

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

December 8, 2017

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

PSF No.:17OD-086

OAHU

Amend Conditions for General Lease No. 6056 to Waimanalo Health Center for Community Service Purposes by (a) Expanding Lease Area, and (b) Allowing Subletting and Mortgaging with Prior Approval of the State of Hawaii as Lessor; and

Consent to Sublease for Community Service Purposes, Waimanalo Health Center, Sublessor; Roman Catholic Church in the State of Hawaii, Sublessee; and

Consent to Federal Interest regarding a Two-Story Medical Building; Waimanalo Health Center, Lessee; Waimanalo, Koolaupoko, Oahu, Tax Map Key: (1) 4-1-015: portion of 001.

APPLICANT:

Waimanalo Health Center ("WHC"), Lessee and Sublessor; and

Roman Catholic Church in the State of Hawaii ("RCC"), Sublessee, both entities are domestic non-profit corporations.

LEGAL REFERENCE:

Section 171-22, 36(a), 43.1, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Waimanalo, Koolaupoko, Oahu, Tax Map Key: (1) 4-1-015: portion of 001, as shown on the maps attached as **Exhibit A1** and **A2**.

ADDITIONAL AREA:

Parcel 5C, 1.596 acres, more or less, as shown hatched and red on Exhibit A1.

ZONING:

State Land Use District: Urban
City & County of Honolulu LUO: F-1

TRUST LAND STATUS:

PL 88-233, i.e. ceded.
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

Unencumbered land

CHARACTER OF USE:

Community Services. See Remarks section.

SUBLEASE:

Area: Hatched area as shown on Exhibit A1.
Use: Community services purposes.
Term: Not to exceed December 31, 2079, i.e. the expiration date of GL 6056.
Rental: Gratis.

DCCA VERIFICATION:Both WHC and RCC

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	___

ANNUAL RENTAL:

Staff recommends no change to the existing annual rental at \$480 for GL 6056.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred by the Environmental Council on June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, "Operations, repairs, or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing," item 47 that states, "leases of state land involving negligible or no expansion or change of use beyond that previously existing." See **Exhibit B**.

APPLICANTS REQUIREMENTS:

Applicant shall be required to:

1. Process and obtain subdivision and consolidation (as appropriate) approval at WHC's own cost; and
2. Provide survey maps and descriptions according to State DAGS standards and at WHC's own cost.

REMARKS:Leasing of Parcel 5C:

Parcel 5C was a portion of land set aside to the Federal government pursuant to Governor's Executive Order No. 1023, dated May 12, 1943 for the Addition to the Bellows Field. It was physically away from the actual training area and formerly used as vehicle garage area. Since 2002, Marine Corps used it as a buffer zone during training. According to the survey done by the Federal agency, there are some improvements within Parcel 5C, including buildings used by WHC, and a shed used by RCC.

Pursuant to the quitclaim deed executed by the General Services Administration on behalf of the Federal government, ownership of Parcel 5C was deemed to be federal surplus and transferred to the State in February 2017.

Request from WHC

WHC is leasing Parcels 279 and 282 from the Board under GL6056 for community service purposes. The lease commenced on January 1, 2015 and expires on December 31, 2079.

WHC is in the process of constructing a two-story medical building and parking at Parcel 282¹ as an expansion to the current facilities at Parcel 279. Upon construction of the new facilities, WHC intends to use the red area to replace the employee parking lot currently on Parcel 282. In addition, WHC will continue to use the buildings on the red area.

Sublease to RCC

When RCC was initially asked whether it was interested in utilizing Parcel 5C, RCC requested to purchase the fee simple interest in Parcel 5C or portions thereof. Staff did not support the selling of the fee interest, and recommended issuing a direct lease over the hatched area to RCC. However, RCC eventually dropped the idea of leasing directly from the Board due to the costs associated with the subdivision process, notwithstanding RCC's intent to continue the utilization of the hatched area. Staff understands the church is operating its

¹ FONSI of the proposed improvement at Parcel 282 was published on the Environmental Notice dated February 23, 2014.

community food bank program from the structure located over the hatched area.

Upon discussion between WHC and RCC, they agreed to enter into a sublease for the hatched area from WHC to RCC while WHC will be the tenant of the entire Parcel 5C. An agreement in writing regarding the arrangement is kept in file. Upon approval of today's request, WHC and RCC will provide a fully executed sublease agreement to be reviewed and approved by the Department of the Attorney General.

Comments from other agencies on leasing:

State Historic Preservation Division, Department of Hawaiian Home Lands, Board of Water Supply, and Department of Transportation, Highways Division have no objections or comments to the request.

Engineering Division reminds the applicant to research the Flood Hazard Zone designation for the project, in relation to the rules and regulations of the National Flood Insurance Program.

Department of Planning and Permitting requires the subdivision and consolidation, if appropriate, for Parcels 5C and 279. A copy of its comments is attached as **Exhibit C**.

Department of Health, Division of Forestry and Wildlife, Department of Facility Maintenance, and Office of Hawaiian Affairs have not responded to the solicitation for comments before the deadline.

There are no other lease compliance issues for GL 6056, and applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

Staff supports the proposed leasing and subleasing described above since the approach provides both non-profit entities the opportunities to continue their community services program.

Consent to Federal Interest:

In September 2015, the Health Resources and Services Administration's Bureau of Primary Health Care awarded a grant for \$1 million to WHC for the construction of the new two-story medical building on Parcel 282. The total construction cost of the new building is over \$14 million.

The Notice of Grant Award for this grant includes conditions on use of the Parcel 282 ("Property") and provides for a continuing Federal interest in the Property. Specifically, the Property may not be (1) used for any purpose inconsistent with the statute and any program regulations governing the award under which the Property was acquired; (2) mortgaged or otherwise used as collateral without the written permission of the Office of Federal Assistance Management (OFAM), Health Resources and Services Administration

(HRSA), or designee; or (3) sold or transferred to another party without the written permission of OFAM, HRSA, or designee. These conditions are in accordance with the statutory provisions set forth in the American Recovery and Reinvestment Act, Title 45 CFR part 74 or 92 (as appropriate), the HHS Grants Policy Statement, and other terms and conditions of the award.

Similar to prior cases involving Federal interests, staff asks that the Board consent to the encumbrances by the Federal interest. Formal documentation will be reviewed and approved by the Department of the Attorney General before the Chairperson signs on behalf of the Board. Staff has no objection to the requested consent.

The latest draft of the Notice of Federal Interest and Consent are attached as **Exhibit D1** and **D2**. Upon approval of today's request, staff will work with WHC and the Department of the Attorney General to finalize the required documents.

Amendment of GL 6056 Condition:

To accommodate the request for subletting and encumbering the federal interest described above, staff recommends the Board amend the respective lease conditions in GL 6056. The proposed amendments are shown below in the following paragraphs, with the new languages underscored.

Paragraph 14. Subletting. "The Lessee shall not rent or sublet the whole or any portion of the premises, except with prior written consent of the Lessor."

Paragraph 20. Mortgage. "Lessee shall not mortgage, hypothecate, or pledge the premises, any portion, or any interest in this lease, except with prior written consent of the Lessor."

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the amendment of General Lease No. 6056 by including Parcel 5C as shown on Exhibit A1, under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current lease amendment document form, as may be amended from time to time;
 - B. Review and approval by the Department of the Attorney General; and
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

3. Amend General Lease No. 6056 by replacing Paragraph 14 with the following:

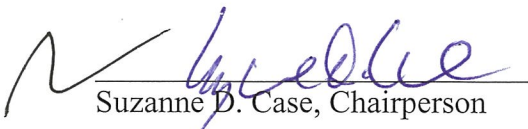
“The Lessee shall not rent or sublet the whole or any portion of the premises, except with prior approval of the Lessor.”
4. Amend General Lease No. 6056 by replacing Paragraph 20 with the following:

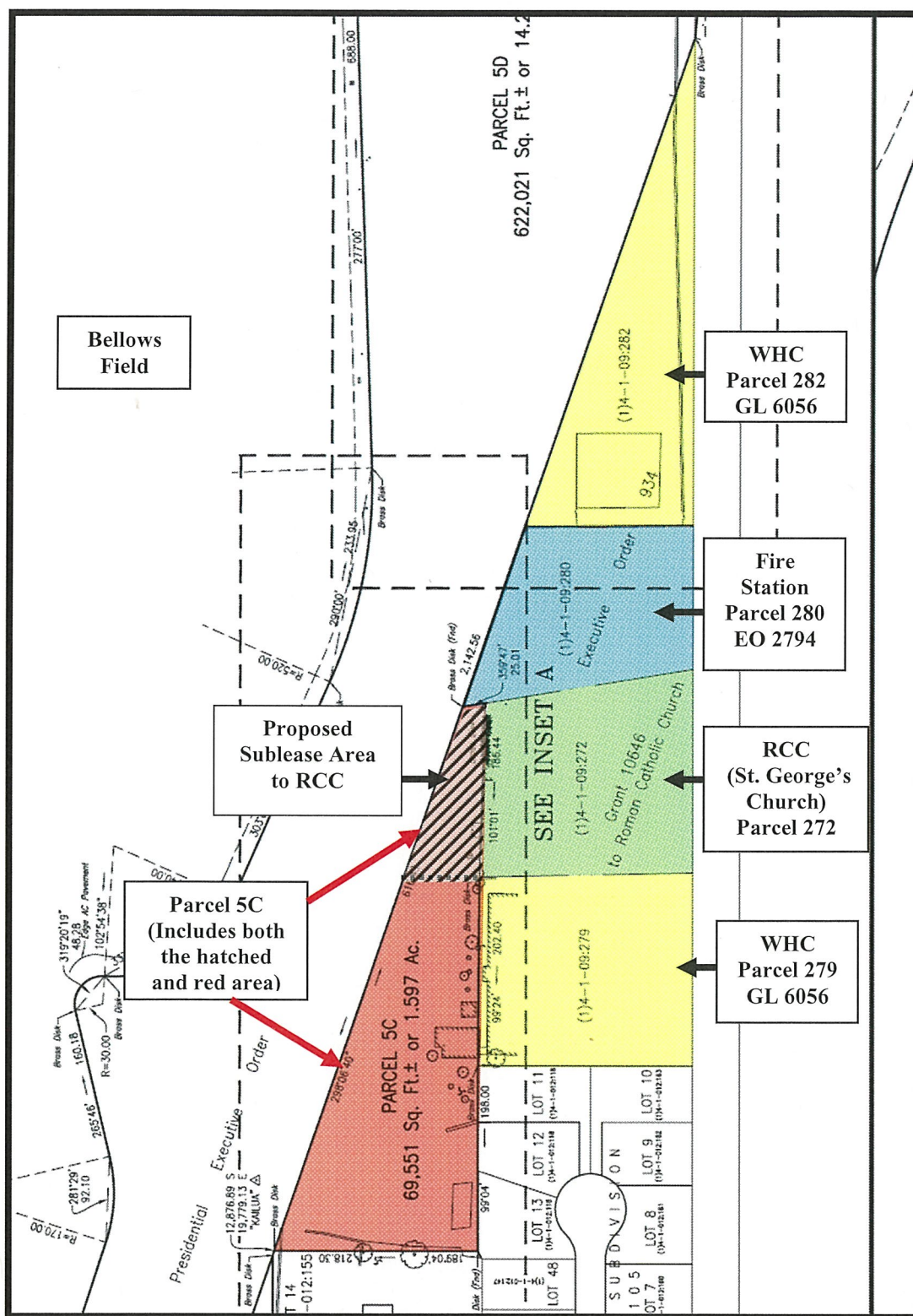
“Lessee shall not mortgage, hypothecate, or pledge the premises, any portion, or any interest in this lease, except with prior approval of the Lessor.”
5. Consent to the sublease between Waimanalo Health Center, as Sublessor, and Roman Catholic Church in the State of Hawaii, as Sublessee under the terms 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 consent to sublease document form, as may be amended from time to time;
 - B. Review and approval by the Department of the Attorney General; and
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
6. Consent to the encumbrance of the federal interest from Health Resources and Services Administration described above affecting property located on the land covered by General Lease No. 6056, as described in Exhibits D1 and D2, further subject to the following
 - A. Review and approval by the Department of the Attorney General; and
 - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,


Barry Cheung
District Land Agent

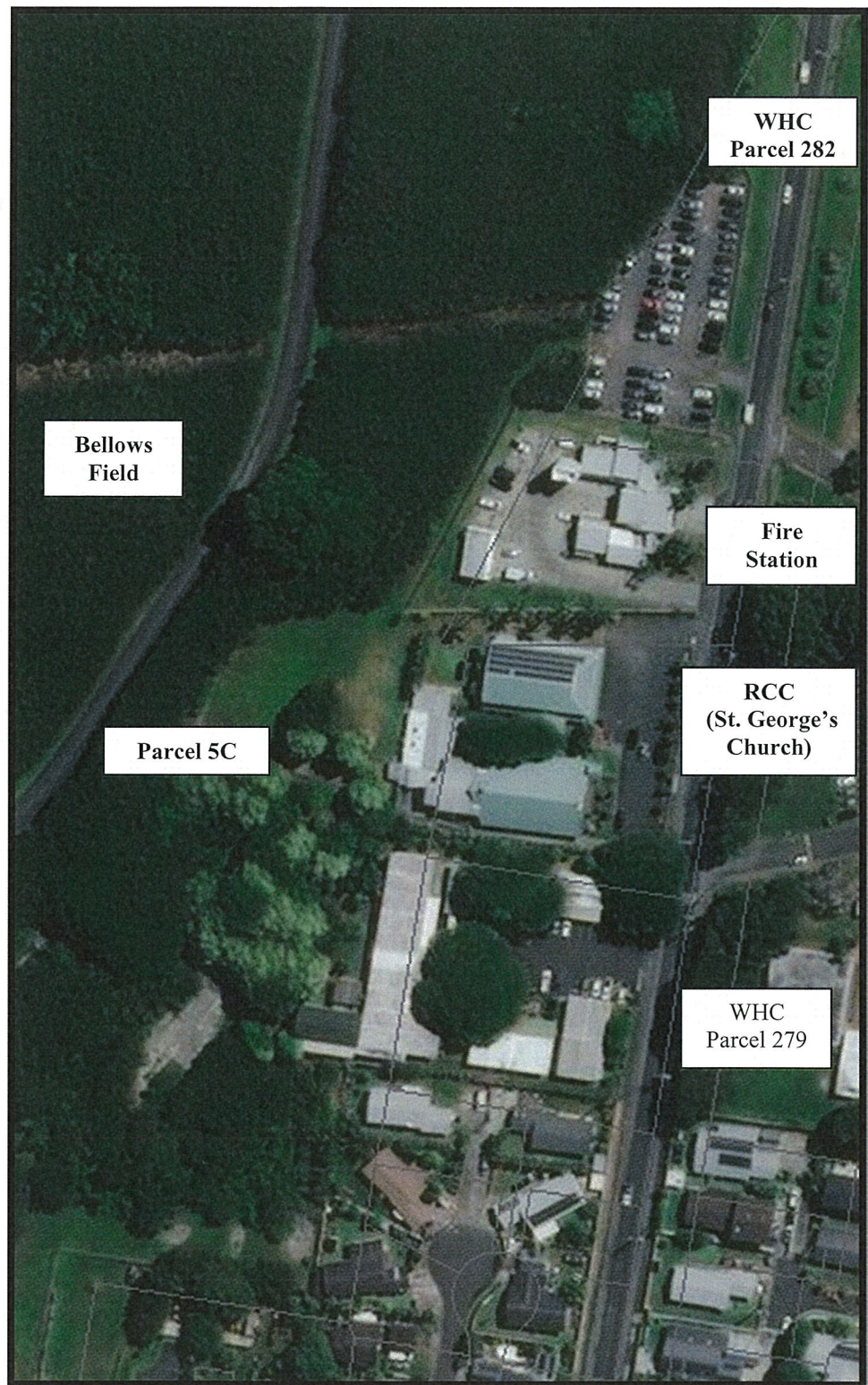
APPROVED FOR SUBMITTAL:


Suzanne D. Case, Chairperson



TMK (1) 4-1-015: Portion of 001

EXHIBIT A1



TMK (1) 4-1-015: Portion of 001

EXHIBIT A2

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title:	Amendment of GL 6056 and Consent to Sublease and Federal Interest
Project / Reference No.:	17OD-086
Project Location:	Waimanalo, Koolau-poko, Oahu, Tax Map Key: (1) 4-1-015: portion of 001.
Project Description:	Upon return of ceded lands from the federal government at Bellows Fields, the request is pertaining to requests from two non-profit entities over the use of the parcel. In addition, a federal grant was awarded to the lessee which requires the Board consent to encumbering the subject lease with the federal interest.
Chap. 343 Trigger(s):	Use of State Land
Exemption Class No.:	In accordance with Hawaii Administrative Rule Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred by the Environmental Council on June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, "Operations, repairs, or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing," item 47 that states, "leases of state land involving negligible or no expansion or change of use beyond that previously existing." Both non-profit entities are not planning to undergo major improvement which would alter the existing conditions on the site. Therefore, staff believes that the proposed project would involve negligible or no expansion or change in use beyond that previously existing.
Consulted Parties	Agencies as noted in the submittal
Recommendation:	That the Board find this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.

EXHIBIT B

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813
PHONE: (808) 768-8000 • FAX: (808) 768-6041
DEPT. WEB SITE: www.honoluludpp.org • CITY WEB SITE: www.honolulu.gov

KIRK CALDWELL
MAYOR



KATHY K. SOKUGAWA
ACTING DIRECTOR

TIMOTHY F. T. HIU
DEPUTY DIRECTOR

2017/ELOG-1365(GT)

August 10, 2017

Mr. Barry Cheung
Department of Land and Natural Resources
P.O. Box 621
Honolulu, Hawaii 96809

Dear Mr. Cheung:

SUBJECT: Request for Comments
Amend General Lease No. 6056 for Community Service Purpose
Waimanalo Health Center and Roman Catholic Church - Waimanalo
Tax Map Key 4-1-015: Portion of 001

This responds to your request, received July 12, 2017, for comments on the above Project. We offer the following comments:

The site is zoned F-1 Military and Federal Preservation District and not subject to the Land Use Ordinance. The proposed parking and improvements on Parcel 5C will require a Special Management Area Use Permit, pursuant to Chapter 25 Revised Ordinances of Honolulu, and a Conditional Use Permit for Joint Development.

Our Subdivision Branch offers the following comments:

1. The Department of Planning and Permitting (DPP) has no subdivision records for Parcel 5C and the remainder of Bellows Field Military Reservation. A subdivision to create Parcel 5C would also have to include the 900-acre remainder of Bellows Field.
2. If Parcel 5C was created by Federal authority prior to transfer to the State government, it may be possible for DPP to recognize the parcel as a separate lot under Lot Research and Determination procedures (see instructions at <http://www.honoluludpp.org/Portals/0/pdfs/engineering/Instructions%20for%20Lot%20Research%20and%20Determination.pdf>), in lieu of a subdivision application, which may be more complicated to prepare and process.
3. Assuming Parcel 5C is recognized as a separate State-owned lot, with a P-2 Preservation Zoning designation (applicable by default to formerly military lands zoned F-1 Military), it should qualify for consolidation with the abutting Parcel 279 leased by the State to the Waimanalo Health Center (WHC).

EXHIBIT "C"

Mr. Barry Cheung
August 10, 2017
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4. The lease of the smaller portion of Parcel 5C to the Catholic Church may be handled through the designation of an easement in favor of the Church.
5. Compliance with zoning requirements for such proposed uses as the WHC employee parking lot on P-2 zoned land may require a determination from Land Use Permits Division.

Should you have any questions, please contact Gerald Toyomura at 768-8056.

Very truly yours,

FOR 
Kathy K. Sokugawa
Acting Director

Doc 1494493

LAND COURT SYSTEM**REGULAR SYSTEM**

After Recordation Return To:

By Mail (☒) Pickup (☐)

Ghissou Rosala

Waimanalo Health Center

41-1347 Kalanianaʻole Highway

Waimanalo, Hawaii 96795

Total Pages: 7

NOTICE OF FEDERAL INTEREST

On September 10, 2015, the Health Resources and Services Administration's Bureau of Primary Health Care awarded Grant No. C8DCS29202 to Waimanalo Health Center. The grant provides Federal funds for the construction of a two-story building, consisting of approximately 18,000 square feet, for medical, behavioral health, vision, pharmacy, nutrition, and support services (the "Property"). The Property is designated as the proposed Project Location as shown on the Site Plan attached as Exhibit "A" hereto and made a part hereof and is located on land leased to Waimanalo Health Center, identified as Tax Map Key Number (1) 4-1-009: 282, and located at 41-1295 Kalanianaʻole Highway, Waimanalo, Hawaii 96795 (the "Land"). The Land is more particularly described in Exhibit "B" hereto and made a part hereof.

The Notice of Grant Award for this grant includes conditions on use of the Property and provides for a continuing Federal interest in the Property. Specifically, the Property may not be (1) used for any purpose inconsistent with the statute and any program regulations governing the award under which the Property was acquired; (2) mortgaged or otherwise used as collateral without the written permission of the Office of Federal Assistance Management (OFAM), Health Resources and Services Administration (HRSA), or designee; or (3) sold or transferred to another party without the written permission of OFAM, HRSA, or designee. These conditions are in accordance with the statutory provisions set forth in Section 330(e)(3) of the Public Health Service Act, 42 U.S.C. 254b(e)(3); Section 10503(b) of the Patient Protection and Affordable Care Act of 2010, P.L. 111148; and Division G, Title II, p. 2466, Consolidated and Further Continuing Appropriations Act, 2015, P.L. 113235, Title 45 CFR part 74 or 92 (as appropriate), the HHS Grants Policy Statement, and other terms and conditions of the award.

EXHIBIT "DI"

These grant conditions and requirements cannot be nullified or voided through a transfer of ownership. Therefore, advance notice of any proposed change in usage or ownership must be provided to the Associate Administrator, OFAM, HRSA, or designee.

Nothing contained herein shall be deemed to create or constitute a Federal interest or other encumbrance on the Land or otherwise cause or result in the imposition of any conditions on the use of the Land, it being acknowledged that such Federal interest and conditions on use are limited to the Property constructed with funds from the grant.

Signature: _____

Typed Name: Mary Frances Oneha

Title: Chief Executive Officer

Date: _____

LAND COURT SYSTEM**REGULAR SYSTEM**

After Recordation Return To:

By Mail (☒) Pickup ()

Ghissou Rosala

Waimanalo Health Center

41-1347 Kalanianaʻole Highway

Waimanalo, Hawaii 96795

Total Pages: 29

Tax Map Key No. (1) 4-1-009: 282

CONSENT TO IMPROVEMENTS AND FEDERAL INTEREST AFFECTING PROPERTY
LOCATED ON THE LAND COVERED BY GENERAL LEASE NO. S-6056

WHEREAS, pursuant to General Lease No. S-6056 dated January 1, 2015 (the "Lease"), recorded in the Bureau of Conveyances of the State of Hawaii as Document No. A-61010640, the STATE OF HAWAII, by its Board of Land and Natural Resources (the "Lessor"), whose address is 1151 Punchbowl Street, Honolulu, Hawaii 96813, leased to Waimanalo Health Center, a Hawaii nonprofit corporation (the "Lessee"), whose address is 41-1347 Kalanianaʻole Highway, Waimanalo, Hawaii 96795, certain real property situate at Waimanalo, Koolaupoko, Oahu, Hawaii, containing an area of 94,362 square feet, as more particularly described in the Lease (the "Land");

WHEREAS, Lessee desires to construct a two story medical clinic building consisting of approximately 18,000 square feet (the "Property") on the Land; and

WHEREAS, the Health Resources and Services Administration's Bureau of Primary Health Care awarded a grant (the "Grant") to Lessee for the construction of the Property on the Land; and

WHEREAS, the Grant includes conditions on the use of the Property and provides for a continuing federal interest in the Property, as more particularly set forth in the Grant (the "Federal Interest");

EXHIBIT "D2"

NOW, THEREFORE, Lessor hereby consents to the construction of the Property on the Land and the Federal Interest; SUBJECT, HOWEVER, to the provisions of Section 171-21, Hawaii Revised Statutes, as amended, relating to rights of holder of security interest.

IT IS UNDERSTOOD that, except as provided herein, should there be any conflict between the terms of General Lease No. S-6056 and this consent, 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 general lease; and also that no further federal interest under the general lease shall be made without the written consent of the Board of Land and Natural Resources being first obtained and endorsed thereon.

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 ____ day of _____, 201__.

STATE OF HAWAII

Approved by the Board
of Land and Natural
Resources at its
meeting held on
_____, 201__.

By _____
SUZANNE CASE
Chairperson
Board of Land and Natural Resources

APPROVED AS TO FORM:

Deputy Attorney General

Dated: _____

STATE OF HAWAII)
)SS
CITY AND COUNTY OF HONOLULU)

On this _____ day of _____, 201_, before me personally appeared MARY FRANCES ONEHA,
to me personally known, who being by me duly sworn or affirmed, did say that such person executed the foregoing
instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly
authorized to execute such instrument in such capacity.

Print/Type Name: _____
Notary Public State of Hawaii.

My Commission expires: _____

NOTARY CERTIFICATE (Hawaii Administrative Rules §5-11-8)

Document Identification or Description: _____

No. of Pages: _____ Jurisdiction: _____ Circuit
(in which notarial act is performed)

Signature of Notary

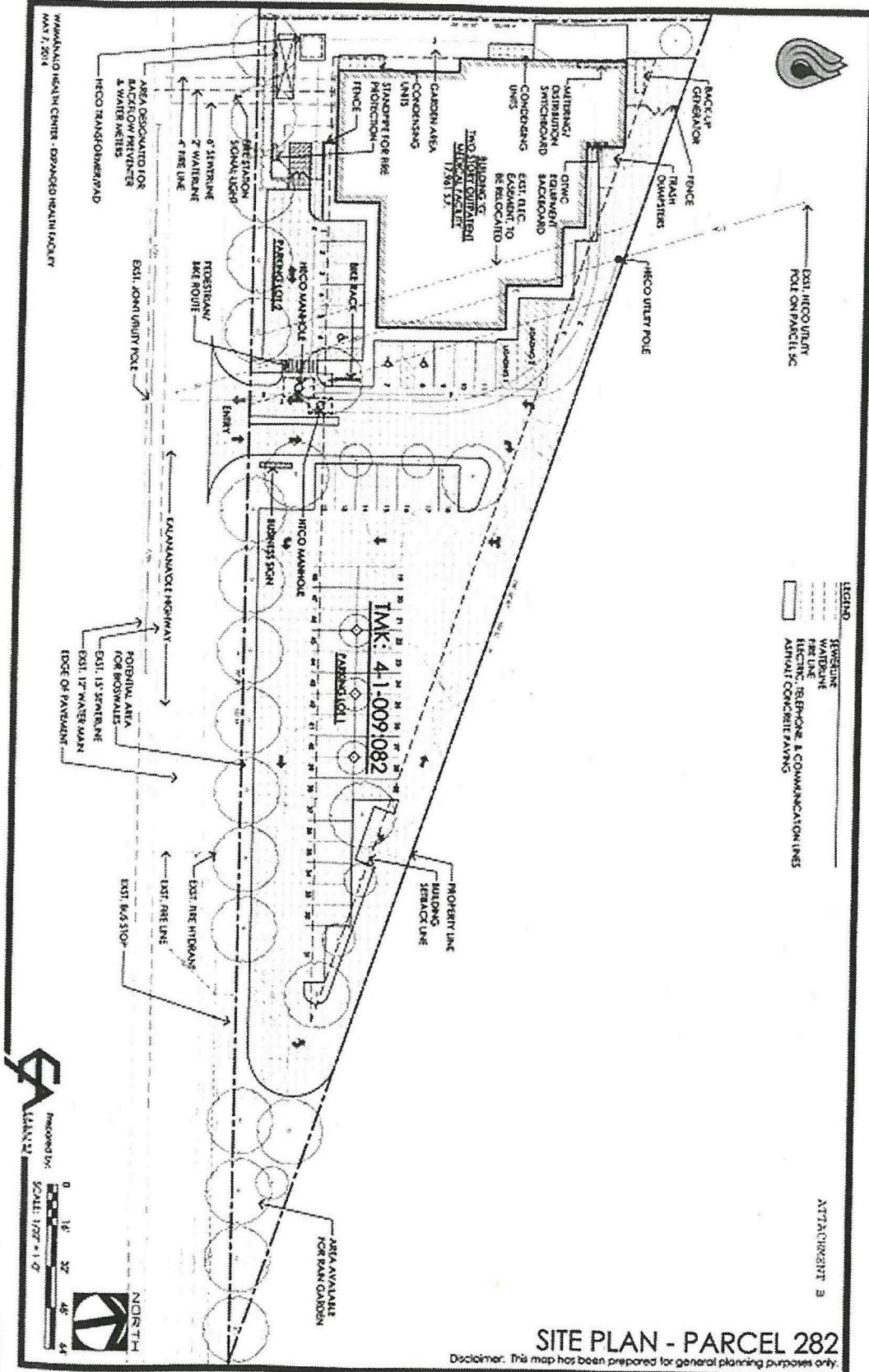
Date of Certificate

(Official Stamp or Seal)

Printed Name of Notary

My Commission expires _____

SITE PLAN - PARCEL 282
Disclaimer: This map has been prepared for general planning purposes only.



DESCRIPTION OF THE LAND



STATE OF HAWAII
SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
HONOLULU

C.S.F.No. [25.379]

[June 26, 2014]

WAIMANALO HEALTH CENTER

Waimanalo, Koolaupoko, Oahu, Hawaii

Being portions of the Government (Crown) Land of Waimanalo.

Being also Tract 2-A of Bellows Field Military Reservation, Governor's
Executive Order 934 reconveyed to the State of
Hawaii by the United States of America by deed dated July 25,
1966 and recorded in Liber 5429, Page 14 (Land Office Deeds
24303).

Beginning at the southeast corner of this parcel of land and on the
north side of Kalaniana'ole Highway, the coordinates of said point of beginning referred
to Government Survey Triangulation Station "WAIMANALO RIDGE" being 2581.25
feet South and 6904.39 feet East, thence running by azimuths measured clockwise from
True South:-

1. 99° 06' 522.44 feet along the north side of Kalaniana'ole
Highway;
2. 188° 33' 10" 180.94 feet along Fire Station and Ambulance Site,
Governor's Executive 2794;
3. 298° 08' 40" 554.52 feet along Tract 1 of Bellows Field Military
Reservation (Presidential Executive Order
4802) to the point of beginning and
containing an AREA OF 47,265 SQUARE
FEET.

SUBJECT, HOWEVER, to a Non-Exclusive Electric Pole line Easement (25.00
feet wide) over and across the above-described part of Waimanalo Health Center as shown
on plan attached hereto and made a part hereof and more particularly described as follows:

Beginning at the southeast corner of this easement and on the north side of Kalanianaʻole Highway, the true azimuth and distance from the initial point of beginning of the above-described Part 2 of Waimanalo Health Center being: 99° 06' 37.292 feet, thence running by azimuths measured clockwise from True South:-

1. 99° 06' 26.10 feet along the north side of Kalanianaʻole Highway;
2. 172° 25' 160.38 feet;
3. 298° 08' 40" 30.80 feet along Tract 1 of Bellows Field Military Reservation (Presidential Executive Order 4802);
4. 352° 25' 149.89 feet to the point of beginning and containing an AREA OF 3878 SQUARE FEET.

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

By:

Gerald Z. Yonash, ifo

Land Surveyor

tkf

Compiled from CSFs 18121, 22059
and other Govt. Survey Records.

