

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

November 13, 2020

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

OAHU

Fifth Amendment of General Lease No. S-5468 to Hui Malama O Ke Kai Foundation, Lessee, for Multi-Purpose Community Facility Purposes, Waimanalo, Oahu, Tax Map Key: (1) 4-1-009:265

The purpose of the amendment is to amend the rent reopening provision of the lease to provide that upon reopenings rent shall be based on the Board's then prevailing policy on leasing to eleemosynary organization.

APPLICANT:

Hui Malama O Ke Kai Foundation, a Hawaii non-profit corporation and an Internal Revenue Code Section 501(c)(3) non-profit entity.

LEGAL REFERENCE:

Section 171-43.1, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Waimanalo, Koolaupoko, Oahu, identified by Tax Map Key: (1) 4-1-009:265, as shown on the map attached as **Exhibit A**.

AREA:

10.893 acres, more or less.

ZONING:

State Land Use District: Agriculture
City & County of Honolulu LUO: AG-1

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:

Multi-purpose community facility purposes.

LEASE TERM:

Sixty-five (65) years, commencing on May 1, 1996 and expiring on April 30, 2061.

ANNUAL RENT:

\$480 paid annually on May 1.

RENTAL REOPENINGS:

At the end of 15th, 25th, 35th, 45th and 55th years of the lease term. The next reopening date is due on May 1, 2021.

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>X</u>	NO <u> </u>
Registered business name confirmed:	YES <u>X</u>	NO <u> </u>
Applicant in good standing confirmed:	YES <u>X</u>	NO <u> </u>

BACKGROUND:

On May13, 2011, under agenda item D-8, the Board of Land and Natural Resources amended General Lease S-5468 by revising the annual rent payable to \$480 for the period between May 1, 2011 and April 30, 2021 to the Waimanalo Teen Project for a multi-purpose community facility. At its meeting on April 25, 2014, under agenda item D-12, the Board approved the merger between the Waimanalo Teen Project (“WTP”) and the Hui Malama O Ke Kai Foundation (“HMOKKF”) of which HMOKKF is the surviving entity on the lease.

The original lease, drafted in 1996 to WTP, requires a rental reopening every 10 years during the term of the lease at fair market rental, with the next rental reopening due on May 1, 2021. Staff believes a nominal rent based on prevailing Board’s policy on minimum rent for leasing to an eleemosynary organization is appropriate in view of the services provided to the community. Therefore, staff recommends the Board authorize the amendment of General Lease S-5468 by replacing the rent reopening provision in the original lease with “The annual rental shall be reopened and redetermined based on the Board’s then prevailing Minimum Rent Policy for eleemosynary organizations”.

Staff has verified HMOKKF's non-profit 501(c)(3) corporate status. The foundation is providing a valued service to the community during the COVID-19 pandemic by distributing food that is sourced from local farms and companies. The organization will also offer Keiki afterschool programs and adult learning classes when the pandemic's restrictions have been lifted. A recent site inspection confirmed there are no violations. Other terms and conditions in the lease are also in compliance.

RECOMMENDATION: That the Board authorize the fifth amendment of General Lease No. S-5468, Hui Malama O Ke Kai Foundation, Lessee, by revising the rent reopening provision, subject to the terms and conditions cited above, and further subject to the following:

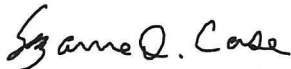
- A. Most current amendment of lease form, as may be amended from time to time;
- B. Review and approval by the Department of the Attorney General; and
- C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

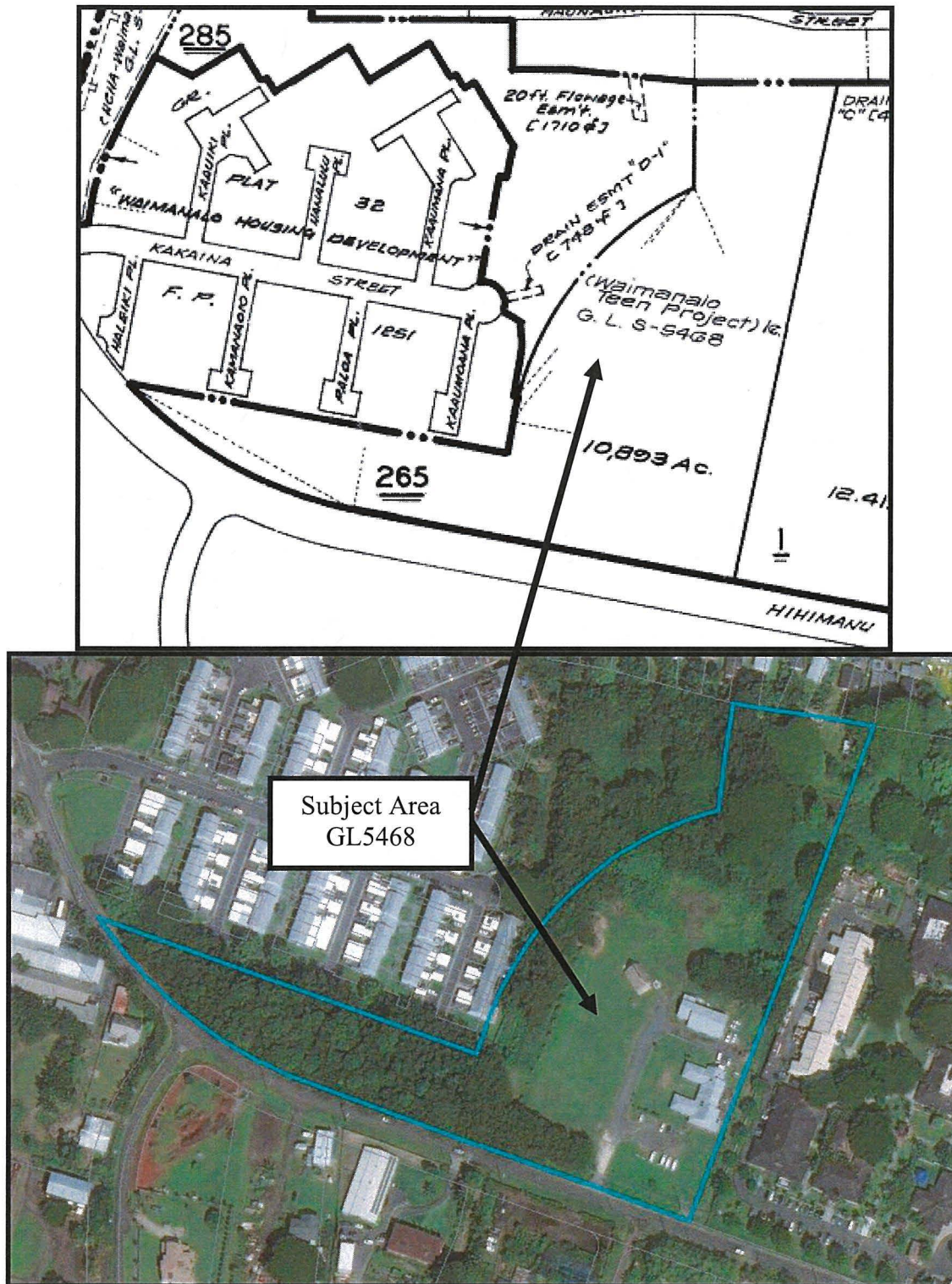


Darlene Bryant-Takamatsu
Land Agent

APPROVED FOR SUBMITTAL:



 Suzanne D. Case, Chairperson



TMK: (1) 4-1-009:265

Exhibit A