

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

May 8, 2015

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

Ref: GL S-5548

MAUI

Approval in Concept of Construction of Rehabilitation Center under General Lease No. S-5548, Hana Health, Lessee, Amend Lease Conditions 11 and 20 to Allow for the Placement of a Federal Interest on the Premises; Authorize Chairperson to Sign Landlord Letter of Consent in the Form Proposed by Health Resources and Services Administration, Kawaipapa, Hana, Maui; TMKs: (2) 1-4-003:022 and 024.

APPLICANT:

Hana Health, a domestic non-profit corporation, formerly known as Hana Community Health Center, Inc.

LEGAL REFERENCE:

Section 171-6, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of situated at Kawaipapa, Hana, Maui, identified by Tax Map Key: (2) 1-4-003:022 and 024, as shown on the attached map labeled **Exhibit A**.

AREA:

Parcel 22 – approximately 10.070 acres
Parcel 24 – approximately 2.035 acres
TOTAL: approximately 12.105 acres

ZONING:

State Land Use District:	Agriculture/Rural
County of Maui CZO:	Interim

TRUST LAND STATUS:

Section 5(b) land of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

Encumbered by General Lease No. 5548 (GL No. S-5548) issued to Hana Health for health care services to the Hana community as set forth in Lessee's articles of incorporation and for other social services commonly provided by the government.

CHARACTER OF USE:

Health care services to the Hana community as set forth in Lessee's articles of incorporation and for other services commonly provided by the government.

TERM OF LEASE:

Fifty-five (55) years, commencing on the first day of July 1997, up to and including the 30th day of June 2052, unless sooner terminated as described in the standard conditions of the general lease.

ANNUAL RENT:

\$1.00 per year.

DCCA VERIFICATION:

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

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The proposed action is only an approval in concept. If Hana Health receives the grant moneys it is applying for and is otherwise able to proceed with the construction of the rehabilitation center, it will conduct the required environmental assessment for the project and return to the Board at a later date with the results of the environmental assessment and a request for final approval of the project.

BACKGROUND:

Pursuant to Act 263, Session Laws of Hawaii 1996, an affiliation was established between the State through the Department of Health and the community of Hana through a Hana non-profit health care organization to support the development of a community-based health care program. Hana Health is the **only** health care provider in the District of

Hana. It provides primary medical care, dental health services and behavioral health care to the resident population as well as 600,000 visitors annually. Hana Health is often called upon to provide ancillary and specialty care, including physical therapy, cardiac rehabilitation, mental health services and transitional care for patients returning to Hana after hospitalization, hospice and/or elderly care. Hana Health is currently unable to adequately address these needs due to lack of appropriate facilities.

REMARKS:

On March 30, 2015, Hana Health, formerly known as Hana Community Health, Inc., Lessee, under GL No. S-5548, submitted a request for approval from the Board of Land and Natural Resources (Land Board) to construct a rehabilitation center. See **Exhibit B**. Hana Health is applying for a federal grant of up to one million dollars (\$1,000,000.00) through the Health Infrastructure Investment Program (HIIP) of the Health Resources and Services Administration (HRSA) to fund the rehabilitation center.

One of the requirements of the HRSA is a “Landlord Letter of Consent” requesting an acknowledgment by the landowner of the lessee’s plans to construct a rehabilitation center. A copy of HRSA’s form Landlord Letter of Consent is attached as **Exhibit C**. The provisions of GL No. S-5548 presently prohibit mortgages and mortgage liens (Condition Number 20) and liens in general (Condition Number 11). This submittal seeks the Land Board’s approval in concept of the construction of the rehabilitation center, authorization to amend GL No. S-5548 to allow the placement of a federal interest on the State lands to accommodate the building of the rehabilitation center,¹ and authorization for the Chairperson to sign the Landlord Letter of Consent. The anticipated duration of the federal interest is 20 years.

Condition number 20 of the lease presently provides as follows:

Mortgage. Lessee shall not mortgage, hypothecate, or pledge the premises, any portion or any interest in this lease.

Condition number 11 provides:

Liens. The Lessee shall not commit or suffer any act or neglect which results in the premises, any improvement, or the leasehold estate of the Lessee becoming subject to any attachment, lien, charge, or encumbrance, except as provided in this lease, and shall indemnify, defend, and hold the Lessor harmless from and against all attachments, liens, charges, and encumbrances and all resulting expenses.

Staff proposes to add language substantially as follows (or such other language as the Department of the Attorney General may deem appropriate to effectuate the intent of the

¹ GL No. S-5548 is a direct negotiation lease that may lawfully be amended by agreement of the parties.

Board's action) at the end of each of the quoted provisions above.

Notwithstanding the foregoing, the Lessee may, with the prior written consent of the Lessor, through its Board of Land and Natural Resources, allow a federal interest under the Health Infrastructure Investment Program of the Health Resources and Services Administration to encumber the premises to the extent necessary to secure grant moneys to fund the construction of improvements to the premises.

The proposed rehabilitation center will be a multi-purpose building to accommodate behavioral and mental health services, physical therapy and cardiac rehabilitation, short term, overnight accommodations for patients transitioning from tertiary care back to their home in Hana, as well as hospice and/or elderly care for Hana residents. Plans also include administrative offices, the central location of Hana Health's information technology systems to improve communication and services to its patients. The approximately 6,000 square feet center is still in the "conceptual stage" with no site plans and construction drawings for the Land Board to review. The applicant will submit the required documents for approval at a future Land Board meeting.

Hana Health explains that the signed Landlord Letter of Consent is required for the further processing of Hana Health's grant application.


The proposed action is only an approval in concept. If Hana Health receives the grant moneys it is applying for and is otherwise able to proceed with the construction of the rehabilitation center, it will conduct the required environmental assessment for the project and return to the Board at a later date for final approval of the project.

RECOMMENDATION: That the Board:

- A. Approve in concept the construction of a rehabilitation center under General Lease No. S-5548, Hana Health, Lessee, with the understanding that approval in concept shall not be deemed to be an approval of the construction at this time. Instead, Hana Health shall return to the Board at a later date to report on the results of its application for grant moneys for the project and, if applicable, submit detailed building plans and specifications at that time. Hana Health will additionally need to comply with the requirements of HRS Chapter 343 prior to commencing construction of the rehabilitation center.
- B. Authorize the amendment of lease conditions 11 and 20 to allow for the placement of a lien securing a federal interest in the lease premises, under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 1. The standard terms and conditions of the most current amendment of lease document form, as may be amended from time to time;

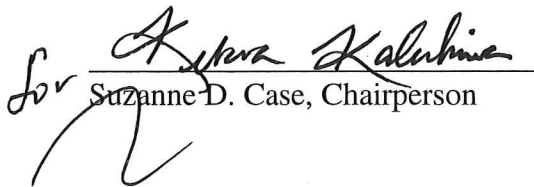
2. Review and approval by the Department of the Attorney General; and
 3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
- C. Authorize the Chairperson to sign the Landlord Letter of Consent in form attached hereto as Exhibit C, under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
1. The duration of the federal interest shall be up to twenty years;
 2. Review and approval by the Department of the Attorney General; and
 3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Kevin E. Moore
Assistant Administrator

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

TMK Nos. (2) 1-4-003:022 & 024

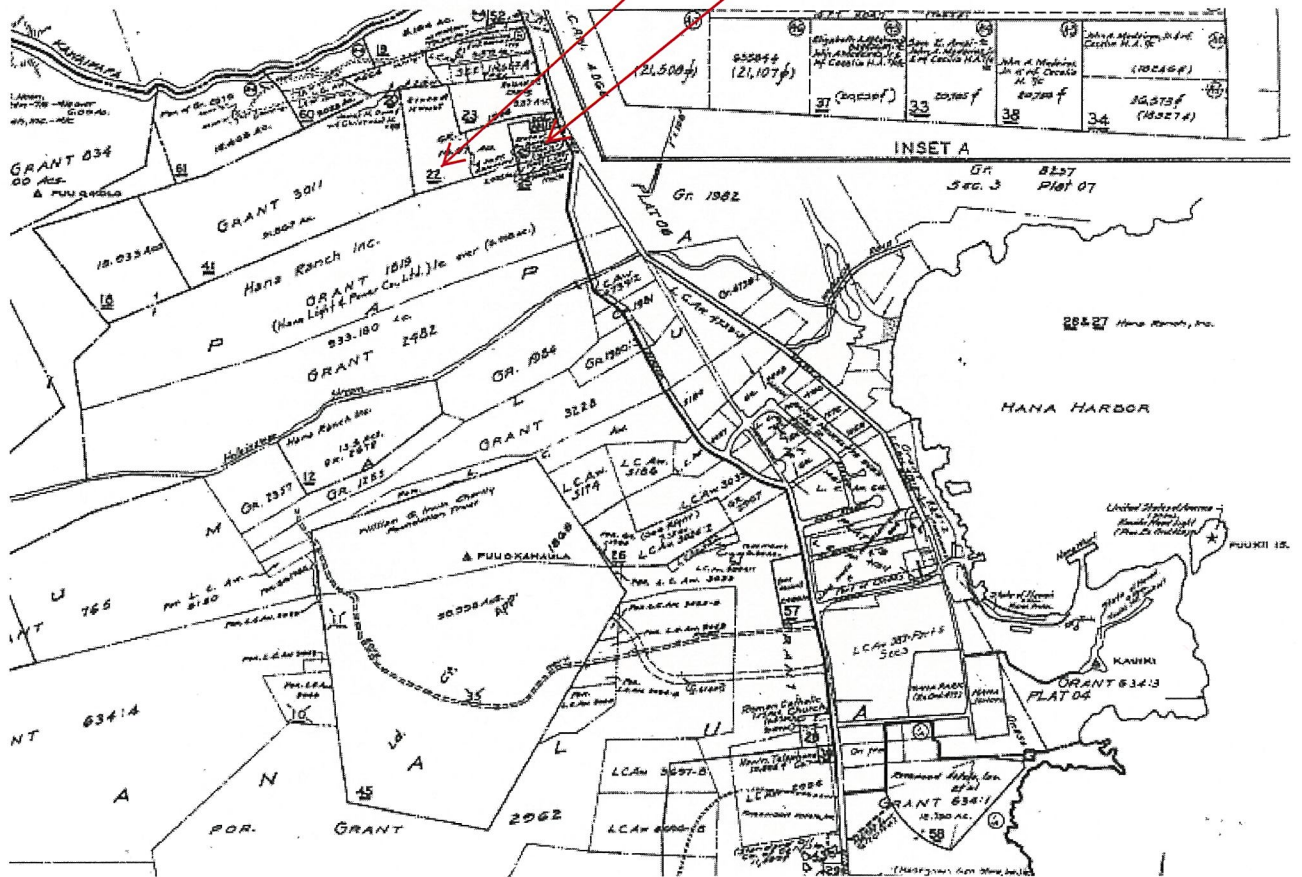


Exhibit "A"



A LAW CORPORATION

OAHU OFFICE:

1001 Bishop Street
Suite 1800
Honolulu, HI 96813

BIG ISLAND OFFICE:

26-238 Hawai'i Belt Road
Hilo, HI 96720

MAUI OFFICE:

2200 Main Street
Suite 521
Wailuku, HI 96793

Phone: (808) 524-1800
Fax: (808) 524-4591
www.ahfi.com

Pamela W. Bunn

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E-mail:
PBunn@ahfi.com

March 30, 2015

VIA E-MAIL AND U.S. MAIL

Mr. Russell Y. Tsuji (Russell.Y.Tsuji@hawaii.gov)
Administrator, Land Division
Department of Land and Natural Resources
1151 Punchbowl Street, Room 220
Honolulu, HI 96813

Re: Hana Health Lease (General Lease No. S-5548), TMK Nos. (2) 1-4-03:22 and 24, Kawaipapa, Hana, Maui

Dear Mr. Tsuji:

As you know, we represent Hana Health, Lessee under General Lease No. S-5548 (the Lease). Hana Health has applied for a federal grant of one million dollars through the Health Infrastructure Investment Program ("HIIP") of the Health Resources and Services Administration ("HRSA") for construction funds to build a rehabilitation center. Pursuant to 9 of the Lease, Hana Health seeks written approval of the Board of Land and Natural Resources, in the form required by the HRSA (attached "Landlord Letter of Consent") to construct these improvements.

To proceed further with the grant application, Hana Health must submit the signed Landlord Letter of Consent by May 21, 2015. Hana Health recognizes that this is a short time frame, and that it is unusual to seek approval to construct improvements without being able to provide site plans or construction drawings for the BLNR to review. Hana Health is simultaneously seeking funding from the State of Hawai'i, the County of Maui, and private sources for the planning and design portion of the project. Under other circumstances, Hana Health might wait for the next grant cycle to seek construction funds, but given the political climate in Washington, it is not at all confident that HIIP funds will be continue to be available. It is therefore reluctant to let this opportunity pass.

BACKGROUND

The district of Hana is federally designated as a Medically Under-Served Population, a Primary Care Health Professional Shortage Area, a Dental Health Professional Shortage Area and a Mental Health Professional Shortage Area. Native Hawaiians living in the Hana District have a high risk health profile resulting in the onset of preventable chronic health conditions and premature death.

Hana Health was formed in coordination with area residents, and in response to the State of Hawai'i's desire to release the Hana Medical Center from State control, to improve the health status of Hana residents, and to foster the development of health care and related services in the remote Hana community. See L. 1996, c 263 ("Act 263"). Through Act 263, the Legislature sought to promote the formation of a private, non-profit entity to administer a community health center in Hana.

Hana Health is a 501(c)(3) non-profit organization and a Federally Qualified Health Center. Hana Health currently provides primary medical care, dental health services and behavioral health care to the people of Hana. Unlike most primary care clinics in the State, Hana Health coordinates activities with American Medical Response and Maui Memorial Medical Center in the provision of urgent/emergency medical services. Hana Health provides assistance in stabilizing patients with life threatening illness or traumatic injury prior to transport to the hospital on the other side of the island. This takes place seven days a week, 24 hours a day as **Hana Health is the only health care provider in the district**. In addition, Hana Health operates the Hana Fresh farm, farm stand and nutrition center, the cornerstone of its healthy lifestyle and disease prevention programs.

FACILITY NEEDS

Built in 1965, the current 50 year old medical center underwent a major facelift last year including the installation of new windows, floors, central air conditioning and a new roof. This was made possible through a 2010 legislative appropriation. However, current and planned programs outgrew the 4,000 square foot facility several years ago. Five **temporary** trailers were leased and placed on the property, to help alleviate the space crunch, but this is less than an ideal situation and does not meet the need for program expansion.

Hana Health serves the entire resident population in the District of Hana, as well as 600,000 visitors annually. Hana's isolation and small population base, per capita income that is the second lowest in the State, unemployment/underemployment at 27%, and the high risk health profile of Native Hawaiians living in the district (53% of the population), are all indicators of need for a coordinated, focused and centralized service delivery system. Adequate infrastructure is essential to provide services and deliver health care.

As the only health care provider in the Hana District, Hana Health is often called upon to provide ancillary and specialty care to the resident population, including physical therapy, cardiac rehabilitation, transitional care for patients returning to Hana after hospitalization, hospice and/or

Mr. Russell Y. Tsuji
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elderly care and mental health services. It is projected that 144 patients would benefit from these services annually. Hana Health is currently unable to adequately address these needs due to a lack of appropriate facilities.

THE PROPOSED REHABILITATION CENTER

The proposed Rehabilitation Center will be a multi-purpose building of approximately 6,000 square feet, designed to meet multiple needs in a single space. The Rehabilitation Center will accommodate behavioral and mental health services, physical therapy and cardiac rehabilitation, short term, overnight accommodations for patients transitioning from tertiary care (step down care) back to their homes in Hana, as well as hospice and/or elderly care for Hana residents. The space will also include administrative offices, the central location of which will improve communication and services to Hana Health patients and the operation of Hana Health's information technology systems. The Re-alignment of the driveway and parking lot will take place as needed for construction, and to improve the line of site entering and exiting the Hana Health driveway.

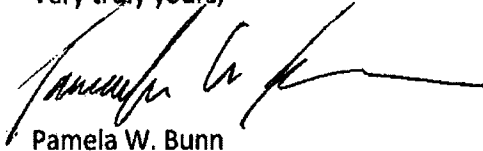
CONSISTENCY WITH THE LEASE

The Rehabilitation Center is a permitted use of the leased property, which is to be used "solely for health care services to the Hana Community as set forth in Lessee's articles of incorporation and for other social services commonly provided by the government." Lease, ¶ 12.

Hana Health greatly appreciates your willingness to accommodate its need for expedited processing of what it recognizes is an unusual approval request given that it has no conceptual drawings or site plans to present to the BLNR. This opportunity for federal funding, however, would greatly assist Hana Health in serving the Hana community and cannot be passed up.

Please let me know if there is any additional information I can provide.

Very truly yours,



Pamela W. Bunn

PWB:anth

cc: Cheryl Vasconcellos, Hana Health
Carty Chang, Acting Director
Kevin Moore, Assistant Administrator, Land Division

(Owner)
(Location/Address)

Landlord Letter of Consent

(Insert owner) is/are the owner(s) of the property located at (insert facility name and address). The property is currently leased by (insert recipient/lessee). (Insert owner) currently has/will have a lease agreement with (insert recipient/lessee), for a period of ____ years that will expire on (insert date).

(Insert owner) is/are in full agreement of the proposed improvements to the aforementioned leased property as part of the Health Resources and Services Administration (HRSA) (insert name of funding opportunity) funding opportunity, and grant permission to (insert recipient/lessee) to undertake proposed improvements.

(Insert owner) agrees to either modify the existing lease, or include in the new lease, the following restrictive terms, which will be signed by both (insert owner) and (insert recipient/lessee):

- (a) the recipient agrees not to sublease, assign, or otherwise transfer the property, or use the property for a non-grant-related purpose(s) without the written approval from HRSA (at any time during the term of the lease/agreement, whether or not grant support has ended).
- (b) The property owner will inform HRSA of any default by the recipient under the lease/agreement.
- (c) HRSA shall have 60 days from the date of receipt of the property owner's notice of default in which to attempt to eliminate the default, and that the property owner will delay exercising remedies until the end of the 60-day period.
- (d) HRSA may intervene to ensure that the default is eliminated by the recipient or another recipient named by HRSA.
- (e) The property owner shall accept payment of money or performance of any other obligation by the HRSA's designee, for the recipient, as if such payment of money or performance had been made by the recipient.
- (f) In the event that the recipient defaults, the grant is terminated, or the recipient vacates the property before the end of the lease term, HRSA shall have the right to designate a replacement for the recipient for the balance of the lease term, subject to approval by the property owner, which will not be withheld except for good reason.

(Insert owner) also acknowledge that there will be a Federal interest in the property as a result of the proposed improvements and that (insert owner) agrees to file a Notice of Federal Interest prior to work commencing, if required by HRSA.

Landlord/Corporation Signature: _____

Typed Name: _____

Title: _____

Date: _____

EXHIBIT C