

JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR



WENDY GADY
EXECUTIVE DIRECTOR

STATE OF HAWAII
AGRIBUSINESS DEVELOPMENT CORPORATION
HUI HO'OU LU AINA MAHIAI

Regular Meeting of the Board of Directors

Held via Teleconference with In-Person Viewing Location

March 21, 2024
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. If possible, 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, or delivered to:

Agribusiness Development Corporation
235 S. 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/87152480273>

Telephone: (669) 900-6833, Webinar ID: 871 5248 0273

In-Person: at the meeting location indicated below

ICT ACCESS

To view the meeting and provide live oral testimony, please use the link above. You will be asked to enter your name in order to access the meeting as an attendee. 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.

As an attendee, 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 above.

Upon dialing the number, you will be prompted to enter the Meeting ID that is listed next to the Telephone Number above. After entering the Meeting ID, you will be asked to either enter your panelist number or wait to be admitted into the meeting. You will not have a panelist number. 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

Board Meeting Agenda

March 21, 2024

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., Suite 205
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 meeting process, including translation or interpretation services, please contact staff at (808) 586-0186 or by email at dbedt.adc@hawaii.gov.

Please allow sufficient time for ADC staff to meet requests for special assistance, accommodation, modifications, auxiliary aids, translation, or interpretation services.

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 MARCH 15, 2024.

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

If you believe that you have been discriminated against with respect to an Agribusiness Development Corporation program or activity, you may contact the Acting Non-Discrimination Coordinator identified above.

AGENDA

- A. Call to Order
- B. Approval of Minutes
 - 1. Executive Session Minutes, November 16, 2023
 - 2. Regular Session Minutes, January 18, 2024
 - 3. Executive Session Minutes, January 18, 2024
 - 4. Regular Session Minutes, February 15, 2024
- C. Chairperson's Report
 - 1. None
- D. Committee Reports
 - 1. Administration Committee Meeting, March 7, 2024
- E. Action Items
 - 1. Request to refer Lease Agreement No. LE-K1201, assigned to the Hawaii Department of Education, to the Department of the Attorney General for enforcement action. Kekaha, County of Kauai, State of Hawaii, TMK (4) 1-2-002:001 (por.)
 - 2. Request for approval to enter into a memorandum of understanding between ADC and the Hawaii Foreign Trade Zone to encourage, support, and facilitate planning, implementation, and scaling related activities
 - 3. Request for approval to issue a right of entry agreement to Hawaii Department of Land and Natural Resources, Division of Forestry and Wildlife for the purpose access through the Kalepa property to access a project site; Kalepa, County of Kauai, State of Hawaii, TMK (4) 3-9-002:001, 4-2-001:003
 - 4. Request for approval to issue a Letter of Authorization to Hawaii Drilling & Pump Service on behalf of the City & County of Honolulu, Board of Water Supply, to access Reservoir 225 for purposes of a 96-hour continuous pump test for an adjacent well and property at Kunia, City & County of Honolulu, State of Hawaii, TMK (1) 9-4-003:001 (por.)
 - 5. Request for approval to enter into a memorandum of understanding between the Agribusiness Development Corporation and the Hawaii Tropical Fruit Growers

Association to encourage, support, and facilitate planning, implementation, and scaling related activities

6. Assignment of scopes of investigation to the permitted interaction groups on land, water, and agricultural efficiencies which were established at the Board of Directors meeting on February 15, 2024
7. Request for approval to establish a permitted interaction group of the Board of Directors for the purpose of conducting the annual performance review of the executive director; appointment of members thereto
8. Request for after-the-fact approval to renew Revocable Permit No. S-7299 issued to Senter Petroleum, Inc. for 0.5 acres in Kekaha, County of Kauai, State of Hawaii, TMK (4) 1-2-002:001 (por.) for fuel storage and dispensing purposes
9. Request to rescind prior Board approvals of November 28, 2018, which (a) approved a land agreement between ADC and Kauai Island Utility Cooperative for solar panels, and (b) approved material terms of a power purchase agreement between Kekaha Agriculture Association and Kauai Island Utility Cooperative.
10. Discussion and action on the November 17, 2023 letter from Senator Donovan Dela Cruz asking the ADC Board to waive attorney-client privilege with regards to the August 8, 2023 executive session minutes relating to candidate interviews, discussion of executive director salary, and board selection of executive director, continued from January 18, 2024 and February 15, 2024 board meetings. *The Board may go into executive session to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities.*

F. Informational Items

1. Update by Mary Alice Evans, Director, Office of Planning and Sustainable Development, regarding the status of ADC's strategic planning
2. Presentation by Brian Miyamoto, Executive Director, Hawaii Farm Bureau, regarding the annual Farm Fair
3. Executive Director's Report regarding

G. Adjourn

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

AGRIBUSINESS DEVELOPMENT CORPORATION

Minutes of the Board of Directors Meeting held Virtually on January 18, 2024

Via Zoom Teleconference and/or In-Person at 235 S. Beretania St., Suite 205, 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 Hawai'i, Leiopapa A Kamehameha, State Office Tower Building, 235 S. Beretania St., Suite 205, Honolulu, HI 96813.

Members Present, virtually:

Warren Watanabe, Member-At-Large, Chair (Chair)
 Earl Yamamoto, Designated Representative for HBOA Ex-Officio Member Sharon Hurd (Mr. Yamamoto)
 Jason Okuhama, Member-At-Large (Mr. Okuhama)
 Karen Seddon, Member-At-Large (Ms. Seddon)
 Lyle Tabata, Kauai County Member, Vice-Chair (Mr. Tabata)
 Russell Tsuji, Designated Representative for DLNR Ex-Officio Member Dawn Chang (Mr. Tsuji)
 Jayson Watts, Maui County Member (Mr. Watts) (left the meeting at 2:10 P.M.)
 Dane Wicker, Designated Representative for DBEDT Ex-Officio Member James Tokioka (Mr. Wicker)

Members Excused:

Glenn Hong, Member-At-Large

Counsel Present, virtually:

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

Staff Present, virtually:

Wendy L. Gady, Executive Director (Ms. Gady)
 Mark Takemoto, Executive Assistant
 Ken Nakamoto, Project Manager
 Lyle Roe, Property Manager (Mr. Roe)
 Ingrid Hisatake, Secretary (Ms. Hisatake)

Guests Present, virtually:

1360
 1-808-383-5259
 ADC Guest
 Basil Gomez, KAA
 Beth Amaro, KIUC
 Dana Shapiro, Ulu Coop (Ms. Shapiro)
 Dave Bissell, KIUC
 Dawn Huff, KIUC
 Elena Bryant, EarthJustice
 Jesse Cooke, Ulu Pono
 Josh Uyehara, KAA (Mr. Uyehara)
 Mark Ladeo
 Mike Faye, KAA
 Rae Gee
 Scott Ishikawa
 Trisha Yamato

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Guests Present, physical location:

Henry Curtis, Life of the Land (Mr. Curtis)

A. Call to Order

Chair called the meeting to order at 9:04 A.M.

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

Roll call: Chair, Mr. Yamamoto, Mr. Okuhama, Ms. Seddon, Mr. Tabata, Mr. Tsuji, Mr. Watts, and Mr. Wicker acknowledged attendance with no guests present.

B. Approval of Minutes

1. Regular Session Minutes, November 16, 2023

Chair stated that the approval of the November 16, 2023, minutes would be deferred to the February meeting and introduced Ms. Hisatake, the new executive secretary who joined ADC in mid-December 2023, and she was getting familiar with creating the board minutes from the Zoom records.

Ms. Hisatake thanked everyone and stated she was happy to be here and to be part of the ADC team.

2. Executive Session Minutes, November 16, 2023

Chair stated that during the executive session held on November 16, 2023, the Board discussed Sunshine law complaints appeal 24-02 with counsel. HRS section 92-4 and 92-5(a)(4) allows a meeting to be closed to the public when necessary to consult with the Board's attorney. In order to maintain the confidentiality of matters discussed in the executive session, the draft minutes were provided directly to Board Members for review. Chair asked that the Board respect the confidentiality of the November 16, 2023 executive session when discussing approval of the minutes.

Chair called for a motion to approve the November 16, 2023 executive session minutes.

Motion to approve: Ms. Seddon; Second: Mr. Wicker.

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

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

Chair asked for Board discussion. There was none.

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Chair called for the vote. Mr. Yamamoto, Mr. Tsuji, and Mr. Tabata stated they were not present at the November 16, 2023 executive session and would abstain from voting.

Ms. Prescott-Tate noted that would leave only five member to vote on approving the minutes and a quorum of six members was necessary for the board to take action.

Chair asked for a motion to defer approval of the minutes from the November 16, 2023 executive session until the next meeting.

Ms. Seddon asked if it would be easier to withdraw her motion to approve the November 16, 2023 executive session minutes.

Chair agreed.

Ms. Seddon withdrew her motion to approve the November 16, 2023 executive session minutes.

Mr. Wicker withdrew his second of the motion to approve.

Chair deferred the approval of the minutes from the November 16, 2023 executive session until the next meeting.

C. Chairperson's Report

1. None

D. Committee Reports

1. **Administration Committee Report, January 16, 2024 meeting**

Chair called on the Administration Committee chair Mr. Tabata to give his report.

Mr. Tabata said the administration committee was formed in February 2023 for purposes of licensing vacant ADC property. Former-Chair Lau appointed Mr. Tabata, Mr. Watts, and Mr. Wicker to the committee and Former-Chair Lau also made himself a member of the committee. The first order of business on January 16, 2024 was getting the committee organized by electing a chair and vice chair. Mr. Tabata was elected Chair and Mr. Watts was elected vice chair. The committee reviewed the last version of the land application and discussed what modifications needed to be made to include economic drivers, food security, and a way of objectively measuring the applicants. The committee was assigned to make amendments to the application form and provide their suggested amendments to staff before the next meeting scheduled for February 20, 2024 at 10 A.M.

E. Action Items

1. **Request for approval to terminate lease agreement DLR-220 issued to 808 Stone, Inc., as amended, and issue notice to vacate the premises in Whitmore Village, Oahu, Hawaii, Tax Map Key (1) 7-1-002:009 (por.)**

Chair called for a motion to approve.

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Motion to approve: Mr. Wicker; Second: Mr. Tabata.

Chair called on staff for the presentation.

Mr. Roe stated the submittal pretty much covers everything. Several years ago the legislature appropriated money for a pedestrian bridge between Wahiawa and Whitmore Village. The path of the bridge goes through ADC property. Two tenants were affected. One is 808 Stone, and the other is the next agenda item, Manoa Honey. Both tenants have had plenty of notice that when construction begins they have to vacate the property. Work on the pedestrian bridge is scheduled to begin in the third or fourth quarter of this calendar year.

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

Chair asked if there was any board discussion.

Mr. Wicker asked if we have to relocate the tenant to another area on ADC property.

Mr. Roe stated that this tenant will be applying for vacant ADC land, which was fortuitous we were opening up the land for applications now. These tenants had been aware for some time that the bridge was coming.

Mr. Tsuji asked if this was a revocable permit that could be terminated with thirty days' notice.

Mr. Roe replied that this was a Dole lease that expired in 2015 and we have been treating it as a month to month revocable permit with ADC.

Mr. Tsuji asked if there were any improvements reverting to the State or do the improvements have to be moved?

Mr. Roe said all the improvements are movable; agricultural ponds and plastic tubs; some small structures on the side will have to be removed.

Mr. Okuhama asked who was responsible for cleaning up the property. Based on the pictures it looks like there is a lot of stuff that needs to be cleaned up.

Mr. Roe stated the tenant was responsible for cleaning up the property under the revocable permit. If the tenant's interested in applying for another ADC property the tenant must be in good standing with ADC. That's an incentive to clean up the property.

Chair asked if there was any further discussion or questions. There was none. Chair called for the vote. Hearing no objections the motion was approved: 8-0.

2. Request for approval to terminate Revocable Permit No. RP16-05 issued to Manoa Honey Company LLC, as amended, and issue notice to vacate the premises in Whitmore Village, Oahu, Hawaii, Tax Map Key (1) 7-1-002:009 (por.)

Chair called for a motion to approve.

Motion to approve: Mr. Okuhama; Second: Ms. Seddon.

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Chair called on staff for the presentation.

Mr. Roe stated this submittal was similar to the last request. This tenant is using the space to store equipment. It's well kept and clean. The pedestrian bridge will be coming through affecting this operation, and the tenant will be submitting a land application request.

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

Chair asked if there was any board discussion.

Mr. Tsuji asked if the building belonged to the tenant.

Mr. Roe explained that the tenant did not build the building and was only using a portion of the building under a revocable permit.

Chair asked if there was any further discussion or questions. There was none. Chair called for the vote. Hearing no objections the motion was approved: 8-0.

3. Request for approval to issue a license agreement to Gary Smith for 2,780 square feet of land in Kekaha, Kauai, Hawaii, Tax Map Key (4) 1-2-002:001 (por.)

Chair called for a motion to approve.

Motion to approve: Mr. Wicker; Second: Mr. Tsuji.

Chair called on staff for the presentation.

Mr. Roe stated this tenant has held a revocable permit since 1996 that was first issued by DLNR [Department of Land and Natural Resources] and then the property came to ADC. The map attached to the submittal shows that the tenant's backyard abuts the property along the Kekaha ditch. From the pictures you can see the property is well maintained for home gardening purposes. This tenant has remained on a revocable permit for years, which must be approved annually by the Board. Based on feedback from the Board, staff offered the tenant a license, so the Board doesn't have to keep approving the revocable permit every year. Staff recommended giving the tenant a five year license for 2,780 square feet.

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

Chair asked if there was any board discussion.

Mr. Wicker asked if this home gardening concept was available for other communities to help maintain buffers between ADC land and homes.

Mr. Roe stated yes we have done that in Whitmore with the gardening permits.

Mr. Wicker encouraged ADC to try and get more neighborhood involvement to help with the maintenance of ADC property.

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Mr. Tsuji interjected that DLNR does that. Parcels can be better managed by those living close to State parcels. It helps keep the area clean.

Mr. Roe stated, to follow up on Mr. Wicker's comment, the gardening permits in Whitmore were based off of this particular tenant. You need the right person. If you look at the photos his yard is immaculate. There are some beautiful yards in Whitmore, but there have been some challenges with others.

Mr. Yamamoto asked if there was any liability to the State by allowing neighboring land owners to garden on ADC property. What if someone gets injured on the property?

Mr. Roe responded that to be eligible to receive a gardening permit there was an insurance requirement and indemnity clause.

Chair asked if there was any further discussion or questions. There was none. Chair called for the vote. Hearing no objections the motion was approved: 8-0.

4. Request for approval to execute and enter into a memorandum of understanding between ADC, Hawaii Technology Development Corporation (HTDC), and Natural Energy Laboratory of Hawaii Authority (NELHA) to encourage, support, and facilitate planning and research-related activities

Chair called for a motion to approve.

Mr. Wicker interjected saying that there was actually a newer version of this Memorandum of Understanding (MOU) that added the Hawaii Department of Agriculture (HDOA). We just received the new version yesterday and it's not the one attached to the agenda. This MOU was created for purposes of figuring out how not to duplicate things. HTDC and NELHA are both attached agencies to DBEDT. Aquaculture also involves University of Hawaii, workforce development, and research. This MOU was driven by the Director's Office of DBEDT. ADC's role would be to help out once an incubator company moves out of NELHA to help them scale up their operations. I would ask the board to defer this until the next meeting.

Chair called on Mr. Watts.

Mr. Watts asked if HTDC could do a presentation for the Board or if we could hear from the other Boards involved to make sure we can actually handle what's being agreed to.

Chair stated that may be possible to add it to a future agenda. Any comments from the other Board members about having a presentation from the other boards? Hearing no further discussion Chair stated with no objection from the Board, this matter will be deferred to the February meeting.

5. Discussion and action on public records request from Kauai County Councilperson Bill DeCosta requesting the personal email addresses of members of the ADC Board of Directors

Chair asked Mr. Roe for the presentation.

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Mr. Roe stated this was a request for personal email addresses. For example, Ms. Hurd, Mr. Tsuji, and Mr. Wicker do not have a privacy interest in their State of Hawaii email addresses, and their email addresses will be provided. But non-state employed board members do have a privacy interest in their personal email addresses. Generally, if a member of the public wishes to communicate directly with a specific board member, the public is able to send their communication through ADC's email address dbedt.adc@hawaii.gov or telephone number 808-586-0186. ADC staff will communicate the public request to the respective Board member. It's the Board member's decision on how he or she responds to public communications. The Board member could respond directly to the public or ask ADC staff to relay the response. The public has always been able to contact the Board members through ADC at any time.

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

Chair asked if there was any Board discussion.

Mr. Watts asked what was the genesis of this request?

Mr. Roe responded that he did not want to mischaracterize what Council Member DeCosta's intentions were, but believed he wanted to communicate his land application directly to the Board members. If you will remember back in February 2023 the Board set up a process for land applications for vacant lands through the Administration Committee. Council Member DeCosta appeared to be frustrated that his land application has not been given consideration outside of this process. Council Member DeCosta was invited to this meeting and would be the one to verify why he wanted this contact information. Page 042 of the submittal contains everything we actually know.

Mr. Watts said as long as the Councilman has been instructed on the normal process, but I have raised this before, some board members have been given government email addresses, so they don't have to use their personal or business accounts. That way communications are property of the State. I think all Board members should be issued hawaii.gov email addresses.

Ms. Seddon stated that we can talk about that in the future. Could we get back to the issue to be decided.

Chair called on Mr. Tsuji.

Mr. Tsuji stated that from the other boards and commission he's seen they don't give out the personal email address of individuals. They give centralized email addresses like ADC for all comments to the Board.

Mr. Tabata noted that Council Member DeCosta used his council letterhead to make his HRS 92F request. That is unusual.

Ms. Seddon asked if we could stick to the process. If someone wants to communicate with us they should go through the ADC email address. I have no desire for another email address.

Chair thanked Ms. Seddon and asked if there was any more discussion. Hearing none, Chair stated that he will call for a "yes" or "no" individual vote on the following question: I authorize my personal non-hawaii.gov email address to be released. If you answer "yes" the email address

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ADC uses to communicate with you will be released in response to Kauai County Council Member DeCosta's public records request. If you answer "no" your email address will not be released. Everybody understand that?

Hearing no response Chair conducted a roll-call vote:

Mr. Okuhama: No.
Ms. Seddon: No.
Mr. Tabata: No.
Chair: No.
Mr. Watts: No.

Chair thanked the Board members and said the Hawaii.gov email addresses for Ms. Hurd, Mr. Tsuji, and Mr. Wicker are the only email addresses that will be provided.

Moving on. Agenda Action Items 6, 7, 8, 9, and 10 may be discussed in an executive meeting closed to the public pursuant to HRS sections 92-4 and 92-5(a)(4), to allow the Board to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities. We will take agenda item F. Information Items one to four out of order, then move into executive session to discuss Action Items 6, 7, 8, 9, and 10.

- 6. Discussion and action on letter from Senator Donovan Dela Cruz asking the ADC Board to waive attorney-client privilege with regards to the August 8, 2023, executive session minutes relating to the candidate interviews, discussion of executive director salary, and board selection of executive director.**

Was taken out of order following Agenda Item F. Informational Items 1 to 4.

- 7. Discussion of Kauai Island Utility Cooperative's recent announcement regarding changes to the West Kauai Energy Project and future impacts to ADC and KAA.**

Was taken out of order following Agenda Item F. Informational Items 1 to 4.

- 8. Discussion regarding the status of Lease Agreement No. LE-K1201 assigned to the State of Hawaii, Department of Education.**

Was taken out of order following Agenda Item F. Informational Items 1 to 4.

- 9. Discussion regarding funding options for the Ohana Best settlement agreement, Civil No. 19-1-1640-10, First Circuit Court, State of Hawaii.**

Was taken out of order following Agenda Item F. Informational Items 1 to 4.

- 10. Update regarding a lawsuit filed by Public First Law Center.**

Was taken out of order following Agenda Item F. Informational Items 1 to 4.

F. Informational Items

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1. Presentation by Dane Wicker, Deputy Director, Department of Business, Economic Development, and Tourism regarding the department's strategic plan

Mr. Wicker gave a PowerPoint presentation. *See* attached presentation.

Chair thanked Mr. Wicker for the presentation and asked if the Board had any questions.

Mr. Watts had a question about the Food Product Innovation Centers. With the Maui wild fires, will the money appropriated for this project be affected?

Mr. Wicker said it was affected but planning this will take twelve months. To bring the project to fruition will take three to five years. We need expertise to manage and operate the machines. We should have funds in the appropriation to at least complete the planning and design of these innovation centers.

Mr. Watts asked if during the next budget cycle will we be able to actually look at construction and equipping these facilities.

Mr. Wicker responded that was correct.

Mr. Watts stated that small cottage industries were unable to grow because of a lack of equipment and capital. These government facilities will benefit small private users. The challenge right now is scaling up. If we have alignment with the legislators and the university system we can help the small producers.

Chair called on Ms. Gady.

Ms. Gady asked Mr. Watts about Mahi Pono's community program. Are they required to be FSMA [Food Safety Modernization Act] or GAP [Good Agricultural Practices] certified to continue farming?

Mr. Watts replied that we work with them on their business plan and help guide them on how to pass an audit and tell them about organizations that will help them with grants and community farmers that will help them complete the NCRS Conservation plan.

Ms. Gady asked if they provide potable water, or do you allow the tenants to pack and process? And on Maui, how long does it take to have a conservation plan approved?

Mr. Watts said it does takes about a year to get a conservation plan approved; about a year. We let them farm as long as they are working on the plan or waiting for the NCRS decision. As far as food processing, we provide the land, but we do not provide the food innovation aspect, or commercial kitchen, or testing of products, or research and development. Having this items provided by the government would be a big plus for the farmers. And the question about potable water, we do not provide the farmers with potable water, which is why they have to go to another facility for food safety and washing their produce.

2. Presentation by Dana Shapiro on behalf of the Hawaii Ulu Cooperative regarding their operations and objectives

Chair called on Ms. Shapiro to give her presentation.

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Ms. Shapiro gave a PowerPoint presentation. *See* attached presentation.

Ms. Shapiro thanked the Board and asked if there were any questions.

Mr. Watts said first I'd like to thank you for your work, I know you created the Aina Pono Farm to School program, and that would never have been possible without the Ulu Co-op. Your product volume slides in 2019, 2020, kinda concerned me. But it's reassuring to see that you have still been able to progress without active DOE [Department of Education] participation. I'm curious; the menu development grant working with DOE was that only for targeted schools or was that for the entire DOE system?

Ms. Shapiro responded that it was for the entire state school district. We presented the recipes we developed along with tasting samples to the menu planning committee and a panel of middle school students in late October. I was told they were well received. We had a consultant working with us to make sure the recipes were USDA standardized so they could go right in DOE meals, but we haven't heard a lot since then.

Mr. Watts asked what was the total acreage for the entire Ulu Co-op farm participants?

Ms. Shapiro stated a little over 200 acres were in Ulu production right now; a little over 6,000 trees. That's not the total farm acreage, most farmers are growing a little bit of Ulu and a little bit of this or that. They're trying out Ulu with interest in expanding if it's successful. We have a few farms, the biggest is fifteen acres, where Ulu is the primary crop, but most of those are still young. We've talked over the years about establishing a larger scale Ulu agroforestry commercial project that the co-op manages as anchor supply for the co-op, and a research and development space for farmers that could be an example of potential collaboration with ADC. Looking at the lands ADC has available are optimal for Ulu. We're thinking about planting an Ulu agroforestry design that's commercially viable and will provide additional benefits as well.

Mr. Watts asked in your ideal world, best case scenario, would you like 20,000 trees or how many trees would you like to see?

Ms. Shapiro said the number of trees planted was going to increase significantly over the next five years as a result of a USDA funding program. We might see another 20,000 trees planted over the next five years. In terms of how many, if you think about the staple food consumption needs of the state, like rice where Hawaii imports 100 million pounds a year, or potatoes where Hawaii imports 25 million pounds a year; with 6,000 trees we're only going to produce about two million pounds. If we want to take out half of the potato imports we would need 36,000 trees. We could use a lot more trees, but we need to be thoughtful about how we develop this so that we don't get into a situation of glutting the market with fresh fruit and having the fruit rot by not having enough processing capacity or storage capacity or not having the value added products and markets developed to ensure that farmers get a good price. It's important that we develop this through a vertically integrated framework. Otherwise you risk Ulu falling into the pitfall of Guava where it was heavily promoted and there wasn't enough vertical value chain development and the market fell. And now you see a ton of unutilized guava all-over East Hawaii. There's lessons to be learned and we should pay close attention to these failures.

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Mr. Watts encouraged the board members to go see Ms. Shapiro's operation if they have a chance; it's impressive. It would also benefit the Board to go to the Hilo operation between the schools to see the facilities they use. It's a good example for ADC to consider.

Chair called on Ms. Gady for the next question.

Ms. Gady stated that ADC's statutes were meant to focus on small farmers and cooperatives. That was a strategic change put in by the legislature in 2022. As the Board is currently embarking on strategic planning it was key for Ms. Shapiro to come and provide some Ag business opportunities. It's taken the Ulu co-op about ten years to ramp up. But how does that compare to other co-ops? And a point of reference, the largest co-op in the United States is Land-o-Lakes. Co-ops are not meant to be small but are meant to scale up to become economically viable. How long do you guess that would be?

Ms. Shapiro replied there's probably a wide range depending on whether they're coming into an established industry like dairy, or an emerging industry like Ulu. Organic Valley, which is one of our advisors and also a co-op, has been able to focus on aggregating milk and helping farmers convert to organic certified and they use co-packers for almost all of their value-added processing because there's tons of dairy processors across the United States. For us, we haven't been able to focus on any one thing because Hawaii doesn't have anything we need. It doesn't have manufacturing co-packers. It doesn't have facilities. It doesn't have a strong extension service that can focus on farmers. I'm just sharing my experience. We've really had to build the whole value chain at one time. I hope by the time we turn ten we'll break even. It might take longer because of the reality with what we're dealing with. We're building an industry from the ground up and there are not a lot of already existing support structures we can lean into. If we could aggregate Ulu and partner with co-manufactures located in the State that would make our lives much easier, but they literally don't exist. The trail that we've laid actually provides a much warmer ecosystem for subsequent co-ops to emerge. I feel like co-ops are more popular now than they were. Just having a success model, even if we're not profitable yet helps future co-ops.

Ms. Gady asked do we need to get the trees planted first and then work on processing?

Ms. Shapiro replied it's different on each island. On Kauai there's a good amount of fruit. Very quickly you can have more fruit than processing capacity, but then immediately, it can flip and go back and forth. When we started, we had more Ulu than there was demand for. We did a lot of marketing and there is more demand. Ulu is a tree crop, and it takes a good five years to have a decent harvest. If you plant 10,000 trees tomorrow, that supply isn't gonna be here for another five to seven years. We've seen economy of scale makes so much difference when it comes to efficiencies, of running facilities, hiring labor, having consistent production. You can plant, you can work with your existing processing capacity and then you can assess how to expand your processing capacity to get ready for more supply in five to seven years.

Ms. Gady asked if you were to work with ADC on Kauai, how much of a dollar investment would you need for capital improvements?

Ms. Shapiro stated that it would depend on what you're starting with. I can just share the numbers at Honalo; the overall upgrade cost at Honalo with an existing building, when we're done will be \$3 million for the whole renovation. Then we'll be able to handle 2 million pounds a year. Then you need working capital to hire staff, coordinate with farmers, establish operations, and solidify markets and sales channels.

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Ms. Gady asked what would be the size of staff? Like ten employees?

Ms. Shapiro responded not initially. We have a partner with a beautiful kitchen but it's not big enough to scale and they're trying to build another facility for more industrial processing, which will probably need about six employees for processing. Because Ulu is seasonal you need to incorporate other crops for year round processing, then you have one person on the farmer side, and maybe two people on the sales side; a staff of less than ten in year one. We currently have about 32 employees with about 21 of them in production because production is labor intensive until you can mechanize part of the process.

Chair called on Mr. Okuhama for the next question.

Mr. Okuhama said that when you're dealing with tree crops it's not like you plant today, harvest by the end of the year. You need to ramp up the operations. How many of your farmers are at peak production?

Ms. Shapiro responded right now across our 6,000 trees we have about 2,000 that are "mature." Another 2,000 are in the between phase so they could be anywhere from zero to half of mature production. And then the other third are not yet fruiting, so they were planted less than five years ago. That's based on the 6,000 trees planted now and how old they are.

Mr. Watts asked if spacing of the trees has been an issue.

Ms. Shapiro said there have been a lot of issues. It's a new industry from a commercial perspective and there's a steep learning curve for farmers as well.

Chair asked if there was any other discussion or questions.

Mr. Watts said with Kauai's move on the farm to school initiative, at least going forward, the Ulu Co-op could be a good way to help the momentum there.

Chair thanked Ms. Shapiro for the presentation and moved on to agenda item 3.

3. Meeting report for recent travel by ADC staff on January 13, 2024, to review certain properties and assets on Maui island, which was also attended by Board members Warren Watanabe, Lyle Tabata, and Jayson Watts

Chair noted that the meeting was cancelled on January 12, 2024, so there will be no report at this time. It may come up again in future discussions. Moving on to the ED's report.

4. Executive Director's Report regarding project updates, land acquisition due diligence, legislative priorities, and introduction of new hires

Ms. Gady stated she would start with the highlights. The ADC annual report was submitted to DBEDT and then DBEDT submitted it to the legislature so that item is completed. We filled our vacancy for a water worker and the new employee starts on January 22nd. We have filled the vacancy of the property manager, and the new employee will start on January 23rd. There were five vacant budgeted positions; four of them have been filled. The one remaining position was contract manager. We do have two candidates. Those requests were still being reviewed by

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budget and finance and governor's office and we should get the monies encumbered. We have an expression of interest form that people continue to fill out. It's a one-pager of any interest a person may have in a project in land, in a building, in a business idea. We currently have 21 expressions of interest on Oahu with 65 acres remaining, and 27 for Kauai with 3,036 acres remaining. We also have seven expressions of interest on the Big Island where we currently have no assets, but it provides a way for the board to set strategy and give direction on where ADC should be looking for potential land acquisitions. On January 16th the standing administration committee did meet and begin the process of awarding licenses. In legislative updates, I did attend opening day and spent time walking around meeting with the legislators. One of my goals was to meet with 100% of the legislators before opening day. I met with the final two senators yesterday, so 100% face-to-face meet and greets with the entire Senate. I also had great conversations with numerous members of the House. I was introduced to the mayor. We completed our budget hearings for the House Finance and Senate Ways and Means. No questions from ways and means but there were a couple of questions on House finance about looking for land acquisitions and why? I provided them with information on two private sales that we are looking at. In one case, there are three specific TMKs for sale inside of our currently managed TMK needed to access our water systems, which would be very crippling for ADC. The second one was also a private sale of a thousand acres on Kauai that adjoins our property. It is currently occupied by small and disadvantaged farmers, and it also contains some of our water sources. Currently we're tracking forty-seven bills. ADC went through legislative training by DBEDT. And a question for the Board, how would you like me to work with the board in terms of tracking bills? How was this done in the past? How would you like me to keep everybody informed? Are there any suggestions from the board?

Chair called on Mr. Watts.

Mr. Watts stated the only suggestion I have on bill tracking would be just provide us with what you're starting off with. Then we could provide input on what measures were important. Your position on the budget is also important. You could keep us updated in your weekly report by adding legislative tracking. I'm in the capital one or two days a week and get questions from senators and reps about ADC. For instance, yesterday I got a question about agritourism. It would be helpful if you could provide a list of what you're tracking and why.

Ms. Gady responded that's very helpful. I am not lobbying or putting forth any strategies or policies because that comes from the board. I was also approached by legislators saying they were planning to write a bill on agritourism. There have also been a number of questions regarding ADC's position on ag worker housing. My response was it's not currently in our statute but I'm aware that it's desperately needed. I've not taken a position on those issues. If members have further questions, please email me.

Mr. Watts stated you can have the legislators approach me. I know tourism has been a topic of discussion that could help us too.

Ms. Gady said we've been working on our due diligence regarding the acquisition of the Wahiawa dam, reservoir, and ditch. We meet biweekly with the consultants. The field work is about 50% complete on the ditch. Due diligence was also being conducted by HDOA and DLNR. ADC's focus was specifically on the irrigation system, data review, planning, and assessments. The governor released \$500,000 for the Food and Product Innovation Network (FPIN). We're collaborating with the University of Hawaii Center for Design on the FPIN so that can get moving quickly. Staff visited the feed mill project last week as a follow-up to the November 16th Board

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presentation to help us keep abreast of the project. They are currently assembling the equipment. And that concludes my executive director report.

Chair thanked Ms. Gady and called on Mr. Okuhama.

Mr. Okuhama stated when he was on the HCDA board, during the session the board was provided with a spreadsheet of all the bills that impacted HCDA. It kept the board on top of all the bills, even those that touched HCDA just a little. It was informative, and the board could follow along with whatever bills needed watching.

Ms. Gady thanked Mr. Okuhama and stated she had created a spreadsheet and will include it with the weekly ED [Executive Director] report. If anybody has questions just email. In regard to what Mr. Watts was suggesting I could identify things that we're planning to testify on that directly impact ADC.

Chair called on Mr. Tabata.

Mr. Tabata suggested using the legislative tracker mechanism available on the legislature's website using the list of bills from Ms. Gady.

Chair stated that agencies like the Hawaii Farm Bureau use the tracker to keep track of bills affecting agriculture. Regarding the spreadsheet, my only suggestion is to include it in your weekly report because the bills move fast. That will give the Board information on what bills would affect ADC. Any other discussion or questions? Seeing none I suggest we take a ten minute break. Time now is 11:23 A.M.

Break taken at 11:23 A.M.

Returned from Break at 11:40 A.M.

6. **Discussion and action on letter from Senator Donovan Dela Cruz asking the ADC Board to waive attorney-client privilege with regards to the August 8, 2023, executive session minutes relating to the candidate interviews, discussion of executive director salary, and board selection of executive director. *The Board may go into executive session to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities.***

Chair called the meeting back to order and stated that the five items that were deferred earlier in the Agenda would be discussed now. HRS section 92-4 allows the board to hold an executive meeting closed to the public. The board will be discussing action items 6, 7, 8, 9, and 10 to allow the board to confer with its attorney pursuant to HRS section 92-5(a)(4). Before going into executive session, was there any public testimony on item 6, which was discussion and action on letter from Senator Donovan Dela Cruz asking the ADC board to waive attorney-client privilege with regards to the August 8, 2023 executive session minutes relating to the candidate interviews, discussion of executive director salary, and board selection of executive director. There was none.

Mr. Tsuji asked Chair if discussion of item E-6 was going to be discussed at the Board level. He did not see any reason for the Board to go into executive session to make a decision on the senator's request and thought the matter should be discussed in open session. He doesn't know how others feel, but he had no problem discussing this in open session.

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Ms. Prescott-Tate referred the Board to the third paragraph of Senator Dela Cruz's request (submittal page 047), the last sentence, which was the request for the Board to waive attorney-client privilege.

Mr. Tsuji stated he did not have the information in front of him. The senator wants to see the executive session minutes correct?

Ms. Prescott-Tate said he wants the Board to waive their attorney-client privilege. That is the matter to be discussed in executive session.

Mr. Tsuji continued, what is the item for decision making? The letter requested the August 8th meeting minutes; is that not the essence of his request? I don't know, I'm asking everybody else.

Ms. Prescott-Tate referred the Board to submittal item E-6, middle of the second page, numbered 045.

Mr. Tsuji responded okay, waiving the attorney client privilege. That's the board's call, board members call. Actually, a board member's call, individual board members call. Right?

Ms. Prescott-Tate suggested maybe the matter should be discussed in executive session if you're asking for my advice.

Mr. Tsuji said I'm an attorney you can talk to me on open session.

Chair called on Ms. Seddon.

Ms. Seddon stated she would prefer to have the discussion with our Board council in executive session.

Mr. Tsuji continued; the question was do we wanna waive the executive session privilege. The session minutes right now are closed to the public. The senator's requesting to actually not make it open to the public but just have the ability to view it. Is there a concern there?

Ms. Seddon responded I would like to go into executive session and discuss that exact question. That's what we're going into the executive session for.

Mr. Tsuji said good luck. Can someone please explain what the question is?

Ms. Seddon asked Ms. Prescott-Tate if the question could be repeated.

Mr. Tsuji said we should go to the agenda. I think that's the appropriate place. What does the agenda say? What does that agenda title say? Could someone read that to me? I'm pulling up my PDF right now. I don't have it in front of me.

Ms. Prescott-Tate read from the agenda: "Discussion and action on letter from Senator Donovan Dela Cruz asking"

Mr. Tsuji interrupted saying stop there. There's nothing privileged in that statement, correct?

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Ms. Prescott-Tate asked to finish reading the entire agenda item.

Mr. Tsuji replied okay. We answered the first question. Yes, move on.

Ms. Prescott-Tate continued “asking the ADC Board to waive attorney-client privilege with regards to the August 8th, 2023 executive session minutes relating to the candidate interviews, discussion of executive director salary, and board selection of executive director.

Mr. Tsuji said he thought the executive session minutes were privileged not because of attorney client communication but because of the confidential nature of the applicant process, right? You guys wanted to make sure the applicants were shuttered from public view at least until the selection of the executive director (ED). That was the purpose of the executive session not to have attorney client privilege to discuss with a lawyer. The board went into executive session not because of attorney client privilege but because it was a confidential personnel matter that it was interviewing and selecting an ED. Therefore, the senator’s asking for the purpose that you went into executive session that was closed to the public. Can he see that? That’s the question; the ultimate question that we’re deciding here. Why would we be going into executive session to decide to turn over the executive session minutes to the senator? The executive session minutes were really about the selection of the ED not so much attorney client discussion. Correct me if I’m wrong, but there was very little attorney-client discussion.

Ms. Prescott-Tate replied there were questions directed towards her as the Board’s attorney and there were answers provided that were in the nature of advice to the Board from the Board’s attorney.

Mr. Tsuji asked “really?” Again, these minutes were about the selection of the ED. You guys were trying to decide who to select. None of that was between the attorney and client.

Ms. Prescott-Tate reiterated, that’s not the item on the agenda. Did you read the submittal? That will explain why we’re here.

Mr. Tsuji said your submittal? I didn’t read it. I’m just asking questions and having a discussion.

Ms. Prescott-Tate suggested the submittal would answer Mr. Tsuji’s questions.

Mr. Tsuji said I don’t think so and I’m not interested in sitting here listening while you read the submittal. I’m just asking, just talk straight here. The request was to review the executive session minutes of August 8th. The executive session, that meeting was specifically to hire or make the selection between two applicants. That meeting was virtual, right? An open public meeting that went into a closed session because we’re selecting the ED. And that required all board members who wanted to participate to be physically present and that ended up leaving out a Kauai board member who was off island and one board member here locally, the DLNR representative, and so was Ms. Seddon who could not make it in person. You guys went into executive session, and you guys the whole meeting minutes as I reviewed was all about the selection of the ED. Not much attorney client discussion, as I recall. That’s what I see. Maybe, if you use the words attorney-client, maybe the senator just misunderstood. The confidential nature of the minutes was not really based on the attorney-client as I understand it. It was really based upon two applicants who did not want their names made public at least during the interview or selection process, and that was why it was done that way. That was the justification I recall you gave me when I asked that question in one of the earlier meetings.

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Ms. Prescott-Tate repeated that the agenda item asked if the board was willing to waive the board's attorney-client privilege. That's what we're here to address.

Mr. Tsuji replied okay, we can do that in open session as well.

Mr. Wicker said it's yes or no. I don't see a reason to go into executive session on this item. It's pretty straightforward when I read the senator's letter.

Ms. Prescott-Tate asked, "do you want to vote then?"

Mr. Watts stated yeah, I tend to agree with Mr. Tsuji and Mr. Wicker. I guess there's still a question that remains about the attorney-client privilege component, but as far as the minutes itself that's been the crux of the problem in this whole thing, right? Should the public have an opportunity to weigh in on selection process? I'm in support of Mr. Wicker's and Mr. Tsuji's position.

Ms. Prescott-Tate asked to read the submittal, because obviously some of the board members have not read it. It's in the public packet. [The board submittal starting with the first paragraph on page 044 through the sixth paragraph on page 045, was read to the Board].

[During the reading of the submittal Mr. Tsuji answered a telephone call that was audible to the meeting participants. This telephone conversation has been omitted.]

Mr. Tsuji asked, just for my clarification, has the senator been provided the August 8th minutes? Yes or no?

Ms. Prescott-Tate responded, redacted minutes.

Mr. Tsuji asked what did you redact?

Ms. Prescott-Tate responded, the items that OIP found were privileged.

Mr. Tsuji replied privileged at the time we did the executive session are not necessarily privileged now. OIP did not decide that.

Ms. Prescott-Tate responded nothing has changed. The candidates were private citizens with a privacy interest in topics discussed at the time of the interview.

Mr. Tsuji said that's your opinion. The nature of the executive session was selection of the ED. At the time the two applicants wanted to keep their names confidential from the public. That was the nature of going into executive session and keeping it confidential. That was confidential at the time of selection. It has been announced since then. That the selection has been made. I don't think OIP has decided at this point that after the selection it still remains confidential. It did not say that.

Ms. Prescott-Tate replied that the unselected candidate still requests to remain anonymous.

Mr. Wicker asked, do we know that? Have we checked recently with the other applicant or was that back in August.

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Ms. Prescott-Tate replied that the applicant was contacted to see if he or she would waive their right to privacy and have the minutes publicly produced in response to a UIPA [Uniform Information Practices Act] request.

Mr. Tsuji said, again, this is not public. This was a senator's request. The senator was requesting a copy of the minutes. He was not necessarily saying I want to make it public so the whole world can see it and ADC should publish it on your website. He just wanted to have a copy of the executive session minutes. So if you told the applicant that it was going to be made public. That's not true. To the senator is what you should have asked.

Ms. Prescott-Tate responded that the question to be addressed now is will the board waive its attorney client privilege? That's the sole question to be answered.

Mr. Wicker asked what the outcome would be. Would the requested materials not be redacted for the senator to review?

Ms. Prescott-Tate stated if the board agrees to waive its attorney-client privilege then the minutes of the executive session that were redacted for that purpose may be provided to the senator unredacted.

Mr. Wicker continued, so another item on the agenda was a lawsuit. Am I able to request unredacted documents for that lawsuit? I don't see the difference in saying okay, at this point non-redacted may be provided to someone else other than the senator so why prevent it at this point? We met twice. We were told by our counsel the process was done correctly and we did not violate sunshine. I recall being told in the November meeting the process was correct. I don't see why the materials are not gonna go out non-redacted. For me, a decision not to waive, then we're telling the legislative no.

Ms. Prescott-Tate said items made public would be subject to disclosure pursuant to a UIPA request. The senator's request was made under HRS 92F-14, a public record request claiming the privacy interest of the individual was outweighed by the public interest in disclosure.

Mr. Tsuji remarked ADC's a state agency. All of its practices are subject to public review.

Ms. Prescott-Tate responded unless privilege applies. The attorney-client privilege is an exception to public disclosure.

Mr. Watts asked if there would be an issue if we didn't waive the attorney client privilege. Is there a mechanism to provide the senator as an officer of the state and an elected official with an unredacted copy?

Ms. Prescott-Tate stated the request was not made under HRS 92F-19(a)(6). I guess the Board could request he sign a confidentiality agreement.

Mr. Watts asked, senator wants to see the interview minutes, right?

Ms. Prescott-Tate replied yes, but privilege exists.

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Mr. Tsuji stated, in my opinion I looked at the August 8th minutes, and I didn't see very much attorney-client communication. It was all about who we want as ED. Later on there's a long discussion of how we're going to announce. None of that's confidential. None of that is privileged. The big question was should that have been public especially about how to announce it. I was not part of that. I only came on the Board after that. I was concerned about that meeting and OIP later issued a pretty strongly worded opinion on that issue. But, here, if you're asking the board whether we like the senator to have a copy of the unredacted minutes of August 8th you're saying you produced a redacted version. I think we should put that up for vote and my position would be I support an unredacted version because I really did not see, and I still do not see that there was actual attorney-client advice about the potential liability of the board members or liability of ADC in the selection of either one of their applicants. It was confidential in nature. Applicants who were applying for the ED job at the time. It was about the selection of the ED, so they wanted to keep their names private. Certainly wouldn't want their existing employer to know they're looking for another position. So I would support opening it up and unless people wanna discuss this further, maybe we should make a motion to decide the matter or vote on that.

Chair responded based on the way the agenda was written, that's not an item on the agenda so no action could be taken. The specific action requested the ADC Board to waive its attorney-client privilege. That's it.

Mr. Tsuji asserted that Ms. Prescott-Tate redacted certain portions of August 8th minute meetings and assuming that applicant names were redacted, but the applicant names had nothing to do with attorney-client, that's what you're doing.

Ms. Prescott-Tate repeated the agenda item up for discussion was the Board's willingness to waive attorney-client privilege.

Mr. Tsuji responded yeah, okay, fine. We can take that in open meeting and the reason is this: It says what it says, but we really know what we're talking about is actually if it is the name of the applicants, that is not attorney-client privilege. More importantly, the title is just the title. It does not mean it must be decided in an executive session. This thing goes further so that the board may decide to go in executive session to discuss the board's own powers and duties and privileges and immunities and liability. Fine, none of which would be triggered in this context because really the issue was about should be redacted version with the name of the applicants be disclosed to the senator, since that is the part that Ms. Prescott-Tate apparently decided should be redacted from the August 8th minutes, is the name of the applicants.

Ms. Prescott-Tate again stated the agenda item up for discussion was the Board's decision to waive attorney-client privilege.

Mr. Tsuji replied okay, and I think we can do that in open session is what I'm saying.

Ms. Prescott-Tate added that the Board's attorney would be without the ability to provide advice to the Board.

Mr. Tsuji stated it's the Board's decision to waive. It's not your decision, you know.

Ms. Prescott-Tate agreed it's the board's decision.

Mr. Tabata moved to go into executive session on this item.

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Chair asked if there was a second?

Ms. Seddon seconded the motion.

Chair stated there's been a motion and a second to go into executive session for agenda item 6.

Mr. Nakamoto said there was a member of the public, Mr. Curtis, who wished to comment.

Chair said go ahead Mr. Curtis.

Mr. Curtis thanked the Board and asked how the Board was able to decide whether the document can be released to some people and not to others. If two people were willing to sign confidentiality agreements, how can the board select who gets to see the document?

Mr. Tsuji interjected that I think right now, Mr. Curtis, there's a request from the senator to actually see the executive session minutes. Are you orally requesting to review those minutes?

Mr. Curtis continued, if the board grants the document to the senator, then we will also file to see the same document.

Mr. Tsuji responded fair enough.

Chair thanked Mr. Curtis and asked if there was any other public testimony. There was none.

Chair called for a roll-call vote to enter executive session:

Chair:	Aye.
Mr. Yamamoto:	Aye.
Mr. Okuhama:	Aye.
Ms. Seddon:	Aye.
Mr. Tabata:	Aye.
Mr. Tsuji:	No.
Mr. Watts:	No.
Mr. Wicker:	No.

Chair stated we have a 5 to 3 vote. Motion does not pass.

Mr. Tsuji moved to call for the question that would be the agenda item, Chair.

Chair asked, for clarification, is the question to waive attorney client privilege?

Ms. Prescott-Tate replied that the question is, without discussing the matter with the Board's attorney does the board waive its attorney-client privilege in regard to the August 8th executive session minutes relating to the candidate interviews, discussion of executive director salary, and board selection of the executive director.

Chair asked if everyone was clear on the item to vote on. Again, I will take a roll call vote . . .

Mr. Tabata said there was no second on this motion. I did not hear a second.

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Chair responded that's correct, thank you Mr. Tabata.

Mr. Wicker said, motion.

Mr. Tsuji said, second. Can we have a discussion?

Chair replied okay, a motion was made by Mr. Wicker and seconded by Mr. Tsuji. Any Board discussion?

Mr. Tsuji said yeah. What the senator apparently wants to see is the selection of the ED, and the salary maybe. Ultimately salary is a public record. It's not a secretive matter. The ED of ADC's salary is published in Civil Beat. We're talking about minutes done back in November 8th when the Board had not yet decided on an executive director. The Board has since decided on the executive director. I think the confidential nature of the process has lapsed and the names can be released. Certainly the ED who was selected is known and it was the other candidate who did not make it. I did not have a discussion with this finalist. If Ms. Prescott-Tate tried to ask that individual if he or she wanted his or her name published to the public, I think that's exaggerating. What we have here is a request of a senator. Or even with this recent request by Mr. Curtis, I don't know if he's technically releasing it to Mr. Curtis, which means published to the public viewpoint. I don't know if the senator was actually requesting to make the applicants public. If I understood his letter correctly he just wanted to see the executive session minutes of August 8th unredacted. That's the way I understood it anyway. I think it should be open, should be disclosed. I think the senator ought to see that document. That's my position. Thank you.

Chair called on Mr. Wicker.

Mr. Wicker said just looking at the process at that point in time, yes, for privacy. But this also exposes the process of selecting managerial positions. I'm the Deputy Director of DBEDT. I have to go in front of the public as well as on the Senate floor and people sent testimony at the time of my confirmation. That's how the public participates. This executive session is still of concern. The candidates did reach out and asked for people to submit letters of recommendation. And we got requests to support certain candidates through email. So people in the public knew in August. Not all, but people did know. It's not a secret. I see Mr. Tsuji's position that the time has passed. Salaries are public. That's not the request the senator was asking. We've had discussions three times on this. I don't see any problem with waiving our attorney-client privilege based of all the documentation and OIP. Thank you. Just want to put that out there. People already know who the two candidates were.

Chair asked if there was any further discussion.

Ms. Prescott-Tate asked the Board to please think about the other boards and commissions that may be affected if you decide to waive attorney-client privilege. Look at the big picture.

Mr. Watts said that's not the issue. I'll point to the Board of Regents. Look what's happening now. The question is is this Board willing to waive its attorney-client privilege?

Chair called for a roll-call vote and to be clear, a "no" answer means no waiver and therefore not to disclose to the senator.

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Chair:	No.
Mr. Yamamoto:	No.
Mr. Okuhama:	No.
Ms. Seddon:	No.
Mr. Tabata:	No.
Mr. Tsuji:	Yes.
Mr. Watts:	Yes.
Mr. Wicker:	Yes.

Chair stated we have a 5 to 3 vote. Motion does not pass. As a practical matter I'm going to ask staff to respond to the senator.

Mr. Tsuji asked to look at the redacted version of the minutes to see if it is really in the nature of attorney-client privilege or not or if it was solely to protect the applicants because I don't believe the redacted portion of those minutes has anything to do with attorney-client privilege.

Chair called on Mr. Watts.

Mr. Watts said I just want to add to Mr. Tsuji's point it's hard because I've made several requests to ask the OIP Director if he might do a presentation to come and talk to us so we can figure this out. I want to make sure the public can participate as much as possible. So I'm torn. But thank you for your opportunity to vote.

Mr. Wicker interjected, that's correct. We did request Chair to have OIP come in front of this Board to answer questions and that was not provided. We've been blasted in the media for not being transparent. And if you look at those executive session minutes, we question the process. And I feel like this board with its current leadership is going down that process of not being transparent. It's a concern, especially when it touches DBEDT as a department.

Chair responded, "so noted."

Mr. Wicker continued and we still have to answer for the DBEDT budget even if ADC is an attached agency. I'll share with you members that DBEDT is gonna have to push for ADC. We have to go in front of the legislature to do that. And if we want our current ED to be successful, this process and this lack of transparency is going to make it difficult to do that. And that's on your folks conscience. So don't turn to the ED later when we can't deliver.

Chair said in my opinion we should have gone into executive session to get the advice of our counsel, and that's it. As far as releasing information to the senator, that's separate.

Mr. Wicker replied we took a vote, and you voted no.

Chair responded, for me I wanted to get our legal counsel's opinion. Based on that I have no other issues.

Mr. Wicker replied it was a straightforward question and I'm not sure what we could have learned.

Mr. Tsuji said what's out there already is the OIP decision, which raises a lot of questions. What's not out there was the subsequent direct communication by OIP to the attorney general. And the executive session minutes were not available to the public. If we leave it like that, go into

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executive session, which we're going into right now, I think it leaves a lot of questions in a lot of people's minds. Rather than just be open and I think it's a better course to just open it up at this point because there's the OIP decision that is public by itself, and I have questions about what ADC's doing; what is this board doing; what's gonna happen. A lot of this stuff can be explained and answered, through subsequent direct communication between OIP and the attorney general. It's confidential still yet, but it also might be explained by just opening up the minutes at this point. Is there any reason not to do that? And what if there is a reason? I think the only thing I've heard was the applicants' wishes for confidentiality and if that applicant really believes that, well it's a senator who's requesting to see the minutes. At least maybe you can just redact it by changing the name, applicant A, applicant B, and like that if that's the case. We already know who was selected. But there's only two applicants in the minutes; it wasn't everyone that applied; it was only down to the finalists. It's the discussion of what happened in those minutes. And I think that's relevant and perhaps would be enlightening for the public to be aware of what happened.

Chair called on Mr. Tabata.

Mr. Tabata stated he's not anywhere near an attorney and he wanted to get some questions answered. So don't put the lack of transparency on me. You guys voted the way you voted and didn't allow us to ask the questions we requested. So whatever road we go down, don't ever put it on me. We can agree to disagree, it's a public board, and it's a public process. I did not prevent you from asking any questions, but you did. We needed to have a conversation with our attorney. We needed to be sure. Yes, that's your opinion but I'm not accusing you of lack of transparency, so don't accuse me of that.

Chair called on Ms. Seddon.

Ms. Seddon asked the Chair where we were in the agenda. I'd like to figure out where we are and what's the next step here. Thank you.

Chair stated for purposes of entering into executive session, is there was any public testimony on Action Item 7, which is:

7. **Discussion of Kauai Island Utility Cooperative's recent announcement regarding changes to the West Kauai Energy Project and future impacts to ADC and KAA. *The Board may go into executive session to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities.***

Mr. Nakamoto stated Mr. Uyehara had his hand raised.

Chair called on Mr. Uyehara.

Mr. Uyehara introduced himself as the president of the Kauai Ag Association (KAA) and he wanted to speak about the potential ramifications and future impacts to ADC and KAA due to the announced change to the West Kauai Energy Project. KAA does operate the infrastructure being affected by the change. If you have any questions I can try to answer as best I can. I don't know how this works with you going into executive session, but I just wanted to let you know I'm here and available if necessary.

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Mr. Tabata asked if Mr. Uyehara could share with the rest of the Board any implications of losing this opportunity or the effects of losing this opportunity.

Mr. Uyehara shared a PowerPoint presentation. *See* attached.

Mr. Uyehara continued, one of the first issues we're gonna have to discuss with the parties involved would be the long term implications of various intakes or diversions that collect the water and bring it into the system. Those were the first things that would have been modified and maintained by KIUC had that aspect of the project gone forward. Now that's not going to happen. Basically we have to look at what the long term plan would be. Based on the 2017 Mediation Agreement, KIUC does have some obligations related to that. Now we're trying to find the best path forward. KAA and ADC would be responsible for all the downstream infrastructure and about three miles of tunnels. We're taking a look at how to maintain that going forward. There's a reservoir that is deficient and does not meet safety requirements. The reservoir is part of the infrastructure. It would have to be renovated if the project had gone forward. That would have been for KIUC to maintain, but now that's something we have to think about. Beyond that, there's a portion of the open ditch that goes down to the Puu Moi Divide, where the water is split; part of it goes down toward the ADC mauka property and a sliver of the DHHL property. The western branch that goes to DHHL is the primary source of water for the tenants of their mauka property. So clearly the future of this portion of the system is going to require discussion and partnership with DHHL. And again, I think ADC and KAA were relying on the KIUC project to take on the burden of a lot of the maintenance, which clearly is not going to be the case given this change. So there's a ton of details behind each portion that I just went over very quickly. This was just to inform you of the scope of the infrastructure that we previously thought would be part of the energy project, and now we have to think about it going forward.

Chair thanked Mr. Uyehara and called on Mr. Watts.

Mr. Watts said quick question, so the reservoir, the pool. Is it a dam or a reservoir.

Mr. Uyehara replied, there's a dam wall that creates the reservoir. Because of the capacity and size of the reservoir it would be a regulated dam that must meet dam safety requirements.

Mr. Watts asked for dam safety purposes, who owns that reservoir?

Mr. Uyehara replied, I don't know exactly the details, but that reservoir was not included in the executive orders that transferred the rest of the infrastructure to ADC.

Mr. Watts asked Chair if staff could follow up on that, because he thought the state has, millions, or some damn safety money that's still available for improvements like this and some of the staff must have worked with DLNR or whoever has the money to do that. I don't know if that's possible but to my understanding there's a mechanism to release the funds so they can work on a build this session.

Mr. Tsuji said I think the issue was, I don't know if it's AG or what, told the division of engineering that they needed rules to be implemented. That reservoir was not set aside to ADC. I'm familiar with the KIUC project and we definitely were looking forward to it and definitely were stunned by its decision to pull back. We were hoping that KIUC was going to upgrade the reservoir and make it safer. We were looking forward to it and now we're also assessing what that impact means. It certainly was a disappointment to the land division that administered this

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area. This is not necessarily something for executive session. It is something that a lot of agencies, even private as well as public and DHHL probably. We were all looking forward to the KIUC project. I cannot speak as to why there was a change. I'm not sure if it was even disclosed. It might have been connected with the dispute in the area; I think it was heavy opposition, contested case that might have been going on, I'm not sure or a lawsuit.

Chair called on Mr. Watts.

Mr. Watts suggested that maybe that's something Ms. Gady could answer with the legislation tracker to see if the funding mechanism for the reservoir has been fixed or whatever.

Chair replied, "so noted" and asked if there were any further questions for Mr. Uyehara. Hearing none, Chair thanked Mr. Uyehara and asked if there was any public testimony on Action Item 8, which is:

8. **Discussion regarding the status of Lease Agreement No. LE-K1201 assigned to the State of Hawaii, Department of Education. *The Board may go into executive session to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities.***

There was none.

Chair asked if there was any public testimony on Action Item 9, which is:

9. **Discussion regarding funding options for the Ohana Best settlement agreement, Civil No. 19-1-1640-10, First Circuit Court, State of Hawaii. *The Board may go into executive session to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities.***

There was none.

Chair asked if there was any public testimony on Action Item 10, which is:

10. **Update regarding a lawsuit filed by Public First Law Center. *The Board may go into executive session to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities.***

There was none.

Chair asked for a motion to go into executive session.

Motion to approve: Ms. Seddon; Second: Mr. Tabata.

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

Chair asked for Board discussion. There was none.

Chair called for the vote. Hearing no objection the motion was approved 8-0. Chair, Mr. Yamamoto, Mr. Okuhama, Ms. Seddon, Mr. Tabata, Mr. Tsuji, Mr. Watts, and Mr. Wicker voted yes.

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The Board exited the public meeting at 12:56 P.M.

The Board returned to the public meeting at 2:18 P.M. Board members present: Chair, Mr. Okuhama, Mr. Tabata, Mr. Tsuji, Mr. Wicker, and Mr. Yamamoto. Ms. Seddon rejoined the meeting at 2:20 P.M.

Chair called the meeting back to order at 2:18 P.M. and stated that pursuant to Act 19, codified as HRS section 92-4(b) (2023), the following actions were taken by the Board in executive session:

On Action Item 7, the West Kauai Energy Project was discussed with no action taken.

On Action Item 8, the lease agreement number LE-K1201 was discussed and again with no action taken.

On Action Item 9, a legislative request to fund the Ohana Best Settlement has been made. No other action was taken.

And on Action Item 10, ADC has not been served with the lawsuit filed by Public First Law Center and so cannot comment at this time.

G. Adjourn

Ms. Seddon rejoined the meeting at 2:20 P.M.

Having no further business before the Board, Chair called for a motion to adjourn.

Motion to adjourn: Ms. Seddon; Second: Mr. Wicker.

Chair called for the vote. Hearing no objections, the motion was approved: 7-0.

The meeting was adjourned at 2:20 P.M.

Date of Next Meeting: The next meeting will be held on February 15, 2024, at 9 A.M.

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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 Hawai'i, Leiopapa A Kamehameha, State Office Tower Building, 235 S. Beretania St., Suite 205, Honolulu, HI 96813.

Members Present, virtually:

Lyle Tabata, Kauai County Member, Vice-Chair, (Acting Chair)
 Jesse Cooke, Honolulu County Member (Mr. Cooke)
 Glenn Hong, Member-At-Large (Mr. Hong)
 Sharon Hurd, HDOA, Ex-Officio Member (Ms. Hurd)
 Ryan Kanakaole, Designated Representative, DLNR, Ex-Officio Member Ms. Dawn Chang (Mr. Kanakaole)
 Jason Okuhama, Member-At-Large (Mr. Okuhama)
 Karen Seddon, Member-At-Large (Ms. Seddon)
 Jayson Watts, Maui County Member (Mr. Watts)
 Dane Wicker, Designated Representative, DBEDT, Ex-Officio Member James Tokioka (Mr. Wicker)

Members Excused:

Warren Watanabe, Member-At-Large, Chair

Counsel Present, virtually:

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

Staff Present, virtually:

Wendy L. Gady, Executive Director (Ms. Gady)
 Mark Takemoto, Executive Assistant (Mr. Takemoto)
 Ken Nakamoto, Project Manager (Mr. Nakamoto)
 Lyle Roe, Asset Manager (Mr. Roe)
 Roger Clemente, Property Manager (Mr. Clemente)
 Ingrid Hisatake, Executive Secretary

Guests Present, virtually:

Fred Berg
 Joshua Uehara, Kekaha Agriculture Association (Mr. Uyehara)
 Kimi Makaiua
 Mark Ladao
 Mike Faye
 Rae Gee
 Rep Cochran
 Scott Ishikawa
 Thomas Heaton

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Guests Present, physical location:

None.

A. Call to Order

Acting Chair called the meeting to order at 9:03 A.M.

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

Acting Chair conducted a roll call of the Board. Acting 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 over the age of eighteen was present in the room with them. Acting Chair stated that the roll call served as a roll call vote, and for each subsequent vote, he would ask if there were any objections. If there were no objections the motion would be approved on the same basis as the roll call.

Roll call: Acting Chair, Mr. Cooke, Mr. Hong, Ms. Hurd, Mr. Kanakaole, Mr. Okuhama, Ms. Seddon, Mr. Watts, and Mr. Wicker.

B. Approval of Minutes

1. Regular Session Minutes, November 16, 2023

Acting Chair called for a motion to approve the November 16th regular session minutes.

Motion to approve: Mr. Okuhama; Second: Mr. Wicker.

Acting Chair asked if there was any presentation from staff. There was none.

Acting Chair asked if anyone for the public wished to give testimony. There was none.

Acting Chair asked for Board discussion. There was none.

Acting Chair called for the vote. Hearing no objections the motion to approve the November 16th, 2023, regular session minutes was approved: 9-0.

2. Regular Session Minutes, January 18, 2024

Deferred to March meeting

3. Executive Session Minutes, January 18, 2024

Deferred to March meeting

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Chairperson's Report

1. None

Committee Reports

1. None

E. Action Items

1. **Request for approval to refer License Agreement No. LI-GA1713 issued to Touan Farm LLC for 25.191 tillable acres at Wahiawa, Oahu, Hawaii, TMK (1) 7-1-012:001 (por.), to the Department of the Attorney General for enforcement action.**

Acting Chair called on staff to give a briefing on this item.

Mr. Roe requested that this action item be deferred until the March meeting as he was still awaiting the total amount of arrearage.

Acting Chair deferred the matter until the next meeting.

2. **Request for approval to enter into a memorandum of understanding (MOU) between ADC, Hawaii Technology Development Corporation (HTDC), and Natural Energy Laboratory of Hawaii Authority (NELHA), and Hawaii Department of Agriculture (HDOA) to encourage, support, and facilitate planning and research-related activities.**

Acting Chair called for a motion to approve.

Motion to approve: Mr. Wicker; Second: Mr. Kanakaole.

Acting Chair asked if there was any presentation by staff.

Mr. Roe said he didn't have much to add beyond what's in the submittal. It's really to formalize an arrangement between the three entities and ADC regarding cooperation on various matters that relate to all four entities. Ms. Gady may have more information on this, but that's really what this is.

Acting Chair asked Ms. Gady if she had anything to add.

Ms. Gady said it really shows that we have a strategic investment in the future of aquaculture and that we are going to formalize our relationship with our sister agencies of NELHA, HTDC, and HDOA and look for ways to scale up some of the existing tenants at NELHA. The plan is for us to start meeting quarterly to look for opportunities.

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

Acting Chair asked if there was any Board discussion.

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Ms. Hurd said she wanted to add that a lot of the MOU was in existence prior to this year's legislative session. What we learned from this session was that many of the agencies were working toward the same goal. But we were not in agreement on division of responsibilities. It was really at the advice of the Ways and Means committee that we shouldn't all be working towards the same goal without meeting and collaborating at a higher level. That prompted HDOA to join the MOU with our purpose being to double food production. We are in there with our own agenda; our own mission. And that was how HDOA asked to be included.

Acting Chair said he was in total agreement with that because if we all go on our individual path we're not going to be able to synergize each other's strengths and weaknesses to provide a better product. Aquaculture's something new for ADC to get involved with. There's a lot of positives, especially with the shrimp farm we have under our jurisdiction in Kekaha. Makes a lot of sense. Any further discussion by the Board? Hearing none, Acting Chair called for the vote. Hearing no objections the motion was approved: 9-0.

3. Request to re-authorize the Board's delegation of authority to the Executive Director to execute non-extraordinary rights-of-entry without Board approval

Acting Chair called for a motion to approve.

Motion to approve: Mr. Wicker; Second: Ms. Hurd.

Acting Chair asked if there was any presentation by staff?

Mr. Roe said the submittal pretty much summarizes it, but in 2014 the Board granted the executive director the right to issue non-extraordinary rights-of-entry. This was primarily for issues such as if HECO needs to get through one of our gates to read a meter. Or for utility, maintenance, third party surveyors who might need access to the property to work on different projects. That's the sort of thing that this delegation authorizes the executive director to do without coming to the board and asking for approval. Extraordinary rights of entry would include such things as, we've had the elementary school request access to use ADC's property for parking, stuff like that would still come to the board. This is just for typical run of the mill, not extraordinary rights-of-entry.

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

Acting Chair asked if there was any Board discussion.

Ms. Hurd stated that she just wanted to make the association to a recent action taken by the Hawaii Board of Agriculture (HBOA), to ask that HBOA approval not be required for what they consider non-substantive type decisions such as whether or not to send a violation of \$500 to the attorney general for collection, something like that, they asked that we set a limit. So this would be similar, you know, when it's something that is not of great significance to ADC or to the public, that we allow the executive director, or in my case, it was the chair of the board, the authority to act without HBOA approval so there's precedent for it in my experience.

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Acting Chair said that makes perfect sense and called on Mr. Watts.

Mr. Watts stated that although he's okay with authorizing it, could we make sure we get reports, so we are aware of what's being approved. If not, we'll never know about it. So can we just get something either monthly or in the Executive Director's weekly report.

Acting Chair replied, so noted, Ms. Gady can list those in her weekly reports, which are very detailed and comprehensive. I think I get everything I need to know from the weekly reports. If not, I pick up the phone. Acting Chair asked if there was any further discussion. Hearing none, Acting Chair called for the vote. Hearing no objections to the delegation, the motion was approved: 9-0.

4. Appointment of members to the Board's standing Administration Committee (*no submittal*)

Acting Chair noted this measure was being withdrawn at this time to allow the land application review committee to finish its assigned work that was presently on-going. We will return to this item hopefully at the next meeting. Any questions? Hearing none we'll move on to Action Item Number 5.

5. Request for approval to establish a permitted interaction group to provide recommendations to the Board related to ADC's strategic plan regarding land (*no submittal*)

Acting Chair called for a motion to approve.

Motion to approve: Mr. Wicker; Second: Mr. Hong.

Acting Chair asked for presentation by staff.

Mr. Roe said this request was to establish three permitted interaction groups (PIGs) with different focuses. This was really a mechanism to provide input on ADC's strategic planning. One group related to land, one related to water, and the other related to agri-business efficiencies; value added stuff, projects, various things like that. What we're looking for here was for approval to establish three groups.

Acting Chair asked if anyone from the public wished to provide testimony. There was none.

Acting Chair asked for Board discussion and called on Mr. Watts.

Mr. Watts asked if these PIGs were gonna be reporting, or receiving reports, or meeting with the Office of Planning and Strategic Development (OPSD) who was drafting ADC's strategic plan?

Mr. Roe said that was really going to be the call of the Chair when the tasks of the various committees were assigned.

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Mr. Watts said okay, I just wanted to make sure that whatever information comes from these PIGs was not wasted and it's applied to that strategic planning report.

Mr. Roe said just to clarify the purpose of a PIG was to provide recommendations to the Board. The PIG would presumably meet with the Executive Director and with OPSD and such, and then, provide their recommendations based on that to the Board.

Chair called on Ms. Gady.

Ms. Gady stated that she wanted to speak to Mr. Watts point that there was a considerable amount of information that the staff and OPSD have been accumulating and it's easiest to break it down by land, water, and agri-efficiencies because the end goal was for the PIGs to provide strategic direction in terms of the goals, the objectives, and any policy recommendations that would go to the Board. There's so much information to digest to start drafting this high level view of what the goals and strategies are coming out of the Board. It allows for some pretty significant work within the permitted interaction groups.

Mr. Watts said he thought this was a good idea. The Board has a lot of people with a lot of expertise and if we could actually line up these PIGs with people's backgrounds that would be very helpful to OPSD and how they draft this report.

Acting Chair called on Mr. Wicker.

Mr. Wicker asked if we get this on the next agenda? I think these are good ideas, numbers 5, 6, and 7. But on our next agenda, the overall plan for the strategic plan. So, if we're working with OPSD, what was the ask of them? What's the timeline and deliverables? And then it would map out and show certain phases in order to accomplish this benchmark we need to establish these PIGs. So we kind of have an understanding of what's being asked. I could see why we would need to break it down into these individual groups, but what's the end game? What's the ask of OPSD? If we can get that on the next agenda to understand what the deliverables are for OPSD and a timeline.

Acting Chair asked Ms. Gady if she was prepared to provide that structure that was discussed earlier, or do we assemble the interaction groups first and then fill in.

Ms. Gady responded that she would suggest, and it obviously it's Acting Chair's choice, to just establish the groups so that the information can be disseminated, and the groups could start working on the accumulation of data amongst the three permitted interaction groups and I strongly concur with Mr. Wicker that at the next board meeting we can kind of frame out a timeline with some goals that the PIGs formulate.

Ms. Prescott-Tate stated, just a reminder that the tasks to be assigned to the committees must be presented at a public meeting.

Mr. Wicker said I think it'd be helpful to understand what the overall strategy was and then why we need to establish these PIGs. Then what those asks were and delivering that content back to OPSD. That can be captured all at once.

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Acting Chair said that was a good suggestion to shoot for the next meeting and called on Ms. Hurd for comment.

Ms. Hurd asked if she could be considered for the land committee.

Mr. Nakamoto said that a member of the public wished to comment.

Acting Chair asked for public comment.

Mr. Uehara stated that he was with the Kekaha Ag Association (KAA) and that he liked the idea, but wanted to suggest that when KAA comes to the board there's a lot of context and history in a lot of the projects we were working on that are very long term and he always feels like there was never enough time to give all of that information to the Board for consideration in your decision making. It seems like these permitted interaction groups would be a good venue to have subsets of the Board to at least dive into much greater detail on. On some of the issues that we have to deal with and I'm sure are relevant to your other properties as well. He just wanted to say it would be a good idea if it was understood and intentional that these groups might actually spend some time with external stakeholders for each of the properties in question so they can get more in-depth information and background because it seems pretty difficult to provide that kind of information in a board meeting. It just takes so long to do that.

Acting Chair asked if anyone had any questions for Mr. Uyehara? He's been a wealth of knowledge for us so we should take advantage of his attending. Anybody have questions?

Ms. Gady said she can't begin to articulate the passion and time that the staff has put into gathering resources to present to these PIGs. Mr. Takemoto has a 400+ page study on all the water systems across the state to provide to the water committee relative to some of the recommendations out of that study. There's also a bill actually going through the legislature right now to update that study. Staff has really done a diligent job of pulling together a strong base of information for the PIGs to start with.

Acting Chair said there's a whole lot of information out there to go through and the members who I'm about to nominate, I ask for your acceptance to be on this initial group. First was there anymore public testimony? There was none. Was there any further board discussion. There was none.

Acting Chair called for the vote asking if there were any objections to creating a permitted interaction group related to the ADC strategy plan regarding land. Hearing no objection the motion was approved: 9-0.

As Acting Chair pursuant to Article 4, section 3 of the ADC bylaws and section 92-2.5, *Hawai'i Revised Statute*, Ms. Seddon and Mr. Hong were appointed to the land ad hoc committee permitted interaction group. The scope of the committee's inquiry will be defined at the next board meeting as suggested by Mr. Wicker.

Mr. Hong appreciated the appointment but asked to be considered for the water PIG but deferred to Acting Chair's judgment.

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Acting Chair said point taken, but asked if for now it could be left as is. I'll go through these three permitted interaction groups and then if you feel strongly we'll move people around after that.

6. Request for approval to establish a permitted interaction group to provide recommendations to the Board related to ADC's strategic plan regarding water (*no submittal*)

Acting Chair called for a motion to approve.

Motion to approve: Mr. Wicker; Second: Mr. Hong.

Acting Chair asked for staff presentation.

Mr. Roe stated same as last item except substitute the word water. We're really just looking for Board input to ADC strategic planning regarding water systems; acquisition; focus; anything water related in the State as it relates to ADC strategic planning.

Acting Chair asked if there was any public comments. There was none.

Acting Chair stated that he believed there were system resources available for support and asked if there was any Board discussion? There was none.

Acting Chair called for the vote. Hearing no objections the motion was approved: 9-0.

Pursuant to Article 4, section 3 of the ADC bylaws and section 92-2.5, *Hawai'i Revised Statutes*, Acting Chair appointed himself and Mr. Kanakaole to the water ad hoc committee permitted interaction group. And as previously stated the scope of the committee's inquiry will be defined at the next board meeting.

Acting Chair asked if Mr. Kanakaole was part of the Commission on Water Resource Management (CWRM)?

Mr. Kanakaole said he was the deputy on the DLNR side; the deputy for CWRM was currently acting deputy, Dean Uyeno, however, DLNR does oversee CWRM, and he's worked on water matters before and thanked Acting Chair for the appointment to the group.

7. Request for approval to establish a permitted interaction group to provide recommendations to the Board related to ADC's strategic plan regarding agribusiness efficiencies (*no submittal*)

Acting Chair called for a motion to approve?

Motion to Approve: Mr. Watts; Second: Mr. Hong.

Acting Chair asked for staff presentation.

Mr. Roe said more of the same but wanted to touch on what agribusiness efficiencies were. We're talking about projects that ADC undertakes to assist our farmers. Whether it's

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building a value-added facility; food safe processing center; training or classes for any number of things; succession planning. Anything that ADC might wish to do going forward to assist farmers in their operations.

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

Acting Chair asked if there was any board discussion. There was none.

Acting Chair called for the vote. Hearing no objections the motion to create the agribusiness efficiencies permitted interaction group was approved: 9-0.

Pursuant to Article 4, section 3 of the ADC bylaws and section 92-2.5, *Hawai'i Revised Statute*, Acting Chair appointed Mr. Wicker and Mr. Cooke to the agribusiness efficiency's ad hoc committee permitted interaction group. The scope of the committee's inquiry will be defined at the next board meeting.

Acting Chair stated that Action Items 8 and 9 will be taken out of order following Informational Item Number 4.

F. Informational Items

1. Presentation by Dane Wicker, Deputy Director, Department of Business, Economic Development, and Tourism regarding the budget process for the State of Hawai'i.

Acting Chair called on Mr. Wicker to give his presentation on the budget process.

Mr. Wicker said there was no PowerPoint presentation because it's a pretty simple process to explain. ADC is one of DBEDT's attached sixteen agencies. All of DBEDT's attached agencies and programs prepare their own budgets internally with their team and work with DBEDT's Administrative Service Office (ASO) in putting together their proposed budgets. The director's office and DBEDT then meet with our ASO team and review their budgets and work with the program managers if we have any questions to help in justifying their request. DBEDT work's backwards from the administration's timeline. Last year DBEDT's budget was due in September. The Department of Budget and Finance reviews our department's overall budget requests. They make their recommendations to the governor and the governor submits the overall administrative budget and sends that down in December to the legislature. Our process for DBEDT itself, we may add, dependent on the department's strategy and direction. But we leave it up to the departments for the most part. Knowing what their capacity needs are and what resources are needed but it always helps when we can tie it into the program strategic direction and the alignment with the department strategic direction. That's a summary of it.

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

Acting Chair asked if there was any Board discussion and called on Ms. Gady for comment.

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Ms. Gady said it was helpful to have an informal conversation with Mr. Wicker earlier this week. It's her first legislative session and there's a lot of things being tossed around. There were things that were going to transition in March and it's kind of a giant question mark on some of the things that will be coming to ADC. Expect the next weekly report to lay out like a pictogram that shows things that are for sure in ADC's wheelhouse and kind of a bubble of things that are being tossed around in Ag as potential projects or opportunities for ADC. I remember a past board member saying that it's really hard to start the budgeting process until the legislature is over, because that's when you really know what's in your budget for fiscal year 2025. So May and June is probably the perfect time to start our fiscal year 2026 budgeting process because at that point we'll know what's come out of the legislature and the new fiscal year starts July first. That seems like a pretty fast turn with things due in September. Ms. Gady asked the Board to hold July 18th for a face-to-face board meeting on Oahu and August 15th for a face-to-face board meeting on Kauai. Ms. Gady agreed with Mr. Wicker that it makes sense to have overall strategy to frame the budget asks but would like to hear from Mr. Watts.

Mr. Watts said in his confirmation process he got questions from the senators about transparency and stuff. My question about the budget goes along with those questions and promises needed to be transparent. Implementing a process where the budget can be discussed by the Board and staff and that is the way to get there. Mr. Watts appreciated getting this on the agenda and looked forward to the face-to-face meetings.

Acting Chair said thank you for everybody's commitment and pursuit of trying to get a budget because after three years on the Board he's never seen a budget. It's on us board members to work with our ED to help create something. In the past it was done in a vacuum with not much staff participation. But now as vice chair I'm working with the ED to ensure we get staff support in creating the budget. So, it's bottom up versus top down and let's see how this process works. Ms. Gady do you have any more comments?

Ms. Gady stated that she wanted to add that one of the later outcomes of the PIGs and the strategic planning process was that the Board can have an active role in determining future capital improvement projects, not just for the lands we have, but the lands and the strategy to come.

Acting Chair added that Ms. Gady has been sending out the legislative packages for everybody and if you look how heavily loaded Kauai is, that's where the action is. Let's not hold our breath about the packages, it's a work in process. We need to get our government executive offices and legislative offices involved to help support all of this activity that's going on. The legislators have brought forward these initiatives, hopefully we can get some of this passed with funding. But it takes a ton of effort and we have got to infiltrate every island now because that's our charge. I believe Maui is next. It's a lot of rubbing elbows and listening to the people out there. I had a head start because I worked a lot of that land out there and know and understand some of the challenges. But those challenges will turn into opportunities if we get what we need through the legislature.

2. Update regarding sunshine lawsuit filed by Public First Law Center, Civil No. 24-0000050, First Circuit Court, State of Hawaii.

This item is to be taken out of order following Informational Item 4.

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3. Presentation by Brian Miyamoto, Executive Director, Hawaii Farm Bureau, regarding the 2024 Farm Fair.

Acting Chair stated that he was informed earlier that Mr. Miyamoto was not available so we'll move on to Informational Item 4, the Executive Director's report.

4. Executive Director's Report regarding training updates, restrictive use easements, ADC's strategic plan, HPP machine procurement, Kokee Ditch modifications, Ag Days at the Capitol, ADC staffing, introduction of new hires, and budget update.

Ms. Gady said a copy of her report will be sent by email and it will be posted after. She wanted to include some pictures of all the things going on. Starting with the Hawai'i Investment Ready Cohort update that Mr. Okuhama and myself are participating in, which happens once every two years. There were twelve selected entities. You go through four rounds of interviews to finally be selected. It focused on social and environmental issues as they relate to projects and ventures and help provide access to capital. The program includes face to face meetings with the program leaders over ten months and covers business modeling, financial management, overview of financial instruments, due diligence, marketing, presentation development, and culminates with the pitch deck for ADC as we begin to market ourselves. Ms. Gady emphasized that the first face to face was on Big Island, and Mr. Okuhama participated actively through the entire ten months, and he was there all five days. Moving on to the restrictive use easements for TMK's (1) 6-4-001:004, 006 and 008, in December of 2016, ADC and the US Navy incumbered approximately 192.8 acres in Whitmore Village under a restrictive use easement, also called an RUE, to limit development near the naval computer and telecommunications area master station Pacific. The Navy also indicated interest in pending funding opportunities to place RUE's on other ADC properties in close proximity to various Whitmore installations. Funding's available and set to expire on September 30th, 2024. ADC and Navy are working towards developing terms of an RUE on Parcel 6 and 8 on Oahu. The staff will likely present a finalized RUE for the Board's consideration at the March or April Board meeting. This is now in active procurement. In regard to strategic planning, OPSD has been contracted to support the planning process and staff has met with OPSD to narrow the scope of work on a weekly basis. The intent was for the permitted interaction groups to play an active part in this process. The high-pressure processing (HPP) machine procurement has been posted to the state procurement site and Mr. Nakamoto, ADC's Project Manager has scheduled a site meeting with prospective bidders, but because this is an active procurement certain details have to remain confidential until the process is complete. The Waimea Watershed Agreement (WWA) for the Kokee ditch received notification in December of 2023 from the Kauai Island Utility Cooperative (KIUC) that they were abandoning the flow through hydroelectric portion of the West Kauai Energy Project (WKEP), which utilized ADC's Kokee ditch and would have been situated primarily on ADC lands. That portion of the project would have provided significant ag water to ADC and our tenants. At the quarterly meeting of the WWA working group, KIUC noted that their stream channel alteration permit application and their stream diversion works permit application were due to be considered at the January CWRM meeting. At the time KAA and ADC were in discussions with KIUC about the modifications to the WKEP to ensure the modifications met the needs of ADC and our tenants. Upon

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confirmation that KIUC's permit requests were up for consideration at the January 30th CWRM meeting, ADC contacted KIUC to request they withdraw their permit applications pending consensus on potential changes to the Phase One ditch modification. KIUC refused. ADC and KAA submitted testimony that requested CWRM deny or defer approval of the permit applications. Ultimately CWRM approved the stream channel alteration permit application for monitoring, but deferred the approval of the stream diversion works permit application for sixty days to give the working group time to come to consensus on changes to the Phase One modifications. ADC and KAA have met with various parties to the WWA to discuss changes to the Phase One modifications and a meeting of the entire working group was scheduled for February 28th. Next, we had Ag day at the capital on February 8th and ADC staffed two tables, and fielded questions from attendees and legislators who stopped by. Our ADC citrus grower from Kauai as well as an individual who processes taro from an ADC grower to make kulolo were present and provided samples of their products to attendees. Mr. Wicker, Mr. Cooke, and Mr. Hong took time out of their day to spend with ADC. There were 700 to 1000 people going through the capital and the energy for AG was incredible. Next ADC staffing; welcome Mr. Clemente our new property manager. Mr. Clemente come from DLNR and has experience in the Land Management systems that ADC will be implementing. Yesterday the governor released funding for our contract administrator position. The position will support the project manager, asset manager, property manager, and Waiahole Water System Office manager with procurement and other contract related processes. This position supports ADC's work to meet the generally accepted accounting principles, recommended by the auditor. The process to hire will begin the week of 2/20/2024. Once we fill that position ADC will have a full bench for the first time. There was a supplemental budget request into the Governor for a Kauai property manager and a Kauai water system manager. ADC accounting staff was working with the accounting contractor Spire to complete the account reconciliation. We expect it to be completed by the end of the fiscal year June 2024. The information provided by the accounting contractor was required to complete the implementation of the Yardi property management system. It will provide starting balances and double check all of the inputs and include a snapshot of ADC's budget to date. Bottom line, we are operating within our budget; we are not hemorrhaging money; but obviously there are bills that haven't been inputted yet. We need to have Spire double check and audit all of our beginning balances so that we can completely launch. Our two new accounting folks have been diligently working on this. It's been a gnarly situation at best. We're looking forward to June 30th and having some solid numbers for the Board moving forward. Ms. Gady welcomed the DLNR first deputy, who previously served as a deputy attorney general, most recently for the Hawaii Housing Finance and Development Corp and the Mauna Kea Stewardship oversight authority. From 2017 to 2023, he served as counsel for the Department of Hawaiian Homelands. He served as an arbitrator for the state Court, Annexed Arbitration Program, and was appointed to the Public Land Trust Working Group due to his expertise on issues related to the Public Land Trust. Prior to his tenure with the AG, Mr. Kanakaole was an Associate General Counsel and Analyst for the State Office of the Auditor. He also served as a Deputy Corporation Counsel for the County of Hawaii and was a Law Clerk for the Honorable Judge Stephen S. Alm at the First Circuit Court. Mr. Kanakaole was raised on Hawaii Island. Throughout his career he has been involved in economic development and community stewardship efforts there. He's a

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graduate of Kamehameha schools. He received a BA in Political Science from the University of Hawai‘i Hilo and a JD with a certificate in Native Hawaiian Law from the University of Hawai‘i William S. Richardson, School of Law. He now resides on Oahu with his wife and two children. Welcome to the board.

Ms. Gady also welcomed Mr. Cooke, who’s the VP with Ulu Pono Initiative. He provides financial and technical due diligence for investment decisions on various projects. His main focus at Ulu Pono has been to seek and support organizations working to increase local food production across the islands. Since he’s been with Ulu Pono Initiative, Mr. Cooke has been able to cultivate relationships with farmers, ranchers and other growers in a community that is typically fragmented and widespread. He is a graduate of Saint Louis High School in Honolulu. He earned his bachelor’s degree in economics from Emory University and an MBA from J. Mack Robinson College of Business at Georgia State University. Welcome aboard.

Mr. Okuhama congratulated Ms. Gady on filling all the vacant positions. When we were going through the hiring process one of our major concerns was that we had a staff of three. We asked how would you accomplish all that was necessary in cleaning up the organization, getting our financials in order, and just a lot of things that needed to be done. So good job in getting employees on board in such a short period of time. And getting approval now to fill the last remaining one. Thank you.

Acting Chair asked if there were any other comments and welcomed the new Board members and new employees.

The next items are those taken out of order. We’re now moving on to Action Items 8 and 9, and Informational Item 2. Action Items 8 and 9 and Informational Item 2 may be discussed in an executive meeting closed to the public pursuant to HRS section 92-4 and 92-5(a)(4) to allow the Board to consult with the Board’s attorney on questions and issues pertaining to the Board’s powers, duties, privileges, immunities, and liabilities.

E. Action Items

8. **Discussion regarding the status of Lease Agreement No. LE-K1201 assigned to the State of Hawaii, Department of Education. *The Board may go into executive session to consult with the Board’s attorney on questions and issues pertaining to the Board’s powers, duties, privileges, immunities, and liabilities. (no submittal)***

Acting Chair stated before we go into executive session, is there any public testimony on action Item 8, which is a discussion regarding the status of lease agreement number LE-K1201 assigned to the State of Hawaii, Department of Education. There was none.

9. **Discussion and action on letter from Senator Donovan Dela Cruz asking the ADC Board to waive attorney-client privilege with regards to the August 8, 2023, executive session minutes relating to candidate interviews, discussion of executive director salary, and board selection of executive director, continued from January 18, 2024, board meeting. *The Board may go into executive session to consult with the Board’s attorney on questions and issues pertaining to the Board’s powers, duties, privileges, immunities, and liabilities.***

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Acting Chair stated before we move into executive session on to Action Item 9, which is discussion and action on letter from Senator Donovan Dela Cruz asking the ABC board to waive attorney-client privilege with regards to the August 8, 2023, executive session minutes relating to candidate interviews, discussions of the executive director salary and board selection of the executive director continued from January 18, 2024, board meeting, is there was any public testimony on this item? There was none.

F. Informational Items

2. **Update regarding sunshine lawsuit filed by Public First Law Center, Civil No. 24-0000050, First Circuit Court, State of Hawaii. *The Board may go into executive session to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities.***

Acting Chair stated before we move into executive session on Informational Item 2, which is an update regarding sunshine lawsuit filed by Public First Law Center, Civil No. 24-0000050, First Circuit Court, State of Hawaii, is there any public testimony on this item? There was none.

Acting Chair asked for a motion to go into executive session?

Motion to enter into executive session pursuant to HRS Section 92-5 on items E8, E9, and F2 to discuss powers, privileges, duties and immunities with our attorney by Mr. Kanakaole.

Mr. Watts asked are we taking all three of these things under one motion.

Ms. Prescott-Tate replied yes, to discuss those three matters in executive session.

Mr. Watts continued; so we're voting on all of it in one motion?

Ms. Prescott-Tate yes, you're voting whether to go into executive session or not.

Acting Chair asked for a second to the motion.

Mr. Cooke seconded the motion.

Acting Chair asked if there was any public testimony regarding the decision to go into executive session? There was none.

Acting Chair asked if there was any Board discussion regarding the decision to go into executive session? There was none.

Acting Chair called for the vote.

Mr. Watts stated he objected to the action involving the Senator's letter.

Ms. Prescott-Tate asked if Acting Chair could conduct a roll call vote?

Acting Chair conducted a roll call vote:

Acting Chair: Yes.

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Mr. Cooke:	Yes.
Mr. Hong:	Yes.
Ms. Hurd:	Yes.
Mr. Kanakaole:	Yes.
Mr. Okuhama:	Yes.
Ms. Seddon:	Yes.
Mr. Watts:	No.
Mr. Wicker:	Yes.

Acting Chair stated motion to move into executive session was approved: 8-1.

Exited the public meeting at 10:11 A.M.

Public session began at 11:15 A.M.

Acting Chair called the public meeting back to order at 11:15 A.M. The presence of Acting Chair, Mr. Cooke, Mr. Hong, Ms. Hurd, Mr. Kanakaole, Mr. Okuhama, Ms. Seddon, Mr. Watts, and Mr. Wicker was noted. Pursuant to Act 19, codified as HRS section 92-4(b) (2023) the following actions were taken by the Board in executive session:

Action Item 8: Lease Agreement No. LE-K1201 assigned to the State of Hawai'i Department of Education was discussed, and no action be taken.

Action Item 9: The Board discussed Senator Dela Cruz's request for the Board to waive its attorney-client privilege in regard to the August 8, 2023, executive session minutes related to the candidate interview, discussions of the executive director salary, and board selection of the executive director.

Based upon this discussion in the executive session, Acting Chair called for a motion to deny Senator Dela Cruz's request to waive the Board's attorney-client privilege.

Motion to deny Senator Dela Cruz's request: Ms. Seddon; Second: Ms. Hurd.

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

Acting Chair asked if there was any further board discussion. Mr. Kanakaole and Mr. Cooke recused themselves from voting because they were not at the August 8, 2023 meeting.

Acting Chair conducted a roll call vote:

Acting Chair:	Yes.
Mr. Hong:	Yes.
Ms. Hurd:	Yes.
Mr. Okuhama:	Yes.
Ms. Seddon:	Yes.
Mr. Watts:	No.
Mr. Wicker:	No.

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Ms. Prescott-Tate stated the vote was five to two. The Board needs six to take action. The matter does not pass. No action taken.

Acting Chair proceeded to Informational Item No. 2. The Sunshine lawsuit filed by Public First Law Center under Civil No. 24-0000050 was discussed with no action taken.

G. Adjourn

Having no further business before the board, Acting Chair called for a motion to adjourn.

Motion to adjourn: Mr. Okuhama; Second Mr. Wicker.

Acting Chair asked if there were any objections. Hearing none the motion was approved: 9-0.

The meeting was adjourned at 11:21 A.M.

Date of Next Meeting: The next meeting will be held on March 21, 2024, at 9 A.M.

STATE OF HAWAII
**AGRIBUSINESS DEVELOPMENT
CORPORATION**

E-1

STAFF SUBMITTAL TO THE BOARD OF DIRECTORS
March 21, 2024

Subject: Request to refer Lease Agreement No. LE-K1201, assigned to the Hawaii Department of Education, to the Department of the Attorney General for enforcement action. Kekaha, County of Kauai, State of Hawaii, TMK (4) 1-2-002:001 (por.)

Applicant: Agribusiness Development Corporation (ADC)

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

Area: 10.0 acres

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

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

Land Status: Set aside to the Agribusiness Development Corporation by Governor's Executive Order No. 4007 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 ☐

Zoning: SLUD: Agricultural
CZO: A - Agricultural

Character of Use: Agricultural, Commercial, Office

Land Doc. Type: Lease

Term: 35 years (currently in year 11)

Rental Rate \$710 per acre per year
Annual Rent: \$7,100/year¹

¹ Rent was to reopen on July 16, 2022, however that reopening did not timely occur. Subsequently, the Board waived the scheduled re-opening when they approved the assignment from Beck's to HDOE.

Request to refer Lease Agreement No. LE-K1201, assigned to the Hawaii Department of Education, to the Department of the Attorney General for enforcement action. Kekaha, County of Kauai, State of Hawaii, TMK (4) 1-2-002:001 (por.)

March 21, 2024

BACKGROUND:

Pursuant to action by the Agribusiness Development Corporation (ADC) Board of Directors (Board) on February 16, 2023 that approved the assignment and transfer of Lease Agreement No. LE-K1202² (Lease) for 10 acres in Kekaha (Premises) (Exhibit “A”) from Beck’s Superior Hybrids, Inc. (Beck’s) to the Hawaii Department of Education (HDOE), the Lease assignment was executed and effective on March 10, 2023.

After the assignment of the Lease was approved by the Board, ADC sent a new draft lease agreement to HDOE for the remaining term of the Lease on March 3, 2023. With the exception of a couple requests for a status update made to HDOE’s Deputy Attorney General, no further communication from HDOE has been received. While the new draft lease has not been executed, the Lease has been assigned to HDOE and the Board has consented to the assignment (Exhibit “B”). As such, HDOE is currently operating under the terms of the License.

Additionally, following the assignment of the Lease, ADC began invoicing HDOE according to the terms of the Lease and the Board’s approval. To date, no rent payments have been received and no communication regarding the rents to HDOE has been received.

On August 8, 2023, HDOE and Kekaha Agriculture Association (KAA) executed a Request and Agreement for Use of School Buildings, Facilities, or Grounds (Agreement) which allowed KAA to use the facility for seven months. As of this writing the Agreement is expired, however HDOE continues to allow the use of the grounds and facilities without an agreement. The Lease does not permit HDOE to sublease the Premises without the prior approval of ADC and staff notes that no such request has ever been received.

Pursuant to these concerns and the terms of the Land Management Policy & Procedure Manual, staff issued a Notice of Violation on February 15, 2024 (Exhibit “C”) giving HDOE until (and including) March 16, 2024 to fully cure the violations. As of this writing, no communication or payment has been received from HDOE, and they maintain a \$9,294.94 unpaid balance, which includes rent and security deposit assessments³.

REQUEST:

Staff requests that the Board refer the Lease to the Department of the Attorney General for enforcement action (Request).

OPERATIONAL PLAN:

Unknown

CONSERVATION PLAN:

N/A

² Further background regarding the Lease may be accessed at <https://dbedt.hawaii.gov/adc/files/2023/02/2023-02-16-Board-Meeting-Package-signed.pdf> (see item E-2)

³ Pending reconciliation of ADC tenant accounts by ADC accounting staff and consultants, this amount does not yet include service fees and interest on any unpaid balances.

March 21, 2024

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT COMPLIANCE:

Under Hawaii Revised Statutes (HRS) §343-5(a), an environmental assessment shall be required for actions, as summarized in part below, that propose: (1) use of state land or county lands, or the use of state or county funds; (2) use within any land classified as a conservation district; (3) use within a shoreline area; (4) use within any historic site as designated in the National Register or Hawaii Register; (5) use within the Waikiki area of O‘ahu; (6) any amendments to existing county general plans where the amendment would result in designations other than agriculture, conservation, or preservation; (7) any reclassification of any land classified as a conservation district; (8) construction of new or the expansion or modification of existing helicopter facilities within the State, that may affect: (A) any land classified as a conservation district; (B) a shoreline area; or (C) any historic site as designated in the National Register or Hawaii Register; (9) any (A) wastewater treatment unit, except an individual wastewater system or a wastewater treatment unit serving fewer than fifty single-family dwellings or the equivalent; (B) Waste-to-energy facility; (C) Landfill; (D) Oil refinery; or (E) Power-generating facility.

The project triggers an environmental assessment because it proposes the use of state or county lands or the use of state or county funds.

In accordance with the Comprehensive Exemption List for the Agribusiness Development Corporation dated May 1, 2018, the subject Request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 10, item 9, which includes “Creation or termination of easements, covenants, or other rights in structures or land;” The Request will probably have minimal or no significant effect on the environmental and should be declared exempt from the preparation of an environmental assessment.

REMARKS & DISCUSSION:

In accordance with ADC’s policy and procedure manual, a notice of violation was sent to HDOE on February 15, 2024 giving notice of various violations and providing the opportunity to cure by March 16, 2024. As of this writing, ADC has not received the courtesy of a response. Staff believes that it is prudent to refer this matter to the Attorney General default proceedings.

Staff has attempted to reach out on multiple occasions to HDOE staff, not only by invoice but by email correspondence with no reply. The approved Request, if carried to termination, would represent an annual loss of \$7,100 to ADC rental income.

RECOMMENDATION:

Based on the foregoing, it is recommended that the Board:

1. Approve the Request upon the condition that any subsequent request to terminate the Lease will be brought before the Board for consideration and final disposition; and
2. Declare that, pursuant to ADC’s Comprehensive Exemption List dated May 1, 2018, the proposed disposition will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment, pursuant to Chapter 343, Hawaii Revised Statutes.

Request to refer Lease Agreement No. LE-K1201, assigned to the Hawaii Department of Education, to the Department of the Attorney General for enforcement action. Kekaha, County of Kauai, State of Hawaii, TMK (4) 1-2-002:001 (por.)

March 21, 2024

Respectfully Submitted,

Lyle Roe

LYLE ROE
Asset Manager

Approved for Submittal:



Wendy Gady
Executive Director

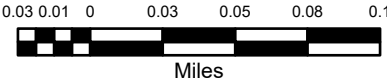
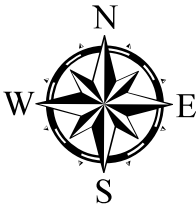
EXHIBIT A



STATE OF HAWAII
AGRIBUSINESS
DEVELOPMENT CORPORATION

Lease Agreement No.
LE-K1201

State of Hawaii, Department
of Education



Esri, TomTom, Garmin, FAO, NOAA, USGS, EPA, USFWS, Esri, CGIAR, USGS, Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodatastyrelsen, Rijkswaterstaat, GSA, Geoland, FEMA, Intermap and the GIS user community. This work is licensed under the Esri Master License Agreement. [View Summary](#) | [View Terms of](#)



**State of Hawaii - Agribusiness Development
Corporation**

235 South Beretania Street, Room 205

Honolulu, HI 96813 US

(808) 586-0186

dbedt.adc.ar@hawaii.gov

Statement

TO

Roy Ikeda

SOH Department of Education

PO Box 2630

Honolulu, HI 96804

STATEMENT NO. 1178

DATE 03/12/2024

TOTAL DUE \$9,294.94

ENCLOSED

DATE	DESCRIPTION	AMOUNT	OPEN AMOUNT
10/17/2023	Invoice #KE2465: Due 11/16/2023.	6,336.59	6,336.59
11/10/2023	Invoice #KE2477: Due 12/10/2023.	591.67	591.67
12/10/2023	Invoice #KE2487: Due 01/09/2024.	591.67	591.67
01/12/2024	Invoice #2533: Due 02/11/2024.	591.67	591.67
02/10/2024	Invoice #2609: Due 03/11/2024.	591.67	591.67
03/10/2024	Invoice #2673: Due 04/09/2024.	591.67	591.67

Current Due	1-30 Days Past Due	31-60 Days Past Due	61-90 Days Past Due	90+ Days Past Due	Amount Due
591.67	1,183.34	0.00	591.67	6,928.26	\$9,294.94

State of Hawaii - Agribusiness Development Corporation

235 South Beretania Street, Room 205
Honolulu, HI 96813 US
(808) 586-0186
dbedt.adc.ar@hawaii.gov

INVOICE

BILL TO	SHIP DATE	10/17/2023	INVOICE	KE2465
SOH Department of Education			DATE	10/17/2023
Roy Ikeda			TERMS	Net 30
PO Box 2630			DUE DATE	11/16/2023
Honolulu, HI 96804				

ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
LE-SOH DOE	Lease LE-K1201 Effective March 10, 2023 (10.00 acs) (March 10, 2023 - March 31, 2023)	1	419.89	419.89
LE-SOH DOE	Lease LE-K1201 (April 2023 - November 2023)	8	591.67	4,733.36
SEC DEP	Security Deposit (2 months' rent)	2	591.67	1,183.34

BALANCE DUE \$6,336.59

Please enclose top portion of invoice and indicate the invoice #(s) to be paid (if different from or in addition to the current invoice). Or, please indicate the invoice #(s) you are paying on your check and write your customer name if it differs from the name on check. Mahalo.

State of Hawaii - Agribusiness Development Corporation

235 South Beretania Street, Room 205
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(808) 586-0186
dbedt.adc.ar@hawaii.gov

INVOICE

BILL TO	SHIP DATE	11/10/2023	INVOICE	KE2477
SOH Department of Education			DATE	11/10/2023
Roy Ikeda			TERMS	Net 30
PO Box 2630			DUE DATE	12/10/2023
Honolulu, HI 96804				

ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
LE-SOH DOE	Lease LE-K1201 (Effective March 10, 2023) (10.00 acs)	1	591.67	591.67

BALANCE DUE \$591.67

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(808) 586-0186
dbedt.adc.ar@hawaii.gov

INVOICE

BILL TO	SHIP DATE	12/10/2023	INVOICE	KE2487
SOH Department of Education			DATE	12/10/2023
Roy Ikeda			TERMS	Net 30
PO Box 2630			DUE DATE	01/09/2024
Honolulu, HI 96804				

ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
LE-SOH DOE	Lease LE-K1201 (Effective March 10, 2023) (10.00 acs)	1	591.67	591.67

BALANCE DUE \$591.67

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dbedt.adc.ar@hawaii.gov

INVOICE

BILL TO
SOH Department of Education
Roy Ikeda
PO Box 2630
Honolulu, HI 96804

INVOICE 2533
DATE 01/12/2024
TERMS Net 30
DUE DATE 02/11/2024

ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
LE-SOH DOE	Lease LE-K1201 (Effective March 10, 2023) (10.00 acs)	1	591.67	591.67

Please make check payable to Director of Finance and remit to the address above.

BALANCE DUE

\$591.67

Accounts are currently being reconciled; delinquent charges and interest charges are being held in abeyance until further notice.

If you have any questions regarding this invoice, please call 808-586-0186.

Please enclose top portion of invoice and indicate the invoice #(s) to be paid (if different from or in addition to the current invoice). Or, please indicate the invoice #(s) you are paying on your check and write your customer name if it differs from the name on check. Mahalo.

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(808) 586-0186
dbedt.adc.ar@hawaii.gov

INVOICE

BILL TO
SOH Department of Education
Roy Ikeda
PO Box 2630
Honolulu, HI 96804

INVOICE 2609
DATE 02/10/2024
TERMS Net 30
DUE DATE 03/11/2024

ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
LE-SOH DOE	Lease LE-K1201 (Effective March 10, 2023) (10.00 acs)	1	591.67	591.67

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BALANCE DUE

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State of Hawaii - Agribusiness Development Corporation

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(808) 586-0186
dbedt.adc.ar@hawaii.gov

INVOICE

BILL TO
SOH Department of Education
Roy Ikeda
PO Box 2630
Honolulu, HI 96804

INVOICE 2673
DATE 03/10/2024
TERMS Net 30
DUE DATE 04/09/2024

ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
LE-SOH DOE	Lease LE-K1201 (Effective March 10, 2023) (10.00 acs)	1	591.67	591.67

Please make check payable to Director of Finance and remit to the address above.

BALANCE DUE

\$591.67

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JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR



WENDY GADY
EXECUTIVE DIRECTOR

STATE OF HAWAII
AGRIBUSINESS DEVELOPMENT CORPORATION
HUI HO'OU LU AINA MAHIAI
PROPERTY & ASSET MANAGEMENT SECTION

February 15, 2024

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Mr. Keith Hayashi, Superintendent
Hawaii Board of Education
Queen Liliuokalani Building
Post Office Box 2360
Honolulu, Hawaii 96804

RE: Lease Agreement No. LE-K1201 dated July 16, 2012 (as assigned to the Department of Education, State of Hawaii and effective on March 10, 2023, the "Lease") by and between the State of Hawaii, Agribusiness Development Corporation (Lessor) and Department of Education, State of Hawaii (Lessee) for property located at Kekaha, Kauai, Hawaii, TMK No. (4) 1-2-002:001 (por.) containing 10.0 acres (Premises)

NOTICE OF VIOLATION

Dear Superintendent Hayashi:

I am writing to advise you of violations of the above referenced Lease which our office has documented:

A. Financial Violations

Violation 1: Rent Arrearage. Lessee has not paid any invoiced rents under the Lease (see Statement of Account, various invoices, Exhibit "A"). The License states that "The base annual rental for this Lease shall be payable in monthly installments, within thirty (30) days of receipt of the lease fee invoice." (Lease, p. 5)¹

B. Non-Financial Violations

Violation 2: Subleasing. Lessee has executed a use of facilities agreement (functionally a sublease) to Kekaha Agriculture Association without the written consent of the Lessor (see Photo Documentation of DOE Tenant, Exhibit "B"). The Lease states that "Lessee

¹ Subject to determinations of annual rents upon reopening, base annual rent is currently \$710 per acre per year.

may sublease any portion of the Premises provided Lessee first obtains the prior written consent of Lessor.” (Lease, p. 8)

Pursuant to Lessor’s policies and procedures, you have thirty (30) days from the date of this notice to fully cure the above-noticed violations. If Lessee does not fully cure the violations within the time specified, Lessor’s Board of Directors may refer the matter to the Department of the Attorney General for legal action which may include, but is not limited to, termination of the Lease for breach. Be advised that upon the expiration or sooner termination of the Lease, all improvements, including buildings, shall vest in the Lessor. (Lease, p. 9)

Please contact me at (808) 586-0187 if you have any questions, or to discuss your specific plans and options to remedy the above. I urge your immediate attention to this matter.

Sincerely,

Lyle Roe

LYLE ROE
Asset Manager

c: Tenant File
Ryan Roylo
Wendy Gady
Delanie Prescott-Tate

State of Hawaii - Agribusiness Development Corporation
235 South Beretania Street, Room 205
Honolulu, HI 96813 US
(808) 586-0186
dbedt.adc.ar@hawaii.gov

Statement

TO
Roy Ikeda
SOH Department of Education
PO Box 2630
Honolulu, HI 96804

STATEMENT NO. 1174
DATE 02/13/2024
TOTAL DUE \$8,703.27
ENCLOSED

DATE	DESCRIPTION	AMOUNT	OPEN AMOUNT
10/17/2023	Invoice #KE2465: Due 11/16/2023.	6,336.59	6,336.59
11/10/2023	Invoice #KE2477: Due 12/10/2023.	591.67	591.67
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02/10/2024	Invoice #2609: Due 03/11/2024.	591.67	591.67

Current Due	1-30 Days Past Due	31-60 Days Past Due	61-90 Days Past Due	90+ Days Past Due	Amount Due
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State of Hawaii - Agribusiness Development Corporation

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INVOICE

BILL TO	SHIP DATE	10/17/2023	INVOICE	KE2465
SOH Department of Education			DATE	10/17/2023
Roy Ikeda			TERMS	Net 30
PO Box 2630			DUE DATE	11/16/2023
Honolulu, HI 96804				

ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
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State of Hawaii - Agribusiness Development Corporation

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INVOICE

BILL TO	SHIP DATE	11/10/2023	INVOICE	KE2477
SOH Department of Education			DATE	11/10/2023
Roy Ikeda			TERMS	Net 30
PO Box 2630			DUE DATE	12/10/2023
Honolulu, HI 96804				

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BALANCE DUE

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INVOICE

BILL TO	SHIP DATE	12/10/2023	INVOICE	KE2487
SOH Department of Education			DATE	12/10/2023
Roy Ikeda			TERMS	Net 30
PO Box 2630			DUE DATE	01/09/2024
Honolulu, HI 96804				

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INVOICE

BILL TO
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INVOICE 2533
DATE 01/12/2024
TERMS Net 30
DUE DATE 02/11/2024

ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
LE-SOH DOE	Lease LE-K1201 (Effective March 10, 2023) (10.00 acs)	1	591.67	591.67

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BALANCE DUE

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INVOICE

BILL TO
SOH Department of Education
Roy Ikeda
PO Box 2630
Honolulu, HI 96804

INVOICE 2609
DATE 02/10/2024
TERMS Net 30
DUE DATE 03/11/2024

ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
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STATE OF HAWAII
**AGRIBUSINESS DEVELOPMENT
CORPORATION**

E-2

STAFF SUBMITTAL TO THE BOARD OF DIRECTORS
March 21, 2024

Subject: Request for approval to enter into a memorandum of understanding between ADC and the Hawaii Foreign Trade Zone to encourage, support, and facilitate planning, implementation, and scaling related activities

Applicant: Agribusiness Development Corporation (ADC)

Authority: Section 163D-4(a)(5),(15), Hawaii Revised Statutes

BACKGROUND:

About the Hawaii Foreign Trade Zone (from their [website](#)):

Foreign-Trade Zones are secure geographical areas established by the federal government, located in the U.S. near a port of entry, but are considered outside U.S. Customs territory for tariff and tax purposes. The concept is to reduce the disincentives related to storing and manufacturing imported merchandise in the U.S. by allowing companies to defer, reduce, or eliminate Customs duties on products admitted into these Zones. The idea is to create and retain employment and capital investment opportunities for these companies.

Foreign-Trade Zone No. 9 (FTZ9) is one of the oldest and most respected Foreign-Trade Zones in the nation. Each Zone is numbered sequentially as it is granted its Zone status by the federal government and currently there are nearly 200 active Zone locations nationwide with at least one in each state and Puerto Rico. Hawaii's Foreign-Trade Zone No. 9 means that it was the ninth Zone ever established in the United States.

Hawaii Foreign-Trade Zone No. 9 (FTZ9) offers cost savings and convenience to Hawaii's international businesses and entrepreneurs. Since 1966, FTZ9 has handled nearly \$60 billion of goods. FTZ9 promotes large and small business in Hawaii through tariff savings programs, warehouse services and office facilities, growing an ever increasing international trade community.

As the Foreign-Trade Zone Grantee for Hawaii, FTZ9 oversees duty and tariff deferment programs throughout the state. FTZ9 works on behalf of local General Purpose and Subzones to ensure they operate within US Foreign-Trade Zones Board and US Customs regulations. FTZ9 files all applications to establish new General Purpose or Subzones in Hawaii, and remits concurrences to the US Foreign-Trade Zones Board in Washington DC when any General Purpose zone or Subzone is altered, activated, deactivated. FTZ9 also submits annual reports to the Foreign-Trade Zones Board for all programs under its grant.

FTZ9 is Hawaii's hub of international trade, providing infrastructure, on-site support services like customs brokers and shipping agents, and other resources such as workshops, seminars, and

March 21, 2024

training, at the Honolulu facility. FTZ9 operates a customs bonded warehouse, the newly renovated Homer A. Maxey International Trade Resource Center and its makai office facilities at 521 Ala Moana Boulevard, across the street from Restaurant Row, on Channel Street, in downtown Honolulu.

REQUEST:

Staff requests that the Board authorize staff to execute the Memorandum of Understanding (MOU) (Exhibit “A”) between ADC and the Hawaii Foreign Trade Zone (HFTZ) (Request).

OPERATIONAL PLAN:

ADC anticipates that the proposed MOU will facilitate increased cooperation and collaboration between ADC and HFTZ to further the missions of the respective agencies (for details, see Exhibit “A”).

CONSERVATION PLAN:

N/A

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT COMPLIANCE:

N/A

REMARKS & DISCUSSION:

ADC is actively working to develop working relationships with other state agencies to broaden collaborative efforts to advance state-level and agency-level priorities. A partnership with HFTZ will allow ADC to further explore the agency’s interest in developing agribusiness efficiencies. Other than staff time, it is not expected that the implementation of this MOU will cause any significant fiscal impact.

RECOMMENDATION:

Based on the foregoing, it is recommended that the Board:

1. Approve the Request.

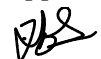
Respectfully Submitted,

Lyle Roe

LYLE ROE

Asset Manager

Approved for Submittal:



Wendy Gady

Executive Director

MEMORANDUM OF UNDERSTANDING
between
Agribusiness Development Corporation
and
Foreign-Trade Zone No. 9

This Memorandum of Understanding (“MOU”) is entered into by and between the Agribusiness Development Corporation (“ADC”), an instrumentality and agency of the State of Hawai‘i whose business address is 235 S. Beretania St., Suite 205, Honolulu, Hawai‘i 96813, and Foreign-Trade Zone No. 9 (FTZ9), a division of the Hawai‘i Department of Business, Economic Development and Tourism (DBEDT), whose business address is 521 Ala Moana Boulevard, Room 101, Honolulu, Hawai‘i, 96813. ADC and FTZ9 may be referred to herein individually as a “Party” and collectively as the “Parties”.

WHEREAS, the Parties recognize the need for Hawai‘i to grow more local food, develop an agribusiness export industry, and create efficiencies for the agribusiness industry in Hawai‘i;

WHEREAS, Hawai‘i meets much of the demands for watermelon, papaya, pineapple and banana, most fruit consumed is imported;

WHEREAS, improved coordination and increased collaboration between the Parties will assist in the economic growth of local food. Detailed identification of new opportunities will lay the foundation for strong and equitable economic development and may provide an alternative source of revenue to the State;

WHEREAS, pursuant to chapter 163D, *Hawai‘i Revised Statutes* (HRS), ADC’s purpose is to create a vehicle and process to make optimal use of agricultural assets for the economic, environmental, and social benefit of the people of Hawai‘i;

WHEREAS, ADC’s implementing statutes establishes a public corporation to administer an aggressive and dynamic agribusiness development program;

WHEREAS, ADC’s statutory mission is to support the production of local agricultural products for local consumption, while continuing to develop commercial exports of locally produced agricultural products;

WHEREAS, ADC’s purpose is to coordinate and administer programs to assist agricultural enterprises to facilitate the transition of agricultural infrastructure from plantation operations into other agricultural enterprises, increase local production of agricultural products for local consumption, reduce the State’s reliance on imported agricultural products, and increase access to farmland and related infrastructure for small local farmers and cooperatives;

WHEREAS, ADC’s statutory powers include the power to acquire or contract to acquire

by grant or purchase any real, personal or mixed property infrastructure or accessory facilities in connection with any project, and water facilities for conveying distributing and transmitting water for irrigation and agricultural uses;

WHEREAS, ADC's statutory powers include providing advisory, consultative, training and educational services, technical assistance and advice to any person, partnership, or corporation, either public or private, in order to carry out the purposes of HRS chapter 163D, and to engage the services of consultants on a contractual basis for rendering professional advice;

WHEREAS, ADC's statutory powers include the ability to initiate and coordinate business and agricultural development plans for its projects, enter into cooperative agreements, organize a subsidiary corporation, acquire the assets of a private or other corporation, and develop a project to identify necessary project facilities;

WHEREAS, ADC's statutory powers include issuance of bonds to provide funds to finance project facilities and with the governor's approval may issue revenue bonds;

WHEREAS, ADC's current licensees include both agriculture and aquaculture agribusinesses. The sharing of best management practices, innovation and technology grants, and access to current research and development, present opportunities for scaling agriculture production within the State;

WHEREAS, FTZ9's mission is to establish, maintain, and administer general-purpose Foreign-Trade Zones and special-purpose Foreign-Trade Subzones throughout the state; to provide storage and distribution services to firms engaged in the import/export of merchandise; and lease office, warehouse, and manufacturing space to firms engaged in international trade;

WHEREAS, FTZ9 holds Executive Order No. 3718 setting aside Hilo Foreign Trade Zone situate at Waiakea, South Hilo, Island of Hawai'i, and an environmental assessment to develop the Hilo Foreign-Trade Zone (Hilo FTZ).

WHEREAS, Hawai'i County residents have organized support to build a tropical agtech hub ("Agtech Hub") on Hawaii Island and have identified the Hilo FTZ site as a suitable location for a project to improve small farm competitiveness and profitability; catalyze science-based solutions for agribusinesses; share innovations to increase food security and resiliency; create high paying jobs in rural Hawai'i; keep local talent in Hawai'i; diversify the economy across multiple industries focused on the food system; create scalable and investable ventures; and export solutions to tropical regions around the world.

WHEREAS, the Agtech Hub is in accord with DBEDT Office of Planning's "Increased Food Security and Food Self-Sufficiency Strategy," "2023 Hawai'i County CEDS," "A Roadmap for Transforming Hawai'i Island's Agricultural Economy," the "Hawai'i Island Agricultural and Food System Study" and a 2017 study on the Hilo FTZ by Facility Logix.

WHEREAS, the 2021 USDA National Agricultural Statistics Service, Pacific Region, Hawai'i, Commercial Agricultural Expansion survey found that County of Hawai'i farmers need more advanced farm equipment, modern greenhouses and controlled environment agriculture technology to increase productivity.

WHEREAS, the AgTech Hub proposes to demonstrate and provide financial information, advanced farm equipment, modern greenhouses and controlled environment technologies. Foreign equipment can be demonstrated and tested within the Hilo Foreign-Trade Zone site, outside of U.S. Customs territory where the products would be treated as if it were in a foreign country, allowing for review and consideration without the expense of traveling to foreign countries to study the technology, pending approval by US Customs & Border Protection.

WHEREAS, \$7.5M in funding is required to design and build the AgTech Hub, as conceived by Architects Hawai'i Limited. Hawai'i Community College has offered in-kind site development, potentially reducing the fund requirement for the building. FTZ9 is seeking funding to cover outstanding costs to design and build the AgTech Hub.

BACKGROUND AND OVERVIEW.

Purpose. This MOU documents the intended relationship between the Parties to encourage, support, and facilitate planning, implementation, and scaling related activities between the Parties in this MOU. Each Party may contribute to this effort through appropriate means including, but not limited to, cash or in-kind support, program and project coordination, information sharing of other relevant expertise, and program and project management of implementation elements defined in this MOU.

Policy. The general policy, areas of cooperation, and joint activities are planned by ADC and FTZ9. All work done or actions taken are consistent with the mission of each Party to support identification of opportunities to grow the agribusiness sector in Hawai'i.

Non-Binding. This MOU does not create a binding contractual agreement and is not enforceable in a court of law. This MOU shall not be used to obligate or commit funds, or as the basis for the transfer of funds. This MOU does not commit any Party to take any actions. The actions of each Party are independent of the actions of the other Party. The Parties anticipate their activities under this MOU will lead to agreements to perform and pay for certain tasks, the details of which will be memorialized in final binding agreement(s), if any.

The Parties intend to: 1) cooperate and share resources to identify growth opportunities; 2) provide experts and resources as needed to complete this work; 3) provide the information gathered for the betterment of others; and, 4) provide the following additional resources to implement this project.

MANAGEMENT AND PROGRAM GUIDELINES.

Scope of Collaboration. The Parties shall leverage their assets, to support the overlap in mission, including but not limited to the following:

1. Sharing best practices, templates, and collateral;
2. Cost-sharing in activities and contracts that are mutually beneficial;
3. Pursuing federal grant opportunities as they arise;
4. Promoting each other's programs and events, whenever appropriate, through newsletters, email marketing, and social media platforms;
5. Exploring new aquaculture opportunities;
6. Surveying and reporting on shared companies served; and
7. Meeting quarterly, or as deemed appropriate, to identify and plan new joint venture partnership opportunities.

ADC intends to provide:

1. Identification and collaboration opportunities within current licensees, lands and identified future licensees and lands;
2. Access to data collected from licensees regarding current production and needs for equipment, expertise, and funding for future scale of their production needs;
3. Information collected regarding the logistics for inter-island and export of goods and services;
4. Business development expertise specific to agricultural and value-added agricultural production in Hawai'i;
5. Identification and collaboration on energy projects for creating business efficiencies for land holdings and licensees; and
6. Identification and collaboration regarding current and future needs of Food & Product Innovation Network clients.

FTZ9 intends to provide:

1. Identified land at Hilo FTZ for Agtech Hub development.
2. On-island, economic development staffing.
3. Grant submissions to fund design and construction of the Agtech Hub.
4. Expertise and coordination with US Customs & Border Protection to enable demonstration of foreign agribusiness equipment in Hawai'i.
5. Leases to Agtech Hub tenants.
6. Support to tropical agtech ecosystem participants to develop exports from Hawai'i.

Management Arrangements. This MOU envisions direct communication between ADC and FTZ9 officials involved in managing the information to be exchanged.

1. This MOU is intended to broadly state the basic understandings of the Parties of the tasks described herein.
2. This MOU in no way restricts the Parties from participating in any activity with other public or private agencies, organizations, or individuals.
3. This MOU is neither a fiscal nor a funds obligation document. Nothing in this MOU authorizes or is intended to obligate the Parties to expend, exchange, or reimburse funds, services, or supplies, or transfer or receive anything of value.
4. This MOU is strictly for internal management purposes for each of the Parties. It is not legally enforceable and shall not be construed to create any legal obligation on the part of any Party. This MOU shall not be construed to provide a private right or cause of action for or by any person or entity.
5. Nothing herein is intended to create a common-law "partnership" with joint and several liabilities of any Party for the acts or omissions of any other Party/Parties.

ADMINISTRATION.

Patent and Technical Data. Parties shall retain exclusive right, title, and interest to their individual underlying technologies if any. No Party warrants that any information or technology disclosed to the other Party shall be merchantable or fit for a particular purpose or free of claims of infringement from third parties.

Release of Information. Production or release to news media, to the general public, or any third party regarding the existence, nature, or purposes of this MOU shall require mutual written agreement of all Parties prior to its release; subject to any requirements of the Freedom of Information Act and the Uniform Information Practices Act, as applicable.

IMPLEMENTING AGREEMENTS.

The details of the levels of support to be furnished to one organization by the other(s) with respect to funding will be developed in specific implementing agreements subject to availability of funds.

Agreements or project plans that set forth specific arrangements for program implementation shall be separately developed and agreed to in implementing agreements facilitated by this MOU. Specific funding and tasking will be established under such implementing agreements.

Appropriate patent and other intellectual property provisions shall be included in implementing agreements entered into by the Parties.

MISCELLANEOUS.

1. The terms of this MOU shall be governed by the laws of the State of Hawai'i.
2. A Party may not transfer or assign its role in this MOU without the previous written consent of all other Parties. Any such attempt to transfer or assign shall be null and void.
3. This MOU is intended to document the intended relationship between the Parties without creating legally enforceable obligations upon the Parties. All actions documented in this MOU are subject to available funding, and no liability shall be imposed upon a Party for failure to undertake any activity documented.
4. This MOU be effective upon the signatures of all Parties and shall remain in full force and effect for a period of five years from the effective date of the MOU. Any Party may withdraw from this MOU in its sole discretion upon thirty days written notice to the other Parties.
5. Nothing in this MOU shall be deemed to constitute any Party hereto as partner, agent or representative of the other Parties or to create any fiduciary relationship between the Parties.
6. This MOU may be executed, and signatures transmitted electronically or by facsimile. This MOU may be executed in counterparts, each of which shall be deemed an original, and all of which shall together constitute one and the same instrument notwithstanding that all of the Parties are not signatories to the same counterparts. For all purposes, duplicate unexecuted and unacknowledged pages of the counterparts may be discarded, and the remaining pages assembled as one document.

[The remainder of this page intentionally left blank; signature page follows.]

IN WITNESS WHEREOF, the undersigned being duly authorized by the respective agencies have signed this Memorandum of Understanding.

AGRIBUSINESS DEVELOPMENT CORPORATION

By: _____
Name: _____ Wendy L. Gady _____
Its: _____ Executive Director _____
Date: _____

FOREIGN-TRADE ZONE NO. 9

By: _____
Name: _____ David J. Sikkink _____
Its: _____ Administrator _____
Date: _____

STATE OF HAWAII
**AGRIBUSINESS DEVELOPMENT
CORPORATION**

E-3

STAFF SUBMITTAL TO THE BOARD OF DIRECTORS
March 21, 2024

Subject: Request for approval to issue a right of entry agreement to Hawaii Department of Land and Natural Resources, Division of Forestry and Wildlife for the purpose access through the Kalepa property to access a project site; Kalepa, County of Kauai, State of Hawaii, TMK (4) 3-9-002:001, (4) 4-2-001:003

Applicant: Hawaii Department of Land and Natural Resources, Division of Forestry and Wildlife (DOFAW)

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

Area: N/A

Field No(s): Common Element Road (CER)

Tax Map Key: (4) 3-9-002:001; (4) 4-2-001:003

Land Status: Set aside to the Agribusiness Development Corporation (ADC) by Governor's Executive Order No. 4328 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 ☐

Zoning: SLUD: Agricultural
CZO: AG

Chapter 343: In accordance with the Comprehensive Exemption List for the Agribusiness Development Corporation dated May 1, 2018, this request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 10.

Character of Use: Pass-through travel

Land Doc. Type: Right-of-Entry

Term: Until completion of the project

Rental Rate \$0

March 21, 2024

BACKGROUND:

Department of Land and Natural Resources, Division of Forestry and Wildlife (DOFAW) will be soliciting contractors through March 2024 for a capital project to repair a low-water in-stream crossing, known locally as Queensland crossing,” which is immediately adjacent to ADC’s Kalepa property (see Exhibit “A”). Work will be necessary on both sides of the crossing necessitating access from north and south sides of the river at Queensland crossing.

REQUEST:

DOFAW requests a right-of-entry (ROE) through ADC Kalepa lands from Maalo Road to Loop Road for DOFAW staff and contractors (see routes A and B of Exhibit “A”) (Request).

OPERATIONAL PLAN:

DOFAW staff and contractors will utilize the Kalepa Common Element Road (CER) for pass-through purposes only during the course of construction. Construction is anticipated May 2024 – November 2024, but could be completed in as little as three months if weather conditions permit.

CONSERVATION PLAN:

N/A

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT COMPLIANCE:

Under Hawaii Revised Statutes (HRS) §343-5(a), an environmental assessment shall be required for actions, as summarized in part below, that propose:

(1) use of state land or county lands, or the use of state or county funds; (2) use within any land classified as a conservation district; (3) use within a shoreline area; (4) use within any historic site as designated in the National Register or Hawaii Register; (5) use within the Waikiki area of O‘ahu; (6) any amendments to existing county general plans where the amendment would result in designations other than agriculture, conservation, or preservation; (7) any reclassification of any land classified as a conservation district; (8) construction of new or the expansion or modification of existing helicopter facilities within the State, that may affect: (A) any land classified as a conservation district; (B) a shoreline area; or (C) any historic site as designated in the National Register or Hawaii Register; (9) any (A) wastewater treatment unit, except an individual wastewater system or a wastewater treatment unit serving fewer than fifty single-family dwellings or the equivalent; (B) Waste-to-energy facility; (C) Landfill; (D) Oil refinery; or (E) Power-generating facility.

The project triggers an environmental assessment because it proposes (1) the use of state or county lands or the use of state or county funds and (2) use within the conservation district.

In accordance with the Comprehensive Exemption List for the Agribusiness Development Corporation dated May 1, 2018, the subject Request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 10, item 9, which includes “Creation or termination of easements, covenants, or other rights in structures or land;” The Request is a de minimis action that will probably have minimal or no significant effect on the environmental and should be declared exempt from the preparation of an environmental assessment.

March 21, 2024

REMARKS & DISCUSSION:

ADC is unable to issue an ROE for the full extent of DOFAW's request. A portion of their Route B request is through lands that are currently leased to ADC tenants GE Farms, Hanahanapuni Farms, and Mahipapa, and which are not part of the CER.

Kalepa Koalition is a cooperative of ADC tenants in Kalepa and maintains the CER pursuant to a memorandum of understanding with ADC. ADC acknowledges Kalepa Koalition's objections to non-tenant access to the Kalepa property. However, ADC believes that a short-term ROE to a State sister agency, and their contractors, for a state-funded project is in the best interest of the State and taxpayers. Further, DOFAW has agreed to repair any damage to the CER which may be caused by them or their contractors. There is no financial impact to ADC if this Request is approved.

RECOMMENDATION:

Based on the foregoing, it is recommended that the Board:

1. Approve the Request, subject to the following conditions:
 - a. ROE shall not include access through any portions of the property that are licensed to tenants; and
 - b. ROE shall terminate on December 2, 2024; and
 - c. Throughout, and upon completion of, the Project, DOFAW shall monitor all portions of the CER subject to use by DOFAW and their contractors and grade and repair as necessary; and
 - d. DOFAW shall coordinate all ingress and egress through the property with the Kalepa Koalition.
2. Declare that, pursuant to ADC's Comprehensive Exemption List dated May 1, 2018, the proposed disposition will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment, pursuant to Chapter 343, Hawaii Revised Statutes.

Respectfully Submitted,

Lyle Roe

LYLE ROE

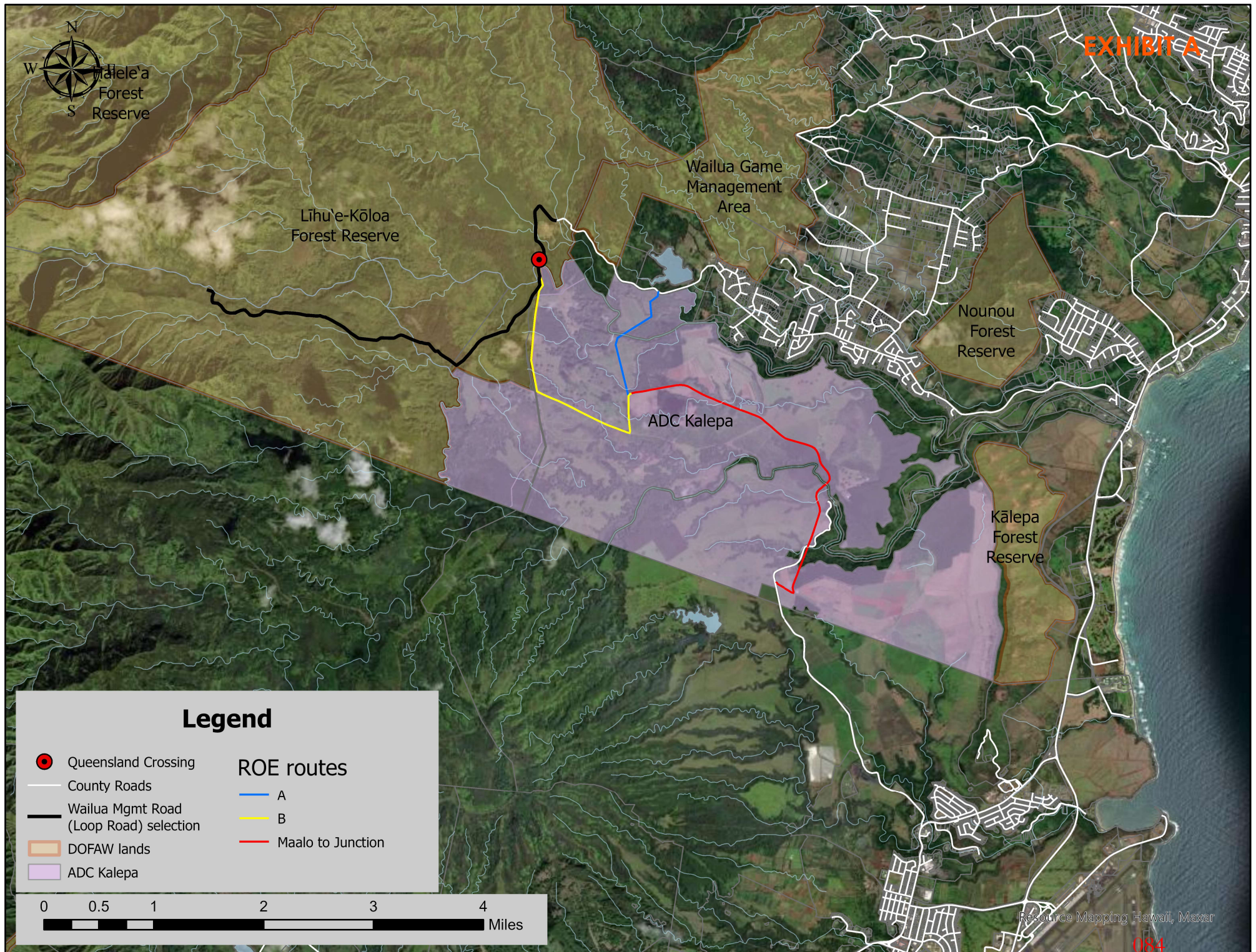
Asset Manager

Approved for Submittal:



Wendy Gady

Executive Director



STATE OF HAWAII
**AGRIBUSINESS DEVELOPMENT
CORPORATION**

E-4

STAFF SUBMITTAL TO THE BOARD OF DIRECTORS
March 21, 2024

Subject: Request for approval to issue a Letter of Authorization to Hawaii Drilling & Pump Service on behalf of the City & County of Honolulu, Board of Water Supply, to access Reservoir 225 for purposes of a 96-hour continuous pump test for an adjacent well and property at Kunia, City & County of Honolulu, State of Hawaii, TMK (1) 9-4-003:001 (por.)

Applicant: Hawaii Drilling & Pump Service on behalf of City & County of Honolulu, Board of Water Supply (Applicant)

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

Area: N/A

Field No(s): Waiahole Water System, Reservoir 225 (Premises)

Tax Map Key: (1) 9-4-003:001 (por.) (Property)

Land Status: Waiahole Water System (easements) acquired in fee by the Agribusiness Development Corporation in 2010

Trust Land Status: Section ____ lands of the Hawaii Admission Act
Yes ☐ No ☒
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution?
Yes ☐ No ☒

Zoning: SLUD: Agricultural
CZO: AG-1

Chapter 343: In accordance with the Comprehensive Exemption List for the Agribusiness Development Corporation dated May 1, 2018, this request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 5.

Character of Use: 96-hour continuous pump test

Land Doc. Type: Letter of Authorization

Term: 1 year

Rental Rate: \$0.00
Annual Rent: \$0.00/year

Request for approval to issue a Letter of Authorization to Hawaii Drilling & Pump Service on behalf of the City & County of Honolulu, Board of Water Supply, to access Reservoir 225 for purposes of a 96-hour continuous pump test for an adjacent well and property at Kunia, City & County of Honolulu, State of Hawaii, TMK (1) 9-4-003:001 (por.)

February 15, 2024

BACKGROUND:

Hawaii Drilling & Pump Service, LLC has been contracted by the City & County of Honolulu's Board of Water Supply to drill three fresh water supply wells at their Kunia reservoir site adjacent to Waiahole Water System's Reservoir 225. According to Hawaii's well construction standards, the drilling of these wells requires a 96-hour continuous pump test to determine well efficiency and obtain data on the aquifer.

REQUEST:

Staff requests that the Board authorize staff to issue a Letter of Authorization to Hawaii Drilling & Pump Service, LLC to conduct well pump tests and discharge test pump water into the Waiahole Ditch System (Request).

OPERATIONAL PLAN:

The test pumping will be at a rate of 1,600 gallons per minute over a 96-hour period for each well beginning April 2024. Hawaii Drilling & Pump plans to discharge approximately 10 million gallons per well.

CONSERVATION PLAN:

N/A

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT COMPLIANCE:

Under Hawaii Revised Statutes (HRS) §343-5(a), an environmental assessment shall be required for actions, as summarized in part below, that propose: (1) use of state land or county lands, or the use of state or county funds; (2) use within any land classified as a conservation district; (3) use within a shoreline area; (4) use within any historic site as designated in the National Register or Hawaii Register; (5) use within the Waikiki area of O'ahu; (6) any amendments to existing county general plans where the amendment would result in designations other than agriculture, conservation, or preservation; (7) any reclassification of any land classified as a conservation district; (8) construction of new or the expansion or modification of existing helicopter facilities within the State, that may affect: (A) any land classified as a conservation district; (B) a shoreline area; or (C) any historic site as designated in the National Register or Hawaii Register; (9) any (A) wastewater treatment unit, except an individual wastewater system or a wastewater treatment unit serving fewer than fifty single-family dwellings or the equivalent; (B) Waste-to-energy facility; (C) Landfill; (D) Oil refinery; or (E) Power-generating facility.

The project triggers an environmental assessment because it proposes (1) the use of state or county lands or the use of state or county funds.

In accordance with the Comprehensive Exemption List for the Agribusiness Development Corporation dated May 1, 2018, the subject Request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 5, item 1, which includes "Surveys, research, investigations into all aspects of water use, quantity, and quality;" The Request is a de minimis action that will probably have minimal or no significant effect on the environmental and should be declared exempt from the preparation of an environmental assessment.

Request for approval to issue a Letter of Authorization to Hawaii Drilling & Pump Service on behalf of the City & County of Honolulu, Board of Water Supply, to access Reservoir 225 for purposes of a 96-hour continuous pump test for an adjacent well and property at Kunia, City & County of Honolulu, State of Hawaii, TMK (1) 9-4-003:001 (por.)

February 15, 2024

REMARKS & DISCUSSION:

WWS plans to deliver the test water to various reservoirs and water users along the ditch system for agricultural purposes. Other than staff time, it is not expected that the testing will cause any significant fiscal impact.

RECOMMENDATION:

Based on the foregoing, it is recommended that the Board:

1. Approve the Request, subject to the following conditions:
 - a. Term shall be for 1 year.
2. Declare that, pursuant to ADC's Comprehensive Exemption List dated May 1, 2018, the proposed disposition will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment, pursuant to Chapter 343, Hawaii Revised Statutes.

Respectfully Submitted,

Ken T. Nakamoto

KEN NAKAMOTO
Project Manager

Approved for Submittal:



Wendy Gady
Executive Director



HI DEPT OF AGRICULTURE
AGRIBUSINESS DEV CORP

2024 FEB -6 A 11:59

January 30, 2024

Ken Nakamoto
Agribusiness Development Corporation
235 S Beretania St. #205
Honolulu, HI 96813
Ken.T.Nakamoto@hawaii.gov
(808) 586-0087

Dear Mr. Nakamoto,

Hawaii Drilling & Pump Service, LLC, formerly Beylik/Energetic A JV, has been contracted by the BWS to drill three (3) each fresh water supply wells at their Kunia reservoir site (immediately adjacent to the Waiahole Reservoir 225).

Per Hawaii's Well Construction Standards, the drilling of these wells requires a 96-hour continuous pump test to determine well efficiency and obtain data on the aquifer. The test pumping will be at a rate of 1600 gpm over the 96-hour period, for each well.

Respectfully request permission to discharge approximately 10 million gallons of test pump water per well into the Waiahole Ditch, immediately upstream of Reservoir 225's intake. The first pump test is tentatively scheduled for a April/May 2024 timeframe, with the 2nd and 3rd pump tests tentatively scheduled for July/August 2024.

Feel free to call me at 808 478-7114 with any questions.

Thank you for taking the time to consider this matter.

A handwritten signature in black ink, appearing to read "Fred G. Camero, Jr.", is written over a horizontal line.

v/r,
Fred G. Camero, Jr.
President

HAWAII DRILLING & PUMP SERVICE, LLC.
PO Box 598, Wenatchee, WA 98807
91-259A Olai St., Kapolei, HI 96707
Office: (808) 682-5554 | Fax: (808) 682-5866
Contractor's License Number ABC-36878
www.hawaiidps.com



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT | KE KAHUWAI PONO
P.O. BOX 621
HONOLULU, HAWAII 96809

DAWN N. S. CHANG
CHAIRPERSON

MICHAEL G. BUCK
KENNETH S. FINK, M.D. MGA MPH
NEIL J. HANNAHS
AURORA KAGAWA-VMANI PH.D.
WAYNE K. KATAYAMA
PAUL J. MEYER

M. KALEO MANUEL
DEPUTY DIRECTOR

June 27, 2023

3-2502-002.wcp.docx

Mr. Fred G. Camero, Jr.
Beylik / Energetic A JV
91-259 Olai Street, #A
Kapolei, HI 96707

Aloha Mr. Camero:

Well Construction Permit
Kunia IV-2 Well (Well No. 3-2502-002), Waipahu-Waiawa, Island of Oahu

Enclosed are two (2) copies of your approved Well Construction Permit for the captioned well that authorize well construction activities but excludes installation work for a permanent pump. As part of the Chairperson's approval, the following special conditions were added and are part of your permit under Permit Condition 17:

Special Conditions Special Conditions

1. Attached for your information are copies of the Department of Health's (DOH) review comments. Please note DOH's requirements related to the discharge of effluent from well drilling and testing activities. Also, please contact the Noise Radiation and Indoor Air Quality Branch at 586-4700 to check compliance with construction noise permit requirements for this project.
2. These wells are located in a Ground Water Management Area. Pump Installation and Water Use Permits must be applied for and approved prior to use of these wells.

Please refer to the Permit Processes Worksheet (transmitted with your acknowledgment letter) for further information regarding the process of drilling a well.

No withdrawal of water shall be made other than for testing purposes until a certificate of pump installation completion has been issued by the Commission.

Please sign both permit originals and return one copy to the Commission office for our files. For copies of the aquifer pump test worksheet, please call staff or visit <http://files.hawaii.gov/dlnr/cwrn/forms/APTR.pdf>.

IMPORTANT - Drilling work shall not commence until a fully signed permit is returned to the Commission. The permit shall be prominently displayed or made available at the construction site during construction. Be advised that you may be subject to fines of up to \$5,000 per day for any violations of your permit conditions starting from the permit approval date.

If you have any questions, please call Kimberly Kessler of the Commission staff at (808) 798-9461.

Ola i ka wai,

M. Kaleo Manuel, Deputy Director for
Dawn N.S. Chang, Chairperson

Enclosures

c: Well and Landowner: City and County of Honolulu, Board of Water Supply (Attn: Ernest Y.W. Lau)
(With applicable comments – DOH WWB and CWB)

WELL CONSTRUCTION PERMIT

Kunia IV-2 Well, Well No. 3-2502-002

Note: This permit shall be prominently displayed at the construction site until the work is completed

In accordance with Department of Land and Natural Resources, Commission on Water Resource Management's Administrative Rules, Section 13-168, entitled "Water Use, Wells, and Stream Diversion Works", this document permits the construction and testing of Kunia IV-2 Well (Well No. 3-2502-002) at IMK (1) 9-4-003:010, Island of Oahu, subject to the Hawaii Well Construction & Pump Installation Standards (HWCPIIS - February 2004) which include but are not limited to the following conditions:

1. The Chairperson of the Commission on Water Resource Management (Commission), P.O. Box 621, Honolulu, HI 96809, shall be notified, in writing, at least two (2) weeks before any work authorized by this permit commences and staff shall be allowed to inspect installation activities in accordance with §13-168-15, Hawaii Administrative Rules (HAR).
2. This permit shall be prominently displayed, or made available, at the site of construction work until work is completed.
3. The well construction permit shall be for construction and testing of the well only. The permittee shall coordinate with the Chairperson and conduct a pumping test in accordance with the HWCPIIS (the latest pump test worksheet can be obtained by contacting Commission staff or at <http://files.hawaii.gov/dln/cwrn/forms/APTR.pdf>). The permittee shall submit to the Chairperson the test results as a basis for supporting an application to install a permanent pump. No permanent pump may be installed until a pump installation permit is approved and issued by the Chairperson. No withdrawal of water shall be made for purposes other than testing without a Certificate of Pump Installation Completion. The permitted pump capacity described on the pump installation permit may be reduced in the event that the pump test does not support the capacity.
4. In basal groundwater, the depth of the well may not exceed one-fourth (1/4) of the theoretical thickness (41 times initial head) of the basal groundwater unless otherwise authorized by the Chairperson. If it can be shown that the well does not tap basal groundwater, then this condition may be waived after consultation with and acceptance by Commission staff. However, in no instance can the well be drilled deeper than one-half (1/2) of the theoretical thickness without Commission approval.
5. The permittee shall incorporate mitigation measures to prevent construction debris from entering the aquatic environment, to schedule work to avoid periods of high rainfall, and to revegetate any cleared areas as soon as possible.
6. In the event that historically significant remains such as artifacts, burials or concentrations of shells or charcoal are encountered during construction, the permittee shall stop work and immediately contact the Department of Land and Natural Resources' State Historic Preservation Division. Work may recommence only after written concurrence by the State Historic Preservation Division.
7. The proposed well construction shall not adversely affect existing or future legal uses of water in the area, including any surface water or established instream flow standards. This permit or the authorization to construct the well shall not constitute a determination of relative water rights.
8. The Well Completion Report Part I shall be submitted to the Chairperson within thirty (30) days after completion of work (please contact staff or visit <http://files.hawaii.gov/dln/cwrn/forms/WCRI.pdf> for current form).
9. The permittee shall comply with all applicable laws, rules, and ordinances; non-compliance may be grounds for revocation of this permit.
10. The well construction permit application and, if relevant, any related staff submittal approved by the Commission are incorporated into this permit by reference.
11. If the HWCPIIS are not followed and as a consequence water is wasted or contaminated, a lien on the property may result.
12. Any variances from the HWCPIIS shall be approved by the Chairperson prior to invoking the variance.
13. The work proposed in the well construction permit application shall be completed within two (2) years from the date of permit approval unless otherwise specified. The permit may be extended by the Chairperson upon a showing of good cause and good-faith performance. A request to extend the permit shall be submitted to the Chairperson no later than the date the permit expires.
14. If the well is not to be used it must be properly capped. If the well is to be abandoned during the course of the project, then the permittee must apply for a well abandonment permit in accordance with §13-168-12(f), HAR, prior to any well sealing or plugging work.
15. The permittee, its successors, and assigns shall indemnify, defend, and hold the State of Hawaii harmless from and against any loss, liability, claim, or demand for property damage, personal injury, or death arising out of any act or omission of the applicant, assigns, officers, employees, contractors, and agents under this permit or relating to or connected with the granting of this permit.
16. This permit shall apply to the location shown on the application only. If the well is to be relocated, the permittee shall apply for a new well construction pump installation permit in accordance with §13-168-12(f), HAR.
17. Special conditions in the attached cover transmittal letter are incorporated herein by reference.

Date of Approval: **June 27, 2023**

Expiration Date: **Two (2) years from approval date**


M. Kaleo Manuel, Deputy Director for

Dawn N.S. Chang, Chairperson

Commission on Water Resource Management

I have read the conditions and terms of this permit and understand them. I accept and agree to meet these conditions as a prerequisite and underlying condition of my ability to proceed and understand that I shall not commence work until I have signed, dated, and returned the permit to the Commission. I understand that this permit is not to be transferred to any other entity. I also understand that non-compliance with any permit condition may be grounds for revocation and fines of up to \$5,000 per day starting from the permit date of approval.

Driller's Signature: 

C-57 License #: AC-21896

Date: 6/29/23

Printed Name: Fred G. Camero, Jr.

Firm or Title: Beylik / Energetic A JV

Please sign both copies of this permit, return one copy to the Commission office, and retain the other for your records.

Attachment



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT | KE KAHUWAI PONO
P.O. BOX 611
HONOLULU, HAWAII 96809

DAWN N. S. CHANG
CHAIRPERSON

MICHAEL G. BUCK
KENNETH S. FINK, M.D., MGA, MPH
NEIL J. HANNAHS
AURORA KAGAWA-VIVIANI, PH.D.
WAYNE K. KATAYAMA
PAUL J. MEYER

M. KALEO MANUEL
DEPUTY CHAIRPERSON

June 27, 2023

3-2502-003.wcp.docx

Mr. Fred G. Camero, Jr.
Beylik / Energetic A JV
91-259 Olai Street, #A
Kapolei, HI 96707

Aloha Mr. Camero:

Well Construction Permit
Kunia IV-3 Well (Well No. 3-2502-003), Waipahu-Waiawa, Island of Oahu

Enclosed are two (2) copies of your approved Well Construction Permit for the captioned well that authorize well construction activities but excludes installation work for a permanent pump. As part of the Chairperson's approval, the following special conditions were added and are part of your permit under Permit Condition 17:

Special Conditions

1. Attached for your information are copies of the Department of Health's (DOH) review comments. Please note DOH's requirements related to the discharge of effluent from well drilling and testing activities. Also, please contact the Noise Radiation and Indoor Air Quality Branch at 586-4700 to check compliance with construction noise permit requirements for this project.
2. These wells are located in a Ground Water Management Area. Pump Installation and Water Use Permits must be applied for and approved prior to use of these wells.

Please refer to the Permit Processes Worksheet (transmitted with your acknowledgment letter) for further information regarding the process of drilling a well.

No withdrawal of water shall be made other than for testing purposes until a certificate of pump installation completion has been issued by the Commission.

Please sign both permit originals and return one copy to the Commission office for our files. For copies of the aquifer pump test worksheet, please call staff or visit <http://files.hawaii.gov/dlnr/cwrn/forms/APTR.pdf>.

IMPORTANT - Drilling work shall not commence until a fully signed permit is returned to the Commission. The permit shall be prominently displayed or made available at the construction site during construction. Be advised that you may be subject to fines of up to \$5,000 per day for any violations of your permit conditions starting from the permit approval date.

If you have any questions, please call Kimberly Kessler of the Commission staff at (808) 798-9461.

Ola i ka wai.

A handwritten signature in black ink, appearing to read "M. Kaleo Manuel".

M. Kaleo Manuel, Deputy Director for
Dawn N.S. Chang, Chairperson

Enclosures

c: Well and Landowner: City and County of Honolulu, Board of Water Supply (Attn: Ernest Y.W. Iau)
(With applicable comments – DOH WWB and CWB)

WELL CONSTRUCTION PERMIT

Kunia IV-3 Well, Well No. 3-2502-003

Note: This permit shall be prominently displayed at the construction site until the work is completed

In accordance with Department of Land and Natural Resources, Commission on Water Resource Management's Administrative Rules, Section 13-168, entitled "Water Use, Wells, and Stream Diversion Works", this document permits the construction and testing of Kunia IV-3 Well (Well No. 3-2502-003) at LMK (1) 9-4-003:010, Island of Oahu, subject to the Hawaii Well Construction & Pump Installation Standards (HWCPIIS - February 2004) which include but are not limited to the following conditions:

1. The Chairperson of the Commission on Water Resource Management (Commission), P.O. Box 621, Honolulu, HI 96809, shall be notified, in writing, at least two (2) weeks before any work authorized by this permit commences and staff shall be allowed to inspect installation activities in accordance with §13-168-15, Hawaii Administrative Rules (HAR).
2. This permit shall be prominently displayed, or made available, at the site of construction work until work is completed.
3. The well construction permit shall be for construction and testing of the well only. The permittee shall coordinate with the Chairperson and conduct a pumping test in accordance with the HWCPIIS (the latest pump test worksheet can be obtained by contacting Commission staff or at <http://files.hawaii.gov/dlnr/cwrmi/forms/APTR.pdf>). The permittee shall submit to the Chairperson the test results as a basis for supporting an application to install a permanent pump. No permanent pump may be installed until a pump installation permit is approved and issued by the Chairperson. No withdrawal of water shall be made for purposes other than testing without a Certificate of Pump Installation Completion. The permitted pump capacity described on the pump installation permit may be reduced in the event that the pump test does not support the capacity.
4. In basal groundwater, the depth of the well may not exceed one-fourth (1/4) of the theoretical thickness (41 times initial head) of the basal groundwater unless otherwise authorized by the Chairperson. If it can be shown that the well does not tap basal groundwater, then this condition may be waived after consultation with and acceptance by Commission staff. However, in no instance can the well be drilled deeper than one-half (1/2) of the theoretical thickness without Commission approval.
5. The permittee shall incorporate mitigation measures to prevent construction debris from entering the aquatic environment, to schedule work to avoid periods of high rainfall, and to revegetate any cleared areas as soon as possible.
6. In the event that historically significant remains such as artifacts, burials or concentrations of shells or charcoal are encountered during construction, the permittee shall stop work and immediately contact the Department of Land and Natural Resources, State Historic Preservation Division. Work may recommence only after written concurrence by the State Historic Preservation Division.
7. The proposed well construction shall not adversely affect existing or future legal uses of water in the area, including any surface water or established instream flow standards. This permit or the authorization to construct the well shall not constitute a determination of correlative water rights.
8. The Well Completion Report Part I shall be submitted to the Chairperson within thirty (30) days after completion of work (please contact staff or visit <http://files.hawaii.gov/dlnr/cwrmi/forms/WCR1.pdf> for current form).
9. The permittee shall comply with all applicable laws, rules, and ordinances; non-compliance may be grounds for revocation of this permit.
10. The well construction permit application and, if relevant, any related staff submittal approved by the Commission are incorporated into this permit by reference.
11. If the HWCPIIS are not followed and as a consequence water is wasted or contaminated, a lien on the property may result.
12. Any variances from the HWCPIIS shall be approved by the Chairperson prior to invoking the variance.
13. The work proposed in the well construction permit application shall be completed within two (2) years from the date of permit approval unless otherwise specified. The permit may be extended by the Chairperson upon a showing of good cause and good-faith performance. A request to extend the permit shall be submitted to the Chairperson no later than the date the permit expires.
14. If the well is not to be used it must be properly capped. If the well is to be abandoned during the course of the project, then the permittee must apply for a well abandonment permit in accordance with §13-168-12(f), HAR, prior to any well sealing or plugging work.
15. The permittee, its successors, and assigns shall indemnify, defend, and hold the State of Hawaii harmless from and against any loss, liability, claim, or demand for property damage, personal injury, or death arising out of any act or omission of the applicant, assigns, officers, employees, contractors, and agents under this permit or relating to or connected with the granting of this permit.
16. This permit shall apply to the location shown on the application only. If the well is to be relocated, the permittee shall apply for a new well construction pump installation permit in accordance with §13-168-12(f), HAR.
17. Special conditions in the attached cover transmittal letter are incorporated herein by reference.

Date of Approval: **June 27, 2023**

Expiration Date: **Two (2) years from approval date**


M. Kaleo Manuel, Deputy Director for

Dawn N.S. Chang, Chairperson

Commission on Water Resource Management

I have read the conditions and terms of this permit and understand them. I accept and agree to meet these conditions as a prerequisite and underlying condition of my ability to proceed and understand that I shall not commence work until I have signed, dated, and returned the permit to the Commission. I understand that this permit is not to be transferred to any other entity. I also understand that non-compliance with any permit condition may be grounds for revocation and fines of up to \$5,000 per day starting from the permit date of approval.

Driller's Signature: 

C-57 License #: AC-21896

Date: 6/29/23

Printed Name: Fred G. Camero, Jr.

Firm or Title: Beylik / Energetic A JV

Please sign both copies of this permit, return one copy to the Commission office, and retain the other for your records.

Attachment



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT | KE KAHUWAI PONO
P.O. BOX 621
HONOLULU, HAWAII 96809

DAWN N. S. CHANG
CHAIRPERSON

MICHAEL G. BUCK
KENNETH S. FINK, M.D., MGA, MPH
NEIL J. HANNANIS
AURORA KAGAWA-VIVIANI, PH.D.
WAYNE K. KATAYANA
PAUL J. MEYER

M. KALEO MANUEL
DEPUTY DIRECTOR

June 27, 2023

3-2502-001.wcp.docx

Mr. Fred G. Camero, Jr.
Beylik / Energetic A JV
91-259 Olai Street, #A
Kapolei, HI 96707

Aloha Mr. Camero:

Well Construction Permit
Kunia IV-1 Well (Well No. 3-2502-001), Waipahu-Waiawa, Island of Oahu

Enclosed are two (2) copies of your approved Well Construction Permit for the captioned well that authorize well construction activities but excludes installation work for a permanent pump. As part of the Chairperson's approval, the following special conditions were added and are part of your permit under Permit Condition 17:

Special Conditions

1. Attached for your information are copies of the Department of Health's (DOH) review comments. Please note DOH's requirements related to the discharge of effluent from well drilling and testing activities. Also, please contact the Noise Radiation and Indoor Air Quality Branch at 586-4700 to check compliance with construction noise permit requirements for this project.
2. These wells are located in a Ground Water Management Area. Pump Installation and Water Use Permits must be applied for and approved prior to use of these wells.

Please refer to the Permit Processes Worksheet (transmitted with your acknowledgment letter) for further information regarding the process of drilling a well.

No withdrawal of water shall be made other than for testing purposes until a certificate of pump installation completion has been issued by the Commission.

Please sign both permit originals and return one copy to the Commission office for our files. For copies of the aquifer pump test worksheet, please call staff or visit <http://files.hawaii.gov/dlnr/cwrn/forms/APTR.pdf>.

IMPORTANT - Drilling work shall not commence until a fully signed permit is returned to the Commission. The permit shall be prominently displayed or made available at the construction site during construction. Be advised that you may be subject to fines of up to \$5,000 per day for any violations of your permit conditions starting from the permit approval date.

If you have any questions, please call Kimberly Kessler of the Commission staff at (808) 798-9461.

Ola i ka wai.

M. Kaleo Manuel, Deputy Director for
Dawn N.S. Chang, Chairperson

Enclosures

c: Well and Landowner: City and County of Honolulu, Board of Water Supply (Attn: Ernest Y.W. Lau)
(With applicable comments – DOH WWB and CWB)

WELL CONSTRUCTION PERMIT

Kunia IV-1 Well, Well No. 3-2502-001

Note: This permit shall be prominently displayed at the construction site until the work is completed

In accordance with Department of Land and Natural Resources, Commission on Water Resource Management's Administrative Rules, Section 13-168, entitled "Water Use, Wells, and Stream Diversion Works", this document permits the construction and testing of Kunia IV-1 Well (Well No. 3-2502-001) at TMK (1) 9-4-003:010, Island of Oahu, subject to the Hawaii Well Construction & Pump Installation Standards (HWCPIIS - February 2004) which include but are not limited to the following conditions:

1. The Chairperson of the Commission on Water Resource Management (Commission), P.O. Box 621, Honolulu, HI 96809, shall be notified, in writing, at least two (2) weeks before any work authorized by this permit commences and staff shall be allowed to inspect installation activities in accordance with §13-168-15, Hawaii Administrative Rules (HAR).
2. This permit shall be prominently displayed, or made available, at the site of construction work until work is completed.
3. The well construction permit shall be for construction and testing of the well only. The permittee shall coordinate with the Chairperson and conduct a pumping test in accordance with the HWCPIIS (the latest pump test worksheet can be obtained by contacting Commission staff or at <http://files.hawaii.gov/dlnr/cwrn/forms/APTR.pdf>). The permittee shall submit to the Chairperson the test results as a basis for supporting an application to install a permanent pump. No permanent pump may be installed until a pump installation permit is approved and issued by the Chairperson. No withdrawal of water shall be made for purposes other than testing without a Certificate of Pump Installation Completion. The permitted pump capacity described on the pump installation permit may be reduced in the event that the pump test does not support the capacity.
4. In basal groundwater, the depth of the well may not exceed one-fourth (1/4) of the theoretical thickness (41 times initial head) of the basal groundwater unless otherwise authorized by the Chairperson. If it can be shown that the well does not tap basal groundwater, then this condition may be waived after consultation with and acceptance by Commission staff. However, in no instance can the well be drilled deeper than one-half (1/2) of the theoretical thickness without Commission approval.
5. The permittee shall incorporate mitigation measures to prevent construction debris from entering the aquatic environment, to schedule work to avoid periods of high rainfall, and to revegetate any cleared areas as soon as possible.
6. In the event that historically significant remains such as artifacts, burials or concentrations of shells or charcoal are encountered during construction, the permittee shall stop work and immediately contact the Department of Land and Natural Resources' State Historic Preservation Division. Work may recommence only after written concurrence by the State Historic Preservation Division.
7. The proposed well construction shall not adversely affect existing or future legal uses of water in the area, including any surface water or established instream flow standards. This permit or the authorization to construct the well shall not constitute a determination of conclusive water rights.
8. The Well Completion Report Part I shall be submitted to the Chairperson within thirty (30) days after completion of work (please contact staff or visit <http://files.hawaii.gov/dlnr/cwrn/forms/WCRI.pdf> for current form).
9. The permittee shall comply with all applicable laws, rules, and ordinances; non-compliance may be grounds for revocation of this permit.
10. The well construction permit application and, if relevant, any related staff submittal approved by the Commission are incorporated into this permit by reference.
11. If the HWCPIIS are not followed and as a consequence water is wasted or contaminated, a lien on the property may result.
12. Any variances from the HWCPIIS shall be approved by the Chairperson prior to invoking the variance.
13. The work proposed in the well construction permit application shall be completed within two (2) years from the date of permit approval, unless otherwise specified. The permit may be extended by the Chairperson upon a showing of good cause and good-faith performance. A request to extend the permit shall be submitted to the Chairperson no later than the date the permit expires.
14. If the well is not to be used it must be properly capped. If the well is to be abandoned during the course of the project, then the permittee must apply for a well abandonment permit in accordance with §13-168-12(f), HAR, prior to any well-sealing or plugging work.
15. The permittee, its successors, and assigns shall indemnify, defend, and hold the State of Hawaii harmless from and against any loss, liability, claim, or demand for property damage, personal injury, or death arising out of any act or omission of the applicant, assigns, officers, employees, contractors, and agents under this permit or relating to or connected with the granting of this permit.
16. This permit shall apply to the location shown on the application only. If the well is to be relocated, the permittee shall apply for a new well construction pump installation permit in accordance with §13-168-12(f), HAR.
17. Special conditions in the attached cover transmittal letter are incorporated herein by reference.

Date of Approval: **June 27, 2023**

Expiration Date: **Two (2) years from approval date**


M. Kaleo Manuel, Deputy Director for

Dawn N.S. Chang, Chairperson

Commission on Water Resource Management

I have read the conditions and terms of this permit and understand them. I accept and agree to meet these conditions as a prerequisite and underlying condition of my ability to proceed and understand that I shall not commence work until I have signed, dated, and returned the permit to the Commission. I understand that this permit is not to be transferred to any other entity. I also understand that non-compliance with any permit condition may be grounds for revocation and fines of up to \$5,000 per day starting from the permit date of approval.

Driller's Signature: 

C-57 License #: AC-21896

Date: 6/29/23

Printed Name: Fred G. Camero, Jr.

Firm or Title: Beylik / Energetic A JV

Please sign both copies of this permit, return one copy to the Commission office, and retain the other for your records.

Attachment



STATE OF HAWAII
**AGRIBUSINESS DEVELOPMENT
CORPORATION**

E-5

STAFF SUBMITTAL TO THE BOARD OF DIRECTORS
February 15, 2024

Subject: Request for approval to enter into a memorandum of understanding between the Agribusiness Development Corporation and the Hawaii Tropical Fruit Growers Association to encourage, support, and facilitate planning, implementation, and scaling related activities

Applicant: Agribusiness Development Corporation (ADC)

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

BACKGROUND:

About the Hawaii Tropical Fruit Growers Association (HTFGA) (from their [website](#)):

Research: advancement of Hawaii's tropical fruit industry through research is the heart of Hawaii Tropical Fruit Growers. HTFG funds and participates in studies to improve cultural practices and post harvest treatments. Research recently completed includes development of value-added products from off-grade tropical fruit.

Education: the annual International Tropical Fruit Conference each fall serves as the focal point of information dissemination and training for the industry. The far-reaching and timely topics highlight new research, industry news, and trends. Featured speakers are tropical fruit experts from around the world. Now in its fifteenth year, the popular conference also features orchard tours and demonstrations, fruit tasting, and a benefit auction.

Chapter workshops and seminars held throughout the year present important issues and informative speakers. These meetings are a great venue for the exchange of knowledge and experience.

HTFG organizes tours to international research symposiums. Past tours visited Australia and Thailand. Members receive a subscription to Agriculture Hawaii magazine.

Promotion: HTFG promotes tropical fruits and our members at trade shows, food festivals and industry events. We bring in fresh, delicious, unusual fruits for demonstrations on preparing and enjoying. It is rewarding and fun to watch the participants get excited over their new fruit discoveries.

Our West Hawaii Chapter recently introduced tropical fruit posters and cards to promote Hawaii's many tropical fruit varieties to chefs, retailers and consumers.

Commercial Grower members receive exposure through HTFG's Commercial Directory, distributed to fruit industry professionals interested in purchasing fruit, trees or value-added products.

Request for approval to enter into a memorandum of understanding between the Agribusiness Development Corporation and the Hawaii Tropical Fruit Growers Association to encourage, support, and facilitate planning, implementation, and scaling related activities

March 21, 2024

Representation: HTFG participates in the Hawaii Farm Bureau's Commodity Advisory Group, representing the interests of the tropical fruit industry and coordinating state level efforts to benefit Hawaii agriculture.

REQUEST:

Staff requests that the Board authorize staff to execute the Memorandum of Understanding (MOU) (Exhibit "A") between ADC and the HTFGA (Request).

OPERATIONAL PLAN:

ADC anticipates that the proposed MOU will facilitate increased cooperation between ADC and HTFGA to further the missions of the respective entities (for details, see Exhibit "A").

CONSERVATION PLAN:

N/A

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT COMPLIANCE:

N/A

REMARKS & DISCUSSION:

ADC is actively working to develop working relationships with other state agencies and non-profit organizations to broaden collaborative efforts to advance state-level and agency-level priorities. A partnership with HTFGA will allow ADC to work in a more formalized manner to seek synergies that are mutually beneficial and to expand agriculture in Hawaii. Other than staff time, it is not expected that the implementation of this MOU will have any significant fiscal impact.

RECOMMENDATION:

Based on the foregoing, it is recommended that the Board:

1. Approve the Request.

Respectfully Submitted,

Lyle Roe

LYLE ROE

Asset Manager

Approved for Submittal:



Wendy Gady

Executive Director

STATE OF HAWAII
**AGRIBUSINESS DEVELOPMENT
CORPORATION**

E-6

STAFF SUBMITTAL TO THE BOARD OF DIRECTORS
March 21, 2024

Subject: Assignment of scopes of investigation to the permitted interaction groups on land, water, and agricultural efficiencies which were established at the Board of Directors meeting on February 15, 2024

Applicant: Agribusiness Development Corporation (ADC)

Authority: Section 92-2.5(b) Hawaii Revised Statutes,
Article 4, Section 3, Bylaws of the Agribusiness Development Corporation

BACKGROUND:

At the meeting of the ADC Board of Directors (Board) on February 15, 2024, the Board approved the establishment of three permitted interaction groups (PIG) to promulgate strategic planning recommendations to the full board regarding land, water distribution systems, and agribusiness efficiencies. However, staff did not recommend and the Board did not approve an explicit scope of inquiry for each of the PIGs.

REQUEST:

Staff requests that the Board approve the following scopes of inquiry for each of the three PIGs, and report their findings to the full Board:

Investigative Committee on Land Use & Acquisition Strategy: develop recommendations to the full Board regarding strategic planning involving ADC's current land holdings, future land purchases, and preferred dispositions utilizing the Hawaii Investment Ready process.

Investigative Committee on Water Distribution Systems Strategy: develop recommendations to the full Board regarding strategic planning involving ADC's current water infrastructure holdings, future water infrastructure acquisitions, and appropriate uses, utilizing the Hawaii Investment Ready process.

Investigative Committee on Value-Add Strategy: develop recommendations to the full Board regarding strategic planning involving agribusiness efficiencies including special projects, farmer assistance, capital improvements, etc., utilizing the Hawaii Investment Ready process.

OPERATIONAL PLAN:

N/A

CONSERVATION PLAN:

N/A

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT COMPLIANCE:

N/A

Request for approval to enter into a memorandum of understanding between the Agribusiness Development Corporation and the Hawaii Tropical Fruit Growers Association to encourage, support, and facilitate planning, implementation, and scaling related activities

March 21, 2024

REMARKS & DISCUSSION:

The purpose of the three PIGs is to give the Board a process and an avenue to develop recommendations to the full Board for ADCs strategic planning process.

RECOMMENDATION:

Based on the foregoing, it is recommended that the Board:

1. Approve the Request.

Respectfully Submitted,

Lyle Roe

LYLE ROE
Asset Manager

Approved for Submittal:



Wendy Gady
Executive Director

DA: March 15, 2024

TO: L. Roe, D. Prescott-Tate

FR: W. Gady

RE: Permitted Interaction Group Deliverables

Aloha!

I'd like to suggest the three PIGs as Water Distribution Systems, Land, and Value-Added.

I'd like to suggest each organization brainstorm the following (following the Hawaii Investment Ready format):

- Beneficiaries: Who benefits from the product/service, therefore enabling our business model to thrive?
- Customers: Who do we need to "move" to make this business model work? Customers? Users? Investors/Funders?
- Problems: What are the biggest specific problems faced by our customers & beneficiaries? (From their perspective, not ours)
 - Beneficiaries:
 - Customers:
- Unique Value Proposition (UVP): What value are we creating? (How are we solving a problem, satisfying a need, or delivering benefits in a new way? What is the relevancy, quantified value/benefit, or unique competitive advantage. . .)
 - Beneficiaries UVP:
 - Customers UVP:
- Competitive Edge: How is our approach different from others?
- Key Activities/Solutions: Which activities/solutions deliver the UVPs to the different customer segments? What policies/strategies need to be changed/updated?
- Channels: What people, organizations & activities are necessary to reach our customers and beneficiaries and is scalable?
- Impact Metrics: What evidence are we gathering or looking at to show our success?
- Key Resources: What resources do we need to run our activities? People, finance, access, infrastructure, policies, strategy?
- Partners & Key Stakeholders: Who are the essential groups/entities persons we involve delivering our program? Special access or permissions? (i.e. key relationship, lease, land access, etc.)
- Cost Structure: What are our biggest expenditures? How will these change if we scale?
- Surplus: Plans on how to raise & invest surplus? Projected timeframes?
- Financial Sustainability: Revenue or funding model by %, ownership structure(s), availability of options outlined in HRS163 Statute

STATE OF HAWAII
**AGRIBUSINESS DEVELOPMENT
CORPORATION**

E-7

STAFF SUBMITTAL TO THE BOARD OF DIRECTORS
February 15, 2024

Subject: Request for approval to establish a permitted interaction group of the Board of Directors for the purpose of conducting the annual performance review of the executive director; appointment of members thereto

Applicant: Agribusiness Development Corporation (ADC)

Authority: Section 163D-3(e),(f), Hawaii Revised Statutes

BACKGROUND:

Section 163D-3(e),(f), Hawaii Revised Statutes, states that:

(e) The board shall develop and document annual goals and performance measures for the executive director that allow the board to annually evaluate the executive director's work to ensure compliance by the corporation with statutory requirements and achievement of its statutory purposes.

(f) The board shall evaluate and document the evaluation of the executive director's performance annually, or more frequently upon the request of at least four board members, based on annual goals, performance measures, and other relevant criteria.

REQUEST:

Request that the ADC Board approve the establishment of a permitted interaction group (PIG) for the purpose of conducting a performance evaluation of the executive director, pursuant to the requirements of section 163D-3(e),(f), Hawaii Revised Statutes (Request).

OPERATIONAL PLAN:

N/A

CONSERVATION PLAN:

N/A

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT COMPLIANCE:

N/A

REMARKS & DISCUSSION:

Other than staff time, it is not anticipated that there will be any financial impact by the approval of this Request.

RECOMMENDATION:

Based on the foregoing, it is recommended that the Board:

1. Approve the Request, subject to the following condition(s):

Request for approval to establish a permitted interaction group of the Board of Directors for the purpose of conducting the annual performance review of the executive director; appointment of members thereto

March 21, 2024

- a. The PIG shall report its findings to the full Board upon conclusion of its review.

Respectfully Submitted,



WARREN WATANABE
Chairperson

STATE OF HAWAII
**AGRIBUSINESS DEVELOPMENT
CORPORATION**

E-8

STAFF SUBMITTAL TO THE BOARD OF DIRECTORS
March 21, 2024

Subject: Request for after-the-fact approval to renew Revocable Permit No. S-7299 issued to Senter Petroleum, Inc. for 0.5 acres in Kekaha, County of Kauai, State of Hawaii, TMK (4) 1-2-002:001 (por.) for petroleum storage, sales, and dispensing purposes

Applicant: Senter Petroleum, Inc. (Senter)

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

Area: 0.5 acres, more or less

Field No(s): Non-designated adjacent to KAA shop

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

Land Status: Set aside to the Agribusiness Development Corporation by Governor's Executive Order No. 4007 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 ☐

Zoning: SLUD: Agricultural
CZO: A - Agricultural

Character of Use: Petroleum storage, sales, and distribution

Land Doc. Type: Revocable Permit (DLNR)

Term: Month-to-month, renews annually

Rental Rate \$1,125 per month
Annual Rent: \$13,500

Request for after-the-fact approval to renew Revocable Permit No. S-7299 issued to Senter Petroleum, Inc. for 0.5 acres in Kekaha, County of Kauai, State of Hawaii, TMK (4) 1-2-002:001 (por.) for petroleum storage, sales, and dispensing purposes

March 21, 2024

BACKGROUND:

Revocable Permit No. S-7299 (Permit) was issued by the Department of Land and Natural Resources to Senter Petroleum, Inc. on June 12, 2003 for petroleum storage, sales, and distribution purposes. The site is comprised of approximately 0.5 acres across from the former Kekaha Sugar Mill (Premises).

REQUEST:

Senter request that the Board approve the after-the-fact renewal of the Permit for the period of June 12, 2023 – June 11, 2024 (Request).

OPERATIONAL PLAN:

Senter operates a fuel storage facility with dispensing operations on the premises.

CONSERVATION PLAN:

N/A

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT COMPLIANCE:

N/A

REMARKS & DISCUSSION:

Senter has operated the station under the Permit since 2003. Pursuant to a Clean Water Act lawsuit, ADC consultants have provided best management practices (BMP) guidance to our tenants to mitigate runoff and erosion, and they conduct annual BMP inspections with each ADC tenant in Kekaha. Recent inspections of the Senter site include the following recommendations pursuant to the consultant’s findings (Exhibit “B”):

1. Ensure that all petroleum-handling individuals receive continued proper training.
2. Install a high-level perimeter alarm system in accordance with 40 CFR section 112.8(c)(8).
3. Ensure all storage tanks, secondary containment, fuel transfer operations, and grounding meet federal, state, and local regulations.
4. Provide and maintain inspection, maintenance, testing, and training records.
5. Recommendation that the plan/scope for the decommissioning of diesel tanks be reviewed and approved by ADC before commencing, to make sure it complies with regulations and standards of waste control and is completed accurately with a reviewed and approved Scope of Work.

As of this writing, Senter has not installed a hi-level perimeter alarm system, nor provided inspection, maintenance, testing, and training records.

ADC staff missed the renewal in 2023 so this recommendation includes an after-the-fact request to renew the Permit for the period of June 12, 2023 – June 11, 2024. Senter has been advised that the Permit needs to be converted to a license, pending mitigation of the BMP concerns to ADC’s satisfaction.

Request for after-the-fact approval to renew Revocable Permit No. S-7299 issued to Senter Petroleum, Inc. for 0.5 acres in Kekaha, County of Kauai, State of Hawaii, TMK (4) 1-2-002:001 (por.) for petroleum storage, sales, and dispensing purposes

March 21, 2024

RECOMMENDATION:

Based on the foregoing, it is recommended that the Board:

1. Approve the Request.

Respectfully Submitted,

Lyle Roe

LYLE ROE

Asset Manager

Approved for Submittal:



Wendy Gady

Executive Director

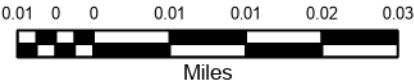
EXHIBIT A



STATE OF HAWAII
AGRIBUSINESS
DEVELOPMENT CORPORATION

Senter Petroleum, Inc

TMK (4) 1-2-002:001 (por.)



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of Hawaii



Best Management Practice Inspection Form

Annual inspections of agricultural properties owned by the ADC are required to document changes in the property's condition and to assess the effectiveness of best management practices to mitigate nonpoint source pollution. Prior to conducting annual inspections, it is essential to review any baseline documentation and previous inspection reports. Use this form to record observations and note any concerns or need for follow-up.

Property Information

Name of Property: Mānā Agriculture Plain, Kekaha, Kaua'i

Property Location: Fuel Station
(Include field numbers if available)

Tenant Name: Par Pacific also known as Senter Petroleum

Property Manager Contact Information:

Name: David Harjo – General Manager
 Address: 3011 Aukele St
Lihue, HI 96766
 Phone: 808-245-1911
 Email: david.harjo@parpacific.com

Inspection Information

Indicate date of current and previous inspections	Indicate Type of Inspection	
	Self-certify	Third Party
Current Inspection Date: February 7, 2023		X
Previous Inspection Date: June 24–26, 2022		X

Inspector Contact Information (required for third-party inspections):

Name: Hannah Hubanks and Sydney Gabitzer
 Address: 737 Bishop Street, Suite 3050
Honolulu, HI 96817
 Phone: 808-528-1445 (Hannah), 808-531-9402 (Sydney)
 Email: Hannah.Hubanks@cardno-gs.com &
Sydney.Gabitzer@cardno-gs.com

List name and affiliation of all persons present during inspection (for third-party inspections):

Hannah Hubanks (Stantec GS)
Sydney Gabitzer (Stantec GS)

Assessment of Best Management Practices

Provide a general description of current land use:

Senter uses less than an acre area of the Mānā Plain for a small commercial fueling operation. The fuel station is owned by HIE Retail, LLC and operated by Kaua'i Automated Fuel Network (KAFN) has a legal address that is part of ADC property. According to the Senter Petroleum Spill Prevention, Control, and Countermeasure Plan, dated July 1, 2017, the facility is open 24 hours per day and dispenses gasoline (formerly diesel as well) from two horizontal 10,000-gallon tanks. The gasoline tanks share a concrete dike which provides secondary containment, with a capacity of 42,700 gallons. The facility contains one product unloading area for gasoline. The manifold is located within product containment structures. Gasoline is transferred from the tanker truck into gasoline storage tanks through the gasoline manifold.

Does the property have a Conservation Plan? ☐ Yes ☒ No

If yes, date Conservation Plan was approved: N/A

>> On the following page, document the status of each conservation practice (aka BMP) identified in the Conservation Plan. Duplicate page as needed to document all conservation practices.

Summary

Provide a summary of BMP effectiveness based on observations and by comparing current conditions with those documented in the baseline inventory and previous inspection reports.

This inspection serves as the baseline inventory to compare with future inspections.

During the 2022 inspections, Par Pacific reported to the inspection team and ADC staff that Par Pacific contracted Engineering & Inspections Hawaii to perform an external tank inspection in accordance with Steel Tank Institute SP001, Standard for the Inspection of Aboveground Storage Tanks. The inspection showed that the gasoline tanks were in satisfactory condition at the time and recommended continued preventative maintenance. The two diesel tanks were not in satisfactory condition and as a result, both diesel tanks have been discontinued and both were flagged as out of service during the 2023 inspection. A considerable amount of standing water (~10 inches) with a sheen was observed in all secondary containments (diesel and gasoline).

Par Pacific has emptied the remaining diesel fuel via transfer pump and has water-cleaned the tank bottoms. They plan to hire a contractor to properly dispose of any residual fuel on tank bottoms. At the time of the 2023 inspection, the on-site manager reported that this final step of cleaning had not yet occurred.

Until a long-term fuel strategy is determined, Par Pacific may convert one of the gasoline tanks so they can continue to offer a gasoline product and a diesel product at the site. Par Pacific

reports that this conversion is not yet planned. Construction of any new tanks on site may require HEPA action. It is recommended that ADC further review Par Pacific's planned protocol to discontinue and decommission the use of the diesel tanks to ensure waste control is completed with a United States Environmental Protection Agency-approved methodology and scope of work.

The installation of a security fence around the gasoline tanks and one security camera above the pay meter was observed to be completed during the 2023 inspection. No high-level perimeter alarms were observed. In 2023, the general manager reported that training records are on file and will be provided to ADC as needed, and that with any new tank configuration there will be an upgrade of alarms using telemetered equipment for remote access.

List any additional information that would be helpful to better manage the land and reduce nonpoint source pollution (e.g., areas that should be closely monitored due to changes in conditions, resources needed or provided to land manager, etc.).

- 1. Ensure that all petroleum-handling individuals receive continued proper training.*
- 2. Install a high-level perimeter alarm system in accordance with 40 Code of Federal Regulations 112.8 (c) (8)*
- 3. Ensure all storage tanks, secondary containment, fuel transfer operations, and grounding meet federal, state, and local regulations.*
- 4. Provide and maintain inspection, maintenance, testing, and training records.*
- 5. Recommendation that the work plan/scope for the decommissioning of diesel tanks be reviewed and approved by ADC before commencing, to make sure it complies with regulations and standards of waste control and is completed accurately and completely with a reviewed and approved Scope of Work.*

Certification

I certify that the statements made on this document are a true and accurate representation of the current conditions of the property.



Signature

3-09-23

Date

STATE OF HAWAII
**AGRIBUSINESS DEVELOPMENT
CORPORATION**

E-9

STAFF SUBMITTAL TO THE BOARD OF DIRECTORS
March 21, 2024

Subject: Request for approval to rescind prior Board approvals of November 28, 2018, which (a) approved a land agreement between ADC and Kauai Island Utility Cooperative for solar panels, and (b) approved material terms of a power purchase agreement between Kekaha Agriculture Association and Kauai Island Utility Cooperative

Applicant: Agribusiness Development Corporation (ADC)

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

Area: 413.28 gross acres

Field No(s): 218, 219, 220, 321, 322 (por.)

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

Land Status: Set aside to the Agribusiness Development Corporation by Governor's Executive Order No. 4007 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 ☐

Zoning: SLUD: Agricultural
CZO: Agriculture

Chapter 343: N/A

Character of Use: Power generation

Land Doc. Type: License with option to convert to lease - never executed
PPA Amendment - never executed

Term: 25 years (option to extend for additional 25 years)

Request for approval to rescind prior Board approvals of November 28, 2018 which, (a) approved a land agreement between ADC and Kauai Island Utility Cooperative for solar panels, and (b) approved material terms of a power purchase agreement between Kekaha Agriculture Association and Kauai Island Utility Cooperative
March 21, 2024

BACKGROUND:

The West Kauai Energy Project (Project) is a pumped storage energy project with a solar component, initiated by the Kauai Island Utility Cooperative (KIUC). The project was slated to significantly contribute to the County of Kauai's target of 100% renewable energy. The Project would have also guaranteed ADC with what KIUC described as a rolling average of 11 mgd of irrigation water for crops. However, KIUC provided notice in the later part of 2023 that flow-through hydroelectric portion of the Project would not proceed due to ongoing litigation by EarthJustice.

At their meeting on November 28, 2018, as the Project was still in planning, the ADC Board of Directors (Board) approved 1) terms for a land agreement for the solar portion of the Project that included approximately 415 acres, and 2) draft terms for a new or amended power purchase agreement (PPA) between ADC, Kekaha Agriculture Association (KAA), and KIUC (see Exhibit "A"). The land agreement for solar was never executed, and a new PPA terms were never executed. In light of the demise of the flow-through hydroelectric portion of the Project, the terms that the Board approved in 2018 are no longer valid.

REQUEST:

Request that the Board rescind its prior actions on November 28, 2018 which approved (a) a land agreement between ADC and KIUC for agricultural land on which to place solar panels; and (b) the material terms of a power purchase agreement between KAA, and KIUC. (Request)

OPERATIONAL PLAN:

N/A

CONSERVATION PLAN:

N/A

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT COMPLIANCE:

N/A

REMARKS & DISCUSSION:

The land license for solar and the terms of the PPA were never executed. The Board approved the land agreement and the PPA terms on the basis of KIUC's promise to provide a rolling average of 11 mgd of irrigation water to ADC tenants once the Project was operational. However, the flow-through hydroelectric portion of the Project has been terminated and ADC will not benefit from that water. As such, the Board's approval of the land license for the solar portion of the Project should be rescinded. Likewise, the terms of the PPA were premised, in part, on the fact that ADC would be receiving a rolling average of 11 mgd of irrigation water. As that benefit is no longer a part of the Project, the Board's approval of the draft PPA term sheet should be rescinded.

RECOMMENDATION:

Based on the foregoing, it is recommended that the Board:

Request for approval to rescind prior Board approvals of November 28, 2018 which, (a) approved a land agreement between ADC and Kauai Island Utility Cooperative for solar panels, and (b) approved material terms of a power purchase agreement between Kekaha Agriculture Association and Kauai Island Utility Cooperative
March 21, 2024

1. Approve the Request.

Respectfully Submitted,

Lyle Roe

LYLE ROE

Asset Manager

Approved for Submittal:

WGS

Wendy Gady

Executive Director

DAVID Y. IGE
Governor

DOUGLAS S. CHIN
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 Board of Directors
Leiopapa A Kamehameha
Conference Room 405
235 South Beretania Street
Honolulu, Hawaii 96813

Wednesday, November 28, 2018
9:00 am

AGENDA

- A. Call to Order.
- B. Approval of minutes from the October 3, 2018 meeting.
- C. Costco Hawaiian Produce Complex Update.
- D. Request for approval to: 1) re-characterize 233.16 acres under Sunrise Capital LLC's LI-K1001, from tillable to non-tillable and 2) increase rent to \$150/acre/year for 190.17 tillable acres; Kekaha, Kauai, Tax Map Key (4) 1-2-02-001 (por.)
- E. Request for approval to renew Revocable Permit No. 7004 for Gary Smith in Kekaha, Kauai; Tax Map Key (4) 1-2-02-01 (por.)
- F. Request for approval to renew Revocable Permit No. 7299 for Senter Petroleum, in Kekaha, Kauai, Tax Map Key (4) 1-2-02-01 (por.)
- G. Request to approve the transfer of agricultural lands located in Kekaha, Island of Kauai, Hawaii from the State Department of Agriculture and the State Department of Land and Natural Resources to the Agribusiness Development Corporation, (ADC) and to authorize the Kekaha Agriculture Association to pursue a declaratory order from the Land Use Commission to designate the transferred lands as Important Agricultural Lands in accordance with Chapter 205, Hawaii Revised Statutes and certify ADC's authorization as landowner.

- H. Request to approve: (1) a land agreement between the Agribusiness Development Corporation (ADC) and the Kauai Island Utility Cooperative (KIUC) for solar panels, and (2) the material terms of the power purchase agreement between the Kekaha Agriculture Association (KAA) and the KIUC.

"The board may go into executive session, pursuant to H.R.S. §92-5(a)(8), to deliberate or make a decision upon a matter that requires the consideration of information that must be kept confidential pursuant to a state or federal law, or a court order."

- I. Request for approval to renew Revocable Permit No. 1802 to William J. Sanchez for 419 acres in Unit A, located in Kalepa, Kauai; Tax Map Key (4) 3-9-02-20 (por.).

- J. Request for consent to an indenture of Mortgage, Security Agreement Financing Statement by the Kauai Island Utility Cooperative (KIUC) to the United States of America, Rural Utilities Service (RUS) and the National Rural Utilities Cooperative Finance Corporation (CFC).

- K. Update on the findings from the Land Investigative Committee.

- L. Executive Director's Reports and Updates.

- 1. Kekaha
- 2. Kalepa
- 3. Whitmore

- M. Adjourn.

The Board may go into Executive Session pursuant to Hawaii Revised Statutes §92-5(a)(4), in order to consult with its attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities and liabilities.

To be placed on the move-up agenda, please sign in before the meeting begins. All materials listed on the Agenda are available for review in the ADC office.

Individuals requiring special assistance or accommodations at the ADC meeting are asked to contact the ADC office at 808-586-0186 at least three (3) days prior to the meeting.



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

November 28, 2018

Subject: Request to approve (1) a land agreement between the Agribusiness Development ("ADC") and the Kauai Island Utilities Cooperative ("KIUC") for solar panels, and (2) the material terms of the power purchase agreement between the Kekaha Agriculture Association ("KAA") and the KIUC

Authority: Section 163D – 4 (a) (5) and (7), Hawaii Revised Statutes

Location: Kekaha, Island of Kauai, Hawaii

Land Area: 413.27 acres

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

Land Status: Section 5(b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution

Term: Initial land license, to be converted to a 25-year land lease, with an option to extend for another 25 years

Annual Rent: \$450/ac/year to be allocated between the ADC as lease rents and the KAA as maintenance fees, with a 2.5% escalator imposed every 5 years

Character of Use: Solar array to generate power for the storage portion of the pumped storage/store and release energy project, to pump water from the Mana reservoir powerhouse up to the Puu Opae storage reservoir

BACKGROUND: As an integral part of the settlement of the Poai Wai Ola instream flow case in Waimea and to further the goal of the County of Kauai of being powered 100% by renewable energy, the KIUC proposed the development of its west Kauai pumped storage, store and release energy project ("energy project"). The ADC has been supportive of this effort, and in November, 2016, this Board approved two 5-year

CONCLUSION: To further support the County of Kauai's commitment to become renewable energy dependent, and recognizing that the Kauai Island Utilities Cooperative has been a cooperative and contributing partner with the KAA and the ADC in the Waimea and Kekaha region, and because the ADC has vacant Mana plain lands available to use, allowing KIUC to use ADC lands for solar arrays to power its pumped storage/store and release would benefit all interests involved in this project.

RECOMMENDATION: Accordingly, it is recommended that this Board:

- 1) Approve a land license to the Kauai Island Utility Cooperative for fields 218, 219, 220, 321 and a portion of field 322, subject to agreement with Pohaku O'Kauai Materials LLC;
- 2) Include the condition that the land license must be converted, if at all, into a 25-year lease, which lease shall also have an option to extend an additional 25 years. The option to convert must be exercised no later than August 31, 2022 to parallel the conversion date of the Kokee ditch and Mana reservoir licenses; and
- 3) Approve the current, material terms of the Power Purchase Agreement between the KAA and KIUC.

Respectfully submitted,



James J. Nakatani
Executive Director

AGRIBUSINESS DEVELOPMENT COPORATION

Minutes of the Board of Directors Meeting of November 28, 2018
Leiopapa A Kamehameha, 235 S. Beretania Street, Room 405
Honolulu, Hawaii 96813

Members:

Letitia Uyehara	Lloyd Haraguchi
Douglas Schenk	Sandra Klutke
Leilyn Koev	Denise Albano
Scott Enright, DOA	Yukio Kitagawa
Robbie Melton, DBEDT	

Absent:

Margarita Hopkins	Jeffrey Pearson DLNR
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Guests:

David Bissell, KIUC	Jan TenBruggencate, KIUC
Marcello Benatt, Mrcosoft	Matt Maloney, Microsoft
Jason Hines, KIUC/ Joule Group	Andrew Hogerson, EY
Craig Wagnild, Sunrise Capital	Pierre Sleiman, Go Green Ag
Carolyn Ringor, Rooted	Tehani Ayau, Rooted
Joshua Uyehara, KAA	Dave Murray, Andrew & Williamson
Teresa Dawson, Environment Hawaii	David Cho, Sen Dela Cruz's office
Gary Slovin, San HI Govt Strategies	Mary Alice Evans, DBEDT

Staff:

James Nakatani
Myra Kaichi
Lynn Owan
Ken Nakamoto
Todd Low
Cindy Doi

Counsel:

Andrew Goff, Deputy Attorney General

A. Call to Order.

Chairperson Uyehara called the meeting to order at 9:10 am

B. Approval of minutes from the October 3, 2018 meeting

Mr. Schenk approved the minutes; Ms. Klutke seconded the motion; motion carried unanimously.

C. Costco Hawaiian Produce Complex Update.

Mr. Jonathan Luz gave an update of the Costco Hawaii Produce Complex. Costco need to take a different approach given the challenges of the island like weather, heat and bug problems. In order to combat that they determined that instead of taking two years for small scale test they could scale it back to one year if they went in with the right data and building being constructed correctly. Ernest Young and Microsoft have a number of different farm based applications that they have introduced to Costco. They are partnered with them to take a data driven approach to determine how the building will be built and whether it's suitable or feasible at all. He feels there is a potential resource for Hawaii. There is no obligation. Dave Murray with Andrew and Williamson who is a strawberry grower and is an organic strawberry grower mainly in Mexico and Costco is their largest customer and largest strawberry grower. He said he has been trying to identify areas in Hawaii that would be suitable for strawberry production given the logistics and climatic constrains. They are looking at a 55 degree low and 75 degrees high temperature. Half of the cost is found to produce strawberries would be climate control to create the environment they need. A concept called a crop in a box which would be an insulated environment under LED lights which has been done with leafy greens. They would team up with Sherry Kubota from the Ohio State University and is widely known as a world expert in controlled environment strawberry farming in North America. They will start a series of projects with her to find out if this could be done. Then run the economic modelling that would tell them if a greenhouse or crop in a box would be a better approach for an area like Hawaii. Marcello Benah from Microsoft leads the innovation strategies. They have formed a program called FarmBeats is a use of sensors for ground temperature, humidity, bug pressure, altitude with the ability to use drones and maps with inferred and ultra violet technology to map the sensibility of the specific geographic areas. He explained the FarmBeats project of which they have 10 around the world. Mr. Luz stated on a project status prospective they identified what the censored are and where they would be located specifically, the power needs and where to get the power to the site, identified what the structure around it for a protective environment. The next step that they are working on is seeking access permits and other permits necessary for the censoring on the property. Once the censoring is on the property they can start with the data collection and then they can understand what is going to happen on the property.

Mr. Schenk asked on what elevation will their test be done. Mr. Luz replied they were looking at 1100 feet in Wahiawa which was not hospitable. There was very little data collected in that area so they are looking at 300 feet right now.

They invited the board to visit the plant at any time.

Ms. Koev stated that this is great, exciting, and innovative and what the state needs but she asked how would the small farmers be able to bridge the technological aspect. A lot of small farmers are non technical so how would the small farmer utilize all the expertise has to offer. The concept is to replace whatever products that are coming in from the mainland. During the winter time that is when we need it but there is no products so technology will help that situation. But during spring and summer keeps a lot of farmers alive and when small farmers thrive. During those times the farmer is sitting heavy on products and the Costco floor is filled with a lot of mainland produce, how can the farmers help each other by not dumping during that time? Mr. Luz replied his recommendation is to develop a relationship with their buyers. They work with producers all over and most effective situation is communicating with your buyer that you have more products. Mr. Murray replied there will be a lot of lessons but there are other things and good knowledge available. They like working with Costco because they are loyal to

their producer base. They would be happy to talk with other companies on how to approach that situation and what their experience has been. Mr. Luz stated that they will work with the state to figure out from a communication prospective how to effectively help people understand what they are doing. As they get closer to a solution, they will then see how they would disseminate the information.

Mr. Enright commented that this is a wonderful opportunity for agriculture in Hawaii. The DOA is on board as a partner and highly recommend that ADC partner as best as we can with Costco going forward on this amazing opportunity moving forward on agricultural technology.

Mr. Haraguchi stated that he was concerned with the small farmers and it was mentioned that they would need to work with their buyers to get their products on the floor. But a lot of the small farmers would be casualties and can't be helped. He felt uncomfortable in that phase. The small farmers have been here a long time and to see them get stuck with products where they would need to dump at a time when everyone has the same products is not good. He needs a little more reassurance from Costco that the small farmers can survive. Mr. Luz replied he understands but like it was mentioned that small farmers should get to know your buyer and communicate with them and given the buyer that information in advance so there are no surprises. He knows a lot of buyers at Costco and doesn't know a single one of them that won't say lets figure it out to make it work. They should be given advance information that the farmer has excess products. That would not change if Costco brought products from the continental US because all they are doing is replacing the product that is currently being produced in California. Ms. Koev replied that she has great relationship with her buyer and communicate twice a week. There was a decrease during summer and they did tell the buyer they had surplus but the resolution was to get an instant rebate at the check out say \$1.00 to up their yields. But for them to carry that amount it did not make sense for them to do the \$1.00 off at their end. For the record, they do have great relations with their buyer.

Mr. Schenk suggested that Costco take all the technology and great ideas and put a component on the supply and product ID side to try to mitigate some of this. Have a component that focuses on the replacement aspect. Focusing on the 90 percent versus the 10 percent local. Mr. Luz stated that their intention is to conclude traceability where food safety is becoming a bigger issue to having that data and tracing that through from end to end is something that their vendors and themselves up at night. Mr. Enright stated that DOA has been working on doubling the local food production. Also the he commented regarding food safety which is a big issue with small farmers' inability to meet food safety regulations. Costco will not buy from any farmer who cannot meet with food safety criteria currently.

Chair stated that the important thing as importers and wholesalers as distributors of fruits and vegetables is that they are always asked why don't they buy more local products. The problem is that it does not exist in any quantities to be able to service chains like supermarkets and hotels. To utilize technology for food safe products and also have the volume as the economy of scale that they can sell as a local product is something they look forward to because they cannot find product which is why they need to import.

Chair thanked everyone representing the Costco project and look forward to hearing from them in the future.

Short recess at 10:05.

- D. Request for approval to: 1) re-characterize 233.16 acres under Sunrise Capital LLC's LI-K1001, from tillable to non-tillable and 2) increase rent to \$150/acre/year for 190.17 tillable acres; Kekaha, Kauai, Tax Map Key (4) 1-2-02-001 (por.)

Ms. Owan made the presentation to re-characterize 233.16 acres under Sunrise Capital, from tillable to non-tillable and increase rent to \$150/acre/year for 190.17 tillable acres; in Kekaha, Kauai. She gave a brief background that Sunrise currently licenses 423.85 acres originally approved in 2009. Lease rents were crafted to ensure the success of the company beginning with discounted rent values and subsequent deferments of rent increases. Of the total 423.85 acres, 382 acres currently accrues rent at \$150/acre/year and the remaining 41.83 acres accrues rent at a discounted rate of \$50/acre/year. Sunrise has since merged with corporate organization with Hendrix Genetics USA LLC. A services agreement executed by Sunrise and Syngenta (now Hartung) on November 1, 2012, provides Hartung access to a total of 364 acres – 182 acres combined in Fields 311, 312, and 313 and 182 acres in Fields 310, 315, 316, and a portion of 309. The agreement expired on October 31, 2018 although Sunrise continues to allow Hartung to occupy the respective fields. Applicant request that acreage in Fields 309, 310, 315 and 316, for a total of 233.16 acres, be re-characterized from tillable to non-tillable. The current rate for non-tillable land is \$1/acre/year. Applicant acknowledged that the rate should be discounted and the diversified ag rate of \$150/acre/year for the tillable fields is appropriate. The recommendation is to approve the re-characterization of 233.18 acres from tillable to non-tillable, at the non-tillable rate of \$1/acre/year; and approve discontinuation of the discounted rate of \$50/acre/year and increase to the diversified ag rate of \$150/acre/year; to be assessed on the remaining 190.07 acres; and required applicant to submit a request for ADC Board approval to issue a sub-license to Hartung Brothers, Inc. for the respective fields that were covered by the former service agreement dated November 1, 2012.

Mr. Enright moved to approve the recommendations; Ms. Melton seconded the motion.

Ms. Klutke asked why it took Sunrise so long to ask for land to be classified non-tillable. How could Field 315 be non-tillable when we just had a request for five acres on 315. Also land on Field 316 that was tillable. If we are going to move these lands from tillable to non-tillable, why don't they just give us back the lands instead of the charging \$1 for non tillable. What will they be doing with all these lands that are non-tillable and why do they want it? Ms. Owan replied that Sunrise has been saying that they would like to develop some of those lands but she does not know how. Mr. Uyehara from Hartung said transitioning from larger to a smaller company they had to take a harder look at their expenses and these are fields that they had access to but could not use. They could not use the fields so they asked Sunrise. Craig Wagnild the attorney for Sunrise Capital stated that their overall plans for the usage for the property which was an interim period that successful merged with Hendrix and that process before that to utilize as much land as possible. So they entered into what is essentially a sub-license and that agreement called for a utilization for 182 acres of it which was characterized as tillable and not useable.

Mr. Kitagawa asked why it took so long to say that it is not good for production. Mr. Enright replied the two companies mentioned have recently changed hands. There are more frugal ownership. Mr. Nakatani stated that ADC is changing over an old system of land licensing

Mr. Schenk stated that he did not agree that the timing took so long for them to come back to ADC because companies land bank for all kinds of reason like they had grand plans but it never was executed.

He asked why Sunrise didn't request to return it back to the state. Why would they want it for a \$1 and what would happen in the future for ADC. Why would we agree to tie up that land for \$1 until 2029. Mr. Wagnild replied as he understands is that since the merger with Hendrix, plans have been in the works for some time in the production and facilities. They have now a major investor to help build this out. This has been part of the plan in the merger to increase the utilization of the land. It may involve using a portion of the property that are identified as non-tillable. If there was a build out of utilization of that property in connection with Sunrise's business which is not diversified ag if they are able to utilize it in that way then re-characterize back to tillable of \$150/acre/year.

Mr. Enright asked for this to be deferred and have Sunrise come in to give us more details. Mr. Nakatani said if Sunrise keeps it for \$1 then they would take care of it not ADC.

Mr. Haraguchi asked if we could look at it in two parcels. One would have a license and the other maybe a RP. That would respond to both sides and still have control and take care of it and if we need it in the future then we can get it back before 2029.

Item deferred to another meeting.

E. Request for approval to renew Revocable Permit No. 7004 for Gary Smith in Kekaha, Kauai, Tax Map Key (4) 1-2-02-01 (por.)

Ms. Owan made the presentation to renew RP No. 7004 for Gary Smith who is one of two RPs that were not converted to long term licenses and the land and location do not qualify for a long-term license. The parcel is behind the Permittee's house and is used as a vegetable garden. The Permittee is in good standing with ADC and is current in his rent payments. The staff recommendations is that the Board approve the following: 1) renewal of a month-to-month revocable permit to Gary Smith, effective January 1, 2019 for 2,780 sq. ft. in Kekaha, Kauai; 2) rent remain unchanged at \$156/year (\$13/month for 2,780 sq ft); 3) applicant shall not sublicense or sublease the whole or an portion of their premises without the prior written approval of the ADC Board; and 4) all remaining terms and conditions of RP 7004 remain in full force and effect.

Ms. Klutke moved to approve the recommendations; Mr. Schenk seconded the motion.

Mr. Haraguchi stated that the character of use is diversified agriculture. Is it diversified agriculture or a garden? He would like for future reference that a clarification should be made. Mr. Goff stated that when it was EO's to ADC it does mention that the use should be diversified agriculture so it should be kept the same.

Motion carried unanimously.

F. Request for approval to renew Revocable Permit No. 7299 for Senter Petroleum, in Kekaha, Kauai, Tax Map Key (4) 1-2-02-01 (por.)

Mr. Owan made the presentation to renew RP No. 7299 for Senter Petroleum is one of two RPs that have not converted to long term licenses. The rent space is for land upon which above ground storage tanks stand, used for petroleum storage, sales and distribution, plus access to the site from Kekaha Road.

The Permittee expressed interest in possibly negotiating a long term lease in the future as they are exploring the possibility of improving the site. In July 2017, Permittee submitted their Spill Prevention Control and Countermeasure Plan. The RP conditions include a clause that requires the Permittee to conduct a Level One Hazardous Waste Evaluation and conduct a complete abatement and disposal, if necessary, prior to termination of the RP. Termination of the RP is subject to approval by the ADC Board. Permittee is in good standing and is current in their rent payments.

The staff recommends to approve: 1) renewal of a month-to-month revocable permit to Senter Petroleum, Inc., effective January 1, 2019, for approximately 0.5 acres in Kekaha, Kauai; 2) rent remain unchanged at \$13,500/year (\$1,125/month for 0.5 acre); 3) applicant shall not sublicense or sublease the whole or any portion of their premises without the prior written approval of the ADC Board and; 4) all remaining terms and conditions of RP 7229 remain in full force and effect.

Ms. Klutke moved to approve the recommendations; Mr. Schenk seconded the motion.

Mr. Kitagawa questioned how does this relate to agriculture. Mr. Nakatani said it's a carry over and the only way of getting fuel to Kekaha. It does serve a purpose for agriculture. If we get a long term lease then they would comply with petroleum regulations. They do provide a good service to the community. Mr. Kitagawa said if we didn't get the land it would have remained with DLNR. Ms. Kaichi said DLNR would not have carved out that portion of Senter Petroleum's land and they would not have EO'd it to ADC without that portion. Mr. Enright said he has worked with DLNR and they would not have carved it out. The ADC board does not have to accept the EO.

Ms. Klutke said they provide a great service to the community. If not there they would have to go the Waimea and the community would have to pay more.

Motion carried unanimously.

G. Request to approve the transfer of agricultural lands located in Kekaha, Island of Kauai, Hawaii from the State Department of Agriculture and the State Department of Land and Natural Resources to Agribusiness Development Corporation and to authorize the Kekaha Agriculture Association to pursue a declaratory order from Land Use Commission to designate the transferred lands as Important Agricultural lands ("IAL") in accordance with Chapter 305, Hawaii Revised Statutes and certify ADC's authorization as landowner.

Ms. Kaichi made the presentation and gave a brief background on this item. She mentioned that the former Kekaha Sugar Company lands under the management and control of the ADC should hopefully eliminate any potential public utility issue of the ADC providing energy to tenants on both its current lands, and the lands currently managed by HDOA and DLNR. Once under the ADC's management allowing the KAA to petition the LUC for designation of important agricultural land status would ensure that the lands remain in agriculture in perpetuity, and would also provide tax incentives to ADC tenants who can more readily improve these lands than the ADC.

The staff recommends that: 1) approve the transfer of agricultural lands located in Kekaha, Kauai, from the State Department of Agriculture and the State Department of land and Natural Resources to the Agribusiness Development Corporation; and 2) Authorize the Kekaha Agriculture Association to pursue

a declaratory order from the land Use Commission to designate the transferred lands as Important Agricultural Lands in accordance with Chapter 205, Hawaii Revised Statutes and certify ADC's authorization as landowner.

Mr. Enright moved to approve the recommendations; Mr. Haraguchi seconded the motion.

Mr. Kitagawa asked what is being grown on the parcel. Mr. Uyehara replied soy beans, sun flowers and corn from time to time.

Motion carried unanimously.

H. Request to approve: (1) a land agreement between Agribusiness Development Corporation (ADC) and Kauai Island Utility Cooperative (KIUC) for solar panels, and (2) the materials terms of power purchase agreement between Kekaha Agriculture Association (KAA) and the KIUC.

Ms. Klutke moved to go into executive session; Mr. Schenk seconded. Motion carried unanimously.

Ms. Klutke moved to get out of executive session; Mr. Schenk seconded the motion; motion carried.

Ms. Kaichi made the recommendations that the board approve the land license to the KIUC from Fields 218, 219, 220, and 321 and a portion of 322 subject to agreement with Pohaku O Kauai. Include the condition that these land licenses must be converted if at all into 25 year lease, which lease shall also have an option to extend an additional 25 years. The option to convert must be exercised no later than August 31, 2022 to parallel the conversion date of the Kokee ditch and Mana reservoir licenses; and approve the current, material terms of the Power Purchase Agreement between the KAA and KIUC.

Ms. Klutke moved to approve the recommendations; Mr. Schenk seconded the motion.

Ms. Klutke asked what will happen to the photovoltaic equipment once it dies. Mr. Bissell replied that the industry said it will be recycled. Ms. Kaichi stated that the leases say that the tenant put the land back in the condition it was.

Motion carried unanimously.

I. Request for approval to renew Revocable Permit No. 1802 to William J. Sanchez for 419 acres in Unit A, located in Kalepa, Kauai; Tax Map Key (4) 3-9-02-20 (por.).

Ms. Owan made the presentation to renew RP No. 1802 to William J. Sanchez for 419 acres in Unit A, in Kalepa. She reported that the applicant was issued a RP for 419 gross acres of pasture land in Kalepa. His permit areas was rated as good and open and free of noxious weed growth due to proper and regular maintenance. He makes good effort in working together with adjacent crop farmers regarding fencing and use of infield roads. Payment of rent is made in a timely manner. The recommendations are: renewal of a month-to-month revocable permit to William J. Sanchez, effective November 1, 2018 for 419 gross acres in Kalepa; rent is \$5,970/year (\$15/acre/year for 398 net acres); applicant shall not

sublicense or sublease the whole or any portion of their premises without the prior written approval of the ADC Board; and all remaining terms and conditions of RP 1802 remain in full force and effect.

Mr. Enright moved to approve the recommendations; Mr. Haraguchi seconded the motion; motion carried unanimously.

J. Request for consent to an indenture of Mortgage, Security Agreement Financing Statement by the Kauai Island Utility Cooperative (KIUC) to the United States of American, Rural Utilities Service (RUS) and the national Rural Utilities Cooperative Finance Corporation (CFC).

Chair deferred this item.

K. Update on the findings from the land investigative committee.

Mr. Schenk reported that the Committee met on October 29th to try to improve our performance with better results to get good farmers on our lands. We are not able to get qualified farmers on the premises. They met to try to flush some of these issues out. He asked the board to get familiar with what was attached to the findings then we can come back and talk about it and made a decision. We need better experienced farmers that are well financed that have a good plan. It is hard to find but if we fail to find farmers we will be where we are today which is fully of resources and not too many performers. A lot of farmers are unable to perform all that is being ask of us so maybe that is not the kind of farmers that we are being attracted to. Lets try this and get familiar then talk about it at one of our future meetings. All inputs are welcome.

Mr. Nakamoto reported that this is a work in progress and not a set standard. A lot of problems we have today was due to poor betting. We did not focus on some of the important qualifications like financing, farming practices and farmer experience. Based on the discussions some changes were made to the application and the rating sheet. Some instructions were also added to give better guidance. This is for discussion and get feedback and then come back with a recommendation on adopting some of these changes either to the application or to the way farmers are rated.

Ms. Melton asked if a farmer training program could be done so that the farmer needs to go through the training before they receive the lands. Mr. Nakamoto replied the training was provided to the farmers. A lot farmers are immigrants and they did say they understood but don't know if they really understood. Mr. Nakamoto stated a mentor ship program was looked at and being worked on right now.

Mr. Kitagawa commented that for the Galbraith property part of the funding was provided by the City who wanted to provide lands for the small farmers. We could talk to the City to see if they would be more lenient on their requirement. But he wanted to make that point about the City requirement. Mr. Enright replied that we do have 200 acres set aside for small farmers. We need to define what small farms are. But we don't accept anybody that does not capitalize going forward. That should be okay with the City.

Ms. Melton commented that if you set a high standard requirement, it makes a big difference. If people don't make the requirement, if they are interested they would find a way to improve to get in. The

higher standards set within limits will be a benefit and must stick with it. Then the program can be successful.

This will come before another board meeting before it's finalized.

L. Executive Director's Report and Update.

1. Kekaha
2. Kalepa
3. Whitmore

Mr. Nakatani reported that it is 300 acres not 200 acres. He reported on Whitmore Kalepa and Kekaha. In Kekaha, he reported on Funing Farm. In Kalepa, Lin's Farm was reported on. In Whitmore, the encroachments issues were reported. Also reported was the recap of his trip to Arkansas and Portland. A couple of goals were that he met with MAST (Membrane Science, Engineering and Technology) Center staff for an update on a contract to develop a cost-effective model for removing e.coli from irrigation water for FSMA compliance. The other was the four of Food Innovation Centers at Bentonville at Fayetteville Arkansas and Portland to see real-world examples and to provide context for decision making on the Value-Added Incubator project at the Tamura Warehouse in Wahiawa. He also reported that the ADC is working on its website which can be found on the DOA website. The website will be kept up to date.

Chair asked for financial status for the next meeting where the funds are going. Other projects – Waialeale status and others for an update on these projects.

Ms. Haraguchi asked for a Waialeale update. Ms. Kaichi reported that it's the quiet title parcel. Most of the efforts are resolving quiet title with the other party without litigation. This afternoon there is a meeting to be scheduled. Because of quiet title it is very sensitive. Ms. Kaichi said that if UH would allow to carve out the transfer, we would have taken the parcels by now but we need to resolve the mauka quiet title issue before we can take anything. If the Board has any direction on that parcel we are just proceeding to get it. If there are any concerns or ideas, please call ADC. Mr. Haraguchi asked what is the direction. Was it that we go to UH, see what the demands are and if they say all or nothing then that's it. Ms. Kaichi stated the UH has stepped back because before it was all or nothing, take it in fee and given to ADC for free. We are now saying we would look at a lease to see how it goes and UH is asking for the terms of the lease. In these negotiations, quiet title always comes up. We need to resolve the quiet title to a point where we can live with it.

Ms. Albano asked on the R1 water from Lake Wilson. Ms. Kaichi replied we are waiting for the City. We would like it to be resolved because our inability to finalize this MOU with the City is holding up funding on other projects at Budget and Finance.

Next meeting will be on December 12th at Whitmore or Wahiawa. There will be an update on the community meeting that was held a couple of weeks ago to discuss with the Whitmore community on the issues. Hopefully a recommendation could be formulated based on their comments that was received. There will be no individual decision making for each person. We will try to come up with

permits for individuals who want to garden but there are issues. Also some residence are asking why they couldn't have gardens in their back yard like others.

Ms. Melton announced that she joined the Kauai office of economic development and will be starting January 1, 2019. The next board meeting will be her last. She said she enjoyed working with everyone on the ADC Board.

Meeting adjourned at 12:30 pm.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Cindy Dol".

Cindy Dol
secretary

STATE OF HAWAII
**AGRIBUSINESS DEVELOPMENT
CORPORATION**

E-10

STAFF SUBMITTAL TO THE BOARD OF DIRECTORS
March 21, 2024

Subject: Discussion and action on the November 17, 2023 letter from Senator Donovan Dela Cruz asking the ADC Board to waive attorney-client privilege with regards to the August 8, 2023 executive session minutes relating to candidate interviews, discussion of executive director salary, and board selection of executive director, continued from January 18, 2024 and February 15, 2024 board meetings

Applicant: Agribusiness Development Corporation (ADC)

Authority: Sections 163D-3(a), 92-5(a)(2) & (4), 92F-13, and 92F-14, Hawaii Revised Statutes

BACKGROUND:

On November 17, 2023, Senator Donovan M. Dela Cruz (Senator Dela Cruz) sent a letter to ADC Chair Watanabe requesting “a complete and unredacted copy of the minutes of the ADC Board’s executive meeting on August 8, 2023 for the purpose of discussing Agenda Items D.1, D.2 and D.3 relating to Executive Director candidate interviews, discussion of Executive Director salary, and board selection of Executive Director.” (See February 15, 2024 submittal E-9 attached to ADC Board Agenda at page 147, available at <https://dbedt.hawaii.gov/adc/files/2024/02/2024-02-15-b-ADC-Board-Meeting-Package-signed.pdf>.) Senator Dela Cruz based his request for this information on section 92F-14(a), *Hawaii Revised Statutes* (HRS), claiming that the invasion of personal privacy was warranted because the public interest outweighed the individuals’ privacy interest.

The Office of Information Practices (OIP) had previously reviewed the August 8, 2023 executive meeting minutes and found that section 92-5(a)(2), HRS, explicitly allowed hiring discussions to be conducted in executive meetings. See February 15, 2024 submittal E-9 attached to ADC Board Agenda, pages 089-124, for a copy of OIP Opinion S APPEAL 24-02. OIP further found that the August 8, 2023 interviews revealed the candidates identities, background, and qualifications; all of which, due to the two candidates status as applicants for government employment at the time of the interviews, was exactly the type of privacy interest recognized under section 92-5(a)(2), HRS. See OIP Opinion S APPEAL 24-02, attached to February 15, 2024 submittal E-9 at page 111. OIP additionally found that in this instance, the salary discussion, and the discussion of how to notify the public that the selected candidate had accepted the employment offer, should have been conducted during the public session. See OIP Opinion S APPEAL 24-02, attached to February 15, 2024 submittal E-9 at page 111.

On November 21, 2023, ADC send Senator Dela Cruz a redacted copy of the August 8, 2023 executive session minutes, which detailed the salary discussion and the public notification method discussion. See February 15, 2024 submittal E-9 attached to ADC Board Agenda, pages 133-139. Based on OIP Opinion S APPEAL 24-02, the redacted minutes did not reveal

Discussion and action on the November 17, 2023 letter from Senator Donovan Dela Cruz asking the ADC Board to waive attorney-client privilege with regards to the August 8, 2023 executive session minutes relating to candidate interviews, discussion of executive director salary, and board selection of executive director, continued from January 18, 2024 and February 15, 2024 board meetings

March 21, 2024

information related to the applicants privacy interests protected by sections 92-5(a)(2) and 92F-14, HRS. The November 21, 2023 letter informed Senator Dela Cruz that his “other requests” would be brought up at the next Board meeting. *See* February 15, 2024 submittal E-9 attached to ADC Board Agenda, page 132. In two instances it was noted on the August 8, 2023 minutes provided to Senator Dela Cruz that there were also redactions to exclude conversations between Board members and their attorney as permitted by section 92-5(a)(4), HRS. These discussions were unrelated to the applicant interviews or selection. *See* February 15, 2024 submittal E-9 attached to ADC Board Agenda, pages 134-135. It was Senator Dela Cruz’s “other request” that the Board waive its attorney-client privilege, which was to be brought up at the next Board meeting.

By way of letter dated January 16, 2024, ADC received notice that Senator Dela Cruz had filed an appeal of ADC’s denial of access to the unredacted August 8, 2023 executive session minutes (U APPEAL 24-25). *See* February 15, 2024 submittal E-9 attached to ADC Board Agenda, pages 086-088 & 128-130. ADC timely filed its response to U APPEAL 24-15 on January 30, 2024. *See* February 15, 2024 submittal E-9 attached to ADC Board Agenda, pages 076-085.

At the January 18, 2024 Board meeting, the motion to waive attorney-client privilege failed to garner sufficient votes to allow the Board to take action.

At the February 15, 2024 Board meeting, the motion to waive attorney-client privilege failed to garner sufficient votes to allow the Board to take action.

REQUEST:

Senator Dela Cruz requests that the Board waive its attorney-client privilege in regard to the August 8, 2023 candidate interviews and selection of the new executive director.

RECOMMENDATION:

Subject to Board discussion in executive session pursuant to section 92-5(a)(4), HRS.

Respectfully Submitted,

Lyle Roe

LYLE ROE

Asset Manager

Approved for Submittal:



Wendy Gady

Executive Director

Discussion and action on the November 17, 2023 letter from Senator Donovan Dela Cruz asking the ADC Board to waive attorney-client privilege with regards to the August 8, 2023 executive session minutes relating to candidate interviews, discussion of executive director salary, and board selection of executive director, continued from January 18, 2024 and February 15, 2024 board meetings

March 21, 2024

EXHIBITS

1. Staff submittal to the Board of Directors, [January 18, 2024, Item E-6](#)
2. Staff submittal to the Board of Directors, [February 15, 2024, Item E-9](#)