Amend Prior Board Action of November 12, 2021, Item D-1, *Grant of Term, Non-Exclusive Easement to Kauai Island Utility Cooperative for Utility Purposes, Kekaha, Waimea, Kauai, Tax Map Key: (4) 1-2-001: por. of 006*.

The purpose of the amendment is to correct the Tax Map Key in the prior Board action from Tax Map Key: (4) 1-2-001: por. of 006 to Tax Map Key: (4) 1-2-002: por. of 006.

**BACKGROUND:**

On May 6, 2020, the Department of Agriculture (DOA) along with KTIJC requested that the Department of Land and Natural Resources (DLNR) grant a term non-exclusive easement (the subject easement) for the purpose of installing and maintaining a powerline for DOA General Lease No. 4913a to Pioneer Hi-Bred International, Inc. At its meeting of November 12, 2021, under agenda Item D-1, the Board of Land and Natural Resources (Board) approved the requested easement. A copy of the prior Board action as attached as Exhibit 1.

**REMARKS:**

DLNR Land Division staff noticed a discrepancy with the Tax Map Key (TMK) number while processing the file. The TMK should have referenced plat 2 instead of plat 1. This amendment is to correct the erroneous tax map key number that was used in the November 12, 2021 Board action.

**RECOMMENDATION:** That the Board:

1. Amend its prior Board action of November 12, 2021, under agenda item D-1 by changing Tax Map Key: (4) 1-2-001: por. of 006 to Tax Map Key: (4) 1-2-002: por. of 006 wherever the Tax Map Key is referenced in the submittal.

2. Except as amended hereby, affirm that all terms and conditions listed in its
November 12, 2021 approval shall remain the same.

Respectfully Submitted,

Alison Neustein
District Land Agent

APPROVED FOR SUBMITTAL:

Suzanne D. Case, Chairperson
STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

November 12, 2021

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 21KD-077
Kauai

Grant of Term, Non-Exclusive Easement to Kauai Island Utility Cooperative for Utility Purposes, Kekaha, Waimea, Kauai, Tax Map Key: (4) 1-2-001: por. of 006.

APPLICANT:
Kauai Island Utility Cooperative (KIUC) whose business and mailing address is 4463 Pahee Street, Suite 1, Lihue, Hawaii 96766.

LEGAL REFERENCE:
Section 171-13 and 95, Hawaii Revised Statutes (HRS), as amended.

LOCATION:
Portion of Government land of Kekaha, Waimea, Kauai, identified by Tax Map Key: (4) 1-2-001: por. of 006, as shown on the attached map labeled Exhibit A.

AREA:
Gross Parcel area: 32.929 acres, more or less
Easement area: 2,025 square feet, more or less.

ZONING:
State Land Use District: Agriculture
County of Kauai CZO: Agriculture

TRUST LAND STATUS:
Section 5(b) lands of the Hawaii Admission Act

EXHIBIT 1
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution:  NO

CURRENT USE STATUS:

Encumbered by Governor’s Executive Order (EO) 4259 and Department of Agriculture (DOA) General Lease No. S-4913-A.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain, repair, replace and remove electrical transmission lines, poles, guy wires and anchors over, under and across State-owned land, including the right to trim and keep trimmed any trees in the way of its appliances and equipment.

TERM:

Sixty-five (65) years.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

One-time payment to be determined by independent appraisal establishing fair market rent, subject to review and approval by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See Exhibit B.

DCCA VERIFICATION:

Place of business registration confirmed: YES  
Registered business name confirmed: YES  
Applicant in good standing confirmed: YES

APPLICANT REQUIREMENTS:

Applicant shall be required to:

1) Pay for an appraisal to determine a one-time payment; and
2) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

The Board approved the set-aside of 121.409 acres of State lands to DOA under EO No. 4259 dated January 6, 2009, for agricultural purposes.

By letter dated December 17, 2018, DOA and the Agribusiness Development Corporation (ADC) jointly requested that all of the Kekaha lands under EO 3633 and 103.04 acres of the Kekaha Agricultural Park lands under EO 4259 be withdrawn, and that those lands be re-set aside for agricultural and related purposes to ADC. Both the Board of Agriculture at its meeting of October 23, 2018 and ADC Board at its meeting of November 28, 2018 have approved this request.

On March 27, 2020, the Board approved the Cancellation of EO No. 3633; Partial Withdrawal of 103.04 Acres from EO No. 4259; Reset Aside of the 164.353 Acres Formerly Under EO No. 3633 and the 103.04 Acres Withdrawn from EO No. 4259 to ADC for Agricultural and Related Purposes.

On May 6, 2020, the DOA along with KIUC requested that the DLNR grant a term non-exclusive easement (the subject easement) for the purpose of installing and maintaining a powerline for DOA General Lease No. 4913a to Pioneer Hi-Bred International, Inc. Site plans are attached as Exhibit C. Powerlines to the premises are already in place and have been since 1970. The purpose of this easement is to extend the existing powerline in order to provide power to irrigation pumps and controls, and equipment needed to support Pioneer Hi-Bred International, Inc.'s shade houses on the premises. The subject powerline extension is already in place and was completed May 2020.

Various government agencies and interest groups were solicited for comments. No response was received by the suspense date.

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.

2. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a term non-exclusive easement to KIUC covering the subject area for utility purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
A. The standard terms and conditions of the most current term easement document form, as may be amended from time to time;

B. Review and approval by the Department of the Attorney General; and

C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

Alison Neustein
District Land Agent

APPROVED FOR SUBMITTAL:

Suzanne D. Case, Chairperson
EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, Hawaii Revised Statutes (HRS), and Chapter 11-200.1-15, Hawaii Administrative Rules (HAR):

Project Title: Grant of Term, Non-Exclusive Easement to Kauai Island Utility Cooperative (KIUC) for Utility Purposes, Kekaha, Waimea, Kauai, Tax Map Key: (4) 1-2-001: por. of 006.

Project / Reference No.: 21KD-077

Project Location: Kekaha Agricultural Park, Kekaha, Waimea, Kauai, Tax Map Key: (4) 1-2-001: por. of 006.

Project Description: Grant of Term Non-Exclusive Easement to Kauai Island Utility Cooperative (KIUC) for Utility Purposes

Chap. 343 Trigger(s): Use of State Land

Exemption Class No. and Description: In accordance with Hawaii Administrative Rules (HAR) § 11-200.1-15 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on by the Environmental Council on November 10, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to General Exemption Type 1 that states, “Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving minor expansion or minor change of use beyond that previously existing,” Part 1, and Item 39 that states, “Creation or termination of easement, covenants, or other rights in structures or land.”

Cumulative Impact of Planned Successive Actions in Same Place Significant?: No. There will be no successive actions in same place or no significant cumulative impact.

EXHIBIT B
Action May Have Significant Impact on Particularly Sensitive Environment?:

No. There are no particularly sensitive environmental issues involved with the proposed use of the property.

Analysis: The proposed use will involve negligible or no expansion or change of use beyond that previously existing.

Recommendation: That the Board find this project will probably have minimal or no significant effect on the environment. The previous use has resulted in no known significant impacts, whether immediate or cumulative, to the natural, environmental and/or cultural resources in the area. That the Board find this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.
IRRIGATION PUMP PAD ELECTRICAL PLAN

EXHIBIT C