

DAVID Y. IGE  
Governor

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

**Meeting of the ADC Board of Directors**

Held via Teleconference

June 15, 2022  
9:00 a.m.

*Pursuant to section 92-3.5, Hawaii Revised Statutes, this meeting will be held using interactive conference technology (ICT). Board members, staff, persons with business before the Board, and the public may participate remotely online using ICT, or may participate via the in-person meeting site which provides ICT.*

*Interested persons may submit written testimony in advance of the meeting, which will be distributed to Board members prior to the meeting. We request that testimony be received by our office not less than 72 hours prior to the meeting to ensure that staff has time to disseminate it and that Board members have time to review it. Written testimony may be submitted electronically to [hdoa.adc@hawaii.gov](mailto:hdoa.adc@hawaii.gov) or sent via U.S. Postal Service to: Agribusiness Development Corporation, 235 South Beretania Street Rm 205, Honolulu HI 96813.*

*When testifying via ICT, via telephone, or in-person, you will be asked to identify yourself and the organization you represent, if any. Each testifier will be limited to two (2) minutes of testimony per agenda item.*

*The public may participate in the meeting via:*

**ICT:** <https://zoom.us/j/98171720916>

**Telephone:** (669) 900-6833, Web ID: 981 7172 0916

**In-Person:** at the meeting location indicated below

**ICT ACCESS**

To view the meeting and provide live oral testimony, please use the link at the top of the agenda. You will be asked to enter your name. The Board requests that you enter your full name, but you may use a pseudonym or other identifier if you wish to remain anonymous. You will also be asked for an email address. You may fill in this field with any entry in an email format, e.g., \*\*\*\*@\*\*\*\*.com.

Your microphone will be automatically muted. When the Chairperson asks for public testimony, you may click the Raise Hand button found on your Zoom screen to indicate that you wish to testify about that agenda item. The Chairperson or staff will individually enable each testifier to unmute their microphone. When recognized by the Chairperson, please unmute your microphone before speaking and mute your microphone after you have finished speaking.

For both ICT, phone, and in-person access, when testifying, you will be asked to identify yourself and the organization, if any, that you represent. Each testifier will be limited to two minutes of testimony per agenda item.

**TELEPHONE ACCESS**

If you do not have ICT access, you may get audio-only access by calling the Telephone Number listed at the top on the agenda.

Upon dialing the number, you will be prompted to enter the Meeting ID which is also listed at the top of the agenda. After entering the Meeting ID, you will be asked to either enter your panelist number or wait to be admitted into the meeting. Please wait until you are admitted into the meeting.

When the Chairperson asks for public testimony, you may indicate you want to testify by entering “#” and then “9” on your phone’s keypad. After entering “#” and then “9”, a voice prompt will let you know that the host of the meeting has been notified. When recognized by the Chairperson, you may unmute yourself by pressing “#” and then “6” on your phone. A voice prompt will let you know that you are unmuted. Once you are finished speaking, please enter “#” and then “6” again to mute yourself.

For both ICT, telephone, and in-person access, when testifying, you will be asked to identify yourself and the organization, if any, that you represent. Each testifier will be limited to two minutes of testimony per agenda item.

Instructions to attend State of Hawaii virtual board meetings may be found online at <https://cca.hawaii.gov/pvl/files/2020/08/State-of-Hawaii-Virtual-Board-Attendee-Instructions.pdf>.

#### **IN-PERSON ACCESS**

There will also be one meeting location, open to the public, which will have an audio-visual connection. That meeting will be held at:

State of Hawaii, Department of Agriculture  
Hale Waiolama Board Room  
1428 South King Street  
Honolulu, Hawaii 96814-2512

For both ICT, telephone, and in-person access, when testifying, you will be asked to identify yourself and the organization, if any, that you represent. Each testifier will be limited to two minutes of testimony per agenda item.

#### **LOSS OF CONNECTIVITY**

In the event of a loss of ICT connectivity, the meeting will be recessed for a period not to exceed thirty (30) minutes to restore connectivity with all board members and the public in-person access noted above. In the event that audio connectivity is re-established within 30 minutes without video connectivity, interested participants can access the meeting via the telephone number and Meeting ID number noted above.

In the further event that connectivity is unable to be restored within 30 minutes, the meeting will be automatically continued to a date and time to be posted on the ADC website at <https://hdoa.hawaii.gov/adc/> no later than close of business the next business day. New ICT, telephone, and in-person access information will also be posted on the website no less than twenty-four (24) hours prior to the continued meeting date. Alternatively, if a decision is made to terminate the meeting, the termination will be posted on the ADC website.

#### **SPECIAL ASSISTANCE**

If you require special assistance, accommodations, modifications, auxiliary aids, or services to participate in the public hearing process please contact staff at (808) 586-0186 at least three business days prior to the meeting so arrangements can be made. To request translation or interpretation services please contact staff at (808) 586-0186 or email: [hdoa.adc@hawaii.gov](mailto:hdoa.adc@hawaii.gov). Please allow sufficient time for the Agribusiness Development Corporation to meet translation or interpretation services requests.

**NOTE: MATERIALS FOR THIS AGENDA WILL BE AVAILABLE FOR REVIEW IN THE ADC OFFICE, 235 S. BERETANIA STREET, ROOM 205, HONOLULU, HAWAII, ON AND AFTER JUNE 9, 2022.**

#### **Agribusiness Development Corporation Non-Discrimination Statement**

The Agribusiness Development Corporation does not discriminate on the basis of race, color, sex, national origin, age, or disability, or any other class as protected under applicable federal or state law, in administration of its programs, or activities, and the Agribusiness Development Corporation does not intimidate or retaliate against any individual or group because they have exercised their rights to participate in actions protected by, or oppose action prohibited by, 40 C.F.R. Parts 5 and 7, or for the purpose of interfering with such rights.

If you have any questions about this notice or any of the Agribusiness Development Corporation’s non-discrimination programs, policies, or procedures, you may contact:

Delanie Prescott-Tate  
Acting Title VI Non-Discrimination Coordinator  
c/o 235 S. Beretania Street, Room 205  
Honolulu, HI 96813  
(808) 586-0186  
[hdoa.titlevi@hawaii.gov](mailto:hdoa.titlevi@hawaii.gov)

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## **AGENDA**

### A. Call to Order

### B. Roll Call

### C. Approval of Minutes

1. Board of Directors Meeting, April 20, 2022
2. Board of Directors Meeting, May 18, 2022

### D. New Business

1. Request for Approval to Renew Revocable Permit No. RP19-01 Issued to Helemano Farms LLC for Building M Located at Whitmore Village, Oahu, Tax Map Key (1) 7-1-002:009 (por)
2. Request for Approval to Renew Revocable Permit No. RP16-05 Issued to Manoa Honey Company LLC for Building BB Located at Whitmore Village, Oahu, Tax Map Key (1) 7-1-002:009 (por)
3. Request for Approval to Issue a Lease Agreement to Ohana Hui Ventures, Inc. for Buildings K, H, and G Located at Whitmore Village, Oahu, Tax Map Key (1) 7-1-002:004 (por)
4. Request for Approval to Issue a Non-exclusive License to Pohaku O'Kauai Materials, LLC for Sand Removal Adjacent to Fields 221, 222, and 322 in Kekaha, Kauai, Tax Map Key (4) 1-2-001:002 (por)
5. Election of Officers to the Board of Directors for Term July 1, 2022 – June 30, 2023

### E. Old Business

1. Annual Performance Evaluation of the Executive Director

*"The Board may go into executive session, pursuant to §92-5(a)(2) HRS, to consider the evaluation of an officer or employee where consideration of matters affecting privacy will be involved, and §92.5(a)(4), to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities."*

### F. Executive Director's Update

### G. Adjourn

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The Board may go into Executive Session pursuant to exceptions provided under Section 92-5, Hawaii Revised Statutes (HRS), including to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities, pursuant to Section 92-5(4), HRS.

## **AGRIBUSINESS DEVELOPMENT CORPORATION**

Minutes of the Board of Directors Meeting held Virtually on April 20, 2022

Via Zoom Teleconference and/or In-Person at 1428 South King Street, Honolulu, 96814

*Pursuant to section 92-3.5, Hawaii Revised Statutes, this meeting was held remotely with Board members, Staff, Applicants, and the Public, participating via Zoom meeting venue, and an In-Person location was available for public participation at the State of Hawaii, Department of Agriculture (HDOA), Hale Waiolama Board Room, 1428 S. King Street, Honolulu, HI 96814.*

### **Members Present, virtually:**

Frederick Lau, City & County of Honolulu, Chairperson (Chair)  
Mary Alice Evans, Designated Representative, DBEDT, Ex-Officio Member (Ms. Evans)  
James Gomes, Maui County Member (Mr. Gomes) – joined the meeting at 9:08 a.m.  
Lloyd Haraguchi, Member-At-Large (Mr. Haraguchi)  
Glenn Hong, Member-At-Large (Mr. Hong)  
Kaleo Manuel, Designated Representative, DLNR, Ex-Officio Member (Mr. Manuel)  
Karen Seddon, Member-At-Large (Ms. Seddon)  
Phyllis Shimabukuro-Geiser, Chairperson, Board of Agriculture, Ex-Officio Member (Ms. Shimabukuro-Geiser)  
Lyle Tabata, Kauai County Member (Mr. Tabata)  
Warren Watanabe, Member-At-Large (Mr. Watanabe)

### **Counsel Present, virtually:**

Delanie Prescott-Tate, Deputy Attorney General (Ms. Prescott-Tate)

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

James Nakatani, Executive Director (Mr. Nakatani)  
Ken Nakamoto, Project Manager (Mr. Nakamoto)  
Lyle Roe, Property Manager (Mr. Roe)  
Lance Tashima, Administrative Services Officer  
Lynette Marushige, Executive Secretary  
Jason Azus-Richardson, IT Specialist  
Mr. Stephen Dalton, IT Specialist (Mr. Dalton)

### **Guests Present, virtually:**

Joshua Uyehara, Kekaha Agriculture Association (Mr. Uyehara)  
Mike Faye, Kekaha Agriculture Association  
Gilles Lebbe, Green Energy Team (Mr. Lebbe)  
Dan Nellis, Dole Food Company Inc. (Mr. Nellis)  
Carina Ohara  
Ford Fuchigami  
Haku Rivera  
Sandi Kato-Klutke  
Scott Valentino  
Stanley Morinaka  
Alina Tso  
Andres Albano Jr.  
Dane Wicker  
“Public Testimony”

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### **Guests Present, physical location:**

None

### **A. Call to Order**

Chair called the meeting to order at 9:03 a.m.

### **B. Roll Call**

Chair conducted a roll call of the Board. Chair called the name of each board member and asked them to identify their presence with a “here” or “present” and to state who if anyone is present in the room with them. Chair stated that the roll call served as the roll call vote, and for each subsequent vote, the Chair would ask if there were any objections. If there are no objections the motion will be approved on the same basis as the initial roll call.

Roll call: Ms. Evans, Mr. Haraguchi, Mr. Hong, Mr. Manuel, Ms. Seddon, Ms. Shimabukuro-Geiser, Mr. Tabata, Mr. Watanabe. All acknowledged attendance with no guests present. Mr. Gomes joined the meeting at 9:08 a.m.

### **C. Approval of Minutes**

#### **1. Board of Directors Meeting, February 16, 2022**

Motion to approve: Mr. Haraguchi, Second: Ms. Seddon

No staff comment.

No public comment.

Mr. Haraguchi pointed out that on page 12, the ACD should be changed to ADC. There were no other corrections.

Chair called for the vote. Minutes approved as corrected. 10/0

#### **2. Board of Directors Meeting, March 16, 2022**

Motion to approve: Mr. Gomes, Second: Ms. Evans

No staff comment.

No public comment.

No discussion.

Chair called for the vote. Minutes approved. 10/0

### **D. New Business**

#### **1. Request for Approval to Hartung Brothers Hawaii, LLC, Inc. Under General Lease No. S-4654 to Construct an Alfalfa Drying Facility in Kekaha, Kauai, Tax Map Key (4) 1-2-001:035**

Motion to Approve: Ms. Evans, Second: Mr. Gomes

Mr. Roe stood on his submittal and was available to answer questions.

Chair asked for public testimony. There was none.

Mr. Watanabe questioned staff on the 23-year extension. Submittal stated 23-year extension from 5/15/2020 is 5/15/2023, when it should be 2043.

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Mr. Roe said that is probably correct.

Mr. Gomes said in 2022 Hartung applied to grow alfalfa, correct?

Mr. Roe said they are growing alfalfa. The request is to dry alfalfa.

Mr. Gomes asked during 2009 – 2022, what was the 42-acres used for?

Mr. Roe responded that is where the processing facility and corporate offices are located.

Mr. Hong asked for clarification. If the original 20-year lease was from 1980 – 2000, the 23-year extension should be May 16, 2000, not 2020 as on the submittal, till May 15, 2023. They have 11 months left. Is that correct?

Mr. Roe said he would have to double-check that. There were a couple of leases and licenses up for renewal. This one was recently transferred by Executive Order to the Agribusiness Development Corporation (ADC) from HDOA. He hasn't completely wrapped his head around all the nuances yet.

Mr. Hong just wanted to clarify the dates.

Chair said the submittal states that the initial lease for 20 years was from May 16, 1980 to May 15, 2000. Chair clarified the additional 23 years should be from May 16, 2000 till May 15, 2023.

Mr. Manuel asked how much alfalfa was being stored and how would this larger storage help in the larger scheme of potential feed for the industry? Is it significant or is it a small step in the right direction? He's just trying to understand how we're engaging in this industry.

Mr. Roe asked if Mr. Uyehara was present he could answer the question.

Mr. Uyehara introduced himself and said it is part of a facility that they have been building to keep alfalfa. It is currently operational. They are trying to build a shed over an existing concrete slab. That would allow them to operate under most weather conditions as well as store some the product. It's a step in the right direction. They have approximately 200 acres of the alfalfa planted that they are actively harvesting. They have been selling alfalfa for a few years.

Mr. Manuel asked if they were selling everything they produce.

Mr. Uyehara responded yes.

Mr. Manuel asked what was the annual quantity and what market do they support?

Mr. Uyehara said they haven't reached a steady state yet, but they are targeting a benchmark of about 14 tons per acre per year. They are refining their crop production techniques. They estimated the total state market was on the order of 3,000 acres of production, which was fairly small for the state, but fairly significant for the island. They have been trying to maintain pricing that will help move the needle on local food and feed production. Local feed stores say they could market the alfalfa at a premium rate because it's local, but they chose to sell it at a discount to the dock side cost of mainland alfalfa because that was identified as a hindrance for the local ranch industry. They are trying to figure out at what price point they can be competitive and facilitate growth. They'd like to see if they can help the ranching industry grow.



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Mr. Gomes asked how the alfalfa was going to be sold? As Kauai faced drought conditions ranchers will probably buy more feed. What is their plan? There would be a cost to ship off island.

Mr. Uyehara responded yes, they actually had customers on Maui purchase containers already. To answer his first question, they have a bale wrapper to make haylage or silage depending on the moisture it's wrapped at. They estimate those will be good for 6-12 months in that form. The major obstacle they found was that most ranchers here don't actually know how to use that product. They gave samples to some ranchers and the ranchers told them when they opened it they threw it away because it smelled off. He had to tell them, no, that's silage, it's partially fermented.

Mr. Gomes said yes, it will get moldy. But when it's ensiled it has a better shelf life. The cost is competitive. When they bring in bales locally, it's a one-ton bale versus a double compressed bale like the average guys are using. They're like \$40 a compressed bale.

Mr. Uyehara said they sell in wrapped haylage form, and they sell dry bales. They have a roughly 50-pound small square baler and a thousand-pound round baler. They have a cuber that is part of this drying facility. They're trying to figure out what format works best. It seems feeding is easiest in the small square bales. Local suppliers don't have the equipment to handle the larger bales. It's more economical to handle the larger bales if they choose to transition to that as a feed source or the haylage product. For off-island customers the name of the game is how many tons can you squeeze into a container. In that case, they're thinking bulk loaded cubes. A lot of the cubes exported from the West Coast are basically loaded directly into a shipping container; just straight full of cubes. That seems to be the likeliest format for an inter-island product at least as far as shipping cost efficiency. We're trying to explore all options. In the end they think a mix of the 3 types of product will work.

Mr. Gomes said Molokai tried it and Maui tried it; he wishes them luck.

Ms. Shimabukuro-Geiser expressed her gratitude to Hartung and Mr. Uyehara. She said that it was a really good example of how we have the ability to produce feed or forage in our state. She also wanted to say that Molokai was going through a lot with the drought and the recent quarantine and asked if anyone has contacted Mr. Uyehara about feed going to Molokai. She noted that shipping to Molokai and Lanai was a challenge. They're trying to keep the cattle fed because of the quarantine.

Chair asked Mr. Uyehara what their land needs were on Kauai? Are they planning on using more of the ADC land they already have, or do they need more; what's the plan?

Mr. Uyehara said he thinks on the island there's probably 500 acres in demand. There's a lot of horse operations that consume quite a bit of feed. The real question is whether they're going to see the successful development of beef, goats, or sheep, or some other ranching operation for meat for local production and consumption. That will swing the demand in either direction. That's a big question for ranchers because it's a huge commitment. There's a minimum volume requirement for any local slaughterhouse to be able to operate economically. That is a compounded long-term commitment for ranchers because once the cattle get too large to ship off as calves then you're committed to finish them out on the island. They are subject to droughts or other disruptions. In the intervening years, you have risks on the market price, and the slaughterhouse, and marketing distribution. Will they be ready for you when your cattle are ready? We're trying to help everybody put the pieces of the puzzle together. They all have to line up just the right way, at the right time for that market to open. Then if it does, then we're talking about a crazy amount of feed for demand. For example, there's the large poultry operation trying to open on Oahu that would need feed. You're talking thousands of acres of crop

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production per year and that's just for one operation. In a large-scale ranch industry, you're talking about a seemingly larger order of magnitude feed requirements. The question is, do they see that industry take off successfully, if yes they will need all the land they can find. If it doesn't then there's still a niche that fits within our current footprint. We're trying to get the industry started. The other part of your question, we have started to work with Aloun Farms, and they've actually got their first plantings about to go into the ground. They anticipate having about 500 acres of a mix of watermelons, pumpkins, honeydew, kabocha pumpkins. That's another thing they're trying to layer into the operation to make better use of the existing footprint. If that takes off, there may be an interest in additional land.

Mr. Gomes remarked that when the drought hit Molokai the deer population was starving and dying all over the place. He made a few calls to see if they would be interested in getting drop shipped 40-foot containers of feed that would be shipped directly from Oregon at wholesale. They couldn't afford to buy a container to feed their own cattle. They also had the issue with tuberculosis going on. It's a great idea if they could find something, so they don't need to bring in as much grass. You also have the recreational guys, they want that kind of feed and if we can grow it locally, why not.

Chair asked if there were any other questions.

Mr. Manuel asked Mr. Uyehara what the method of irrigation for alfalfa was and if he knew the gallons per day per acre that they are currently using.

Mr. Uyehara responded they use drip irrigation, but he doesn't know the gallons per day per acre because it varies by soil type.

Mr. Manuel asked if they managed the drip by soil moisture.

Mr. Uyehara said, yes, soil moisture or observation of the crop. They're aware that if you over water, when you cut, it's too damp.

Chair asked if there was anyone else? Hearing none Chair called for the vote.

Motion approved. Vote: 10-0

2. **Request to Consent to the Assignment of License Agreement Nos. LI-K1102 and LI-KA1501 from Green Energy Team, LLC to Mahipapa, LLC for Biomass Production Purposes in Kalepa, Kauai, Tax Map Key (4) 3-9-002:001 (por), (4) 3-9-001:004 (por), (4) 3-9-002:009 (por), (4) 3-9-002:020 (por), (4) 4-2-001:003 (por)**

Motion to Approve: Mr. Gomes, Second: Ms. Evans

Mr. Roe stood on his submittal and was available to answer questions.

Chair asked for public testimony. There was none.

Chair asked if there was any discussion.

Mr. Manuel said the next item identified royalties on minerals, in that case sand, but was that something that the board was interested in related to biomass production or participating in some of the benefits of biomass here and not just lease the crop itself.



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Ms. Evans said she was mindful that the rate payers of Kauai have to absorb additional cost should the Board increase the license fees or add a surcharge. Power is a basic infrastructure for family life. She would be concerned in adding additional costs to that basic infrastructure for the Kauai rate payers.

Mr. Manuel said it was more directed towards the agency and staff and their negotiations with the entity. Too often those subsidies or offsets for renewable energy aren't passed on to the end user. He wanted to bring that up as something to think about in the context of renewable energy. Is that an explicit consideration? That may be something we need a policy for ADC. If ADC was not going to engage in any royalties related to renewable energy production because we don't want any cost increase passed on to any consumer. That information was not in the submittal that's why he asked the question.

Mr. Gomes said the agenda shows 6,000 acres were passed on to ADC but they're going to use about 1,000 acres for this particular discussion. What's being done with the other 5,000 acres?

Mr. Roe responded that most is livestock, cattle. In Kalepa there is limited access to water so it's more suited for livestock.

Mr. Gomes asked what kind of infrastructure was needed to get water there. Was that property good ag land or only good for pastureland?

Mr. Roe said some was good for ag land, down toward units A, B, and C. Those are suited for diversified ag. Once you go up mauka, it's more hilly, rockier and a bit more suited for livestock.

Mr. Gomes asked how is the per acre appraised for pastoral and what kind of rates do they pay?

Mr. Roe said \$35 per acre per year.

Mr. Gomes said that was reasonable. If they're into livestock production, are fences erected at their expense?

Mr. Roe responded yes.

Mr. Gomes asked if we had specs as far as when fences were installed?

Mr. Roe responded we do not. That is usually subject to conservation planning.

Ms. Shimabukuro-Geiser said she recalled going with the Board back in January 2015 to see what Green Energy was doing. She asked Mr. Roe if this assignment was approved, does it mean that Green Energy was leaving the island, or do they have fee simple land or leases elsewhere? Were they totally involved with ADC, HDOA, and State leases for their biomass production and operation?

Mr. Roe said he couldn't answer to other State agencies or other land that they may own but for ADC, Green Energy Team would no longer be a part of that. Mahipapa has agreed to retain the current employees but whether or not they're retaining them under Green Energy as a subcontractor or retaining them as direct employees of Mahipapa, he doesn't know the answer to that. The employees who are part of Green Energy now, will remain working.

Mr. Tabata said he believed it's just a name change. There is a section of the ADC property that, within Maalo Road, was fully irrigated with surface irrigation in the sugar days. Above Maalo Road it was unirrigated, all the way up mauka to the foothills into the unfarmable lands. The property mostly being

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transferred, was unirrigated so it's perfect for tree growing. The areas in the lower lands, if they were able to bring water down, this area could be a very productive ag farming area besides just pasture. We've talked about a pipeline and so forth coming down. That's just a little bit background. The area the trees are on, was formerly unirrigated land.

Mr. Gomes asked what kind of trees were growing mauka?

Mr. Roe responded he believes eucalyptus.

Mr. Gomes asked what was the elevation of the farmable tillable part?

Mr. Roe said he didn't know but he believes Mr. Lebbe was present and could answer the question.

Mr. Lebbe introduced himself as the manager for Green Energy Team. The elevation in Kalepa is about 500 to 600 feet above sea level.

Chair asked who is Mahipapa, was it related to HECO?

Mr. Lebbe responded that it was related to Hawaiian Electric Industries. It's a subsidiary of Pacific Current, which is a subsidiary of Hawaiian Electric Industries.

Chair asked if management will be retained by Mahipapa?

Mr. Lebbe said that Mahipapa will buy their power plant, all of their tree plantations. They will take over all of the leases, all of the financing. It will be the same company. He will remain with Mahipapa going forward, together with the entire crew.

Chair said that is good to know. Green Energy has been doing a good job in his opinion.

Chair asked if there were questions? Hearing none, Chair called for the vote.

Motion approved. Vote: 10-0

### **3. Request for Approval to Terminate "Right-of-Entry and License Agreement" Dated January 13, 2014 Issued to Pohaku O'Kauai Materials, LLC for Rock and Sand Removal Purposes in Kekaha, Kauai, Tax Map Key (4) 1-2-002:001 (por)**

Motion to Approve: Mr. Tabata, Second: Mr. Watanabe.

Mr. Roe stood on his submittal and was available to answer questions.

Chair asked for public testimony. There was none.

Mr. Gomes said he had some questions. He said knowing we were looking at best managing practices (BMP), why wasn't an EIS required?

Mr. Roe responded that if he meant an environmental assessment he believed one was completed.

Mr. Gomes responded yes he meant environmental assessment.

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Mr. Roe said he believed one was done when the license was issued. But, Cardno found deficiencies with some of the BMPs. Like they're supposed to have a retention pond and they don't have one.

Mr. Gomes said he was concerned about the State Historic Preservation Division (SHPD) being involved because these being sand dunes that have a lot of iwi kupuna. It's a big issue at the Maui Lani operation and it's been going on for decades with iwi being found and not reported.

Mr. Roe said he is not aware of anything being found. They are working in the fields of other farms as well, but he was not aware of any being found and not reported.

Mr. Gomes asked if the sand was mined, was the sand being retained in Kauai or shipped on barges back to Oahu?

Mr. Roe said that his understanding was it stayed on Kauai.

Mr. Gomes said the rocks that they mine, they make aggregate out of it and that stays on Kauai?

Mr. Roe responded yes. His understanding was that they haven't been utilizing the rock or they haven't been removing much rock.

Mr. Gomes asked if he knew how many cubic yards were mined over the period of the contract?

Mr. Roe responded it could be determined but he hasn't done that.

Mr. Tabata asked how long they are going to be allowed to negotiate.

Mr. Roe said the recommendation in the submittal stated the license will terminate May 31<sup>st</sup> if there is no agreement. They could potentially negotiate after that, but they won't have access to the sand.

Mr. Tabata said he wasn't clear on that. So, if they don't come to an agreement by the 31<sup>st</sup>, they're done?

Mr. Roe responded yes.

Mr. Gomes asked if Mr. Roe knew what the cubic yard would be for them to pay ADC.

Mr. Roe said the appraisal says \$29 per cubic yard. It was a bit of a shock considering what we're charging so that was really the impetus for this request.

Mr. Gomes said \$2.50...\$5.00 split. ADC has been getting cheated.

Mr. Manuel asked Ms. Prescott-Tate, because these are 5F lands and DHHL entitlements, wasn't DHHL or OHA entitled to a percentage of the royalties? Why was it not being split between or are they getting a cut? Does the 20 or 30 percent come off of KAA or ADC or is that part of the discussion?

Ms. Prescott-Tate responded they were entitled to their share.

Mr. Manuel asked, of the royalties as well as the base rent?

Ms. Prescott-Tate said that is correct.

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Mr. Manuel asked that in future discussion about royalties that staff make sure to identify the constitutional provision to make sure the 20 and 30 percent were being paid.

Chair said the Policies committee was addressing that. Chair asked if there was any other discussion. Hearing none, Chair called for the vote.

Mr. Gomes objected. Motion approved. Vote: 9-1; No vote – Mr. Gomes.

#### **4. Request for Approval to Amend the Water User Agreement for Bott Well Pump Station in Wahiawa, Oahu**

Motion to approve: Ms. Evans, Second: Mr. Gomes

Mr. Nakamoto stood on his submittal, which was to factor in the rising fuel cost. When he did the submittal, it was \$4.30; yesterday the price was about \$3.98, and it has not gone down for the past two weeks. We are asking for a ten-cent increase from \$1.65 to \$1.75 per thousand. He's available for questions.

Chair asked for public testimony. There was none.

Mr. Gomes asked if fuel costs go down will an adjustment be made?

Mr. Nakamoto responded yes, especially if it goes significantly down, we will consider adjusting it.

Mr. Hong said looking at the spreadsheet at \$4.30/gallon the water cost per thousand is \$2.34. If we charge \$1.75, even if it's \$3.98, it still would be above the \$1.75, we're subsidizing that at \$4.00 a gallon substantially?

Mr. Nakamoto agreed.

Mr. Hong asked if the agency had considered that water charges be bifurcated into a base rate and a fuel adjustment rate, which is typical; the airlines used to do that, the shipping companies, Matson, Pasha, Young Brothers. A fuel adjustment would be based on the last quarter cost of fuel. It lags a quarter but you're fairly current in terms of making sure you're not overly subsidizing or overcharging. The idea is that over time you're paying a rate that reimburses the cost of water.

Mr. Nakamoto said we have not looked at doing that. He noted that the spread sheet does also factor in maintenance and operations.

Mr. Hong said maintenance and operation could be part of your base cost. You could come to the board every-one or two years and see if you need to adjust the base cost, and the fuel surcharge is the quarterly adjustment. Instead of coming to the board every time, you already have the authority in terms of the process and procedure for how you charge for the water. The users become aware of that process and when the fuel cost goes up they know they're going to be charged more the next quarter, so they are conscious of their water usage. This is for the Board; he recommended we consider something like that.

Chair said this is something the Policy committee should take up. Chair said his goal is to have a tenant association and have them pay for all costs associated or at least the part of the cost that they don't want to scrutinize.

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Mr. Nakatani said that this was not the true cost. Remember Larry Jefts was absorbing part of the expenses for running the whole thing. ADC's looking at that but now is not the right time, it would not be affordable to the farmers. And because these farmers are start-ups, ADC should consider keeping the cost down. There are other hidden costs. It's something to consider but we're not ready to do that now.

Chair said he wanted to point out that his two nurseries were at the highest tier that Board of Water Supply (BWS) charges and he pays \$2.15 per thousand. At \$1.75 it's still very reasonable.

Mr. Nakatani noted that because the cost of water has gone so high, ADC sent letters asking the farmers to use the water judiciously and not waste. They need to be more cognizant of how they use the water. No doubt the cost of water in all the systems are going up so we should be aware of that.

Mr. Tabata observed that it appears there is a lot of correction being made in all of the licenses. This overhauling going on, seems to be getting done incrementally. He wants everyone to be aware how this affects the people doing business on the properties. We need to be cognizant of that. He appreciates the work of the staff for following up and doing things that should have been kept up all this time.

Mr. Manuel asked how staff notified users about the increase.

Mr. Nakamoto responded that shortly after the last meeting we did reach out to all of the farmers. Kind of like BWS, we told them we're entering the dry season; please be cognizant of water use; and because of the rise in fuel cost that water cost will likely go up. We did send out notification to the farmers.

Mr. Manuel asked if he knew if the farmers received the notification?

Mr. Nakamoto said the farmers were encouraged to attend this meeting to speak on their own behalf, in the event they opposed the potential cost increase. But he doesn't know if anyone on the list attended.

Mr. Roe said that notification was sent via email and letter. He also sends out an email reminder to those who would be presenting to the board. In this particular case he included all of the tenant farmers in the Galbraith location that use water from Bott Well. He said based on the board's past concerns, we reached out at least 3 different times to the tenant farmers and gave them an opportunity to respond.

Mr. Manuel said he appreciates that. Has staff received any phone calls, or did anybody respond saying thanks for the letter or did anything come from the outreach?

Mr. Roe said he has not contacted. He has had in-person conversations with 2 or 3 farmers, and no one was thrilled about it but they're paying increased fuel cost for their equipment too. It's not as if they are surprised by it, they understand it.

Mr. Manuel said that's good to hear and asked if we have been receiving timely payments on this or what was the delinquency rate at the \$1.65.

Mr. Roe said that he didn't check this month but as of last month everyone was current.

Mr. Manuel just wanted to make sure that this assumption we are going to price people out of business, if people are showing delinquencies at least that we are not seeing that yet. He understands that we are doing this incrementally, but this is a business and he strongly suggested that we do a sufficient cost of service study to provide water to tenants and develop a base rate, the true base rate so there are zero

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hidden costs; have the fuel adjustment cost or the energy adjustment cost that are tied to every water bill that any utility runs. ADC runs the Waiahole water system. In that situation, how are those rates determined and are we using the same practice there as we're doing here?

Mr. Nakatani said correct.

Mr. Manuel asked if we develop the rate structures for the Waiahole system, how did we develop that and shouldn't we be using the same methodology to develop the rate structures here?

Mr. Nakatani responded these are two different systems. The Waiahole has a bond so we're responsible to pay back the bond. It's based on cost, and we did a projection for the next 10 years. The main factor is labor. They project the cost, put in a cushion for repair and maintenance for the next 10 years. That's how they determine the rate and it's done annually on the basis it goes up a few cents every 10 years. But, these are two different systems. Waiahole system has a huge volume of water. Some of the farmers build their own reservoir so you have reliability and it's gravity fed so you don't have the pumping cost. The pumping cost is on the dime of the farmers, and they do repair and maintenance.

Mr. Manuel noted the point he was trying to make was, they have done an evaluation and assessment on fixed costs to operate the system in Waiahole. They have done some of that here the Bott Well situation but not as robustly. They need to uncover those costs and get the true value to understand what they're subsidizing. The point is, the Board should know the cost.

Mr. Nakatani said that we do know the cost, and that was provided in a spread sheet to the board. What they haven't said, was they want to lower the cost for farmers in Galbraith because it's a developing area. Waiahole is an older area; it's been in existence for over 20 years.

Mr. Manuel said just to clarify, the sheet that's attached, is that the total cost to run the Bott Well system? Or are there additional costs that we don't know about.

Mr. Nakatani said let him go back and get the board a sheet that was previously sent by one of the companies, ITC, that gave a breakdown of the costs of what the water would be. But that's not the true cost because one of the farmers is monitoring and running the system. The cost would be even higher. What they're trying to do is keep the cost down.

Mr. Manuel said he's just trying to understand.

Mr. Nakamoto added that the only cost that was not factored in their rate was the maintenance. ADC has a maintenance contract with ITC, and they specifically provide oil changes and spot maintenance. That was not factored in. The operation has been zero because as Mr. Nakatani mentioned, Kelena farms does all the water operations on behalf of the farmers. ADC knows the cost of the maintenance contract, but that was not factored in.

Mr. Manuel said it should be factored in because that was what was done in Waiahole. He said maintenance cost and other costs were factored in. Then you know how much the system is running at. We need to tighten our belts and become a more efficient utility. It's just good to know what our bottom lines are. That's just good practice in all water operating water system management.

Mr. Hong also thinks ADC should know what the true costs are from top to bottom.



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Ms. Shimabukuro-Geiser asked the Chair if the \$2.15 he was paying for water from BWS, was that potable water?

Chair responded that it was potable water at the ag rate. A lot of farmers on Oahu deal with ag rate from Board of Water.

Ms. Shimabukuro-Geiser said for those on the board who have not farmed or applied for an ag water rate, the County water is potable. The ADC water is not, it's irrigation water, and irrigation water should be less per gallon.

Chair agreed. His point was that at \$2.34 we were moving well over what ag rate was from BWS. He wonders how long we can subsidize the tenants.

Chair asked if there was any other discussion. Hearing none, Chair called for the vote. Motion approved. Vote: 10-0.

### **5. Discussion on the Request for Proposals to Construct and Operate a High-Pressure Processing (HPP) Machine and Agricultural Facilities in the Whitmore Food Hub, Wahiawa, Oahu**

Chair asked for presentation by staff.

Mr. Nakamoto said he just wanted to touch on some points. The funding that ADC received from the Department of Business, Economic Development and Tourism (DBEDT) was basically to progress the State's agricultural post-production capacity to support local demand and scalability of value-added exports. ADC understands that this technology could be a potential game changer. It's new technology for the State of Hawaii. ADC is developing a Request for Proposal (RFP) to entice a qualified operator to operate this machine. In consideration of their services, the ADC may consider issuing a ground lease for future development of agricultural facilities. It's a little more complicated which is why we wanted to discuss this with the board, to flush out any flaws in the RFP. This is only for discussion and comments or suggestions from the board.

Ms. Shimabukuro-Geiser asked if DBEDT was supporting all of the \$5.5 million to purchase the equipment.

Ms. Evans confirmed that DBEDT entered into a Memorandum of Agreement with ADC about funding. Money was provided by the legislature for that purpose. The money will come from DBEDT.

Mr. Gomes supported the HPP technology. Will \$5.5 million be enough to acquire one, possibly two machines? How did we come up with that amount of money? Will that be enough?

Mr. Nakamoto gave a little background. ADC hired the University of Hawaii Community Design Center (UHCDC) that is attached to the school of architecture. UHCDC developed a proof-of-concept study. The study did research on this technology, traveling to L.A. and Portland to visit actual HPP facilities. UHCDC drafted a report. As we proceed we will flush out some of the flaws. ADC is looking for the offeror or potential operator to provide some background and information on costs and requirements for the facility. They believe \$5.5 million is enough to buy one, possibly two HPP machines. As far as, is it enough for everything, that has yet to be determined.

Mr. Haraguchi said he's all for the HPP machine. He asked if the construction area was in the Master Plan area that was discussed years ago.

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Mr. Nakamoto said that is correct.

Mr. Haraguchi noted that a lot of money was spent doing the Master Plan. What he's not comfortable with at this point in time was the attachment to this machine. This will give the selected bidder rights to the whole area, the 12 some acres. The master plan was to provide housing, etc. He was a little uncomfortable with this. Maybe because there's not enough information. As far as a master plan for the area, he's not sure we're at the stage to purchase the machine.

Chair asked Mr. Nakamoto if he would like Chair to respond.

Mr. Nakamoto said he just wanted to point out that the total master plan area is 34 acres. The housing is probably Phase V and they're not there yet. We're just trying to put in the infrastructure and facilitate some development. It is not the entire 34 acres that the offeror would receive in consideration for operating the machine.

Chair concurred with Mr. Nakamoto. It is only a portion of the 34 acres. We've been talking about this for almost a year now and we anticipate the RFP will go out this month. The HPP machine is an integral part of the Wahiawa food hub. We are looking for a public-private partnership to operate and build out a processing and distribution center at the food hub. The study has been done and we are confident that we can buy those machines within the \$5.5 million.

Mr. Haraguchi thanked Chair for the clarification. He just wanted to make sure this was the same master plan area.

Chair asked if there were any further questions.

Mr. Hong said he doesn't know a lot of the background; it sounds like a lot of the work has been done. It sounds like the offeror for this RFP will be really a processor. Will the producer control the end product, or will there be an option that the operator of the HPP could be the marketing arm? What's the cost that they're going to charge for these things to ensure that they're not charging for the fact that \$5.5 million has already been invested by a state agency? There's a lot of questions that he has.

Mr. Nakamoto asked if his question was what the rates would be?

Mr. Hong said the question was if the processor would be charged for operating the HPP unit, and he assumes there are parameters to insure there were not excessive charges so that we can maximize the amount of product flowing through the facility. Is there an estimate of the total amount of ramp up of product through the facility? He assumes that there is a 5, 10-year business plan on all of this.

Mr. Nakamoto responded, correct. They will probably come back to the board to set the rate that the operator would charge. As far as the business model, it's new technology, it could be a game-changer because basically it's not using any chemical to extend the shelf life of the product. There are some operating challenges. That's why they're trying to incentivize it a little bit by offering a ground lease to offset the operating challenges for the potential bidder or potential offeror.

Chair clarified that the research that UHCDC has done actually looked at what the cost of tolling for the machine would be. They are asking and questioning too. They need to wrap up the incubator people who will be using this machine. They are looking at subsidizing the machine for a while. It has tremendous potential. The research is there, a business plan has been formulated for the Whitmore hub.

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The literature has been sent out. There's a lot going on over there. ADC will continue providing the board with information that will answer a lot of Mr. Hong's questions.

Mr. Haraguchi had a couple of questions. He asked if Chair would use this for his business?

Chair said this HPP machine will give Hawaii a chance for export. It will lengthen shelf life of products like baby food using ulu from 3 weeks currently, to maybe 4 to 6 months. It has tremendous potential for things like salad dressing or other things. They're creating an incubator that will create opportunities for entrepreneurs. Hopefully they will be using products from many of the nearby farms. That's the goal of this machine and that portion of the Whitmore hub.

Mr. Haraguchi said when he read the RFP it appeared to him that it will probably be run by a mainland company being that this machine is not in Hawaii. Obviously nobody has the experience here. Is it more likely a mainland organization will be running the machine and therefore having the rights to the 12.5 acres?

Mr. Nakamoto responded that ADC would not discriminate but they did specify it's not so much that they be qualified to operate an HPP machine per se. ADC is looking for someone to operate a distribution facility here on Oahu. It takes a lot of moving parts and a lot of coordination, and they would entertain anyone who currently operates one of those kinds of facilities. They would consider any proposal and evaluate and rate accordingly.

Mr. Haraguchi said he thought the RFP was directed to the HPP machine.

Mr. Nakamoto said a caveat was included for distribution and processing. It's still in the development stage; they don't want to rush this because it's not going to be easy. He wanted to point out that UHCDC will be presenting its findings to the board at a future meeting regarding business plans and research that was conducted; hopefully next month.

Mr. Haraguchi asked if the RFP was going out on May 2nd.

Mr. Nakamoto said no, those dates are fluid, it's just a draft. This presentation was just to give the Board time to digest the concept and provide feedback to staff. There are other agencies looking at this as well. Again, they welcome any feedback or comments from the board.

Chair said that part of the purchase of the machine will require training on use and maintenance of the machine. He asked if there were any other questions and noted this was just a presentation and there is no vote on this item.

### **6. Request for Approval to Enter into a No Cost Service Agreement with Ms. Susan Hendry and Mr. Alex Hendry, Whitmore, Oahu, Tax Map Key (1) 7-1-001:005 (por)**

Mr. Nakamoto apologized for the typo on the submittal and clarified the type of agreement they would use for this was a no cost service agreement. To give some background this is the area where there was a fire. About 2 years ago this area was overrun by criminals and homeless encampments. Ms. Hendry and her son Alex are landowners adjacent to this parcel. They have an access easement through ADC property. They are proposing to put up barrier gates, similar to the barrier gates that ADC has put up along Kamehameha Highway which were damaged but still standing. The No-Cost Service Agreement outlines the details and scope of work to be covered at no cost to the State.

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Chair noted that Mr. Nakamoto skipped ahead of him, he needed a motion to approve this submittal.

Motion to approve Mr. Gomes, Second: Ms. Evans.

Chair said presentation by staff is already done. Chair asked if there was any public testimony. There was none.

Chair asked if there was any discussion.

Mr. Gomes asked if there are still any kind of criminal activity or unwanted people going into the area?

Mr. Nakamoto responded not on ADC land but in Poamoho, Whitmore vicinity there is still some illegal activity, and he wants to make sure the Hendry's are aware of what they're getting into. As far as the ADC parcels, the encampments have not returned. ADC is in the process of issuing the licenses for the parcels, like to the Laws that were approved for that area, they're cutting grass and on the cusp of getting their conservation plan and they are working on the irrigation, so it is no longer vacant land. The Hendry's have seen they are starting to clear the area and they want to use their easement to get their property ready for agriculture cultivation.

Chair said that one of his concerns was when they visited that property, the entrance is directly across from Poamoho camp, which is where most of the illegal activity is coming in and there's an encampment right underneath the bridge, adjacent to the gate. That gate is critical to keeping the criminals off this property. He hopes this agreement works.

Mr. Gomes asked if it was possible to get the community involved, organizations, make a coalition, so forth, eyes on the ground. You can be there with roving patrols, or offer a reward if convicted, these organizations would get some money. People in the area would be the watch dog. It's just a thought.

Chair said that's a good suggestion.

Mr. Nakamoto responded that they do have very active and very concerned community members out there who are constantly calling ADC. Part of that vigilance is why we have been able to turn the corner. The community is tired, just as much as we're tired of dealing with it. They have been getting a lot of cooperation from the community especially from Poamoho camp and Whitmore. They will continue to build this relationship with the community.

Chair asked if there was any other discussion. Hearing none Chair called for the vote.

Motion approved. Vote: 10-0

Ms. Shimabukuro-Geiser asked the Chair if they could have a 5-minute break.

Chair called for a recess at 10:35 a.m.

Chair called the meeting back to order at 10:47 a.m.

### **E. Old Business**

- 1. For Information Only: Progress Report on the Continuing Work of the Investigative Committee on Agricultural Policy and Strategic Planning Regarding the Development of Policies and Procedures.**

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Chair called on Ms. Evans for a presentation by the committee.

Ms. Evans stated that the board authorized the establishment of a permitted interaction group to follow-up on the recommendations of the House Special Committee based on the findings of the State Auditor. As you may recall, the investigative committee found that ADC lacks sufficient written policies and procedures and recommended that ADC develop written policies and procedures to provide the board with oversight; land and ADC-owned property disposition application processes; property management and file and document management in accordance with recommendation 18 under the auditor's report. This progress report will not address strategic planning, but it will address the development of written policies and procedures. The committee agreed with ADC's executive director, that policies and procedures could be written to provide consistent guidance but without having to have the board adopt rules. Those who are familiar with rules, know they are inflexible and difficult to change when circumstances changed. Your policy committee was comprised of Chair, herself, Mr. Hong, Ms. Seddon and supported by staff Mr. Roe. Mr. Roe has been very generous with his time and has provided them with quite a lot of existing written policies and procedures, but they haven't been collated into a policies and procedures manual yet. The committee has been meeting about every two weeks and they're not done yet. They created a framework for the policies and procedures manual, which includes definitions; property disposition and evaluation process; rent setting policies and process; environmental policies and process; policies for license termination; policies for document management; property management policies and procedures; standard terms and conditions for licenses; and the procedure for obtaining approval from the Board of Agriculture for projects, plans and facilities. The final document when they are able to provide a draft to the board may include other categories of policies and procedures so this may not be an exhaustive list at this point. They may be ready to provide a draft to the board this calendar year and she welcomes any questions or comments.

Chair asked if there was any public testimony. There was none.

Chair asked for Board discussion.

Mr. Manuel said he just wanted to say thank you to Ms. Evans for taking charge of the policy team. This will definitely help them be more consistent in decision making as a board. He appreciates the extra time and effort she and the team put into it and just wanted to say mahalo.

Chair agreed and said that Ms. Evans has been invaluable; he doesn't know how they would have done it without her.

Ms. Evans said, it's a team effort and that includes Mr. Nakatani, Mr. Roe and the rest of the staff. She said it's not a one-person thing.

Chair noted this was just an update and there was no vote on this item.

### **2. Request to Delegate Authority to ADC Executive Director to Negotiate and Purchase Three Deep Wells in Paalaa Uka, District of Waialua, Oahu from Dole Food Company, Inc.**

Motion to approve: Mr. Gomes, Second: Mr. Haraguchi

Mr. Nakamoto said this is just a rerun from the January submittal. He provided background on the appraisal that was sent to the board members. They have not received the water sample testing report yet; they were still in the process of getting it. Well number 25 has been used by one of the farmers

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since 2008 and has always met food safety requirements as far as crop production. They anticipate the other wells will have the same results. Referring back to the appraisal, it mentioned the useable life of the wells and the estimated costs it would take to rehabilitate these wells, specifically the pump motors. He said they requested \$4 million from the legislature to do the rehabilitation and link up everything back to our farmlands. The legislature was working on the budget right now and they are crossing their fingers that they can get this funding so that the wells can be operational as soon as possible. He asked if there were any questions or comments.

Chair asked for public testimony.

Mr. Dalton said there was somebody with their hand raised. Mr. Dalton called on Mr. Nellis.

Mr. Nellis said he is the General Manager of Dole Food Company. Dole has been working with ADC for several years now to try to get this deal done. Hopefully the board will delegate authority to Mr. Nakatani so we can move forward. We received a purchase contract that has gone back and forth between the lawyers. The most recent revisions by ADC are being reviewed by Dole's lawyer.

Chair thanked Mr. Nellis for his input. Chair asked if there was any discussion from the board.

Mr. Manuel noted that the focus of the conversation has been on appraising the value of the well and the cost to rehab it but transferring the water use permits involves a whole other process. Are the wells intended to be used beyond the current end uses?

Mr. Nakamoto responded yes. ADC will go back in front of the commission.

Mr. Manuel said there is no guarantee permits will get approved. This is a risk that this board is taking. The Water Commission has to evaluate whether it will or will not allow the expansion or the use beyond the current uses. Anytime you purchase a well you can transfer the permit from one entity to another but that is with the existing end use intact. If you change the end uses, those have to be modified with the Water Commission. He wants to put that flag here as you look into acquiring it. The commission will have to evaluate the request but there's no guarantee the commission will grant the request. He just wants to put that out there.

Chair had a question for Mr. Nellis. Chair's understanding was that some of the infrastructure is actually feeding the parcels that they're trying to get water to. Are the wells used to provide water for those parcels?

Mr. Nellis responded that Pump 25 currently provides water to an ADC parcel along Kaukonahua Road. Pump 26 and Pump 24 don't provide water to the other ADC lands previously owned by Galbraith. They did provide water to the lands that ADC purchased that were previously owned by Dole, in particular the parcel along Kamehameha Highway that borders the military, Ka uka Pupukea, Palakauka Road. A good portion of the ADC lands were served by these wells in the past but not Galbraith.

Chair said that was his concern. The 500-acre parcel that is licensed out to Cedar Grove was taken care of by one of the wells. It's extremely critical we get this on board. The Water Commission looks at it. Hopefully he can help them with that to get it through. It's critical, you can't farm without water.

Mr. Manuel agreed but he said he just wants to highlight that there is due process to modify permits. That process requires public notice, laws for testimony, it has to go through the commission. He doesn't



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see it being problematic, but he just wants to highlight that this is not necessarily a slam dunk. He wants everyone to understand that as they go into this process.

Chair asked Mr. Manuel if he knew if these wells did feed these properties at one time?

Mr. Manuel responded that based on the submittal before him, he cannot answer that question. He'd have to look at the original water use permit allocations, the quantities tied to them, and the end use parcels that were attached to them. If there were any changes in those parcels, additions for example, changes in use. For example, if it were a golf course prior and now we're going to change it into diversified ag or some other crop, the commission may have to adjust end use based on water volume. And a lot of the water use permits require an analysis of per acre/per day use. Those are things that need to be vetted out in the modification of a water use permit. In this case, each well has a water use permit. There are other situations where you have multiple sources they treat them as batteries it has an overall allocation. They allocate the aggregation here in the submittal to 5.7 but technically each well is managed at a cap and a lot of it has to do with the pump capacity without affecting resource. And so, that's why an end use analysis is really important and whether or not that 5.7 is sufficient to meet our end needs or if the 5.7 is good enough for existing users and growth then we have to be able to justify that to the water commission in the modification of the permit.

Ms. Evans asked Mr. Manuel if he knew when the ground water management area was approved for this area and how extensive it is?

Mr. Manuel responded that what he understands is that Oahu was part of a pre-water code. When the code was established in '87, it basically adopted all of Oahu as a water management area. It's been a management area since the beginning of the water code in '88. A lot of the permits were issued by the Board of Land and Natural Resources, under its authorities before the water code was established. The management of these old permits were tied to old users. They weren't necessarily revisited or updated within the context of the water code. Now that's just an extra step that we're going to have to go through as a board if we do acquire these wells and have them transferred over to us from Dole.

Ms. Evans asked if the commission has a sustainable yield for the aquafer that these wells draw on?

Mr. Manuel responded yes. That would be part of the evaluation. If there are changes and modifications that are being sought they would have to evaluate that against the yield that's being withdrawn from the aquafer.

Ms. Evans asked if it is Mr. Manuel's understanding that with the demise of pineapple and sugar in the central Oahu area, that water usage declined fairly dramatically and that there may now be more water in that aquafer than is being drawn against by current uses?

Mr. Manuel said he would have to go and look. In general, there was a lot of water that was no longer used with the ceasing of sugar. He doesn't know what aquafer system these wells are part of. And if they're part of, for example Wahiawa, which is the central aquafer, that system allocation is already maxed out. It has other unique, a hydrologic situation happening there. He thinks there is definitely opportunity to evaluate how these wells can be efficiently managed and pumped to serve agriculture needs, we just have to go through that process.

Ms. Evans said she knows Mr. Manuel has given great deference to the State constitution in looking at requests for water use permits. Will the mandate for agriculture preference be something that the

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commission might weigh in looking at a request for new water use permits if there were changes to the various elements of these three wells?

Mr. Manuel said that's a great question. There are 4 public trust uses of water that the courts highlighted. Agriculture wasn't one of them. Priority goes to public trust and then after that the commission evaluates other uses. Those 4 public trust uses are, water in its natural state, water for traditional and customary practices of Native Hawaiians, domestic uses of water, so individual uses for household consumption and use, and then the reservation or use of water per department of Hawaiian Homelands. Those have to be addressed first and foremost and then the evaluation and weigh in of other uses, in this case, agriculture. The Commission is supportive of agriculture, but it does need to balance that amongst its impacts under the public trust doctrine.

Ms. Evans asked that was the court case and in what year?

Mr. Manuel responded that those were a multiple series of court cases that clarified what those trusts are, and Ms. Prescott-Tate could probably highlight a lot. Waiahole, Kukui, are some of those that clarified the commission's constitutional and public trust responsibilities under the water code.

Ms. Evans thanked Mr. Manuel and added she was surprised that agriculture was not one of the uses that the court deemed a public trust but she's not an attorney, just a planner. The information is very helpful.

Chair asked if there was anyone else?

Ms. Shimabukuro-Geiser asked if we are purchasing the wells "as is" and are there any outstanding liabilities that are not factored into ADC's budget?

Mr. Nakamoto responded we are purchasing the wells "as is". The liability, as Mr. Manuel mentioned, is if we can't get through the commission. As far as rehabilitating and revitalizing these wells, we're fairly confident if we get the appropriation, we'll be able to get them up and running.

Mr. Manuel added that any well, if you're going to install a new pump, you have to get a pump permit from the water commission. That's another permit. A lot of old wells are not built to standard. Like a building permit, if you apply for a building permit for an old house, usually the County says you have to bring it up to code. What the Water Commission really wants is the integrity of the whole system, the shaft, the well, and the infrastructure do not create conduits for contamination. Especially in agricultural settings that could create potential risks to the aquifer. That's why these permits are in place; to evaluate those potential impacts on the resource itself. When ADC wants to rehab the pumps, the pump permits have to go to the Water Commission for approval. If you're going to increase the capacity of the pump, say it's a 500-gallon per minute pump and you're upping it to 700 or 900, the commission will usually require a pump test to determine if there's greater impact on the resource or what other potential impacts on other adjoining wells to determine whether that's a sustainable quantity that can be withdrawn from that well. These are some of the other permitting processes that need to happen as it relates to these wells we are looking at purchasing.

Chair asked for any other discussion. Hearing none, Chair called for the vote.

Mr. Hong then asked for clarification on what the board was authorizing, is it without further board review?

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Chair said the request was to give the Executive Director the authority to negotiate.

Mr. Nakamoto said, yes, and he just wants to point out that the appropriation is \$4.7 million and there is no more than that if the price goes above that.

Mr. Hong said, so before this is consummated the board will have a chance to look at the due diligence efforts, the condition of the wells, the expected cost to bring them up to standard.

Mr. Nakamoto said this was covered in the appraisal done by Pacific Electrical Mechanical who is one of the experts as far as on island. They provided analysis for all three wells and as Mr. Nellis mentioned Well-25 is running. Well-24 could require some rehabilitation, Well-26 is probably in the worse condition but given that Well-25 was damaged by fire about 20-years ago, it is still up and running and passed all food safety tests for crop production. They are in the process of doing sampling for that to confirm from a certified tester.

Mr. Hong said he would be interested in seeing the assessment for what it would take to bring it up to the current water code as Mr. Manuel mentioned because there are requirements that exist today that did not exist prior to the water code. This assessment is important for the board to see before final review.

Mr. Nakamoto remarked the appraisal was done by Pacific Electrical Mechanical, licensed professionals that actually looked at these wells to determine the life span the existing shaft and what it would take cost-wise to get these wells up and running. That information was provided in the appraisal.

Chair stated that he thinks the appraisers did a pretty good job and they have some cushion there.

Ms. Shimabukuro-Geiser said the approval was for negotiation and purchase not just negotiation and coming back to the board for board approval to purchase. If the board wants to review before the purchase is approved then there needs to be an amendment to the motion.

Chair asked Mr. Nakamoto where in the process they're at.

Mr. Nakamoto responded that as Mr. Nellis mentioned, they are pretty close to completing the purchase. This approval is the last hurdle.

Ms. Evans said she is in favor of approving the motion as written to include the authority to purchase. Water is so critical to agriculture and noting the risks that Mr. Manuel has so clearly outlined for them she still feels that it is important to proceed with the acquisition of the 3 wells to make agriculture in central Oahu viable for the farmers. She would not want to amend the motion to delete the ability to go forward with the purchase.

Chair asked if there was any other discussion.

Mr. Haraguchi said he supports the recommendation as written and ask for the vote.

Chair asked if there was any other discussion. Hearing none, Chair asked if there was anyone in opposition to approving this request.

Mr. Hong said he opposed.

Mr. Manuel noted his reservations.

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Motion approved. Vote: 9-1 (Mr. Manuel with reservations) (Mr. Hong opposed).

### **F. Executive Director's Update**

- Mr. Nakatani said that Mr. Uyehara already mentioned that they plan to work with Aloun farms to grow some diversified crops. It's good that they are planting more diversified crops and not just seed corn, but they'll see what happens, but he thinks it's a good project.
- Regarding Wahiawa, there's an amendment to the Environmental Assessment (EA). It's a minor thing. He said they had a project that included to get rid of the wastewater and they kind of mixed that part of the project, was a slow release so it's downsizing that project a little bit.
- Legislatively – tracking a couple of bills, SB2480 the bill has to do with the Wahiawa Irrigation and the dam. It's going before the conference committee and hopefully something good will come out of that. SB2473 relates to ADC moving to DBEDT. This bill is also going to conference. He believes conference starts on Monday.
- Administratively – the Yardi contract has been executed. Hopefully they will be onboard soon to help organize the office.

Mr. Manuel congratulated Mr. Nakatani on the Yardi contract. He asked if Yardi is designing and building, owning, and training staff to manage after design and build, or are they also, as part of the contract, design, build and operate.

Mr. Nakamoto responded that Yardi will tailor a system for ADC and then they also have 5-years licensing that they will stay onboard to train and for technical assistance.

### **G. Adjourn**

Chair asked for motion to adjourn:

Motion: Mr. Manuel, Second: Mr. Haraguchi.

Approved: Vote 10/0

Meeting adjourned at 11:18 a.m.

Respectfully Submitted,

Lynette Marushige  
Secretary

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*Pursuant to section 92-3.5, Hawaii Revised Statutes (HRS), this meeting was held remotely with Board members, Staff, Applicants, and the Public participating via Zoom meeting venue, and an In-Person meeting location available for public participation at the State of Hawaii, Department of Agriculture (HDOA), Hale Waiolama Board Room, 1428 S. King St., Honolulu, HI 96814.*

### **Members Present, virtually:**

Frederick Lau, City & County of Honolulu, Chairperson (Chair)  
Mary Alice Evans, Designated Representative, DBEDT, Ex-Officio Member (Ms. Evans)  
James Gomes, Maui County Member (Mr. Gomes)  
Lloyd Haraguchi, Member-At-Large (Mr. Haraguchi)  
Glenn Hong, Member-At-Large (Mr. Hong)  
Kaleo Manuel, Designated Representative, DLNR, Ex-Officio Member (Mr. Manuel)  
Karen Seddon, Member-At-Large (Ms. Seddon) – joined the meeting at 9:20 a.m.  
Phyllis Shimabukuro-Geiser, Chairperson, Board of Agriculture, Ex-Officio Member (Ms. Shimabukuro-Geiser)  
Lyle Tabata, Kauai County Member (Mr. Tabata)  
Warren Watanabe, Member-At-Large (Mr. Watanabe)

### **Counsel Present, virtually:**

Delanie Prescott-Tate, Deputy Attorney General (Ms. Prescott-Tate)

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

James Nakatani, Executive Director (Mr. Nakatani)  
Ken Nakamoto, Project Manager (Mr. Nakamoto)  
Lyle Roe, Property Manager (Mr. Roe)  
Lance Tashima, Administrative Services Officer  
Lynette Marushige, Executive Secretary  
Mr. Jason Azus-Richardson, IT Specialist  
Mr. Stephen Dalton, IT Specialist (Mr. Dalton)

### **Guests Present, virtually:**

Kimi Makaiau, University of Hawaii (Ms. Makaiau)  
Ronald Weidenbach, Hawaii Fish Company (Mr. Weidenbach)  
Josh Uyehara, Kekaha Agriculture Association (Mr. Uyehara)  
Mike Faye, Kekaha Agriculture Association  
Stacy Ferreira  
Scotty Wong  
Rachel R. Cotton  
Parker Spencer  
Drew Hardman  
Darlyn Chau  
Linda Murai, HDOA  
Russell Tsuji, DLNR  
Farmer Dave  
RR0109  
“Senate Ways & Means”

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“Public Testimony”

### **Guests Present, physical location:**

None.

### **A. Call to Order**

Chair called the virtual meeting to order at 9:03 a.m.

### **B. Roll Call**

Chair conducted a roll call of the Board. Chair called the name of each board member and asked them to identify their presence with a “here” or “present” and to state who if anyone was present in the room with them. Chair stated that the roll call served as the roll call vote, and for each subsequent vote, the Chair would ask if there were any objections. If there were no objections the motion will be approved on the same basis as the roll call.

Roll call: Ms. Evans, Mr. Gomes, Mr. Haraguchi, Mr. Hong, Mr. Manuel, Ms. Shimabukuro-Geiser, Mr. Tabata, and Mr. Watanabe acknowledged attendance with no guests present. Ms. Seddon joined the meeting at 9:20 a.m.

### **C. Approval of Minutes**

Chair deferred approval of the April 20, 2022 board meeting minutes to the next meeting.

### **D. New Business**

#### **1. Presentation by University of Hawaii Community Design Center (UHDCD) Regarding the Whitmore Food Hub.**

Ms. Makaiau of UHDCD gave a presentation on the Whitmore Food Hub.

Chair asked for public testimony. There was none.

Chair asked if there was any discussion.

Mr. Manuel thanked Ms. Makaiau for the presentation. It’s good to see community engagement built into the conceptual design. He had questions on the design strategy. On the phase 1, the splitting of the 12 acres and the Hawaii Department of Education (DOE). What was the strategy of a triangular piece from a land use perspective and internal road work? Is that based on existing road networks or wouldn’t we want to potentially re-design it and take advantage of that triangle. It looks like there was only 14,000 sq. ft. for the High-Pressure Processing (HPP) machine facility but it’s part of a 12.3-acre parcel. He’s just curious what will the rest of the space be used for.

Ms. Makaiau said the intent of this space, first of all you can see the topographic lines, it gets quite steep as you go towards the back of the property. Currently, she believes there is a farmer or two doing ag but it’s very terraced where they are. This wasn’t a decision that they had. As far as the useable space, this was kind of what was initially in the original master plan. It kind of identified where the core of the food hub would be. The original master plan, and what was approved in the environmental assessment (EA), shows much more potential for expansion. There originally was a larger warehouse. But after



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consideration of the community feedback, we incorporated their suggestions into the design. At one point we considered cutting off a corner of the triangle but in terms of securing the site it didn't really make sense. They had a suggestion of including that area and the private operator or the private partner could come up with creative ways to utilize the space. In one area of their report they talk about site security. There's also the potential for the Hawaii Department of Transportation (DOT) to build a pedestrian bridge coming across from Wahiawa town; there's a couple of places under consideration where it could be. One of the areas was close to the Wahiawa police station. In consideration of where that would come across the site, they thought it would make more sense to have the private partner secure their facility as needed and work with ADC and DOT to allow for safe pedestrian passage.

Mr. Manuel found the internal road network interesting from a planner perspective. The other question he had was, this is a new conceptual plan revamped off of the original final EA so is it more or less dense? Are we still within the final framework of the EA so there's no need for an additional EA?

Ms. Makaiau said yes very much scaled back and again that was the feedback from community who were very adamant about maintaining the character and nature as well as not contributing to things like noise and traffic. One of the main components that was removed was the focus of retail and commercial activity. The original master was a gorgeous plan, it may not have necessarily fit into the character of the community. Those designers had intended for the space to kind of mimic Dole Plantation, where tour buses would come in and there would be site tours and we heard loud and clear that the community did not desire that. However, there has been some interest in the possibility of occasional farmers market. That's still approved in the EA, some of that type of activity. It would be up to ADC and future partners how to work with the community and nail down what would be acceptable.

Mr. Manuel asked what was the total water demand for HPP processing, the DOE centralized kitchen, and other types of uses?

Ms. Makaiau said she doesn't have that number off the top of her head, but it's in one of their reports so she'll follow-up and get those numbers. It comes down to the size of the machine. The machines themselves vary greatly in size and the water used in those pressurized chambers can be recycled.

Mr. Manuel asked if the DOE centralized kitchen was a part of the original EA or does she see them having to go through their own compliance.

Ms. Makaiau said they met with the former Office of Environmental Quality Control to go over the plans and it doesn't seem they need a new EA. It still falls within the proposed use, floor plans, and size of the buildings.

Mr. Gomes asked her if she knew what the timeframe would be for the conceptual plan to be reality.

Ms. Makaiau said DAGS would be responsible for the Phase 1 infrastructure. DAGS is in the process of selecting a consultant. She understands that once a consultant is selected, they would go through pre-design, design, bidding process for a contractor, and permits. They don't have numbers but anticipate construction starting at the end of 2024, early 2025. She would defer to DAGS. In terms of Phase 2, the solicitation for the HPP, Mr. Nakamoto will be providing the board with an update on the Request for Proposal (RFP) in order to get a private partner, the timeframe was 12 to 15 months to get a contract in place. If the private contractor were to go ahead and either renovate or do construction there, they may have to bring in temporary infrastructure. They were anticipating that if full infrastructure wasn't available, they do have rough costs of what temporary infrastructure would be to at least get the HPP facility up and running. That's in their report. And they had verbal discussions with DOE but there is

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no lease agreement negotiated so she wouldn't have a timeframe for that. There is currently no funding allocated for any kind of renovation or construction of the warehouses for workforce housing so that is 3+ years down the road before any planning happens for that.

Mr. Haraguchi asked that when they did their study on the master plan he assumed it included potential users of the HPP. How much interest is there really in having a unit like this?

Ms. Makaiau said the HPP machine was brought to the attention of the State by potential users, Denise Yamaguchi from the Hawaii Ag Foundation, and Ellie James of Mana. There's a handful of agricultural producers and supporters that felt this was technology that needed to be in Hawaii. They approached some of the elected officials to look into it. The interviews they have conducted with tolling across the country and Canada, we foresee a great impact on what this type of technology can provide especially being as isolated as we are. They had a consultant do a preliminary economic analysis in terms of investment, break even, looking at what the existing market is. That information is included in their report. They're also working on a broader economic study, which is challenging because this is brand new. The best that they are doing is taking existing precedent from the United States and they're also looking at other areas like New Zealand who had implemented this technology and how their markets grew. Whoever ends up operating this, as well as ADC, should partner with the manufacturer to do more outreach and marketing and explain to the different users how their businesses can apply this technology and what the impact would be. There are a few different recommendations provided in the report, but we're hoping this economic feasibility study and market analysis that we'll have ready in a couple of months will shed more light into what the potential will be here in Hawaii.

Mr. Haraguchi said economic feasibility is really important. Does Hawaii have sufficient farmers to provide the produce to create an added-value product?

Ms. Makaiau said Hawaii has the land, they have the potential, but it's not going to be ADC alone that can do this. There has to be a lot more involvement and participation from other agricultural support businesses and landowners that can provide space for farmers to understand how they can scale their businesses. If there are value-added producers that can turn those avocados into some other value-added product, they do have the potential. Again, she'll defer back to the precedent studies that they're looking at, how did other areas handle that in terms of growing their produce or their agricultural products once the technology was implemented.

Mr. Haraguchi said going through some of the information, there are different sizes of HPP machines, and one machine can process 6,000 pounds of produce per hour.

Ms. Makaiau responded, not produce but value-added.

Mr. Haraguchi said, value-added so 6,000 pounds.

Ms. Makaiau said yes and referred to a page in her presentation showing the types of products the HPP machine can produce.

Mr. Haraguchi said 6,000 pounds in an hour, that's hard to imagine.

Ms. Makaiau said each cycle is only a few minutes, roughly 5 or 6 minutes per cycle. Depending on the size of the canisters. The product has to be in its final packaging before going into the machine, but the cycles are pretty quick. Interestingly, she spoke with not only the tollers, the businesses that house these machine that offer this service for a fee, but they also spoke with users where some of the smaller

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machines, some of the businesses turn them into self-serve machines where they actually do the entire process themselves.

Mr. Hong asked if she had the link to the HPP report.

Ms. Makaiau said yes, she provided it to ADC, so she'll make sure that it gets to them if it hasn't already. She said it's a beefy document, but they tried their best to synthesize the information as succinctly as they thought would be useful for ADC and the operator. Ms. Makaiau offered to present more details in terms of the machine technology or the conceptual master plan to potential RFP bidders.

Mr. Hong asked to clarify that the HPP process was not applicable to fresh produce?

Ms. Makaiau responded, no it's not. There are certain requirements. Packaging is one. It has to have a certain liquid content in order to be processed. This is primarily for value-added products. It's taking raw goods and turning it into a new product; so, avocado into guacamole. The requirements are detailed in the report.

Chair asked if there were any other questions. Chair thanked Ms. Makaiau and noted this was just a presentation and there is no vote on this item.

### **2. Request for Approval to Issue a Request for Proposal to Construct and Operate a HPP Machine and Agricultural Facilities in the Whitmore Food Hub, Wahiawa, Oahu**

Motion to Approve: Ms. Evans, Seconded: Mr. Gomes.

Mr. Nakamoto said as Ms. Makaiau pointed out this was part of Phase 2 where we will be soliciting an operator to operate the HPP machine as he presented last meeting, but he is open for any questions.

Chair asked for public testimony. There was none.

Chair asked if there was any discussion.

Mr. Gomes asked if after 7 years, they're committed for 7-years and ADC spends \$5.5 million, who will own the machine?

Mr. Nakamoto responded that ADC owns the machine, as long as the lifespan, whatever the manufacturer's lifespan we'll own the machine. Say we select an operator, and they fulfill their 7-year term, but they don't want to do it anymore, we would solicit for a new operator or have the potential to extend the lease or the agreement with the current operator if they wish to continue to operate.

Ms. Shimabukuro-Geiser said she saw the draft RFP, which was much better from previous drafts. She said just a couple of questions. There is a 5-day protest and she's wondering if in the schedule and significant dates, because this RFP involves several million...

Ms. Prescott-Tate asked if she could interrupt. She said we're not going to be going into the specifics of the RFP right now because it's still a draft.

Ms. Shimabukuro-Geiser said ok, so when can she make recommendations to the draft.

Ms. Prescott-Tate said she can write them down and provide them to her anytime.

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Ms. Shimabukuro-Geiser said ok, she has a couple recommendations that she thinks would be in the best interest of ADC.

Ms. Prescott-Tate said just let her know and she'll work on it.

Mr. Manuel asked why they can't discuss it because it's not...well what's the issue.

Ms. Prescott-Tate said an RFP is supposed to be presented to everybody at the same time to give no one an unfair advantage of knowing what the procedure will be and when we anticipate putting it out there. So, until it's a final product, we don't want to give anybody an unfair advantage.

Mr. Manuel said well, since it's a draft he would assume you can talk about it but you're saying no.

Ms. Prescott-Tate said we don't want to put it out there until it's final.

Chair said that we do have an option to move to Executive Session.

Ms. Prescott-Tate said we could do that.

Mr. Manuel said that he has some general questions first before they do that if it's possible.

Chair said go ahead.

Mr. Manuel said if he's understanding it, we're asking for a minimum 7-years. What was the decision about the magic number 7 in this context and up to 35 years with an option for 20-year extension so what is the strategy in that?

Ms. Prescott-Tate said she thinks it would be better if they go into executive session to answer any of those questions because they're getting too much into the procurement issues, giving too much away.

Chair asked for a motion to move into executive session.

Motion to Approve: Ms. Shimabukuro-Geiser, Second: Mr. Manuel

Board went into Executive Session at 9:53 a.m.

Chair called the meeting back to order at 10:33 a.m.

Ms. Evans said she would like to amend the original motion that she made prior to the Executive Session. It's a friendly amendment. Pursuant to HRS chapter 163D-4(8) to approve in concept to authorize the Executive Director to issue a request for proposal to purchase and operate an HPP and develop and manage a food processing facility in Wahiawa, Oahu. The motion does not include the conditions that are listed in the recommendation paragraph of the submittal. The motion does include that those items be deferred. Discussion and action on those items will be deferred until the next regular board meeting.

Mr. Gomes seconded the amended motion.

Chair asked if there was any discussion.

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Mr. Manuel asked to confirm that Exhibit A was not included in the motion.

Ms. Evans said that's correct.

Chair asked for public testimony. There was none.

Chair asked if there was any further discussion. Hearing none, Chair called for the vote.  
Motion approved as amended. Vote: 10-0.

**3. Request for Approval to Renew Revocable Permit No. S-6814 Issued to Ronald P. Weidenbach dba Hawaii Fish Company for 18 Acres, More or Less, in Kaena, Waialua, Oahu, Tax Map Key (1) 6-9-001:003, :033 (por)**

Motion to approve: Mr. Gomes, Second: Mr. Manuel

Mr. Roe stood on his written submittal and was available for questions.

Chair asked for public testimony. There was none.

Mr. Manuel said he had a question for the applicant if he is available.

Mr. Dalton asked Mr. Weidenbach if he would come forward and identify himself.

Mr. Manuel said he had a couple of questions. In the staff submittal it says that to date, Mr. Weidenbach has not signed the revocable permits from ADC. Why?

Mr. Weidenbach said the issue was that earlier there were questions about policies that said in the event of any loss the payment would go to ADC rather than to himself. He said he's never seen such a clause before, so he had questioned that. Subsequently the offer was reduced to 8 acres and only a portion of the pond that they were currently farming so that made it unviable to proceed as a commercial farm. This led to a decision that the best option to go forward would be to transfer the property to HDOA, which the ADC Board subsequently approved as did the Board of Agriculture and most recently DLNR.

Mr. Manuel said, so basically you couldn't come to terms on the RP that was approved by the ADC board and that's why you didn't sign the document.

Mr. Weidenbach said he wasn't actually aware that it had been approved by the board. But, yes, he guessed that summarized it.

Mr. Manuel asked staff if we did not negotiate or come to terms, Mr. Weidenbach has no formal document that was signed, and yet Mr. Weidenbach was still using the property.

Mr. Roe said that the tenant remained on the property under holdover status through the DLNR permit.

Mr. Manuel said he had a legal question. He thought that holdover permits were no longer allowed. Maybe that's something legal can look into whether that's actually a practice that can continue, "holdover" status. And maybe just another follow-up Mr. Weidenbach. Right now, how much water do you use from the well on the property for your aqua-cultural activities because it's not in the record anywhere.

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Mr. Weidenbach said he submits monthly water reports to the water commission and by memory without having the document in front of him, he believes it varies seasonally from a low 70,000 gallons per month to a high of perhaps 130,000 gallons per month.

Mr. Manuel clarified that he said he submits that to the water commission?

Mr. Weidenbach responded yes.

Mr. Manuel asked if he has a water use permit for that use.

Mr. Weidenbach said yes, he has an approved well. He said he put in the well.

Ms. Evans asked Mr. Roe about the recommendation. It states that the staff recommended the board approve the land request noted above. Is that just the renewal of the revocable permit and is it a 30-day permit and is that the DLNR permit or is that an ADC Revocable Permit?

Mr. Roe said that was the DLNR permit S6814 attached to the submittal as exhibit B.

Ms. Evans asked if ADC was able to renew an RP issued by the BLNR? Is that something we do, as part of the transition from DLNR to ADC or HDOA?

Mr. Roe said, typically we do. He said there are a couple of others. One in Kekaha, Gary Smith but he's made Mr. Smith aware that we are going to be updating that to an ADC RP at the next approval. There may be one or two others.

Mr. Weidenbach said if he may clarify. He said they receive monthly rental bills from ADC which they are current on, they always pay on time. They also have a security deposit with ADC for the property. So, as far as the rent, they routinely make sure that it is paid on time.

Mr. Roe confirmed that.

Chair asked if there were any other questions. Hearing none, Chair called for the vote.  
Motion approved. Vote: 10-0

**4. Request for Approval to Renew Revocable Permit No. RP17-01 Issued to Andros Engineering Corporation for 132.25 Square Feet, More or Less, in Whitmore Village, Oahu, Tax Map Key (1) 7-1-002:004 (por)**

Motion to approve: Mr. Gomes, Second: Mr. Watanabe.

Mr. Roe stood on his written submittal and was available for questions.

Chair asked if there was any public testimony. There was none.

Chair asked if there was any discussion.

Mr. Manuel asked if staff had communicated with the Whitmore tenants about the HPP project and the larger food hub? Do they know this is temporary use and once the project gets going we reserve the



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right to not continue these revocable permits (RP's)? He just wants to make sure it's clear, so we don't have any backlash when development starts. Has this been made clear to the current RP holders?

Mr. Roe responded yes, both verbally and in writing. All tenants were encouraged to have conversations with UHDC as the design process moves forward. The businesses could potentially be included if their use fits in with the eventual use of the property.

Chair asked if there was any other discussion? Hearing none, Chair called for the vote.  
Motion approved. Vote: 10-0

**5. Request for Approval to Renew Revocable Permit No. RP20-02 Issued to Kelena Farms Inc. for 345.38 Acres in Waialua, Oahu, Tax Map Key (1) 6-5-002:011, :006, :008, (1) 6-5-001:046**

Chair withdrew this item noting that Kelena Farms had already been issued a license.

**6. Request for Approval to Renew Revocable Permit No. RP20-01 Issued to Ho Farms LLC for 57.296 Acres at Galbraith, Oahu, Tax Map Key (1) 7-1-012:001 (por)**

Chair asked for a motion to approve.

Motion to approve: Mr. Watanabe, Second: Mr. Haraguchi

Mr. Roe stood on his written submittal and was available for questions.

Chair asked for public testimony. There was none.

Chair asked if there was any discussion?

Mr. Manuel said that the Wahiawa Recycled Water Irrigation project was cited as the reason for the RP on this property instead of doing long-term disposition. What is the timeframe, so we can support this farmer who has been really good on this property, to move onto a longer-term disposition?

Mr. Roe said he cannot give an estimate on when the recycled water irrigation project will be up and running or when a future reservoir might be constructed on part of the property. The tenant was aware of the future use and they're currently fine with using it on a month-to-month RP.

Mr. Manuel asked if they were interested in a longer-term disposition?

Mr. Roe said they may be, they haven't told him that, but he imagines they might be.

Mr. Nakamoto said the project for planning and design was anticipated to be completed by July 2024 and assuming that construction funding was available, it will go out to bid shortly after that.

Mr. Manuel said so we're a couple of years out. These RP's will potentially be continued for another couple of years if the tenants want to stay.

Mr. Roe believes that is accurate.

Ms. Shimabukuro-Geiser said that recently this session, ADC, HDOA, and Department of Land and Natural Resources (DLNR) were given a budgetary appropriation to repair and improve the Wahiawa

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Irrigation System that was currently operated by Dole. She's wondering if that system and the Ditch serves ADC will the Ho's have an opportunity to tap into this system or is this location totally reliant on the recycled water project?

Mr. Nakatani stated no, those are two separate projects.

Chair asked if there was any other discussion? Hearing none, Chair called for the vote.

Motion approved. Vote: 10-0

**7. Request for Approval to Renew Revocable Permit No. RP-W257-21-02 Issued to The Davey Tree Expert Company and Davey Tree Surgery Company for 21,392.7 Square Feet, More or Less, in Whitmore Village, Oahu, Tax Map Key (1) 7-1-002:004 (por)**

Motion to Approve: Mr. Gomes, Second: Mr. Haraguchi

Mr. Roe stood on his written submittal and was available for questions.

Chair asked for public testimony. There was none.

Chair asked if there was any discussion.

Mr. Manuel had the same question. Just for the record, has staff communicated with this tenant on the potential impacts of the HPP project?

Mr. Roe said yes, this tenant probably more than any other.

Chair asked if there was any other discussion? Hearing none, Chair called for the vote.

Motion approved. Vote: 10-0

**8. Request for Authorization to Seek an Opinion from the Department of the Attorney General Concerning Legal Issues Pertaining to Kekaha Agriculture Association's IAL Petition.**

Motion to Approve: Ms. Evans, Second: Mr. Gomes.

Ms. Prescott-Tate said ADC has been asked by the Kekaha Agriculture Association (KAA) to request that a department head ask the attorney general for an opinion on who would represent the fee owner in a situation where ADC had the land transferred to it via Executive Order (EO) and the statute, HRS section 171-2(11) removes ADC property from the designation of public lands. So, the Important Agricultural Land (IAL) petition was withdrawn and in order to move forward on a new petition, should KAA desire to do so, an opinion from the attorney general would be helpful. The request would be that the ADC board be authorized to communicate with the chair of the department, whoever that may be, and ask them to submit a request for an opinion to the attorney general.

Chair asked what department would this be HDOA, ADC or DLNR?

Ms. Prescott-Tate responded it's an ADC request. If it's before July 1st would be to HDOA. If after July 1st it would be to the Department of Business, Economic Development and Tourism (DBEDT).

Chair asked for public testimony. There was none.

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Chair asked if there was any discussion.

Ms. Evans said she strongly supports this motion, and she would like it to be broad. The opinion would be concerning legal issues pertaining to KAA's petition rather than narrowing it down, so that should the AG's office find other legal issues that relate to the withdrawn petition that they can provide guidance to ADC's board. She wants to make sure it's not a narrow request as it's worded in the submittal subject description.

Mr. Manuel had a question on intent, and maybe this is for KAA because they are asking for the IAL petition. If either staff or KAA could respond, what benefit were we trying to seek by designating it IAL because IAL is primarily a mechanism for private landowners to get subsidies or credits, but we are quasi-governmental entity with lessees. What is the benefit we're seeking with the IAL designation?

Mr. Dalton said he has Mr. Uyehara in the audience and called him forward.

Mr. Uyehara said to answer the question, he thinks there's a common misconception about the IAL incentives. Most of the IAL incentives are actually for the benefit of the farmers, not the landowner. The main incentive for the landowner and the one that really has been cited to date in much of the IAL petitions has been basically to protect other lands from being subject to the County process for IAL designation. As long as you designate at least more than 50% of a property you can protect other lands from being designated in the future. That's largely been seen as a way to sort of land bank for potential future development without the risk of the County identifying your land as needed for agriculture in the future which could restrict potential future uses. The actual incentives we're looking at for KAA members and non-member farmers on the property are tax credits that would be available for investment in farming operations. That would apply to tractor purchases, buildings, any other capital expenditures and even legal expenditures required to establish the operation and depending on the type of operation those can be pretty substantial. The interest here is really to make that package of incentives available. The other interest in the legal questions really come down to when they look at the foundation of the use of land for ag in the area, it comes down to the EO. He doesn't foresee a risk of the EO getting withdrawn but there's really no solid protection from the EO agriculture purpose being withdrawn for any reason at any time. From the beginning, he thinks they've done good work trying to resolve some of the water issues for the property for the medium and long-term. They're making really good progress on getting the land to be more productive in ag, including for local food production. In fact, this year they'll have more acres dedicated to local food and feed production than for seed production in their operation. They're really making a lot of progress in that area, that comes with a lot of investment in the property on the part of farmers as well as the state. The other benefit of an IAL designation is to confirm a long-term commitment on behalf of the state for the use of the land in agriculture. Kekaha is one of the premier ag areas in the State with the greatest potential for addressing local food sustainability and it would be really good for them to be able to make the case that the state is committed to keeping the land in agriculture. There are economic incentives that will help them develop the property successfully and that's really what they see as an integral part of their strategy to move this ball forward. He's really excited about it because they're making good progress with the water issue, they have renewable energy so, from the prospective they can have food producers that can truthfully say their food production is entirely renewable energy based. The energy is actually a lower cost than retail so it's more competitive but it's in a large contiguous area dedicated to ag so there are less concerns about the potential for impact to neighbors and things for a food processing facility or ag operations in general. It's a good opportunity and the designation would really help them out.

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Mr. Manuel had a follow-up, more specifically, what he's hearing is the benefit is to the farmers via tax credits. Are there any other tax credits that IAL would provide and right now those tax credits don't exist without IAL designation, correct?

Mr. Uyehara responded that's correct. Those tax credits don't exist without an IAL designation. There are other benefits as far as expedited permit processing for facilities and other related infrastructure although those are somewhat theoretical because nobody really knows exactly what that means. He doesn't know what that expediting looks like in practice other than thankfully the County has been very supportive of their petition and the general push to develop agriculture in the area, so they don't see a problem there. But in theory it's another incentive. There is a question of potentially building worker housing that is one of the main challenges they see for expanding operations there. Something like that would be subject to further approval by the ADC board if that's something that would be allowable on the property. But the IAL incentive actually also does allow for housing off-property if the housing is for workers for operations hosted on the IAL. There's actually even a benefit to building worker housing on private land outside of the state property provided it's for workers for ag operations there.

Mr. Manuel said so the benefits go beyond tax benefits, its expedited permitting, potential housing opportunities and without the IAL, the expedited permitting and workforce housing are not allowed and it's questionable whether it's still allowed even if it is IAL on ADC lands.

Mr. Uyehara responded saying it's not explicitly disallowed, it's just obviously something the board would have to approve.

Mr. Manuel said he had questions on the incentives because it talks about the direct benefit for KAA farmers, so he just wanted to be explicit about what those benefits include and that without IAL that is not something that, those benefits don't exist right, that's what he's hearing?

Mr. Uyehara said yes that's correct.

Mr. Manuel said his question was to Ms. Prescott-Tate and maybe a response to Ms. Evans comment. Having worked on AG opinions prior and asked questions, the question in his opinion needs to be very narrow, otherwise the AG's opinion probably will not answer the question that we want them to answer. Working with other agencies, he has reservations on this primarily because once you ask a question, you might not like the answer and if we can work through this with the agencies that are involved to clear up any issues then that might be a better way to process this and work through this rather than to ask for a formal AG opinion. That's just his thoughts on the matter. He believes we should narrow the question and be explicit about the question we want to ask, and not a broad question.

Chair said he has a question. One of the things with IAL is the smaller farmers don't have the wherewithal to petition so will this incorporate the Waiaka Farms project into the IAL if this were approved?

Mr. Uyehara said yes. That's partly why they have the petition for even areas outside what is currently licensed to KAA members because they were looking for the incentives to be available to anyone farming anywhere on the ADC property. When you look at the incremental cost to them, it doesn't cost them anything to include the Waiaka area for example and make those incentives available to the small farmers. Like you said, just basically, when they looked at it, it probably costs like \$70,000 - \$80,000 minimum to submit a petition for any amount of land. And so, they figured they might as well do that. In fact, they may in the future and likely when the time is right, go back and look at the properties that were transferred from the other departments to the ADC in the area and basically petition for those to be

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designated as well. It's something they look at that is sort of the core mission of the co-op, is to try to provide benefits for all of the farmers on the property. And they see this as almost an infrastructure service to ensure that all of the state and federal incentives that should be available to farmers on the property are in fact made available.

Chair thanked Mr. Uyehara and stated he thinks it's really important, like he said, smaller farmers struggle and to date only large corporations, large farmers have been given IAL status. So, he really appreciated that. Chair asked if anyone else wanted to speak.

Ms. Shimabukuro-Geiser said she had a question before they vote can they clearly understand what the motion is because Ms. Evans motion was for a broad request and in the submittal the recommendation says that we're asking the AG for an opinion on four questions of law. So, can they get clarity on what Ms. Evans means by broad and whether those recommendations are going to be part of the motion.

Ms. Evans said yes, all four.

Ms. Shimabukuro-Geiser said ok.

Chair asked Ms. Shimabukuro-Geiser if ADC should ask HDOA to ask the AG.

Ms. Shimabukuro-Geiser said it depends on when the request is made. If ADC is going to be transferred over to DBEDT; that's the proposed bill before the Governor. It's a timing issue, if the request is made before the end of the fiscal year then ADC is still attached to HDOA but if the request doesn't go in by June 30 then subject to Governor's approval, ADC may have to go and seek the approval of the Director of DBEDT.

Ms. Prescott-Tate asked if they get the request to her by next week would that be a problem?

Ms. Shimabukuro-Geiser said it wouldn't be a problem. It's a timing thing. ADC is still attached to HDOA until ADC goes over to DBEDT.

Chair asked if there was anyone else.

Mr. Manuel said that he sits on the board as DLNR's ex-officio, so he wants to make it clear as part of this opinion process, the agency has assigned deputy-AG, in this case Ms. Prescott-Tate to ADC. He said when we're asking, depending on who asks, if it's HDOA, then HDOA's deputy AG would probably draft something for the AG to review and more than likely go before their mock court, get reviewed by other AGs including DLNR's AG. He just wants to make it clear that in general his reservations come purely from a desire to try to work within agencies to deal with this. But, if this is the avenue that the board wants to pursue for clarity on law then that's fine.

Mr. Uyehara said he thinks he understands what Mr. Manuel is saying and he thinks that the motion is to get authorization to seek an opinion, not a mandate that we shall seek one. The reason he wants to make that distinction is there might be reason for them to have discussions before submitting the request both to clarify the content of the request as well as to see if it's ultimately necessary. But he thinks having the authority to seek the request is definitely helpful because it may be where they end up, but maybe not. At least the way he sees it from KAA's perspective, it's not a guarantee that the request is ultimately submitted. But it's an option they would like to have on the table.



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Mr. Manuel said he's just saying usually when you pull the trigger, you pull the trigger. Again, speaking from other agency perspective, he just wants to make it clear, he said if we don't do it before, also he'll have DBEDT's AGs now having to review this and draft the recommendation with their purview and understanding of law. The AGs are great, he loves working with them but that is a whole other process, and you might not get a response - the timeframe is unknown. These are just things he wants the board to understand that we might not get a timely response.

Ms. Evans said DBEDT's AGs, especially the AGs that represent the Land Use Commission, are thoroughly familiar with this issue and would not be starting from scratch. She's had numerous discussions with the Land Use Commission, the Office of Planning and Sustainable Development AGs that represent the State before the Land Use Commission. She does not think it would be, it should not be a concern in authorizing the possibility of requesting an AG's opinion.

Mr. Manuel asked if they have this expertise specific to this IAL and the statutes mentioned should that not be the AGs that they ask through that Director?

Ms. Evans said she would not want to be specific about that, but their AG's are the experts on HRS chapter 205, which does have the IAL section in it. So, they are prepared.

Ms. Prescott Tate said who gets assigned to do the opinion would ultimately be the AG's decision. So, we just need a department head to do the asking.

Hearing no further discussion, Chair called for the vote.

Mr. Manuel had reservations.

Motion Approved. Vote: 10-0, Mr. Manuel with reservations.

### **E. Old Business**

None.

### **F. Executive Director's Update**

Mr. Nakatani said the legislative session was pretty interesting this year, a lot of money floating around, a lot of bills floating around. There are two bills that ADC was tracking. SB2480 Relating to the Wahiawa Irrigation System. This was the most important bill for agriculture but unfortunately it failed. However, money was provided for each department can conduct their due diligence, mitigating the dangers of Lake Wilson dam and everything like that. To give a little history, DLNR dam safety cited Dole to bring the dam and spillway up to speed so that forced the issue. He thinks this will continue throughout the year and maybe through next session on how we approach this thing. The department may have some obligation to purchase some areas and fix the dam. DLNR has some obligations as well as ADC. SB2473 Relating to Economic Development, passed. This bill gave ADC an accountant position and it also provides money for an agricultural plan. Some other items: CIP on Oahu is \$4 million for infrastructure, and we got \$3.5 million to resolve the Kauai, Waimea lawsuit, modifications for the streams and another \$5 million for the Waiahole Ditch. There might be some other monies floating around, one more thing is \$1.6 million for completing the Wahiawa Recycle Program, the one Ms. Shimabukuro-Geiser was talking about. That's more planning money and everything else like that. There might be more money floating around however, since the worksheets have not come out yet.



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Lastly, he also wanted to give the board a heads-up on the REPI encroachment partnership that has been proposed to us. We want to proceed with this. This is the Navy buying easements to keep out encroachment of houses or anything like that. They like agriculture because it's low key and doesn't interfere with their operation. The key for us is we're working on getting a separate account so when we get those funds we can put those funds in that account and use it just for that area.

Mr. Gomes said there's also funding for two full-time positions; an accountant and an asset manager.

Mr. Nakatani said yes, thank you for reminding him. One of the positions is in the bill, that's the accountant. ADC had a position for an asset manager, but it wasn't funded. ADC received funding for the two positions. So last year they had an asset manager position, but no funding, so this year we have the funding for both positions. So hopefully, we'll be up to speed and do a lot more.

Chair asked how long it will be before we can solicit for the positions.

Mr. Nakatani said it should be as soon as the budget passes then we'll take it from there. We'll probably be under DBEDT, and we don't know how the HR system works under there, so we have to wait and see. A lot of the time the issue is not so much the process but it's hard to really find good people to work in the State these days. It used to be really easy. Maybe some of the comments about coming to ADC is we are controversial. But it's exciting right? As soon as we get the budget we'll start on that. The first priority will be the accountant to get the financials in shape and in order, it's kind of loose right now so that would be the priority and it will spill over into Waiahole so we can get a better accounting system for ADC.

Chair said that was the position he was most concerned about.

Mr. Gomes said what he does see, he sees it in the cattle industry when they're looking for a vet and for example, Maui, they lost a vet, or some retired or whatever it is. When they lose a vet and you put applications out to fill that position a lot of them don't want to come over to the state because of the wages are too low or they're better off in the private sector or even moving over to USDA, which a lot of times robs the State employee to go and work for them. The state doesn't pay enough.

Mr. Nakatani said to wish us luck.

Chair asked anything else.

Mr. Haraguchi asked since Ms. Kaichi left us, is there a position vacant because she left or is the asset manager position going to be taking that?

Mr. Nakatani said we just sent up the request to fill the position. We did an interview; we're not going to say who it is until we get the ok and he's accepted and everything like that. Hopefully we'll get an answer in a week or two. We're trying to fill that position by mid-June.

Mr. Manuel said as he was reading SB2473 and he was curious what Mr. Nakatani's perspective and ideas for the board with regard to the shift to DBEDT and the amendment to their purpose. He wanted to float that to the board and the Director because the changes are specific, kind of focus on increase in local food production, support small farmers. It's different than how, or at least his understanding of what they have operated so what are your thoughts on that moving forward.

Mr. Nakatani said he doesn't think they're changing that much. One of the Legislative audit hearings they were pinging him on why we weren't doing more exports. Because of the pandemic, we didn't have really

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much to export. Because of the pandemic, the focus on local food production was the key and that was the Governor's impetus right, double food production and everything. That's where we concentrated on, and we haven't moved off that. The discussion between big and small farmers will continue but he thinks they alluded to that, but our perspective was the smaller farmers, 10 acres, 5 acres, that's ag park stuff and not so much agribusiness. He thinks, you have an example of Waiaka on Kauai which represents smaller units. It comes down to sustainability and what's the sustainable agriculture lot. If you ask Mr. Watanabe he would agree that he doesn't know your definition of small farmers but it's getting bigger, lots and everything. But lot size itself doesn't mean you can make money. If you take an example of Chair's place, it's not that big but it's a different type of operation. That's what you need to look at. Everything comes down to sustainable economics. We should not try to judge or force anybody to grow something or mandate the size. To him it hasn't changed that much, it gives us better direction, the comment was that the ADC statute was so broad, and we get pulled from left and right because they say how come you're not converting these big plantations to smaller lots and everything. We are, but at what speed do you want it done and how much resources are you going to give us? That's the reason why if you read through 2473, they made quite a bit of amendments and for us the majority was good. He doesn't think they really understand planning for agriculture because there's a lot of plans, but he'll take that with a grain of salt, and we have a lot of ideas. He doesn't think talking to the Chair, they're not far off. We just need to amend those, and we just need to put them in perspective but it's not a monumental task and if we can get a consultant to help us write it then that will be easier. The conversations with the legislature were good and there was a good exchange of ideas. He would give the bill A+. It's not perfect, questions came up if we'll be better off in DBEDT, he doesn't know but the thing is, if you look at the mission, it better sits with them versus regulatory.

Chair said pertaining to the small farms, even during the investigative hearings he answered to that. He thinks we are looking at our tenants, Cedar Grove, KAA at Waiaka to begin to help the small farmers and enabling them because that's a really big part of what HDOA does on the ag parks. And our larger tenants have the capability of helping the small farmers clear the land, put in the infrastructure, etc. so he thinks we're moving in that direction in trying to enable small farmers. Other than that, we would prefer to get sustainable ag on the projects and this would be larger farmers.

Mr. Manuel said he was just curious because there was quite a rehaul when you read through the bill and thinking through the implications on staff and them as the board and they may have to rethink or refocus, different lens to look through. He had one specific question on the ADC Waiahole system improvements, is any of that funding going to be used to address the requirements under the Waiahole supreme court case which include like lining the reservoirs or is this just part of normal maintenance?

Mr. Nakatani said no, part of the thing is to make sure that, and maybe this was before the time you came on the board, but they came up with a plan for water security for the Waiahole water security. What it does is to put more reservoirs to make it more sustainable and so to increase the capacity of the system without increasing allocation and lining the reservoir has been ongoing. That's with HDOA and we're supposed to reline 2 reservoirs, 155 as well as 225 and that's ongoing, staff is working on that to get that done. Well, fortunately or unfortunately when you work with the Army Corp. things takes a longer time to do things like that. But that's the improvement, it's like how to conserve water, how to use water more efficiently and if you store it then it's much easier to service farming and rather than just have one system. And of course, to make it more efficient, trying to fix all the leaks, that's a priority. And prior to that, they fixed 4 siphons. They relined them. So, they're on their way. They're looking, as soon as they get more money, especially to the residential area, maybe lining it and covering it so it takes liability away from them. There's an alignment, ¼ inch and the developer went through that area so what they did they lined the reservoir on the irrigation system, they put pipes and they covered it with concrete, so it's not open you don't have evaporation, you don't have a liability to people falling into the ditch. That's their goal. If they have monies, maybe every so many years they can do a small section at a time to fix it.

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Mr. Manuel said it's not to address the Waiahole order from the Supreme Court? Maybe one of the suggestions just between Ms. Shimabukuro-Geiser and him if we can ask next session, next biennium for funding to meet that? Cause that is over, almost 20 years old and there were specific orders from the Supreme Court that were mandated so if we could move to get those done, that would be great. That way if no one comes back to this body and sues us again for not meeting that order. Just a recommendation.

Mr. Nakamoto said he's helping with the Army Corp and HDOA. They have funding; he thinks the funding was provided by Senator Dan Inouye back in 2008 and they're very close to getting all the permits lined up. If all goes well, they should start construction on those two reservoir linings that Mr. Manuel mentioned from the lawsuit in September.

Chair asked if there was anyone else.

Mr. Gomes said that he thinks that lining the reservoirs were great. Reservoirs, if they're low-lying elevations, the extreme heat, you have evaporation going on. It's great they're moving forward with that.

Ms. Shimabukuro-Geiser said she's going to speak out for HDOA. They're much more than regulatory. Yes, they have a regulatory function that ADC doesn't have but they do provide data, they provide support services to contribute to appropriate levels or rates of growth in this industry. She thinks that during the session and in ADC's testimonies, ADC emphasized that the long-term goal was to increase productivity for agriculture through modernization and innovation. The testimony of ADC said that they felt that the modernization and innovation approach would be better served attached to DBEDT so that answers anybody's question about that. She said it will be really interesting because if the transfer goes over and the Governor does sign the bill then we're going to have to work out existing collaboration on ADC's projects because ADC will no longer be an attached agency to HDOA and they're going to have to work it out with DBEDT on how that's going to be handled because there's stuff in the pipeline.

Chair asked if there were any other comments or questions.

Mr. Gomes asked Ms. Shimabukuro-Geiser if he could call her after the meeting.

Ms. Shimabukuro-Geiser said yes, anybody on the board can call her.

### **L. Adjourn**

Chair called for a motion to adjourn:

Motion: Mr. Gomes, Second: Mr. Manuel

Motion approved. Vote 10-0

Meeting adjourned at 11:37 a.m.

Respectfully Submitted,

Lynette Marushige  
Secretary



STATE OF HAWAII  
**AGRIBUSINESS DEVELOPMENT CORPORATION**

235 S. Beretania Street, Room 205  
Honolulu, HI 96813  
Phone: (808) 586-0186 Fax: (808) 586-0189

June 15, 2022

Subject: Request for Approval to Renew Revocable Permit No. RP19-01  
Issued to Helemano Farms, LLC for Building M Located at  
Whitmore Village, Oahu, Tax Map Key (1) 7-1-002:009 (por)

Permittee: Helemano Farms, LLC

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

Area: 1,500 square feet, more or less

Building ID: Building M

Tax Map Key: (1) 7-1-002:009

Land Status: Acquired in fee by the Agribusiness Development Corporation  
(ADC) in 2015

Trust Land Status: Section \_\_\_\_ lands of the Hawaii Admission Act  
Yes \_\_\_\_ No X

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

Character of Use: Warehouse/Storage

Land Doc. Type: Revocable Permit

Term: Month-to-month (currently in year 2)

Rental Rate: \$150 per month  
Annual Rent: \$1,800

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**BACKGROUND:**

Helemano Farms, LLC (Permittee) operates a Christmas tree farm located on 30-acres, more or less, in Whitmore Village, Oahu under License Agreement No. LI-WM1504. On November 27, 2018, ADC issued a Lease Agreement No. LE-WM1802 to Permittee for Buildings A and B for office space and residence for farm manager. Revocable Permit No. RP19-01 (Permit) was issued on October 28, 2019 for Building M (see Exhibit "A") for storage purposes.

LAND REQUEST:

To approve the annual renewal of the Permit (see Exhibit "B") for the period of October 28, 2022 – October 27, 2023.

WATER NEEDS AND SOURCE OF WATER:

For the purpose of this Permit, there are no water needs. However, the premises do have access to Board of Water Supply water.

OPERATIONAL PLAN:

Permittee uses the premises as a secure location to store materials and farm equipment for their adjacent farming operation.

CONSERVATION PLAN:

Permittee's use is not subject to the requirement to develop an approved soil conservation plan.

DISCUSSION:


The subject premises are located within the master-planned area for ADC's Whitmore food hub. As such, a short-term revocable permit is appropriate for this disposition. Additionally, Permittee is current on all rents and has been a good and conscientious tenant. Approval of this request would not result in any net change to revenue.

RECOMMENDATION:

Based on the forgoing, staff recommends that the Board approve the land request noted above, subject to the following conditions:

1. All current terms and conditions of the Permit shall remain unchanged.

Respectfully Submitted,

..   
James Nakatani (Jun 8, 2022 09:59 HST)

James J. Nakatani  
Executive Director

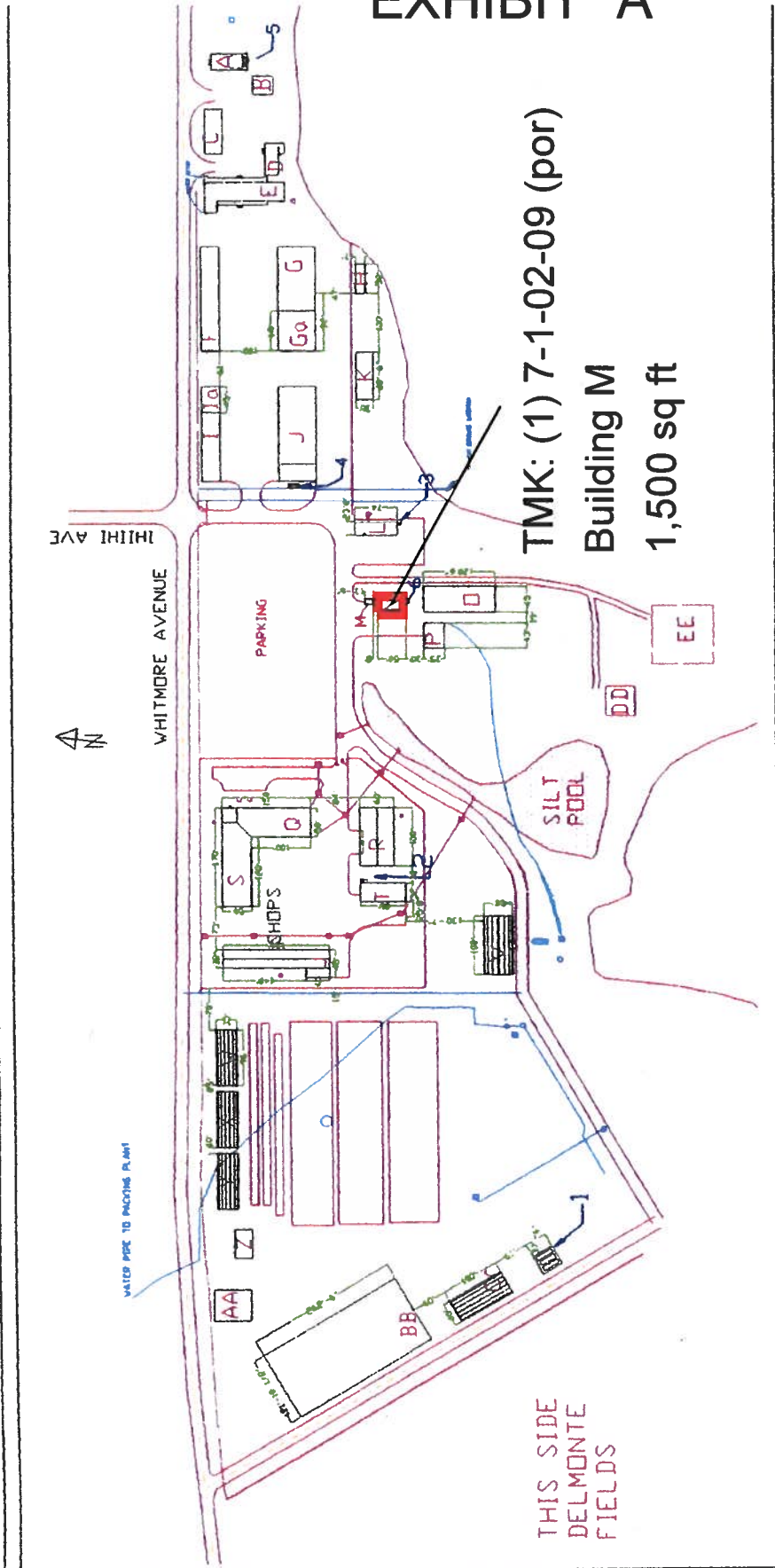
EXHIBIT A

Map

[see following page]



# EXHIBIT "A"



BUILDINGS LEGEND	
A. VENDOR HOUSE	1. SHOP WORKHOUSE
B. VENDOR HOUSE	2. CAC FILTER STATION
C. VENDOR HOUSE	3. 300 gal DIESEL
D. VENDOR HOUSE	4. STEAM WASHER
E. VENDOR HOUSE	5. 200 gal PROPANE
F. VENDOR HOUSE	6. 3600 gal WASTE OIL
G. VENDOR HOUSE	7. 100 gal PROPANE
H. VENDOR HOUSE	8. 300 gal PROPANE
I. VENDOR HOUSE	
J. VENDOR HOUSE	
K. VENDOR HOUSE	
L. VENDOR HOUSE	
M. VENDOR HOUSE	
N. VENDOR HOUSE	
O. VENDOR HOUSE	
P. VENDOR HOUSE	
Q. VENDOR HOUSE	
R. VENDOR HOUSE	
S. VENDOR HOUSE	
T. VENDOR HOUSE	
U. VENDOR HOUSE	
V. VENDOR HOUSE	
W. VENDOR HOUSE	
X. VENDOR HOUSE	
Y. VENDOR HOUSE	
Z. VENDOR HOUSE	

TANK LEGEND	
1. 3 TELONE TANKS	
2. 300 gal DIESEL	
3. 200 gal PROPANE	
4. 3600 gal WASTE OIL	
5. 100 gal PROPANE	
6. 300 gal PROPANE	

HYDRANT	
DRAIN	

		<b>WHITMORE AR</b> Dole Fresh Fruit Con Wahiawa, Hawai Date: 7/1/09 Drawn by: WHIT.D
--	--	--

EXHIBIT B

Revocable Permit No. RP19-01

[see following pages]

STATE OF HAWAII  
AGRIBUSINESS DEVELOPMENT CORPORATION

REVOCABLE PERMIT NO. RP19-01

Effective and issued this 25<sup>th</sup> day of October, 2019, Helemano Farms LLC, a Hawaii domestic limited liability company hereinafter called the "PERMITTEE", whose mailing address is 101 Nakeke Place, Wahiawa, Hawaii 96786 is permitted to enter and occupy, on a month-to-month basis only, that certain parcel of State land (and any improvements located thereupon) situate at 900 Whitmore Avenue, District of Wahiawa, Oahu, TMK: (1)7-1-02-09(por) as shown on attached Exhibit A, containing an approximate area of 1,500 square feet which area is hereinafter referred to as the "Premises."

THIS PERMIT IS GRANTED UNDER THE FOLLOWING CONDITIONS:

A. The PERMITTEE shall:

1. Occupy and use the premises for the following specified purposes only:  
Storage
2. Pay, to the Agribusiness Development Corporation, whose mailing address is 235 S. Beretania St., Room 205, Honolulu, Hawaii 96813, hereinafter called ("ADC"), the sum of \$150.00 being rental due and payable of the first day of each and every month commencing on the effective date.

The interest rate on any and all unpaid or delinquent rentals shall be at one per cent (1%) per month plus a service charge of FIFTY AND NO/DOLLARS (\$50.00) per month for each month of delinquency.

3. Upon execution of this Permit, deposit with ADC the sum of \$150.00 as security for the faithful performance of all of these terms and conditions. The deposit will be returned to PERMITTEE upon termination of this Permit, but only after all of the terms and conditions of this Permit have been observed and performed.
4. At the PERMITTEE's own cost and expense, keep insured all buildings and improvements erected on the demised premises in the joint names of the State of Hawaii and

the PERMITTEE against loss or damage by fire, including perils specified in the extended coverage endorsement and in an amount equal to the full replacement value thereof. In the event of a loss, damage, or destruction of those improvements, ADC shall retain from the proceeds of the policies those amounts it deems necessary to cover the loss, damage or destruction of the improvements and the balance of those proceeds, if any, shall be delivered to the PERMITTEE.

5. Give ADC twenty-five (25) day notice, in writing, before vacating the property.
6. If a holdover lessee or licensee, pay all real property taxes, which shall be assessed against the premises from the date of this Permit. In addition, a PERMITTEE, not a holdover lessee or licensee, who has occupied the premises for a continued period of one year or more, shall pay the real property tax assessed against the premises after the first year of the Permit as provided in Section 246-36(1)(D), Hawaii Revised Statutes.
7. Observe and comply with all laws, ordinance, rules, and regulations of the federal, state, municipal, or county governments affecting the premises or improvements.
8. Repair and maintain all buildings or other improvements now or hereafter on the premises.
9. Obtain the prior written consent of ADC before making any major improvements.
10. Keep the premises and improvements in a clean, sanitary, and orderly condition.
11. Pay, when due, all payments for water and other utilities, and whatever charges for the collection of garbage that may be levied.
12. Not make, permit, or suffer, and waste, strip, spoil, nuisance or unlawful, improper or offensive use of the premises.
13. PERMITTEE shall agree to indemnify, defend, and hold harmless the State of Hawaii, its officers, employees, and agents from and against any claim or demand for loss, liability, damage, cost, expense, and attorneys' fees,

including claims for property damage, personal injury, or wrongful death, to the extent arising out of any occurrence on the premises, resulting from any act or omission of the PERMITTEE, or occasioned by any act or nuisance made or suffered on the premises, or by any accident or fire thereon caused by the PERMITTEE, or growing out of or caused by any failure on the part of PERMITTEE to maintain the premises in a safe condition, or by any act or omission of PERMITTEE, and from and against all actions, suits, damages, and claims by whomsoever brought or made by reason of the non-observance or non-performance by PERMITTEE of any of the terms, covenants, and conditions herein or the laws, ordinances, rules, and regulations of the federal, state, or county governments.

14. PERMITTEE shall maintain during the entire period of this Permit a policy or policies of commercial general liability insurance sufficient to protect it from and against any liability for all claims for personal injury, death, and property damage which may arise out of the exercise of rights granted herein. The policy or policies shall cover the entire premises, including all buildings, structures, improvements, and grounds and all roadways or sidewalks on or adjacent to the premises in the control or use of PERMITTEE. The minimum limit of said policy or policies shall not be less than \$500,000.00 for each occurrence and \$1,000,000.00 aggregate, with an insurance company or companies licensed to do business in the State of Hawaii.

PERMITTEE, prior to entry and use of the premises or within fifteen (15) days from the effective date of this Permit, whichever is sooner, shall furnish ADC with a certificate(s) showing the policy(ies) to be initially in force, keep the certificate(s) on deposit during the entire term of this Permit, and furnish like certificate(s) upon each renewal of the policy(ies). The certificate(s) for such insurance shall contain or be accompanied by an assurance that a notice of cancelation and time to cure by PERMITTEE or by ADC at its option, shall be issued to PERMITTEE and ADC at least thirty (30) days before cancelation. The policy shall include ADC as an additional insured as its interests appear under this Permit.

B. Additional Conditions:

1. ADC may revoke this Permit for any reason whatsoever, upon written notice to the PERMITTEE at least thirty (30) days prior to the revocation; provided, however, that in the event that payment is delinquent for a period of ten (10) days or more, this Permit may be revoked upon written notice to the PERMITTEE at least five (5) business days prior to the revocation.
2. If the PERMITTEE does not vacate the premises upon the revocation of the Permit by ADC, the PERMITTEE shall pay to the State of Hawaii liquidated damages at the daily rate of (\$20.00) for each day, or portion thereof, the PERMITTEE remains on the premises over the date of revocation. The payment is in addition to any other rights or remedies ADC may be entitled to pursue breach of contract, or for illegal occupancy, including the right evict the PERMITTEE without court action, and the cost thereof to be paid by the PERMITTEE.
3. If the PERMITTEE fails to vacate the premises upon the revocation of the Permit, ADC, its agents and/or representatives may enter upon the premises and remove and dispose of all vehicles, equipment, materials, and/or any personal property remaining on the premises, and the PERMITTEE agrees to pay for all cost and expenses of removal and disposition.
4. ADC may at any time increase or decrease the monthly rental by written notice at least thirty (30) days prior to the date of change of rent.
5. Any improvements, including but not limited to equipment, buildings and fences, erected or moved on to the premises by the PERMITTEE shall remain the property of the PERMITTEE and the PERMITTEE shall have the right, prior to the termination of this Permit, or within an additional period ADC in its discretion may allow, to remove the improvements from the premises; provided, however, that in the event the PERMITTEE fails to remove the improvements forty-five (45) days, after written notice to remove has been sent, ADC may elect to retain the improvements or may remove the same and charge the cost of removal and storage, if any, to the PERMITTEE.



6. ADC reserves the right for itself, its agents, and/or representatives, to enter or cross any portion of the premises at any time in the performance of its duties.
7. This Permit or any rights hereunder shall not be sold, assigned, conveyed, leased, mortgaged, or otherwise transferred or disposed of.
8. It is understood that the PERMITTEE has inspected the premises and knows the conditions thereof and fully assumes all risk incident to its use.
9. The acceptance of rent by ADC shall not be deemed a waiver of any breach by the PERMITTEE of any term, covenant, restriction, or condition of this Permit, or of ADC's right to declare and enforce a forfeiture for any breach; and the failure of ADC to insist upon strict performance of any term, covenant, or condition, or to exercise any option herein conferred, in any one or more instances, shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or option unless reduced to writing and signed by ADC.
10. The term of this month-to-month permit beyond one (1) year from date of issuance, is subject to the prior approval of the ADC Board of Directors.
11. The use and enjoyment of the premises shall not be in support of any policy which discriminates against anyone based upon race, creed, color, sex, national origin, or physical handicap.
12. Any and all disputes and/or questions arising under this permit shall be referred to the ADC Executive Director and his determination of the disputes or questions shall be final and binding on the parties.
13. PERMITTEE shall maintain for the duration of this Permit insurance against claims for injuries to persons or damages to Premises, which may arise from or in connection with the performance of the work by the PERMITTEE, their agents, representatives, employees or contractors.

PERMITTEE shall ensure that any and all of its agents, representatives, employees or contractors carry and

maintain at their sole cost and expense the following insurance policies and coverage below:

a. Comprehensive general liability insurance, including contingent liability, contractual liability and products and completed operations liability in form and substance reasonably satisfactory to ADC, with an insurer licensed to do business in the State of Hawaii reasonably satisfactory to ADC, which shall be no less than:

Bodily Injury and Property Damage Liability \$500,000 each occurrence/ \$1,000,000 aggregate.

If the policy is written on a "claims made" form, it shall provide for an extended reporting period of not less than three (3) years.

b. Comprehensive automobile liability insurance covering all owned, hired, or non-owned vehicles, including the loading and unloading thereof on the property.

c. Workers' compensation insurance affording statutory limits, and employees' liability coverage with limits no less than \$500,000 covering all persons admitted to the Property under the terms of this Permit.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed on the dates noted below.

ADC:

STATE OF HAWAII

AGRIBUSINESS DEVELOPMENT  
CORPORATION

By



James J. Makatani  
Its Executive Director

Date: \_\_\_\_\_

APPROVED AS TO FORM:



Deputy Attorney General

PERMITTEE:

Helemano Farms LLC

By



Print name: AARON O'BRIEN

Its

OWNER

Date:

OCT. 28 2019

APPROVED AS TO FORM:

\_\_\_\_\_  
Attorney for Permittee

STATE OF HAWAII

)

) ss.

CITY & COUNTY OF HONOLULU

)

On this 28<sup>th</sup> day of October, 2019, before me personally appeared Aaron J. O'Brien, personally known/proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

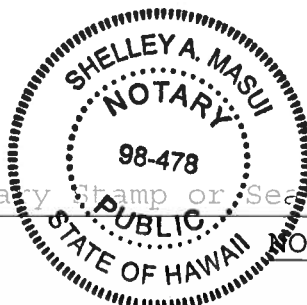
Print

Name:

Notary Public, State of Hawaii

My commission expires: 01/14/2022

(Notary Stamp or Seal)



NOTARY CERTIFICATION STATEMENT

Document Identification or Description:

Renewable Permit NO. RP19-01

Document Date: 10/28/19

No. of Pages: 1

Jurisdiction (in which notarial act is performed):

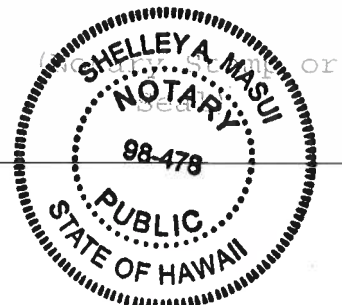
Signature of Notary

Date of Notarization and

Certification Statement

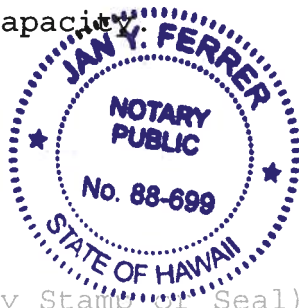
Printed Name of Notary

Shelley A. Masui



STATE OF HAWAII )  
 ) ss.  
CITY & COUNTY OF HONOLULU )

On this 20th day of November, 2019, before me personally appeared James J. Nokalani, personally known/proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity:



(Notary Stamp or Seal)

J Y F  
Print Name: Jan Y. Ferrer  
Notary Public, State of Hawaii  
My commission expires: 11/29/20

NOTARY CERTIFICATION STATEMENT

Document Identification or  
Description:

Revocable Permit No. RP19-01

Document Date: 10/28/19

No. of Pages: 9 (not incl exhibit)

Jurisdiction (in which notarial act is  
performed): 1st

Signature of  
Notary

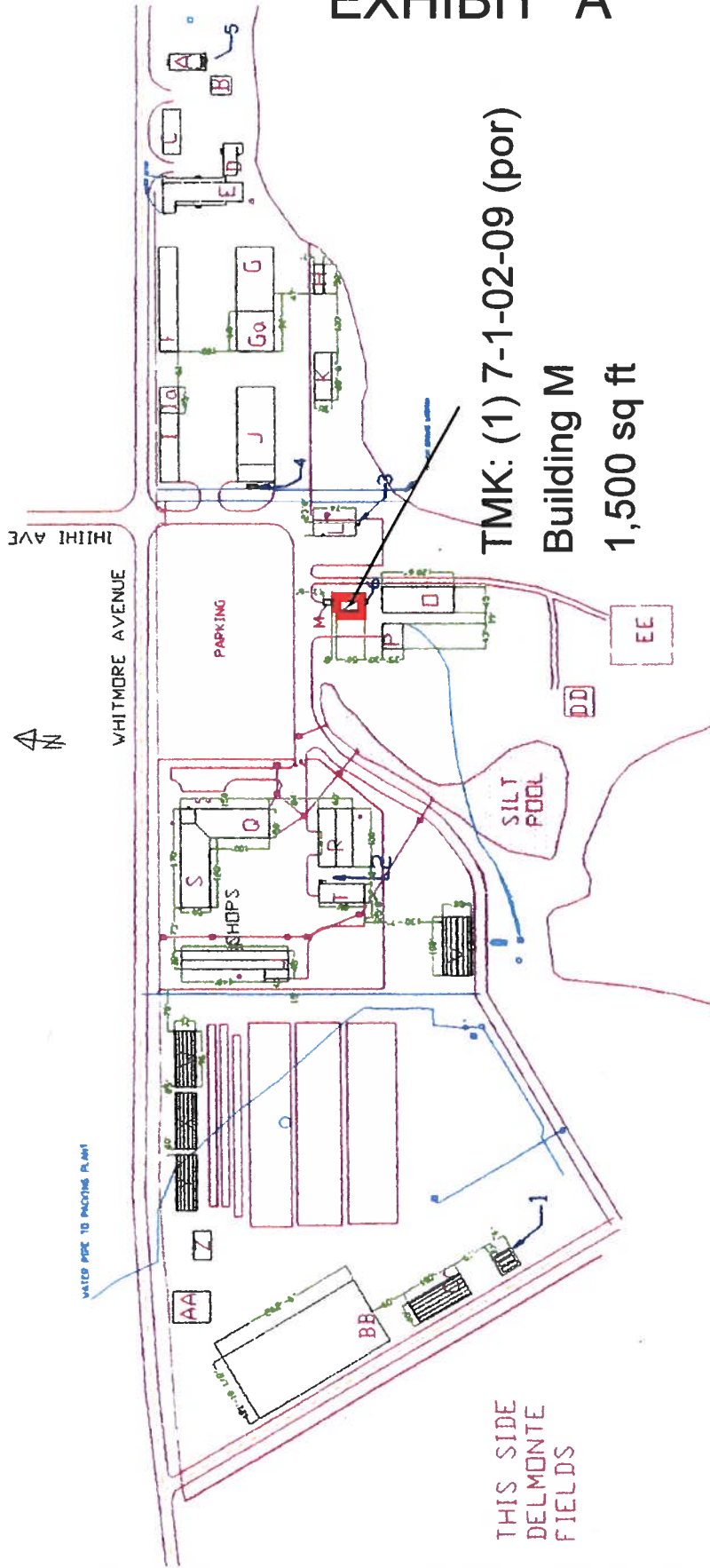
J Y F  
**Jan Y. Ferrer**

11/20/19  
Date of  
Notarization and  
Certification  
Statement

Printed Name of Notary



# EXHIBIT "A"



BUILDINGS LEGEND	
1. SHOP WORKHOUSE	1. SHOP WORKHOUSE
2. 300 GAL DIESEL (STEAM WASHER)	2. 300 GAL DIESEL (STEAM WASHER)
3. 200 GAL PROPANE	3. 200 GAL PROPANE
4. 3600 GAL WASTE OIL	4. 3600 GAL WASTE OIL
5. 100 GAL PROPANE	5. 100 GAL PROPANE
6. 300 GAL PROPANE	6. 300 GAL PROPANE

TANK LEGEND	
1. 3 TELONE TANKS	1. 3 TELONE TANKS
2. 300 GAL DIESEL (STEAM WASHER)	2. 300 GAL DIESEL (STEAM WASHER)
3. 200 GAL PROPANE	3. 200 GAL PROPANE
4. 3600 GAL WASTE OIL	4. 3600 GAL WASTE OIL
5. 100 GAL PROPANE	5. 100 GAL PROPANE
6. 300 GAL PROPANE	6. 300 GAL PROPANE

HYDRANT	DRAIN
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		<b>WHITMORE AR</b> Dole Fresh Fruit Con Wahiawa, Hawai Map Date: 11/8 Map No: WHIT.D\
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STATE OF HAWAII  
**AGRIBUSINESS DEVELOPMENT CORPORATION**

235 S. Beretania Street, Room 205  
Honolulu, HI 96813  
Phone: (808) 586-0186 Fax: (808) 586-0189

June 15, 2022

Subject: Request for Approval to Renew Revocable Permit No. RP16-05  
Issued to Manoa Honey Company LLC for Building BB Located at  
Whitmore Village, Oahu, Tax Map Key (1) 7-1-002:009 (por)

Permittee: Manoa Honey Company LLC

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

Area: 960 square feet, more or less

Building ID: Building BB

Tax Map Key: (1) 7-1-002:009

Land Status: Acquired in fee by the Agribusiness Development Corporation  
(ADC) in 2015

Trust Land Status: Section \_\_\_\_ lands of the Hawaii Admission Act  
Yes \_\_\_\_ No X

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

Character of Use: Storage

Land Doc. Type: Revocable Permit

Term: Month-to-month (currently in year 5)

Rental Rate: \$0.10 per square foot per month  
Monthly Rent: \$96.00; Annual Rent: \$1,152

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**BACKGROUND:**

Revocable Permit No. RP16-01 (Permit) was issued on November 22, 2016 to Manoa Honey Company LLC (Permittee) for 480 square feet, more or less, of Building BB (por). The Permit was amended on August 10, 2018 to include a total of 960 square feet, more or less, of Building BB (por) (see Exhibit "A") Permittee has been storing apiary equipment in Whitmore since 2017. The company has a processing facility in Wahiawa where they

produce pure, raw, premium Hawaii-produced honey, as well as specialty hive products such as fresh bee pollen, comb honey and bees wax.

LAND REQUEST:

To approve the annual renewal of the Permit (see Exhibit "B") for the period of November 22, 2022 – November 21, 2023.

WATER NEEDS AND SOURCE OF WATER:

For the purpose of this Permit, there are no water needs. However, there is nearby access to Board of Water Supply water.

OPERATIONAL PLAN:

Permittee uses the premises as a storage for their equipment and supplies.

CONSERVATION PLAN:

Permittee's use is not subject to the requirement to develop an approved soil conservation plan.

CONCLUSION:


The subject premises are located within the master-planned area for ADC's Whitmore food hub. As such, a short-term revocable permit is appropriate for this disposition. Permittee is current on all rents and has been a good tenant. Approval of this request will be revenue-neutral.

RECOMMENDATION:

Based on the foregoing, staff recommends that the Board approve the land request noted above, subject to the following conditions:

1. All current terms and conditions of the Permit shall remain unchanged.

Respectfully Submitted,

  
James Nakatani (Jun 8, 2022 09:59 HST)

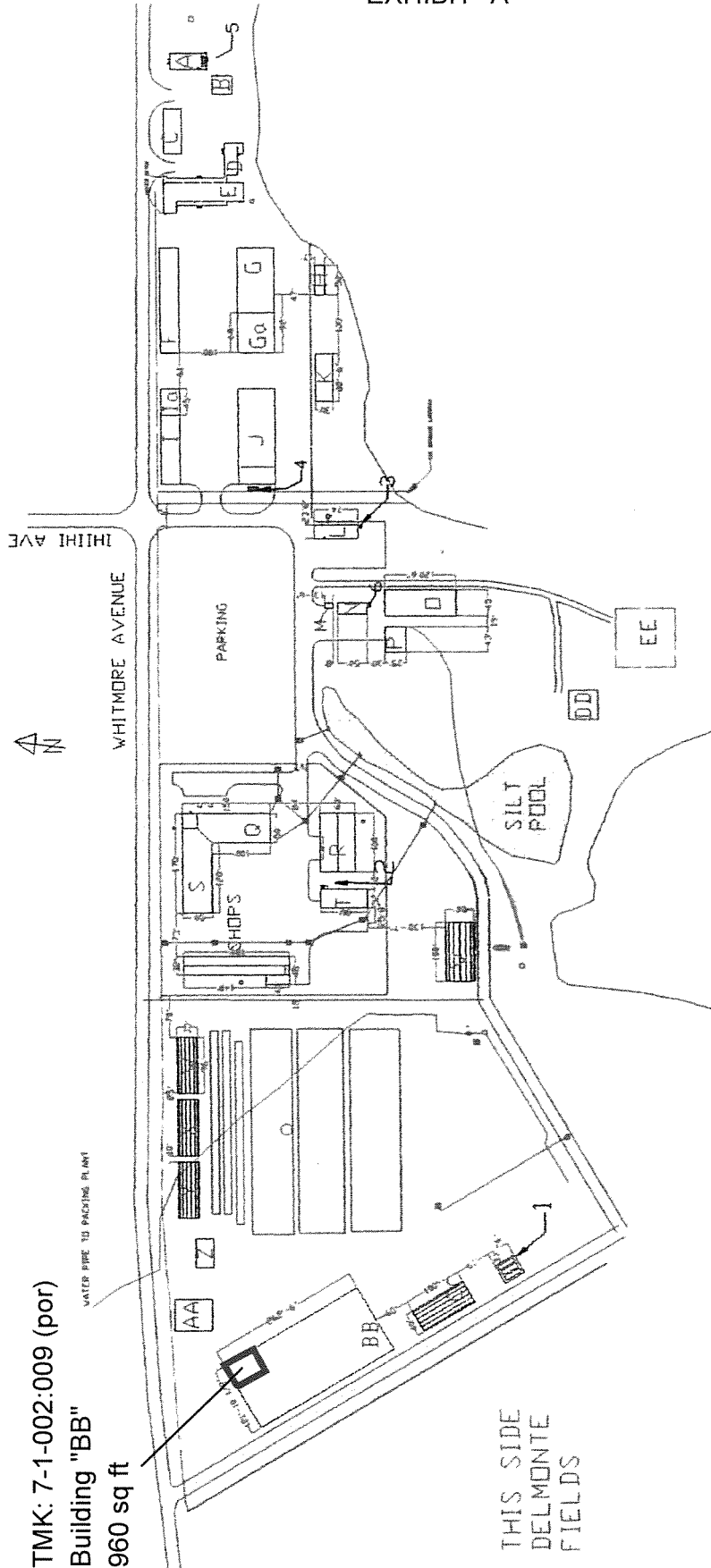
James J. Nakatani  
Executive Director

EXHIBIT A

Map

[see following page]

# EXHIBIT "A"



TMK: 7-1-002:009 (por)  
Building "BB"  
960 sq ft

BUILDINGS LEGEND		TANK LEGEND	
A. CLUB HOUSE	B. BOILER	1. 3 TELONE TANKS	2. 300 gal DIESEL (STEAM WASHER)
C. RESEARCH STORAGE	D. RESEARCH STALLS	3. 200 gal PROPANE	4. 3600 gal WASTE OIL
E. STORAGE	F. RESEARCH STALLS	5. 100 gal PROPANE	6. 300 gal PROPANE
G. RESEARCH STALLS	H. RESEARCH STALLS		
I. RESEARCH STALLS	J. RESEARCH STALLS		
K. RESEARCH STALLS	L. RESEARCH STALLS		
M. RESEARCH STALLS	N. RESEARCH STALLS		
O. RESEARCH STALLS	P. RESEARCH STALLS		
Q. RESEARCH STALLS	R. RESEARCH STALLS		
S. RESEARCH STALLS	T. RESEARCH STALLS		
U. RESEARCH STALLS	V. RESEARCH STALLS		
W. RESEARCH STALLS	X. RESEARCH STALLS		
Y. RESEARCH STALLS	Z. RESEARCH STALLS		

		WHITMORE AR Dole Fresh Fruit Con Wahiawa, Hawai WHITDA
DATE	BY	REV
10/1/81	J. B.	1.0

EXHIBIT B

Revocable Permit No. RP16-05

[see following pages]

STATE OF HAWAII  
AGRIBUSINESS DEVELOPMENT CORPORATION

REVOCABLE PERMIT NO. RP16-05

Effective and issued this 22 day of November, 2016, Manoa Honey Company LLC, a Hawaii domestic limited liability company hereinafter called the "PERMITTEE", whose mailing address is 930 Palm Place, Wahiawa, Hawaii 96786 is permitted to enter and occupy, on a month-to-month basis only, that certain parcel of State land (and any improvements located thereupon) situate at 900 Whitmore Avenue, District of Wahiawa, Oahu, TMK: (1)7-1-02-09(por) as shown on attached Exhibit A, containing an approximate area of 480 square feet which area is hereinafter referred to as the "Premises."

THIS PERMIT IS GRANTED UNDER THE FOLLOWING CONDITIONS:

A. The PERMITTEE shall:

1. Occupy and use the premises for the following specified purposes only:  
Storage
2. Pay, to the Agribusiness Development Corporation, whose mailing address is 235 S. Beretania St., Room 205, Honolulu, Hawaii 96813, hereinafter called ("ADC"), the sum of \$48.00 being rental due and payable of the first day of each and every month commencing on the effective date.

The interest rate on any and all unpaid or delinquent rentals shall be at one per cent (1%) per month plus a service charge of FIFTY AND NO/DOLLARS (\$50.00) per month for each month of delinquency.

3. Upon execution of this Permit, deposit with ADC the sum of \$48.00 as security for the faithful performance of all of these terms and conditions. The deposit will be returned to PERMITTEE upon termination of this Permit, but only after all of the terms and conditions of this Permit have been observed and performed.
4. At the PERMITTEE's own cost and expense, keep insured all buildings and improvements erected on the demised premises in the joint names of the State of Hawaii and



the PERMITTEE against loss or damage by fire, including perils specified in the extended coverage endorsement and in an amount equal to the full replacement value thereof. In the event of a loss, damage, or destruction of those improvements, ADC shall retain from the proceeds of the policies those amounts it deems necessary to cover the loss, damage or destruction of the improvements and the balance of those proceeds, if any, shall be delivered to the PERMITTEE.

5. Give ADC twenty-five (25) day notice, in writing, before vacating the property.
6. If a holdover lessee or licensee, pay all real property taxes, which shall be assessed against the premises from the date of this Permit. In addition, a PERMITTEE, not a holdover lessee or licensee, who has occupied the premises for a continued period of one year or more, shall pay the real property tax assessed against the premises after the first year of the Permit as provided in Section 246-36(1)(D), Hawaii Revised Statutes.
7. Observe and comply with all laws, ordinance, rules, and regulations of the federal, state, municipal, or county governments affecting the premises or improvements.
8. Repair and maintain all buildings or other improvements now or hereafter on the premises.
9. Obtain the prior written consent of ADC before making any major improvements.
10. Keep the premises and improvements in a clean, sanitary, and orderly condition.
11. Pay, when due, all payments for water and other utilities, and whatever charges for the collection of garbage that may be levied.
12. Not make, permit, or suffer, and waste, strip, spoil, nuisance or unlawful, improper or offensive use of the premises.
13. PERMITTEE shall agree to indemnify, defend, and hold harmless the State of Hawaii, its officers, employees, and agents from and against any claim or demand for loss, liability, damage, cost, expense, and attorneys' fees,

including claims for property damage, personal injury, or wrongful death, to the extent arising out of any occurrence on the premises, resulting from any act or omission of the PERMITTEE, or occasioned by any act or nuisance made or suffered on the premises, or by any accident or fire thereon caused by the PERMITTEE, or growing out of or caused by any failure on the part of PERMITTEE to maintain the premises in a safe condition, or by any act or omission of PERMITTEE, and from and against all actions, suits, damages, and claims by whomsoever brought or made by reason of the non-observance or non-performance by PERMITTEE of any of the terms, covenants, and conditions herein or the laws, ordinances, rules, and regulations of the federal, state, or county governments.

14. PERMITTEE shall maintain during the entire period of this Permit a policy or policies of commercial general liability insurance sufficient to protect it from and against any liability for all claims for personal injury, death, and property damage which may arise out of the exercise of rights granted herein. The policy or policies shall cover the entire premises, including all buildings, structures, improvements, and grounds and all roadways or sidewalks on or adjacent to the premises in the control or use of PERMITTEE. The minimum limit of said policy or policies shall not be less than \$500,000.00 for each occurrence and \$1,000,000.00 aggregate, with an insurance company or companies licensed to do business in the State of Hawaii.

PERMITTEE, prior to entry and use of the premises or within fifteen (15) days from the effective date of this Permit, whichever is sooner, shall furnish ADC with a certificate(s) showing the policy(ies) to be initially in force, keep the certificate(s) on deposit during the entire term of this Permit, and furnish like certificate(s) upon each renewal of the policy(ies). The certificate(s) for such insurance shall contain or be accompanied by an assurance that a notice of cancelation and time to cure by PERMITTEE or by ADC at its option, shall be issued to PERMITTEE and ADC at least thirty (30) days before cancelation. The policy shall include ADC as an additional insured as its interests appear under this Permit.

B. Additional Conditions:

1. ADC may revoke this Permit for any reason whatsoever, upon written notice to the PERMITTEE at least thirty (30) days prior to the revocation; provided, however, that in the event that payment is delinquent for a period of ten (10) days or more, this Permit may be revoked upon written notice to the PERMITTEE at least five (5) business days prior to the revocation.
2. If the PERMITTEE does not vacate the premises upon the revocation of the Permit by ADC, the PERMITTEE shall pay to the State of Hawaii liquidated damages at the daily rate of (\$20.00) for each day, or portion thereof, the PERMITTEE remains on the premises over the date of revocation. The payment is in addition to any other rights or remedies ADC may be entitled to pursue breach of contract, or for illegal occupancy, including the right evict the PERMITTEE without court action, and the cost thereof to be paid by the PERMITTEE.
3. If the PERMITTEE fails to vacate the premises upon the revocation of the Permit, ADC, its agents and/or representatives may enter upon the premises and remove and dispose of all vehicles, equipment, materials, and/or any personal property remaining on the premises, and the PERMITTEE agrees to pay for all cost and expenses of removal and disposition.
4. ADC may at any time increase or decrease the monthly rental by written notice at least thirty (30) days prior to the date of change of rent.
5. Any improvements, including but not limited to equipment, buildings and fences, erected or moved on to the premises by the PERMITTEE shall remain the property of the PERMITTEE and the PERMITTEE shall have the right, prior to the termination of this Permit, or within an additional period ADC in its discretion may allow, to remove the improvements from the premises; provided, however, that in the event the PERMITTEE fails to remove the improvements forty-five (45) days, after written notice to remove has been sent, ADC may elect to retain the improvements or may remove the same and charge the cost of removal and storage, if any, to the PERMITTEE.

6. ADC reserves the right for itself, its agents, and/or representatives, to enter or cross any portion of the premises at any time in the performance of its duties.
7. This Permit or any rights hereunder shall not be sold, assigned, conveyed, leased, mortgaged, or otherwise transferred or disposed of.
8. It is understood that the PERMITTEE has inspected the premises and knows the conditions thereof and fully assumes all risk incident to its use.
9. The acceptance of rent by ADC shall not be deemed a waiver of any breach by the PERMITTEE of any term, covenant, restriction, or condition of this Permit, or of ADC's right to declare and enforce a forfeiture for any breach; and the failure of ADC to insist upon strict performance of any term, covenant, or condition, or to exercise any option herein conferred, in any one or more instances, shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or option unless reduced to writing and signed by ADC.
10. The term of this month-to-month permit beyond one (1) year from date of issuance, is subject to the prior approval of the ADC Board of Directors.
11. The use and enjoyment of the premises shall not be in support of any policy which discriminates against anyone based upon race, creed, color, sex, national origin, or physical handicap.
12. Any and all disputes and/or questions arising under this permit shall be referred to the ADC Executive Director and his determination of the disputes or questions shall be final and binding on the parties.
13. PERMITTEE shall maintain for the duration of this Permit insurance against claims for injuries to persons or damages to Premises, which may arise from or in connection with the performance of the work by the PERMITTEE, their agents, representatives, employees or contractors.

PERMITTEE shall ensure that any and all of its agents, representatives, employees or contractors carry and

maintain at their sole cost and expense the following insurance policies and coverage below:

a. Comprehensive general liability insurance, including contingent liability, contractual liability and products and completed operations liability in form and substance reasonably satisfactory to ADC, with an insurer licensed to do business in the State of Hawaii reasonably satisfactory to ADC, which shall be no less than:

Bodily Injury and Property Damage Liability \$500,000 each occurrence/ \$1,000,000 aggregate.

If the policy is written on a "claims made" form, it shall provide for an extended reporting period of not less than three (3) years.

b. Comprehensive automobile liability insurance covering all owned, hired, or non-owned vehicles, including the loading and unloading thereof on the property.

c. Workers' compensation insurance affording statutory limits, and employees' liability coverage with limits no less than \$500,000 covering all persons admitted to the Property under the terms of this Permit.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed on the dates noted below.

ADC:


STATE OF HAWAII

AGRIBUSINESS DEVELOPMENT  
CORPORATION

By   
James J. Nakatani  
Its Executive Director


Date: November 29, 2016

APPROVED AS TO FORM:

  
Myra M. Kaichi  
Deputy Attorney General

PERMITTEE:

Manoa Honey Company LLC

By   
Print name: Yukimasa Ozhashi  
Its Owner  
Date: 11/22/16

APPROVED AS TO FORM:

\_\_\_\_\_  
Attorney for Permittee

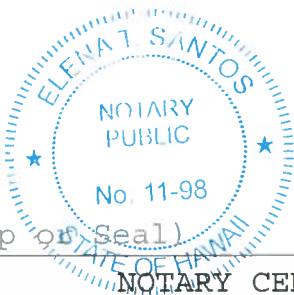


STATE OF HAWAII

)  
) ss.

CITY & COUNTY OF HONOLULU

On this 22nd day of November, 2016, before me personally appeared Yukihiko Uzunachi, personally known/proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.



Print Elena T. Santos  
Name: My Commission Expires: 04/03/2019  
Notary Public, State of Hawaii  
My commission expires: 4/3/19

(Notary Stamp or Seal)

NOTARY CERTIFICATION STATEMENT

Document Identification or Description:

Revocable Power of Attorney

Document Date:

11/22/2016

No. of Pages:

10

Jurisdiction (in which notarial act is performed): First Circuit, Honolulu HI

Signature of Notary

11/22/2016  
Date of Notarization and Certification Statement

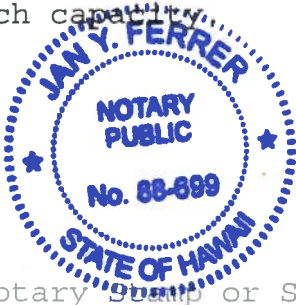
Elena T. Santos  
My Commission Expires: 04/03/2019

Printed Name of Notary



STATE OF HAWAII )  
 ) ss.  
CITY & COUNTY OF HONOLULU )

On this 29<sup>th</sup> day of November, 2016, before me personally appeared James J. Nakatani, personally known/proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.



(Notary Stamp or Seal)

Jan Y. Ferrer  
Print  
Name: Jan Y. Ferrer  
Notary Public, State of Hawaii  
My commission expires: 11/21/20

NOTARY CERTIFICATION STATEMENT

Document Identification or  
Description:

Revocable Permit No. RP16-05

Document Date: November 22, 2016

No. of Pages: 10

Jurisdiction (in which notarial act is  
performed): 1<sup>st</sup>

Jan Y. Ferrer  
Signature of  
Notary

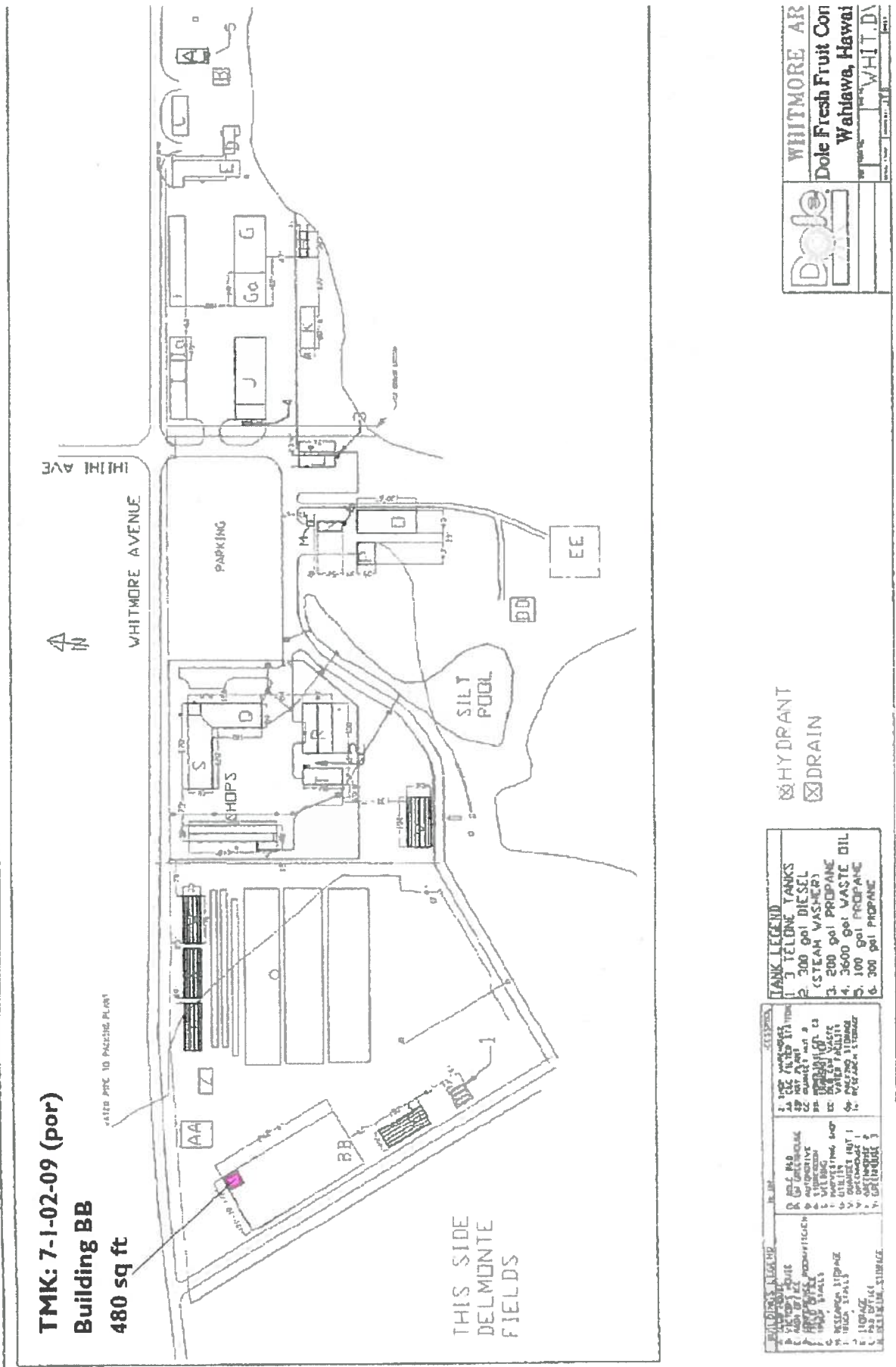
**NOV 29 2016**

Date of  
Notarization and  
Certification  
Statement

**Jan Y. Ferrer**

Printed Name of Notary





STATE OF HAWAII  
AGRIBUSINESS DEVELOPMENT CORPORATION

FIRST AMENDMENT OF  
REVOCABLE PERMIT NO. RP16-05

This AGREEMENT is amended and effective this 10<sup>th</sup> day of August, 2018, between State of Hawaii, Agribusiness Development Corporation, (hereinafter "ADC"), and Manoa Honey Company LLC, (hereinafter "PERMITTEE").

WHEREAS, ADC and PERMITTEE have previously entered into that certain Revocable Permit No. RP16-05, dated November 22, 2016 (the "Permit") pursuant to which ADC has permitted PERMITTEE to enter and occupy, on a month-to-month basis only, that certain parcel of State land (and any improvements located thereupon) situate at 900 Whitmore Avenue, District of Wahiawa, Oahu, TMK: (1)7-1-02-09(por) as shown on attached Exhibit A, containing an approximate area of 480 square feet which area is hereinafter referred to as the "Premises."

WHEREAS, PERMITTEE requested and received approval at ADC's Board of Director's meeting on July 11, 2018 to make the following adjustment to the Permit square footage as follow:

1. Addition of 480 square feet for a total of 960 square feet;

NOW, THEREFORE, in consideration of the premises hereof and the mutual covenants, provisions, and undertakings herein contained, LICENSOR and LICENSEE hereby agree as follows:

**1. Amendment of License Agreement.**

a. The opening paragraph of the Permit shall be amended so that the Permit shall cover an approximate area of 960 square feet.

b. Item No. 2 of the Permit is hereby replaced with the following paragraph, in order to indicate a change in square footage billed:

"Pay, to the Agribusiness Development Corporation, whose mailing address is 235 S. Beretania St., Room 205, Honolulu, Hawaii 96813, hereinafter called ("ADC"), the sum of \$96.00 being rental due and payable of the first day of each and every month commencing on the effective date."

C. Exhibit "A" of the Permit is hereby amended to add 480 square feet to the area described in said Exhibit. For such purpose (and for purposes of clarity):

(i) the map entitled "Exhibit A" is attached to this First Amendment shall be substituted for the similar map that is part of the Permit.

**2. Ratification of Remaining Provisions of License Agreement.** Except as provided in Paragraph 1 immediately preceding, the terms, conditions, undertakings, promises, and covenants of the Permit, including the Addendum thereto, are hereby ratified and confirmed, shall remain and continue in full force and effect, shall be binding on the parties, and shall not be deemed to be modified or amended in any respect by this First Amendment of Revocable Permit No. RP16-05.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed on the dates noted below.

ADC:

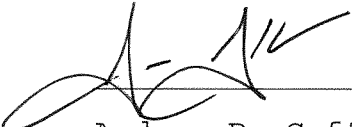
STATE OF HAWAII

AGRIBUSINESS DEVELOPMENT  
CORPORATION

By   
James J. Nakatani  
Its Executive Director


Date: 8/21/18

APPROVED AS TO FORM:

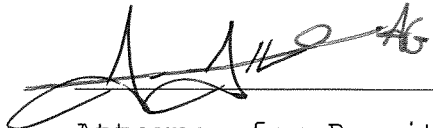
  
Andrew D. Goff  
Deputy Attorney General

PERMITTEE:

Manoa Honey Company LLC

By   
Print name: Yuki Uehashi  
Its Owner  
Date: 8/10/18

APPROVED AS TO FORM:

  
Attorney for Permittee



STATE OF HAWAII

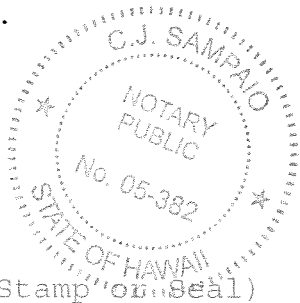
)

) ss.

CITY & COUNTY OF HONOLULU

)

On this 10 day of August, 2018, before me personally appeared Yukihiko Iizukashi, personally known/proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.



Print

Name: C. J. SAMPALIO

Notary Public, State of Hawaii

My commission expires: 01/01/2021

(Notary Stamp or Seal)

NOTARY CERTIFICATION STATEMENT

Document Identification or Description:

First Amendment of  
Revocable Permit NO. RP16-05

Document Date: AUG 10 2018

No. of Pages:

5

First

Jurisdiction (in which notarial act is performed):

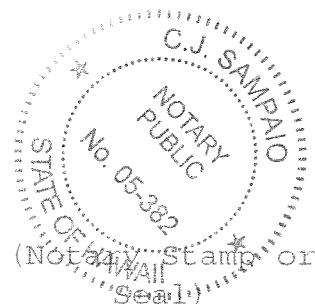
Signature of Notary

C. J. SAMPALIO

AUG 10 2018

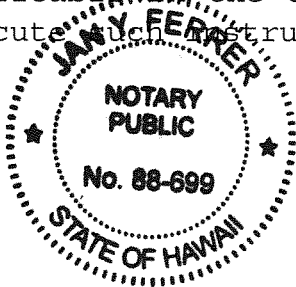
Date of Notarization and Certification Statement

Printed Name of Notary



STATE OF HAWAII )  
 ) ss.  
CITY & COUNTY OF HONOLULU )

On this 4<sup>th</sup> day of September, 2018, before me personally appeared JAMES J. NAKATANI, personally known/proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.



Print

Jan Y. Ferrer

Name:

Notary Public, State of Hawaii

My commission expires: 11/21/20

(Notary Stamp or Seal)

NOTARY CERTIFICATION STATEMENT

Document Identification or  
Description:

First Amendment of

Revocable Permit No RP16-05

Document Date: 8/10/18

No. of Pages: 6

Jurisdiction (in which notarial act is  
performed): 1<sup>st</sup>

Signature of  
Notary

Jan Y. Ferrer

SEP - 4 2018

Date of  
Notarization and

Certification  
Statement

Printed Name of Notary

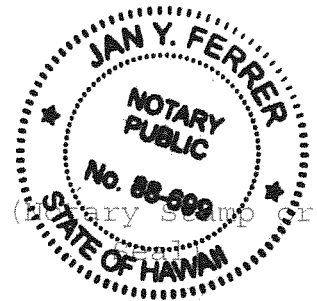
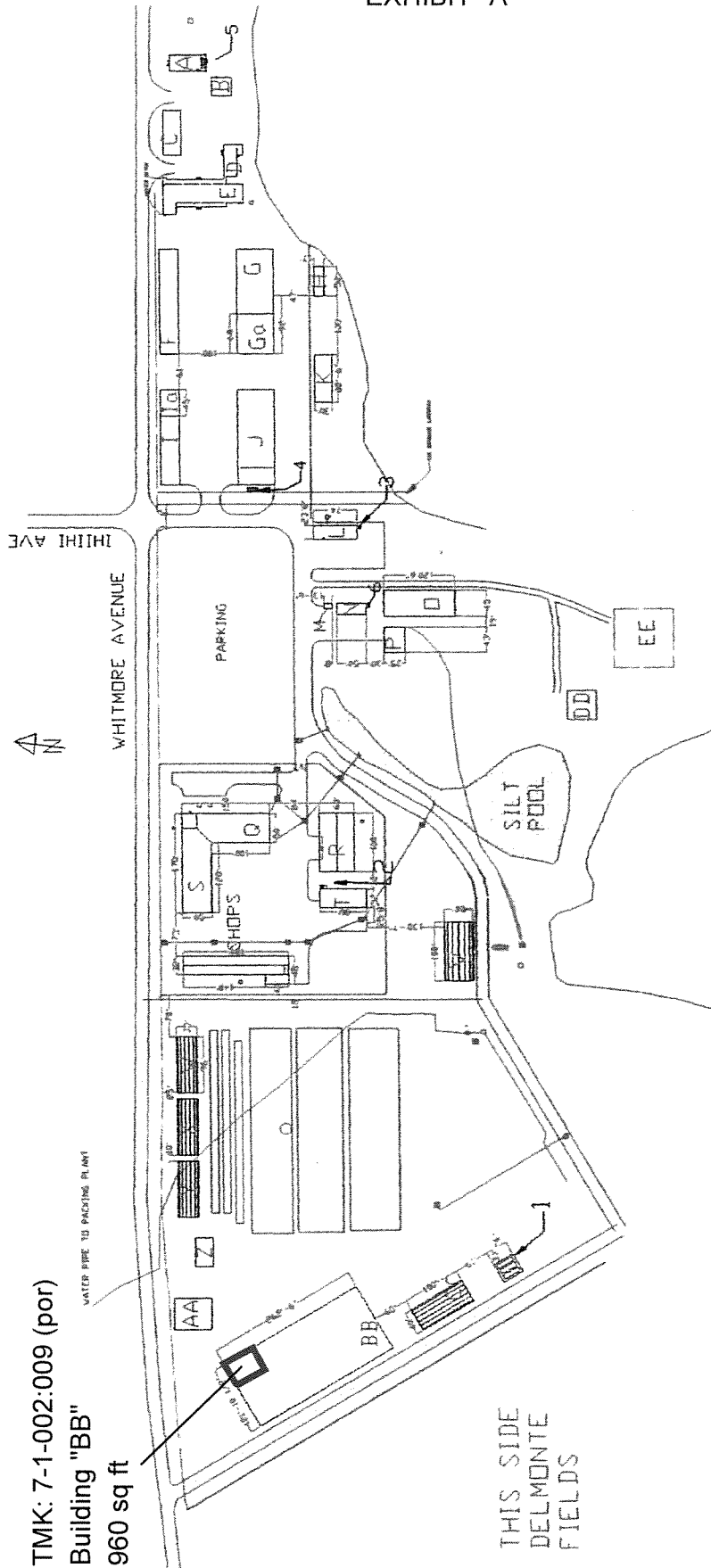


EXHIBIT "A"




TMK: 7-1-002:009 (por)  
Building "BB"  
960 sq ft

THIS SIDE  
DELMONTE  
FIELDS

☐ HYDRANT  
☒ DRAIN

BUCKLING LEGEND	BY DAY	CLASSIFIED	TANK LEGEND
1. VICTORY CRUISE	1. DOZ. RAD	2. SHOP WAREHOUSE	1. 3 TOLINE TANKS
2. VICTORY CRUISE	2. 100 GREENHOUSE	3. CAC FILTER STATION	2. 300 GDI DIESEL
3. VICTORY CRUISE	3. 100 GREENHOUSE	4. 100 GREENHOUSE	3. 300 GDI DIESEL (STEAM WASHER)
4. VICTORY CRUISE	4. 100 GREENHOUSE	5. 100 GREENHOUSE	4. 300 GDI DIESEL
5. VICTORY CRUISE	5. 100 GREENHOUSE	6. 100 GREENHOUSE	5. 300 GDI DIESEL
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7. VICTORY CRUISE	7. 100 GREENHOUSE	8. 100 GREENHOUSE	7. 300 GDI DIESEL
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58. VICTORY CRUISE	58. 100 GREENHOUSE	59. 100 GREENHOUSE	58. 300 GDI DIESEL
59. VICTORY CRUISE	59. 100 GREENHOUSE	60. 100 GREENHOUSE	59. 300 GDI DIESEL

	<b>WHITMORE AR</b>	
	<b>Dole Fresh Fruit Company</b>	
<b>Wahiawa, Hawaii</b>		<b>WHIT, DA</b>
PHONE NO.	ORDER NO.	DATE
SELLER'S NAME	QUANTITY	PRICE



STATE OF HAWAII  
**AGRIBUSINESS DEVELOPMENT CORPORATION**

235 S. Beretania Street, Room 205  
Honolulu, HI 96813  
Phone: (808) 586-0186 Fax: (808) 586-0189

June 15, 2022

Subject: Request for Approval to Issue a Lease Agreement to Ohana Hui Ventures, Inc. for Buildings H, K, and G Located at Whitmore Village, Oahu, Tax Map Key (1) 7-1-002:004 (por)

Applicant: Ohana Hui Ventures, Inc.

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

Area:

Building H:	1,000 square feet, more or less
Building K:	1,700 square feet, more or less
<u>Building G:</u>	<u>13,680 square feet, more or less</u>
Total	16,380 square feet, more or less

Building ID: Buildings H, K, & G

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

Land Status: Acquired in fee by the Agribusiness Development Corporation (ADC) in 2015

Trust Land Status: Section \_\_\_\_ lands of the Hawaii Admission Act  
Yes \_\_\_\_ No X

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

Character of Use: Warehouse/storage

Land Doc. Type: Lease

Term: 3 years

Rental Rate: \$0.10 per square foot per month  
Monthly Rent: \$1,638; Annual Rent: \$19,656

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**BACKGROUND:**

Ohana Hui Ventures, Inc. ("OHV"), a domestic profit corporation, was established in 2018 by Scott Wong as the corporate entity to ventures engaged in Hawaii agriculture, multimedia production, training, and industrial hemp farming. OHV partners with local

organizations such as Friends of Waimanalo (“FOW”), a non-profit 501(c)(3) entity, that focuses on community workforce development in the areas of building trades, multimedia, Hawaiian culture, and agriculture.

The ADC Board of Directors (Board) approved the issuance of a revocable permit to OHV at their meeting on August 25, 2021 for 13,680 square feet (por) of Building G in Whitmore Village, Oahu, and ADC and OHV executed Revocable Permit No. RP-W257-21-03 (Permit) on November 30, 2021.

At their meeting on September 29, 2021, the Board approved the issuance of a land license for 416 gross acres in and around Whitmore Village. The license has not yet been executed as OHV is aggressively working to develop their soil conservation plan.

OHV has partnered with Dry Ice Blasting Services Hawaii LLC (DIBS) and Hooulu Holdings to develop a carbon capture storage utilization (CCSU) platform and shared service consortium in Whitmore to demonstrate how the recovery of vented carbon dioxide emissions can be beneficial to the State.

DIBS and Hooulu Holdings is assisting OHV through a joint venture funded by a special purpose revenue bond (SPRB) issued by the 2022 Legislature. The Legislature found that the food grade liquid carbon dioxide produced by DIBS's proposed net-zero carbon capture storage utilization platform will be used for agriculture, energy, and carbon storage to support the State's food security and resilience goals. The Legislature noted in its conference report that the construction of a net-zero carbon capture storage utilization platform in the State would have additional benefits, including but not limited to import substitution, economic diversification, and long-term carbon sequestration.

#### LAND REQUEST:

To approve a 3-year lease (see Exhibit “B”) for the period of July 1, 2022 – July 1, 2025, and terminate the existing Permit upon execution of the lease.

#### WATER NEEDS AND SOURCE OF WATER:

The premises has access to Board of Water Supply water. The CCSU does not require a lot of water because the system recycles water, and the technology produces distilled water as a byproduct, which also can be utilized.

#### OPERATIONAL PLAN:

OHV in partnership with DIBS intends to make investments to improve the facilities and construct a net-zero CCSU platform to recover vented carbon dioxide emissions and scrub and liquify the emissions into food grade liquid carbon dioxide.

OHV seeks to construct a mobile Co2 tank storage system for Co2 storage to create commodities such as Co2 infused water, dry ice, and liquid Co2. Hawaii currently imports liquid Co2 from the U.S. mainland.

#### CONSERVATION PLAN:

A conservation plan is not required.

DISCUSSION:

OHV and DIBS's operational plan and activities align with ADC's mission and goals to address bottlenecks within the industry so that agriculture can thrive. This demonstration program will be the first in Hawaii and the goal is to replicate the system in other areas across the state. Approval of this lease represents \$19,656/year in rental income.


Staff notes that these premises are located within ADC's master planned area. Thus, a long-term license is not recommended.

RECOMMENDATION:

Based on the foregoing, staff recommends that the Board approve the land request noted above, subject to the following conditions:

1. The term of this lease shall be for 3 years, with an option to extend an additional 2 years;
2. The monthly fee is based on the rate of \$0.10 per square foot, or \$1,638/month.
3. No sublicensing the whole or any portion of their premises without the prior written approval of the ADC Board.
4. OHV shall procure all appropriate policies of insurance pursuant to the terms of the lease, and as ADC deems necessary to cover any additional liabilities;
5. OHV shall consult and present to the Wahiawa-Whitmore Neighborhood Board regarding any and all activities which may affect the residents of Wahiawa and Whitmore Village;
6. OHV shall be responsible to dismantle, remove, and properly dispose of any abandoned property within the Premises;
7. Revocable Permit No. RP-W257-21-03 for Building G shall terminate upon execution of the lease agreement.

Respectfully Submitted,

  
James Nakatani (Jun 8, 2022 09:59 HST)

James J. Nakatani  
Executive Director



EXHIBIT A



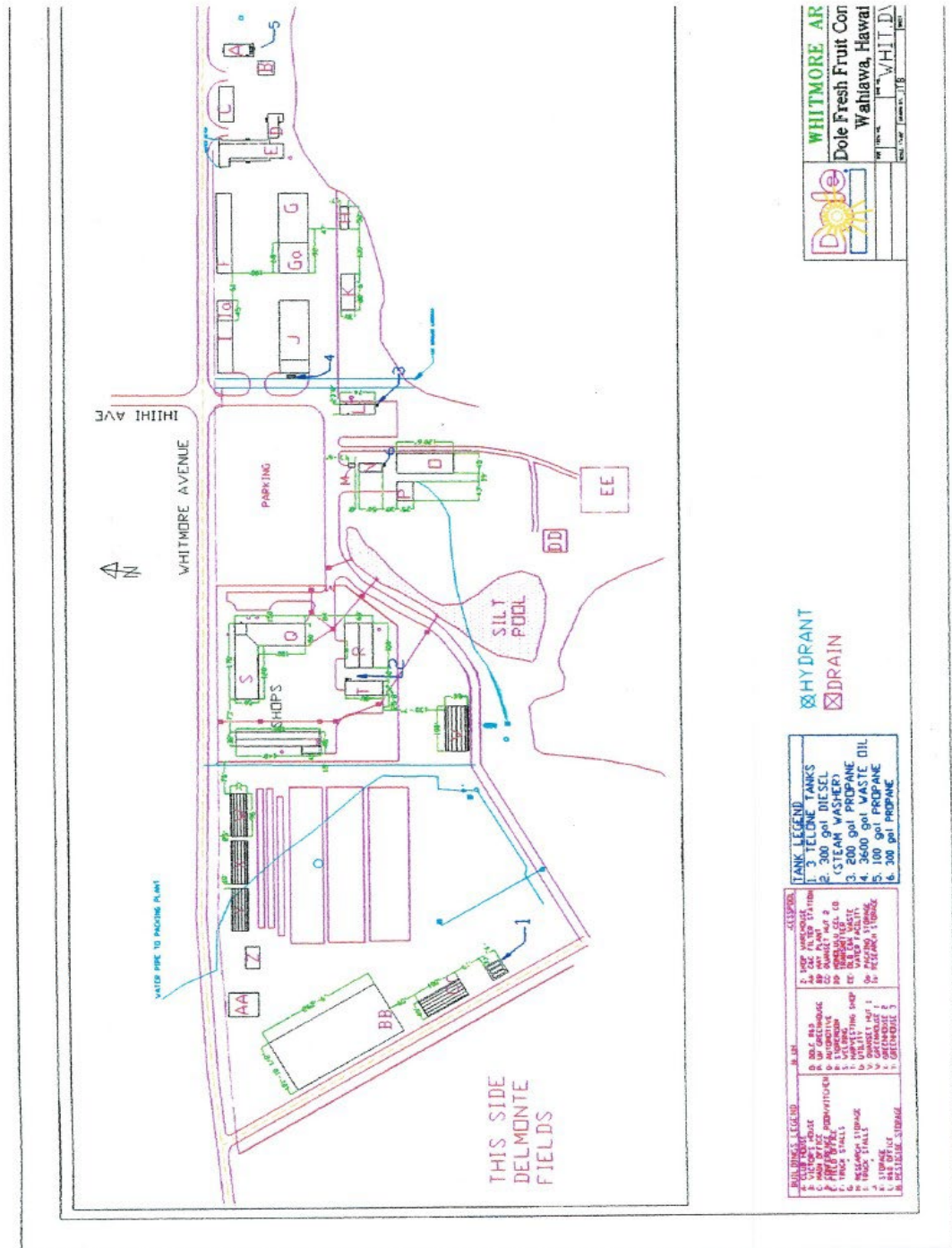


EXHIBIT B



Building K



Building H





Building G



STATE OF HAWAII  
**AGRIBUSINESS DEVELOPMENT CORPORATION**

235 S. Beretania Street, Room 205  
Honolulu, HI 96813  
Phone: (808) 586-0186 Fax: (808) 586-0189

June 15, 2022

Subject: Request for Approval to Issue a Non-exclusive License to Pohaku O'Kauai Materials, LLC (POKM) for Sand Removal Adjacent to Fields 221, 222, and 322 in Kekaha, Kauai, Tax Map Key (4) 1-2-002:001 (por)

Applicant: Pohaku O'Kauai Materials, LLC

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

Area: 10 acres, more or less

Field No(s).: Sand Quarry (undesignated)

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

Land Status: Set Aside by the Governor's Executive Order No. 4007 to the Agribusiness Development Corporation for Agricultural and Related Purposes

Trust Land Status: Section 5(b) lands of the Hawaii Admission Act  
Yes ☒ No ☐

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution? Yes ☒ No ☐

Character of Use: Industrial

Land Doc. Type: Non-exclusive License

Term: 3 years

Rate: \$20 per ton

---

**BACKGROUND:**

On August 20, 2013, the ADC Board approved the issuance of a right-of-entry and land license for POKM. The term of the license agreement and right-of-entry approved by the Board was for five years and allowed the removal of rock and sand in Kekaha for a license fee of \$200 per acre, per year for five acres. The license agreement purportedly approved by the Board included a requirement that POKM pay a royalty fee of \$5 per ton (to be split

\$2.50 to ADC & \$2.50 to Kekaha Agriculture Association (KAA); required POKM to assist KAA with road maintenance; and not to sublicense any portion of the premises without prior written approval of the ADC Board.

The "Right-of-Entry and License Agreement" (ROE) was executed between ADC, KAA, BASF Plant Science LP, Pioneer Hi-Bred Intl., Inc., Syngenta Seeds, Inc. and POKM, with the effective date of January 13, 2014. The ROE gave POKM the right to remove rocks and sand from fields 101-103, 105-108, 110-113, 115-117, 119, 121, 221, and 321. Field numbers 101, 116, and 121 were licensed to BASF; field numbers 102-103, 105-108, 110-113 and 115 were licensed to Pioneer Hi-Bred Intl.; and field numbers 117, 119, 121 (por.), 221 & 321 were licensed to Syngenta. The ROE required POKM to pay a royalty fee of \$2.50 per ton to ADC and \$2.50 per ton to KAA. The ROE further required a negotiated modification to the payment rate beginning July 1, 2015, and every second year thereafter. The ROE did not establish the length of the agreement or assess a licensing fee.

In 2021, ADC obtained a copy of an appraisal commissioned by a Kaua'i purchaser of sand. The appraisal contains confidential business information and therefore is not available for further disclosure. However, without disclosing privileged information, the purpose of the appraisal was to determine if \$39.41 per cubic yard was an appropriate royalty rate for sand on Kaua'i. The appraisal was effective as of October 16, 2020. The appraisal noted that there were two sources of sand on Kaua'i, one was located on the Mānā Plain Kawai'ele Waterbird Sanctuary, which is under the jurisdiction of the Department of Land and Natural Resources (DLNR), and the second was located about 1.5 miles away from Kawai'ele at the POKM quarry. The sand was purchased for use in concrete and other construction purposes. The appraisal set the royalty fee at no more than \$39.41 per cubic yard, which is equivalent to \$29.19 per ton. Since 2009, DLNR has offered the Kawai'ele sand at the royalty rate of \$39.41 per cubic yard.

By way of letter dated June 30, 2021, KAA reminded POKM that the ROE called for good faith negotiations with regard to the payment rate (as the term was defined in the ROE) no later than July 15, 2015 and every second year thereafter. The letter invited POKM to negotiate a new payment rate as the current rate was no longer commercially reasonable. POKM did not respond to the invitation to negotiate a new payment rate.

By way of letter dated December 1, 2021, KAA notified POKM that having not received a response to the June 30, 2021 letter, the payment rate was being increased to \$37.00 per ton (payable \$18.50 per ton to ADC and \$18.50 per ton to KAA) effective January 1, 2022.

The January 2022 combined payment (to ADC & KAA) received from POKM reflected the prior gross payment rate of \$5.00 per ton. The February 2022 payment received from POKM reflected the prior payment rate of \$5.00 per ton. KAA made several attempts to contact POKM to discuss the insufficient payment with no success.

By way of letter dated March 24, 2022, ADC advised POKM that if the appropriate payment amount for January 2022, February 2022, and March 2022 was not received by April 7, 2022, the ROE would be terminated immediately.

On March 29, 2022, POKM responded by way of email asking that the rate increase be postponed because the rate increase was substantial and POKM wanted to prepare a "sand report" for purposes of negotiating a lesser royalty rate increase. On March 31, 2022, ADC received a check from POKM that was purportedly the amount necessary to cover the arrearage that had accrued since January 1, 2022, and to bring the account current at the new payment rate through the end of February.

On April 3, 2022, ADC notified POKM that due to discrepancies recently discovered in the ROE, the amount of the payment rate increase that should have been adjusted to reflect the difference between per ton (\$29.19) and per cubic yard (\$39.41), and the understanding that a right of entry was no longer necessary, ADC intended to terminate the current ROE and negotiate a new license agreement. POKM was informed that the matter would be brought to the Board at its April meeting.

On April 20, 2022, the Board approved the termination of the ROE effective May 31, 2022 and authorized staff to enter into negotiations for a new agreement.

On May 24, 2022, by way of certified mail, ADC received a sand rate counteroffer from POKM (see Exhibit "B").

On June 6, 2022, staff, KAA, and POKM reached agreement in principle on updated terms for a new agreement.

#### LAND REQUEST:

To issue a non-exclusive license agreement for access to the sand quarry site (see Exhibit "A") for continued sand excavation for concrete and construction purposes.

#### WATER NEEDS AND SOURCE OF WATER:

N/A

#### OPERATIONAL PLAN:

POKM will continue to excavate and transport sand to their base yard for concrete and other construction purposes.

#### CONSERVATION PLAN:

POKM will be required to implement and maintain best management practices (BMPs) for the site to prevent erosion and storm runoff. Additionally, POKM will be required to apply to the Hawaii Department of Health for an NPDES permit to cover their activities on the property.

#### DISCUSSION:


Updated terms and conditions include a change in how revenues from POKM are collected. Under the prior agreement, POKM paid a royalty of \$5.00 per ton -- \$2.50 per ton went to ADC and \$2.50 per ton went to KAA. Under the new agreement, all revenues will be paid to ADC in order to more effectively capture OHA and DHHL entitlement monies. ADC will work with KAA to develop a process to transmit some or all of the remaining revenues for investment in infrastructure maintenance and capital improvements for the Kekaha property.

RECOMMENDATION:

Based on the foregoing, staff recommends that the Board approve the land request noted above subject to the following conditions:

1. Standard terms and conditions of the most current license agreement form for the Kekaha area shall apply, as may be amended from time to time; and
2. The license term shall be for 3 years; and
3. POKM shall pay a rate of \$20 per ton of sand removed for year 1. During the first year, ADC will conduct a fair market rate appraisal for the sand. The rate for years 2-3 shall be based upon the fair market rate as determined by the appraisal and subject to negotiations with POKM; and
4. POKM shall implement approved BMPs for the site to mitigate erosion and stormwater runoff; and
5. Within 60 days of the execution of the license agreement, POKM shall submit an application for an NPDES permit to the Hawaii Department of Health; and
6. The license shall be for sand only (i.e., no rocks or boulders); and
7. Upon the expiration, non-renewal, or earlier termination of the license, POKM shall restore the premises to its prior topographical condition (at or about + 5-10' MSL); and
8. Such other terms and conditions as may be prescribed by the Executive Director to best serve the interests of ADC and the State.

Respectfully Submitted,

  
James Nakatani (Jun 8, 2022 09:59 HST)

James J. Nakatani  
Executive Director



EXHIBIT A

Location Map

[see following page]

Request for Approval to Issue a Non-exclusive License to Pohaku O'Kauai Materials, LLC for Sand Removal Adjacent to Fields 221, 222, and 322 in Kekaha, Kauai, Tax Map Key (4) 1-2-001:002 (por)  
June 15, 2022  
Page 6 of 7



EXHIBIT B

Pohaku O'Kauai Material, LLC Counteroffer Letter

[see following pages]

# POHAKU O' KAUAI

REGISTERED  
AGRICULTURAL LEV CORP

POB 3329, Lihue, HI 96766 Tel: 808-245-3553 FAX: 808-245-5807 Email:  
kvvet@kauaiveteransexpress.com

2022 MAY 24 T A 11: 39

It was stated in a recent video conference that Pohaku O'Kauai was "*Raping the Land*", but we feel that this is a totally ignorant statement, as we have been good stewards to the land since we became involved in the area. We have listed a few projects that was accomplished to access and clear the "Opala" that was left in the area when the Kekaha Sugar Plantation ceased operations in the area.

Listed below, are a few projects that we had to accomplish to access the lease site from DHHL which was in disrepair.

1. 2008 – Road Repair for DNLR to gain Hunting access to the Waiawa Hydro Road which leads to the Herbicide Plant. Installed a 10 X 40 feet culvert to transverse over to get to Kaumualii Why.
2. 2009 – After a few large storms, created a new road to Waiawa, which included installing another culvert. This new road led all the way to Kaumualii Hwy, across the Kekaha Land field.
3. 2010 - Remove scrap metal that was abandoned on ADC Property and transport it to Puhi Metals. Assisted with the road repairs on the Polihale Road.
4. 2013 – Repair Cotton Tree Road, Main Track with rocks from Kauai Veterans Express.
5. 2014 – Started the clean up of the old Piggery at the Mana Site. Removed junk cars, metal, etc. Repaired the road into the quarry.
6. 2015 – More maintenance on the Main Track.
7. 2016 – Transported over 2000 Tons of Cold Plane to utilize the material on the road leading to the quarry.

Creating this company has been challenging, time consuming, and costly. The process began in September 2007 when we met with the County of Kauai and Goodfellows to discuss a project, they had coming up for the expansion of the Kekaha Land Field.

This meeting gave us an idea to look for "materials" on the westside of Kauai which would cut down on the transportation costs. The old Grove Farms Quarry on DLNR & DHHL Property, Loose Boulders on Kekaha Ag Fields, and the Mana Sand Pit which Kekaha Sugar used to use the sand for the Cane Field Roads on the westside.

We started to work with the Kauai Ag. Association - ADC District Manager, Mr. Landis to initiate the process. We received a Revokable Permit (RP) from the DHHL to remove loose boulders on their property on the Westside.

ADC requested an EA when we did our last proposal in August 2009 and we finally got the EA and Culture Survey in 2013.

The sole customer willing to purchase the sand from the Mana Quarry is Kauai Aggregates at this time, Halfway Bridge (Glover) declined due to the poor quality of the product. Due to the poor quality of the sand, and the limited use of the product, the price that is set at the maximum that the customer is willing to pay due to the processing of the material that has to be done before it can be used in their cement, which is costly process in itself. If he is expected to pay a higher price, he will turn to processing his own sand due to the low quality of the Mana Sand and it was not worth a higher price. **Refer to Attachment A.**

**Pohaku O'Kauai**, to start at the Mana Quarry, needed to purchase equipment necessary to mine the sand. These included, but not limited to: Excavators, Dozers, Front End Loader, Dump Trucks, Water Truck, and Screeners.

The equipment was first used to remove the large amount of Over Burden on top of the clean sand that needed to be removed to begin operations, this included removing all of the abandoned vehicles, metal roofing from the pig pens in the area and other trash. All of this clean up, cost thousands prior to even starting the operation.

The State desires to be paid **\$37.00 a ton for this low-quality product**. The sole customer currently is not even paying this amount for the sand currently!

***Pohaku O'Kauai is willing to increase the payment to the State to \$18.50 per ton.***

Sincerely,

A handwritten signature in black ink, appearing to read "Coleen S. Morinaka". The signature is fluid and cursive, with the first name "Coleen" being more prominent.

Coleen S. Morinaka  
Pohaku O'Kauai



DAVID Y. IGE  
Governor

JOSH GREEN  
Lt. Governor



JAMES J. NAKATANI  
Executive Director

ITEM F

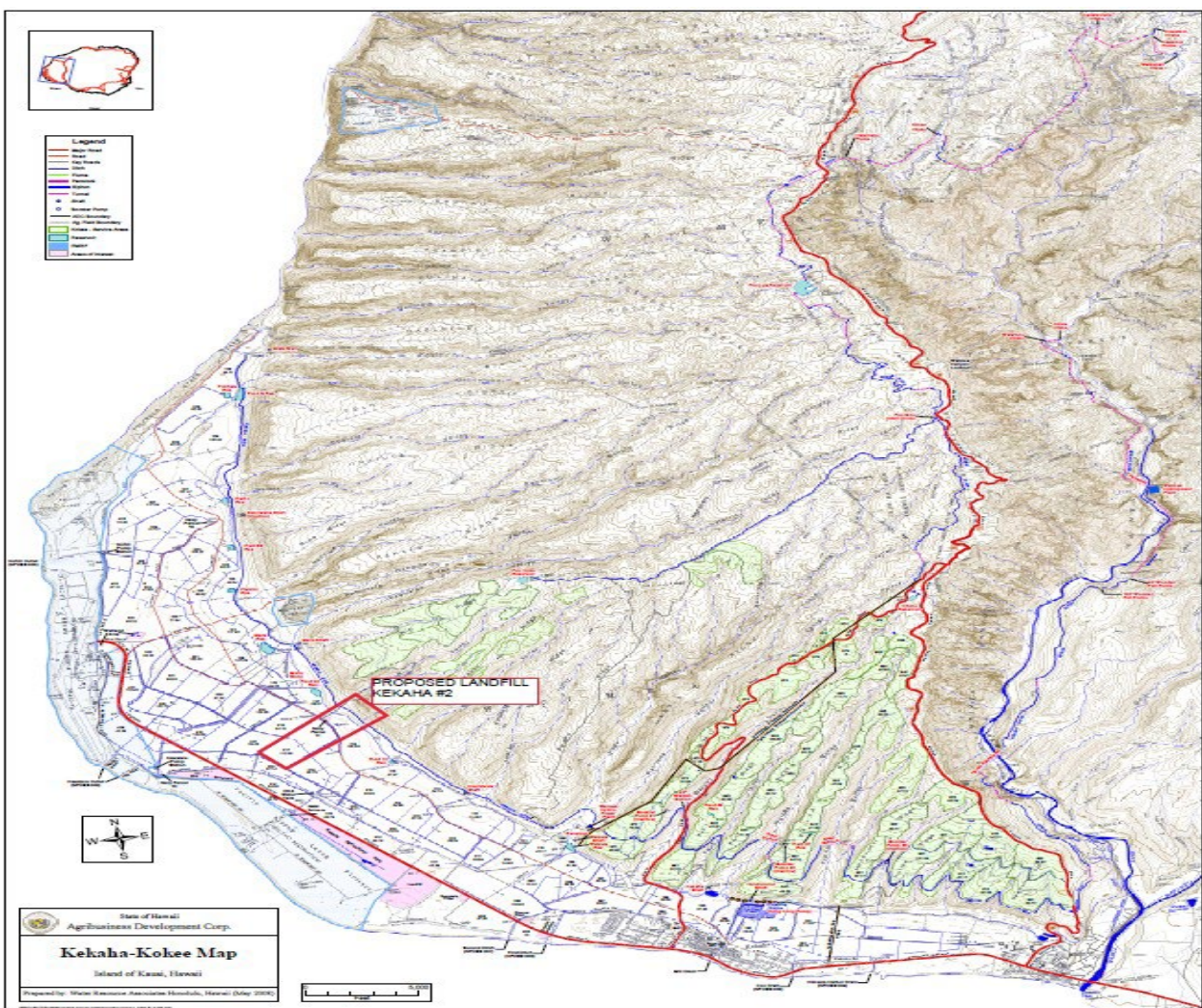
STATE OF HAWAII  
**AGRIBUSINESS DEVELOPMENT CORPORATION**

235 S. Beretania Street, Room 205  
Honolulu, HI 96813  
Phone: (808) 586-0186 Fax: (808) 586-0189

**Executive Director's Update**

June 15, 2022

**Proposed Kekaha Landfill on ADC Lands**



The County of Kauai formally confirmed its interest in siting a new Municipal Solid Waste Landfill in Kekaha on Agribusiness Development Corporation (ADC) land. The County of Kauai and Kekaha Agriculture Association had a discussion on how a landfill could be located on ADC lands in Kekaha. Their initial discussions covered the Kekaha Mauka site, which is a potential landfill site identified in previous landfill siting studies performed by the County over the past 20 years. The County of Kauai learned that ADC would not agree to locating a County landfill at the

Kekaha Mauka site because the property provides ideal conditions for growing a number of crops and is currently being utilized. Discussions moved to other parts of ADC managed lands in Kekaha and eventually focused on the property around and including the old rock quarry we'll refer to as the "Kekaha #2" site and a site visit was conducted.

The area is approximately 180 acres and rectangular in shape. The County of Kauai is hopeful that they can work with ADC and the ADC Board to confirm the availability of the Kekaha #2 site for use as a sanitary landfill. Accordingly, they would like to begin these discussions at your earliest opportunity in order to formalize their intent to gain access and conduct preliminary engineering work to confirm the viability of the site.

### **RFP 2022 Whitmore High Pressure Processing Machine & Agricultural Facilities**

The ADC is accepting proposals to construct, operate, and maintain a high-pressure processing (HPP) machine(s), and agricultural facilities situated in Wahiawa, Oahu. The Request for Proposal was posted on the Hawaii Awards & Notices Data System (HANDS) website. You may review the solicitation at the following link: [Agribusiness Development Corporation | 2022-Jun-02 — Request for Proposal: Whitmore High Pressure Processing Machine & Agricultural Facilities \(hawaii.gov\)](#) Proposals shall be received by the ADC Office before 4:30 pm, Tuesday, August 17, 2022.