

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

December 13, 2013

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

Ref. No.: GLS-5976

HAWAII

Amend General Lease No. S-5976, Hospice of Hilo, Lessee, Condition 14, Relating to
Subletting, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-4-001: 179.

APPLICANT:

Hospice of Hilo, a Hawaii nonprofit corporation.

LEGAL REFERENCE:

Sections 171-6 and 43.1, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Piihonua and Waiakea, South Hilo, Hawaii,
identified by Tax Map Key: (3) 2-4-001:179, as shown on the attached map labeled
Exhibit A.

AREA:

3.500 acres, more or less.

ZONING:

State Land Use District: Urban
County of Hawaii CZO: RS-10

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution:

YES ____ NO x

CURRENT USE STATUS:

Encumbered under General Lease No. S-5976 to Hospice of Hilo.

CHARACTER OF USE:

For Hospice and allied purposes.

LEASE TERM:

65 years, commencing on February 22, 2008 and expiring on February 21, 2073. First rental reopening is scheduled for February 22, 2018.

COMMENCEMENT DATE:

The first day of the month to be determined by the Chairperson.

ANNUAL RENT:

\$480.00 Payable in advance, without notice or demand, on February 22nd of each and every year.

RENTAL REOPENINGS:

At the 10th, 20th, 30th, 40th, 50th, and 60th years of the lease term, by staff or independent appraisal.

PERFORMANCE BOND:

Twice the annual rental amount.

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

APPLICANT REQUIREMENTS:

None.

REMARKS:

At its meeting of February 22, 2008, Item D-3, the Board of Land and Natural Resources approved the issuance of a direct lease to the Hospice of Hilo, for Inpatient Hospice Facility and Related purposes.

At its meeting of November 8, 2013, Item D-4, the Land Board consented to sublease of General Lease No. S-5976, Hospice of Hilo, Sublessor, to Technology Credit Corporation, Sublessee. Purpose of the sublease is to enable Hospice to install a photovoltaic system upon the roof of its Kapiolani Street Facility.

In the processing of the above consent to sublease, staff realized that the subject lease did not permit subletting. As a result, staff is now requesting that the lease as currently written, be amended to allow subletting portions of the leased premises.

Under the lease, Condition 14, Subletting, currently states:

“14. Subletting, The Lessee shall not rent or sublet the whole or any portion of the premises.”

Staff is requesting that Condition 14 be deleted in its entirety and replaced with the following, which provides subletting with Board prior written approval.

“The Lessee shall not rent or sublet the whole or any portion of the premises, without prior written approval of the Board; provided however, that prior to such approval, the Board shall have the right to review and approve the rent to be charged to the proposed sublessee and, if necessary, revise the rent of the demised premises based upon the rental rate charged to the said sublessee, provided, further, that the rent may not be revised downward.”

Hospice of Hilo is seeking alternative sources of energy for powering its activities/ operations due to its exorbitant and rising electrical expenses. Recently Hospice determined that it could drastically reduce its electric cost by installing a photovoltaic system. In order to do so, the program requires a sublease of a portion of the leased area. A review of the lease, revealed that under Condition 14, Subletting, the lease prohibits subletting any portion of the leased area. As a result, staff is now recommending that Condition 14 of General Lease No. S-5976 be amended to authorize subletting with prior written approval of the Board.

Hospice 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.

No governmental agencies or interest groups were solicited for comments as there will be no new disposition or change in land use.

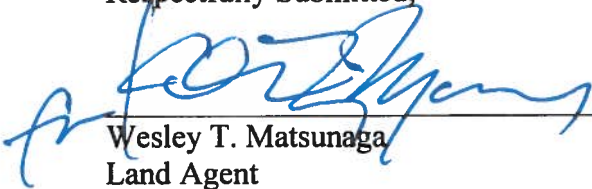
RECOMMENDATION: That the Board:

1. Subject to the Applicant fulfilling the Applicant requirements listed above, Authorize the Amendment of General Lease No. S-5976, Hospice of Hilo, Lessee, to delete the current provision for "Subletting" (Condition 14), and replace with the following:

"The Lessee shall not rent or sublet the whole or any portion of the demised premises, without the prior written approval of the Board; provided, however, that prior to such approval, the Board shall have the right to review and approve the rent to be charged to the proposed sublessee and, if necessary, revise the rent of the demised premises based upon the rental rate charged to the said sublessee; provided, further, that the rent may not be revised downward."

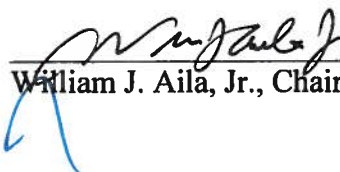
2. The lease amendment shall further be subject to the following:
 - B. The standard terms and conditions of the most current lease amendment document form, as may be amended from time to time; and
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interest of the State.

Respectfully Submitted,



Wesley T. Matsunaga
Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson

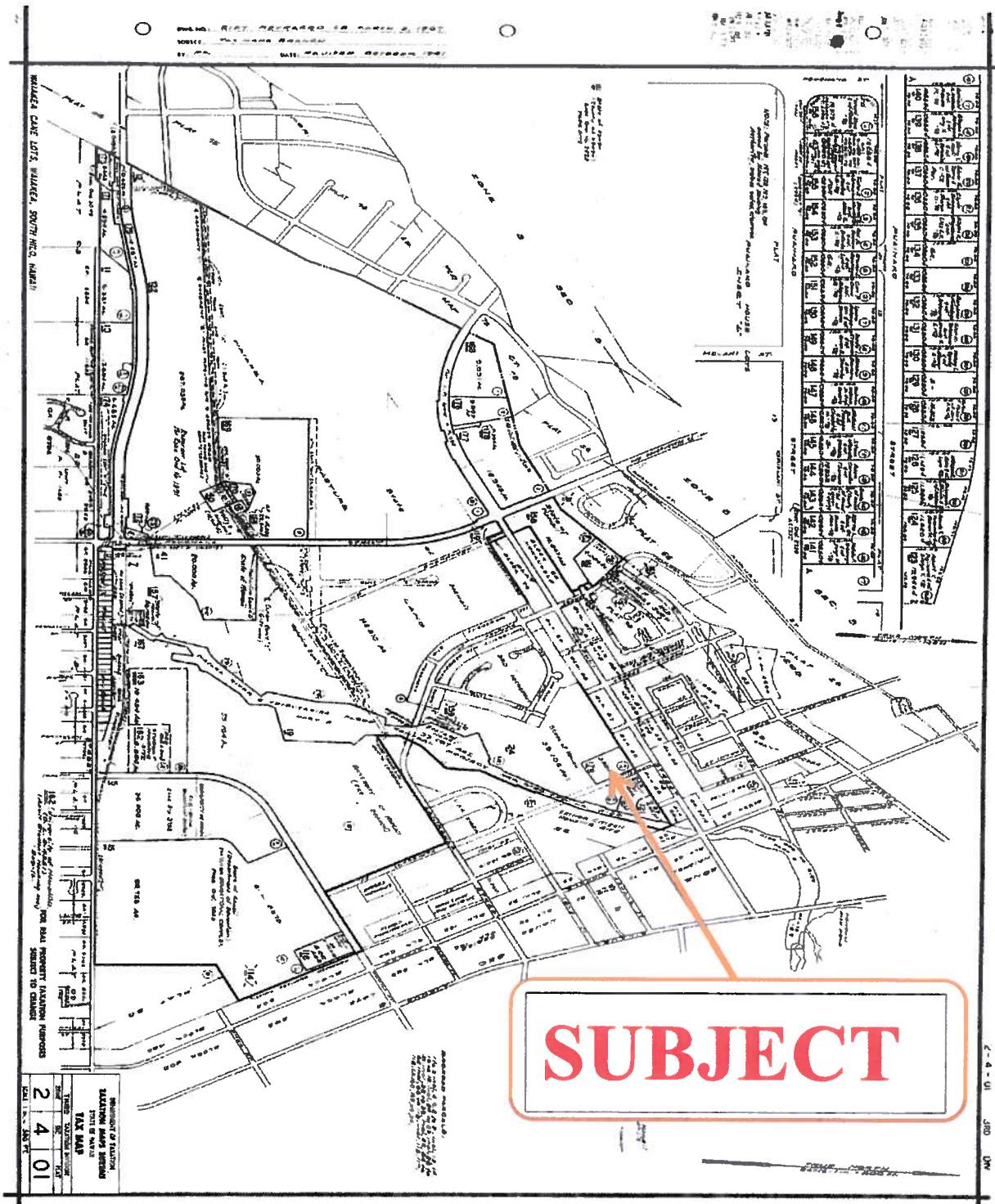


EXHIBIT A