# AGRIBUSINESS DEVELOPMENT CORPORATION

Minutes of the Board of Directors Meeting held Virtually on August 26, 2020 Via Zoom Teleconference

Considering the evolving COVID-19 situation, protecting the health and welfare of the community is of utmost concern. As such, the meeting was held remotely, with Board members, Staff and Applicants participating via Zoom meeting venue.

#### Members Present, virtually:

Sandra Kato-Klutke, Kauai County Member (Chairperson) Mary Alice Evans, Designated Representative, DBEDT, Ex-Officio Member Lloyd Haraguchi, Member-At-Large *joined at 10:20 a.m.* Kevin Hopkins, Hawaii County Member Frederick Lau, City & County of Honolulu Member Kaleo Manuel, Designated Representative, DLNR, Ex-Officio Member Douglas Schenk, Maui County Member Karen Seddon, Member-At-Large Phyllis Shimabukuro-Geiser, Chairperson, Board of Agriculture, Ex-Officio Member Warren Watanabe, Member-At-Large *joined at 10:25 a.m.* 

## **Counsel Present, virtually:**

Andrew Goff, Deputy Attorney General Valerie Kato, Deputy Attorney General

#### **Staff Present, virtually:**

James Nakatani, Executive Director Myra Kaichi, Sr. Executive Assistant Ken Nakamoto, Project Manager Lynn Owan, Administrative Services Officer Lyle Roe, Property Manager

# A. Call to Order

Chairperson Kato-Klutke called the virtual meeting to order at 9:02 a.m.

B. Roll Call

Ms. Kaichi conducted a roll call of the Board. All present with the exception of Mr. Haraguchi and Mr. Watanabe who both joined the meeting later.

C. Approval of minutes from the July 22, 2020 virtual meeting

Motion to approve: D. Schenk / Second: K. Manuel

Correction will be made to misspelling of Mr. Manuel's name on page 5, first two paragraphs.

Hearing no further comments, Ms. Kaichi conducted a roll call vote. For each subsequent vote, the Chair will ask if there are any objections. If there are none, motion will be carried on the same basis as this initial roll call vote.

Vote: Approved, 8-0

• As discussed at the last board meeting on July 22, 2020, Chair created two investigative committees in accordance with Article 4 of the ADC Bylaws and Hawaii Revised Statutes section 92-2.5(b)(1). She announced the members and the scope of the committees.

# **Investigative Tenant Review and Recommendation Committee (the Review Committee)**

<u>Members</u>: Lloyd Haraguchi, Fred Lau, Warren Watanabe, Jari Sugano (UH CTAHR Extension, Oahu County Administrator), PO Yung Lai (City & County of Honolulu Agriculture Liaison). Assisted by staff: Ken Nakamoto, Lyle Roe

Scope:

- 1) Develop criteria for the qualification and selection of potential tenants of vacant ADC agricultural lands on Oahu.
- 2) Develop a fair and effective solicitation processes for the submission of applications.
- 3) Upon completion of the solicitation process, review and evaluate the applications received in accordance with the qualification and selection criteria and select the best applicants.

## **Investigative Agricultural Activity Policy Committee (the Policy Committee)**

Members: Doug Schenk, Kevin Hopkins, Karen Seddon. Assisted by staff: Myra Kaichi, Lyle Roe

## Scope:

- 1) Present data or anecdotal information about
  - a. Constantly evolving market demands for different types of agricultural commodities, both in the State, and for possible export.
  - b. Burdens and hardships on ADC tenants who strive to grow and increase diversified agricultural crops and livestock.
- 2) Provide information about the current conditions of different crops or livestock
  - a. Identify the tension between competing agricultural activities.
  - b. Develop a system for determining when a particular use should be favored over another.
  - c. May consider whether a list of criteria may be the most effective, or whether a level of projected success is more favorable. It may find other ways to balance these competing requests.
- 3) Investigate the various situations in which existing ADC tenants provide infrastructure improvements and services which ultimately benefit the State of Hawaii, for which benefit the tenant may request rent credit or other forms of compensation. It shall develop standards and criteria that the ADC board may consider in deciding these requests.

Each member of these two committees is authorized to take all actions necessary and to work with ADC staff to ensure that all actions of their respective committees are conducted in accordance with Chapter 92, HRS, and are within their defined scope. They shall each elect a committee chairperson. The committee chairperson will present all resulting findings and recommendations to the entire ADC board at a duly noticed board meeting.

No decision on any of the recommendations of either committee will be allowed until the ADC board meeting subsequent to the duly noticed ADC board meeting at which the findings and recommendations of each committee are presented.

D. Request for Approval to Re-issue Revocable Permit No. RP16-05 to Manoa Honey Company for Storage Space in Whitmore, Oahu; Tax Map Key (1) 7-1-02-09 (por).

Motion to approve: M.A. Evans / Second: D. Schenk

No response to call for public testimony.

No questions from the Board.

Hearing no objections, motion carried. Vote: Approved 8-0

E. Request for Approval to Re-issue Revocable Permit No. RP16-03 to Royal Palm Contracting & Maintenance Group, Inc. for Agricultural Purposes in Whitmore, Oahu; Tax Map Key (1) 7-1-02-09 (por).

Motion to approve: P. Shimabukuro-Geiser / Second: K. Manuel

No response to call for public testimony.

No questions from the Board.

Hearing no objections, motion carried. Vote: Approved 8-0

F. Request for Approval to Re-issue Revocable Permit No. RP16-02 to Andros Engineering Corporation for Parking and Storage Space in Whitmore, Oahu; Tax Map Key (1) 7-1-02-04 (por).

Motion to approve: M.A. Evans / Second: K. Seddon

No response to call for public testimony.

Mr. Manuel asked if there is a timeframe for the redevelopment of the area. Mr. Nakatani explained that he met with Senator Dela Cruz regarding a PPP (public-private partnership) approach. ADC is formulating a plan but it has been delayed due to the COVID-19 situation. He also contacted Ms. Seddon for her input into the PPP approach. Ms. Seddon stated that she reviewed the information Mr. Nakatani shared with her and does have questions; they will meet at a later date.

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Hearing no further questions nor objections, motion carried. Vote: Approved 8-0

G. Request for Approval to Re-issue a Revocable Permit No. RP17-01 to Andros Engineering Corporation for Office Space in Whitmore, Oahu; Tax Map Key (1) 7-1-02-04 (por).

Motion to approve: P. Shimabukuro-Geiser / Second: K. Seddon

No response to call for public testimony.

Mr. Manuel asked about the utilities not being included. Mr. Nakatani explained that this is basically garage space – utilities are minimally used. Mr. Manuel asked about the previous agenda items and if utilities are included in their RPs. Mr. Nakatani stated that some are not – Manoa Honey's does not include utilities as there are none. For the other spaces, staff is working with Dole on addressing the use of utilities and by the end of the year will have a solid plan.

Hearing no further questions nor objections, motion carried. Vote: Approved 8-0

H. Request for Approval to Re-issue Revocable Permit No. RP17-02 to Oceanic Companies Inc. for Parking and Storage Space in Whitmore, Oahu; Tax Map Key (1) 7-1-02-04 (por).

Motion to approve: M.A. Evans / Second: K. Seddon

No response to call for public testimony. Mr. Dalton reminded the public that they can click the raise the hand button to speak. Ms. Stacy Ferreira stated that she is present and listening.

Hearing no objections, motion carried. Vote: Approved 8-0

I. Update on Ohana Best, LLC vs. State of Hawaii, et al., Civ. No. 19-1-1640-10.

"The Board may go into executive session, pursuant to H.R.S.  $\S92-5(a)(4)$ , to consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities."

Motion to enter Executive Session: M.A. Evans / P. Shimabukuro-Geiser

Hearing no objections; motion carried. Vote: Approved, 8-0

The Board emerged from Executive Session with no action taken. Ms. Kaichi conducted a second roll call.

Mr. Haraguchi joined the meeting.

#### J. ADC Board Meeting Schedule

Chair stated that board meetings shall be calendared for the 4<sup>th</sup> Wednesday of each month. If a meeting is not needed, it will be canceled. Mr. Nakatani requested that for the remainder of this year, meetings be scheduled by staff only as necessary due to the COVID-19 situation. Also, he recommends no meeting in December. Chair would like more than 2-weeks' notice of a meeting being scheduled. Ms. Kaichi stated that other boards hold the standing date and if no meeting is needed, it is canceled. Chair reiterated that for the rest of the year, meetings will be held on the 4<sup>th</sup> Wednesday of each month at 9:00 a.m. unless staff deems it not necessary at which time the meeting will be canceled.

Mr. Watanabe joined the meeting.

## K. Executive Director's Update

Mr. Nakatani provided an update on the following items:

- 1) HDOA Strategic Plan: Mr. Nakatani asked Ms. Shimabukuro-Geiser to share what HDOA is doing and how the board can participate in the virtual meetings. Ms. Shimabukuro-Geiser explained that participants are invited via email. She asked staff to send her the Board members' email addresses so she can get the Zoom link to them.
- 2) Whitmore: Mr. Nakatani commended Mr. Nakamoto and Mr. Roe for keeping on top of the ongoing trespassing and other problems in the area. Also, Mr. Roe has been attending neighborhood board meetings which is much appreciated.
- 3) Legislative Update: ADC received a \$600,000 appropriation for Kekaha bridge improvements. Funds will be used for planning and design to improve the inner roads, not the public roads. Hopefully the funds do get released.

Chair asked for an update on the Kalepa Christian Crossing project for which the Governor released \$900,000. Mr. Nakamoto stated that ADC has selected a consultant to help develop the scope. Once we have the scope, will obtain a designer. Hope to start construction within a year - 18 months.

#### L. Adjourn

Motion to adjourn meeting: D. Schenk / K. Hopkins

Meeting was adjourned at 10:33 a.m.

Respectfully submitted,

Lori Nakamura ADC Executive Secretary JOSH GREEN Lt. Governor



Item D

JAMES J. NAKATANI Executive Director

#### STATE OF HAWAII AGRIBUSINESS DEVELOPMENT CORPORATION 235 S. Beretania Street, Room 205 Honolulu, HI 96813 Phone: (808) 586-0186 Fax: (808) 586-0189

## September 23, 2020

Subject: Request for Approval to Amend License No. LI-KA1413 Issued to Laurie Ho to Withdraw up to 7 Acres of Field HSPA 3, More or Less, in Kalepa, Kauai, Tax Map Key (4) 3-9-002-020 (por)

Applicant: Laurie Ho

Authority: Section 163D-4(a)(5), Hawaii Revised Statutes

Area: 19 Acres, More or Less

Field No. HSPA 3

Tax Map Key: (4) 3-9-002-020 (por)

Land Status: Encumbered by Governor's Executive Orders 4328 and 4401 to the Agribusiness Development Corporation for agricultural purposes.

Trust Land Status: Section 5(b) lands of the Hawaii Admissions Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: Yes X No\_\_\_\_

Character of Use: Diversified Agriculture

Lease/License Term: 35 years (currently in year 5)

Revocable Permit: N/A

Base Rental Rate: Currently \$100.00/acre/year

## BACKGROUND:

At its meeting on January 14, 2014, the Board of the Agribusiness Development Corporation ("ADC") approved a land request from Laurie Ho ("Licensee") for the 19 acres of HSPA 3 (see "Exhibit A"). Licensee's expressed intent was to grow breadfruit on approximately 10 acres of the premises, primarily as an ingredient for local beer and spirits in collaboration with Kauai Brewers, LLC. Additional plantings on the remaining 9 Request for Approval to Amend License No. LI-KA1413 Issued to Laurie Ho to Withdraw up to 7 Acres of Field HSPA 3, More or Less, in Kalepa, Kauai, Tax Map Key (4) 3-9-002-020 (por) September 23, 2020 Page 2 of 9

acres of the premises of lilikoi, lemongrass, ginger, olena, and awa were to be planted to be used as botanical flavorings. Following the approval of the land request, License No. LI-KA1413 ("License") was executed on March 17, 2015, effective December 1, 2014. and included a standard land utilization plan and map ("Exhibit B") that noted the property would be in full production by 2018.

However, subsequent inspections by ADC staff documented little to no agricultural activity by the Licensee on the premises. Failure to utilize the premises to the terms of the utilization plan, abandoned vehicles, and improper subletting have been documented by ADC's Kauai-based property consultant and staff. A recent inspection of the property on September 3, 2020 by staff documented non-performance including allowing the property to become completely overgrown with guinea grass, few observed breadfruit trees (the ones observed were unpruned, appeared to be abandoned, and nearly mistaken as overgrowth) or other crops on any portion of the premises, an overgrown farm road, and abandoned vehicles that still have not been removed. (See "Exhibit C")

## LAND REQUEST AND DISCUSSION:

The Licensee has reached a tentative agreement with another ADC tenant, Tiansheng Lin dba Lin's Farm ("Mr. Lin"), who operates under License No. LI-KA1811 on an adjacent 2-acre parcel, to allow him to expand his production by utilizing 5 acres of HSPA 3. Given Licensee's history of non-performance, and in partial consideration of her tentative agreement with Mr. Lin, ADC believes it is appropriate to withdraw up to 7 acres to include Fields 1 - 4, more or less, as depicted on the Licensee's utilization map, from the License.

HSPA 3 is bound on two sides by, and has access to, Hanamaulu Ditch for the purpose of accessing irrigation water.

On its own, this request represents a \$700.00 maximum annual loss of rental income to ADC. However, if this Board approves the addition of withdrawn acres to Mr. Lin's license, agenda Item E, this transaction is budget neutral.

#### **RECOMMENDATION:**

Staff recommends that the Board approve the withdraw of up to 7 gross acres from License No. LI-KA1413 to include Fields 1 - 4, subject to the following conditions:

- 1. Licensee shall consent to joint use of the access road for HSPA 3.
- 2. All other terms and conditions of the License shall remain unchanged.

Respectfully submitted,

es J. Nakatani

Executive Director

Request for Approval to Amend License No. LI-KA1413 Issued to Laurie Ho to Withdraw up to 7 Acres of Field HSPA 3, More or Less, in Kalepa, Kauai, Tax Map Key (4) 3-9-002-020 (por) September 23, 2020 Page 3 of 9

# <u>EXHIBIT A</u>



Request for Approval to Amend License No. LI-KA1413 Issued to Laurie Ho to Withdraw up to 7 Acres of Field HSPA 3, More or Less, in Kalepa, Kauai, Tax Map Key (4) 3-9-002-020 (por) September 23, 2020 Page 4 of 9

# EXHIBIT B

## Sales/Marketing Plan

Working with Kauai Brewers, LLC to develop Sales and Marketing plans.

## **Operations Plan**

ADC Kalepa Unit HSPA 3 is located on Ma'alo road, east of the 3 mile marker, in TMK 4-3-9-2, on a  $17\pm$  acre (USDA-Farm Service Agency estimate) portion of the HSPA's Lihue Variety Station. Previously, water has been delivered by a dedicated 3.2 mile, 0.5mgd surface irrigation system. The property is also bordered on the west & south by a section of the Hanama'ulu Ditch. Presently, Irrigation water is trucked in. The Mean Annual Rainfall is 65 inches. Elevation is 283 feet above sea level.

Total arable acres are 10±. Buffer zones, roadways, tractor shed, ditches, sumps, and lihi, consist of the remainder.

The plan is to plant 140 trees on two acres in 2013, use the vegetative material from this test plot to propagate 420 trees for the remaining eight acres, which will be planted in increments starting in late 2014. The plan is to have the eight acres planted to ulu trees by the end of 2015. Spacing will be 25' x 23', staggered. Land disturbance is minimal. Rows will be ripped to a depth of 24", existing Albizia trees will be used to provide shade the young ulu trees and to fix nitrogen for the ulu trees. The Guinea grass will be crimped and used as a composting mulch to control weeds and conserve moisture. Total expenses for establishing two acres are \$6,575.12.

Other crop plantings will include lilikoi, lemongrass, ginger, olena, and awa. These will be used as botanical flavorings. To take advantage of spent brewer's lauter, livestock production is also being considered.

Maintenance for years 1-3 will consist mainly of vegetation control, and Albizia removal. A part-time Manager will be hired, and labor will be on an as needed bases. Years 3-5, because of the nature of a new industry, management and labor will be adjusted to the work load.

Long term improvements planned and needed to make this venture feasible include: Installing a 2000 foot perimeter fence for feral pig control, risk management purposes and reducing liability; work with East Kauai Water Users' Cooperative and Kalepa Coalition to reconstruct and repair sections of the HPSA/Hanama'ulu ditches to re-establish consistent water source to ADC Kelepa Unit HSPA 3; install a permanent in-field irrigation system.

## **Organization and Management and Development Plan**

At this time, Kalepa Ulu is a Sole Proprietorship.

Financial Plan See attached Request for Approval to Amend License No. LI-KA1413 Issued to Laurie Ho to Withdraw up to 7 Acres of Field HSPA 3, More or Less, in Kalepa, Kauai, Tax Map Key (4) 3-9-002-020 (por) September 23, 2020 Page 5 of 9



Total Acreage= 17.37 Arable Acreage= 9.69 Roads, Ditches, Sumps, Buffers, Lihi= 7.41 Acres Ulu Planting Schedule: 2013- Fields 1,2,3 2014-Fields 4,5 2018- Full Production

Request for Approval to Amend License No. LI-KA1413 Issued to Laurie Ho to Withdraw up to 7 Acres of Field HSPA 3, More or Less, in Kalepa, Kauai, Tax Map Key (4) 3-9-002-020 (por) September 23, 2020 Page 6 of 9

# EXHIBIT C



Middle of Premises, looking West 1

Request for Approval to Amend License No. LI-KA1413 Issued to Laurie Ho to Withdraw up to 7 Acres of Field HSPA 3, More or Less, in Kalepa, Kauai, Tax Map Key (4) 3-9-002-020 (por) September 23, 2020 Page 7 of 9



Abandoned Vehicle Along Farm Access Rd. 1



Abandoned Vehicle Along Farm Access Rd. 2

Request for Approval to Amend License No. LI-KA1413 Issued to Laurie Ho to Withdraw up to 7 Acres of Field HSPA 3, More or Less, in Kalepa, Kauai, Tax Map Key (4) 3-9-002-020 (por) September 23, 2020 Page 8 of 9



Overgrown Field with Tent, Possible Ulu 1

Request for Approval to Amend License No. LI-KA1413 Issued to Laurie Ho to Withdraw up to 7 Acres of Field HSPA 3, More or Less, in Kalepa, Kauai, Tax Map Key (4) 3-9-002-020 (por) September 23, 2020 Page 9 of 9



Middle of Field Looking South 1



SE Corner Looking West 1

JOSH GREEN Lt. Governor



Item E

JAMES J. NAKATANI Executive Director

#### STATE OF HAWAII AGRIBUSINESS DEVELOPMENT CORPORATION 235 S. Beretania Street, Room 205 Honolulu, HI 96813 Phone: (808) 586-0186 Fax: (808) 586-0189

# September 23, 2020

- Subject: Request for Approval to Amend License No. LI-KA1811 Issued to Tainsheng Lin dba Lin's Farm to Include up to 7 Acres of Field HSPA 3, More or Less, in Kalepa, Kauai, Tax Map Key (4) 3-9-002-020 (por)
- Applicant: Tainsheng Lin dba Lin's Farm
- Authority: Section 163D-4(a)(5), Hawaii Revised Statutes
- Area: 2 acres, more or less
- Field No. HSPA 2
- Tax Map Key: (4) 3-9-002-020 (por)
- Land Status: Encumbered by Governor's Executive Orders 4328 and 4401 to the Agribusiness Development Corporation for agricultural purposes.
- Trust Land Status: Section 5(b) lands of the Hawaii Admissions Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: Yes X No\_\_\_

- Character of Use: Diversified Agriculture
- Lease/License Term: 35 years (currently in year 2)
- Revocable Permit: N/A
- Base Rental Rate: \$100.00/acre/year

## BACKGROUND:

In 2018, the Board of the Agribusiness Development Corporation ("ADC") approved a land request from Tainsheng Lin dba Lin's Farm ("Licensee") for the 2 acres of HSPA 2 (see "Exhibit A"). The Licensee's utilization plan called for a small base yard and crops that included jackfruit, Chinese berry, soursop, avocado, mango, and lychee (see

Request for Approval to Amend License No. LI-KA1811 Issued to Tainsheng Lin dba Lin's Farm to Include up to 7 Acres of Field HSPA 3, More or Less, in Kalepa, Kauai, Tax Map Key (4) 3-9-002-020 (por) September 23, 2020 Page 2 of 9

"Exhibit B"). Following approval of the land request, License No. LI-KA1811 ("License") was executed on April 27, 2018, effective April 1, 2018. Subsequent inspections documented the Licensee working towards full production of the premises (see "Exhibit C") which rapidly became fully built out as the orchard crops grew large enough to prevent effective cropping of the field inter-rows.

The premises are generally well tended, and no serious License violations have been documented. Licensee notes that they are currently attending a series of trainings to facilitate GAP certification.

## LAND REQUEST:

The Licensee has reached a tentative agreement with another ADC tenant, Laurie Ho, who operates an adjacent 19-acre parcel (HSPA 3) under License No. LI-KA1413, to allow the Licensee to utilize 5 acres of HSPA 3 for additional orchard crops and fruit/vegetable production.

## DISCUSSION:

The Licensee's current utilization of HSPA 2 is completely built out and an additional 5 acres will allow them to expand their production. ADC has an interest in seeing adjacent parcel HSPA 3 in production, rather than the overgrown and unused condition in which it currently exists (see Agenda Item D). As such, ADC believes it is in the best interest of its mission to include up to 7 acres of HSPA 3 under the License.

HSPA 2 & 3 have access to irrigation water from Hanamaulu Ditch.

## **RECOMMENDATION:**

Staff recommends that the Board approve the inclusion of up to 7 acres of HSPA 3 to License No. LI-KA1811, subject to the following conditions:

- 1. The License fee for the additional acreage of HSPA 3 shall be \$100.00/acre/year and shall be subject to the same rate increases at the same schedule as the existing lands under the License.
- 2. Licensee shall consent to jointly maintain the access road for HSPA 3.
- 3. All other terms and conditions shall remain unchanged.

Respectfully submitted,

nes J. Nakatani

James J. Nakatani Executive Director Request for Approval to Amend License No. LI-KA1811 Issued to Tainsheng Lin dba Lin's Farm to Include up to 7 Acres of Field HSPA 3, More or Less, in Kalepa, Kauai, Tax Map Key (4) 3-9-002-020 (por) September 23, 2020 Page 3 of 9

# EXHIBIT A



Request for Approval to Amend License No. LI-KA1811 Issued to Tainsheng Lin dba Lin's Farm to Include up to 7 Acres of Field HSPA 3, More or Less, in Kalepa, Kauai, Tax Map Key (4) 3-9-002-020 (por) September 23, 2020 Page 4 of 9

# EXHIBIT B



Request for Approval to Amend License No. LI-KA1811 Issued to Tainsheng Lin dba Lin's Farm to Include up to 7 Acres of Field HSPA 3, More or Less, in Kalepa, Kauai, Tax Map Key (4) 3-9-002-020 (por) September 23, 2020 Page 5 of 9

# EXHIBIT C



Request for Approval to Amend License No. LI-KA1811 Issued to Tainsheng Lin dba Lin's Farm to Include up to 7 Acres of Field HSPA 3, More or Less, in Kalepa, Kauai, Tax Map Key (4) 3-9-002-020 (por) September 23, 2020 Page 6 of 9



Request for Approval to Amend License No. LI-KA1811 Issued to Tainsheng Lin dba Lin's Farm to Include up to 7 Acres of Field HSPA 3, More or Less, in Kalepa, Kauai, Tax Map Key (4) 3-9-002-020 (por) September 23, 2020 Page 7 of 9



Request for Approval to Amend License No. LI-KA1811 Issued to Tainsheng Lin dba Lin's Farm to Include up to 7 Acres of Field HSPA 3, More or Less, in Kalepa, Kauai, Tax Map Key (4) 3-9-002-020 (por) September 23, 2020 Page 8 of 9



Request for Approval to Amend License No. LI-KA1811 Issued to Tainsheng Lin dba Lin's Farm to Include up to 7 Acres of Field HSPA 3, More or Less, in Kalepa, Kauai, Tax Map Key (4) 3-9-002-020 (por) September 23, 2020 Page 9 of 9



JOSH GREEN Lt. Governor



JAMES J. NAKATANI Executive Director

#### STATE OF HAWAII AGRIBUSINESS DEVELOPMENT CORPORATION 235 S. Beretania Street, Room 205 Honolulu, HI 96813 Phone: (808) 586-0186 Fax: (808) 586-0189

# September 23, 2020

- Subject: Request for Approval to Amend License No. LI-K1901 Issued to Hawaii Labor Solutions Inc. to Include 40.82 Acres of Field 207, More or Less, in Kekaha, Kauai, Tax Map Key (4) 1-2-002-001 (por)
- Applicant: Hawaii Labor Solutions Inc.

Authority: Section 163D-4(a)(5), Hawaii Revised Statutes

Area: 13.25 acres

Field No. Field 123 (por)

Tax Map Key: (4) 1-2-002-001 (por)

Land Status: Encumbered by Governor's Executive Order 4077, as modified by Executive Orders 4034 and 4165 respectively, to the Agribusiness Development Corporation ("ADC") for agricultural purposes.

Trust Land Status: Section 5(b) lands of the Hawaii Admissions Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: Yes X No\_\_\_

Character of Use: Orchard and Diversified Agriculture

Lease/License Term: 35 years (currently in year 1)

Base Rental Rate: Currently \$150.00/acre/year

## BACKGROUND:

In 2019, the ADC Board approved the issuance of a land license to Wallace Johnson through Hawaii Labor Solutions Inc. ("Licensee") for 13.25 acres of Field 123 in Kekaha, Kauai. License No. LI-K1901 ("License") was executed on July 13, 2020 for the production of mangos. Additionally, Global Ag Services, Inc., a company also owned by Mr. Johnson, utilizes 9 acres of ADC property through a sublicense under Sunrise Capital, Inc. for the production of tobacco.

Request for Approval to Amend License No. LI-K1901 Issued to Hawaii Labor Solutions Inc. to Include 40.82 Acres of Field 207, More or Less, in Kekaha, Kauai, Tax Map Key (4) 1-2-002-001 (por) September 23, 2020 Page 2 of 9

Field 207 consists of 88.02 acres and was previously licensed to Pioneer Hi-Bred International, Inc. and later to Funing Farm, LLC. In September 2019, ADC withdrew Field 207 from Funing Farm and the field has vacant and unused to-date.

#### LAND REQUEST:

Licensee is requesting a 40.82-acre portion of Field 207 (see "Exhibit A") in Kekaha, Kauai for the purpose of constructing up to 24 climate-controlled greenhouses for melon and bell pepper production and up to 30 semi climate-controlled greenhouses to produce mangos year around. The utilization plan (see "Exhibit B") calls for the parcel to be fully built-out over a 12-year period. Kekaha Agricultural Association and another tenant who is interested in the remainder of Field 207 support this plan.

Licensee intends to produce fruits and vegetables year round in a climate-controlled environment which will help prevent losses from weather related conditions, produce sustainable crops for Hawaii and reduce transport costs, develop good paying hi-tech agricultural jobs for Hawaii residents, and develop a working model for high-tech agriculture for potential new ventures by local agricultural business owners.

#### FINANCING:

Licensee will self-finance the first 1 - 2 years of the build-out. They are currently in discussions regarding a number of financing options including private lenders, SBA, and USDA.

#### CONSERVATION PLAN:

Licensee would be required to obtain a conservation plan for the premises.

## DISCUSSION:

Mr. Johnson owns and operates a number of companies and is able to self-finance the first 1 - 2 years of the build out. Subsequent financing, whether it be through private lenders or government grants and loans are partially dependent upon successfully securing a license for land.

This project represents \$6,123/year in additional rental income to ADC.

#### CONCLUSION:

ADC believes that this project aligns with our mission, and, once completed, has the potential to benefit the local community.

Request for Approval to Amend License No. LI-K1901 Issued to Hawaii Labor Solutions Inc. to Include 40.82 Acres of Field 207, More or Less, in Kekaha, Kauai, Tax Map Key (4) 1-2-002-001 (por) September 23, 2020 Page 3 of 9

#### **RECOMMENDATION:**

Staff recommends that the Board approve the request to include 40.82 acres of Field 207 (por) under the License, subject to the following terms and conditions:

- 1. The License fee shall be \$150.00/acre/year for 40.82 tillable acres of Field 207 and shall be subject to the same rate increases at the same schedule as the existing lands under license.
- 2. Licensee shall develop and submit an approved conservation plan for the 40.82 acres of Field 207 within one year of the execution of this license, and prior to the start of any construction.
- 3. Licensee shall pay all fees and assessments from KAA associated with the 40.82 acres of Field 207.
- 4. The newly included acreage shall be subject to all existing terms and conditions of the License.

Respectfully submitted,

James J. Nakatani Executive Director Request for Approval to Amend License No. LI-K1901 Issued to Hawaii Labor Solutions Inc. to Include 40.82 Acres of Field 207, More or Less, in Kekaha, Kauai, Tax Map Key (4) 1-2-002-001 (por) September 23, 2020 Page 4 of 9



Request for Approval to Amend License No. LI-K1901 Issued to Hawaii Labor Solutions Inc. to Include 40.82 Acres of Field 207, More or Less, in Kekaha, Kauai, Tax Map Key (4) 1-2-002-001 (por) September 23, 2020 Page 5 of 9

## EXHIBIT B

Hawaii labor solutions Inc., buildout land utilization plan field 207

Land area 40.27 acres

Objective: To develop new agricultural production methods using climate controlled greenhouses;

- 1. Produce fruits and vegetables year around in climate controlled environment
- 2. Prevents crop losses from weather related conditions
- 3. Produce sustainable crops for Hawaii and eliminated transport costs
- 4. Develop good paying hi-tech agricultural jobs for young people in Hawaii
- 5. Develop working models of hi-tech agriculture for potential new businesses for local ag Business owners

Utilization plan

12 year build out plan includes utilizing the full 40 acres to build up to;

24 climate controlled greenhouses for melon and bell pepper production

30 semi-climate controlled greenhouses to produce mangos year around

Parcel will be divided into four quadrants to be developed fully over a the 12 year period;

- 1. Year one build two climate controlled 4,000 square foot greenhouses primarily for melon production, plus training facility and packing area
- 2. year two build four climate controlled greenhouses for melon production
- 3. year four Build 6 climate controlled greenhouses for melon production plus 6 semi-climate controlled Greenhouses for mango production
- 4. year 7-12 complete the build out of the remaining greenhouses to complete the 12 year plan

#### Please see attached photos



Request for Approval to Amend License No. LI-K1901 Issued to Hawaii Labor Solutions Inc. to Include 40.82 Acres of Field 207, More or Less, in Kekaha, Kauai, Tax Map Key (4) 1-2-002-001 (por) September 23, 2020 Page 6 of 9



Request for Approval to Amend License No. LI-K1901 Issued to Hawaii Labor Solutions Inc. to Include 40.82 Acres of Field 207, More or Less, in Kekaha, Kauai, Tax Map Key (4) 1-2-002-001 (por) September 23, 2020 Page 7 of 9

# EXHIBIT C

[for illustration purposes only]



Request for Approval to Amend License No. LI-K1901 Issued to Hawaii Labor Solutions Inc. to Include 40.82 Acres of Field 207, More or Less, in Kekaha, Kauai, Tax Map Key (4) 1-2-002-001 (por) September 23, 2020 Page 8 of 9





Request for Approval to Amend License No. LI-K1901 Issued to Hawaii Labor Solutions Inc. to Include 40.82 Acres of Field 207, More or Less, in Kekaha, Kauai, Tax Map Key (4) 1-2-002-001 (por) September 23, 2020 Page 9 of 9



JOSH GREEN Lt. Governor



Item G

JAMES J. NAKATANI Executive Director

#### STATE OF HAWAII AGRIBUSINESS DEVELOPMENT CORPORATION 235 S. Beretania Street, Room 205 Honolulu, HI 96813 Phone: (808) 586-0186 Fax: (808) 586-0189

# September 23, 2020

Subject: Request for Approval to Refer License No. LI-GA1810 Issued to Youming Luo & Dehua Liu to the Department of the Attorney General for Possible Legal Action Applicant: Youming Luo & Dehua Liu dba Liu's Plantation Authority: Section 163D-4(a)(5), Hawaii Revised Statutes Area: 24.202 acres, more or less Field No. Lot 7 Tax Map Key: (1) 7-1-001-002 Land Status: Acquired in fee by the State of Hawaii Agribusiness Development Corporation in 2012 from the George Galbraith Estate **Trust Land Status:** Section 5(b) lands of the Hawaii Admissions Act DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: Yes No X **Diversified Agriculture** Character of Use: Lease/License Term: 35 years (currently in year 2)

Revocable Permit: N/A

Base Rental Rate: Currently \$200.00/acre/year

## BACKGROUND:

Youming Luo and Dehua Liu dba Liu's Plantation were selected by ADC's Board as tenants for the Galbraith small farmer lots. License No. LI-G1810 was executed on August 12, 2019 after receiving the appropriate insurance and conservation plan. Rent payments are already in arrears. An initial invoice was sent September 5, 2019 in the amount of \$8,701.80 and then billed monthly from October 2019 – September 2020 in the amount of \$581.03/month. All invoices have gone unpaid.

Request for Approval to Refer License No. LI-GA1810 Issued to Youming Luo & Dehua Liu to the Department of the Attorney General for Possible Legal Action September 23, 2020 Page 2 of 6

Further, following a brief initial attempt to clear the premises, the land has been vacant and unused since January 2020 (see "Exhibit A"). Licensee's policy of commercial general liability insurance expired on June 19, 2020 and repeated requests for proof of renewal have gone unanswered.

At the request of ADC staff, the Department of the Attorney General issued a Notice of Default & Demand on August 3, 2020 via Certified Mail and USPS Priority Mail. The letter enumerated the breaches noted above and demanded the Licensee cure the rent default within 30 days, and all other defaults within 60 days of the date of the demand. Including late fees and interest, Licensee owed \$15,788.38. The Notice also requested the Licensee contact ADC to discuss plans for payment and cure.

As of September 3, 2020, the 30-day deadline, Licensee had not contacted ADC staff. During property rounds on the morning of September 10, ADC staff noticed a bulldozer clearing Lot 7. Staff immediately phoned and emailed Licensee noting that ADC had not heard from them and again requested that they contact staff immediately. Mr. Luo returned the call in the later afternoon noting that he had sent a payment for \$581.10 and had procured the appropriate insurance. Staff advised him that ADC was preparing to refer the matter to the Department of the Attorney General for possible legal action and requested he either make immediate payment for the past due amount or enter into negotiations for a work-out plan. He stated he could not make immediate payment in full.

On September 12, Mr. Luo emailed to say he would pay \$100/month, presumably in addition to regular rent payments to remediate the past due amounts. Further, on September 13, he emailed a photo of the cover page of his commercial general liability policy. Current balance of rental arrears as of September 15, 2020 is \$15,844.19 after deduction of the \$581.10 payment.

#### DISCUSSION:

ADC staff believe Licensee is interested in retaining the premises as evidenced by the offer of payment for rental arrears. However, at \$100/month, Licensee would take more than 13 years to repay the arrearage. ADC continues to negotiate a more reasonable and acceptable workout payment with Licensee. In the meantime, ADC staff believes it is prudent to secure ADC Board approval to proceed with possible legal action in the event the Licensee and ADC cannot arrive at a mutually agreeable work out plan.

#### CONCLUSION:

Licensee appears to want to utilize the premises. If a mutually agreeable work out plan can be negotiated, staff is willing to pursue it. However, in the event that such agreement cannot be reached, legal action may be necessary.

#### **RECOMMENDATION:**

Staff recommends that the Board approve the referral of License No. LI-GA1810 issued to Youming Luo and Dehua Liu to the Department of the Attorney General for possible

Request for Approval to Refer License No. LI-GA1810 Issued to Youming Luo & Dehua Liu to the Department of the Attorney General for Possible Legal Action September 23, 2020 Page 3 of 6

legal action in the event a reasonable workout of Licensee's defaults are not resolved within a reasonable time.

Respectfully submitted,

James J. Nakatani Executive Director

Request for Approval to Refer License No. LI-GA1810 Issued to Youming Luo & Dehua Liu to the Department of the Attorney General for Possible Legal Action September 23, 2020 Page 4 of 6


Request for Approval to Refer License No. LI-GA1810 Issued to Youming Luo & Dehua Liu to the Department of the Attorney General for Possible Legal Action September 23, 2020 Page 5 of 6





Request for Approval to Refer License No. LI-GA1810 Issued to Youming Luo & Dehua Liu to the Department of the Attorney General for Possible Legal Action September 23, 2020 Page 6 of 6

## <u>EXHIBIT B</u>

Inv Date	Rent Amt.	Svc. Charge	Interest 1%	<b>Balance</b>
5-Sep-19	\$ 8,701.80			\$ 8,701.80
1-Oct-19	\$ 581.03	\$ 50.00	\$ 87.02	\$ 9,419.85
2-Nov-19	\$ 581.02	\$ 50.00	\$ 5.81	\$ 10,056.68
7-Dec-19	\$ 581.03	\$ 50.00	\$ 5.81	\$ 10,693.52
1-Jan-20	\$ 581.03	\$ 50.00	\$ 5.81	\$ 11,330.36
1-Feb-20	\$ 581.03	\$ 50.00	\$ 5.81	\$ 11,967.20
2-Mar-20	\$ 581.03	\$ 50.00	\$ 5.81	\$ 12,604.04
15-Apr-20	\$ 581.03	\$ 50.00	\$ 5.81	\$ 13,240.88
5-May-20	\$ 581.03	\$ 50.00	\$ 5.81	\$ 13,877.72
2-Jun-20	\$ 581.03	\$ 50.00	\$ 5.81	\$ 14,514.56
1-Jul-20	\$ 581.10	\$ 50.00	\$ 5.81	\$ 15,151.47
1-Aug-20	\$ 581.10	\$ 50.00	\$ 5.81	\$ 15,788.38
1-Sep-20	\$ 581.10	\$ 50.00	\$ 5.81	\$ 16,425.29
Total	\$15,674.36	\$ 600.00	\$ 150.93	\$ 16,425.29

\*Less single payment of \$581.10 in September 2020.



Item H

JAMES J. NAKATANI Executive Director

#### STATE OF HAWAII AGRIBUSINESS DEVELOPMENT CORPORATION 235 S. Beretania Street, Room 205 Honolulu, HI 96813 Phone: (808) 586-0186 Fax: (808) 586-0189

## September 23, 2020

Subject:

Request for Approval to Amend Lease No. LE-W1502 Issued to Dole Food Company, Inc. to Withdraw 5,460 Square Feet of Building J (por), More or Less, in Whitmore, Oahu, Tax Map Key (1) 7-1-002-004 (por)

Applicant: Dole Food Company, Inc.

Authority: Section 163D-4(a)(5), Hawaii Revised Statutes

Area: 16,725 square feet, more or less

Field No. Buildings C, D, & J

Tax Map Key: (1) 7-1-002-004 (por)

Land Status: Acquired in fee by the State of Hawaii Agribusiness Development Corporation in 2013

Trust Land Status: Section 5(b) lands of the Hawaii Admissions Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: Yes\_\_\_ No\_X\_

Character of Use: Office, Conference/Break, Parking/Storage

Lease/License Term: 10 years (currently in year 5)

Revocable Permit: N/A

Base Rental Rate: \$4,555.00 per month

### **BACKGROUND:**

ADC purchased this 257-acre parcel from Dole Food Company, Inc. (Dole), more particularly identified by the tax map key noted above, in 2013. The purchase of the property included a lease-back agreement with Dole which was memorialized as Lease No. LE-W1502 ("Lease") on February 26, 2015 for their administrative office building

Request for Approval to Amend Lease No. LE-W1502 Issued to Dole Food Company, Inc. to Withdraw 5,460 Square Feet of Building J (por), More or Less, in Whitmore, Oahu, Tax Map Key (1) 7-1-002-004 (por) September 23, 2020 Page 2 of 3

(Building C, 5,550 sq. ft.), conference and break room (Building D, 1375 sq. ft.), and a covered storage area (Building J, 9,800 sq. ft.).

Since January 2020, neighbor tenant Davey Tree Expert Company, located in adjacent Building I, has expanded their operations, and that expansion has resulted in a certain amount of encroachment on Dole's Building J.

#### LAND REQUEST:

Dole requests the withdraw of a 5,460 square foot portion of Building J (see "Exhibit A") from their Lease. A 4,340 square foot portion of Building J will remain encumbered under their Lease.

#### CONCLUSION:

Dole no longer uses the portion of Building J and ADC is agreeable to Dole's request for withdraw.

The request to withdraw represents a loss of rental income to ADC of \$546.00 per month.

#### **RECOMMENDATION:**

Staff recommends that the Board approve the request to amend Dole's License to withdraw 5,460 square feet of Building J, subject to the following terms and conditions:

- 1. Following the execution of the amendment, Dole shall remove any and all property currently stored in the withdrawn area.
- 2. All other terms and conditions of the Lease shall remain unchanged.

Respectfully submitted,

James J. Nakatani Executive Director

Request for Approval to Amend Lease No. LE-W1502 Issued to Dole Food Company, Inc. to Withdraw 5,460 Square Feet of Building J (por), More or Less, in Whitmore, Oahu, Tax Map Key (1) 7-1-002-004 (por) September 23, 2020 Page 3 of 3

# EXHIBIT A





JAMES J. NAKATANI Executive Director

Item I

#### STATE OF HAWAII AGRIBUSINESS DEVELOPMENT CORPORATION 235 S. Beretania Street, Room 205 Honolulu, HI 96813 Phone: (808) 586-0186 Fax: (808) 586-0189

## September 23, 2020

- Subject: Request for Approval to Amend Revocable Permit No. RP16-01 Issued to Davey Tree Expert Company to Include 5,460 Feet of Building J (por), More or Less, in Whitmore, Oahu, Tax Map Key (1) 7-1-002-004 (por)
- Applicant: Davey Tree Expert Company
- Authority: Section 163D-4(a)(5), Hawaii Revised Statutes

Area: 15,224 square feet, more or less

Field No. Buildings E, I, & 10,000 square feet of parking

- Tax Map Key: (1) 7-1-002-004 (por)
- Land Status: Acquired in fee by the State of Hawaii Agribusiness Development Corporation in 2013.
- Trust Land Status: Section 5(b) lands of the Hawaii Admissions Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: Yes\_\_\_ No\_X\_

Character of Use: Office, Parking/Storage

Lease/License Term: N/A

- Revocable Permit: Renewable year-to-year
- Base Rental Rate: \$1,634.40/month

### **BACKGROUND:**

ADC and Davey Tree Expert Company (Davey Tree) executed Revocable Permit No. RP16-01 ("Permit") on March 1, 2016 for 224 square feet of office space, 5,000 square feet of covered storage space, and 10,000 square feet of parking area.

Request for Approval to Amend Revocable Permit No. RP16-01 Issued to Davey Tree Expert Company to Include 5,460 Square Feet of Building J (por), More or Less, in Whitmore, Oahu, Tax Map Key (1) 7-1-002-004 (por) September 23, 2020 Page 2 of 4

Davey Tree has been gradually expanding its operations and the expansion has resulted in a certain amount of encroachment upon the premises of adjacent tenant, Dole Food Company, Inc (Dole).

### LAND REQUEST:

Davey Tree requests to include a 5,460 square foot portion of Building J (see "Exhibit A") under their Permit for the purpose of equipment storage. Davey Tree proposes that in lieu of rent payments for this portion of Building J, they assume groundskeeping responsibility for a portion of the Whitmore campus, more particularly depicted in "Exhibit B."

#### DISCUSSION:

Dole has gradually been cutting back on the services it provides to the property. Janitorial, maintenance, groundskeeping, and utilities are being closely scrutinized for efficiency and cuts. Many of these services are typically the responsibilities of the property owner.

The 5,460 square feet of Building J represents a rental value of \$546.00/month. Because this is a proposal for services in lieu of rent payments, the effect is budget neutral (ADC noted the loss of rental income in agenda Item H as part of Dole's withdraw). However, ADC will receive a commensurate level of service for the use of the portion of Building J.

#### **RECOMMENDATION:**

Staff recommends the Board approve the inclusion of 5,460 square feet of Building J under Davey Tree's Revocable Permit No. RP16-01, subject to the following conditions:

- 1. In lieu of rent payments of \$546.00/month, Davey Tree shall perform groundskeeping maintenance for the area more particularly depicted in "Exhibit B."
- 2. All other terms and conditions of the Permit shall remain unchanged.

Respectfully submitted,

James J. Nakatani Executive Director

Request for Approval to Amend Revocable Permit No. RP16-01 Issued to Davey Tree Expert Company to Include 5,460 Square Feet of Building J (por), More or Less, in Whitmore, Oahu, Tax Map Key (1) 7-1-002-004 (por) September 23, 2020 Page 3 of 4

# EXHIBIT A



Request for Approval to Amend Revocable Permit No. RP16-01 Issued to Davey Tree Expert Company to Include 5,460 Square Feet of Building J (por), More or Less, in Whitmore, Oahu, Tax Map Key (1) 7-1-002-004 (por) September 23, 2020 Page 4 of 4



EXHIBIT B



Item J

JAMES J. NAKATANI Executive Director

#### STATE OF HAWAII AGRIBUSINESS DEVELOPMENT CORPORATION 235 S. Beretania Street, Room 205 Honolulu, HI 96813 Phone: (808) 586-0186 Fax: (808) 586-0189

## September 23, 2020

- Subject: Request for Approval of an Education Facility to be Constructed and Administered by the Hawaii Agricultural Research Center and the Hawaii Agricultural Foundation in Kunia, Oahu, Tax Map Key (1) 9-2-001-011
- Applicant: Hawaii Agricultural Research Center

Authority: Section 163D-4(a)(7), Hawaii Revised Statutes

Area: 108.221 acres

Field No. N/A

Tax Map Key: (1) 9-2-001-011 (por)

Land Status: Fee Owner: Hawaii Agricultural Research Center, and Pioneer Hi-Bred International, Inc.

Trust Land Status: Section 5(b) lands of the Hawaii Admissions Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: Yes\_\_\_ No\_X\_

Character of Use: Agricultural Research & Education

Lease/License Term: N/A

Revocable Permit: N/A

Base Rental Rate: N/A

## BACKGROUND:

The Agribusiness Development Corporation (ADC) and the USDA Natural Resources Conservation Service (NRCS) are the Holders of a Grant of Conservation Easement ("Easement") owned by Hawaii Agricultural Research Center (HARC) and Pioneer Hi-Bred International, Inc. The Easement, recorded with the State of Hawaii Office of Assistant Registrar on October 2, 2009, places certain development restrictions upon the Request for Approval of an Education Facility to be Constructed and Administered by the Hawaii Agricultural Research Center and the Hawaii Agricultural Foundation in Kunia, Oahu, Tax Map Key (1) 9-2-001-011 September 23, 2020 Page 2 of 10

property, and requires annual inspections to verify compliance. Furthermore, the Easement requires approval for certain improvements to be requested in writing by the owners and approved or disapproved by the holders (ADC as the local holder, in this case).

#### OWNER REQUEST:

ADC received a letter from HARC (see "Exhibit A") dated August 20, 2020 and received via certified mail on September 11, 2020, requesting approval to build an education center. The center, funded by the Hawaii Agricultural Foundation and with assistance from the Malama Learning Center is intended to further HARC's mission "to advance agriculture through scientific research by developing and demonstrating appropriate technologies; promoting rural community economic vitality; educating the public; providing training and rehabilitation programs for workers; supporting the development of agribusiness opportunities and accessory support facilities and services." The center will provide classrooms to facilitate instructional and hands-on programs for school children who are bussed from across the island, and will consist of two shipping containers, a wood roof, and pebble flooring (see "Exhibit B").

#### DISCUSSION:

Paragraph D(7) of the Easement notes that the right to undertake educational activities and related recreational activities, such as inviting groups to the property for interpretive walks, provided that such activities do not require the construction of structures and are conducted in a manner and intensity that does not adversely impact the agricultural value of the property and the purpose of the Easement or otherwise impact any protected soils.

Because the educational center would require some amount of construction, HARC is requesting approval from ADC per the terms of the Easement. The easement allows the construction of structures with impervious surfaces outside of the two building envelopes so long as (1) the aggregate surface area of all impervious structures is less than 6% of the property area, (2) the owner requests and receives approval from the holders (ADC, in this case). The educational center would add 0.049 acres to HARC's current impervious surface total 3.35 acres, well below the 6.49 maximum acres of aggregate impervious surfaces (based on 6% of 108.221 acres). Additionally, the request notes that all of the building materials are temporary and can be easily repurposed if necessary. See Exhibit C for site location and images.

#### CONCLUSION:

HARC's request to construct the education center appears to be an allowable structure under the terms of the Easement.

Request for Approval of an Education Facility to be Constructed and Administered by the Hawaii Agricultural Research Center and the Hawaii Agricultural Foundation in Kunia, Oahu, Tax Map Key (1) 9-2-001-011 September 23, 2020 Page 3 of 10

#### **RECOMMENDATION:**

Staff recommends that the Board approve HARC's request to construct an education facility on its property in Kunia, Oahu, subject to the following terms and conditions:

- 1. The total impervious surface area of the educational center shall not exceed 0.049 acres (2,134 square feet).
- 2. HARC shall notify ADC of any changes in construction that affect the total impervious surface area of 0.049 acres (2,134 square feet), or that substantially alter the noted construction and design of the center.

Respectfully submitted,

James J. Nakatani Executive Director Request for Approval of an Education Facility to be Constructed and Administered by the Hawaii Agricultural Research Center and the Hawaii Agricultural Foundation in Kunia, Oahu, Tax Map Key (1) 9-2-001-011 September 23, 2020 Page 4 of 10

#### EXHIBIT A



## Hawaii Agriculture Research Center

P.O. Box 100, Kunia, HI 96759 Ph: 808-621-1350 www.harc-hspa.com

August 20, 2020

Dear Mr Nakatani Executive Director of Agribusiness Development Corporation (ADC)

Please consider the attached request at an ADC Board meeting. It is a request concerning an education facility as an exemption to the ADC agricultural easement on HARC's Kunia laboratory and field site. The facility consists of 2 shipping containers, a wood roof and a pebble flooring. It will provide a covered instruction area for the students adjacent to the planting area and storage for the equipment and supplies for classes and workshops.

Best regards,

Stephenie A. Whalen Executive Director

Attachments

Request for Approval of an Education Facility to be Constructed and Administered by the Hawaii Agricultural Research Center and the Hawaii Agricultural Foundation in Kunia, Oahu, Tax Map Key (1) 9-2-001-011 September 23, 2020 Page 5 of 10



# Hawaii Agriculture Research Center

2020 SEP 11 P 12:

Administration: P.O. Box 100, Kunia, HI 96759 Ph: 808-621-1350 http://www.harc-hspa.com

August 20, 2020

To: Agribusiness Development Corporation

Subject: HARC Requests ADC's Approval to Build an Education Center

Background: Since 2 October 2009, the Hawaii Agriculture Research Center (HARC) has been a  $co^{2}$  in owner on a Grant of Conservation Easement (For Agricultural Preservation), Land Court Document 3904130. Therein, the Agribusiness Development Corporation (ADC) is defined as the Local Holder. One of the requirements of that easement is for HARC to follow an approval procedure should certain situations arise. In this case, HARC would like to build an education center to reach our youth, where we can plant that seed showing the wide range of careers that comprise agriculture as well as seasoned farmers, where adopting high tech can maximize their profit margins while minimizing their physical effort.

Using the Local Holder's approval format outlined in Section I.1.a. of the easement - "the request for approval shall describe the" (topics in **boldface**):

Nature: HARC is working with the Hawaii Agricultural Foundation (HAF) and Malama Learning Center to establish an educational center on site in fulfillment of their respective missions.

Scope: HARC's mission statement is "To advance agriculture through scientific research by developing and demonstrating appropriate technologies; promoting rural community economic vitality; educating the public; providing training and rehabilitation programs for workers; supporting the development of agribusiness opportunities and accessory support facilities and services." Besides the obvious, "educating the public", the education center would touch on each of our other mission goals: 'demonstrating appropriate technologies', 'promoting rural community economic vitality', 'promoting rural community economic vitality', 'providing training'; all contributing to the health of agriculture in Hawaii.

Location: The education center would be sited at 94-340 Kunia Rd., Waipahu, H1 96797 in the Farming Area, Field K, to the southwest of the greenhouse (see the attached aerial map). Note, there is no field area within the envelop and the point is to integrate the educational portion with the physical activity in the field. The center provides shade and a teaching area within the designated area. Siting the center within the envelop area, which is occupied by farm workers and a hub for heavy equipment traffic, increases the safety risk whereas the separation saves time traversing to and

Request for Approval of an Education Facility to be Constructed and Administered by the Hawaii Agricultural Research Center and the Hawaii Agricultural Foundation in Kunia, Oahu, Tax Map Key (1) 9-2-001-011 September 23, 2020

Page 6 of 10

from the current building, consolidates materials for activities near where they are used; thus, providing more efficient use of time, material and labor.

Timetable: The proposed start of construction is in 2020. Funding has been secured.

Identify its conformity with this Easement: The Easement (p. 13/35) states "Conditions that do not require Approval by Holders - item 7: Education and Recreation. The right to undertake educational activities and related recreational activities, such as inviting groups to the Property for interpretive walks, provided that such activities do not require the construction of structures and are conducted in a manner and intensity that does not adversely impact the Agricultural Values of the Property and the Purpose of this Easement or otherwise impact any protected soils." Clearly, HARC is seeking to construct a structure, the education center. However, neither the educational activities nor their associated intensity will degrade the agricultural value of the property, the purpose of the Easement, or our protected soils. A current example of this program involves fourth graders from Red Hill Elementary School. They helped prepare plots, including laying of the irrigation lines, planted the crop (beets), then introduced the experimental variable (mulch) versus the control (without mulch). as a ground cover, followed 4 weeks later by weeding, and finally harvested the crop. HARC has always been an oddity in comparison to commercial farms when applying regulations to its research and educational activities. Since we believe for ag to survive in HI, we need willing and educated farmers, exposure to our youth to agriculture is critical. On the adult level, we have 2 graduates from UH's GoFarm program applying the lessons they learned to see if they can succeed as farmers. Their plots are in nearby fields and serve as models to the school children of how a farm takes root. These budding farmers have also shared their experiences with the students.

With respect to the impact on any protected soils, especially to the relevance of impervious surfaces, the education center would add 0.049 ac to our current impervious surface total of 3.35 ac, bringing the new total to 3.40 ac, which is well below our 6% maximum allowance of 6.49 ac. The education center is 2 containers with a roof. Also, the permeable gravel used under the containers would consist of a 4" base of select borrow (1 1/2" - 0 nominal size range square opening).

Additionally, we will be installing photovoltaic panels on the roof to provide power and make the center energy self sufficient. Rain catchment will be practiced.

If ever necessary, the PV panels would be reused on property or sold; the roof removed, the containers sold, and the base gravel skimmed off and spread over our existing gravel roads.

#### When applicable,

#### Evidence conformity with existing land use regulations:

1) HRS §205-4.5 states "Permissible uses within the agricultural districts.(a) Within the agricultural district, all lands with soil classified by the land study bureau's detailed land classification as overall (master) productivity rating class A or B and for solar energy facilities, class B or C, shall be restricted to the following permitted uses: ...

205 4.5 (19) Agricultural education programs conducted on a farming operation as defined in section 165-2, for the education and participation of the general public; provided that the agricultural education programs are accessory and secondary to the principal agricultural use of the parcels or lots on which the agricultural education programs are to occur and do not interfere with surrounding farm operations. For the purposes of this

Request for Approval of an Education Facility to be Constructed and Administered by the Hawaii Agricultural Research Center and the Hawaii Agricultural Foundation in Kunia, Oahu, Tax Map Key (1) 9-2-001-011 September 23, 2020 Page 7 of 10

paragraph, "agricultural education programs" means activities or events designed to promote knowledge and understanding of agricultural activities and practices conducted on a farming operation as defined in section 165-2;" Although the agricultural education program does not require discretionary approval, we seek it for the education center.

2) The Hawaii Coastal Zone Management Act is not applicable to the Easement, which is not within its Special Management Area.

3) The education center addresses 2 objectives of the County of Oahu General Plan: a) "assist the agricultural industry to ensure the continuation of agriculture as an important source of income and employment" and b) "support agricultural diversification in all agricultural areas on Oahu".

4) The Ewa Community Plan states, "No proposals for urban uses will be considered outside the Urban Growth Boundary" for Ewa.

5) Regarding the County Zoning/LUO, a building permit from DPP will be obtained prior to construction.

Any other material aspect of the proposed activity: None noted.

Monitoring inspections have been conducted each year, most recently on 7 October 2019, and no adverse issues have been cited. If there is any additional information I may provide, please contact me. Thank you for thoughtfully reviewing this request.

Best regards,

Stephanie A. Whalen Executive Director

Attachments

Request for Approval of an Education Facility to be Constructed and Administered by the Hawaii Agricultural Research Center and the Hawaii Agricultural Foundation in Kunia, Oahu, Tax Map Key (1) 9-2-001-011 September 23, 2020 Page 8 of 10

# T0.01 KUNIA FARM STRUCTURE MAX HEROHT IS FEET MAX RULLERED AREA TON OF CODE INFORMATION KUNIA FARM STRUCTURE DESIGN TEAM TARK 9-2-0-000-22 2-0-9-00 AGA 2-0-9-00 AGA 1-3-0 AG ASCHITECTURAL MEDIAS ARCHITI T (808) 222-9345 92-1384 Kunia Drive Waipahu , Hlawaii PROJECT LOCATION

## EXHIBIT B

Request for Approval of an Education Facility to be Constructed and Administered by the Hawaii Agricultural Research Center and the Hawaii Agricultural Foundation in Kunia, Oahu, Tax Map Key (1) 9-2-001-011 September 23, 2020 Page 9 of 10

# EXHIBIT C





Request for Approval of an Education Facility to be Constructed and Administered by the Hawaii Agricultural Research Center and the Hawaii Agricultural Foundation in Kunia, Oahu, Tax Map Key (1) 9-2-001-011 September 23, 2020 Page 10 of 10







Item M

JAMES J. NAKATANI Executive Director

STATE OF HAWAII **AGRIBUSINESS DEVELOPMENT CORPORATION** 235 S. Beretania Street, Room 205 Honolulu, HI 96813 Phone: (808) 586-0186 Fax: (808) 586-0189

> ADC Executive Director's Update September 23, 2020

#### 1. HDOA Strategic Plan

The ADC is participating in discussions to prioritize the State's actions in support of doubling local food production and increasing local food self-sufficiency. These discussions are being administered by the Hawaii Department of Agriculture (HDOA) to gather information from the various departments and agriculture community to develop a strategic plan pursuant to Act 151, SLH 2019. The following are HDOA's upcoming strategic plan and initiatives Zoom meeting dates:

September 29, 2020	5:00 p.m. – 6:30 p.m.
September 30, 2020	5:00 p.m. – 6:30 p.m.

### 2. <u>Galbraith Agricultural Lands</u>

KITV 4 News ran a story about how farmers are using diversity and flexibility to survive during the pandemic. The story features Ho Farms, who is farming on 100 acres on Galbraith Agricultual Land. The story shows an "example of two businesses helping each other through these rough economic times of the pandemic. Staying in business has forced a lot of people to get creative, find new markets but keep their regular outlets active. Ho Farms continues to sell its produce online and at farmer's markets." Go to the following link to see the full story:

https://www.kitv.com/story/42578447/diversity-and-flexibility-is-how-an-oahu-farm-is-surviving-during-the-pandemic

### 3. <u>Legislative Update</u>

The ADC has begun its preliminary work on the Christian Crossing Bridge Improvements in Kalepa, Kauai. The ADC received \$900,000 from the Legislature to plan, design, and contruct the improvements to the bridge. The bridge provides the only access for standard trucks to Kalepa units E to N. The bridge also provides (as of today, the only) emergency access to Kauai's North shore should the Mayor Bryan J. Baptiste Memorial Bridge in Wailua fail or become impassable after a tsunami, hurricane or other catastrophic event. Should both bridges fail or become impassable, there would be no practical way for ambulances, fire trucks, and maintenance crews to get to Kauai's north shore.