations. For trade fixtures, the cost is similarly calculated by using the CPI for the purchase year (base year) and the evaluation year.

Depreciation of improvements and trade fixtures will be determined on a straight line basis. Depreciation of improvements or renovations will be determined in the same proportion that the expired term of the improvements or renovations bear to the whole term. The whole term will be from the date the construction of the improvements or renovations are completed until the termination date of the lease. Depreciation of trade fixtures will be determined in the same manner, except that the whole term will be the anticipated life of the trade fixture.

The premium will be a maximum of 50% of the excess. The percentage will decrease by 5% after every 5 years of the term has elapsed in accordance with Schedule C. The sliding scale will encourage long term occupancy and prevent speculation as well as recognize the investment, effort, and risk of the lessee.

In cases where the lessee is unable to furnish the Department of Land and Natural Resources with evidence of the actual cost of construction of improvements because the lessee has performed the work itself, the State may determine the cost or the lessee shall have the option of paying for an appraiser, to be selected by the Department of Land and Natural Resources, to determine what the improvements would have cost if the labor had been performed by a third party rather than the lessee. The lessee shall exercise its option by giving written notice to the lessor within thirty (30) calendar days after completion of construction of the improvements. If the lessee fails to exercise its option within this period, the lessor shall have the right to determine the cost of the improvements.

Schedule D attached provides a typical example of the evaluation calculations using Schedule A to calculate the replacement cost for improvements or renovations and depreciation, Schedule B to calculate the cost and depreciation for trade fixtures, and Schedule C to obtain the premium percentage.

7. Non-qualifying Deductions.

The statute only recognizes tangible items. Intangibles such as "goodwill", business name recognition, etc., are not deductible.

8. Subsequent Assignments.

If the consideration for any subsequent assignment includes the purchase of existing tenant owned

improvements, the evaluation will be conducted in a similar manner as the first assignment. An example is shown on Schedule E.

Using Schedule E, the consideration the assignor paid less included inventory and any premiums will be used to obtain the adjusted depreciated cost of improvements and trade fixtures. Also, the Base Year is redefined to be the date the assignor received the Consent of the Board to occupy the premises. The holding period (redefined Base Year to assignment date), or actual occupancy of the assignor, is used in place of the "expired term" when calculating depreciation. Depreciation will be calculated by dividing the holding period by the whole term of the lease (The whole term will remain unchanged).

The change in the CCI will be reflected by comparing the CCI for the redefined base year to the most current CCI.

The holding period will be the basis for determining the appropriate premium percentage. Subtracting the included inventory and any premiums from the consideration the assignor paid will result in a reassessment of the market value of the improvements. If additional improvements were constructed by the assignor, they will be treated in the same manner as improvements constructed by an original lessee.

The excess of subtracting the adjusted depreciated consideration the assignor paid and the adjusted depreciated cost of additional improvements, if any, from the consideration the assignor received will be used against the appropriate premium percentage to determine the amount payable to the state.

9. Rights of Holders of Security Interest-Agricultural Leases only.

In the event of foreclosure or sale, the premium, if any, shall be assessed only after the encumbrances of record and any other advances made by the holder of a security interest are paid.

10. When state-owned improvements are included in the leased premises, improvement renovation requirements shall be recognized as being tenant-owned improvements for evaluation in the policy.

In other words, the total expenditure of the lessee to fulfill the requirement would be treated as though a new improvement was constructed.

SCHEDULE A. Adjusted Depreciated Cost of Improvements or Renovations

1. Adjusted Cost of Improvements or Renovations.

Multiply the actual cost of the improvements or renovations by the most recent U.S. Construction Cost Index for Apartments, Hotels, Office Buildings (CCI)\* and divide the result by the CCI of the year construction was completed (base year) to get the adjusted cost of improvements or renovations.

2. Depreciation

Determine the depreciation percentage on a straight-line basis by dividing the expired term of the improvements or renovations by the whole term of the improvements or renovations, the whole term beginning on the date the improvements or renovations are completed to the expiration date of the lease. Multiply the adjusted cost of the improvements or renovations by the depreciation percentage to determine the depreciation.

3. Depreciated Cost of Improvements or Renovations

Subtract the depreciation from the adjusted cost of improvements or renovations. The balance is the depreciated cost of improvements or renovations.

\*As published by the U.S. Department of Labor, Bureau of Labor Statistics

Example

	Actual cost:	\$500,000
	CCI (most recent):	121.1
	CCI (base year):	102.3
1. Adjusted Cost of Improvements or Renovations	Expired term:	57 mos.
	Whole term:	408 mos.

Actual Cost X  $\frac{\text{CCI (most recent)}}{\text{CCI (base year)}}$

$$\$500,000 \times \frac{121.1}{102.3} = \$591,887$$

2. Depreciation

$$\$591,887 \times \frac{57 \text{ mos.}}{408 \text{ mos.}} = \$82,690$$

3. Adjusted Depreciated Cost of Improvements or Renovations

$$\$591,887 - \$82,690 = \underline{\$509,197}$$

SCHEDULE B. Adjusted Depreciated Cost of Trade Fixtures

1. Adjusted Cost of Trade Fixture.

Multiply the actual cost of the trade fixture by the most recent Honolulu Consumer Price Index for All Urban Consumers (CPI)\* and divide the result by the CPI of the year in which the purchase was made (base year).

2. Depreciation.

Determine the depreciation percentage on a straight-line basis by dividing the expired term of the trade fixture by its anticipated life. Multiply the adjusted cost of the trade fixture by the depreciation percentage to determine the depreciation.

3. Depreciated Cost of Trade Fixtures.

Subtract the depreciation from the adjusted cost of the trade fixture. The balance is the depreciated cost of the trade fixture.

\*As published by the U.S. Department of Labor, Bureau of labor Statistics

Refrigerator

Example

	Actual cost:	\$1,510
	CPI (most recent):	118.1
	CPI (base year):	104.6
1. Adjusted Cost of Trade Fixture	Expired term:	57 mos.
	Whole term:	96 mos.
	(Anticipated life)	

$$\text{Actual Cost} \times \frac{\text{CPI (most recent)}}{\text{CPI (base year)}}$$

$$\$1,510 \times \frac{118.1}{104.6} = \$1,705$$

2. Depreciation

$$\$1,705 \times \frac{57 \text{ mos.}}{96 \text{ mos.}} = \$1,012$$

3. Adjusted Depreciated Cost of Trade Fixture

$$\$1,705 - \$1,012 = \$ 693$$

SCHEDULE C. Premium Percentages

1. For the first 5 years, the premium is 50% of the amount by which the consideration for the assignment, whether by cash, credit, or otherwise, exceeds the depreciated cost of improvements and trade fixtures being transferred to the assignee. The percentage will decrease by 5% after every 5 years of the total term has elapsed.

<u>Years</u>	<u>Percentage</u>
1 - 5	50%
6 - 10	45%
11 - 15	40%
16 - 20	35%
21 - 25	30%
26 - 30	25%
31 - 35	20%
36 - 40	15%
41 - 45	10%
46 - 50	5%
51 -	0%

As an example, if a 55 year lease was assigned after 57 months, the premium percentage would be 50%. If the assignment occurs after 130 months (10+ years), the percentage would be 40%.

2. The Board of Land and Natural Resources may impose a ten percent (10%) surcharge if the assignor has not performed lease covenants to improve or use the property.

SCHEDULE D. Assignment of Lease Calculations

1. Subtract from the consideration for the assignment that amount, if any, that is attributable to inventory.
2. Calculate the Adjusted Depreciated Cost of Improvements or Renovations (see Schedule A).
3. Calculate the Adjusted Depreciated Cost of Trade Fixtures (see Schedule B).
4. Calculate the amount by which the consideration for the assignment, whether by cash, credit, or otherwise, exceeds the depreciated cost of improvements and trade fixtures being transferred to the assignee by subtracting the amounts derived by no. 2 and 3 from the amount in no. 1 above.
5. Determine the appropriate premium percentage (see Schedule C). Multiply by the excess, if any, derived by no. 4.

Example

A lease is being assigned 57 months after completion of the improvements at a consideration of \$600,000.

The initial cost of the improvements was \$500,000 while the current year CCI and base year CCI were 121.1 and 102.3, respectively. The whole term for the improvements is 408 months.

For the trade fixtures, the initial cost was \$1,510 with the current year CPI and base year CPI being 118.1 and 104.6, respectively. The total life expectancy is 96 months.

1.	Net Consideration:		\$600,000
2.	Adj Cost Imp/Ren:	\$591,887	
	Depreciation:	<u>- 82,690</u>	
	Adj Dep Cost Imp/Ren:		-509,197
3.	Adj Cost Trade Fixtures:	1,705	
	Depreciation:	<u>- 1,012</u>	
	Adj Dep Cost Trade Fixtures:		- 693
4.	Excess:		\$ 90,110
5.	Premium:	Percentage: 50%	\$ 45,055

SCHEDULE E.      Subsequent Assignment of Lease Calculations

1. Subtract from the consideration the assignor received for the assignment that amount, if any, that is attributable to inventory to derive the net consideration received.
2. Subtract from the consideration the assignor previously paid for the assignment that amount, if any, that was attributable to inventory. Also, subtract from the consideration the assignor previously paid for the assignment that amount, if any, that was attributable to premiums. The net consideration paid is now defined to be the value of improvements as of the date of the occupancy by the assignor.
3. Using the result from no. 2, calculate the Adjusted Depreciated Value of Improvements or Renovations (see Schedule A).
4. Subtract the amount derived by no. 3 from the amount in no. 1 to determine the amount by which the consideration received for the assignment, whether by cash, credit, or otherwise, exceeds the adjusted depreciated value of improvements being transferred to the assignee.
5. Determine the appropriate premium percentage (see Schedule C). Multiply by the excess, if any, derived by no. 4.

Example

An assignor is assigning a lease 107 months after receiving the consent of the Board. Occupancy or the holding period is defined to be 107 months. The consideration received is \$1,000,000.

The consideration paid by the assignor was \$600,000 while the current year CCI and redefined base year CCI were 156.4 and 121.1, respectively. The whole term was 408 months.

No inventory was included in either consideration. However, a premium of \$45,055 was paid to the state by the previous occupant from the \$600,000 consideration.

1.	Net Consideration <u>Received</u> :			\$1,000,000
2.	Consideration <u>Paid</u> :	\$600,000		
	Premium:	<u>- 45,055</u>		
	Net Consideration <u>Paid</u> :		\$554,945	
3.	Adj Value Consideration (improvements):			
	\$554,945 X $\frac{156.4}{121.1}$	=	\$716,708	
	Depreciation:			
	\$716,708 X $\frac{107 \text{ mos.}}{408 \text{ mos.}}$	=	<u>-187,960</u>	
	Adj Dep Value Consideration:			- <u>528,748</u>
4.	Excess:			\$ 471,252
5.	Premium:	Percentage:	45%	<u>\$ 212,063</u>

# EXHIBIT 4

Table 1		Assignment of Lease Premium Calculation		Lease	
		GL5656: Big Island Toyota, Inc.		8/28/2002 - 8/27/2032	
Net Consideration	\$40,000			Year Blt.	NA - no improvements
Improvement Cost	\$ -				
CCI (most recent)	344.2		2024		
CCI (base year)	149.9		2002		
Expired Term	263		mos.		
Whole Term	360		mos.		
1 Adjusted Cost of Improvements or Renovations					
Actual Cost	x	CCI (most recent)			
		CCI (base year)			
\$0	x	344.2	=	\$0	
		149.9			
2 Depreciation					
\$0	x	263	=	\$0	
		360			
3 Adjusted Depreciated Cost of Improvements or Renovations					
\$0 -		\$0	=	\$0	
4 Premium Calculation					
Net Consideration				\$ 40,000	
Adjusted Cost of Imp.	\$0				
Depreciation	\$0				
Adjusted Deprec. Cost of Imp.				\$0	
Excess				\$ 40,000	
Premium Percentage	x			30%	
Premium				\$12,000	

## EXHIBIT 4-A

Table 1 Assignment of Lease Premium Calculation GL5848: Big Island Toyota, Inc.				Lease 1/1/2006 - 12/31/2026
Net Consideration	\$80,000			Year Blt. NA - improvements owned by State
Improvement Cost	\$ -			
CCI (most recent)	340.4		2024	
CCI (base year)	209.4		2006	
Expired Term	263		mos.	
Whole Term	360		mos.	
<b>1 Adjusted Cost of Improvements or Renovations</b>				
Actual Cost	x CCI (most recent)			
	CCI (base year)			
\$0	x	$\frac{340.4}{209.4} =$	\$0	
<b>2 Depreciation</b>				
\$0	x	$\frac{263}{360} =$	\$0	
<b>3 Adjusted Depreciated Cost of Improvements or Renovations</b>				
\$0 -		\$0 =	\$0	
<b>4 Premium Calculation</b>				
Net Consideration			\$ 80,000	
Adjusted Cost of Imp.	\$0			
Depreciation	\$0			
Adjusted Deprec. Cost of Imp.			\$0	
Excess			\$ 80,000	
Premium Percentage	x		35%	
Premium			\$28,000	

## EXHIBIT 4-B

Table 1 Assignment of Lease Premium Calculation GL4303 & GL4379: Big Island Toyota, Inc.				Lease 6/11/1970 - 6/8/2035 6/14/1973 - 6/8/2035 Year Blt. 2001 Based on bulding permits 1997 and 2001 # months from 9/01 to present # months from 9/01 to expiration
Net Consideration	\$2,680,000			
Improvement Cost	\$ 1,996,547			
CCI (most recent)	344.2		2024	
CCI (base year)	142.6		2001	
Expired Term	276	mos.		
Whole Term	405	mos.		
1 Adjusted Cost of Improvements or Renovations				
Actual Cost	x CCI (most recent)			
		CCI (base year)		
\$1,996,547	x	344.2 =	\$4,819,155	
		142.6		
2 Depreciation				
\$4,819,155	x	276 =	\$3,284,165	
		405		
3 Adjusted Depreciated Cost of Improvements or Renovations				
\$4,819,155	-	\$3,284,165 =	\$1,534,990	
4 Premium Calculation				
Net Consideration			\$ 2,680,000	
Adjusted Cost of Imp.	\$4,819,155			
Depreciation	(\$3,284,165)			
Adjusted Deprec. Cost of Imp.			\$1,534,990	
Excess			\$ 1,145,010	
Premium Percentage		x	5%	
Premium			\$57,250	

## EXHIBIT 4-C