

JOSH GREEN, M.D.
Governor

SYLVIA LUKE
Lt. Governor



JAMES J. NAKATANI
Executive Director

STATE OF HAWAII
AGRIBUSINESS DEVELOPMENT CORPORATION

HUI HO'OULU AINA MAHIAI
235 S. Beretania Street, Room 205
Honolulu, HI 96813

Meeting of the ADC Board of Directors

Held via Teleconference

February 16, 2023
9:00 a.m.

Pursuant to section 92-3.7, 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 seventy-two 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 dbedt.adc@hawaii.gov or sent via U.S. Postal Service to: Agribusiness Development Corporation, 235 South Beretania Street, Suite 205, Honolulu, Hawaii 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 minutes of testimony per agenda item.

The public may participate in the meeting via:

ICT: <https://us06web.zoom.us/j/84576974838>

Telephone: (669) 900-6833, Webinar ID: 845 7697 4838

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 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.

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.

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Upon dialing the number, you will be prompted to enter the Meeting ID listed next to the Telephone Number 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 telephone’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 telephone. 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 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, Leiopapa A Kamehameha
State Office Tower Building
235 S. Beretania St, Room 204
Honolulu, HI 96813

For 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 minutes to restore connectivity with all board members and the public in-person access location noted above. In the event that audio connectivity is re-established within thirty 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 thirty minutes, the meeting will be automatically continued to a date and time to be posted on the ADC website at <https://dbedt.hawaii.gov/adc/> no later than close of business the next business day. New ICT, telephone, and in-person access information will be posted on the website no less than twenty-four 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 preferably 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: dbedt.adc@hawaii.gov. Please allow sufficient time for the ADC 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, SUITE 205, HONOLULU, HAWAII 96813, ON AND AFTER FEBRUARY 10, 2023

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:

Mark Takemoto
Acting Title VI Non-Discrimination Coordinator
235 S. Beretania St., Ste 205
Honolulu, HI 96813
(808) 586-0186
dbedt.adc.titlevi@hawaii.gov

AGENDA

A. Call to Order

B. Roll Call

C. Approval of Minutes

1. Board Meeting Minutes, January 25, 2023
2. Executive Session Minutes, January 25, 2023

D. New Business

1. Request for Approval to Appoint Board Members to the Administrative Standing Committee pursuant to Article 4, Section 1 of the Bylaws of the Agribusiness Development Corporation
2. Referral of Land Application Review, Evaluation, and Recommendation Matters for Vacant Lands on Oahu and Kauai to the Administration Committee
3. Request for Approval to Issue a Right of Entry to the Central Oahu Chief Petty Officer Association for Parking Access for the 46th Annual Wahiawa Pineapple 10k Run in Wahiawa, Oahu, Hawaii, Tax Map Key (1) 7-1-002:009 (por.), :004 (por.)
4. Request for Approval to Renew Revocable Permit No. S-7004 Issued to Gary Smith for 2,780 Square Feet, More or Less, in Kekaha, Kauai, Hawaii, Tax Map Key No. (4) 1-2-002:001 (por.)
5. Request for Approval to Issue a Revocable Permit to Robert Rita Jr. dba Robert's Equipment Services for 24 Acres, More or Less, of Land for Pastural Purposes in Waialua, Oahu, Hawaii, Tax Map Key No. (1) 6-5-001:056 (por.)
6. Request for Approval to Extend the Terms of License Agreement Nos. LI-K1702 (Kokee Ditch) and LI-K1703 (Mana Reservoir) Issued to Kauai Island Utility Cooperative in Kekaha, Kauai, Hawaii, Tax Map Key Nos. (4) 1-2-002:001 (por.), Various

E. Old Business

1. Presentation by Assistant Superintendent Randall Tanaka Regarding the Assignment and Transfer of Lease No. LE-K1201 from Beck's Superior Hybrids, Inc. to the State of Hawaii, Department of Education
2. Request for Approval for the Assignment and Transfer of Lease Agreement No. LE-K1201 from Beck's Superior Hybrids, Inc. to the State of Hawaii, Department of Education for Agricultural and Education Purposes of 10.0

Acres, More or Less, in Kekaha, Kauai, Hawaii, Tax Map Key Nos. (4) 1-2-002:001 (por.) (continued from August 25, 2021, Item H)

F. Executive Director's Report

G. Adjourn

The Board may go into executive session on any agenda item pursuant to the exceptions under §92-5, Hawaii Revised Statutes.

AGRIBUSINESS DEVELOPMENT CORPORATION

Minutes of the Board of Directors Meeting held Virtually on January 25, 2023

Via Zoom Teleconference and/or In-Person at 235 S. Beretania St., Rm. 204, Honolulu, HI 96813

Pursuant to section 92-3.7, 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, Leiopapa A Kamehameha, State Office Tower Building, 235 S. Beretania St., Room 204, Honolulu, HI 96813.

Members Present, virtually:

Frederick Lau, City & County of Honolulu, Chairperson (Chair)
Glenn Hong, Member-At-Large (Mr. Hong)
Kaleo Manuel, Designated Representative, DLNR for Ex-Officio Member (Mr. Manuel)
Karen Seddon, Member-At-Large (Ms. Seddon)
Lyle Tabata, Kauai County Member (Mr. Tabata)
Warren Watanabe, Member-At-Large (Mr. Watanabe)
Jayson Watts, Maui County Member (Mr. Watts)
Dane Wicker, Designated Representative, DBEDT, Ex-Officio Member (Mr. Wicker) joined at 9:20 a.m.
Earl Yamamoto (designated attendee for HBOA, Ex-Officio Member Ms. Sharon Hurd) (Mr. Yamamoto)
Vacant – Member-At-Large
Vacant – Hawaii County Member

Members Excused:

None.

Counsel Present, virtually:

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

Staff Present, virtually:

James Nakatani, Executive Director (Mr. Nakatani)
Mark Takemoto, Executive Assistant (Mr. Takemoto)
Ken Nakamoto, Project Manager (Mr. Nakamoto)
Lyle Roe, Property Manager (Mr. Roe)
Lynette Marushige, Executive Secretary

Guests Present, virtually:

ADC Guest
F. Fuchigami
Joshua Uyehara
Matt Andros
Mike Faye
Richard Loero

Guests Present, physical location: None.

A. Call to Order

Chair called the virtual meeting to order at 9:10 a.m.

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Chair apologized for his camera not working, so he would not be visible.

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: Mr. Hong, Mr. Manuel, Ms. Seddon, Mr. Tabata, Mr. Watanabe, Mr. Watts and Mr. Yamamoto acknowledged attendance with no guests present. Mr. Wicker joined at 9:20 a.m.

C. Approval of Minutes

1. Board of Director’s Meeting, **November 2, 2022**

Motion to Approve: Mr. Watanabe; Seconded: Mr. Tabata

Chair asked if there was anything from the staff. There was none.

Chair asked if there was any comment from the public. There was none.

Chair asked for Board discussion. Mr. Manuel said he would abstain from voting because he was not present. Mr. Watts and Mr. Yamamoto also abstained.

Chair asked if there was quorum.

Ms. Prescott-Tate stated there needs to be six members for quorum and there were only five.

Mr. Manuel asked if he reviewed the minutes would he be able to approve them?

Ms. Prescott-Tate responded yes he can do that.

Mr. Manuel withdrew his abstention.

Chair called for the vote.

Motion approved: 6-0 (Mr. Watts and Mr. Yamamoto abstained)

2. Executive Session Minutes, **November 2, 2022**

Chair stated that this agenda item will be taken out of order and be considered by the board during executive session prior to item E-1 pursuant to HRS §92-5(a)(2), regarding the evaluation of an officer or employee where consideration of matters affecting privacy are involved.

3. Board Meeting Minutes, **November 16, 2022**

Motion to Approve: Ms. Seddon; Seconded: Mr. Hong

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Chair asked if there was anything from the staff. There was none.

Chair asked if there was any comment from the public. There was none.

Chair asked for Board discussion. There was none.

Chair called for the vote.

Motion approved: 6-0 (Mr. Watts and Mr. Yamamoto abstained)

4. Executive Session Minutes, **November 16, 2022**

Chair stated that this item will also be taken out of order and considered in Executive Session prior to agenda item E. 1 and pursuant to HRS §92-5(a)(4), regarding consultation with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities.

D. New Business

1. Board Discussion and Approval of Board Meeting Schedule for Calendar Year 2023

Chair stated that due to conflict with the Governor's Cabinet meetings scheduled for Wednesday's at 10:00 a.m. it's proposed that the ADC Board Meeting be scheduled for the third Thursday of each month at 9:00 a.m. Chair asked if there was any discussion.

Since ADC meetings have been on Wednesday's, Ms. Seddon noted there may be a conflict at times with her corporate schedule. She will let the Chair know if an occasional conflict arises.

Chair agreed that it's a bit of a problem for him too, so he understands completely, but there doesn't seem to be a better day. Would Tuesday be better for everyone?

Ms. Seddon stated there will always be a conflict someplace, she'll move things when she can, but there's going to be times when she can't.

Hearing no further discussion, Chair announced that based on the agreement of the board, meetings will be held at 9:00 a.m. on the third Thursday of each month.

2. Request for Approval for the Assignment of License Agreement No. LI-K1502, Issued to Andros Engineering Corporation, to Kekaha Agriculture Association, Kekaha, Kauai, Hawaii, Tax Map Key No. (4) 1-2-002:001 (por.)

Chair called for a Motion to Approve: Mr. Tabata; Seconded: Mr. Watanabe.

Chair asked for staff presentation.

Mr. Roe said the board has been made aware that Andros Engineering is leaving Hawaii. They have already vacated their premises in Whitmore. They are doing the same in Kekaha. There is an agreement between Kekaha Agriculture Association (KAA) and Andros Engineering for KAA to take over their premises for use as a base yard. KAA will continue to provide some of the services Andros had been providing to local farmers as well.

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Chair asked if there was anyone from the public who wished to give testimony. There was none.

Chair asked for Board discussion.

Mr. Manuel had a question. The term of the license expires on December 31, 2024 per the submittal. What is the strategy from staff on when the license ends? Is it going to be month to month or are there any ideas on where this property is going? Will it stay in the same type of use?

Mr. Roe said he believes for now it will stay in the same type of use. There is an option to extend.

Chair asked if it was only a base yard right now.

Mr. Roe responded it's a base yard with a temporary structure; a concrete floor with a series of trailers with a roof over the top. It's pretty well built with covered storage.

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

Motion Approved: 8-0

3. Request for Approval to Amend License Agreement No. LI-K1902 Issued to Kokee Farms LLC, Kekaha, Kauai, Hawaii, Tax Map Key No. (4) 1-2-002:001 (por.)

Chair called for a Motion to Approve: Mr. Watanabe; Seconded by Mr. Tabata

Chair asked for staff presentation. Mr. Roe stood on his submittal and was available for questions.

Chair asked if there was anyone from the public who wished to give testimony. There was none.

Chair asked if Mr. Roe could summarize before the board discussion.

Mr. Roe said that Mr. Loero was present if the Board wanted to speak with him. The board approved a license back in 2019, it's now in year 3. The pandemic hit, they lost one of their partners, development of their business plan took a hit, they're behind schedule and not as built out as they anticipated being. They don't have as many crops in the ground as expected. So, they're not really making money. They've made minimum payments in year one amounts. They're behind about \$4500 now. They are asking to restructure rent payments retroactively to the beginning so that will clear out the arrearage. It involves some rent relief for year two and three. They're in year three so there's some rent relief in years four and five as well.

Chair clarified, so basically we're in year one rental fee for this year is what you're saying?

Mr. Roe responded yes, continuing \$1500 from years one, two and three, that is what they'd be amending it to.

Chair asked and we're in the third year?

Mr. Roe responded yes.

Chair asked if there were any further board discussion. There were none.

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Chair called for the vote.

Motion approved: 8-0.

4. Request for Approval to Authorize the Executive Director to Execute the *Department of Health – Wastewater Branch Individual Wastewater System (IWS) Owner’s Certification Form*

Chair called for a Motion to Approve: Mr. Watanabe; Seconded by Mr. Hong.

Chair asked for staff presentation. Mr. Roe stood on his submittal and was available for questions.

Chair asked if there was anyone from the public who wished to give testimony. There was none.

Chair asked for board discussion or questions? There were none.

Chair called for the vote.

Motion approved: 8-0.

5. Request for Approval to Amend License Agreement No. LI-WM1505 Issued to William H. Wise III dba Waihi Farms and Kalama Hardwood LLC for 16 Acres, More or Less, in Whitmore, Oahu, Hawaii, Tax Map Key No. (1) 7-1-002:004 (por.) by adding an Addendum that Requires the Licensees to Abide by the Requirements of Title 11, chapter 62 of the Hawaii Administrative Rules (HAR)

Chair called for a Motion to Approve: Ms. Seddon; Seconded by Mr. Hong.

Chair asked for staff presentation.

Mr. Roe said this was related to an item the board previously approved. It incorporates the requirements of the certification form into Mr. Wise’s license to make sure that he abides by the terms of the certification form, which involves a number of administrative rules that are listed in the submittal.

Chair asked if there was anyone in the public who wished to provide testimony. There was none.

Chair asked for board discussion.

Mr. Wicker asked what type of activity this entity was doing on the land.

Mr. Roe responded he is farming, growing some turmeric, flowers. There’s also a woodworking shop, that’s Kalama Hardwoods, they are operating out of one of the shelters there.

Mr. Wicker asked if he’s reading the submittal correctly, there are two homes? What do they mean by homes?

Mr. Roe said there are, the licensees were grandfathered in.

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Mr. Tabata said in reading the submittal, he just wanted to make a point that these are aerobic units versus straight septic. It's a little more complicated system. Maintenance has to be followed. It's not so simple as a straight IWS septic system.

Mr. Roe responded the Licensees and the Contractor are aware of that. The contractor will be assisting with the management of the system developing a manual for the licensee as well.

Mr. Tabata said that is required by the Department of Health, but the follow-through part is many times neglected.

Chair asked how do we ensure that it is maintained then?

Mr. Roe said to approve this agenda item. That is what we are attempting to do here; to incorporate the requirements into the license so we have an enforcement mechanism.

Mr. Manuel asked what sort of enforcement authority do we have, just to cancel the license? Or do we have the ability to seek fines? We don't have the ability to fine right? So, what is the corrective action. If they are not fulfilling the license terms, the only recourse is rescission?

Mr. Roe responded he believes so. Before it got to that point we would be having a conversation with the Lessees. It's ADC's reputation on the line with Department of Health as we are the landowner. We have been keeping a pretty close watch on this.

Mr. Nakatani asked if he could interrupt. He thinks it's ADC's responsibility because the fine always comes to ADC, so we'll make sure to keep tabs on him and make sure that the system runs efficiently. That's the reason we're having this meeting to get the Board's approval because ADC is the owner and is responsible.

Mr. Manuel says he recalls this conversation. He asked if it can be built into the license that if there are any fines assessed by DOH to ADC as the landowner that the licensee agrees to pay.

Mr. Nakatani said that he talked to Mr. Wise and Mr. Wise will pay the fines and he thinks that the biggest thing they have is if he doesn't follow through ADC will terminate his lease/license.

Mr. Manuel asked if they could make it explicit as a condition in the license.

Mr. Nakatani responded that ADC does not have the authority to fine, it's the Department of Health that fines.

Mr. Manuel said he understands that, he is just saying that if a fine is levied by DOH to ADC as the landowner that as a condition of the license, the licensee agrees that if it is in fact their fault, that they will reimburse ADC for the fine.

Mr. Nakatani said that is something for Ms. Prescott-Tate to look at. For now, Mr. Wise has promised to pay the fines. When we rewrite the contract, we can always put that in.

Mr. Manuel asked Ms. Prescott-Tate if it is something that can be pursued.

Ms. Prescott-Tate responded yes. She said the license already allows us to seek contributions from the licensee for violations.

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Mr. Manuel said so it's already imbedded in the existing license terms and what we are amending here is specific to the DOH title?

Ms. Prescott-Tate confirmed.

Chair asked if there was any further discussion or questions. There were none

Chair called for the vote.

Motion Approved: 8-0

6. Request for Approval of the Transfer of Water Use Permit No. 808 from Pioneer Hi-Bred International, Inc. to Aloun Farm, Inc.

Chair called for a Motion to Approve: Mr. Manuel; Seconded: Mr. Watanabe

Chair asked for staff presentation. Mr. Roe stood on his submittal and was available for questions.

Chair asked if there was anyone from the public who wished to give testimony. There was none.

Chair asked for board discussion.

Mr. Manuel asked to make a recommendation to the language in the recommended action because ADC can't actually approve the transfer. If anything, it would be for approval to allow Aloun Farms to request a transfer from the Commission on Water Resource Management. The Commission is the only entity that can actually transfer the permit. As written this sounds like ADC is actually transferring it but that's not the mechanism. So, to clarify, the board is supporting its tenant to apply for a transfer of permit. He asked Ms. Prescott-Tate, if that would help it be more in alignment with the intent of the submittal as drafted.

Ms. Prescott-Tate asked so the request is amended to: "Request for Approval to allow Aloun Farms to apply for the transfer of Water Use Permit No. 808 from Pioneer Hi-Bred Int'l Inc. to Aloun Farms Inc."

Mr. Manuel said yes, that would be more in alignment with the procedures under the Water Code, if the body is open to that amendment.

Ms. Prescott-Tate stated that a motion to approve the amendment of the action as previously stated was required.

Mr. Manuel moved to approve as amended.

Mr. Watanabe seconded the motion.

Chair asked if there was any other discussion.

Mr. Manuel said just to highlight, when it goes over to the Water Commission, they'll review it, and it should just be an administrative trading of names. But, if there are any issues that are raised that

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are substantive then it may need to go back to the Commission for final disposition. But it seems like a pure administrative transfer. That's just an FYI to the group.

Chair thanked Mr. Manuel asked if there was any other discussion. Hearing none he called for the vote.

Motion as Amended Approved: 8-0

7. Presentation by Deputy Attorney General Delanie Prescott-Tate on Changes to Chapter 163D, Hawaii Revised Statutes

Chair called on Ms. Prescott-Tate to present on changes to Chapter 163D, Hawaii Revised Statutes.

Ms. Prescott Tate said, Senate Bill 2473 from the 2022 legislative session is the bill that started out its life changing the administrative attachment of ADC from the Department of Agriculture to the Department of Business, Economic Development and Tourism. The testimony supported the move because ADC's mission was to spur economic development in agriculture, while HDOA's mission was more regulatory. The legislature believed that ADC's goals and objectives would align with the goals and objectives of DBEDT. Near the end of Senate Bill 2473's legislative evolution, some of the investigative committee's recommendations were included in the bill. These recommendations included amending the focus, scope, responsibilities, and powers of ADC. The legislature recommended amending the requirements and responsibilities of the ADC board; they specified the contents of the Hawaii Agribusiness Plan; and prioritized local food production. A written comparison between the two statutes was provided to you. The purpose changed from marketing and export to supporting agricultural production for local consumption. The theme of local production is shown in the change to the definition of agriculture. All the other definitions remain the same. As to section 163D-3, this is where the changes to the board functions come in. The legislature focused on making sure that the board is the entity in charge and included a mechanism to ensure that the board's goals are being implemented. This mechanism is the annual evaluation of the executive director where the board gives the executive director the goals and performance measures. This was something the investigative committee thought was very important. Then 163D-4, which specifies ADC's powers, they took away the focus on marketing and export and replaced it with agricultural production for local consumption. In 163D-5 they refocused the contents of the Hawaii agribusiness plan, which includes assembling an inventory of ADC assets and preparing a plan on how these assets can be used to prioritize local food production. They set a timetable for how often this plan needs to be reviewed. Lastly, they repealed 163D-8.5 that required HDOA oversight of all ADC projects. Everything else remains the same.

Chair asked, so 163D-8.5 was repealed and that was the approval by HDOA right?

Ms. Prescott-Tate responded correct.

Chair said that was his main question. He asked if there were any other board discussion questions.

Mr. Tabata remarked that he remembers when he first came on, they were talking about inventory on agriculture infrastructure, irrigation system, drainage system, processing facilities etcetera. He remembers something about software being purchased. Do we have the tools to accomplish this?

Mr. Nakatani responded that we were talking about the Yardi inventory program that we're just about to execute the contract. ADC had a lot of problems when we made the transfer from HDOA

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to DBEDT. The transfer date was July 1st and what happened was that when it came to July 1st many of their contracts were stuck at HDOA. It took well over four months to get everything resolved. He believes they're starting to contract and asked Mr. Nakamoto if he had information.

Mr. Nakamoto said the contract was fully executed and he has started discussions with Yardi. ADC is providing them with the base information that will go into the database. That's ongoing and they should be wrapping up very shortly.

Chair asked if he could give the board an overview of what the Yardi program will be able to do.

Mr. Nakamoto responded that the premise was property management. This was cited in the audit. The inventory of the lands and infrastructure was mentioned. My understanding is that Yardi will put this in, and it'll help us keep track of license, leases but it'll also create a database where ADC and the public can have all of this information. Make special reports to say, here is all of the vacant lands, here is what is occupied, and where. We could even try to craft water availability and infrastructure. The capabilities of the software are pretty good. ADC is just trying to get the baseline chart of accounts where we provide them the base information. That will set up the database. So that's ongoing. We've been working on this since July, so ADC is pretty close to giving them something.

Mr. Tabata asked if the program has a maintenance component so that they can understand infrastructure, especially in Kekaha. It can be very delicate especially when it floods. Could it tell ADC the status of clearing of canals and ditches out there? Would that be part of the documentation, if it's on an annual cycle, if they're in a cycle, etc.?

Mr. Nakamoto said that it should be able to provide some kind of depreciation and maintenance schedule. He's not sure how "in-depth" it's going to be. It's something we can consider.

Mr. Tabata said especially the discharge pumps; they need to know the status and useful remaining life and depreciation. If funds are available.

Chair asked who would populate this, who would put the data in? And then who would do the maintenance, who would continue to put data in, further down the road.

Mr. Nakamoto said we have them on contract for 5-years. They will provide tech support and training as well to help us to take this to where it needs to be. As far as who is putting in the information, that's coming from ADC staff. We are trying to get some accounting services, not necessarily related to property management. They can help us with the licenses and make sure the data is accurate before it is entered.

Chair asked if there was any other discussion.

Mr. Hong asked if relative to the whole Yardi system, how is the Board going to see information out of this. What are the dates they are looking for, baseline implementation, mid-baseline implementation and full-implementation? What are the target dates to get this done? If they don't have a target this thing could roll on for a long time.

Mr. Nakatani said he doesn't think it's going to roll-on for a long time because the pressure from the legislature mandated for them to come up with a system for land. That's one of the priorities. It is one of the sore points, that we don't know what we're doing with our land. This gives us a report

AGRIBUSINESS DEVELOPMENT CORPORATION

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for licenses. On the other side of that it will also give us the location of lands that are not being farmed. For the legislature it's a priority and they will probably ask where we are with this. It will be done by summer. Should be. We have the data to input, and we have one former employee coming in and helping us gather that information so it should be moving.

Mr. Hong said that's great, he would like to see what that plan is to get it done by summer. What are the resources that are needed, when the resources will be coming in and when can they expect to see a functioning system?

Chair asked if they need more staff to do the work.

Mr. Tabata said so along the lines of what Mr. Hong mentioned is the budget funded for the appropriate staffing to support this program? It could be huge. He's not sure how much total acreage is under our responsibility, but the devil is in the details.

Mr. Nakatani said just an FYI. We've been going to legislative hearings, and it's almost every single department has a huge number of vacancies and having a hard time to fill. For ADC, we are adequately funded but we might want to look at bumping up those salaries. Everybody is just having a hard time finding people to come into the office. The accounting position is so important but so far they haven't gotten any qualified takers. We also have the asset manager position that's been out for recruitment and so far they haven't gotten anybody. Some other departments have asked for bumping up the compensation. Everybody's having a hard time. But we'll get there. Luckily we have a small hard-working staff so they can do a lot of things. Yardi will help a lot. We might have to depend on volunteers or 89-day hires to help input. But we'll get it done.

Mr. Hong said he understands the problem with getting resources. One thing that we may want to ask HR is can they establish an intern program with the University, Chaminade, HPU. They have people who want to get hands-on experience and they're available for a few months during the summer and spring. Some of them may be able to start simultaneously with their spring classes, they can help input information. Most of those folks in that category are tech savvy and capable of doing things like that. Just a suggestion.

Mr. Nakatani thanked Mr. Hong for that suggestion. That conversation is also going on with some of the other programs. If it's specific programs like engineering or accounting internship like that then fine. ADC's problem is we don't have an HR. We depend on DBEDT's HR and although they are very accommodating, they have shortfalls. It's just problematic across the state. Everybody's trying to find a solution. It's a good idea conceptually but because we're so small, we cannot afford to have somebody train somebody, take away time from their work and after 3-months the person leaves. 89-day hire, if the person was experienced or past employees, that would be good, or they know the accounting system. At one time, they got somebody from the Department of Agriculture to help with the accounting, that's an option. We're looking at all the options. We're not ignoring this, and we're starting to get desperate, looking at going out into the private sector and taking a look instead of depending on the HR list. If you read this morning's paper, even the Federal government, and the City and County, they need 200 positions. And the City and the Federal government pays a lot more than the State. That's part of the problem.

Mr. Manuel said DLNR is in the same spot, and they are looking into ways to create a relationship with UH to create a pipeline for capacity and filling the vacancies at the State level, so he thinks it's across the board. Is Yardi a geospatial database or is just an asset management type of database? Is it going to have that capability?

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Mr. Roe responded that it's focused on land management but they did organize this procurement so it will connect with ARC GIS. That's one of the things he has been working on as well.

Mr. Manuel said he was going to recommend that in the interim, Office of Planning also has GIS capabilities and manages the State files. If you need help with that as an agency, maybe as a sister agency we can partner with them.

Mr. Roe responded that they have already been a huge help.

Mr. Manuel said he wanted to shift to 163D-5, the Hawaii Agribusiness Plan. This is something he had brought up before. Are we contracting out the development of this plan, do we have this plan, what's the strategy to meet this new mandate?

Mr. Nakamoto said they tried to do a professional selection, and that Mr. Yamamoto sat on the selection committee. What they realized was that a lot of these professionals were not quite what they were looking for. We reached out to DBEDT and specifically, the new director, Mr. Wicker, as well as Scott Glenn from the OPSD division. They are trying to tap the special planning branch. They have the ability to contract and so they are trying to set up an agreement with them, they are just waiting for the Governor's approval to execute and to staff by contract. WE have already been in touch with Scott Glenn, they're on board. We will try to tap some of their professionals, they know a lot more planners than ADC does. It will be a similar approach to the 2012 study that was done, where they set up interviews and they will focus on ADC's properties.

Chair asked if there was any other discussion? If not, let's move on.

8. Request for Approval to Establish an Ad Hoc "Committee to Evaluate the FY2021-2022 Annual Performance of the Executive Director"; Appointment of Members thereto.

Chair called for a Motion to Approve: Mr. Tabata; Seconded by Mr. Watanabe

Chair asked for staff presentation. There was none

Chair asked if there was anyone from the public who wished to give testimony. There were none.

Chair asked for Board discussion. There was none.

Chair called for the vote.

Motion approved: 8-0

Chair appointed Ms. Seddon, Mr. Watanabe and Mr. Manuel.

9. Request for Approval to Adopt the RFP-2022 Evaluation Committee's Recommendations to Establish a Permitted Interaction Group of Board Members and Project Professionals to Assess and Evaluate the Offeror's Proposal.

Chair called for a Motion to Approve: Mr. Tabata; Seconded: Mr. Watanabe

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Chair asked for staff presentation. Mr. Nakamoto stated this is related to the RFP that was issued back in June. It's still an open procurement, which is why they are recommending that they form this committee to kind of look into the proposal they received in more detail. He is open for any questions but if it is too specific they may have to go into Executive Session because it is still an ongoing procurement.

Chair asked if there was anyone from the public who wished to give testimony. There was no one.

Chair asked Ms. Prescott-Tate if they should go into Executive Session.

Ms. Prescott-Tate responded yes.

Chair Lau stated HRS section 92-4 allows the Board to hold an executive meeting closed to the public for the Board to discuss New Business Item 9, which is a competitive bid procurement matter that has yet to be awarded. HRS chapter 103D requires this discussion to be closed to the public pursuant to HRS section 92-5(a)(8) in order to deliberate or make a decision upon a matter that requires consideration of information that must be kept confidential.

Also, to be considered in Executive session is Old Business Agenda Item E-1, 4, regarding the Complaint Referral from Department of Budget & Finance, and Old Business Agenda Item E-2, 1, regarding the Ohana Best v. State of Hawaii, et al., Civ No. 19-1-1640 update. These matters must be heard in executive session pursuant to HRS section 92-5(a)(4) for purposes of consulting with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities.

Before going into Executive Session Chair asked if there was any public testimony. There was none.

Chair called asked for a motion to go into Executive Session and a 10-minute break prior to Executive Session. Motion: Ms. Seddon; Seconded by Mr. Manuel.

Chair called for the vote.

Motion approved: 8-0

Board closed for Executive Session at 10:05 a.m.

Meeting resumed at 10:40 a.m.

Chair called for the vote on New Business Item 9.

Motion approved: 8-0

Chair appointed Ms. Seddon, Mr. Hong and himself as members of the Permitted Interaction Group to Assess and Evaluate the Offeror's Proposal and then report back to the Board.

E. Old Business

1. Complaint Referral from the Department of Budget & Finance
2. Update Regarding Ohana Best v. State of Hawaii, et al., Civ. No. 19-1-1640-10

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Chair stated that both items were provided for informational purposes only so there will be no motion or vote.

F. Executive Director's Report

Mr. Nakatani stated that most of ADC's time was spent on the transition from HDOA to DBEDT. This legislative session has been somewhat challenging. People who have witnessed the hearings will see that it's pretty intense. They have been spending a lot of time trying to listen to what the new administration has. Today, DBEDT, has to go back for another hearing at 2:00 p.m. so they're trying to prepare for that. Overall, there's a number of bills that are coming out, today's the deadline and as soon as he accumulates the bills that affect ADC, he will send it to the Chair and the board members.

G. Adjourn

Chair called for a Motion to Adjourn: Mr. Watanabe, Seconded: Mr. Manuel

Chair asked if there were any discussion/objections. There was none.

Chair called for the vote.

Motion approved: 8-0

The meeting was adjourned at 10:50 a.m.

Respectfully submitted:

Lynette Marushige
Secretary



STATE OF HAWAII
AGRIBUSINESS DEVELOPMENT CORPORATION

HUI HO'OULU AINA MAHIAI
235 S. Beretania Street, Room 205
Honolulu, HI 96813

February 16, 2023

Subject: Request for Approval to Appoint Board Members to the Administrative Standing Committee pursuant to Article 4, Section 1 of the Bylaws of the Agribusiness Development Corporation

Authority: Section 163D-4(a)(15), Hawaii Revised Statutes

BACKGROUND:

The Bylaws of the Agribusiness Development Corporation provide for the establishment of three standing committees: 1) Administrative Committee; 2) Technical Assistance Committee; and 3) Marketing/Communications Committee. With the adoption of the Land Management Policy & Procedure Manual on November 2, 2022, the Agribusiness Development Corporation (ADC) seeks to further its goal of conducting business in a fair, open, and transparent manner, by establishing an Administrative Committee that will focus on land management. The function of the Administrative Committee is to:

- a. Review and make recommendations regarding all financial matters requiring approval of the Board of Directors, including, but not limited to, contractual matters and the annual budget of the Corporation; and
- b. Review and make recommendations regarding all personnel matters requiring approval of the Board of Directors; and
- c. Review and make recommendations regarding any other matter referred by the chairperson of the Board of Directors.

Reestablishing an Administrative Committee, a committee that will be subject to the "Sunshine Law" as set forth in chapter 92, Hawaii Revised Statute, will enable the committee to review and make recommendations to the full ADC Board regarding the licensing/leasing of State of Hawaii lands under the control of ADC. The selection of tenants for ADC lands, the determination of license/lease fees, the renewal of existing licenses/leases, and establishment of the terms and conditions of licenses/leases are financial matters within the purview of the Administrative Committee.

LAND REQUEST:

N/A

WATER NEEDS AND SOURCE OF WATER:

N/A

OPERATIONAL PLAN:

N/A

CONSERVATION PLANNING:

N/A

CHAPTER 343:

N/A

DISCUSSION:


The adoption of the Land Management Policy & Procedure Manual was the first step in reassessing the manner in which ADC made decisions regarding the licensing/leasing of State lands under its control. Rather than establishing an ad hoc committee every time it became necessary to review applications for vacant lands, ADC believes that a standing committee would be better able to consistently implement long term plans and goals and would be better suited for the task of managing ADC lands. Administrative Committee members, with a tenure of one-year, open meeting requirements, and the guidance provided by the Land Management Policy & Procedure Manual, will be able to thoroughly vet and make well-reasoned recommendations to the full Board on the selection of tenants to occupy ADC controlled lands.

RECOMMENDATION:

Based on the foregoing, staff recommends that the Board approve the establishment of an Administrative Committee and authorize the ADC Board Chair to appoint members to the Administrative Committee, subject to the following conditions:

1. The number of committee members shall be less than a quorum of the ADC Board (less than 6 members); and
2. The Administrative Committee members shall serve for one year or until the appointment of their successors; and
3. The Administrative Committee shall elect a Chair and Vice-Chair from its membership; and
4. The ADC Board Chair may serve as an ex officio voting member of the Administrative Committee.

Respectfully Submitted,

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James J. Nakatani
Executive Director

JOSH GREEN, M.D.
Governor

SYLVIA LUKE
Lt. Governor



JAMES J. NAKATANI
Executive Director

ITEM D-3

STATE OF HAWAII
AGRIBUSINESS DEVELOPMENT CORPORATION

HUI HO'OU LU AINA MAHIAI
235 S. Beretania Street, Room 205
Honolulu, HI 96813

February 16, 2023

Subject: Request for Approval to Issue a Right of Entry to the Central Oahu Chief Petty Officer Association for Parking Access for the 46th Annual Wahiawa Pineapple 10k Run in Wahiawa, Oahu, Hawaii, Tax Map Key (1) 7-1-002:009, :004 (por.)

Applicant: Central Oahu Chief Petty Officer Association on behalf of the 46th Annual Wahiawa Pineapple 10k Run

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

Area: 1 acre, more or less

Field No(s): Non-Designated

Tax Map Key: (1) 7-1-002:009, :004

Land Status: Acquired in fee by the Agribusiness Development Corporation in 2013 and 2015

Trust Land Status: Section 5(b) 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: Agricultural/Commercial

Land Doc. Type: Right of Entry

Term: 3 days (May 12-14, 2023)

Rental Rate: N/A

BACKGROUND:

The 46th Annual Wahiawa Pineapple 10k Run (Run) is an annual race hosted and presented by the Central Oahu Chief Petty Officer Association (Association) and has been an annual tradition for over 45 years. This year the Association expects to host over 1,500 participants. Due to past COVID-19 related concerns, this year's Run will be the first race held since 2019.

REQUEST:

Applicant requests a short-term right of entry for access to an open area (parking site) for parking purposes (Exhibit A) for the 46th Annual Wahiawa Pineapple 10k Run to be held on May 13, 2023. Right of entry will be effective May 12-14 to allow appropriate setup and cleanup.

WATER NEEDS AND SOURCE OF WATER:

N/A

OPERATIONAL PLAN:

Applicant will have volunteers and members in place at the entrance and in the parking area to guide the vehicles and to maintain an orderly process. The Run will commence at Ka'ala Elementary School in Wahiawa and proceed north of town, returning to the elementary school. Applicant will provide transportation to participants from the parking site to the elementary school.

CONSERVATION PLAN:

N/A

DISCUSSION:


In prior years, the Run has been successfully executed with few issues. Applicant will be required to provide evidence of appropriate types and amounts of insurance covering the event which shall include ADC as additional insured.

RECOMMENDATION:

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

1. Applicant shall be required to provide adequate commercial general liability insurance or special event insurance which includes ADC and ADC property as additional insured; and
2. Applicant shall provide volunteers to ensure the safe and orderly use of the premises; and
3. All other standard terms and conditions of the right-of-entry shall apply.

Respectfully Submitted,

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James J. Nakatani
Executive Director



Parking Location 46th Annual Pineapple Run

JOSH GREEN, M.D.
Governor

SYLVIA LUKE
Lt. Governor



JAMES J. NAKATANI
Executive Director

ITEM D-4

STATE OF HAWAII
AGRIBUSINESS DEVELOPMENT CORPORATION

HUI HO'OULU AINA MAHIAI
235 S. Beretania Street, Room 205
Honolulu, HI 96813

February 16, 2023

Subject: Request for Approval to Renew Revocable Permit No. S-7004
Issued to Gary Smith for 2,780 Square Feet, More or Less, in
Kekaha, Kauai, Hawaii, Tax Map Key No. (4) 1-2-002:001 (por)

Permittee: Gary Smith, an individual

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

Area: 2,780 square feet, more or less

Field No(s).: Non-designated

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, as modified by Governor's Executive Order
Nos. 4034 and 4165

Trust Land Status: Ceded land under 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: Home Gardening

Land Doc. Type: Revocable Permit

Term: Month-to-month, annual renewal

Rental Rate: \$13 per Month
Annual Rent: \$156

BACKGROUND:

Governor's Executive Order No. 4007 signed in 2003 set aside approximately 12,500 acres of the former Kekaha Sugar lands to the Agribusiness Development Corporation (ADC). Revocable Permits previously issued by the Department of Land and Natural Resources were transferred to the ADC in November 2003. Revocable Permit No. S-7004 (Permit), issued to Gary Smith (Permittee) for 2,780 square ft of vacant land (see

"Exhibit A") behind Permittee's house and adjacent to the Kekaha Ditch. The Permit was effective January 12, 1996, is one of two RPs that have not been converted to ADC revocable permits.

The Permittee's premises are located behind his house adjacent to the Kekaha Ditch and is used as a vegetable garden and lawn area. This land use and location do not qualify for a long-term license.

LAND REQUEST:

Permittee requests the annual renewal of the RP.

WATER NEEDS AND SOURCE OF WATER:

Water needs are currently unknown, however, water for the garden is sourced from the residence.

OPERATIONAL PLAN:

N/A

DISCUSSION:

The Permittee is in good standing with ADC, is current on all rent payments, and is an excellent steward of the premises (see "Exhibit B").

RECOMMENDATION:

Based on the foregoing, staff recommends that the Board renew the Permit for one year, subject to the following conditions:

1. Renewal term shall be retroactive to January 12, 2022 – January 11, 2023; and
2. All other terms and conditions shall remain unchanged.

Respectfully Submitted,

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James J. Nakatani
Executive Director

EXHIBIT A



EXHIBIT B



JOSH GREEN, M.D.
Governor

SYLVIA LUKE
Lt. Governor



JAMES J. NAKATANI
Executive Director

ITEM D-5

STATE OF HAWAII
AGRIBUSINESS DEVELOPMENT CORPORATION

HUI HO'OULU AINA MAHIAI
235 S. Beretania Street, Room 205
Honolulu, HI 96813

February 16, 2023

Subject: Request for Approval to Issue a Revocable Permit to Robert Rita Jr. dba Robert's Equipment Service for 24 Acres, More or Less, of Land for Pastural Purposes in Waialua, Oahu, Hawaii, Tax Map Key No. (1) 6-5-001:056 (por.)

Applicant: Robert Rita Jr. dba Robert's Equipment Service

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

Area: 24 acres

Field No(s).: Parcel 56 (por.)

Tax Map Key: (1) 6-5-001:056

Land Status: Acquired in fee by the Agribusiness Development Corporation in 2021

Trust Land Status: Section ____ lands of the Hawaii Admission Act
Yes ____ No **X**

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution? Yes **X** No ____

Zoning: AG-2

Character of Use: Pastural

Land Doc. Type: Revocable Permit

Term: Month-to-month, annual renewal

Rental Rate: \$14 per acre per year
Annual Rent: \$336.00

BACKGROUND:

In December 2020, ADC finalized the purchase 114.504 acres from Dole Food Company, Inc. ("Dole") of a certain property in Waialua, Oahu near Thompson's Corner, more specifically identified as Tax Map Key (1) 6-5-001-044. The property, shown in Exhibit A, is irregular in shape with a mixture of level areas and moderately sloping

areas. Soil is mixed dirt and rock. Approximately 60 acres of land is being farmed. The remaining acreage includes roads, gulches, and the subject area which slopes into a drainage easement abutting the homes. Mr. Robert Rita Jr. dba Robert's Equipment Service has been mowing the subject area at no cost to the state for the past 8 months for brush control and fire mitigation.

LAND REQUEST:

Permittee requests a revocable permit for the subject area on which to pasture horses to help keep the lower portion, which is sloping and rocky, well maintained.

WATER NEEDS AND SOURCE OF WATER:

N/A

OPERATIONAL PLAN:

Fence 24 acres, shown in Exhibit B, abutting the property line that is next to the Dole Village at the Thompson Crossing and place 5 head of Horses in 2 adjoining paddocks within the 24 acres for progressive grazing that will control the constant growth of grass and weeds. The remaining acreage will be maintained (mowed and baled) by Mr. Rita at no cost to the state.

CONSERVATION PLAN:

The standard terms of the revocable permit do not include a requirement for a conservation plan, however, staff has made the Permittee aware that an approved conservation plan will be required if the Permit is renewed next year.

DISCUSSION:


ADC would like to allow Mr. Rita to place horses on 24 acres abutting the community to serve as a full and constant mitigation of grass and fire prevention near the housing. This solution will satisfy the Dole Village's request to keep the grass down at no cost to the state. ADC does not have staff or equipment to complete this intermittent work, so an alternative would be to hire a private contractor.

RECOMMENDATION:

To approve a month-to-month Revocable Permit to Robert Rita Jr. dba Robert's Equipment Service for 24 acres subject to the following conditions:

1. Rent shall be \$14/acre/year;
2. Terms shall be month-to-month, revocable at any time with 30-day notice;
3. Upon execution, tenant shall deposit the sum of \$336.00 as security deposit;
4. All other standard revocable permit terms and conditions shall apply.

Respectfully Submitted,

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James J. Nakatani
Executive Director

EXHIBIT A



EXHIBIT B



JOSH GREEN, M.D.
Governor

SYLVIA LUKE
Lt. Governor



JAMES J. NAKATANI
Executive Director

ITEM D-6

STATE OF HAWAII
AGRIBUSINESS DEVELOPMENT CORPORATION

HUI HO'OULU AINA MAHIAI
235 S. Beretania Street, Room 205
Honolulu, HI 96813

February 16, 2023

Subject: Request for Approval to Extend the Terms of License Agreement
Nos. LI-K1702 (Kokee Ditch) and LI-K1703 (Mana Reservoir)
Issued to Kauai Island Utility Cooperative in Kekaha, Kauai,
Hawaii, Tax Map Key Nos. (4) 1-2-002:001 (por.), Various

Licensee: Kauai Island Utility Cooperative

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

Area: Mana Reservoir 30 acres, more or less
Kokee Ditch Undetermined

Field No(s).: Non-Designated

Tax Map Key: Mana Reservoir (4) 1-2-002:001
Kokee Ditch (4) 1-2-001 (various)
(4) 1-4-001 (various)

Land Status: Portions of various parcels of Tax Map Key (4) 1-2-002:001 (por.)
under Governor's Executive Order No. 4007 to the Agribusiness
Development Corporation for Agricultural and Related Purposes,
as modified by Governor's Executive Order Nos. 4034 and 4165,
and

Portions of various parcels of Tax Map Key (4) 1-2-001 and (4) 1-
4-001 under Governor's Executive Order No. 4287

Trust Land Status: Section 5(b) lands of the Hawaii Admission Act
Yes **X** No ____

DHHL 30% entitlement lands pursuant to the Hawaii State
Constitution? Yes **X** No ____

Character of Use: Access for due diligence purposes; construction and operation of
the West Kauai Energy Project; agricultural

Land Doc. Type: License (option to convert to lease)

Term: 5.5 years (current); Approval of Request would extend term by 6
months to August 27, 2023.

Rental Rate: N/A

BACKGROUND:

Kauai Island Utility Cooperative (KIUC) has been incorporated in the State of Hawaii since November 1999, as a non-profit Cooperative whose stated purpose is the generation, transmission, and distribution of electricity to its member-owners. Discussions regarding the West Kauai Energy Project (WKEP) (formerly the “Puu Opae Project”) involving Agribusiness Development Corporation (ADC), Hawaii Department of Land and Natural Resources (DLNR), and Hawaii Department of Hawaiian Home Land (DHHL) lands and infrastructure began around 2011. KIUC has made multiple presentations to the ADC board regarding WKEP, which include components that are related, and would be beneficial, to agricultural and other activities in the area.

WKEP would utilize the upper portion of the Kokee Ditch and all pertinent diversions, and the Puu Lua (DLNR), Puu Opae (DHHL) and Mana (ADC) Reservoirs in order to integrate pumped storage, store and release hydro generation, and the delivery of water for irrigation (Project) (Exhibit A). The purpose of the project is to make the most efficient use of the water resource, to allow KIUC to maximize renewable generation during the evening peak demand hours, and to support irrigation on the west side.

On November 16, 2016, the Board of Directors (Board) of ADC approved the issuance of two 5-year land licenses, one for the Kokee Ditch and one for the Mana Reservoir with an option to convert the license to a 65-year lease for the same, pending completion of the environmental review process. ADC engaged with KIUC to negotiate the terms of the licenses on the basis of KIUC’s not-for-profit status as an energy cooperative. License Agreement Nos. LI-K1702 (Kokee Ditch) and LI-K1703 (Mana Reservoir), collectively the “Licenses,” were issued and effective August 28, 2017.

In August 2022, as the expiration of the Licenses were approaching and the environmental review yet to be completed, KIUC requested a 6-month extension of the Licenses. The Board approved the request at their meeting on August 17, 2022.

KIUC submitted their Final Environmental Assessment (FEA) to DLNR in December 2022 with a *finding of no significant impact (FONSI)* and the FEA was published in the January 8, 2023 issue of *The Environmental Notice*.

On February 6, 2023, on behalf of Pō‘ai Wai Ola/West Kaua‘i Watershed Alliance and Nā Kia‘i Kai, EarthJustice filed a complaint in State of Hawaii First Circuit Court under Civ. No. 1CCV-23-0000165 challenging DLNR’s approval of the FONSI.

REQUEST:

Staff requests that the Licenses be extended for a period of six months, pursuant to paragraph 1(B)¹ of the Licenses, to allow time to negotiate appropriate lease or license terms.

WATER NEEDS AND SOURCE OF WATER:

N/A

OPERATIONAL PLAN:

N/A

CONSERVATION PLAN:

N/A

DISCUSSION:

Due to pending litigation filed by EarthJustice, staff believes the Licenses should be extended to allow additional time to negotiate appropriate lease or license terms.

RECOMMENDATION:

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

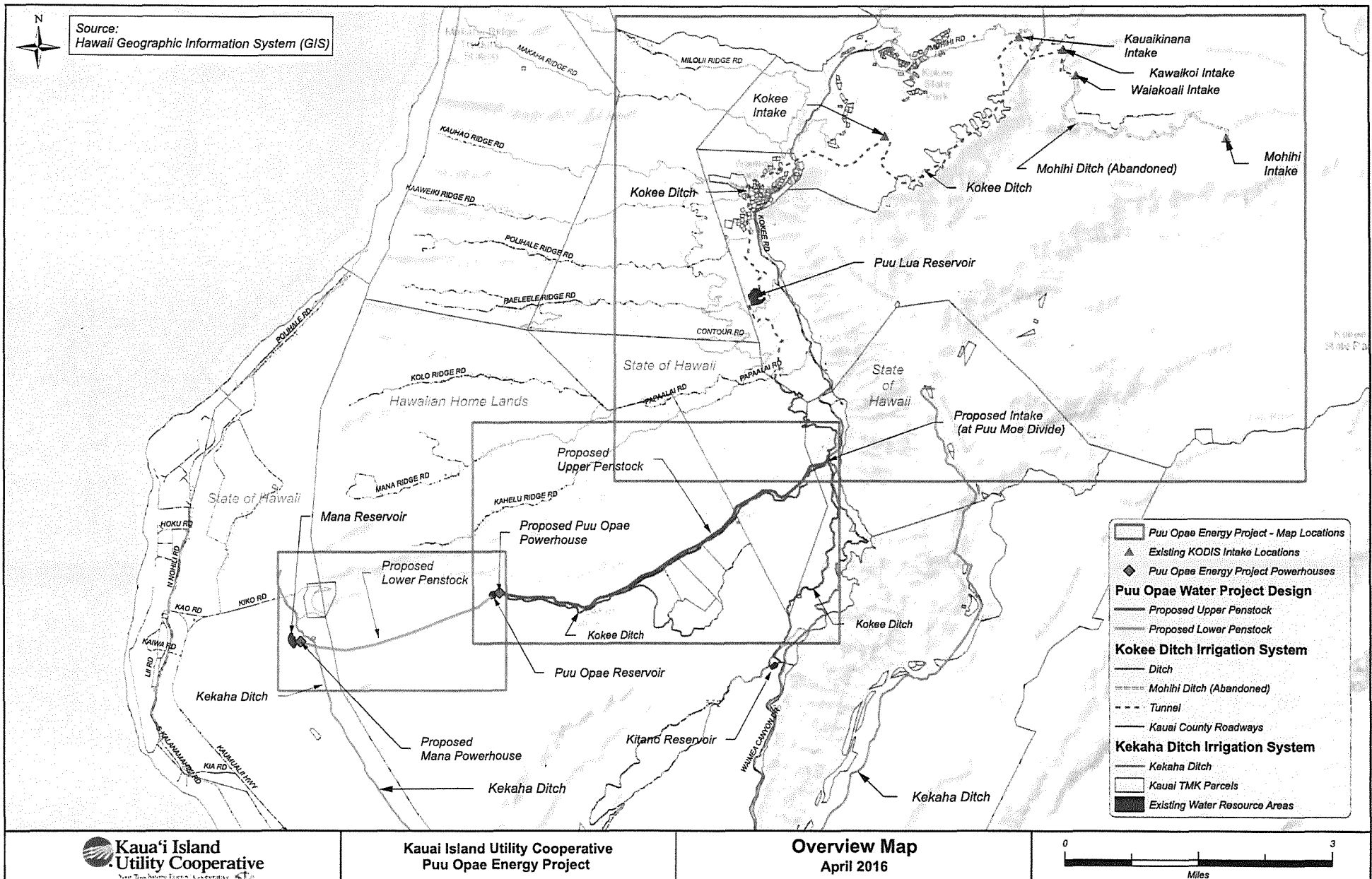
1. The Executive Director is authorized to amend the Licenses to extend the current licenses for four months, such that they shall expire on August 27, 2023.
2. All other terms and conditions of the Licenses shall remain the same.

Respectfully Submitted,

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James J. Nakatani
Executive Director

¹ the Licenses (paragraph 1(B)): "LICENSOR and LICENSEE may agree to extend the term of this License Agreement any number of times for such period or periods of time as the LICENSOR and LICENSEE shall determine is reasonable under the circumstances."



JOSH GREEN, M.D.
Governor

SYLVIA LUKE
Lt. Governor



JAMES J. NAKATANI
Executive Director

ITEM E-2

STATE OF HAWAII
AGRIBUSINESS DEVELOPMENT CORPORATION

HUI HO'OULU AINA MAHIAI
235 S. Beretania Street, Room 205
Honolulu, HI 96813

February 16, 2023

Subject: Request for Approval for the Assignment and Transfer of Lease Agreement No. LE-K1201 from Beck's Superior Hybrids, Inc. to the State of Hawaii, Department of Education for Agricultural and Educational Purposes of 10.0 Acres, More or Less, in Kekaha, Kauai, Hawaii, Tax Map Key (4) 1-2-002:001 (por.)

Assignor: Beck's Superior Hybrids, Inc.

Assignee: State of Hawaii, Department of Education

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

Area: 10.0 acres

Field No(s).: Field 309 (por.)

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, as modified by Governor's Executive Order Nos. 4034 and 4165

Trust Land Status: Ceded land under 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: Agricultural, Educational

Land Doc. Type: Lease

Term: 35 years (currently in year 10)

Rental Rate: \$710.00 per acre per year
Annual Rent: \$7,100

BACKGROUND:

Lease No. LE-K1201 (Lease) issued to BASF Plant Science LP (BASF) was approved by the Board (Board) of the Agribusiness Development Corporation (ADC) at its meeting on March 15, 2012 for 10.0 acres of Field 309 (Exhibit A) "...to construct a farm equipment storage/office/administration building and certain other facilities to be used for seed processing and handling..." (LE-K1201, p. 3). In 2016, BASF requested the assignment and transfer of the Lease to Beck's Superior Hybrids, Inc. (Beck's); the Board approved the assignment and transfer at their meeting on September 28, 2016.

In March 2021, Beck's announced that they would cease operations in Hawaii and sought to find a buyer for their lease holdings in Kekaha. Subsequently, Beck's transmitted a Letter of Intent from the State of Hawaii, Department of Education (DOE) for the assumption and assignment of Lease No. LE-K1201 to DOE.

At their meeting on August 25, 2021, the Board *approved-in-concept* the proposed assignment and transfer of the Lease, pending an appraisal of the premises; the appropriation, approval, and release of state funds; and final agreement of the parties.

Funds were appropriated and approved in 2022 and subsequently released by the Governor.

LAND REQUEST:

Beck's requests the assignment and transfer of Lease No. LE-K1201 from Beck's Superior Hybrids, Inc. to the State of Hawaii, Department of Education of 10.0 acres for agricultural and education purposes (Exhibit B).

WATER NEEDS AND SOURCE OF WATER:

Water needs for uses related to the transfer are currently unknown, though staff does not anticipate a significant change in demand. The premises have access to potable water from the Pacific Missile Range Facility, and access to Waiawa Reservoir water for groundskeeping purposes via Field 108 pump station.

OPERATIONAL PLAN:

DOE plans to utilize the premises for classroom teaching activities, food processing and preparation, and food storage.

CONSERVATION PLANNING:

N/A

DISCUSSION:

The Lease permits the assignment and transfer of the Lease with the written approval of ADC¹. The parties have requested the assignment and transfer of the Lease from Beck's

¹ License (paragraph 23): "Assignment. Except as expressly provided in this Lease, this Lease is not transferable. At no time during the term of this Lease shall LESSEE assign, mortgage, or pledge its interest in this Lease, or its interest in the improvements now or hereafter erected on the Premises, without the prior written consent of LESSOR, which consent will not be unreasonably withheld."

to DOE and staff finds the DOE's proposed use of the premises and facilities will be complimentary to ADC's mission and will benefit the state and the local community.

A Phase 1 Environmental Site Assessment (ESA) was conducted of the subject property which noted the following:

- No Recognized Environmental Conditions were identified on the subject property during the ESA; and
- No Historically Recognized Environmental Conditions have been identified on the subject property during the conduct of this ESA.


Lastly, staff notes that the annual base rent was scheduled to reopen in July 2022, subject to an appraisal. At the same time, ADC was in the process of an administrative transfer from the Hawaii Department of Agriculture to the Hawaii Department of Business, Economic Development, and Tourism and had very limited access to funds with which to conduct an appraisal. To date, an appraisal has not been conducted.

RECOMMENDATION:

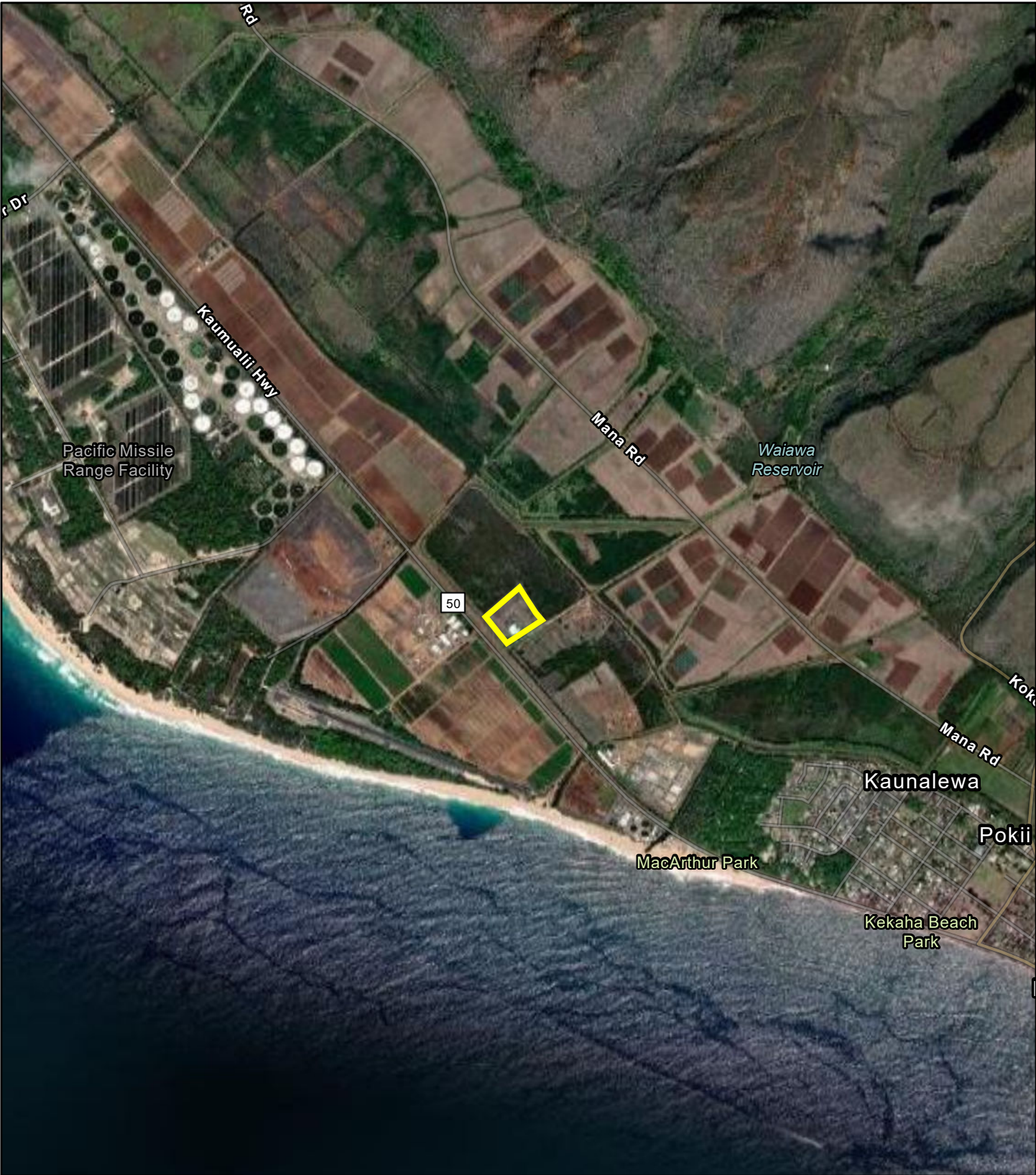
Based on the foregoing, staff recommends that the Board approve the assignment and transfer of the Lease from Beck's Superior Hybrid's, Inc to the State of Hawaii, Department of Education, and authorize the Executive Director to execute the assignment and transfer of the Lease for the remaining term of the Lease, subject to the following conditions:

1. Base annual rent assessed to DOE shall remain the same; and
2. Reopening of base annual rent scheduled for July 2022 shall be waived and the Lease amended to reflect a 2.5% increase every 5 years after the effective date of the assignment, pursuant to ADC's land management policies and procedures; and
3. All other terms and conditions of the Lease shall remain the same.

Respectfully Submitted,

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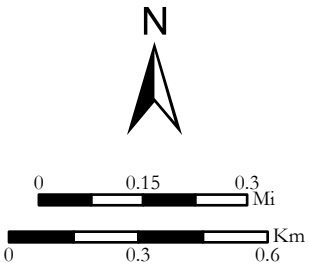
James J. Nakatani
Executive Director



Beck's Superior Hybrids, Inc.
Lease No. LE-K1201

Resource Mapping Hawaii, Maxar, Esri, HERE, Garmin, SafeGraph, METI/
NASA, USGS, EPA, US Census Bureau, USDA, Earthstar Geographics, State
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Coordinate System: WGS 1984 Web Mercator Auxiliary Sphere





January 25, 2023

Lyle Roe, Property Manager
Agribusiness Development Corporation (ADC)
235 South Beretania St, Room 205
Honolulu, HI 96813

Dear Lyle Roe:

On behalf of Beck's Superior Hybrids, Inc, I would like to request the transfer of the lease LE-K1201 from Beck's Superior Hybrids, Inc, to the State of Hawaii Department of Education. We request to be on the agenda for the February ADC Board meeting (February 16, 2023, per your recent email). This involves a portion of the property identified as Field 309, consisting of approximately 10 acres currently assigned via lease to Beck's Superior Hybrids, Inc.

This transfer was approved "in principle" at a Board meeting in 2021, we are looking to complete the official final transfer approval as Beck's Superior Hybrids, Inc, and the State of Hawaii Department of Education have now reached a final agreement on the sale of the facilities housed at this site.

Thank you in advance for your assistance with the completion of this request.

Sincerely,

Thomas C. Koch, PhD
Research Manager, Beck's Superior Hybrids, Inc



STATE OF HAWAII
AGRIBUSINESS DEVELOPMENT CORPORATION

HUI HO'OULU AINA MAHIAI
235 S. Beretania Street, Room 205
Honolulu, HI 96813

EXECUTIVE DIRECTOR'S REPORT

February 16, 2023

1. Legislative Update

SB833 – RELATING TO THE WAHIAWA IRRIGATION SYSTEM.

Requires the Office of the Governor to negotiate the State's fee simple acquisition of the Wahiawa irrigation system on the island of Oahu. Authorizes and appropriates funds for the Department of Agriculture, Agribusiness Development Corporation, and Department of Land and Natural Resources to purchase, repair, and maintain the Wahiawa irrigation system and the associated spillway. Appropriates funds four full-time equivalent (4.0 FTE) positions for the Department of Land and Natural Resources. Effective 7/1/2050. (SD1)

SB825 – RELATING TO THE AGRIBUSINESS DEVELOPMENT CORPORATION

Establishes the startup agriculture business and farms special fund to provide seed capital for and venture capital investments in private sector projects for startup agricultural businesses and farms. Establishes the value-added startups special fund to provide seed capital for and venture capital investments in private sector projects for value added startups. Appropriates moneys.

SB818 – RELATING TO AQUACULTURE

Transfers the aquaculture program from the Department of Agriculture to the Agribusiness Development Corporation. Appropriates moneys.

SB 836 – RELATING TO THE AGRIBUSINESS DEVELOPMENT CORPORATION

Authorizes the Agribusiness Development Corporation to acquire property through condemnation.

SB1246/HB946 – RELATING TO THE FOOD SUPPLY

Requires the Agribusiness Development Corporation to plan, design, construct, and operate a new animal slaughterhouse on the island of Oahu. Appropriates moneys.

SB1547 – RELATING TO VALUE ADDED PRODUCTS

Establishes a food and product innovation network within the Agribusiness Development Corporation. Appropriates moneys for food and product innovation facilities on the islands of Molokai and Oahu.

SB1507 – RELATING TO FOOD INNOVATION

Establishes and appropriates moneys for a food and product innovation network office within the Agribusiness Development Corporation. Establishes a food and product innovation network advisory council to advise the administrators of the food and product innovation network office.

HB255 – RELATING TO AGRICULTURE

Amends various powers and priorities of the agribusiness development corporation, including several of its processes, membership of its board of directors, term of its executive director, and the scope of its work.