

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

November 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](mailto: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/87431786630>  
Telephone: (669) 900-6833, Webinar ID: 874 3178 6630  
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](mailto:***@***.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 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](mailto: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 NOVEMBER 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](mailto: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. Regular Session Minutes, August 20, 2024, deferred from September 19, 2024
  - 2. Executive Session Minutes, August 20, 2024, deferred from September 19, 2024
- C. Chairperson's Report
  - 1. None.
- D. Committee & PIG Reports
  - 1. Administration Committee Charging for the New Applicants CAM, etc.
  - 2. Presentation of report and findings of the land permitted interaction group
  - 3. Presentation of report and findings of the distribution permitted interaction group
  - 4. Presentation of report and findings of the CIP permitted interaction group
  - 5. Presentation of report and findings of the land opportunities project for small and disadvantaged farmers on Oahu
- E. Action Items
  - 1. Request for Approval for Pioneer Hi-Bred International Inc. to Upgrade Site Access Culvert Bridge in Kekaha, County of Kauai, State of Hawaii Tax Map Key (4) 1-2-002: 001 (por.) (Frankie)
  - 2. Request for approval to terminate Lease Agreement No. LE-K1201 assigned to Hawaii Department of Education; and delegate authority to the executive director to execute a Memorandum of Agreement with the Hawaii Department of Education regarding access to ADC-tenant operations in Kekaha, County of Kauai, State of Hawaii, Tax Map Key No. (4) 1-2-002:001 (por.)
  - 3. Request for approval to issue a new land license agreement to State of Hawaii, Department of Education for 4.8 acres, more or less, of land for the purpose of building a centralized kitchen facility in Whitmore Village, City and County of Honolulu, State of Hawaii, Tax Map Key Nos. (1) 7-1-002:009 (por.); :004 (por.)
  - 4. Request to authorize the executive director to negotiate and execute a Memorandum of Agreement with the Hawaii Farm Bureau Federation

5. Request to dissolve the executive director goals and objectives permitted interaction group
6. Request to establish a permitted interaction group to develop goals and objectives for the executive director for FY 2024/2025; to consider salary amount for the executive director for FY 2025 and to consider salary amount for the executive director retroactive July 1, 2024; appointment of members thereto
7. Request for approval to establish a permitted interaction group to make recommendations on land opportunities project on the island of Kauai for small and disadvantaged land applicants; appointment of members thereto
8. Request to authorize the executive director to negotiate and execute a Memorandum of Agreement with the Hawaii Department of Agriculture to acquire the Wahiawa Spillway TMK (1)7-1-012-014

F. Informational Items

1. Presentation regarding the practical implications of the Draft NPDES Permit issued to the Agribusiness Development Corporation (HI0021940) and County of Kauai (HI0021945) for the outfalls of the Mana Plain Drainage Ditch System
2. Executive Director's Report

G. Adjourn

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*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**

**B-1**

Minutes of the Board of Directors Regular Meeting held Virtually on August 20, 2024  
Via Zoom Teleconference and/or In-Person at 235 S. Beretania St., Ste. 204, Honolulu, HI 96813

*Pursuant to section 92-3.7, Hawaii Revised Statutes (HRS), this meeting was held remotely with Board members, Staff, Applicants, and the Public participating via Zoom meeting venue, and an In-Person meeting location available for public participation at the State of Hawaii, Leiopapa A Kamehameha, State Office Tower Building, 235 S. Beretania St., Suite 204, Honolulu, HI 96813.*

### **Members Present, virtually, Regular Session:**

Lyle Tabata, Chair, Kauai County Member (Chair)  
Glenn Hong, member-at-large (Member Hong)  
Sharon Hurd, HBOA ex officio member (Member Hurd)  
Dean Okimoto, member-at-large (Member Okimoto)  
Jason Okuhama, member-at-large (Member Okuhama)  
Karen Seddon, member-at-large (Member Seddon) (exited the meeting at 9:53 A.M.)  
Nathan Trump, Hawaii County Member (Member Trump) (exited the meeting at 10:27 A.M.; rejoined the meeting at 11:07 A.M.)  
Jayson Watts, Maui County Member (Member Watts)  
Dane Wicker, designee for DBEDT ex officio member James Tokioka (Member Wicker) (exited the meeting at 11:16 A.M.)

### **Member excused from Regular Session:**

Jesse Cooke, City & County of Honolulu Member  
Ryan Kanaka'ole, designee for ex officio member of BLNR Dawn Chang

### **Counsel Present for Regular Session:**

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

### **Staff Present for Regular Session:**

Wendy Gady, Executive Director (Ms. Gady)  
Mark Takemoto, Senior Executive Assistant  
Roger Clemente, Property Manager  
Frankie Empeno, Contract Manager (Mr. Empeno)  
Ingrid Hisatake, Executive Secretary, ZOOM operator

### **Guests Present for Regular Session:**

ADC Guest (1)  
ADC Guest (2)  
Alec Sou  
Craig Inouye  
Craig Wagnild

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David Kerr  
Grant Kunishima  
Iphone (68)  
Mac Blanchard  
pssg  
Steven Hisaka

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

Chair called the regular session to order at 9:05 A.M.

Chair conducted a roll call of the Board. 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. Chair stated that the roll call served as a roll call vote, and for each subsequent vote, the Chair would ask if there were any objections. If there were no objections the motion will be approved on the same basis as the roll call.

Roll call: Chair, Member Hong, Member Hurd, Member Okimoto, Member Okuhama, Member Seddon, Member Trump, Member Watts, and Member Wicker acknowledged attendance with no guests present.

### **B. Approval of Minutes**

#### **1. Regular Session Minutes, May 16, 2024**

Chair asked for a motion to approve the May 16, 2024 regular session minutes.

Motion by Member Wicker; Second by Member Okuhama.

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

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. There was none.

Chair called for the vote. Member Trump and Member Watts abstained from the vote.

Chair conducted a roll call vote: Chair, Member Hong, Member Hurd, Member Okimoto, Member Okuhama, Member Seddon, and Member Wicker voted in favor of approving the minutes. Vote 7-0. Member Trump and Member Watts abstained.

#### **2. Regular Session Minutes, June 20, 2024**

Chair asked for a motion to approve the June 20, 2024 regular session minutes.

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Motion by Member Okuhama; Second by Member Hong.

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

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. There was none.

Chair called for the vote. Member Okimoto and Member Wicker abstained from the vote.

Chair conducted a roll call vote: Chair, Member Hong, Member Hurd, Member Okuhama, Member Seddon, Member Trump, and Member Watts voted in favor of approving the minutes. Vote 7-0. Member Okimoto and Member Wicker abstained.

### **3. Executive Session Minutes, June 20, 2024**

Chair stated that during the executive session held on June 20, 2024 the Board discussed agenda item E-3, a request for approval to delegate authority to the Executive Director to enter into negotiations with the Hawaii Department of Education regarding Lease Agreement LE-K1201, Kekaha, Kauai. HRS sections 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 executive session the draft minutes were provided directly to the Board Members for review. Chair asked that the Board respect the confidentiality of the executive session held on June 20, 2024 when discussing approval of these minutes.

Chair asked for a motion to approve the June 20, 2024 executive session minutes.

Motion by Member Okuhama; Second by Member Hong.

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

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. There was none.

Chair called for the vote. Member Okimoto, Member Trump, and Member Wicker abstained from the vote.

Chair conducted a roll call vote: Chair, Member Hong, Member Hurd, Member Okuhama, Member Seddon, and Member Watts voted in favor of approving the minutes. Vote 6-0. Member Okimoto, Member Trump and Member Watts abstained. [**Due to a**

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**miscount of the Board Members who voted to approve the June 20, 2024 minutes from the executive session, the approval of the June 20, 2024 executive session minutes was deferred until the next Board meeting due to lack of quorum.]**

### **4. Special Meeting Minutes, August 1, 2024**

Chair asked for a motion to approve the June 20, 2024 regular session minutes.

Motion by Member Trump; Second by Member Wicker.

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

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. There was none.

Chair called for the vote. Member Watts abstained from the vote.

Chair conducted a roll call vote: Chair, Member Hong, Member Hurd, Member Okimoto, Member Okuhama, Member Seddon, Member Trump, and Member Wicker voted in favor of approving the minutes. Vote 8-0. Member Watts abstained.

### **5. Special Meeting Executive Session Minutes, August 1, 2024**

Chair stated that during the executive session held on August 1, 2024 the Board discussed agenda item B-1, a request to consent to the assignment of eight lease agreements from Sunrise Capital, Inc. to Aloun Farms Inc. HRS sections 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 the Board Members for review. Chair asked that the Board respect the confidentiality of the executive session held on August 1, 2024 when discussing approval of these minutes.

Chair asked for a motion to approve the August 1, 2024 executive session minutes from the Special Session.

Motion by Member Wicker; Second by Member Trump.

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

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. There was none.



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Chair called for the vote. Member Watts abstained from the vote.

Chair conducted a roll call vote: Chair, Member Hong, Member Hurd, Member Okimoto, Member Okuhama, Member Trump, Member Seddon, and Member Wicker voted in favor of approving the minutes. Vote 8-0. Member Watts abstained.

### **C. Chairperson's Report**

Chair reported that a few weeks ago he traveled with the Executive Director to Kohala to meet with the Kohala Irrigation Association. They had very productive discussions with the community. Recent articles reflected action being taken to refurbish a deep well for irrigation to help the farming community. While ADC does not have a specific role in the Kohala ag community, Member Trump is from Kohala, and the community is anxious to participate in whatever ADC can bring to the table.

### **D. Committee Reports**

Chair noted there were no committee reports.

### **E. Action Items**

1. Request for consent to convert Hawaii Department of Agriculture (HDOA) Ag Park lease agreement numbers S-8001, S-8002, S-8005, S-8008, S-8012, S-8013, S-8017, and S-8020 issued to Sunrise Capital Inc., to ADC Kekaha license agreements retroactive to the September 23, 2021 execution date of Executive Order No. 4660, which transferred the land previously dedicated as the HDOA Kekaha Agricultural Park pursuant to Executive Order No. 3633 to ADC for agricultural and related purposes.

Chair asked for a motion to approve.

Motion: Member Wicker; Second by Member Hong.

Chair asked for presentation by staff.

Mr. Empeno, introduced himself as the new ADC contract manager and stated that the Kekaha Agricultural Park was created by Executive Order (EO) No. 3633 in 1994. EO No. 3633 gave control and management of the Kekaha Ag Park to HDOA. The Ag Park leases were originally awarded to various business entities for approximately \$150 per acre, per year. The leases were subsequently obtained by Sunrise Capital, Inc. for aquaculture purposes. On April 9, 2020, the Board of Land and Natural Resources (BLNR) approved the cancellation of EO No. 3633, which resulted in the closure of the Kekaha Ag Park. On September 23, 2021, pursuant to EO No. 4660, the property formerly known as the Kekaha Ag Park was reset aside to ADC. With the demise of the Kekaha Ag Park and the transfer of the premises to the control and management of ADC,

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the leases were to be converted to ADC licenses, but that never happened due to various ADC issues. In June 2024, Sunrise Capital sought ADC's permission to allow Aloun Kauai Farms to assume the Ag Park leases. ADC had to locate the files and research the history of the Ag Park leases. Staff discovered that the Ag Park leases contain several terms and conditions that do not exist in ADC licenses, such as the ability to assess additional rental, rent reopening on the 15th, 25th and 35th years, instead of every five or ten years, the right of first refusal for assumption of lease purposes, and the ability to charge a premium based on the amount of consideration paid for assumption of leases. These terms and conditions are unique to Ag Park leases and were never intended to apply to the properties EO'd to ADC. Staff believes the issue of delayed transfer of the Ag Park leases to ADC Kekaha license agreements could be corrected by issuing the ADC licenses retroactive to September 23, 2021, the execution date of EO No. 4660. This would preserve the intent of transferring the property to ADC for agriculture and related purposes. Had the Ag Park leases been transferred in September 2021 when they were supposed to, none of the unique Ag Park terms and conditions would exist today. Accordingly, staff requests the Board consent to converting the HDOA Ag Park lease agreement numbers S-8001, S-8002, S-8005, S-8008, S-8012, S-8013, S-8017, and S-8020 issued to Sunrise Capital Inc. to ADC Kekaha license agreements retroactive to September 23, 2021. Additionally, staff requests that the Board declare the action of changing the leases to licenses be exempt from preparing an environmental assessment under HRS chapter 343 based on ADC's comprehensive exemption list dated May 1st, 2018, which exempts actions that are routine in nature, involve negligible impacts beyond those previously existing, and have no significant effect on the environment, pursuant to exemption class 10.

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

Chair asked if there was any Board discussion.

Member Watts asked if ADC can grant itself an environmental assessment waiver that has to go to somebody else? Can you explain what these exemptions are.

Mr. Empeno said ADC has a HRS chapter 343 comprehensive exemption list that was approved May 1, 2018, pursuant to the Hawaii Administrative Rules. ADC can declare exemptions under certain circumstances. Exemption Class 10 (continuing administrative activities), item 9 (creation or termination of rights in land); item 12 (licenses issued by ADC that are routine in nature, involving negligible impacts beyond that previously existing); and item 14 (issuance of licenses for the possessory interest of ADC lands; not the underlying purpose or use of the land). ADC can claim these exemptions.

Member Watts asked if they are for negligible impacts, did Aloun tell us what they're going to do on ADC lands?

Mr. Empeno replied that he believed that was the subject matter of action item E-2.

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Ms. Waihee-Polk interjected that this agenda item relates to Sunrise; not Aloun Farms.

Member Watts continued that he was just trying to understand exempting them from any kind of environmental assessment. Did ADC receive a full plan of what they plan to do on our property.

Ms. Waihee-Polk clarified again that this agenda item is for Sunrise as the current tenant.

Member Watts asked if Aloun was going to continue all of Sunrise's activities?

Ms. Waihee-Polk explained that is the second agenda item. The Board right now is discussing converting the Ag Park leases into ADC licenses.

Member Watts do these exemptions apply to the next agenda item?

Ms. Waihee-Polk said this agenda item is changing leases to licenses. The request is simply recommending that the Board turn the leases to ADC licenses. Changing leases to licenses does not have a significant effect on the environment.

Chair reiterated that this action item E-1 is to just convert, from lease to license.

Member Hong asked for clarification on the terms. Footnote 1 says, "this amount does not include payment of a percentage of gross receipts assessed annually on each property and may not include rent reopening subject to appraisal." Is the Board going to address this in the next agenda item. I'm wondering if the Kekaha appraisal will affect this.

Ms. Waihee-Polk responded that if you change the leases into licenses retro active to September 2021, technically those lease terms won't exist. Those terms are in there because they are ag park leases.

Member Hong asked about the annual rent. If you have 145 acres at \$150 per acre, that comes to over \$21,000 but the submittal says its \$16,685.

Mr. Empena apologized and said the correct number is around \$21,000.

Member Hong asked that the record reflect that 145.65 acres times \$150 is \$21,847.50 that Sunrise is currently paying under the lease, which we're converting to a license.

Chair asked if that was appropriate.

Member Hong said he was just correcting the presentation. So this item E-1 is to convert from leases to licenses on the same terms.

Ms. Waihee-Polk responded yes, except for the rent reopening because we don't have an appraisal. And there will be none of the special terms that are only in Ag Park leases.

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You will get the general terms that you get in the ADC licenses. Maybe, we should talk about this in agenda item E-2.

Member Hong asked if we're converting to licenses, is the rental amount fixed at \$150 a year for the entire term of the license?

Ms. Waihee-Polk responded that the leases/licenses do allow for an increase in rent.

Member Watts asked to clarify that the gross acres is 145.65, and we should be multiplying that by \$150 per acre, and that comes out to \$21,847.50. If the gross acres are incorrect, that should be corrected as well, because we are voting on this.

Ms. Waihee-Polk asked if the Board wanted to move into executive session to discuss the discrepancies. There seem to be a lot of legal questions.

Member Watts stated he would like to move into executive session.

Chair said pursuant to HRS section 92-4, the Board will be discussing Action Item 1 or 2, or 1 and 2, in executive session to allow the Board to confer with its attorney pursuant to HRS section 92-5(a)(4).

Chair asked if any member of the public wished to testify on Action Items 1 or 2. There was none.

Chair asked for a motion to enter executive session.

Motion: Member Wicker; Second by Member Watts.

Chair asked if there was any further Board discussion. There was none.

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

Chair conducted a roll call vote: Chair, Member Hong, Member Hurd, Member Okimoto, Member Okuhama, Member Seddon, Member Trump, Member Watts, and Member Wicker unanimously approved the motion to enter executive session: 9-0.

Chair stated that the public meeting was in recess subject to reconvening at the conclusion of the executive session.

Exited the public meeting at 9:43 A.M.

Back on the public record at 10:31 A.M.

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Chair stated that pursuant to HRS section 92-4(b) (2023), the following action was taken by the Board in executive session. Action item 1 was discussed with the Board's attorney.

Chair noted that the motion to approve action item one, which was the request to consent to convert HDOA Ag Park lease agreement nos. S-8001, S-8002, S-8005, S-8008, S-8012, S-8013, S-8017, S-8020 from Sunrise Capital, Inc., to Aloun Kauai Farming LLC, effective upon the closing of the asset purchase agreement tentatively scheduled for October 1, 2024, was moved by Member Wicker, and seconded by Member Hong earlier in the meeting. We will now be moving on to the vote.

Chair asked if anyone from the public wished to provide testimony on this agenda item. There was none.

Chair asked if there was any further Board discussion. There was none.

Chair called for the vote. Hearing no objections or abstentions but noting that Member Seddon and Member Trump left the meeting during executive session, Chair conducted a roll call vote: Chair, Member Hong, Member Hurd, Member Okimoto, Member Okuhama, Member Watts, and Member Wicker approved the motion. Vote: 7-0.

Chair moved on to Action Item 2:

2. Request for consent to assign the ADC Kekaha License Agreements, if the conversion of HDOA lease agreement numbers S-8001, S-8002, S-8005, S-8008, S-8012, S-8013, S-8017, and S-8020 is approved, from Sunrise Capital Inc. to Aloun Kauai Farming LLC, effective upon the closing of the asset purchase agreement tentatively scheduled for October 1, 2024.

Chair asked for staff presentation on action item two.

Mr. Empena said that starting June 19, 2024, ADC received a joint request from Sunrise and Aloun Kauai Farming to consent to the assignment of leases from Sunrise to Aloun. On August 2, 2024, ADC received a revised request from Sunrise to convert the leases to licenses similar to LI-K1001, which is a license agreement between ADC and Sunrise dated July 21, 2009. Sunrise asked that the license agreements be retroactive to EO No. 4660 on September 23, 2021. This was today's action item E-1, which the Board just approved. Now Sunrise and Aloun requests that ADC consent to the assignment of the newly approved license agreements effective upon the closing of the asset purchase agreement tentatively scheduled for October 1, 2024. It is anticipated that Aloun will continue the aquaculture operation, but Aloun has not yet provided an operational plan for the subject parcels. Sunrise is current on its lease rent. The rent was subject to reopening in 2022 by appraisal. However, this was not done. Sunrise has committed to paying the updated rental amount retroactive to the reopening date through the date of assignment to Aloun. ADC has contracted for an appraisal of its Kekaha properties, but it has not been completed. In lieu of waiting for the appraisal, the Board has the option to

## **AGRIBUSINESS DEVELOPMENT CORPORATION**

Minutes of the Board of Directors Regular Meeting held Virtually on August 20, 2024  
Via Zoom Teleconference and/or In-Person at 235 S. Beretania St., Ste. 204, Honolulu, HI 96813

use section 4.4 of the ADC Land Management Policy and Procedure Manual, which allows the use of a 2.5% escalator of the current rate. This will allow a quick resolution to Sunrise's outstanding rent increase. Staff requests the Board consent to the assignment and assumption of the ADC Kekaha License Agreements as earlier approved from Sunrise Capital Inc. to Aloun Kauai Farming LLC, effective upon the closing of the asset purchase agreement, conditioned upon resolution of submittal items 1. a. to i. (submittal page 042.) Additionally, staff requests that the Board declare this assignment and assumption of license agreements, from Sunrise to Aloun be exempt from the preparation of an environmental assessment as earlier stated under the chapter 343 exemption list.

Ms. Gady added that Sunrise will continue to do the breed stock program for shrimp and 100% of the food production will be going to Aloun. If the transfer does not happen, the staff believes the food production will cease. And this is in line with our mission to grow more local food.

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

Chair asked if there was any Board discussion.

Ms. Waihee-Polk asked for a second executive session regarding action item E-2.

Chair said pursuant to HRS section 92-4, the Board will be discussing Action Item E-2, in executive session to allow the Board to confer with its attorney pursuant to HRS section 92-5(a)(4).

Chair asked if any member of the public wished to testify on Action Item 2. There was none.

Chair asked for a motion to enter executive session.

Motion: Member Wicker; Second by Member Watts.

Chair asked if there was any further Board discussion. There was none.

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

Chair conducted a roll call vote: Chair, Member Hong, Member Hurd, Member Okimoto, Member Okuhama, Member Watts, and Member Wicker unanimously approved the motion to enter executive session: 7-0.

Chair stated that the public meeting was in recess subject to reconvening at the conclusion of the executive session.

Exited the public meeting at 10:42 A.M.

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Back on the public record at 11:17 A.M.

Chair stated that pursuant to HRS section 92-4(b)(2) (2023), the following action was taken by the Board in executive session. The Board discussed action item E-2 with the Board's attorney. Chair asked if Ms. Prescott-Tate could restate the motion of action item E-2.

Ms. Prescott-Tate reframed action item E-2 by reciting the amended motion to request the Board to assign the licenses from Sunrise Capital to Aloun Kauai Farms effective as of the closing of the asset purchase agreement; that Aloun be required to provide the utilization plan before the closing of the asset purchase agreement; that the Board determine whether rent reopening for Sunrise be by appraisal or by use of the Policies and Procedures Manual that allows for a 2.5% increase; approving the rent reopening by appraisal upon Aloun's assignment and assumption of the lease; and that Aloun be required to provide proof of compliance with all federal, state, and county permits. That would be the motion.

Chair asked for a motion to approve.

Motion by Member Wicker; Second by Member Hong.

Chair asked if there was any further discussion by the Board. There was none.

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

Chair called for a roll call vote because Member Trump rejoined the meeting during executive session: Chair, Member Hong, Member Hurd, Member Okimoto, Member Trump, Member Watts, and Member Wicker voted to approve action item E-2 as amended. Vote: 7-0. Member Okuhama abstained.

### **F. Informational Items**

#### 1. Executive Director's Report

Chair called on Ms. Gady for the executive director's report.

Ms. Gady referred the Board and public to the director's reports on the ADC website.

### **G. Adjourn**

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

Motion by Member Watts; Second by Member Hong.

Chair called for the vote, hearing no objections or abstentions the motion was approved. Vote: 8-0. Meeting adjourned at 11:26 A.M.

DA: November 18, 2024

TO: ADC BOD

FR: Jason Okuhama, Vice Chair, ADC BOD & Member of the Administration Committee

RE: Administration Committee Report

The Administration Committee held a hybrid meeting on Friday, October 11, 2024, with an agenda that included:

1. Review of the ADC FY24 actuals and FY25 Budget.
2. Review of a recent appraisal report of Common Area Maintenance (CAM) Fees for Oahu and Kauai and license fees for pasture and diversified agriculture for both counties. The last appraisal was estimated to have been done in 2002.
3. Determine recommendation for the license rate for new licensees.

Discussion:

1. A request was made for staff to inquire about membership fees for ADC to join the Hawaii Chamber of Commerce and to report at the next meeting.
2. A request was made for staff to inquire with current tenants regarding the appraisal fees, however no recommendation was made for ADC BOD action.
3. Members of the public asked questions and testified regarding the rates and requested additional discussion with the staff.



DA: November 11, 2024

TO: ADC BOD

FR: Land Permitted Interaction Group (PIG)

RE: Final Report

Scope of PIG:

On February 15, 2024, three permitted interaction groups were formed. The groups were to assemble information to be included in the Agribusiness Plan required by HRS section 163D-5 (Strategic Plan). The Office of Planning and Sustainable Development (OPSD) will prepare the plan but the Board, through the three permitted interaction groups, were to provide guidance to OPSD on the contents of the Strategic Plan. The groups were to provide strategic direction in terms of goals, objectives, and policy recommendations to the Board.

Member Seddon and Member Hong were appointed to the Land permitted interaction group/ad hoc committee. The scope of the inquiry was to be defined at the next board meeting.

The next Board meeting was held on March 21, 2024. The Land permitted interaction group was dissolved and reestablished. Member Seddon, Member Hong, and Member Okuhama were assigned to the reestablished Land permitted interaction group.

On March 21, 2024, all the permitted interaction groups were assigned to investigate and report back to the Board with information to be incorporated into the Agribusiness Plan required by HRS section 163D-5. The groups were to report on objectives and outcomes that include metrics, timeframes, budget expectations, and annual performance goals and measures that will allow ADC to evaluate accomplishments annually. The groups were asked to consider beneficiaries, customers, problems, unique value propositions, competitive edge, key activities/solutions, impact metrics, key resources, partners and key stakeholders, cost structure, surplus, and financial stability. The report was to be presented at the June 20th meeting.

At the May 16, 2024 Board meeting, the Land permitted interaction group was dissolved and reestablished. One of the members could not devote the time necessary to serve on the group so a replacement needed to be assigned. Member Hong, Member Okuhama, and Member Cooke were assigned to the reestablished Land permitted interaction group. The Land permitted interaction group was to investigate and report back to the full board on information to be incorporated into the Agribusiness plan as required by HRS section 163D-5, which establishes the goals, objectives, policies, and priority guidelines for ADC's development strategy. The information collected should be geared toward objectives and outcomes that include metrics, timeframes, budget expectations, and annual performance goals and measures that will allow ADC to be evaluated annually. The Land permitted interaction group could also consider the items contained on page 100 of the March 21, 2024 board submittal package. The land group was asked to prepare a written report for presentation to the board that contains recommendations for inclusion in the ADC strategic plan report by the June 20th meeting.

Page 100 of the March 21, 2024 submittal contained the following advice for all three permitted interaction groups. It was suggested that each group brainstorm the following:

- 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)
- 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. . .) Identify beneficiary UVP and customer 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 HRS chapter 163D.

## **Recommendations:**

### ***Recommendations for Immediate Adoption:***

Strategically:

#### **1. Recognize the need for faster action and implementation by ADC**

##### a. Policy Changes:

##### i. Changes in the Existing Land Management Policy & Procedure Manual (LMPPM):

1. Property Disposition & Evaluation Procedures: Amend to include “Available Lands will be kept updated on the ADC Website for Expressions of Interest & Applications. Notices of Availability or Requests for Application shall be published. . .

a.

##### 2. Procedure for (specific area):

##### a. Add to each section:

- i. Property Manager will review applications to assess compatibility with existing licensees, distribution (power & water), and value-added needs and discuss with area ADC BOD Member, ADC Staff and Partners as needed
- ii. The Property Manager will keep a current list of Expressions of Interest, Applications, and Stakeholders for

##### b. Need for Additional Information/Recommendation by Staff:

- i. Revisit the ADC’s 343 Exemptions and provide a recommendation for inclusions in the LMPPM
- ii. Review Hawaii Fire Mitigation Plan and recommend policies to better steward ADC Lands
- iii. Suggested Changes to the LMPPM from Staff to include but not limited to:
  1. Property Disposition and Evaluation Procedures: Adding Executive Ordered Lands and New Land Purchases Sections
  2. Application Document:
    - a. Adding sections/scores for:
      - i. Currently losing license/lease (timeframe & reasons).
      - ii. Farm Visit Evaluation/criteria & points for: No animals present if produce farmer, Type of equipment, number of workers observed at the farm, If Product is lying on the ground in the field unharvested, If potable water is available, If clean boxes for packing were available, on farm toilet, farm waste disposal system, any farm refrigeration available, if GAP certified- signage, notice any burning piles/evidence

- iii. Any Grants Awarded in the Past: Describe
    - iv. Current Conservation Plan- copy of, and who created/approved
  - b. Clarify scoring criteria for:
    - i. Financials (many farmers do not provide detailed records for fear of information breach by ADC or request by public to view application & financials)
    - ii. Farm Plan
    - iii. Balance of the Application
  - c. Recommendations by staff for other changes
- 3. Communication Plan: Before, during and after application process
- 4. Land Document Policies:
  - a. Expand Rent Setting Policy “ADC Board may adjust rent schedules to reflect cash flow of crop type, for example, orchard crop may have lower rate as licensee establishes trees & waits for fruit.”
  - b. Rent Credit: change to reflect up to 3-year rent credit instead of up to 20 years
  - c. Term of License: **Is 35 years ADC’s maximum?**
  - d. License Re-Opening:
    - i. Applicants have shared current policy limits financial backing- prefer a set rate and re-opening
- 5. Soil Conservation Plan: due to the shortage of conservation planners, we recommend ADC move to get a Master Conservation Plan for each area and allow Licensees up to 2 years to get a Soil Conservation Plan. Under the Master Conservation Plan Licensees are not required to have a grading & grubbing permit and can get started while awaiting an individual plan.
- 6. Termination of License Procedures:
  - a. Change Notice of Violation for Past Due Rents letter from 60 to 45 days, and “past due letter” from 30 to 10 days
  - b. Change Notice of Violation for Past due Rents & Board Hearing” letter from 90 to 60 days, and add after garnishment of bank accounts, “result in license termination”
- 7. Non-Financial Default:
  - a. Change the Notice of Violation letter from five business days to 24 hours; resolved from 30 to 10 days and closed after the 11<sup>th</sup> day window.
  - b. Change item b Notification to 3 instead of 6 days
- 8. Section 7.3 Soil Conservation Plan- extend from one year to two years
- 9. Add to 8.3 from suggestions made to Lyle & Roger)- include if licensee attended any t

**2. Acknowledge ADC has Commercial Property in the Asset Portfolio**

- a. Policy Changes:
  - i. Changes in the Existing Land Management Policy & Procedure Manual (LMPPM) to include Commercial Land Management Policies & Procedures
    - 1. Include Common Area Maintenance Fees Policy for Commercial Lands to enable upkeep and security
- b. Need for Additional Information/Recommendation by Staff:
  - i. Draft Commercial Property Policies & Procedures based on Best Management Practices in the industry

**3. Proactively show “dynamic and aggressive leadership” in agribusiness**

- a. Policy Changes:
  - i. Establish a Strategy for Land Use on ADC Lands in relationship to Agritourism, Ag Worker Housing, and Solar and assign to the Technical Standing Committee appointed by the Chair
  - ii. Expand Annual Reports by Licensees to honor the statute of “economic, environmental and social benefit for the people of Hawaii”
    - 1. Capital Improvement Projects: Implemented & Planned
    - 2. Staffing: Current number of FT and PT throughout the year (indicating economic impact & ag worker housing needs)
    - 3. Conservation Plan Update
    - 4. Training conducted, attended or planned
    - 5. Current Production Status: Gross pounds harvested & waste (potential value-add production); types of crops
    - 6. Federal or State Grants Awarded
    - 7. Recommendations to the ADC BOD for consideration
  - iii. Establish Common Area Maintenance Trust Accounts by Region to allow planning and saving for capital improvements, improving security, possibly renting toilets or trash removal services as a group
- b. Need for Additional Information/Recommendation by Staff:
  - i. License vs. Lease: Pros & Cons and Recommendation to BOD
  - ii. Quarterly Report from Property Managers to the BOD moving forward including maps/acres licensed vs. available; executive summary of Expressions of Interest for their assigned area (County); define “unfarmable lands” and outline what/where exist; identify region’s senator and representatives
  - iii. Execution of mapping report on funding & for Strategic Plan:
    - 1. Current Land Assets:
      - a. Short-Term: TMK identification, parcel size/area; address if available, flood & county zoning (ag, urban, etc.); soil type, A/B/C/D; if there is a Current Conservation Easement in place; microclimate; any CTAHR reporting of suggested crops; In Special District Designation i.e. Enterprise Zone; appraised value, if any environmental testing has been done and executive summary

- b. Long-Term: asset in relationship to ports, HDOE Facilities or planned Regional Kitchen; irrigation & potable water sources; electricity, sewage, telecommunication lines; fire hydrants & fire code- in designated high fire zone, drainage issues, any county plans for the area, if this is ceded lands, drone mapping by ADC to verify size of property

DRAFT

DA: November 11, 2024

TO: ADC BOD

FR: Distribution Services Permitted Interaction Group (PIG)

RE: Final Report

Scope of PIG:

On February 15, 2024, three permitted interaction groups were formed. The groups were to assemble information to be included in the Agribusiness Plan required by HRS section 163D-5 (Strategic Plan). The Office of Planning and Sustainable Development (OPSD) will prepare the plan but the Board, through the three permitted interaction groups, were to provide guidance to OPSD on the contents of the Strategic Plan. The groups were to provide direction in terms of goals, objectives, and policy recommendations to the Board.

Vice-Chair Tabata (now Chair Tabata) and Member Kanaka'ole were appointed to the Water permitted interaction group/ad hoc committee. The scope of the inquiry was to be defined at the next board meeting.

The next Board meeting was held on March 21, 2024. The Water permitted interaction group was dissolved, reestablished, and renamed the **Distribution Management Permitted Interaction Group** covering water infrastructure and electric systems. Chair Tabata, Member Kanaka'ole, Member Hurd, and Member Hong (to the extent possible) were assigned to the reestablished Distribution Management permitted interaction group.

On March 21, 2024, all the permitted interaction groups were assigned to investigate and report back to the Board with information to be incorporated into the Agribusiness Plan required by HRS section 163D-5. The groups were to report on objectives and outcomes that include metrics, timeframes, budget expectations, and annual performance goals and measures that will allow ADC to evaluate accomplishments annually. The groups were asked to consider beneficiaries, customers, problems, unique value propositions, competitive edge, key activities/solutions, impact metrics, key resources, partners and key stakeholders, cost structure, surplus, and financial stability. The report was to be presented at the June 20th meeting.

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- 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. . .) Identify beneficiary UVP and customer 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 HRS chapter 163D.

## **Recommendations:**

### ***Recommendations for Immediate Adoption:***

Strategically:

1. **Recognize the strategic significance and urgency of Distribution of Water & Power as part of the ADC Statute to exist “for the economic, environmental and social benefit of the people of Hawaii”**
  - a. Policy Changes:



- i. Resolve to acquire the Haleiwa-Wailua-Wahiawa Irrigation System, Spillway and Dam assets expeditiously to preserve 17,000 acres of food production in central Oahu which will lose water access for 6 months/year users are wholly dependent upon the system for water.
  - ii. Pursue debt relief of \$4.5M for paying off the Waiahole Irrigation System Revenue Bond. Currently 40% of the revenues are used for principal and interest payments, and users have already paid \$9.5M on the original \$8.5M bond- eventually paying \$14.5M through maturity. These costs are passed on to local consumers of food.
  - iii. Advocate for Capital Improvements for ADC's Distribution Services in this next legislative session- see attached list.
  - iv. Create a Distribution Services Management Policy & Procedure Manual (DSMPPM)
  - v. Note that Fire Mitigation efforts on Oahu and Kauai used & needed ADC Distribution Services access for fighting fires. Maintenance of these assets should be recognized as both economic, environmental and social benefiting the people of Hawaii.
  - vi. Actively pursue new users, more efficient monitoring and use of existing Distribution Services customers.
  - vii. Recognize that Climate Changes are bringing both flooding and drought. Flooding necessitates the need for ADC to capture these surges through maintenance of and additional water storage facilities. Drought conditions create a need for additional efficiency and sources of water.
  - viii. Establish Trust Accounts for the Common Area Maintenance of these systems.
  - ix. Proactive action through the addition of a System Engineer and Environmental Compliance staff position is critical and should be sought in this next legislative session.
  - x. Potential for adding a Constitutional Right to Land & Water to Farm.
  - xi. Recognize the need for more comprehensive regional water strategies- for drinking, farming, other uses
  - xii. ADC currently complies with ongoing Environmental Monitoring through (lawsuits).
  - xiii. Department of Hawaiian Home Lands is a potential strategic partner for jointly pursuing or maintaining Distribution Services for food production.
  - xiv. Department of Land and Natural Resources is a potential strategic partner for grants to maintain dams and reservoirs.
- b. Need for Additional Information/Recommendation by Staff:
- i. Draft a DSMPPM for ADC BOD review, feedback & strategic implementation. Include but not limited to: Operation, Maintenance and Management of each asset; identify cross-training and development of associated ADC staff; Process for Evaluation of Potential Assets for Acquisition and Energy Generation; Process for Evaluation of Potential Acquisitions; Best

Management Practices during the Acquisition or Transfer; Policy regarding collection for services rendered (other suggestions?)

- ii. Draft recommendations from ADC Staff of potential distribution services acquisitions for food (and energy?) production, including any assets that are potential for decommissioning across the state & would impact food production.
- iii. Review Hawaii Fire Mitigation Plan and recommend policies to better steward ADC Lands

**2. Actively protect the need for water in food production.**

a. Policy Changes:

- i. Proactively plan for better Management and Maintenance of the current systems.
- ii. Design a comprehensive plan for each Distribution Services Asset- requiring ADC BOD to advocate for a Systems Engineer Position or Funding to Develop this plan.
- iii. Work with a variety of stakeholders to look for Reuse Water Opportunities: existing with the WWTP of Wahiawa, Schoefield and Lihue.
- iv. Sugar and Pineapple had irrigation systems in place with fields and distribution lines that are still being used. Identify and support the digitization of the Sugar and Pineapple systems for access on the ADC Website.
- v. Request in land applications projected water usage by month for strategic planning.
- vi. Request in the annual report from licensees' additional needs for water and power distribution.
- vii. Recognize the Talent Shortage in Distribution Services and strategically plan to address starting with a Salary Survey. Talent stability means consistent Distribution, and consistent Distribution Services increase food production.

b. Need for Additional Information/Recommendation by Staff:

- i. Draft a comprehensive Capital Improvement Plan for the Distribution Services of ADC.
- ii. Provide a report of the gap in food production due to insufficient water in ADC Lands or Distribution Service areas.
- iii. Conduct a Salary Survey for Distribution Services staffing.

**3. Proactively show “dynamic and aggressive leadership” in agribusiness around Distribution Services**

a. Policy Changes:

- i. Advocate for Economic Impact Studies for the Haleiwa-Wailua-Wahiawa System (last done in 2007); Waiahole System (last done in 2006); East Kauai Irrigation System; and Kekaha Systems
- ii. Establish Common Area Maintenance Trust Accounts by Region to allow planning and saving for capital improvements, and execution of routine maintenance

- iii. Demonstrate the need for data in monitoring use and efficiency using technology.
- b. Need for Additional Information/Recommendation by Staff:
  - i. Execution of mapping report using Strategic Plan funding for:
    - 1. Current Distribution Services Assets:
      - a. Short-Term: size/area served; type of water being distributed through the asset, address if available, flood & county zoning (ag, urban, etc.); soil type, A/B/C/D served; appraised value, if any environmental testing has been done and executive summary, executive summary highlights from last economic impact study; past 5 years CIP
      - b. Long-Term: projected 5-year CIP Schedule; potential fire mitigation use-- fire hydrants, fire code, designated high fire zone, drainage issues, any county plans for the area, pictures of the asset and staff working on it
  - ii. Identify Distribution Services monitoring technology for inclusion in future grant and CIP requests.

DA: November 15, 2024

TO: ADC BOD

FR: Capital Improvement Plan (CIP) Permitted Interaction Group (PIG)

RE: Final Report

Scope of PIG:

The group was instructed to review ADC's capital improvement project priorities, rank the projects, and make recommendations to the full Board.

Recommendations:

- Recommend starting the CIP planning process much earlier with the following suggested timeline:
  - 5/2025: Appoint CIP PIG for FY27
  - 6/2025-7/2025: Timeframe Governor can veto FY26 items
  - 7/2025: Recommendations of CIP to ADC BOD for FY27
  - 8/2025: Board approves CIP recommendations
  - 9/2025: Submit requests to DBEDT Director's Office for consideration for the Administrative CIP Request
- Continue to update the CIP throughout the year, expanding to include:
  - Which projects are shovel ready?
  - What projects support the ADC's HRS163D?
  - Does the CIP request fit with ADC, DBEDT, Leg. vision?
  - What projects are requested/directed by the Legislature?
  - Phase & cost breakdown of projects
    - Detail any recycled water projects
  - Additional resources needed
  - What projects must happen vs. would be good to happen
  - Include region (Galbraith, Kalepa, Kekaha, Hilo, etc.)
- Update FY25 budget changes to include changes caused by the Maui wildfire, cost details of the requests, & Legislative districts of the projects (completed).
- Please review the following:
  - Description of CIP projects and details submitted for FY26 to DBEDT (Exhibit A)
  - Description of an "Evergreen" 5-year CIP Plan (Exhibit B)
  - FY26 ADC Operating Budget Request for the Following Positions:
    - Attorney General Additional Staffing
      - Submissions & Monitoring of ongoing legal items
      - Review titles & encumbrances of new acquisitions
    - Compliance Manager
      - Proactively Manage Required Monitoring
      - Prepare reports
    - Cost Accountant
      - Capture and allocate cost of projects and assets
      - Identify areas for efficiency
      - Improve accountability
    - Project Manager

- Project Manage assigned projects on neighbor islands
- Project Manage maintenance contracts for assets
- System Engineer
  - Design Master Plan for Each Irrigation System
    - Optimize allocation for farms/food
    - Capture flood/surges
    - Plan for droughts
  - Create efficiencies in Distribution Management

ADC CIP FY26 Submission to DBEDT

| Project Name  | Prior App. Bill or CIP | DBEDT | Directed | priority |   | \$ in 1,000 | eCIP project number | Senate District | District Representative | Fulfills HRS163D | Shovel Ready? | Addt'l Notes   | Removed Due to Maui Wildfire |
|---|------------------------|-------|----------|----------|---|-------------|---------------------|-----------------|-------------------------|------------------|---------------|----------------|------------------------------|
|   |                        |       |          |          |   |             |                     |                 |                         |                  |               |                |                              |
| Food And Product Innovation Network, Statewide                                      | Yes                    | yes   | Yes      | High     | 1 | 9,500       | ADC005              | Statewide       | Statewide               | Yes              | No            | In FY24 & FY25 | Yes                          |
| State Postharvest Facility, Oahu (HPP project)                                      | Yes                    | Yes   | Yes      | High     | 2 | 6,300       | ADC007              | Dela Cruz       | Perruso                 | Yes              | Yes           | No             | No                           |
| Wahiawa Reservoir And Spillway Purchase   | No, new                | Yes   | Yes      | High     | 3 | 5,600       | 202603              | Awa, Dela Cruz  | Quinlan, Perruso        | Yes              | Yes           | In FY24 & FY25 | Yes                          |
| Commercial Land Purchase (Whitmore store)   | No, new                | Yes   | Yes      | High     | 4 | 5,000       | 202404              | Dela Cruz       | Perruso                 | Yes              | Yes           |                |                              |
| Slaughterhouse Facility, Oahu   | Yes                    | Yes   | Yes      | High     | 5 | 4,000       | ADC003              | Kidani          | Pierick                 | Yes              | No            | In FY24 & FY25 | Yes                          |
| Agricultural Lands, Waialua, Oahu (155 acres Dole with Water)                       | No                     | Yes   | No       | Med      | 6 | 9,100       | 181615              | Awa, Dela Cruz  | Quinlan, Perruso        | Yes              | Yes           |                |                              |
| Purchase Of Land Locked Between State Owned Land (parcel of land surrounded by ADC) | Yes                    | Yes   | No       | Med      | 7 | 3,000       | 202407              | Awa, Dela Cruz  | Quinlan, Perruso        | Yes              | Yes           | In FY24 & FY25 | Yes                          |
| Agricultural Infrastructure Improvements, Oahu (511 Water Project)                  | No                     | Yes   | No       | Med/High | 8 | 9,200       | 221611              | Awa, Dela Cruz  | Quinlan, Perruso        | Yes              | No            | In FY24 & FY25 | Yes                          |

ADC CIP FY26 Submission to DBEDT

| Project Name   | Prior App. Bill or CIP | DBEDT | Directed | priority |    | \$ in 1,000 | eCIP project number | Senate District | District Representative | Fulfills HRS163D | Shovel Ready? | Addt'l Notes   | Removed Due to Maui Wildfire |
|--|------------------------|-------|----------|----------|----|-------------|---------------------|-----------------|-------------------------|------------------|---------------|----------------|------------------------------|
|  |                        |       |          |          |    |             |                     |                 |                         |                  |               |                |                              |
| Kekaha Irrigation System Improvements, Kekaha, Kauai (Mauka Water)               | Yes                    | No    | Yes      | Med/High | 9  | 6,470       | 181618              | Kouchi          | Morikawa                | Yes              | No            |                |                              |
| Wastewater Reclaimed Water Irrigation System, Wahiawa, Oahu (Wahiawa Wastewater) | Yes                    | Yes   | No       | Med      | 10 | 6,620       | P15003              | Awa, Dela Cruz  | Quinlan, Perruso        | Yes              | 80%           | In FY24 & FY25 | Yes                          |
| Galbraith Agricultural Lands Improvements, Oahu (soil remediation)               | No                     | Yes   | No       | Med/High | 11 | 500         | ADC008              | Awa, Dela Cruz  | Quinlan, Perruso        | Yes              | Yes           | In FY24 & FY25 | Yes                          |
| Agricultural Lands, Waimea, Kauai (Waimea (3) Parcels)                           | No                     | Yes   | Yes      | High     | 12 | 1,300       | 181616              | Kouchi          | Morikawa                | Yes              | Yes           | No             | No                           |

STATE OF HAWAII  
**AGRIBUSINESS DEVELOPMENT CORPORATION**

**D - 5**

STAFF SUBMITTAL TO THE BOARD OF DIRECTORS  
November 21, 2024

Subject: Presentation of the Land Application permitted interaction group's findings and recommendations for developing a program for small, disadvantaged farmers on Oahu

Applicant: Agribusiness Development Corporation (ADC)

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



November 21, 2024

### BACKGROUND:

On March 19, 2024, the ADC solicited applications from interested farmers to fill the remaining vacant farm lots on Oahu and Kauai. Using their discretion and expertise, the committee evaluated the land applications and awarded points for each of the following categories: Experience, Marketability of Products, Finances, Business Plan and Farming Practices.

In total, the ADC received 43 land applications. Of the 43 land applications received, only 7 met or exceeded the minimum score established.

On November 1, 2024, the ADC Board established a second permitted interaction group to consider a potential land opportunity project for small and disadvantaged farmers on Oahu who may be imminently displaced from their current farming operations and did not meet the minimum qualifications and/or submitted a land application after the May 3, 2024 deadline.

The permitted interaction group met with ADC staff virtually to determine the location (see Exhibit A), criteria, and eligibility requirements for the proposed project.

### FINDINGS:

#### Findings #1:

The ADC Board identified Tax Map Key 6-4-003-016 as an ideal location for this program.

- A. Size: 511 Gross Acres, approximately 385 is usable for diversified farming. Minimum size lot for diversified agriculture operation is 100 acres.
- B. Location: Paalaa Uka, Oahu, gates to the property located on Kamehameha Hwy and Paalaa Uka Rd.
- C. Water source: A pump station owned by Dole is located across Kamehameha Hwy. approx. 500 yards from the property. A possible second water source is an irrigation ditch running on the northern end of the property: Licensee will need to procure an agreement from Dole to use water from the pump station or R2 ditch water. The Licensee is also responsible for the development of the irrigation water infrastructure, including transporting water and constructing its own water storage onsite.
- D. Condition of property: The property has several abandoned vehicles on site, as well as debris and rubbish. The land is overgrown with grass and tall trees. The land will require clearing before any agricultural activities can begin and will be issued "as is." The Licensee is responsible for developing the land in accordance with applicable laws and license provisions. Access from Kamehameha Hwy on the West boundary for several hundred yards makes security a concern for the farmer.

#### Finding #2:

In total, the ADC received 43 land applications. Of the 43 land applications received, 36 did not meet the minimum qualification established. Many of these farmers are small and disadvantaged farmers on Oahu who may be imminently displaced from their current farming operations (see Exhibit B).

Finding #3:

Based on the size of TMK 6-4-003-016 and the number of applicants remaining, ADC needs to establish a selection criterion based on merit to ensure ADC selects the top applicants based on their experience, marketability of product, finances, business plan, and farming practices.

Finding #4:

A minimum and maximum size for field crops should be established so that the farmers have enough area to implement crop rotation with cover crops and other non-food crops for pest mitigation. Furthermore, the committee believes it's important to accommodate as many small, disadvantaged farmers as possible, and that the farmer has enough farmland to achieve the economies of scale.

RECOMMENDATIONS:

The discussion suggested that a selection criterion for this program to support small, disadvantaged farmers on Oahu is needed. The committee's recommendations for the Board's review and consideration are summarized below:

Recommendation #1:

ADC shall use the list of applications already received prior to October 16, 2024 and select the highest-rated applicants. The applicants shall meet the criteria of small and disadvantaged, which is defined by the United States Department of Agriculture as a socially disadvantaged farmers and ranchers (SDFRs) as those belonging to groups that have been subject to racial or ethnic prejudice. SDFRs include farmers who are Black or African American, American Indian or Alaska Native, Hispanic or Latino, and Asian or Pacific Islander. For some but not all USDA programs, the SDFR category also includes women.

Recommendation #2:

The Committee suggest that ADC limits the program to truck crop farmers.

Recommendation #3:

The Committee proposes a minimum size of 10 acres and a maximum size of 100 acres for field crops.

DISCUSSION:

ADC's goal is to develop a program to support small, disadvantaged farmers and select the most qualified applicants and award land licenses to agricultural operators who can help ADC double the local food production. Establishing a program to assist small, disadvantaged farmers will help ADC address its statutory mandate to increase access to farmland for small local farmers and cooperatives. A request to adopt the recommendations of the Land Application permitted interaction group for developing a selection criterion for the small, disadvantaged farmer program shall be presented at the next ADC Board meeting.

*Presentation of the Land Application permitted interaction group's findings and recommendations for developing a program for small, disadvantaged farmers on Oahu*  
November 21, 2024

RECOMMENDATION TO BOARD:

Based on the foregoing, staff recommends that the Board considers the findings and recommendations of the Land Application permitted interaction group for selecting applicants for the small, disadvantaged farmer program on Oahu.

Respectfully Submitted,



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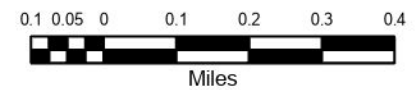
WENDY L. GADY  
Executive Director

# EXHIBIT A



## STATE OF HAWAII AGRIBUSINESS DEVELOPMENT CORPORATION

Potential Project Area  
TMK (1) 6-4-003:016



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036



## Exhibit B

### ADC LAND APPLICATIONS SMALL DISADVANTAGED TRUCK CROP FARMERS

|    | NAME  | FARMING<br>EXPERIENCE | DEMAND/<br>MARKET SIZE | IMPORT<br>REPLACE MENT | ADEQUATE<br>FINANCING | BUSINESS<br>PLAN | GOOD<br>AGRICULTURE<br>PRACTICES | TOTAL  | MAX | PERCENTAGE |
|----|---|-----------------------|------------------------|------------------------|-----------------------|------------------|----------------------------------|--------|-----|------------|
| 1  | ALOUN KAUAI FARMING LLC -<br>ALEC SOU - 1107 Acres - Kekaha,<br>Kauai           | 59                    | 40                     | 40                     | 146                   | 58               | 9                                | 352.00 | 400 | 88.00%     |
| 2  | TENG DA INC - YIDA ZENG - 200<br>Acres - PU-14 & PU-04, Oahu                    | 58                    | 40                     | 36                     | 140                   | 58               | 7                                | 339.00 | 400 | 84.75%     |
| 3  | XIANZHI ZHAO - 10 Acres -<br>Galbraith, Oahu                                    | 58                    | 40                     | 34                     | 137                   | 53               | 6                                | 328.00 | 400 | 82.00%     |
| 4  | MAUKELE RANCH - RON DEREIS &<br>BRIDGET NAPIER - 511 Acres,<br>Wahiawa, Oahu    | 59                    | 40                     | 38                     | 115                   | 56               | 0                                | 308.00 | 400 | 77.00%     |
| 5  | KAUAI TARO - 95 Acres - Kekaha,<br>Kauai  | 48                    | 40                     | 40                     | 128                   | 52               | 0                                | 308.00 | 400 | 77.00%     |
| 6  | SCOTT WONG KAUAI - 1000 Acres,<br>Kekaha, Kauai                                 | 54                    | 38                     | 34                     | 120                   | 55               | 0                                | 301.00 | 400 | 75.25%     |
| 7  | SCOTT WONG OAHU - 100 Acres -<br>Wahiawa, Oahu                                  | 54                    | 38                     | 34                     | 120                   | 55               | 0                                | 301.00 | 400 | 75.25%     |
| 8  | Chanchai Phoathaisong - 10<br>acres - Oahu                                      | 43                    | 40                     | 35                     | 125                   | 38               | 5                                | 286.00 | 400 | 71.50%     |
| 9  | KUNHU XIONG - 160 Acres - Parcel<br>14, Oahu                                    | 51                    | 40                     | 34                     | 104                   | 53               | 3                                | 285.00 | 400 | 71.25%     |
| 10 | LAO AQUA FARM - NORA<br>SISOUNTHONE - 10 Acres -<br>Wahiawa, Oahu               | 52                    | 35                     | 30                     | 115                   | 42               | 4                                | 278.00 | 400 | 69.50%     |
| 11 | THANAWAT CHAK ANO - 50 to 80<br>Acres - Kekaha, Kauai (Parcel 17)               | 56                    | 35                     | 35                     | 100                   | 47               | 0                                | 273.00 | 400 | 68.25%     |
| 12 | KHAJORNSAK HANPROMKITTI &<br>SOMTHIAN ARSANOK - 30 Acres -<br>Wahiawa, Oahu     | 43                    | 40                     | 35                     | 120                   | 34               | 0                                | 272.00 | 400 | 68.00%     |
| 13 | Suraphon Suwana - 10 acres  | 43                    | 40                     | 35                     | 114                   | 35               | 5                                | 272.00 | 400 | 68.00%     |
| 14 | SILA FARMS (CO-OP) - 30 Acres -<br>Parcel 16 Pa'a la a uka, Oahu                | 47                    | 40                     | 32                     | 103                   | 45               | 4                                | 271.00 | 400 | 67.75%     |
| 15 | KIATTISAK KULCHARO - 30 Acres -<br>Wahiawa, Oahu                                | 47                    | 40                     | 30                     | 97                    | 52               | 4                                | 270.00 | 400 | 67.50%     |
| 16 | PHEN KHAEPHUTCHA - 40 to 80<br>Acres - Wahiawa, Oahu                            | 45                    | 40                     | 38                     | 95                    | 48               | 3                                | 269.00 | 400 | 67.25%     |
| 17 | SANYA PANHAPHON 17B (CO-OP) -<br>130 Acres - Wahiawa, Oahu                      | 45                    | 40                     | 37                     | 125                   | 20               | 2                                | 269.00 | 400 | 67.25%     |
| 18 | THANONGSAK & PHANNEE<br>CHUMPHANG - 50 Acres - Parcel<br>16 Pa'a la a uka, Oahu | 42                    | 40                     | 37                     | 100                   | 40               | 7                                | 266.00 | 400 | 66.50%     |
| 19 | TAWORN PANYAMEE - 20 Acres -<br>Kekaha, Kauai                                   | 57                    | 39                     | 34                     | 103                   | 33               | 0                                | 266.00 | 400 | 66.50%     |
| 20 | SOPHIA NUANBUNMA - 20 Acres -<br>Wahiawa, Oahu                                  | 48                    | 40                     | 35                     | 105                   | 37               | 0                                | 265.00 | 400 | 66.25%     |
| 21 | Rungnapa Haoharn - 10 acres -<br>Oahu   | 41                    | 40                     | 35                     | 109                   | 32               | 5                                | 262.00 | 400 | 65.50%     |

|    | NAME   | FARMING EXPERIENCE | DEMAND/ MARKET SIZE | IMPORT REPLACE MENT | ADEQUATE FINANCING | BUSINESS PLAN | GOOD AGRICULTURE PRACTICES | TOTAL  | MAX | PERCENTAGE |
|----|--|--------------------|---------------------|---------------------|--------------------|---------------|----------------------------|--------|-----|------------|
| 22 | SUPPHASIT YASAKA - 30 Acres - Kalepa, Kauai- DECLINED                      | 57                 | 40                  | 37                  | 95                 | 25            | 7                          | 261.00 | 400 | 65.25%     |
| 23 | THIRAWAT & MANREET VONGCAMMAR - 50 Acres - Parcel 16 Pa'a la a uka, Oahu   | 51                 | 40                  | 35                  | 85                 | 40            | 5                          | 256.00 | 400 | 64.00%     |
| 24 | Komkwan Moses - 10 acres - Oahu  | 38                 | 39                  | 34                  | 108                | 32            | 5                          | 256.00 | 400 | 64.00%     |
| 25 | LONG SPOON FARMS - KALEO - 5 Acres - Waimanalo, Oahu                       | 40                 | 30                  | 30                  | 105                | 50            | 0                          | 255.00 | 400 | 63.75%     |
| 26 | ANURAT FARM LLC. - WARAWUT TRUATNOK - 40 Acres - Wahiawa, Oahu             | 45                 | 40                  | 30                  | 100                | 35            | 2                          | 252.00 | 400 | 63.00%     |
| 27 | JANNARONG TRUATNOK & JIUNSIRI SRIHABUT - 30 Acres - Wahiawa, Oahu          | 43                 | 40                  | 35                  | 97                 | 37            | 0                          | 252.00 | 400 | 63.00%     |
| 28 | SURIWONG CHAIYACHET - 50 Acres - Parcel 16 Pa'a la a uka, Oahu             | 39                 | 40                  | 32                  | 105                | 35            | 0                          | 251.00 | 400 | 62.75%     |
| 29 | SID PRODUCE #17D (CO-OP)   | 45                 | 40                  | 32                  | 105                | 20            | 2                          | 244.00 | 400 | 61.00%     |
| 30 | LIU'S PLANTATION - DEHUA LIU - (PU-14) No Acres Listed, Wahiawa, Oahu      | 47                 | 40                  | 40                  | 83                 | 30            | 0                          | 240.00 | 400 | 60.00%     |
| 31 | PHIROM & THONG ON KRINSOONGNOEN - 20 Acres - Wahiawa, Oahu                 | 41                 | 30                  | 30                  | 110                | 29            | 0                          | 240.00 | 400 | 60.00%     |
| 32 | LAOS SUGAR CANE JUICE - PADTHANA HANSANA - 6 Acres - Galbraith, Oahu       | 39                 | 33                  | 33                  | 105                | 25            | 0                          | 235.00 | 400 | 58.75%     |
| 33 | THONG DAM & PATARAWAT RATCHAM - 30 Acres - Parcel 16 Pa'a la a uka, Oahu   | 46                 | 40                  | 30                  | 80                 | 35            | 3                          | 234.00 | 400 | 58.50%     |
| 34 | WEETASAK KHOTKHAM & MALAI WAN - 20 Acres - Parcel 16 Pa'a la a uka, Oahu   | 46                 | 40                  | 30                  | 85                 | 27            | 3                          | 231.00 | 400 | 57.75%     |
| 35 | ERIK K. HORN - 5 Acres - 1938 Wilikina Drive, Oahu                         | 39                 | 38                  | 25                  | 75                 | 45            | 8                          | 230.00 | 400 | 57.50%     |
| 36 | KEALA FOUNDATION - 600 Acres - Waimea, Kauai                               | 40                 | 30                  | 15                  | 110                | 25            | 2                          | 222.00 | 400 | 55.50%     |
| 37 | WILAWAN KUNDET - 5 Acres - Parcel 16 Pa'a la a uka, Oahu                   | 39                 | 34                  | 29                  | 95                 | 24            | 0                          | 221.00 | 400 | 55.25%     |
| 38 | MAY K. MAHARATHE - No phone number listed -5 Acres-Wahiawa, Oahu           | 35                 | 35                  | 35                  | 90                 | 25            | 0                          | 220.00 | 400 | 55.00%     |
| 39 | VINCENT HU SINGHA NA (CO-OP)   | 45                 | 35                  | 32                  | 75                 | 25            | 2                          | 214.00 | 400 | 53.50%     |
| 40 | Samart Khotwongthong - 10 acres - Oahu                                     | 32                 | 30                  | 25                  | 78                 | 22            | 5                          | 192.00 | 400 | 48.00%     |
| 41 | JATURONG & BUAON JAIRUAN - Unknown Acres & Location                        | 25                 | 37                  | 17                  | 70                 | 27            | 2                          | 178.00 | 400 | 44.50%     |
| 42 | HAWAII MUSHROOM FARM - MIMI LAI - 2 Acres - Wahiawa, Oahu                  | 22                 | 40                  | 40                  | 35                 | 16            | 0                          | 153.00 | 400 | 38.25%     |
| 43 | JAYJAY SAGUCIO - Unknown Acres & Location - Information not on application | 43                 | 23                  | 23                  | 25                 | 10            | 0                          | 124.00 | 400 | 31.00%     |

STATE OF HAWAII  
**AGRIBUSINESS DEVELOPMENT  
CORPORATION**

E-1

STAFF SUBMITTAL TO THE BOARD OF DIRECTORS  
November 21, 2024

Subject: Request for approval for Pioneer Hi-Bred International, Inc. under License Agreement No. LI-K0803 to upgrade site access culvert bridge in Kekaha, County of Kauai, State of Hawaii, Tax Map Key No. (4) 1-2-002:001 (por.)

Applicant: Pioneer Hi-Bred International, Inc.

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

Area: 1,039.93 gross acres, more or less

Field No(s): KE-107, KE-108, KE-110, KE-111, KE-112, KE-113, KE-115, KE-208, KE-209, KE-210, KE-211, KE-212, KE-309A (Premises)

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

Land Status: Set aside to the Agribusiness Development Corporation for Agricultural and Related purposes under Governor's Executive Order No. 4007

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: Agricultural

Character of Use: Agricultural

Land Doc. Type: License

Term: 20 years (currently in year 16)

Rental Rate \$150/acre/year  
**Annual Rent: \$115,354.22**

**BACKGROUND:**

In 2019, Agribusiness Development Corporation (ADC) obtained a structural assessment of the current site access culvert bridge (Rail Bridge), which found that that the bridge was constructed of steel mesh, supported by cross rail ties that bore weight on structural steel I-beam and channel girders that appeared to have originally been part of a vehicle frame (Exhibit A). All elements exhibited corrosion throughout, with the girders being so corroded, the exact dimensions could not be determined. Origin of the Rail Bridge remains unknown, and drawings and other documentation for the bridge do not exist.

On July 24<sup>th</sup>, 2024, Pioneer Hi-Bred International, Inc. (Pioneer), requested to upgrade its site access culvert on its licensed property located in Kekaha, Kauai, 7431 Kaumualii Highway, Tax Map Key (4) 1-2-002:001 (Exhibit B).

**REQUEST:**

Staff requests that the ADC Board of Directors authorize Pioneer to upgrade the Rail Bridge to a site access culvert bridge. (Request)

**OPERATIONAL PLAN:**

Pioneer anticipates pre-construction, and construction activities to commence upon approval by the Board. Scope will include removal of the Old Rail Bridge, preparation of canal foundation for new box culvert, installation of new culvert with 2' x 1' wing walls, and installation of box iron railings for safety.

**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, that propose, among other things, the “(1) use of state land or county lands, or the use of state or county funds[.]” In this case, the project triggers an environmental assessment because it proposes the use of state or county lands.

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 the following:

**Exemption Class No. 1, item 1**, “*Operations, repairs or maintenance of existing structures, facilities, equipment, or topographic features, involving negligible or no expansion or change of use beyond that previously existing[.]* Mitigation of any hazardous conditions that present imminent danger as determined by the ADC and that are necessary to protect public health, safety, welfare, or public trust resources; and

**Exemption Class No. 2, item 2** “*Replacement or reconstruction of existing structures and facilities where the new structure will be located generally on the same site and will have substantially the same purpose, capacity, density, height, and dimensions as the structure replaced[.]* Replacement or reconstruction of existing roads and road structures, including



bridges and culverts built to the required County regulation for agricultural and maintenance equipment when roadways have become damaged or destroyed by natural wear and tear or man-made catastrophes (i.e., fire, vehicle accidents, power outages, pipeline breaks; etc.);”

REMARKS & DISCUSSION:

The proposed site access upgrade aims to increase the carrying capacity from an estimated four (4) tons to fifty (50) tons to allow emergency service vehicle access (i.e., Fire) and heavier traffic 24-hours a day, 365 days per year. The current site is inaccessible during rain events, which poses a serious liability risk in the event of a fire or life-threatening injury. There is no fiscal impact to ADC should the Request be approved.

Pioneer has invested \$65,000 to date on purchase and shipment of the Box Culvert. Total design, materials, and installation is estimated at \$126,730.00 for which costs Pioneer shall be solely responsible. All ADC tenants, vendors, and pertinent services have access to this entrance as it is a common area not leased by Pioneer.

RECOMMENDATION:

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

1. Approve the Request, subject to the following conditions:
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, and ADC’s exemption list (see relevant section above).

Respectfully Submitted,



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FRANCIS EMPENO JR.  
Contract Manager

*Approved for Submittal:*



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Wendy Gady  
Executive Director



MKE ASSOCIATES LLC  
Structural Engineers

Aiea Commercial Center  
Suite 205  
99-205 Moanalua Road  
Aiea, HI 96701

Phone: (808) 488-7579  
Fax: (808) 488-7818  
E-Mail: mke@mkellc.com

April 22, 2019

Mark Takemoto  
Pioneer Hi-Bred International, Inc  
P.O. Box 970548  
Waipahu, Hawaii 96797

Re: Preliminary Structural Assessment of Vehicle Bridge  
Pioneer Hi-Bred Kekaha Research Station

Dear Mr. Takemoto:

At your request, we had the opportunity to perform a preliminary structural assessment of a vehicle bridge at the Pioneer Hi-Bred Kekaha Research Station at 7437 Kaunualii Highway, Kekaha, Hawaii 96752. This assessment was requested to concerns about the current condition and load capacity of the bridge. This letter reports our findings.

#### DESCRIPTION AND SCOPE OF WORK

The bridge is an approximately 12 ft long single span structural steel bridge crossing over a drainage ditch measuring approximately 11 ft wide by 11 ft deep at the bridge. The bridge provides vehicle access from Kaunualii Highway to the station buildings. As the bridge was originally constructed some time ago for private plantation operations, the age of the bridge is unknown and drawings and other documentation for the bridge do not exist. Current vehicle traffic consists primarily of private passenger vehicles and delivery trucks and the occasional 18-wheeler semi-trailer truck. Due to concerns about its current condition and load capacity, it is requested we perform a preliminary structural assessment of the bridge to obtain an indication of the structural adequacy of the bridge with regard to its current use and to provide preliminary recommendations for repair, retrofit or replacement. Our scope for this initial review consisted of the following items:

- Site visits on April 10 and 17 to visually observe the bridge structural system and condition and to field measure general dimensions of the major bridge elements. Observations took place from the bridge deck and from the underside as can be viewed from a boat provided by you. During our visit, personnel provided by you were able to remove loose debris from the top of the bridge with water from a water truck.
- Brief structural analysis of the bridge based on measured dimensions and research to obtain an indication of possible material properties for the elements. Some procedures outlined in the American Association of State Highway and Transportation Officials Manual for Bridge Evaluation (AASHTO MBE 2011 with 2013 interims) were referred to for this analysis.
- Short report summarizing our initial findings regarding the condition and adequacy of the bridge and preliminary repair/retrofit/replacement options.

## OBSERVATIONS

From our site visit, we have the following observations:

- The bridge deck is constructed of steel mesh covered 3½ in. deep rail ties at 4½ in. on centers oriented in the longitudinal direction over an approximate 16 ft width of bridge (Photo 1). The longitudinal ties are supported on 3½ in. cross rail ties at 4 ft on centers that bear on structural steel I-beam and channel girder that span to rails embedded at the top of gunited abutments (Photo 2). These girders appear to have originally been part of a vehicle frame. The west side of the bridge has been extended with a steel plate over light framing that is not connected to the girders (Photo 3). The construction or reinforcing of the gunited abutments is unknown. There is an approximate 8 to 10 in. space between the mauka abutment and a row of steel sheet piles behind the abutment (Photo 4). Bridge railings are also constructed of rail ties (Photo 5). A typical longitudinal and transverse section of the bridge is shown in Figure S-1. All steel elements exhibit corrosion throughout.
- Portions of the longitudinal top rail ties are severely corroded, with most of the top flange and portions of the web corroded through in some cases, particularly at the ends (Photo 6). There are some localized depressions in the top surface mesh due to through corrosion and subsequent localized crushing of some top rails.
- Corrosion generally appears less severe at the transverse rails below the top longitudinal rails. However, gaps were observed at some locations between the transverse rails and girders below (Photo 7).
- The perimeter channel girders are severely corroded at the ends, with the corrosion extending through the webs at the abutment bearing (Photo 8). Although significantly corroded, no through corrosion was observed at interior girders.
- The abutments appear plumb and level, and do not exhibit any large cracks or other distress that indicate differential movement or settlement.

## ASSESSMENT

Based on our observations we performed a preliminary structural analysis of the bridge deck. As the girders may be a custom shape for the vehicle frame and were corroded, the exact dimensions of the girders could not be determined. However, from the rough sizes of the girders and assuming the longitudinal rails above span to the transverse rails at 4 ft on center that are then supported on the girders, it appears the bridge deck in its original condition could support large trucks. However, due to the significant corrosion observed in all members, it was assumed the longitudinal rails may be spanning a longer distance than 4 ft. Based on this assumption, we believe the load capacity of the bridge in its current corroded state conservatively may be in the range of 4 tons.

## RECOMMENDATIONS

From our assessment, we have two recommendations for a short-term repair and a long-term replacement. For the short-term repair, the middle 10 ft of the bridge where the corrosion of the girders is less severe may be overlain with  $\frac{3}{4}$  in. steel plate that can bridge over some of the more severely corroded top rails. A 4 ton load rating for the bridge would allow private passenger vehicles and pickup trucks to drive over the plated area. Gaps between the transverse rails and the girders below should also be filled with welded plates. A schematic sketch of this repair is shown in Figure S-2.

Due to the amount of current corrosion and the certainty of future corrosion that will further reduce the bridge capacity, it is recommended that the bridge deck be replaced in the next 1 to 2 years. Replacement could consist of a reinforced concrete ribbed slab of similar depth, width and weight as the original bridge that is designed to adequately support private passenger vehicles as well as delivery trucks. Maintaining a similar depth and width of bridge deck would keep the hydraulic capacity of the bridge the same and may also help with any required regulatory approvals. As the abutments currently appear to be in satisfactory condition, they could remain in place to support the new deck. Maintaining a similar design weight through the use of a ribbed slab will avoid any significant increase of dead load on the abutments. A schematic sketch of this replacement is shown in Figure S-3.

Sincerely,

MKE Associates LLC



Glenn H. Miyasato, P.E.  
Its member

Enclosures: Photos 1 through 8, Sheets S-1 through S-3



Photo 1 – Bridge from Above



Photo 2 – Bridge from Below



Photo 3 – Plate Extension Framing



Photo 4 – Sheet Pile Behind Mauka Abutment



Photo 5 – East Elevation



Photo 6 – Severe Corrosion and Depression in Top Rails

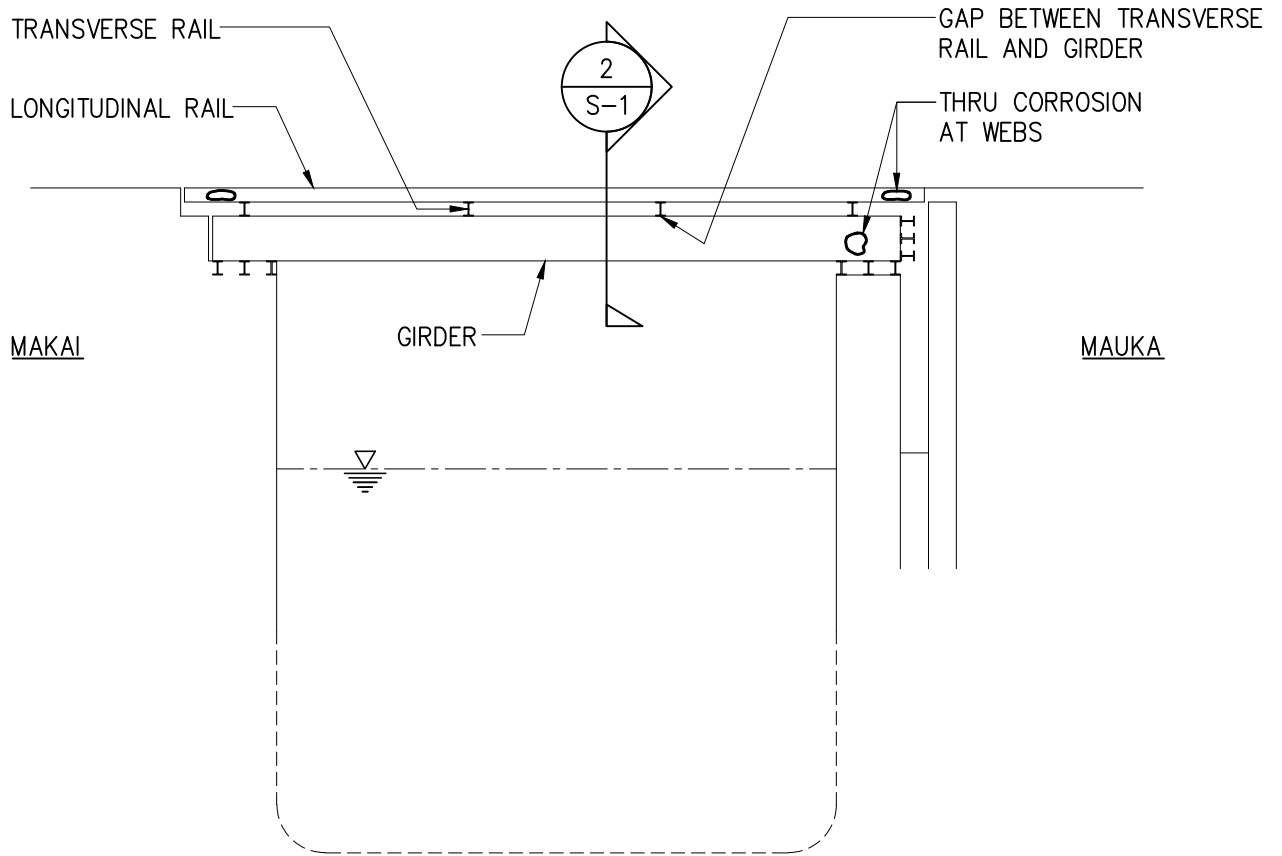


Photo 7 – Gap Between Transverse Rail and Corroded Girder Below

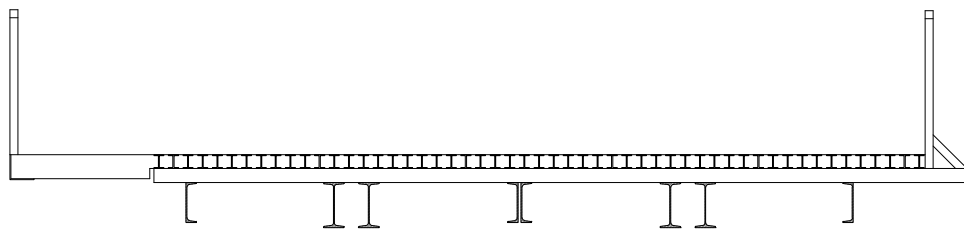


Photo 8 – Severe Through Corrosion at Perimeter Channel Girder Web





1 LONGITUDINAL SECTION  
S-1 SCALE: 1/4" = 1'-0"



2 TRANSVERSE SECTION  
S-1 SCALE: 1/4" = 1'-0"

Revised: Apr 23, 2019 - 3:01pm



MKE ASSOCIATES LLC  
Structural Engineers

Aiea Commercial Center  
Suite 205  
99-205 Moanalua Road  
Aiea, HI 96701  
Phone: (808) 488-7579  
Fax: (808) 488-7818  
E-Mail: mke@mkellc.com

**PIONEER HI-BRED KEKAHA BRIDGE  
ASSESSMENT - EXISTING SECTIONS**

Date APRIL 2019

Project No. 2352

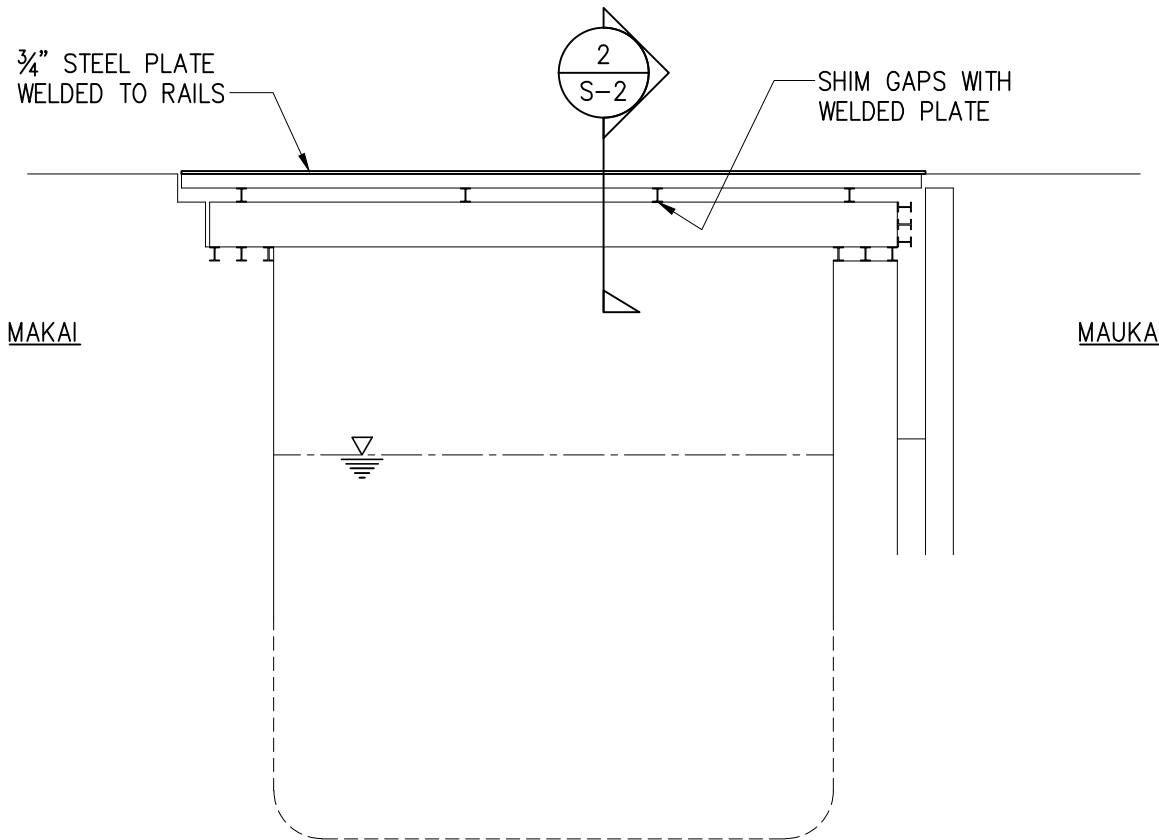
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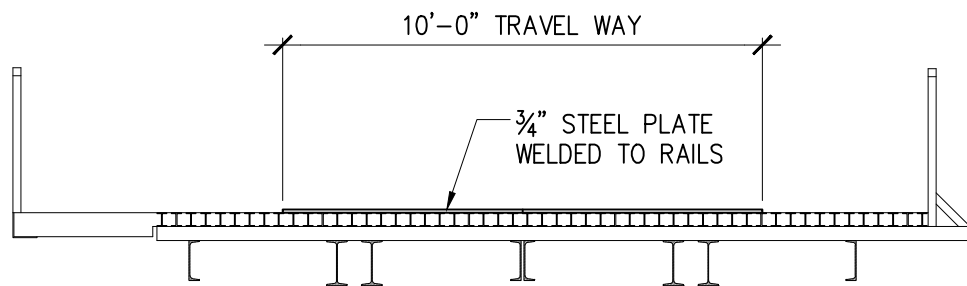
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Sheet of \_

049



1 LONGITUDINAL SECTION  
 S-2 SCALE: 1/4" = 1'-0"



2 TRANSVERSE SECTION  
 S-2 SCALE: 1/4" = 1'-0"

Revised: Apr. 21, 2019 - 3:05pm



MKE ASSOCIATES LLC  
 Structural Engineers

Aiea Commercial Center  
 Suite 205  
 99-205 Moanalua Road  
 Aiea, HI 96701  
 Phone: (808) 488-7579  
 Fax: (808) 488-7818  
 E-Mail: mke@mkellc.com

**PIONEER HI-BRED KEKAHA BRIDGE  
 ASSESSMENT - REPAIR SCHEME**

Date APRIL 2019

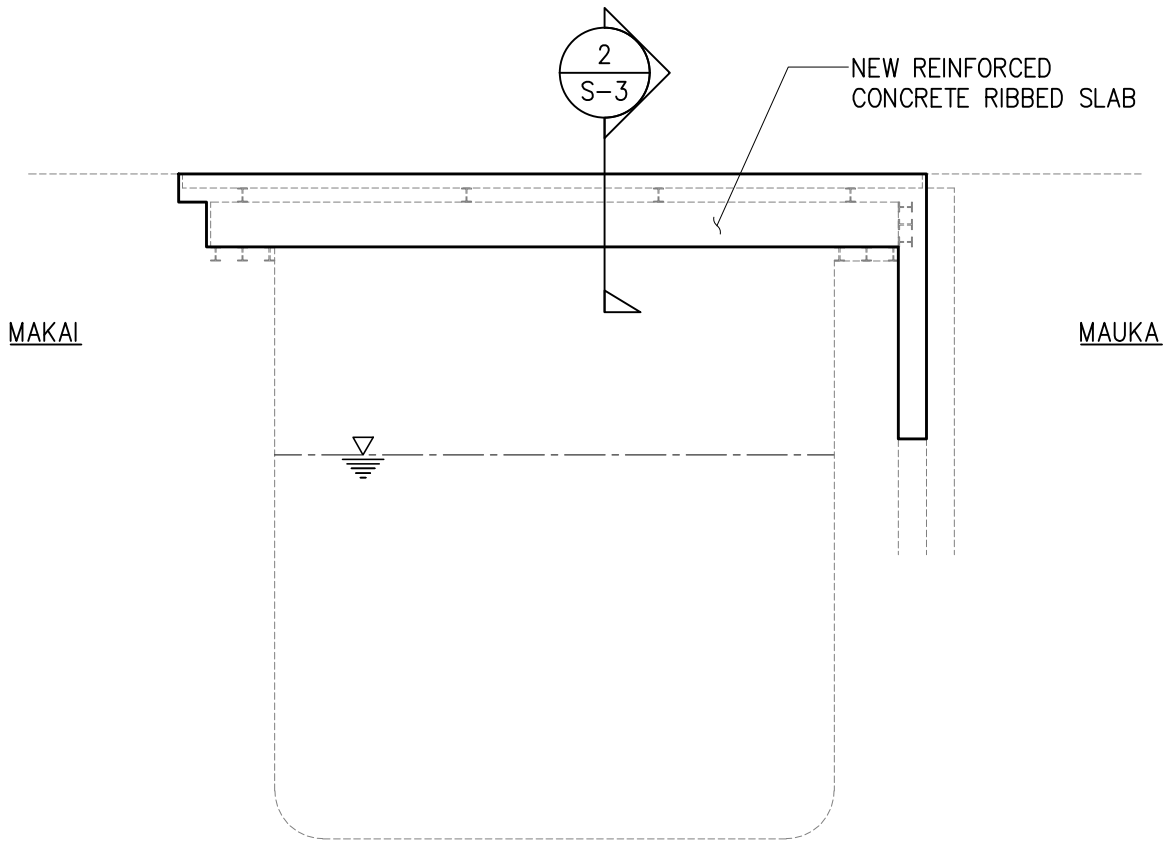
Project No. 2352

Drawn DL

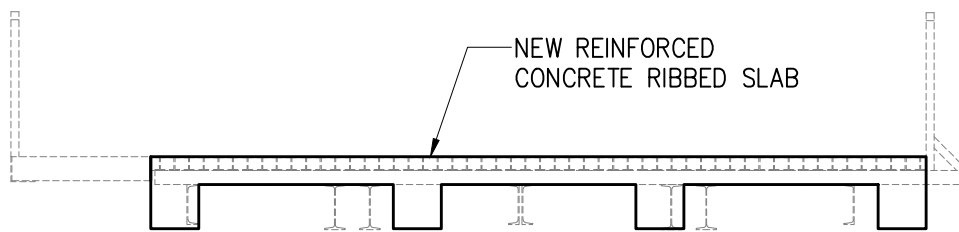
Sheet No.

**S-2**

Sheet **050** of



1 LONGITUDINAL SECTION  
S-3 SCALE: 1/4" = 1'-0"



2 TRANSVERSE SECTION  
S-3 SCALE: 1/4" = 1'-0"

Revised: Apr 21, 2019 - 3:05pm



MKE ASSOCIATES LLC  
Structural Engineers

Aiea Commercial Center  
Suite 205  
99-205 Moanalua Road  
Aiea, HI 96701  
Phone: (808) 488-7579  
Fax: (808) 488-7818  
E-Mail: mke@mkellc.com

**PIONEER HI-BRED KEKAHA BRIDGE  
ASSESSMENT - NEW BRIDGE SCHEME**

Date APRIL 2019

Project No. 2352

Drawn DL

Sheet No.

**S-3**

Sheet **051** of

Isaac Miller  
Capital Project Manager, Maintenance, and IT Lead  
Corteva Agrisciences Hawaii Research Center  
1-385 Kaunualii Hwy  
Kaua'i, Hawaii 96796  
isaac.miller@corteva.com  
808-652-5134  
July 24<sup>th</sup>, 2024

Board Members  
Agribusiness Development Corporation  
State of Hawaii  
235 S Beretania St. #205  
Honolulu, HI 96813

Dear ADC Board Members,

**Subject: Proposal for Site Access Culvert Upgrade for Corteva Agrisciences Hawaii Research Center, Kaua'i**

I appreciate your consideration of the proposal made by representatives of Corteva Agrisciences Hawaii Research Center, Kaua'i, Hawaii. This proposal is directly aligned with one of ADC's main objectives of "providing leadership for the development, financing, improvement, or enhancement of agribusiness enterprises."

**Background/Justification:**

Corteva Agrisciences, dba Pioneer Hi-Bred International Inc., is requesting to upgrade its site access culvert at our leased property located in Kekaha, Kauai, 7431 Kaunualii Highway, tax map key 12002042000. The proposed site access upgrade aims to increase the carrying capacity from four tons to 50 tons to allow emergency service vehicle access (i.e., Fire) and heavier traffic 24 hours a day, 365 days per year. The current site is inaccessible during rain events, which poses a serious liability risk in the event of a fire or life-threatening injury. From June 2023 to date, there has been a total of 13 brush fires on ADC's West Kauai properties alone. Date, descriptions, and sizes of the fires are listed on *Attachment 1* of this document.

**Proposal:**

Corteva proposes to upgrade the existing site access that spans an agricultural ditch from Kaunualii Highway to our facility at 7431 Kaunualii Highway. The bridge and site are located on land owned by the State of Hawaii, Department of Agriculture (managed by ADC). The proposed project involves replacing the existing site access structure and placing a box culvert in the ditch to allow more reliable access to the site. The box culvert will increase the loading capacity from four tons to 50 tons, enabling deliveries and emergency services access around the clock. Corteva has purchased the box culvert and is prepared to pay for its installation in its entirety. Culvert engineering drawings can be viewed on *Attachment 2* of this document. The access bridge is not located on property leased by Corteva Agrisciences, is considered a common area, and provides access to Corteva Agrisciences leased property.

The specifications for the purchased culvert were built to match that of the recently replaced culvert located at the entrance of the former Becks building approximately ¼ mile west on the same irrigation ditch as this proposed upgrade. This culvert was installed without the requirement of an Environmental Assessment. The location overview of both culverts can be viewed on *Attachment 3* of this document.

We respectfully request that the same allowance granted for the Environmental Assessment waiver be extended to this proposal submitted by Corteva Agrisciences.

The State of Hawaii, ADC Attorney General has required Corteva to perform an Environmental Assessment prior to the culvert replacement being considered. Under Hawaii Revised Statutes (HRS) Chapter 343 and Hawaii Administrative Rules (HAR) Chapter 11-200.1, AECOM has proposed to prepare an Environmental Assessment (EA) for \$123,071.95, which will typically take up to a year to complete or more. However, through the scoping effort, AECOM may determine the project qualifies for an exemption, in which case AECOM's fee would amount to \$32,569.44.

In consideration of the recent wildfire events in Lahaina, the 13 brushfire events that have taken place on ADC property on west Kauai in the last year, and the high human occupancy level of our Kekaha facility, we request that the board moves to waive this request for an environmental assessment in the interest of

safety and the mitigation of liability risk for all parties involved. The County of Kauai does not require a building permit, a permit from planning, a road permit, or a grading permit.

If the board is not amendable to waiving the environmental assessment, we ask that the board refunds Corteva Agrisciences the cost of the environmental assessment utilizing rent credit and, to be consistent, require an environmental assessment also be conducted on the already installed culvert leading to the former Becks building.

**Who Uses/Who Has Access:**

All ADC tenants, vendors, and pertinent services have access to this entrance as it is a common area not leased by Corteva Agrisciences.

**Scope and Cost Estimates:**

Below you will find a breakdown of the capital Corteva Agriscience is investing in the infrastructure owned by the State of Hawaii, ADC:

1. Environmental Assessment for Culvert: To be performed by AECOM. A formal proposal is currently being generated, with the anticipated cost in the range of \$32,569.44 - \$123,071.95.
2. Box Culvert Design, Materials, and Installation: \$126,730.00
  - a. The box culvert has been purchased and shipped to the island of Kauai, and \$65,000.00 has been spent to date.
  - b. Engineering Drawings for the culvert are attached. Designed specifications were selected to match that of the culvert which was installed at the Becks entrance nearby.
  - c. Scope: Remove the Old Rail Bridge, prepare canal foundation for new box culvert, install new culvert with 2' x 1' wing walls, and install box iron railings from the old rail bridge to the new concrete box culvert on wing walls for safety.

3. Fire Protection Infrastructure: \$629,690.61

- a. 1,280Ft of 10" and 8" HDPE pipe, 2 Hydrants, additional materials, installation, engineering design, and county permitting.
- b. Engineering drawing is attached
- c. Increase on-site water storage Capacity for Hand Fire protection

I appreciate your consideration of this proposal.

Through our investments in ADC infrastructure, we aim to manifest our commitment to the safety of our people, land stewardship, and our alignment with the Agribusiness Development Corporation's mission in Hawaii.

Sincerely,



Isaac Miller  
Corteva Agrisciences Hawaii Research Center

**Attachment 1** – Recent Brush Fires on ADC West Kauai Properties

**Attachment 2** – Replacement Culvert Specifications

**Attachment 3** – Culvert Location Overview

## Attachment 1 – Recent Brush Fires on ADC West Kauai Properties

Kekaha Ag Assn

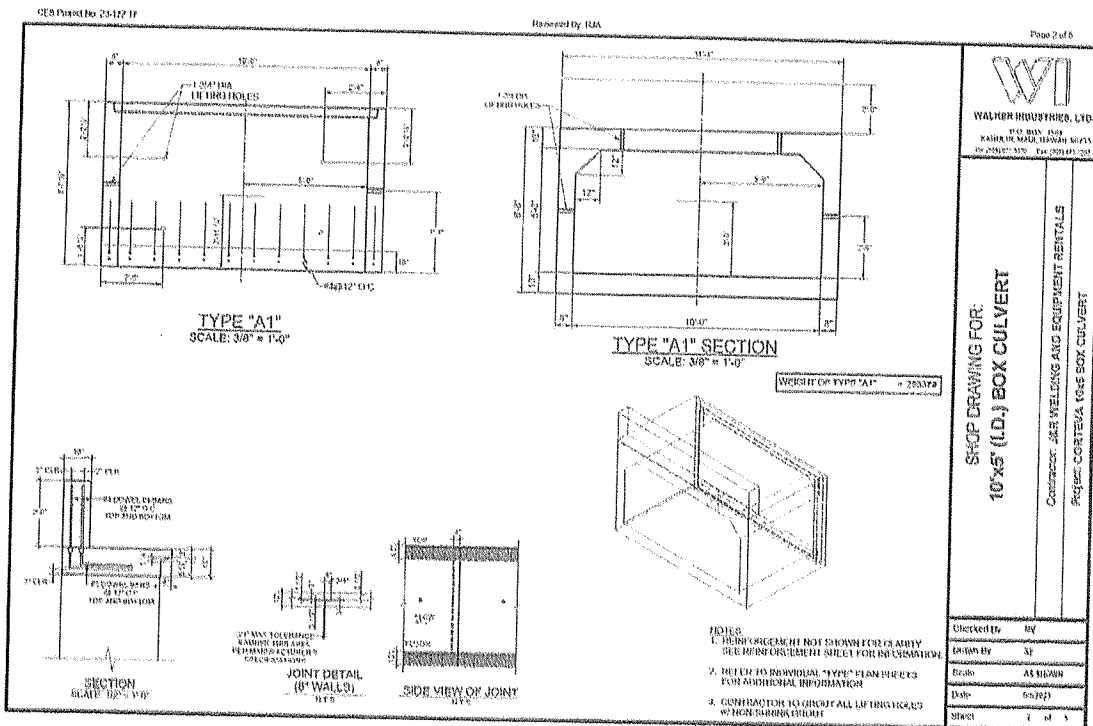
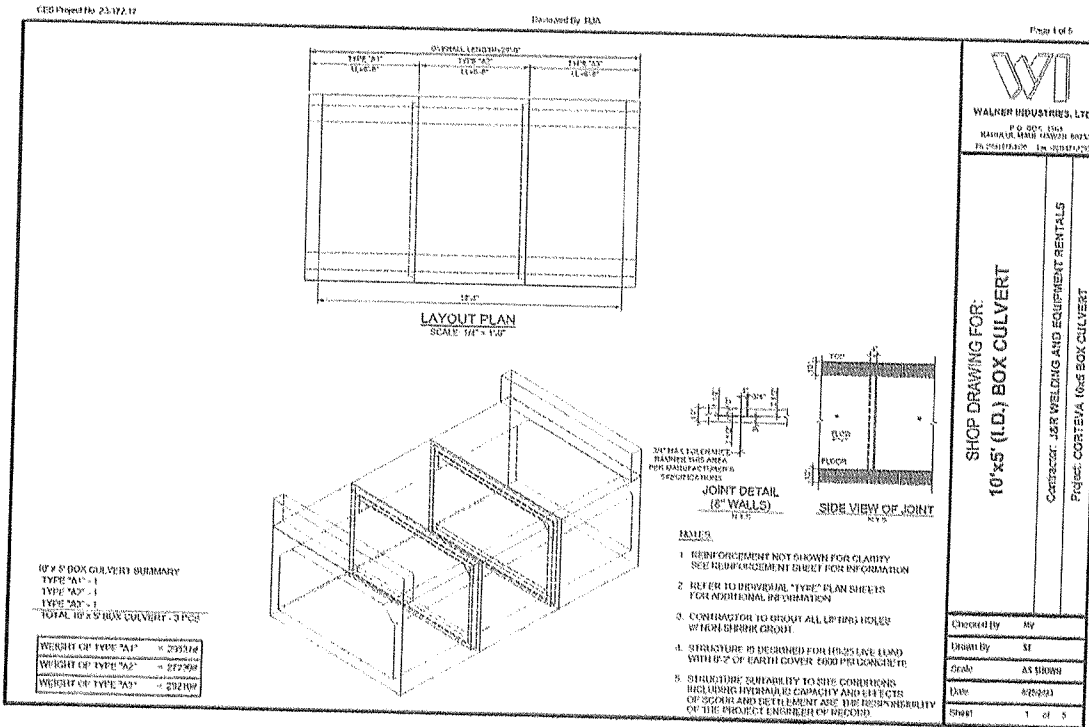
July 18 Fire

**Recent Fires**

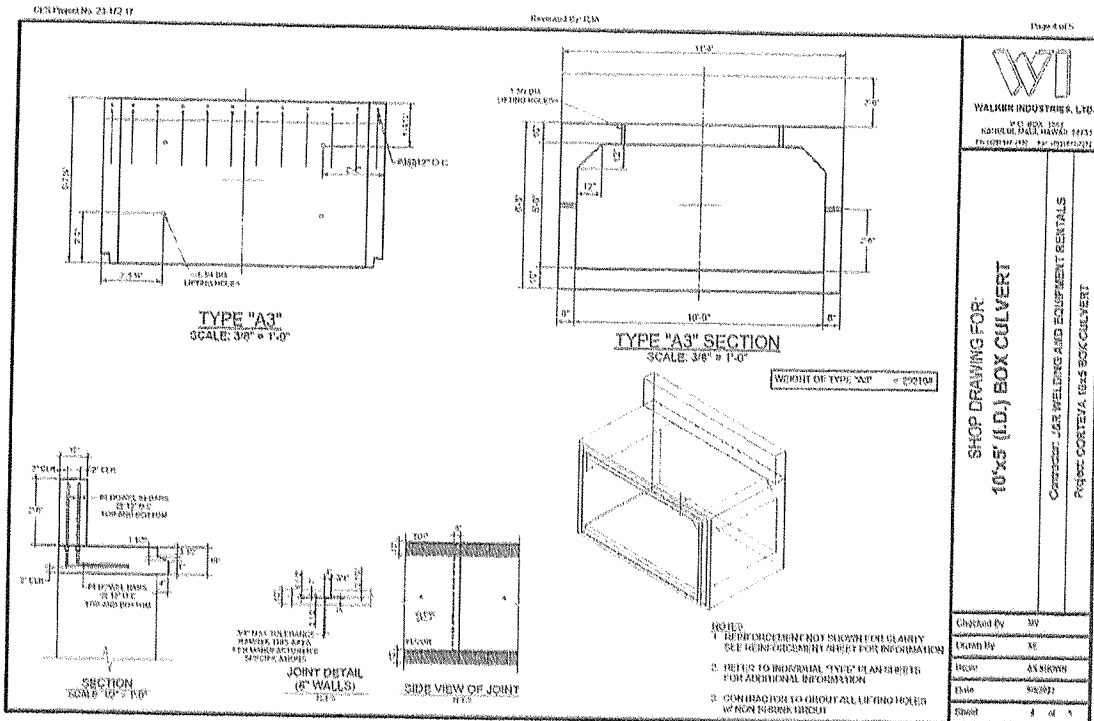
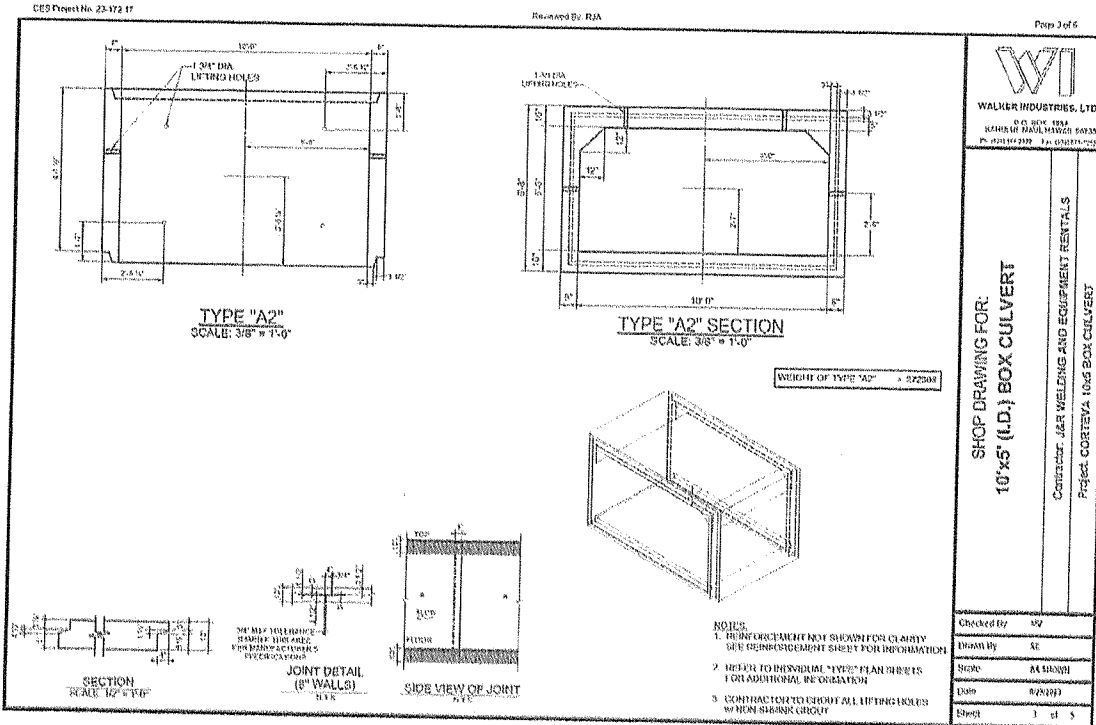
|           |                                      |          |
|-----------|--------------------------------------|----------|
| 2024-0722 | Waimea Canyon Drive                  | 3,000 sf |
| 2024 0722 | Mana Stretch                         | 1,000 sf |
| 2024 0718 | Pokii Ridge                          | 1,300 ac |
| 2024 0718 | Polihale State Park                  | 500 sf   |
| 2024 0613 | Hukipo Ridge                         | 300 ac   |
| 2024 0314 | Waimea Canyon Drive – 635 Basin      | 1 ac     |
| 2024 0311 | Kokee Road Fire                      | 1 ac     |
| 2024 0304 | Second Ditch / Drag Strip            | 10 ac    |
| 2023 06xx | Waimea Canyon Drive – KIUC           | 1 ac     |
| 2023 08xx | Wines Fire                           | 3 ac     |
| 2023 0921 | Field 207 Fire                       | 1 ac     |
| 2023 0625 | Waimea Canyon Drive – Field 633 Fire | 50 ac    |
| 2023 10xx | Funing Farms                         | 1 ac     |
| 2019 0617 | Father's Day Fire                    | 2,300 ac |



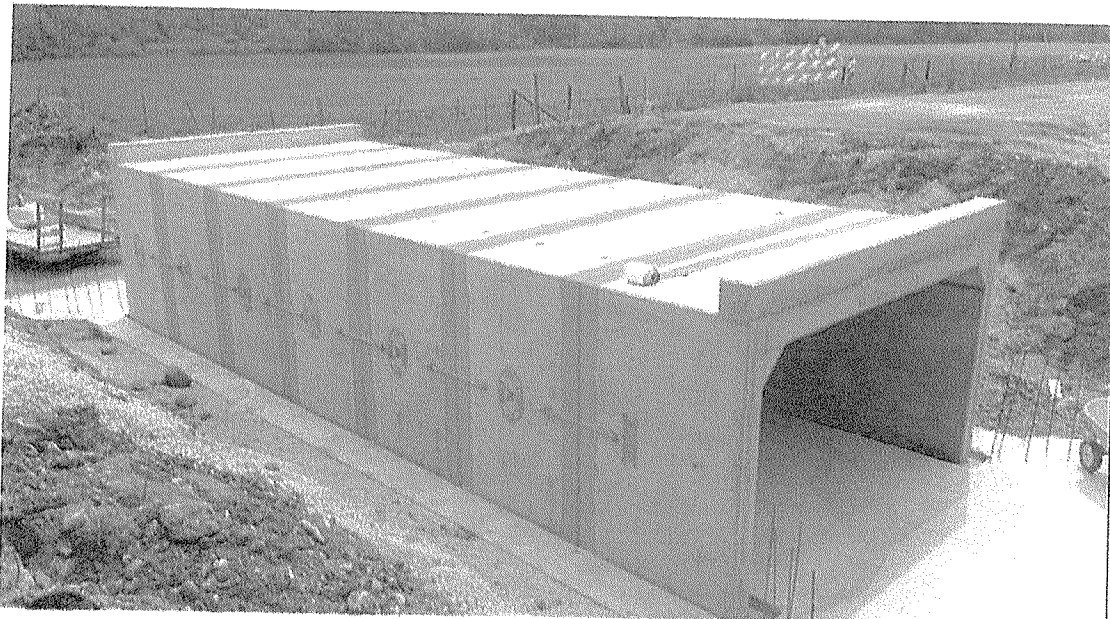
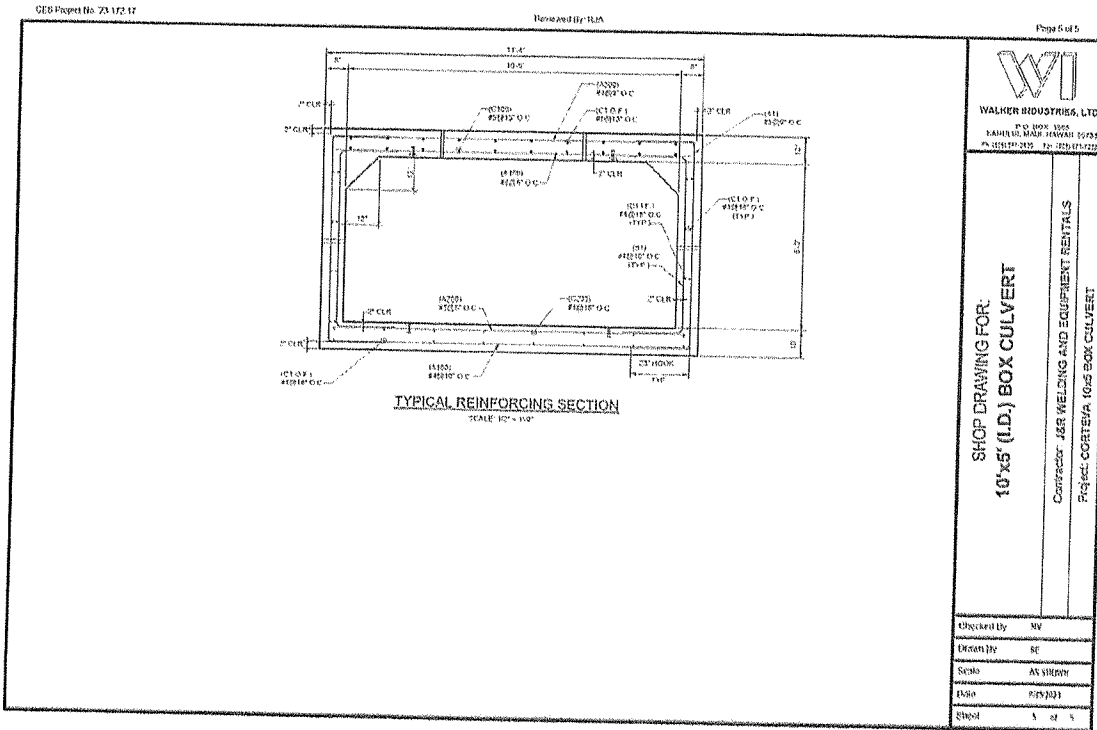
### Attachment 2 – Replacement Culvert Specifications



Attachment 2 – Replacement Culvert Specifications (continued)

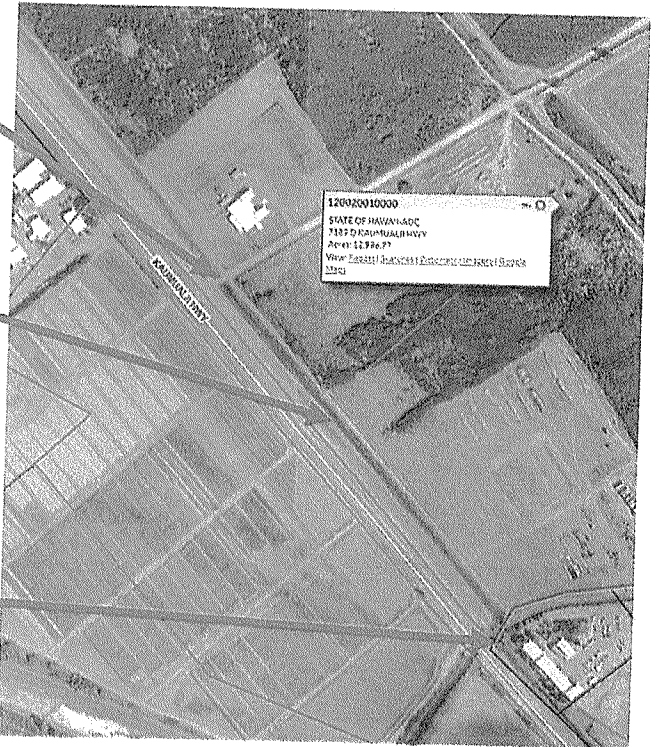


Attachment 2 – Replacement Culvert Specifications (continued)



### Attachment 3 – Culvert Location Overview

- Existing (newly replaced) box culvert at former Becks entrance.
- Drainage Ditch Shared with the existing box culvert and proposed box culvert.
- Proposed box culvert location. Specification of the proposed culvert is the same as the existing culvert at the entrance of the former Becks facility.



STATE OF HAWAII  
**AGRIBUSINESS DEVELOPMENT  
CORPORATION**

STAFF SUBMITTAL TO THE BOARD OF DIRECTORS  
November 21, 2024

Subject: Request for approval to terminate Lease Agreement No. LE-K1201 assigned to Hawaii Department of Education; and delegate authority to the executive director to execute a Memorandum of Agreement with the Hawaii Department of Education regarding access to ADC-tenant operations in Kekaha, County of Kauai, State of Hawaii, Tax Map Key No. (4) 1-2-002:001 (por.)

Applicant(s): Agribusiness Development Corporation

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

Area: 10.0 acres

Field No(s): 309 (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 (EO4007) 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: Agricultural

Character of Use: Agriculture, Agricultural Education

Land Doc. Type: Lease

Term: 35 years (currently in year 12)

Rental Rate \$720 per acre per year  
**Annual Rent: \$7,200**

*Request for approval to terminate Lease Agreement No. LE-K1201 assigned to Hawaii Department of Education; and delegate authority to the executive director to execute a Memorandum of Agreement with the Hawaii Department of Education regarding shared use of agricultural facilities in Kekaha, County of Kauai, State of Hawaii, Tax Map Key No. (4) 1-2-002:001 (por.)*

October 24, 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-K1202<sup>1</sup> (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.

Following extended negotiations, ADC and HDOE (Parties) have reached agreement on terms under which the Lease will be terminated, the Premises will revert to ADC, and the Parties will develop a Memorandum of Agreement (MOA) (Exhibit “B”) under which ADC may facilitate access to the Premises and ADC-tenant operations in Kekaha, subject to tenant consent.

**REQUEST:**

Staff requests that the Board terminate Lease Agreement No. LE-K1201 as assigned to the HDOE; and delegate authority to the executive director to execute the MOA between ADC and the HDOE to facilitate access to the Premises and ADC-tenant operations in Kekaha, subject to tenant consent. (Request)

**OPERATIONAL PLAN:**

Upon termination of the Lease and reversion of the Premises to ADC, ADC intends to license portions of the Premises to various farmers and agricultural-related entities for office space and processing. It is understood that ADC may facilitate access to the Premises and ADC-tenant operations in Kekaha, subject to tenant consent. The MOA may be terminated at any time by either HDOE or ADC.

**CONSERVATION PLAN:**

N/A

**CHAPTER 343 – ENVIRONMENTAL ASSESSMENT COMPLIANCE:**

Under section 343-5(a), Hawaii Revised Statutes, an environmental assessment shall be required for actions, that propose, among other things, the “(1) use of state land or county lands, or the use of state or county funds[.]” In this case of the use of state lands, staff believes the action is de minimis (routine maintenance or operations) and 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.

**REMARKS & DISCUSSION:**

At this time, it is not possible to establish a valuation associated with the Request, however, in 2022, HDOE paid more than \$5,960,000.00 to Beck’s to acquire the Lease.

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<sup>1</sup> 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)

*Request for approval to terminate Lease Agreement No. LE-K1201 assigned to Hawaii Department of Education; and delegate authority to the executive director to execute a Memorandum of Agreement with the Hawaii Department of Education regarding shared use of agricultural facilities in Kekaha, County of Kauai, State of Hawaii, Tax Map Key No. (4) 1-2-002:001 (por.)*

October 24, 2024

Staff has concerns about the use of the Premises by school children in close proximity to agriculture-related activities and the implications of federal worker protection standards on their activities. However, staff will assess specific HDOE requests for space on a case-by-case basis.

RECOMMENDATION:

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

1. Approve the Request, subject to the following conditions:
  - a. Termination shall be effective 11:59 p.m. on December 31, 2024; and
  - b. All educational activities conducted by HDOE on ADC property shall be agriculture-related in accordance with the *Agricultural and Related Use* public purpose set forth in EO4007, and
  - c. All educational activities conducted by HDOE on the property shall be in accordance with applicable zoning and use laws and designations.
2. Declare that, pursuant to ADC's Comprehensive Exemption List dated May 1, 2018, the proposed action is de minimis (routine maintenance or operations) and 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:*



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Wendy Gady  
Executive Director

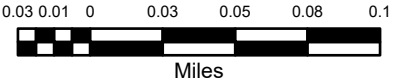
EXHIBIT A



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





MEMORANDUM OF AGREEMENT  
BETWEEN  
STATE OF HAWAII AGRIBUSINESS DEVELOPMENT CORPORATION  
AND  
STATE OF HAWAII DEPARTMENT OF EDUCATION

This MEMORANDUM OF AGREEMENT (MOA), is executed on the respective dates indicated below and effective \_\_\_\_\_, 2024, by and between the STATE OF HAWAII, AGRIBUSINESS DEVELOPMENT CORPORATION (ADC), whose business address is 235 S. Beretania Street, Suite 205, Honolulu, HI 96813 and the STATE OF HAWAII, DEPARTMENT OF EDUCATION (HIDOE), whose mailing address is P.O. Box 2630, Honolulu, HI 96804. Each may be referred to as a “Party” or collectively as “Parties”.

RECITALS

WHEREAS, ADC is obligated to control and manage a certain parcel of land, which is a “Portion of the Government (Crown) Land of Waimea,” for agricultural and related purposes, situate at Kekaha, Waimea, Kauai, Hawaii, pursuant to Governor’s Executive Order No. 4007, dated September 16, 2003, as modified by Governor’s Executive Order Nos. 4034, 4165, and 4330 (Property);

WHEREAS, pursuant to section 205-2, *Hawaii Revised Statutes* (HRS), the Property is located on land within an agricultural district where only certain agricultural activities as identified in section 205-4.5, HRS, may be pursued without a special use permit. Under section 205-6, HRS, and chapter 13 of the *Rules of Practice and Procedure of the Kauai County Planning Commission*, a petitioner may apply for a special use permit that would allow unusual and reasonable uses to be conducted within designated agricultural districts if granted by the county planning commission;

WHEREAS, on July 16, 2012, ADC entered into a thirty-five-year lease under LE-K1201 with BASF PLANT SCIENCE L.P. (BASF) for a ten-acre parcel of land located on the Property in Kekaha, Waimea, Kauai, further identified by Tax Map Key (4) 1-2-002:001 (por.) (Premises) for purposes of building facilities to support the agricultural research operation of BASF;

WHEREAS, paragraph 15 of LE-K1201 states:

During the term of this Lease, LESSEE shall not construct, place, maintain, or install on the Premises any building, structure, signs, or improvement, except as otherwise allowed herein, without the prior written approval of LESSOR and upon such reasonable conditions as LESSOR may impose. All buildings, structures, signs, or improvements constructed, placed, maintained, or installed pursuant to this paragraph shall be in accordance with all applicable federal, state, and county laws, ordinances, and rules. The ownership thereof shall be in the LESSEE until expiration or sooner termination of this Lease, at which time the ownership thereof shall, at the option of LESSOR, vest in LESSOR or shall be removed by LESSEE at LESSEE’s sole cost and expense.

WHEREAS, with ADC's written consent, BASF placed certain structures for use as a special purpose agricultural research facility for hybrid seed production (Improvements) on the Premises;

WHEREAS, on September 30, 2016, with ADC's written consent, BASF assigned its interest in LE-K1201, including Improvements, to Beck's Superior Hybrids, Inc. (Beck's);

WHEREAS, on August 25, 2021, the ADC Board approved-in-concept the transfer of LE-K1201, including the sale of Improvements, from Beck's to HIDOE for the purpose of promoting agriculture and farming in public education by teaching and building capacity for future farmers, and working to support more local food production to be served in educational institutions across the state of Hawaii;

WHEREAS, on January 30, 2023, with ADC's written consent, HDOE purchased Beck's interest in the Improvements;

WHEREAS, on February 16, 2023, the ADC Board approved the transfer of LE-K1201, which included transfer of the annual lease fee and common infrastructure improvement costs, from Beck's to HIDOE, for purposes of providing agricultural education through partnerships with local agricultural producers to demonstrate the efficiencies of scale;

WHEREAS, on March 10, 2023, with ADC's written consent, Beck's assigned its interest in LE-K1201 to HIDOE;

WHEREAS, ADC's statutory mission is to use State agricultural lands, including the ceded lands located in Kekaha, to enhance the local economy, provide employment opportunities, decrease reliance on imported agricultural products, and provide more sources of locally grown food for residents of Hawaii. *See* Chapter 163D, HRS;

WHEREAS, ADC has been given the responsibility of promoting and developing agricultural enterprises, coordinating industry development, providing industry-wide services, providing marketing assistance, and facilitating investments and coventures in viable enterprises. ADC has the knowledge, capacity, and resources to assist HIDOE in reaching its local farm-to-school meal goal of thirty percent of food served in public schools consisting of locally sourced products. *See* Section 302A-405.6, HRS; and

WHEREAS, HIDOE and ADC can assist each other in educating the next generation of local agricultural entrepreneurs.

NOW, THEREFORE, in consideration of the promises contained in this MOA, HIDOE and ADC agree as follows:

1. GOALS AND OBJECTIVES

ADC will collaborate with HIDOE in developing and implementing a strategy to advance agricultural education and the pursuit of agricultural enterprises amongst HIDOE students, by providing industry-wide services that include training and new market opportunities. ADC and HIDOE, with the assistance of agricultural industry leaders, will cooperate in the development and

execution of workforce training opportunities and marketing assistance including the joint promotion of agricultural infrastructure improvements on Kauai. The Parties will define and establish goals, objectives, policies, and guidelines for the development and implementation of this strategy.

## 2. SCOPE OF COLLABORATION

HIDOE and ADC agree to perform/oversee the following tasks:

- a. Effective April 30, 2024, ADC will not bill HIDOE for the monthly lease rent and will suspend collection of the common area maintenance fee due under LE-K1201.
- b. HIDOE will work with ADC to identify terms and conditions acceptable to both parties that will lead to the transfer of Improvements to ADC and termination of LE-K1201 by December 31, 2024.
- c. ADC shall be entitled to take possession of the 10-acre parcel and Improvements upon termination of LE-K1201 and HIDOE shall no longer be responsible for the upkeep, management, and maintenance costs associated with the Premises and Improvements.
- d. The 10-acre parcel and Improvements will thereafter be dedicated to agricultural production and processing, which may involve the use of heavy machinery and exposure to crop management techniques (i.e. pesticide application) that could pose a safety risk to children.
- e. If required to provide HIDOE learning opportunities within an agricultural district located in Kekaha, Waimea, Kauai, HIDOE will apply for and obtain a special use permit from Kauai County Planning Commission for purposes of allowing students and teachers to engage in agricultural education and work-based learning on the Premises, in a space appropriate for students and educators to prepare for and debrief the learning enabled by ADC, and for presentations by agricultural industry professionals to HIDOE students and educators.
- f. If a special use permit is deemed necessary, pursuant to section 15-15-95(a) and (c), *Hawaii Administrative Rules*, ADC will support the application for a special use permit before the Kauai County Planning Commission.
- g. Being mindful of the Worker Protection Standards established by the Environmental Protection Agency under 40 CFR Part 170, Subpart E, and the Hawaii Occupational Safety and Health laws, whose intended purpose is to reduce the risks of illness and injury due to exposure to pesticides used in the production of agricultural plants on agricultural establishments, ADC will provide HIDOE access to work-based learning opportunities for students in grades 9 to 12 and professional development for educators on the Premises. Work-based learning opportunities for students include, but are not limited to, school field trips, problem-based learning projects, job shadowing, and student internships.

Professional development for educators includes, but are not limited to, training in topics related to agricultural products, food distribution, and externships.

- h. HIDOE and ADC will collaborate on the development of a long-term plan for work-force development and to build a workforce pipeline to the agricultural and food distribution industry for students in grades 9-12 who are able to demonstrate an understanding of hazardous materials warnings and appropriate safety measures.
- i. ADC will coordinate with local agricultural industry members to provide educational training opportunities in connection with HIDOE sponsored programs for students in grades 9-12.
- j. ADC will partner with HIDOE and local industry to develop or expand facilities necessary to provide training opportunities for next generation entrepreneurs on the innovation and production of value-added products including agricultural products to reduce the state's reliance on imported agricultural products for local and export markets and contribute to HIDOE's goal of thirty percent of the food served consisting of locally sourced products.

3. INTERGOVERNMENTAL COMMUNICATIONS

To provide for consistent and effective communications between HIDOE and ADC, each Party shall designate a Principal Responsible Party to serve as the central point of contact and communications on matters relating to activities to be provided through this MOA.

HIDOE PRINCIPAL RESPONSIBLE PARTY:

NAME  
TITLE  
ADDRESS  
Telephone number  
Email address

ADC PRINCIPAL RESPONSIBLE PARTY:

Wendy L. Gady  
Executive Director  
235 S. Beretania St., Suite 205  
Honolulu, HI 96813  
(808) 586-0186  
wendy.l.gady@hawaii.gov

4. AMENDMENT, MODIFICATION AND TERMINATION

This MOA may be modified or amended only by written, mutual agreement of the Parties. Either Party may terminate this MOA by providing written notice to the other Party. The termination shall be effective thirty calendar days following written notice unless a later date is set forth by written mutual agreement.

5. EFFECTIVE DATE

This MOA shall be effective from the effective date as set forth above and shall remain effective until \_\_\_\_\_, 2025 (no longer than one year) unless sooner terminated in accordance with paragraph 4 above. This MOA may be extended by written agreement of the Parties.

6. COUNTERPARTS.

The MOA may be executed by the Parties in one or more counterparts, each of which shall be deemed an original, and said counterparts will together constitute one and the same agreement and shall be binding on each of the Parties notwithstanding that all of the Parties are not signatory to the original or the same counterpart. The submission of a signature page by facsimile transmission, or similar electronic submission facility (e.g., e-mail or electronic signature) shall be deemed to constitute and “original” signature page for all purposes, and facsimile or electronic copies shall be deemed to constitute duplicate originals.

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

DRAFT

IN WITNESS WHEREOF, the Parties have caused this Memorandum of Agreement to be executed by their duly authorized representatives by their signatures below.

FOR THE HAWAII DEPARTMENT  
OF EDUCATION

By:

\_\_\_\_\_  
Keith T. Hayashi  
Superintendent

Date:

APPROVED AS TO FORM

By:

\_\_\_\_\_  
Ryan W. Roylo  
Deputy Attorney General

FOR THE AGRIBUSINESS DEVELOPMENT  
CORPORATION

By:

\_\_\_\_\_  
Wendy L. Gady  
Executive Director  
Date:

APPROVED AS TO FORM

By:

\_\_\_\_\_  
Delanie Prescott-Tate  
Deputy Attorney General

DRAFT

STATE OF HAWAII  
**AGRIBUSINESS DEVELOPMENT  
CORPORATION**

STAFF SUBMITTAL TO THE BOARD OF DIRECTORS  
November 21, 2024

Subject: Request for approval to issue a new land license agreement to State of Hawaii, Department of Education for 4.8 acres, more or less, of land for the purpose of building a centralized kitchen facility in Whitmore Village, City and County of Honolulu, State of Hawaii, Tax Map Key Nos. (1) 7-1-002:009 (por.); :004 (por.)

Applicant: State of Hawaii, Department of Education

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

Area: 4.8 acres, more or less (Premises)

Field No(s): Non-designated

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

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

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

Character of Use: Centralized kitchen facility for the commercial processing of agricultural products

Land Doc. Type: License

Term: 35 years

Rental Rate \$3.56/ft/year (2.5% increase every 5 years)

*Request for approval to issue a new land license agreement to State of Hawaii, Department of Education for 4.8 acres, more or less, of land for the purpose of building a centralized kitchen facility in Whitmore Village, City and County of Honolulu, State of Hawaii, Tax Map Key Nos. (1) 7-1-002:009 (por.); :004 (por.)*  
 November 21, 2024

**BACKGROUND:**

The Hawaii Legislature provided appropriations to the State of Hawaii, Department of Education (HDOE) to construct a centralized kitchen facility, anticipated to be located on the subject Agribusiness Development Corporation (ADC) Property in Whitmore Village. Following extended negotiations, ADC and HDOE have tentatively agreed to terms for a land license (License) (Exhibit “A”) for land, upon which HDOE may construct a centralized kitchen facility.

**REQUEST:**

Staff requests that the ADC Board of Directors (Board) approve the License (Exhibit “A”).  
 (Request)

**OPERATIONAL PLAN:**

The License will provide approximately 4.8 acres upon which HDOE will construct a centralized kitchen facility which will provide ready-to-eat meals for HDOE students and stakeholders across Oahu.

**CONSERVATION PLAN:**

N/A

**CHAPTER 343 – ENVIRONMENTAL ASSESSMENT COMPLIANCE:**

Under section 343-5(a), Hawaii Revised Statutes, an environmental assessment shall be required for actions, that propose, among other things, the “(1) use of state land or county lands, or the use of state or county funds[.]” In this case triggers include both the use of state land and the use of state funds. For the purposes of awarding the license, the action is exempt under Exemption Class 10: No. 9, 14

However, HDOE will be required to either 1) conduct their own environmental assessment, 2) approve the project under their own exemption list, or 3) submit a letter of prior determination based on ADC’s 2019 FEA, prior to the start of construction, subject to applicable HAR.

**REMARKS & DISCUSSION:**

The Premises are to be located on a master-planned area of ADC property in Whitmore Village. An environmental assessment by ADC with a Finding of No Significant Impact was published in 2019<sup>1</sup>, however it will be up to HDOE to justify whether or not the construction and operation of their proposed facility was sufficiently contemplated under the 2019 environmental assessment.

Staff proposes that the rental rates be established based on the recent appraisal conducted by ADC for market rents for land in Whitmore of \$3.56/ft<sup>2</sup>/year with 2.5% escalator every 5 years<sup>2</sup>.

| <b>License Period</b> | <b>Annual Rate/Acre</b> | <b>Premises in Acres</b> | <b>Annual Rental Value</b> | <b>Period Rental Value (5 yrs)</b> |
|-----------------------|-------------------------|--------------------------|----------------------------|------------------------------------|
|-----------------------|-------------------------|--------------------------|----------------------------|------------------------------------|

<sup>1</sup> [files.hawaii.gov/dbedt/erp/EA\\_EIS\\_Library/2019-05-23-OA-FEA-Whitmore-Community-Food-Hub-Complex.pdf](https://files.hawaii.gov/dbedt/erp/EA_EIS_Library/2019-05-23-OA-FEA-Whitmore-Community-Food-Hub-Complex.pdf)

<sup>2</sup> Land Management Policy & Procedure Manual Section 4.4



Request for approval to issue a new land license agreement to State of Hawaii, Department of Education for 4.8 acres, more or less, of land for the purpose of building a centralized kitchen facility in Whitmore Village, City and County of Honolulu, State of Hawaii, Tax Map Key Nos. (1) 7-1-002:009 (por.); :004 (por.)  
November 21, 2024

|                                       |              |     |              |                        |
|---------------------------------------|--------------|-----|--------------|------------------------|
| 1-5                                   | \$155,073.60 | 4.8 | \$744,353.28 | \$3,721,766.40         |
| 6-10                                  | \$158,994.00 | 4.8 | \$763,171.20 | \$3,815,856.00         |
| 11-15                                 | \$162,914.40 | 4.8 | \$781,989.12 | \$3,909,945.60         |
| 16-20                                 | \$166,834.80 | 4.8 | \$800,807.04 | \$4,004,035.20         |
| 21-25                                 | \$171,190.80 | 4.8 | \$821,715.84 | \$4,108,579.20         |
| 26-30                                 | \$175,546.80 | 4.8 | \$842,624.64 | \$4,213,123.20         |
| 31-35                                 | \$179,902.80 | 4.8 | \$863,533.44 | \$4,317,667.20         |
| <b>Value of License Over 35 years</b> |              |     |              | <b>\$24,275,116.80</b> |

However, staff recommends that rent credit be given to HDOE for 1) the amount paid for the purchase of the Beck’s Superior Hybrid, Inc. premises in Kekaha in the amount of \$5,960,000.00, which premises are due to revert to ADC ownership, and 2) the construction cost of the centralized kitchen facility in Whitmore in an amount currently estimated at \$119,000,000.00. Under no circumstances shall any unused rent credits obligate ADC to reimburse HDOE beyond regularly assessed land rents after the termination or expiration of the License.

Additionally, HDOE shall be responsible to pay for all properly assessed Common Area Maintenance (CAM) fees assessed by ADC. The aforementioned appraisal report estimates CAM charges at \$0.50/ft<sup>2</sup>/mo.<sup>3</sup> Rent credits shall not be applicable to CAM charges.

**RECOMMENDATION:**

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

1. Approve the Request, subject to the following conditions:
  - a. Lease Agreement No. LE-K1201 is terminated, and the premises revert to ADC; and
  - b. License rental rate shall be \$1 per year for the term of the license; and
  - c. HDOE shall be subject to all properly assessed CAM charges from ADC; and
  - d. HDOE shall not be permitted to sublicense any portion of the premises without the written approval of ADC; and
  - e. Any rent credits approved to HDOE shall not obligate ADC beyond regularly assessed land rents for the subject premises, nor shall ADC be obligated for any unused rent credits. Rent credits shall not be applicable to CAM charges.
2. Declare that for purposes of awarding this license, pursuant to ADC’s Comprehensive Exemption List dated May 1, 2018, the issuance of the license 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. HDOE shall be responsible to comply with the Hawaii Environmental Review process prior to the start of construction.

<sup>3</sup> Appraisal report does not appear to include estimated electrical charges for CAM

*Request for approval to issue a new land license agreement to State of Hawaii, Department of Education for 4.8 acres, more or less, of land for the purpose of building a centralized kitchen facility in Whitmore Village, City and County of Honolulu, State of Hawaii, Tax Map Key Nos. (1) 7-1-002:009 (por.); :004 (por.)*  
November 21, 2024

Respectfully Submitted,

*Lyle Roe*

---

LYLE ROE  
Asset Manager

*Approved for Submittal:*



---

Wendy Gady  
Executive Director

LAND COURT

REGULAR SYSTEM

Return By  Pick-Up  To:  
Mail

TITLE OF DOCUMENT:

LICENSE AGREEMENT NO. LI-W-24-01, Exhibits "A" - "C"

Tax Map Key Nos. (1) 7-1-002:004 (por.); 009 (por.)

PARTIES TO DOCUMENT:

LICENSOR: AGRIBUSINESS DEVELOPMENT CORPORATION, whose address is 235 S. Beretania Street, Suite 205, Honolulu, HI 96813

LICENSEE: HAWAI'I DEPARTMENT OF EDUCATION, whose mailing address is Post Office Box 2360, Honolulu, HI 96804

**LICENSE AGREEMENT NO. LI-W-24-01**

between

STATE OF HAWAI'I  
AGRIBUSINESS DEVELOPMENT CORPORATION  
as LICENSOR

and

STATE OF HAWAI'I  
DEPARTMENT OF EDUCATION  
as LICENSEE

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DRAFT

**SUMMARY OF MATERIAL TERMS**

|  |   |
|--|---|
| Licensee:                              | State of Hawai'i Department of Education  |
| Doing Business As:                     | N/A   |
| Character of Use:                      | Commercial Kitchen & Warehouse  |
| Premises Name/ID:                      | TMK (1) 7-1-002:004, :009 (por.)  |
| Premises Area:                         | 4.8 gross acres   |
| Length of Term:                        | 35 Years  |
| Term Commences:                        | January 1, 2025   |
| Term Expires:                          | December 31, 2059   |
| Initial Base Annual Rent:              | 1/1/2025-12/31/2034: \$1/acre/year  |
| Scheduled Increase or Reopening Dates: | 1/1/2035-12/31/2044: by appraisal<br>1/1/2045-12/31/2054: by appraisal<br>1/1/2055-12/31/2059: by appraisal |
| Security Deposit:                      | Waived  |
| Licensor Address:                      | Agribusiness Development Corp.<br>235 S. Beretania Street, Suite 205<br>Honolulu, HI 96813                  |
| Licensee Address:                      | State of Hawai'i Department of Education<br>P.O. Box 2360<br>Honolulu, HI 96804                             |
| Commercial General Liability Amount:   | Minimum \$2,000,000.00 aggregate<br>Minimum \$1,000,000.00 per occurrence                                   |
| Property Insurance Amount:             | Minimum \$1,000,000.00  |
| Commercial Auto Insurance Amount:      | Minimum \$1,000,000.00  |
| Performance Bond:                      | Waived  |



STATE OF HAWAI'I  
AGRIBUSINESS DEVELOPMENT CORPORATION

LICENSE AGREEMENT NO. LI-W-24-01

THIS LICENSE AGREEMENT (License) made and issued DATE, 2024 and effective January 1, 2025 (effective date), by and between the State of Hawai'i AGRIBUSINESS DEVELOPMENT CORPORATION, hereinafter referred to as "LICENSOR" whose place of business and mailing address is 235 S. Beretania Street, Suite 205, Honolulu, HI 96813, and State of Hawai'i DEPARTMENT OF EDUCATION, hereinafter referred to as "LICENSEE" whose mailing address for purposes of this License is Post Office Box 2360, Honolulu, HI, 96804.

W I T N E S S E T H:

WHEREAS, LICENSOR is the fee simple owner of that certain parcel of land situated at Wahiawa, Oahu, identified by Tax Map Key (TMK) No. (1)7-1-002:004, containing a gross area of approximately 24.09 acres, more or less, and TMK No. (1) 7-1-002:009, containing a gross area of approximately 257.52 acres, more or less, hereinafter referred to as the "Property," and LICENSOR is authorized to grant licenses for use of the Property for the commercial processing of agricultural products, and other related purposes; and

WHEREAS, LICENSEE has requested a license to use 4.8 gross acres, more or less, of the Property located in Whitmore Village, Wahiawa, Oahu, more particularly described in Exhibit "A" (Premises), for construction and operation of an agricultural products processing facility, commercial kitchen, and warehouse, and other related purposes; and

WHEREAS, within TMK No. (1)7-1-002:009, there are 0.1273 acres, more or less, further identified as TMK No. (1)7-1-002:028, which was subdivided for placement of a cellular tower; and 0.2867 acres, more or less, further identified as TMK No. (1)7-1-002:023, which was subdivided for placement of infrastructure access; and 0.7670 acres, more or less, further identified as TMK No. (1)7-1-002:022, which was subdivided for placement of a sewer pump station; totaling approximately 1.181 acres, which have been withdrawn from the Property acreage and excluded from the Premises; and

WHEREAS, LICENSOR and LICENSEE sought and obtained approval from their respective governing boards for this License; and

WHEREAS, LICENSOR obtained approval from its Board of Directors at a meeting held on **DATE**; and

WHEREAS, LICENSEE obtained approval from the Board of Education at a meeting held on **DATE**;

NOW, THEREFORE, in consideration of the mutual promises set forth below and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, LICENSOR and LICENSEE agree to enter into this License on the following terms and conditions:

- 1. Premises.** LICENSOR, pursuant to and as set forth in this License, hereby grants to LICENSEE an exclusive license to use that portion of land, TMK Nos. (1)7-1-002:004 (por.), and :009 (por.) more particularly described in Exhibit "A", containing a land area of **4.8** gross acres, more or less. The Premises shall not include any areas containing or consisting of any common area improvements serving the Premises that are under the control, operation, or management of any entity, including LICENSOR.
- 2. Term.** The term of this License is for thirty-five years, or until such time as LICENSEE ceases to operate the **agricultural products processing facility, commercial kitchen, and warehouse** or other permitted use, unless this License is sooner terminated as provided herein.

LICENSOR and LICENSEE may agree to extend the term of this License for such period or periods of time as LICENSOR and LICENSEE shall determine.

- 3. Base Annual License Fee.** The base annual license fee for the License shall be as outlined in the following table, shall be payable in advance, in full, for years 1 - 10, at the time of execution of this License. Beginning in year 11 and thereafter, the base annual license fee shall be payable in monthly installments, on or before the first of each month.

| <b>CLASS</b> | <b>WHEN</b>                   | <b>RENT</b>                              |
|--------------|-------------------------------|--|
| Commercial   | Year 1 - last day of Year 10  | \$1/acre/year                            |
| Commercial   | Year 11 - last day of Year 20 | Fair Market Rent determined by appraisal |

|            |                                  |  |
|------------|----------------------------------|--|
| Commercial | Year 21 - last day<br>of Year 30 | Fair Market Rent<br>determined by<br>appraisal |
| Commercial | Year 31 - last day<br>of Year 35 | Fair Market Rent<br>determined by<br>appraisal |

LICENSOR and LICENSEE agree that the Premises consist of 4.8 acres of land, more or less, suitable for commercial purposes.

- 4. Determination of Annual Rental Upon Reopening.** The annual rental shall be reopened and redetermined at the expiration of the 10th, 20th, and 30th years of the license term. The base annual rental for any ensuing period shall be the fair market rental at the time of reopening. At least six months prior to the time of reopening, the fair market rental of the land in the specific use or uses for which the disposition was made shall be determined by an appraiser whose services shall be contracted for by the LICENSOR, and the LICENSEE shall be notified promptly of the determination; provided that should the LICENSEE disagree with the fair market rental as determined by the LICENSOR's appraiser, the LICENSEE may appoint its own appraiser, within fourteen days after written notice of the fair market rental, to prepare an independent appraisal report.

The two appraisers shall review each other's reports and make every effort to resolve whatever differences they may have. Should differences still exist fourteen days after the exchange, the two appraisers, within seven days thereafter, shall appoint a third appraiser who shall also prepare an independent appraisal report and shall furnish copies thereof to the first two appraisers within forty-five days of the appointment. Within twenty days after receiving the third appraisal report, all three appraisers shall meet to determine the fair market rental. The fair market rental as determined by the majority of the appraisers shall be final and binding upon both the LICENSOR and the LICENSEE, subject to chapter 658A, *Hawaii Revised Statutes* (HRS). The LICENSEE shall pay for its own appraiser. The cost of the services of the third appraiser shall be borne equally by the LICENSOR and the LICENSEE. All appraisal reports shall become part of the public record of the LICENSOR.

In the event that the appraisers are unable to determine the fair market rental before the reopening date, the LICENSEE shall continue to pay the rent at the rate effective for the

previous rental period, but the LICENSEE shall make up any deficiency within thirty days after the new rental has been determined. The LICENSEE's or its appraiser's failure to comply with the procedures set forth herein shall constitute a waiver of the LICENSEE's right to contest the new fair market rental, and the LICENSEE shall pay the rental as determined by the LICENSOR's appraiser without adjustment. Alternatively, the Board may treat the failure as a breach of this License and terminate this License.

5. **Common Area.** The phrase "Common Area" as used in this Paragraph and throughout this License is defined in the definitions section of this License.

LICENSEE and LICENSEE'S employees and customers shall have the right, in common with other licensees of the Property and their respective employees and customers, to use the Common Area that may from time to time exist in connection with LICENSEE's business to be conducted upon the Premises, subject to all terms and conditions set forth in this License. The rights of Licensee hereunder in and to the Common Area, including parking areas and driveways, entrances and exits thereto and sidewalks and pedestrian passageways, shall be subject to the rights of the LICENSOR and all other licensees of LICENSOR using the same. It shall be the duty of the LICENSEE to keep all Common Area free and clear of any obstructions created or permitted by LICENSEE or resulting from LICENSEE's operations and to permit the use by LICENSEE's employees, customers, patrons, and service suppliers of any said parking, driveway, entrance, and exit areas only for normal parking and ingress to and egress from the Premises occupied by LICENSEE and such other licensees or LICENSOR.

6. **Common Area Maintenance Fee.** In addition to the base annual license fee provided in Paragraph 3 above, LICENSEE shall also pay a reasonable monthly fee established by LICENSOR for the maintenance, repair, and care of the Common Areas identified in Paragraph 5. LICENSOR reserves the right to adjust any Common Area Maintenance Fee as it deems fit upon thirty days written notice to LICENSEE. Any failure of LICENSEE to insist upon strict performance of this term, or to exercise any option conferred herein, shall not be construed as a waiver or relinquishment of any such term or option unless reduced to writing and signed by LICENSOR.

7. **Interest on Delinquent License Fees; Service Charge.** Monthly license fees received after the first day of each month are

considered delinquent. The interest rate on the principal amount of any and all unpaid or delinquent license fee payments shall be one percent per month. Additionally, a service charge of FIFTY AND NO/100 DOLLARS per month will be assessed for each delinquent payment.

8. **Holdover.** Any holding over by LICENSEE after the expiration of the term of this License with the consent of LICENSOR shall be construed to be a tenancy from month-to-month at the rent herein provided, subject to all the other terms, covenants, and conditions herein contained insofar as the same are applicable to a month-to-month tenancy. Both LICENSOR and LICENSEE have the right to terminate such month-to-month tenancy with at least thirty days prior written notice to the other party.
9. **Taxes, Assessments, and Utilities.** LICENSEE shall pay, if and when due, all taxes and similar rates, assessments, charges, and outgoings of every nature and kind whatsoever, which shall during the term of this License be lawfully charged, assessed, imposed, or become due and payable upon or in respect to the Premises and any additional improvements now on or hereafter erected by LICENSEE thereon.
10. **Character of Use.** LICENSEE shall not do or commit, or permit or suffer to be done, any willful or voluntary waste or destruction in and upon the Premises, any nuisance in and upon the Premises, or any unlawful or improper use of the Premises.
  - (a) LICENSEE subject to Encumbrances. LICENSEE shall use the Premises solely to construct, renovate, improve, and utilize the Premises in accordance with Paragraph 11 (Utilization of Premises) of this License. LICENSEE's use of the Premises shall be subject to any recorded covenants, conditions, and restrictions and any and all recorded and unrecorded encumbrances on the Premises (collectively the "Encumbrances") existing as of the Effective date of this License. LICENSOR shall use its best efforts to inform LICENSEE of any and all Encumbrances that may affect or encumber the Property, and if possible, furnish maps and copies of the Encumbrances to LICENSEE herein.
  - (b) No cesspools. No cesspools shall be constructed on the Premises. However, upon approval from LICENSOR and the State Department of Health, LICENSEE may use alternative

wastewater treatment and disposal systems that do not pose a threat to the groundwater.

- (c) Reduce risk of soil erosion. LICENSEE shall take appropriate steps to reduce the risk of any excessive soil erosion by reason of LICENSEE's use of the Premises and to address any material increase in weeds or litter on the Premises.

- 11. Utilization of Premises.** LICENSEE shall utilize and develop the Premises in accordance with LICENSEE's plan for utilization and development (Development Plan), which has been approved by LICENSOR before execution of this License. A summarized version of LICENSEE's Development Plan is attached hereto as Exhibit "B" and incorporated by reference. Any material modification or deviation from LICENSEE's Development Plan without the prior written approval of LICENSOR may constitute a breach of this License and cause for the termination thereof.

Building setback lines shall be in accordance with applicable city and county ordinances and rules.

LICENSEE may renovate and improve the Premises and any Improvements thereon to adapt the Premises for LICENSEE's intended use as an agricultural products processing facility, commercial kitchen, and warehouse (Authorized Activity). LICENSEE may proceed with the planning, design, construction and installation work relating to building or upgrading any Improvements as outlined in LICENSEE's Development Plan for the agricultural products processing facility, commercial kitchen, and warehouse without having to obtain LICENSOR's further written approval, provided that such Authorized Activity is authorized by, and in compliance with applicable federal, state, and city and county laws, statutes, ordinances, rules, regulations, orders, and directives (collectively the "Applicable Laws").

- 12. Sublicensing.** LICENSEE shall not sublicense or rent the whole or any portion of the Premises without first obtaining the prior consent of LICENSOR, which consent may be withheld in LICENSOR's sole discretion. Any sublicensing request shall be submitted in writing to LICENSOR, together with a copy of the sub-licensee's land utilization plan and rental payment schedule for LICENSOR's consideration. Profit on any

sublicense charges is neither allowed, nor shall be sought by LICENSEE.

- 13. Conservation Practices.** LICENSEE shall carry out a program of conservation based upon a conservation plan developed by LICENSEE in cooperation with the appropriate Soil and Water Conservation District (conservation plan). The conservation program shall be in accordance with a conservation plan that shall be submitted to LICENSOR for acceptance within one year following the effective date of this License. The conservation plan shall include, but not be limited to, those practices such as land clearing, cropping system, irrigation system, drainage, noxious weed control, and other measures needed to protect the land against deterioration and to prevent environmental degradation; provided, however, that this requirement may be waived for licenses, premises, or uses with little or no apparent conservation problems when verified by the appropriate Soil and Water Conservation District. In the event the activities of LICENSEE in this regard shall be found to be contradictory to the aforesaid conservation plan or unsatisfactory to LICENSOR, LICENSOR shall notify LICENSEE and LICENSEE shall be required, within sixty days of the notice, to cure or correct the contradictory or unsatisfactory condition and submit proof of such cure or correction that is satisfactory to LICENSOR. Failure to cure or correct the contradictory or unsatisfactory condition, or failure to submit proof of such cure or correction within the time allowed may constitute a breach of this License and a cause for the termination thereof.

**LICENSOR waives the conservation plan requirement unless environmental degradation is detected in the future.**

- 14. Sanitation.** LICENSEE shall keep the Premises and improvements in a strictly clean, sanitary, and orderly condition and shall use reasonable and prudent measures to cut, remove, or otherwise control weeds and grass, in complete conformance with applicable laws, rules, and statutes and consistent with the terms and conditions of this License.

- 15. Improvements.** Except for the Development Plan referenced in Paragraph 11 (Utilization of Premises), during the term of this License, LICENSEE shall not construct, place, maintain, or install on the Premises any building, structure, signs, or improvement, except with the prior written approval of LICENSOR and upon such conditions as LICENSOR may impose. The preceding sentence shall not apply to any building,

structure, signs, or improvement constructed, placed, maintained, or installed on the Premises with the consent and approval of LICENSOR under any prior permit or agreement pursuant to which LICENSEE or any of LICENSEE's permitted assigns, sub-licensees, or permittees occupied the Premises before the effective date of this License. All buildings, structures, signs, or improvements constructed, placed, maintained, or installed pursuant to this paragraph shall be in accordance with all applicable federal, state, city and county laws, ordinances, and rules. The ownership thereof shall be in LICENSEE until the expiration or sooner termination of this License, at which time the ownership thereof shall, at the option of LICENSOR, vest in LICENSOR or shall be removed by LICENSEE at LICENSEE's sole cost and expense.

- 16. Repairs to Improvements.** LICENSEE shall, at its own expense, keep, repair, and maintain all buildings, structures, and improvements now existing or hereafter constructed or installed on the Premises in good order, condition, and repair, reasonable wear and tear and damage by the elements, fire or other casualty excepted. LICENSEE will keep the Premises, including any loading or service area, in a clean, orderly, and sanitary condition, free from obstructions, insects, rodents, vermin, and other pests, and shall store all trash and refuse within the Premises or in areas designated by LICENSOR. LICENSEE shall have no obligation under this License to keep, repair, or maintain any common area improvements.
- 17. Involuntary Liens.** LICENSEE shall not commit or suffer any act or neglect that results in the Premises or any improvement thereon becoming subject to any involuntary attachment, lien, charge, or encumbrance, and shall indemnify, defend, and hold LICENSOR harmless from and against all attachments, liens, charges, encumbrances, and all resulting expenses affecting the Premises and caused by LICENSEE.
- 18. Dwelling Restrictions.** The construction or placement of any structure on the Premises for residential purposes is strictly prohibited. LICENSEE, its agents, employees, representatives, and invitees shall not use the Premises as a temporary or permanent residence.
- 19. Non-Discrimination.** LICENSEE shall not use the Premises, nor permit the Premises to be used in support of, any policy that unlawfully discriminates against anyone based upon race,



color, national origin, sex, age, disability, or any other class as protected under applicable federal or state law. LICENSEE shall not practice any unlawful discrimination based upon race, color, national origin, sex, age, disability, or any other class as protected under applicable federal or state law.

- 20. Breach or Default.** It is expressly agreed that this License is contingent upon the continuing condition that, if LICENSEE fails to observe or perform substantially the provisions contained herein, and if LICENSEE does not commence to cure, and diligently continue to attempt to cure, such default within sixty days, or thirty days where the default involves a failure to make timely license fee payments, after delivery by LICENSOR of a written notice of such failure by personal service or by registered or certified mail, return receipt requested, to LICENSEE; or, if LICENSEE becomes bankrupt or insolvent or files any debtor proceedings or takes or has taken against it for good cause any proceedings of any kind or character whatsoever under any provision of the Federal Bankruptcy Code seeking readjustment, rearrangement, postponement, composition, or reduction of LICENSEE's debts, liabilities or obligations; then, in any such event, LICENSOR may, at LICENSOR's option, to the extent permitted by law, cancel this License and thereupon take immediate possession of the Premises, after a reasonable time or pursuant to any right of action that LICENSOR may have.
- 21. Acceptance of Rent Not a Waiver.** The acceptance of rent by LICENSOR shall not be deemed a waiver of any breach by LICENSEE of any term, covenant, or condition of this License, of LICENSOR's right to re-entry for breach of covenant, or of LICENSOR's right to declare and enforce a forfeiture or termination of License for any breach; and the failure of LICENSOR to insist upon strict performance of any term, covenant, or condition, or to exercise any option conferred herein, shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or option.
- 22. Security Deposit.** Upon execution of this License, LICENSEE shall deposit with LICENSOR an amount equal to two times the monthly license fee as security for the faithful performance of all of these terms and conditions. The deposit will be returned to LICENSEE upon termination of this License, but only after all of the terms and conditions of this License have been observed and performed. This requirement may be waived or reinstated in LICENSOR's sole discretion.

LICENSOR waives security deposit:  X  Yes   No.

**23. Assignment.** Except as expressly provided in this License, this License is not transferable. At no time during the term of the License shall LICENSEE assign, mortgage, or pledge its interest in this License, or its interest in the improvements now or hereafter erected on the Premises, without the prior written consent of LICENSOR, which consent may be withheld in LICENSOR'S sole discretion.

**24. Liability Insurance.** LICENSOR and LICENSEE agree that LICENSEE, is self-insured and shall not be required to procure insurance with respect to use of the Property for LICENSEE'S activities under this License. LICENSEE shall self-insure against liability and property damage to the Property as generally covered by a Commercial General Liability insurance policy, sufficient to protect against any liability for all claims for personal injury, death, and property damage that may arise out of the exercise or rights granted herein. The policy or policies shall cover the entire Premises, including all improvements, and grounds and all roadways or sidewalks on or adjacent to the Premises in the control or use of LICENSEE. The minimum limit of said policy or policies shall not be less than \$1,000,000.00 for each occurrence and \$2,000,000.00 aggregate. Except for the payment of Common Area Maintenance Fee as provided in Paragraph 6 above, LICENSEE shall have no obligation under this License to procure or maintain any commercial general liability insurance with regard to any activities of any other entity (including LICENSOR), which has control from time to time over any of the common area improvements.

LICENSEE, prior to entry and use of the Premises or within fifteen days from the effective date of this License, whichever is sooner, LICENSEE shall furnish LICENSOR with a certificate(s) showing the policy(ies) to be initially in force, keep the certificate(s) on deposit during the entire term of the License, and furnish like certificate(s) to LICENSOR upon each renewal of the policy(s). The certificate(s) for such insurance shall contain or be accompanied by an assurance of the insurer not to cancel the insurance, limit the scope of the coverage, or fail or refuse to renew the policy(s) until after thirty days written notice has been given to LICENSEE and LICENSOR, except that, in the event this License is terminated, said insurance may be

terminated on the same date as the License. The policy shall name LICENSOR as an additional insured.

LICENSOR shall retain the right at any time to review the coverage, form, and amount of the insurance required by this License. If, in the opinion of LICENSOR, the insurance provisions in this License do not provide adequate protection for LICENSOR, LICENSOR may require LICENSEE and any permitted sub-licensee to obtain insurance sufficient in coverage, form, and amount to provide adequate protection. LICENSOR's requirements shall be reasonable and shall be designed to assure protection for and against the kind and extent of the risks that exist at the time a change in insurance is required. LICENSOR shall notify LICENSEE in writing of changes in the insurance requirements and LICENSEE shall deposit copies of acceptable insurance policy(ies) or certificate(s) thereof with LICENSOR incorporating the required changes within thirty days of LICENSEE's receipt of the notice from LICENSOR requiring the same.

The procuring of the required policy(ies) of insurance shall not be construed to limit LICENSEE's liability under this License. Notwithstanding the policy(ies) of insurance, LICENSEE shall be obligated for the full and total amount of any damage, injury, or loss caused by LICENSEE's negligence or neglect connected with this License.

- 25. Property Insurance.** LICENSOR and LICENSEE agree that LICENSEE is self-insured and shall not be required to procure insurance with respect to any state-owned improvements located on the Premises. At all times during the term of this License, LICENSEE shall self-insure against loss or damage by fire and other hazards, casualties, and contingencies for the full insurable value of those state-owned improvements that are identified on Exhibit "C" by LICENSOR prior to the commencement date of this License. The policy shall name LICENSOR as an additional insured.

LICENSEE shall obtain comprehensive automobile liability insurance covering all owned, hired, or non-owned vehicles, including the loading and unloading thereof on the Premises. The minimum limit of said policy or policies shall not be less than \$1,000,000.00.

LICENSEE shall furnish to LICENSOR on or before the commencement date of this License a certificate showing such policy(ies) to be in full force and effect and shall furnish

a like certificate upon each renewal of the policy(ies). Each certificate shall contain or be accompanied by an assurance of the insurer not to cancel the insurance, limit the scope of the coverage or fail or refuse to renew the policy(s) until after thirty days written notice has been given to LICENSEE and LICENSOR, except that, in the event this License is terminated, said insurance may be terminated on the same date as the License.

- 26. Right to Enter.** LICENSOR reserves the right for its agents or representatives, at all reasonable times during the term of this License, to enter and cross any portion of the Premises at any time for the purpose of performing any public or official duties.
- 27. Inspection of Premises.** LICENSEE shall permit LICENSOR and its agents or representatives, at all reasonable times during the term of this License, to enter the Premises and examine the state of repair and condition thereof and the improvements, equipment, chattels, books, and records of LICENSEE in connection with the administration of this License.
- 28. Surrender.** At the end of the term or other sooner termination of this License, LICENSEE shall peaceably deliver unto LICENSOR possession of the Premises, together with all improvements existing or constructed thereon, unless provided otherwise in this License. Furthermore, upon the expiration, termination, or revocation of this License, should LICENSEE fail to remove any and all of LICENSEE's personal property from the Premises, LICENSOR may remove or dispose of any and all personal property from the Premises and either deem the personal property abandoned and dispose of the personal property or place such personal property in storage at the cost and expense of LICENSEE. LICENSEE shall pay all costs and expenses for removal, disposal, transporting, and storage of LICENSEE's personal property. The provisions of this paragraph shall survive the expiration or earlier termination of this License.
- 29. Withdrawal for Public Purpose.**  
[Not applicable.]
- 30. Condemnation.** If at any time, during the term of this License, any portion of the Premises shall be condemned or required for public purposes by the Federal government ("federal condemning authority"), this License shall cease and terminate

as of the date LICENSEE is required to vacate the Premises, and the rent reserved shall be apportioned and paid up to that date. All compensation and damages payable for or on account of the Property and the Improvements, except for the Licensee Improvements (such as the Commercial Kitchen) constructed or owned by LICENSEE, shall be payable from the federal condemning authority to and be the sole property of LICENSOR. LICENSEE shall not be entitled to any claim against LICENSOR for condemnation of or indemnity for the interest of LICENSEE. LICENSEE may make or assert claims directly against the federal condemning authority for any of the following: (a) any of the LICENSEE Improvements constructed or installed by LICENSEE; (b) losses or damages resulting from the interruption of LICENSEE's business on or from the Premises; (c) any moving or other relocation expenses; or (d) any other expenses, losses, or damages attributable to LICENSEE's loss of use of the Premises due to the taking or condemnation of or the threat of taking or condemnation of the Premises or any portion thereof.

- 31. Partial Taking.** In case only part of the Premises shall be so taken or condemned by the federal condemning authority, the rent thereafter payable for the unexpired remainder of the License term shall be reduced in the same proportion that the area of the Premises so taken or condemned by the federal condemning authority bears to the total area of the Premises hereby licensed, provided, however, that either party has the right to terminate this License at its option in the event of a partial taking by the federal condemning authority of at least twenty-five percent of the Premises without further obligation under this License.
- 32. Inspection by Prospective Bidders.** For purposes of informing and apprising any person or persons of the condition of the Premises preparatory to the proposed disposition thereof at the expiration of the term or earlier termination of this License, LICENSOR shall have the right to authorize any person or persons to enter upon and inspect the Premises at all reasonable times following an announcement at any of LICENSOR's public meetings of any proposed disposition of the Premises; provided, however, that any entry and inspection shall be conducted during reasonable hours after notice to enter is first given to LICENSEE, and shall, if LICENSEE so requires, be made in the company of LICENSEE or designated agents of LICENSEE.

- 33. Extension of Time.** Notwithstanding any provision to the contrary, wherever applicable, LICENSOR, for good cause shown, may allow additional time beyond the time or times specified herein in which LICENSEE may comply, observe, and perform any of the terms, conditions, and covenants contained in this License.
- 34. Quiet Enjoyment.** LICENSOR covenants and agrees with LICENSEE that, upon payment of rent at the times and in the manner specified and upon the observance and performance of the covenants, terms, and conditions hereof on the part of LICENSEE to be observed and performed, LICENSEE shall have, hold, possess, and enjoy the Premises for the License term without hindrance or interruption by LICENSOR or any other person or persons lawfully claiming by, through, or under LICENSOR.
- 35. Abandonment and Termination.** If, after putting the Premises into service, LICENSEE abandons or ceases to use the Premises for a period of four or more consecutive months, LICENSOR shall have the right to terminate this License. Any abandonment, termination, or cessation shall not affect or release any liability of LICENSEE at such time existing by reason of a breach of any of the terms hereof.
- 36. Non-warranty.** LICENSOR does not warrant the condition of the Premises, as the same is being licensed "as is, where is" and LICENSEE assumes all risks incident to its use.
- 37. LICENSEE's Risk.** All personal property of any kind or description whatsoever stored on the Premises by LICENSEE shall be at LICENSEE's sole risk, and LICENSOR shall not be liable for any damage done to or loss suffered by the business or occupation of LICENSEE, including any employees, agents, tenants, sublessees or invitees, arising from any act or neglect of co-tenants or other occupants of the building or of other persons, from bursting, overflowing, or leaking of water, gas, sewer, or steam pipes or from any fixtures, appliances or devices connected to same, or from electric conduit, wires, fixtures, appliances or devices, or from chemicals or bacteria or odors, or caused in any other manner whatsoever unless caused by: (a) the negligent act or omission of LICENSOR or its authorized representatives and/or (b) a pre-existing condition for which LICENSEE had no responsibility (such as utility lines, pipelines, facilities, and equipment constructed or installed prior to LICENSEE occupying the Premises and the clean-up, remediation, and/or

disposal of hazardous materials present, released or discharged within the Premises prior to LICENSEE occupying the Premises).

**38. Governing Law; Severability.** This License shall be governed by and interpreted in accordance with the laws of the State of Hawai'i. If any provision of this License is held to be invalid or unenforceable, the validity or enforceability of the other provisions shall remain unaffected.

**39. LICENSEE Limitations.** Any and all LICENSEE obligations, duties, responsibilities, and liabilities under this License, including, without limitation, LICENSEE's ability and/or capability of carrying out, performing, or complying with such obligations are expressly subject to and limited by the following (collectively the "Lessee Limitations"):

(a) LICENSEE Responsibility. LICENSEE shall be responsible for damage or injury caused by LICENSEE's officers and employees in the course of their employment to the extent that LICENSEE's liability for such damage or injury has been determined by a court or otherwise agreed to by LICENSEE. LICENSEE shall pay for such damage or injury to the extent permitted by law and provided that funds are appropriated, allotted or otherwise properly made available for that purpose. In each instance in this License where LICENSEE is obligated to assume responsibility or liability of any type or nature for damages or injuries, including, without limitation, any obligation to perform, be responsible for failure to perform, or pay monies, such obligation shall be subject to and limited by the provisions of this paragraph 39(a) (LICENSEE Responsibility). LICENSOR acknowledges that this provision, in itself, shall not constitute or be interpreted to be any type of indemnification, defense, or hold harmless obligation of LICENSEE. LICENSEE's obligations under this paragraph 39(a) (LICENSEE Responsibility) shall survive the expiration or earlier termination of the License.

**40. Indemnity.** LICENSEE shall indemnify, defend, and hold harmless the State of Hawai'i, LICENSOR, and their officers, employees, and agents from and against any claim or demand for loss, liability, damage, cost, expense, and attorneys' fees, including claims for property damage, personal injury, or wrongful death (collectively, the "Claims") arising out of

any occurrence on the Premises and roadways adjacent thereto, or occasioned by any act or nuisance made or suffered on the Premises, or by any accident or fire thereon, or growing out of or caused by any failure on the part of LICENSEE to maintain the Premises in a safe condition, or by any act or omission of LICENSEE, and from and against all actions, suits, damages, and claims by whomsoever brought or made by reason of the non-observance or non-performance of any of the terms, covenants, and conditions herein or the laws, ordinances, rules, and regulations of the federal, state, or county governments, with the exception of Claims arising out of the wrongful or negligent acts or omissions of LICENSOR. The provisions of this paragraph shall survive the expiration or earlier termination of this License.

41. **Boundary Stakeout.** LICENSOR shall not be responsible or liable for the surveying or boundary stakeout of the Premises. LICENSEE shall be solely responsible for any survey and boundary stakeout of the Premises.
42. **Fences.** LICENSEE shall, wholly at its own cost and expense, fence the whole or portion of the outside perimeter of the Premises if such fencing shall be required by LICENSOR or shall be so required by any law now in force or that may hereafter be enacted and LICENSEE shall and will maintain in good order and condition throughout the period of this License the fences so constructed and those now existing on the Premises.
43. **Drainage Easements.** The Premises shall be subject to drainage and flowage easements now of record or otherwise existing under law as and to the extent that the same are applicable to the Premises as of the effective date of this License. The easement area(s) shall not be altered or used for any purposes that may obstruct flow or reduce the effectiveness of the drainage way, except with LICENSOR's prior written consent, which may be conditioned upon appropriate measures undertaken by LICENSEE to divert, re-direct, retain, or detain any storm waters in a manner approved by LICENSOR. LICENSEE shall accept the storm runoff draining into and through the easement area(s), respectively, and shall be responsible for the maintenance and protection of the drainage easements against deterioration or loss of functional effectiveness.
44. **Roadway and Utility Easements.** The Premises shall be subject to all existing roadway and utility easements, which



easements shall be in favor of property owners served by such easements, and to any and all access and other easements over and across the Premises that are necessary and appropriate for the operation and maintenance of the common area serving the Property, including the Premises; provided that LICENSEE may cross and may have access over and upon all such easements located on the Premises at any point.

- 45. Compliance with Laws.** During the term of this License, LICENSEE, LICENSEE's employees, agents, representatives, invitees, and guests shall comply with the requirements of all federal, state, and county authorities, and observe all federal, state, and county laws, ordinances, regulations, and rules that are now in force or later may be in force, while occupying and using the Premises.
- 46. Environmental Regulations.** LICENSEE shall comply with all applicable federal, state, and county environmental impact rules and regulations, including but not limited to Chapter 343, HRS, as amended, and rules governing historic preservation. LICENSEE shall be responsible for obtaining all necessary federal, state, or county clearances.
- 47. Hazardous Materials.** LICENSOR remains responsible for addressing any issue identified as having occurred prior to or during Dole Food Company, Inc.'s occupancy of the Premises as reported in the Phase II Environmental Site Assessment prepared by Enpro Environmental dated December 9, 2013 (Enpro Report) (Hazardous Materials Baseline). Any environmental issue occurring on Premises after the date of this License shall be the responsibility of LICENSEE.
- (a) During the term of this License, LICENSEE shall not cause or permit the escape, disposal, or release of any hazardous materials, except as permitted by law. LICENSEE shall not allow the storage or use of such materials in any manner not sanctioned by law or by the highest standards prevailing in the industry for the storage and use of such materials, nor allow to be brought onto the Premises any such materials except to use in the ordinary course of LICENSEE's business, and then only after written notice is given to LICENSOR of the identity of such materials and upon LICENSOR's consent, which consent may be withheld at LICENSOR's sole and absolute discretion. LICENSOR may, upon reasonable request and for reasonable cause, require testing of the Premises to ascertain whether or not there has been any

release of hazardous materials by LICENSEE. In the event that the results of such testing establish that there has been a release of hazardous materials on the Premises by LICENSEE, LICENSEE shall, in addition to LICENSEE's other obligations hereunder, be responsible for the cost of such testing.

LICENSEE shall execute affidavits, representations, and the like from time to time at LICENSOR's request concerning LICENSEE's best knowledge and belief regarding the presence of hazardous materials on the Premises placed or released by LICENSEE. If LICENSEE at any time becomes aware of any past, present, or contemplated hazardous discharge or of any hazardous materials claims with respect to the Premises (other than those already disclosed in the **Enpro Report**) that could subject LICENSOR, LICENSEE, or the Premises to any liability or restrictions on ownership, occupancy, transferability, or use of the Premises under any hazardous materials laws, LICENSEE shall immediately advise LICENSOR thereof in writing and provide to LICENSOR such detailed reports thereof as may be reasonably requested by LICENSOR. LICENSOR shall have the right, in its sole discretion, to join and participate in, any settlements, remedial actions, or legal proceedings or actions initiated with respect to any hazardous materials claims.

(b) LICENSEE shall be responsible for and shall indemnify, defend, and hold harmless LICENSOR and its employees, agents, successors, and assigns from and against any loss, damage, cost, expense, or liability directly or indirectly arising out of or attributable to the generation, manufacture, treatment, handling, refining, production, processing, storage, release, threatened release, discharge, disposal, or presence of hazardous materials occurring on, under, or about the Premises during the term of this License, including, without limitation:

- (1) all foreseeable and unforeseeable consequential damages;
- (2) the costs of any required or necessary repair, clean-up, or detoxification of the Premises and of the preparation and implementation of any closure, remedial, or other required plans;

- (3) the costs of LICENSOR's investigation and handling of any hazardous materials claims, whether or not any lawsuit or other formal legal proceeding shall have been commenced with respect thereto;
- (4) the costs of LICENSOR's enforcement of this covenant, whether or not a lawsuit is brought therefore; and
- (5) all reasonable costs and expenses incurred by LICENSOR in connection with clauses (1), (2), (3), and (4) including, without limitation, reasonable attorneys' fees.

(c) The provisions of this paragraph shall survive the expiration or earlier termination of this License.

**48. Level One Hazardous Waste Evaluation.** At any time during the term or upon termination of this License, LICENSOR, for good cause, may require LICENSEE to conduct at LICENSEE's own expense, a Level One Hazardous Waste Evaluation and a complete abatement and disposal, if necessary, satisfactory to the standards required by the Federal Environmental Protection Agency, the State Department of Health, the State Department of Agriculture, and the State Department of Land and Natural Resources, of any hazardous materials and hazardous materials claims attributable to the discharge of any hazardous materials on the Premises during the term of this License. The termination of this License will not be approved by LICENSOR unless this evaluation and abatement provision have been executed where required. This provision shall survive and continue in effect after termination of this License.

**49. Soil Erosion.** LICENSEE shall not engage in any activity that may result in soil erosion from water or wind. LICENSEE shall control soil erosion as completely as practicable by strip cropping and contouring, by filling in or otherwise controlling small washes or ditches that may form, and by adopting soil erosion practices recommended by the Natural Resource Conservation Service (NRCS). LICENSEE shall provide to LICENSOR a NRCS approved erosion control plan within one year following the effective date of this License. The termination of this License will not be approved by LICENSOR unless LICENSEE is in full compliance with the NRCS approved erosion control plan to the satisfaction of NRCS and LICENSOR. This requirement may be waived for licenses, premises, or uses with little or no apparent soil erosion problems when verified by NRCS.

**LICENSOR waives the requirement of an erosion control plan unless unmanaged soil erosion is detected in the future.**

- 50. Encumbrances.** This License is subject to all existing recorded and unrecorded encumbrances. At any time during the term of this License, LICENSOR may create easements and encumbrances upon the Premises in addition to any easements and encumbrances that currently affect the Premises, provided that any such new easements or encumbrances do not unreasonably restrict or interfere with LICENSEE's use of the Premises.
- 51. Interpretation.** The use of any gender shall include all genders. If there is more than one LICENSEE, all words used in the singular shall extend to all LICENSEES.
- 52. Paragraph Headings.** The article and paragraph headings herein are inserted only for convenience and reference and shall in no way define, describe, or limit the scope or intent of any provision of this License.
- 53. Reserved.**
- 54. Reserved.**
- 55. Exhibits - Incorporation in License.** All Exhibits referred to in this License are attached to this License and are hereby deemed incorporated by reference.

**SPECIAL CONDITIONS:**

- 56. Commercial Operations.** LICENSEE may conduct the Authorized Activity and operate the Commercial Kitchen. LICENSEE, its employees, customers, guests, agents, and/or invitees may not display or offer for sale or sell any article(s) or merchandise whatsoever within the Premises without the prior written approval of LICENSOR and upon such terms and conditions established by LICENSOR, and provided that such commercial activity is authorized by, and in compliance with, Applicable Laws.
- 57. Abandoned Vehicles.** LICENSEE shall not under any circumstances place or store abandoned vehicles within the Premises. Any and all vehicles that are abandoned after the Effective Date herein within the Premises shall be removed by LICENSEE at LICENSEE's cost and expense.

58. **Removal of Trash.** LICENSEE shall be responsible for the proper disposal of trash generated by LICENSEE's commercial operations and the removal of all illegally dumped trash within the Premises at LICENSEE's cost and expense.
59. **Prehistoric and Historic Remains.** In the event any historic, prehistoric, or archaeological sites or remains, such as shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings, or walls are found on the Premises, LICENSEE and LICENSEE's agents, employees, and representatives shall immediately stop all land utilization and/or work and contact the Historic Preservation Office in compliance with Chapter 6E, HRS, and shall notify LICENSOR of these events.
60. **Audits. [Reserved.]**
61. **Passage and Access.** LICENSEE shall not impede or restrict passage or access by other licensees to other areas of the Property or to any common area serving the Property or any part thereof (including the Premises) that may be located on the Premises.
62. **Performance Bond.** The LICENSEE shall, within ninety days of the effective date of this License, procure and deposit a copy of the performance bond with LICENSOR and thereafter keep in full force and effect during the term of this License, a good and sufficient surety bond in an amount equal to two times the annual base rental, conditioned upon the full and faithful observance and performance by the LICENSEE of the license terms, conditions, and covenants of the License. The bond shall provide that in case of a breach or default of any of the terms, conditions, and covenants contained herein, the full amount of the bond shall be paid to the LICENSOR as liquidated and ascertained damages and not as a penalty.

The LICENSOR may waive or suspend the performance bond requirement at its discretion; provided that the LICENSEE has substantially complied with the terms, conditions, and covenants of this License, and written suspension of the performance bond is signed by LICENSEE and acknowledged by LICENSOR. LICENSOR reserves the right to reinstate the performance bond requirement at any time throughout the term of the License.

**Performance Bond Waived:   X   Yes        No.**

**63. Justification of Sureties.**

[Not Applicable.]

**64. Recordation.** LICENSOR and LICENSEE agree that this License or a short form or memorandum hereof may be recorded in the Bureau of Conveyances of the State of Hawai'i or with the Assistant Registrar of the Land Court of the State of Hawai'i, as applicable, to give notice of this License to third parties and of the license of the Premises granted hereunder by LICENSOR to LICENSEE for the term specified herein.

**65. Fire or Other Casualty.** LICENSEE shall in case of fire or other casualty give immediate notice thereof to LICENSOR, and in case the Premises or Improvements thereon, including the Commercial Kitchen, are totally or partially destroyed or damaged by fire or other casualty as to render the Premises or the Improvements totally or partially inaccessible or unusable or untenable for a period exceeding one hundred twenty days then this License may be terminated at the option of LICENSEE.

[The remainder of this page intentionally left blank; Definitions follow.]

## DEFINITIONS

As used in this License Agreement, unless the context otherwise requires:

“Common Area” means those portions of the Property that are not encumbered by any exclusive license or other conveyance to any licensee, lessee, permittee, or other grantee and any other area of the Property that may be designated by LICENSOR from time to time for the shared use of all licensees, lessees, permittees, or other grantees, in common with such other authorized users, and shall include, but is not limited to, vehicle parking areas, roadways, service areas, driveways, and areas of ingress and egress used in connection with and for the convenience of users of the Property, sidewalks and other pedestrian ways, areas containing buildings or structures thereon, public restrooms and other common facilities from time to time provided for the convenience and common use of all licensees, lessees, permittees, or other grantees of the Property, landscaped areas, planted areas together with plants and planting thereon, and areas containing gates, signs, directories, pylons, or structures defining the locations of or the direction to various areas or advertising the common name for the Property.

“Days” shall mean calendar days, unless otherwise specified.

“Drainage easements” and “flowage easements” mean natural or improved drainage courses that serve to convey stream flows from one point to another.

“Hazardous discharge” means any event involving the use, deposit, disposal, spill, release, or discharge of any hazardous materials on, within, or under the Premises.

“Hazardous materials” shall mean any pollutant, toxic substance, hazardous waste, hazardous material, hazardous substance, or oil, including any and all flammable explosives, radioactive materials, asbestos, petroleum and oil and their products, organic compounds known as polychlorinated biphenyls, chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, toxic substances or related materials, as defined in or pursuant to the Resource Conservation and Recovery Act, as amended, the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, the Federal Clean Water Act, or any other federal, state, or local environmental law, regulation, ordinance, rule, or by-law, whether existing as of the date hereof, previously enforced, or subsequently enacted.

“Hazardous materials baseline” means the extent of the hazardous materials found or discovered upon the Premises prior to the Effective Date of the License as contained and described in



the Phase Two Environmental Site Assessment prepared by **Enpro Environmental** for LICENSOR and issued December 9, 2013.

“Hazardous materials claims” means and includes: (i) any and all enforcement, clean-up, removal, mitigation, or other governmental or regulatory actions instituted or, to the best of LICENSEE’s knowledge, contemplated or threatened, with respect to the Premises pursuant to any hazardous materials laws, and (ii) any and all claims made or, to the best of LICENSEE’s knowledge, contemplated or threatened by any third party against LICENSEE or the Premises seeking damages, contribution, cost recovery, compensation, injunctive relief, or other relief resulting from any hazardous discharge or from the existence of any hazardous materials on, within, or under the Premises.

“Hazardous materials laws” means and includes all federal, state, and local laws, ordinances, and regulations now or hereafter in effect relating to environmental conditions, industrial hygiene and/or hazardous materials on, within, under, or about the Premises, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §9601, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. §6901, et seq., the Hazardous Materials Transportation Act, as amended, 49 U.S.C. §5101, et seq., the Clean Water Act, 33 U.S.C. §1251, et seq., the Clean Air Act, 42 U.S.C. §7401, et seq., the Toxic Substances Control Act, as amended, 15

U.S.C. §§2601, et seq., the Safe Drinking Water Act, 42 U.S.C. §§300f through 300j, the Emergency Planning and Community Right-To-Know Act, 42 U.S.C. §§11011 through 11050, the Environmental Response Law, Chapter 128D, HRS, and any similar state or local laws, ordinances, and the regulations now or hereafter adopted, published, and/or promulgated pursuant thereto.

“LICENSEE” includes LICENSEE, its heirs, personal representatives, executors, administrators, successors, and permitted assigns.

“Premises” means the approximately 4.8 acres of land situated in Whitmore Village, Wahiawa, Oahu, Hawai‘i, bearing Tax Map Keys: (1)7-1-002:004 (por) and 009 (por), that includes the land hereby licensed by LICENSOR to LICENSEE and all buildings and improvements now or hereinafter constructed and installed thereon except for any buildings or improvements specifically excluded from the description of the Premises in the License.

“Property” means the approximately 283 acres of land situated in Wahiawa, Oahu, Hawai‘i, bearing Tax Map Keys: (1)7-1-002:004, 009, 022, and 023.

“Security interest” means any interest created, attached or perfected by a lien, mortgage, assignment by way of mortgage, or financing statement and encumbering the License, the Premises, or personal property located at, affixed or to be affixed to, or growing or to be grown upon the demised Premises.

“Sub-licensing” includes any long-term or short-term rental or occupation of the property by or to a third party.

“Waste” includes (1) permitting the Premises or any portion thereof to become unduly eroded or failure to take proper precautions or make reasonable effort to prevent or correct same; (2) permitting any material increase in noxious weeds or alien plant species in or on the Premises or any portions thereof; (3) failure to employ all of the usable portions of the Premises; and (4) abandonment of the Premises.

[The remainder of this page intentionally left blank; Exhibits follow.]

EXHIBIT A

Property Map

[see following pages]



STATE OF HAWAII  
**AGRIBUSINESS**  
 DEVELOPMENT CORPORATION

Central Oahu Agriculture and  
 Food Hub Property

TMK (1) 7-1-002:009, :004 (por.)



Esri, TomTom, Garmin, NOAA, USGS, EPA, USFWS, Esri Community  
 Maps Contributors, City and County of Honolulu, © OpenStreetMap, Mapbox,  
 Esri, TomTom, Garmin, DeLorme, GeoEye, IGN, GeoEye, Esri, US Census  
 Bureau, USDA, USFWS. This work is licensed under the Esri Master License  
 Agreement/View Summary / View Terms of Use Esri. This layer is not  
 intended to be used to support claims for title. Esri, USGS This map was  
 developed by the Agribusiness Development Corporation, State of Hawaii.



Approx location of  
DOE kitchen

TMK (1)7-1-2-4

TMK (1)7-1-2-9

EXHIBIT B

Land Utilization and Development Plan

[see following page]

EXHIBIT C

Identification of  
State Owned Improvements

DRAFT



**STATE-OWNED IMPROVEMENTS**

| <b>ID</b> | <b>Improvement</b> | <b>Valuation</b> |
|-----------|--------------------|------------------|
| 1         | None               |                  |

DRAFT

IN WITNESS WHEREOF, the parties hereto have caused this License Agreement to be executed this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

**LICENSOR**

STATE OF HAWAI'I,  
AGRIBUSINESS DEVELOPMENT  
CORPORATION

By \_\_\_\_\_  
Wendy L. Gady  
Its Executive Director

APPROVED AS TO FORM:

By \_\_\_\_\_  
Delanie Prescott-Tate  
Its Deputy Attorney General

**LICENSEE**

STATE OF HAWAI'I  
DEPARTMENT OF EDUCATION

By \_\_\_\_\_  
Its

By \_\_\_\_\_  
Its

APPROVED AS TO FORM:

By \_\_\_\_\_  
Ryan Roylo  
Its Deputy Attorney General

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

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me appeared **WENDY L. GADY**, to me personally known, who, being by me duly sworn, did say that he is the Executive Director of the STATE OF HAWAI'I, AGRIBUSINESS DEVELOPMENT CORPORATION, a State Agency of the State of Hawai'i; and that said instrument was signed on behalf of said agency by authority of its Statutes; and said **WENDY L. GADY** acknowledged said instrument to be the free act and deed of said Agency of the STATE OF HAWAI'I.

\_\_\_\_\_  
Name: \_\_\_\_\_  
Notary Public, State of Hawai'i  
My commission expires: \_\_\_\_\_

(Notary Stamp or Seal)

|  |  |
|--|--|
| <u>NOTARY CERTIFICATION STATEMENT</u>                    |  |
| Document Identification or Description:                  | License Agreement No. _____                      |
| Document Date: _____                                     |  |
| No. of Pages: _____                                      |  |
| Jurisdiction (in which notarial act is performed): _____ |  |
| Signature of Notary                                      | Date of Notarization and Certification Statement |
| Printed Name of Notary                                   | (Notary Stamp or Seal)                           |

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

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

\_\_\_\_\_  
Name: \_\_\_\_\_

Notary Public, State of Hawai'i

My commission expires: \_\_\_\_\_

(Notary Stamp or Seal)

| <u>NOTARY CERTIFICATION STATEMENT</u>                    |  |
|--|--|
| Document Identification or Description:                  | License Agreement No. _____<br>_____             |
| Document Date: _____                                     |  |
| No. of Pages: _____                                      |  |
| Jurisdiction (in which notarial act is performed): _____ |  |
| Signature of Notary                                      | Date of Notarization and Certification Statement |
| Printed Name of Notary                                   | (Notary Stamp or Seal)                           |

**MEMORANDUM OF UNDERSTANDING  
Between the Hawaii Farm Bureau Federation and the  
State of Hawaii Agribusiness Development Corporation  
for Use of Agricultural Land for the Farm Fair**

This Memorandum of Understanding (MOU) is effective as of DATE, 2024, by and between the State of Hawaii Agribusiness Development Corporation (ADC), whose business and mailing address is 235 S. Beretania St., Suite 205, Honolulu, HI 96813, and the Hawaii Farm Bureau Federation (HFB), whose mailing address is P.O. Box 253, Kunia, HI 96759, each a Party and collectively, the Parties.

**RECITALS**

WHEREAS, HFB is a domestic advocacy organization for all agriculture in the State of Hawaii; and

WHEREAS, since 1962, HFB has hosted an annual Farm Fair at multiple locations over the years; and

WHEREAS, most recently the Farm Fair was held at Kualoa Ranch where approximately 15,000 attendees over two days participated in activities that included a petting zoo, food booths, country market, and agricultural equipment demonstrations; and

WHEREAS, in 2023 Kualoa Ranch gave HFB notice that the lands used for the Farm Fair would not be available in 2024; and

WHEREAS, ADC has some vacant agricultural land available near Whitmore Village, Oahu, that may be suitable for purposes of providing a venue and parking for the Farm Fair; and

WHEREAS, HFB wishes to utilize the vacant agricultural land for the Farm Fair, and ADC desires to provide the vacant agricultural land to HFB for holding the Farm Fair;

NOW THEREFORE, the Parties agree as follows:

**1. Purpose**

The purpose of this MOU is to establish an agreement between ADC and HFB regarding the temporary use of ADC’s agricultural property for the purpose of hosting a Farm Fair. The fair aims to promote agricultural awareness, community engagement, and provide an opportunity for local vendors and farmers to showcase their products and services.

**2. Property Description**

The property to be used for the event is located at tax map key numbers (1) 7-1-002:037; (1) 7-1-002:044; and (1) 7-1-002:041, which encompasses approximately 13 acres. Areas specifically designated for use will be agreed upon and marked prior to the event.

### 3. **Term; Event Date and Time**

**Term:** This MOU shall remain in effect for one year unless sooner terminated by either Party in accordance with paragraph 10 of this MOU. This MOU shall automatically renew for successive terms of one year unless either Party provides thirty days written notice to the other of its intent not to renew or the agricultural land is no longer available.

#### **The Farm Fair will take place on:**

Date(s):

Setup:

Event Start and End Times:

Teardown/Removal of Materials:

### 4. **HFB's Responsibilities**

HFB agrees to:

**Event Planning:** Coordinate all aspects of the Farm Fair, including logistics, vendors, programming, and scheduling.

**Permits and Compliance:** Obtain all necessary permits, licenses, and insurance policies required by state and local authorities.

**Insurance:** Provide proof of liability insurance covering the event, with ADC named as an additional insured party. Coverage should be no less than \$1,000,000.00 per occurrence.

**Security and Safety:** Ensure security and emergency measures are in place, including crowd control, medical assistance, and fire safety.

**Setup and Teardown:** Set up and remove all equipment, tents, and temporary structures within the agreed time frames and ensure that the property is restored to its original condition after the event.

**Waste Management:** Arrange for proper disposal of waste and recycling generated during the event and leave the site free from litter and debris.

**Parking and Traffic Management:** Designate and manage parking areas and traffic flow to prevent disruption to surrounding areas.

**Respect Agricultural Land:** Ensure attendees respect the boundaries of designated fair areas and do not damage crops, livestock, fencing, or other agricultural features.

## 5. ADC Responsibilities

ADC agrees to:

**Property Access:** Grant access to HFB for setup, the event, and teardown during the agreed-upon dates and times.

**Use of Facilities:** Permit the use of designated areas of the property for activities including vendor stalls, food and beverage service, and public entertainment.

**Site Information:** Provide basic property information and orientation to HFB, including layout, utilities access, and emergency points.

**Utility Access:** Provide access to utilities such as water and electricity if available, to be used as per prior arrangement and with a clear understanding of consumption limitations.

## 6. Financial Terms

**Rental/Usage Fee:** HFB agrees to pay ADC a rental fee of \$\_\_\_\_\_ for the use of the property, due by \_\_\_\_\_. Any additional charges related to utility usage or damage repair will be billed within ten days post-event.

**Deposit:** A refundable deposit of \$\_\_\_\_\_ is required to cover potential damages and will be returned within fourteen days after the property has been inspected post-event.

## 7. Liability and Indemnification

**Liability Waiver:** HFB assumes all responsibility for the actions of its staff, vendors, and participants during the Farm Fair and agrees to hold ADC harmless from any claims, damages, or losses that may arise due to the event.

**Indemnification:** HFB agrees to indemnify and hold harmless ADC from any claims, lawsuits, or damages related to injury, property damage, or other incidents occurring during the event.

## 8. Cancellation Policy

**Notice of Cancellation:** HFB agrees to provide written notice to ADC at least fourteen calendar days prior to the event in case of cancellation. If HFB cancels within less than fourteen calendar days of the event, ADC reserves the right to retain all of the rental fee as compensation.

**Force Majeure:** Neither party shall be held liable for failure to perform its obligations under this MOU if such failure is caused by events beyond the reasonable control of the parties, including natural disasters, governmental orders, or other unforeseeable events.

**9. Property Restoration**

HFB agrees to restore the property to its original condition, removing all event-related equipment, debris, and any temporary structures. Any damage to the property or facilities will be assessed, and repair costs will be the HFB's responsibility.

**10. Amendment and Termination**

**Amendment:** This MOU may be amended only by written mutual agreement of both parties.

**Termination:** Either party may terminate this MOU with thirty days prior written notice to the other Party.

**11. Miscellaneous**

**Governing Law; Severability:** This MOU shall be governed by and construed in accordance with the laws of the State of Hawaii. If any provision of this MOU is held to be invalid or unenforceable, the validity of the other provisions shall remain unaffected.

**Entire Agreement:** This MOU constitutes the entire agreement between the Parties and supersedes all prior agreements or understandings, written or oral, relating to the subject matter.

**Paragraph Headings:** The paragraph headings are inserted only for convenience and reference and shall in no way define, describe, or limit the scope or intent of any provision of this MOU.

**12. Counterparts:** This MOU may be executed in one or more counterparts, each of which shall be deemed an original, and said counterparts will together constitute one and the same agreement and shall be binding on each of the Parties notwithstanding that all of the Parties are not signatory to the original or the same counterpart. The submission of a signature page by facsimile transmission, or similar electronic submission facility (e.g., email) shall be deemed to constitute an "original" signature page for all purposes, and facsimile or electronic copies shall be deemed to constitute duplicate originals.

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



THE PARTIES HERETO HAVE REVIEWED, AGREED TO, AND EXECUTED THIS MEMORANDUM OF UNDERSTANDING EFFECTIVE ON THE DATE FIRST NOTED ABOVE.

HAWAII FARM BUREAU FEDERATION

By: \_\_\_\_\_  
Brian Miyamoto,

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

STATE OF HAWAII  
AGRIBUSINESS DEVELOPMENT CORPORATION

By: \_\_\_\_\_  
Wendy Gady, Executive Director

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

DRAFT

STATE OF HAWAII  
**AGRIBUSINESS DEVELOPMENT CORPORATION**

E-6

STAFF SUBMITTAL TO THE BOARD OF DIRECTORS  
November 21, 2024

Subject: Request for approval to establish a permitted interaction group to develop goals and objectives for the executive director for FY2025; to consider salary amount for the executive director for FY 2025 and to consider salary amount for the executive director retroactive July 1, 2024; appointment of members thereto

Applicant: Agribusiness Development Corporation (ADC)

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

*Request for approval to establish a permitted interaction group to develop goals and objectives for the executive director for FY2025; to consider salary amount for the executive director for FY 2025 and to consider salary amount for the executive director retroactive July 1, 2024; appointment of members thereto*  
November 21, 2024

**BACKGROUND:**

Section 163D-3(d) permits the Board of Directors (Board) of the Agribusiness Development Corporation to hire and set the salary for the executive director. The following section, 163D-3(e), requires that “The (B)oard 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.

**REQUEST:**

Staff requests that a permitted interaction group (Committee) be established to 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. (Request)

**OPERATIONAL PLAN:**

Upon approval of the Request and appointment of members to the Committee, a staff member will be appointed to coordinate and schedule meetings of the Committee.

**CONSERVATION PLAN:**

N/A

**CHAPTER 343:**

Under section 343-5(a), Hawaii Revised Statutes, an environmental assessment shall be required for actions, that propose, among other things, the “(1) use of state land or county lands, or the use of state or county funds[.]” This Request does not trigger the environmental review process.

**DISCUSSION:**

There is no fiscal impact associated with the creation and operation of the Committee beyond staff time. Staff notes that staff goals and objectives are tied, in part, to the executive director’s annual goals and objectives as set by the Board. Until such time as the executive director’s goals and objectives are determined by the Board, staff goals and objectives for FY25 (we’re already in 2<sup>nd</sup> Quarter) cannot be finalized.

**RECOMMENDATION:**

Based on the foregoing, staff recommends that the Board:

1. Approve the Request; and
2. The Committee shall automatically dissolve upon the presentation of the final report to the Board; and
3. Declare that, pursuant to ADC’s Comprehensive Exemption List dated May 1, 2018, the proposed action is a de minimis action and will 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 for approval to establish a permitted interaction group to develop goals and objectives for the executive director for FY2025; to consider salary amount for the executive director for FY 2025 and to consider salary amount for the executive director retroactive July 1, 2024; appointment of members thereto*  
November 21, 2024

Respectfully Submitted,

*Lyle Roe*

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LYLE ROE  
Asset Manager

**ED PIG Scope: November 21, 2024**

1. Make a recommendation on the ED salary for FY2024-2025 (retroactive to July 1, 2024 if increased).
2. Develop SMART goals and objectives for the ED for FY2024-2025 covering the time period between July 1, 2024 through June 30, 2025, to allow the board to annually evaluate the ED as required by HRS section 163D-3(e).

STATE OF HAWAII  
**AGRIBUSINESS DEVELOPMENT CORPORATION**

E-7

STAFF SUBMITTAL  
November 21, 2024

Subject: Request for approval to establish a permitted interaction group to make recommendations on land opportunities project on the island of Kauai for small and disadvantaged land applicants; appointment of members thereto

Applicant: Agribusiness Development Corporation (ADC)

Authority: 163D-4(a)(6), (15), Hawaii Revised Statutes

**BACKGROUND:**

In the Spring of 2024, ADC published a request for land application. Well over 30 land applications were received, including many from small and disadvantaged immigrant farmers who were being displaced from their current farmland on both Oahu and Kauai islands. Many of these farmers did not meet the minimal scoring criteria required to be accepted as potential licensees. Nevertheless, farm visits suggested that some of these farmers are good farmers and may merit additional consideration.

**REQUEST:**

Staff requests that a permitted interaction group (Committee) be established to consider a potential land opportunity project for small and disadvantaged famers who may be imminently displaced from their current farming operations on Kauai, for land on Kauai. The Committee shall consider the proposed location (see Exhibit A), criteria, time frame, special license terms, and eligibility requirements for the proposed project, and present their findings and recommendations to the ADC Board of Directors (Board).

**OPERATIONAL PLAN:**

Upon approval of the Request and appointment of members to the Committee, a staff member will be appointed to coordinate and schedule meetings of the Committee.

**CONSERVATION PLAN:**

N/A

**CHAPTER 343:**

Under section 343-5(a), Hawaii Revised Statutes, an environmental assessment shall be required for actions, that propose, among other things, the “(1) use of state land or county lands, or the use of state or county funds[.]” Staff is currently consulting with other agencies to determine if an EA is required or if exemptions may apply/be appropriate. Creation and operation of the Committee is a de minimis action.

**DISCUSSION:**

There is no fiscal impact associated with the creation and operation of the Committee beyond staff time.

Many of the applicants under the aforementioned request for land application appear to be good farmers but lack certain financial resources and Good Agricultural Practices (GAP) certification(s). The Committee will bring their collective expertise to bear on the Request and report their findings and recommendations to the Board.

**RECOMMENDATION:**

Based on the foregoing, staff recommends that the Board:

1. Approve the Request; and
2. The Committee shall automatically dissolve upon the presentation of the final report to the Board; and

*to establish a permitted interaction group to make recommendations on land opportunities project on the island of Kauai for small and disadvantaged land applicants; appointment of members thereto*  
November 21, 2024

3. Declare that, pursuant to ADC's Comprehensive Exemption List dated May 1, 2018, the proposed action is a de minimis action and will 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





STATE OF HAWAII  
**AGRIBUSINESS DEVELOPMENT CORPORATION**  
HUI HO'OULU AINA MAHIAI  
235 S. Beretania Street, Suite 205  
Honolulu, HI 96813

November 21, 2024

**Subject:** Request to authorize the executive director to negotiate and execute a Memorandum of Agreement with the Hawaii Department of Agriculture to acquire the Wahiawa Spillway TMK (1)7-1-012-014

**Applicant:** Agribusiness Development Corporation (ADC)

**Authority:** 163D-4(a)(6), Hawaii Revised Statutes

**Area:** 30.0194 Acres

**Field No(s):** N/A

**Tax Map Key:** (1) 7-1-012:014

**Land Status:** Currently Owned by Sustainable Hawaii, leased by Dole Food Company, Wahiawa Water Company

**Trust Land Status:** To be determined during due diligence

**Zoning:** SLUD: Preservation  
C&C zone: Preservation

**Character of Use:** Agricultural, Preservation

**Land Doc. Type:** Letter of Intent and/or Memorandum of Understanding

**Term:** N/A

**Rental Rate:** N/A

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BACKGROUND:

During the 2023 state legislative session, Act 218 provided funds to make improvements to the Wahiawa reservoir dam spillway. The HDOA was assigned to make the improvements and after completion, the HDOA would transfer the ownership of the property and improved spillway to the Agribusiness Development Corporation (ADC) to be operated as the Wahiawa Irrigation System. Act 218 SLH 2023 assigned the Hawaii Department of Agriculture (HDOA) to purchase the spillway property, however by statute HDOA is not allowed to purchase real property. The request for the Memorandum of Agreement will allow the project to proceed using the ADC's ability to acquire real property.

REQUEST:

Request to authorize the executive director to negotiate and execute a Memorandum of Agreement with the Hawaii Department of Agriculture to acquire the Wahiawa Spillway TMK (1)7-1-012-014

OPERATIONAL PLAN:

N/A

CONSERVATION PLAN:

N/A

CHAPTER 343:

N/A

DISCUSSION:

ACT 218 SLH2023 provides funding to proceed with the requested task. The agreement will address the mechanism for the improvements HDOA will need complete on the property.

RECOMMENDATION:

Based on the foregoing, staff recommends that the Board:

1. Approve request to authorize the executive director to negotiate and execute a Memorandum of Agreement with the Hawaii Department of Agriculture to acquire the Wahiawa Spillway TMK (1)7-1-012-014 final request shall be brought to the Board for consideration and final disposition; and

Respectfully Submitted,

*Mark Takemoto*

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Mark Takemoto  
Senior Executive Assistant

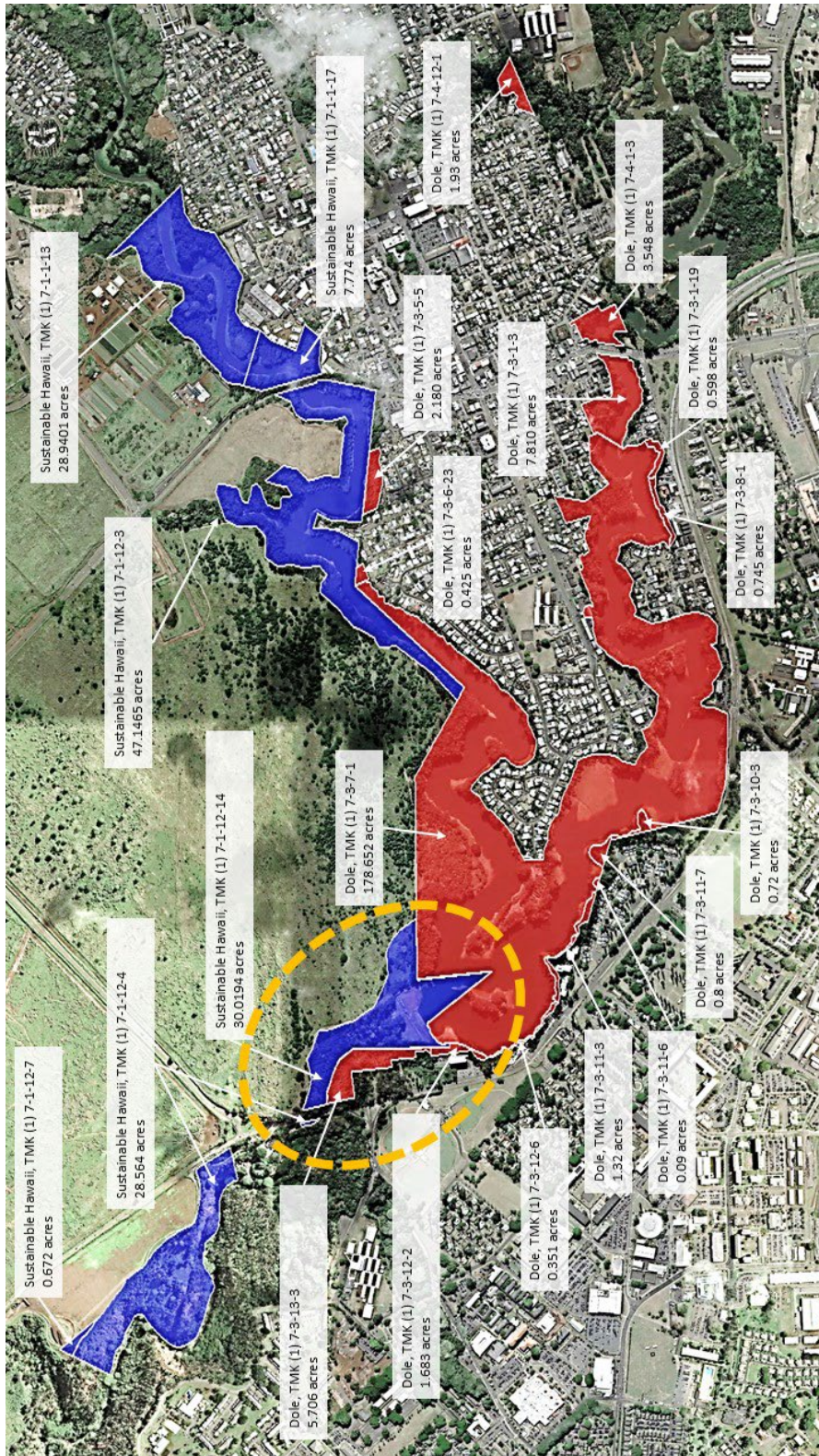
*Approved for Submission:*



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Wendy Gady, Executive Director

Exhibit A



**MEMORANDUM OF AGREEMENT**  
**Between the**  
**State of Hawaii Department of Agriculture**  
**and the**  
**State of Hawaii Agribusiness Development Corporation**

This Memorandum of Agreement (MOA), is effective as of \_\_\_\_\_, by and between the STATE OF HAWAII DEPARTMENT OF AGRICULTURE (HDOA), whose business address is 1428 S. King Street, Honolulu, HI 96814 and the STATE OF HAWAII, AGRIBUSINESS DEVELOPMENT CORPORATION (ADC), whose business address is 235 S. Beretania St. Suite 205, Honolulu, HI 96813. Each may be referred to as a “Party” or collectively as “Parties”.

**RECITALS**

WHEREAS, S.B. 833 was signed into law by the Governor as Act 218, 2023 Haw. Sess. Laws 737 (Act 218);

WHEREAS, Act 218 appropriated general funds to HDOA, the Hawaii Department of Land and Natural Resources (DLNR), and ADC to acquire the Wahiawa irrigation system and preserve the system for public access and the agriculture industry;

WHEREAS, the Wahiawa irrigation system and lands upon which the Wahiawa irrigation system is located, are owned by various private entities, including the Wahiawa Water Company, Inc., Dole Food Company, Inc., and Sustainable Hawaii, LLC;

WHEREAS, Act 218 states that the Office of the Governor shall negotiate with Wahiawa Water Company, Inc., Dole Food Company, Inc., and Sustainable Hawaii, LLC, or any other appropriate owner for the State’s fee simple acquisition of the Wahiawa irrigation system;

WHEREAS, Act 218 requires HDOA to acquire from Sustainable Hawaii, LLC, on terms agreed upon by the office of the governor, a fee simple interest in the spillway associated with the Wahiawa irrigation system, located at parcel TMK (1) 7-1-012:014, and appropriated \$5,000,000, or so much thereof as may be necessary for fiscal year 2023-2024, for HDOA to purchase said spillway;

WHEREAS, despite the legislative directive that HDOA acquire the fee simple interest in the spillway associated with the Wahiawa irrigation system, HDOA does not have the statutory authority to hold title to real property in its name;

WHEREAS, pursuant to section 163D-4(a)(6), *Hawaii Revised Statutes* (HRS), ADC does have the statutory authority to purchase fee simple interests in land, and hold title to real property in its name;

WHEREAS, contingent upon the State's acquisition of the spillway, Act 218 appropriated funds to HDOA out of the general revenues for fiscal year 2023-2024 to repair and expand the spillway associated with the Wahiawa irrigation system in order to bring the spillway into compliance with all relevant dam safety requirements;

WHEREAS, on terms agreed upon by the office of the governor, ADC on behalf of HDOA will acquire the fee simple interest in the Wahiawa irrigation system's spillway, and thereafter make the spillway on parcel TMK (1) 7-1-012:014 available to HDOA for repair and expansion to bring it into compliance with all relevant dam safety requirements;

WHEREAS, pursuant to Act 218, the purchase of the spillway associated with the Wahiawa irrigation system, shall be conditioned on an appraisal of the property pursuant to section 171-30, HRS, and HDOA has ensured that such an appraisal was completed; and

NOW, THEREFORE, in consideration of the promises contained in this MOA, the Parties have agreed as follows:

1) ADC RESPONSIBILITIES. ADC will purchase the Wahiawa irrigation system's spillway and hold title in its name within one-hundred-twenty days of the Effective Date of this MOA. ADC will be responsible for handling all matters of the transaction to purchase the Wahiawa irrigation system's spillway. Once the Wahiawa irrigation system's spillway is

purchased and title transferred to ADC, under reasonable terms to be mutually agreed to by the Parties, ADC will make the property under TMK (1) 7-1-012:014 available to HDOA by lease, set-aside, or other acceptable means, to be under HDOA's jurisdiction and control for purposes of repairing and expanding the spillway to bring it into compliance with all relevant dam safety requirements.

2) HDOA RESPONSIBILITIES. HDOA will transfer by journal voucher to ADC an amount not to exceed the Five Million Dollars (\$5,000,000.00) allocated to HDOA via Act 218 for the purchase of the Wahiawa irrigation system's spillway. HDOA will transfer the funds within thirty days of the execution of a purchase contract for ADC to purchase the Wahiawa irrigation system's spillway.

3) INTERGOVERNMENTAL COMMUNICATIONS. To provide for consistent and effective communications between HDOA and ADC, each party shall designate a Principal Responsible Party to serve as the central point of contact and communications on matters relating to activities to be provided through this MOA.

**HDOA PRINCIPAL RESPONSIBLE PARTY:**

Sharon K. Hurd  
Chairperson  
1428 S. King Street  
Honolulu, HI 96814  
808-973-9560  
sharon.k.hurd@hawaii.gov

**ADC PRINCIPAL RESPONSIBLE PARTY:**

Wendy L. Gady  
Executive Director  
Agribusiness Development Corporation  
235 S. Beretania St., Suite 205  
Honolulu, HI 96813  
808-586-0186  
wendy.l.gady@hawaii.gov

4) AMENDMENT, MODIFICATION AND TERMINATION. This MOA may be modified or amended only by written, mutual agreement of the Parties. The Parties agree that notwithstanding the above, the transfer of all buildings, structures, signs, or improvements constructed on TMK (1) 7-1-012:014 are final and such transfer shall expressly survive the amendment, modification, and termination of this MOA.

5) TERMINATION. Either Party may terminate this MOA within thirty days prior written notice to the other Party.

6) COUNTERPARTS. The MOA may be executed by the Parties in one or more counterparts, each of which shall be deemed an original, and said counterparts will together constitute one and the same agreement and shall be binding on each of the Parties notwithstanding that all the Parties are not signatory to the original or the same counterpart. The submission of a signature page by facsimile transmission, or similar electronic submission facility (e.g., e-mail or electronic signature) shall be deemed to constitute an “original” signature page for all purposes, and facsimile or electronic copies shall be deemed to constitute duplicate originals.

7) THIRD PARTY BENEFICIARY. This MOA is made solely and specifically for the benefit of the Parties, its successors, agents, representatives, and assigns. No other person or entity shall have any rights, interest, or claims hereunder or be entitled to any benefits under or on account of this MOA as a third-party beneficiary or otherwise.

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

THE PARTIES HERETO HAVE REVIEWED, AGREED TO, AND EXECUTED THIS MEMORANDUM OF AGREEMENT EFFECTIVE ON THE DATE FIRST NOTED ABOVE.

STATE OF HAWAII, DEPARTMENT OF AGRICULTURE

By: \_\_\_\_\_  
Sharon K. Hurd  
Chairperson

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Bryan C. Yee  
Deputy Attorney General

STATE OF HAWAII, AGRIBUSINESS DEVELOPMENT CORPORATION

By: \_\_\_\_\_  
Wendy L. Gady  
Executive Director

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Delanie D. Prescott-Tate  
Deputy Attorney General

APPROVED FOR ADMINISTRATIVE PURPOSES:

STATE OF HAWAII, DEPARTMENT OF  
BUSINESS, ECONOMIC DEVELOPMENT,  
AND TOURISM

By: \_\_\_\_\_  
James Tokioka  
Director

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