

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

January 10, 2025

PSF No.: 20KD-066
GLS-4946/RPS-7259

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

KAUAI

After-the-Fact Consent to Assignment of Lease by way of a 48.56% Stock Transfer in Sunrise Capital, Inc., Lessee Under General Lease No. S-4946, and Permittee Under Revocable Permit No. S-7256, from Christopher D. Howell, James N. Sweeney and Integrated Aquaculture International, LLC, Transferors, to Hendrix Genetics USA LLC, Transferee; Assignment of General Lease No. S-4946 from Sunrise Capital, Inc, Assignor, to Aloun Kauai Farming LLC, Assignee; Cancellation of Revocable Permit No. S-7256 to Sunrise Capital, Inc., Permittee and Waiver of Phase I Environmental Site Assessment Required under Revocable Permit No. S-7256; and Issuance of a New Revocable Permit to Aloun Kauai Farming LLC for Parking, Storage and/or Access Purposes, Hanapepe, Waimea (Kona), Kauai, Tax Map Keys: (4) 1-9-010:037 (general lease) and (4) 1-9-010:034, 035, 038, and 1-9-011:007 (revocable permit).

APPLICANTS:

Integrated Aquaculture Hawaii, LLC (IAH), Nebraska limited liability company, as merged entity; Sunrise Capital, Inc. (Sunrise), a Hawaii corporation, as Lessee/Permittee; Christopher D. Howell, James N. Sweeney and Integrated Aquaculture International, LLC (IAI), a Nebraska limited liability company, as Transferors; and Hendrix Genetics USA LLC (Hendrix), a Delaware limited liability company, as Transferee.

Sunrise Capital, Inc, a Hawaii domestic profit corporation, as Assignor to Aloun Kauai Farming LLC (Aloun), a Hawaii limited liability company, as Assignee.

LEGAL REFERENCE:

Sections 171-13, -36 and -55 Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands of Hanapepe Town Lots, Waimea (Kona), Kauai, identified by Tax Map Keys: (4) 1-9-010:037 (lease) and (4) 1-9-010:034, 035, 038, and 1-9-011:007 (permit), as shown on the attached maps/photos labeled Exhibit A.

ENCUMBRANCE/AREA/ TRUST LAND STATUS/ CHARACTER OF USE:

ENCUMBRANCE	LAND AREA	TRUST STATUS	DHHL ENTITLEMENT	CHARACTER OF USE
General Lease (GL) No. S-4946	16,855 s.f. (0.387 ac.)	5(b)	No	Wholesale/retail fish market operation.
Revocable Permit (RP) No. S-7256	35,937 s.f. (0.825 ac.)	5(b)	No	Parking, storage and/or access purposes

LEASE/PERMIT TERMS AND RENTAL:

ENCUMBRANCE	TERMS	RENTAL
GL S-4946	Fifteen years, commencing on 1/18/1985 and Expiring on 1/18/2000. Extended 24 years, Expiring on 1/17/2024. Extended 1 year, Expiring on 1/17/2025. Rental reopening Occurred on 1/18/2014 and 1/18/2021; Last rental reopening was on 1/18/2024.	\$21,200 per annum, payable in advance.
RP S-7256	Month-to-month basis for period of one year from the commencement date of 2/1/2001. Currently extended through 12/31/2025 and may be extended by action of the BLNR for additional one-year periods.	\$758.35 per month (\$9,100.20 per year)

CONSIDERATION:

Gross consideration for 2020 transaction: \$3,617,634

Gross consideration for the 2025 transaction: \$1,400,000

The parties did not allocate a value to the subject lease in either the 2020 or 2025 transaction. Accordingly, Land Division procured an appraisal (at lessee's cost) to determine what a willing buyer would pay a willing seller for both transactions. The 2020 transaction involved the transfer of a 48.56% interest in the lease appraised at \$353,000. The 2025 transaction involves the transfer of a 100% interest in the lease appraised at \$1,020,000.

In regard to the 2025 transaction, the parties did not consider the State leases as assets because of the fact that, in the event the leases were extended by the State, it would be at market rates, with additional obligations on the part of Aloun to commit to improvements, so no value has been attributed to the State leases for purposes of the sale. Accordingly, the assignment of the State leases is considered a condition precedent to closing versus one of the conveyed assets.

RECOMMENDED PREMIUM:

Premium for the 2020 transaction: \$82,515

Premium for the 2025 transaction: \$125,142

Refer to Exhibits C and D attached.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules (HAR) § 11-200.1-16 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 Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing." and Item 40, which states, "Leases of state land involving negligible or no expansion or change of use beyond that previously existed." The proposed lease assignment is a de minimis action that will probably have minimal or no significant effect on the environment and should be declared exempt from the preparation of an environmental assessment and the requirements of § 11-200.1-17, HAR.

DCCA VERIFICATION:

ALOUN KAUAI FARMING LLC:

Place of business registration confirmed:	YES <u>X</u>	NO
Registered business name confirmed:	YES <u>X</u>	NO
Good standing confirmed:	YES <u>X</u>	NO

SUNRISE CAPITAL, INC:

Place of business registration confirmed:	YES <u>X</u>	NO
Registered business name confirmed:	YES <u>X</u>	NO
Good standing confirmed:	YES <u>X</u>	NO

As a stockholder of Lessee/Permittee (Sunrise), Hendrix is not required to register separately with the Department of Commerce and Consumer Affairs.

JUSTIFICATION FOR REVOCABLE PERMIT:

At this time, staff believes that a month-to-month tenancy for parking, storage and/or access purposes is the appropriate disposition since no other parties have expressed interest to utilize/lease the subject area. In addition, the potential revenue to be generated by a lease for maintenance uses may not be sufficient to justify the investment of staff time and resources required to conduct a public auction for a sale of lease of the property.

REMARKS:

General Lease No. S-4946 (GL S-4946) was originally issued to Glenn Aquiza via a lease auction and executed on January 18, 1985.

At its meeting of May 28, 1993, under item F-1-a, the Board consented to the assignment of GL-4946 from Glenn Aquiza to Moana Lois Kinimaka.

In 1992, Hurricane Iniki damaged the building and at its meeting of June 25, 1993, under item F-10, the Board approved a 24-year extension of lease term and consent to mortgage. This lease extension updated the lease and added the lease assignment premium analysis provision and the provision treating a stock transfer of 20% or more as a transfer as described under Act 104, Session Laws Hawaii 1989.

At its meeting of April 28, 2000, under item D-24, the Board consented to the assignment of GL-4946 from Moana Lois Kinimaka to Controlled Environment Aquaculture Technology (CeaTech).

At its meeting of January 12, 2001, Item D-1, the Board approved the issuance of Revocable Permit No. S-7256 to CeaTech.

CeaTech and its affiliated entities filed voluntary bankruptcy petitions under the Bankruptcy Code on March 22, 2005. Thereafter, pursuant to an Asset Purchase Agreement, dated June 2005, as approved by the Bankruptcy Court, Sunrise acquired the operating assets of the CeaTech entities, including the rights under GL S-4946 and RP S-7256.

The assignment of GL S-4946 and RP S-7256 to Sunrise was approved by the Board at its meeting on July 22, 2005, under agenda Item D-2, and formal Board consents were prepared and executed in connection therewith. As of June 30, 2006, Sunrise and another aquaculture company (named Kona Bay Marine Resources, Inc.) were merged in a transaction that was also formally approved and consented to by the Board at its meeting of June 23, 2006, under agenda Item D-10.

Sunrise develops and produces special genetic lines of specific-pathogen-free Pacific white shrimp for sale as brood stock to shrimp growers around the world (mostly in Asia). Sunrise owns and operates expensive aquaculture facilities on the Island of Kauai and is the principal tenant at the **Department of Agriculture's (DOA) Kekaha Agricultural Park where the company's farm and aquaculture ponds are located.** **General Lease No. S-5367** for the hatchery facility was transferred by the Board to DOA by Executive Order No. 4259 dated January 6, 2009, pursuant to Act 90 Session Laws of Hawaii 2003.

Sunrise holds a 20-year license agreement from the Agribusiness Development Corporation (ADC) for expansion of **the Sunrise's aquaculture operations.** The permit for the operation and maintenance of the existing water transportation system and the taking of water from Kokee and Kekaha ditches was transferred from the Board to ADC. Sunrise also leases the premises under GL S-4946 and RP S-7256 from the Board for the processing

plant and various parking/storage facilities in Hanapepe.

At its meeting of August 28, 2009, under agenda Item D-2, the Board consented to a stock transfer in Sunrise from Sunrise to IAH. On August 5, 2016, IAH was merged with and into IAI, with IAI being the surviving entity. Prior to the merger, IAH was the wholly owned subsidiary of IAI. By oversight, Sunrise did not seek prior Board approval for the 2006 merger.

At its meeting of December 8, 2017, under agenda Item D-1, the Board approved the after-the-fact consent to merger of IAH with and into IAI; Consent to 51% stock transfer in Sunrise, Lessee under GL S-4946, and Permittee under RP S-7256, from Sunrise and IAI (via mesne transfers), Transferors, to Hendrix, Transferee.¹ No lease assignment premium was assessed for this transaction as the staff calculations showed a negative net consideration for the lease at -\$189,791.²

By letter dated June 24, 2020, Craig P. Wagnild, Esq. on behalf of Sunrise, requested Board approval for an internal ownership sale and purchase transaction, effective July 1, 2020.³ Pursuant to a separate Sale and Purchase Agreements by and between Hendrix and each of IAI, a Missouri limited liability company, Christopher Howell, and James Sweeney, Hendrix had purchased and acquired the 48.56% of the shares of stock of Sunrise (Internal Transaction).⁴ The Internal Transaction did not change Sunrise as the lessee under GL S-4946 or the permittee under RP S-7256, but as to GL S-4946 the transfer is deemed an assignment of the lease by virtue of paragraph 13 of the lease (as amended and extended), which provides as follows:

If the Lessee is a partnership, joint venture or corporation, the sale or transfer of 20% or more of ownership interest or stocks by dissolution, merger or any other means shall be deemed an assignment for purposes of this paragraph and subject to the right of the Lessor to impose the foregoing premium.

Because the transfer of a 48.56% ownership interest was involved in the Internal Transaction, it is deemed an assignment of lease. However, there will be no change in the use by Sunrise of the premises covered by GL S-4946 and RP S-7256 as a result of the Internal Transaction.

Mr. Wagnild explains that prior to the consummation of the Internal Transaction, Hendrix

¹ Although the Board consented to a 51% stock transfer, according to the attorney for Sunrise, the actual percentage of stock transferred was 51.39%.

² A copy of the Board action of December 8, 2017, under agenda Item D-1, can be found here: <https://dlnr.hawaii.gov/wp-content/uploads/2017/12/D-1.pdf>

³ The June 24, 2020 letter was apparently reviewed by the former Kauai District Land agent who retired in 2021. The letter was placed in the lease file without action and the remaining Kauai District Land Office remained unaware of the transaction until it was mentioned at the January 12, 2024 Board meeting when Item D-2 was taken up.

⁴ Hendrix is now requesting a consent to 48.56% ownership interest, leaving 0.05% of stock remaining under the ownership of a phantom owner.

already owned 51% of the shares of stock of Sunrise. Therefore, the Internal Transaction did not change the controlling majority ownership of Sunrise. The Internal Transaction did not bring any new shareholders or owners into Sunrise – it merely increased the percentage ownership of the current controlling majority ownership of Hendrix. There was no change to the **supervisory personnel or management of Sunrise’s operations in the State of Hawaii**. There were **no changes to Sunrise’s operations as a result of the Internal Transaction**.

At its meeting of January 12, 2024, under agenda item D-2, Sunrise requested a 25 year extension, but the Board amended the request and consented to a 1 year extension period and requested additional appraisal information and a recommendation to address the 2020 stock transfer lessee's representatives mentioned during the meeting, which staff had not previously been apprised of and which had not previously been presented to the Board until now (see footnote 3 above).

A review of the lease documents and information provided by lessee was conducted and staff applied the formula approved by the Land Board on December 15, 1989, agenda item F- 10 (as shown on Exhibit B), comprising of the Assignment of Lease Evaluation Policy. Staff determined as assignment premium of \$82,515 is due for the 2020 transaction. The consideration and assignment premium calculations are shown in the attached Exhibit C.

Aloun has entered into an asset purchase agreement with Sunrise. As mentioned above, Sunrise is in the business of shrimp breeding activities and supplying shrimp broodstock through its **“Kona Bay” brand and operations (“Kona Bay Business”)** and in the business of processing and selling farm-raised shrimp grown on the Island of Kauai, Hawaii through its **“Kauai Shrimp” brand and operations (“Kauai Shrimp Business”)**. The bill of sale is expected to close on January 31, 2025.

Aloun explains that Aloun Farms is more than a family farm. It is a community of farmers, chefs and students on a mission to provide the people of Hawaii with the highest quality of fresh locally grown produce, while at the same time, educating future generations on the importance of agriculture. Aloun reports that it currently provides full-time employment to 180 people and has expanded production to approximately 3,000 acres (Ewa Plains, Kunia, Waipio, and Helemano). The company aims to provide Hawaii consumers with "the highest quality of fresh island-grown produce." Together with the communities of Ewa and Central Oahu, Aloun states it strongly supports community outreach through educational tours and collaboration with the Future Farmers of America program. School-to-work programs, educational farm visits, and practical training for FFA high school students have been implemented to support Hawaii's agriculture industry. Through the purchase agreement with Sunrise, Aloun hopes to expand and diversify their food production.

As with the 2020 transaction, staff applied the Assignment of Lease Evaluation Policy (Exhibit B) to the proposed 2025 transaction. Staff determined as assignment premium of \$125,142 is due for the 2025 transaction. The consideration and assignment premium calculations are shown in the attached Exhibit D. The assessment of an assignment

premium for the 2025 transaction is dependent upon the Board approving a 25-year lease extension for GL S-4946, which is presented under a separate item on today's agenda. If no lease extension is approved, then the assignment premium is moot because the lease will expire on January 17, 2024.

Sunrise has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

Aloun has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

The last rental reopening was on 1/18/2021. There are no outstanding rental issues at this time.

No agency or community comments was solicited as there will not be any change in disposition or use of the property.

Revocable Permit No. S-7256 is for storage and parking purposes and upon inspection, it appeared to adhere to such use. Since only the ownership and not the nature of the business or use of the area is changing, staff is recommending waiver of the Level One (1) Hazardous Waste Evaluation requirement as described below in RPS-7256 section 14:

Prior to the termination of the subject permit, Permittee shall conduct a Level one (1) Hazardous waste Evaluation and conduct a complete abatement and disposal, if necessary, satisfactory to the standards required by the Federal Environmental Protection Agency, the Department of Health, and the Department of Land and Natural Resources. The termination will not be approved by the Board of Land and Natural Resources unless this evaluation and abatement provision has been executed.

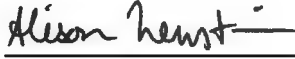
Aloun is aware that they will assume the liability of any hazardous waste that may be present on site and will be required to complete a Level One (1) Hazardous Waste Evaluation upon termination as a requirement in the new RP.

RECOMMENDATION: That the Board:

- A. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Section 11-200.1-16, 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 as a de minimis activity.
- B. Based on the testimony and facts presented, find that approving the revocable permit, under the conditions and rent forth herein, would serve the best interests of the State.


- C. Consent after the fact to the assignment of GL No. S-4946 by way of a transfer of 48.56% of the stock of Sunrise, Lessee, under GL No. S-4946 and Permittee under RP S-7256, from Christopher D. Howell, James N. Sweeney and IAI (via mesne transfers), Transferors, to Hendrix, Transferee, subject to the terms and conditions cited above, and further subject to the following:
1. The standard terms and conditions of the most current consent to assignment of lease form, as may be modified to reflect the Land Board's **consent to the stock transfer**;
 2. Payment to the State of Hawaii, Department of Land and Natural Resources, of a lease assignment premium in the amount of \$82,515 within 30 days of **today's action**;
 3. Review and approval by the Department of the Attorney General; and
 4. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interest of the State.
- D. Consent to the assignment of under GL S-4946 from Sunrise, Assignor, to Aloun Kauai Farming LLC, Assignee, subject to the terms and conditions cited above, and further subject to the following:
1. The standard terms and conditions of the most current consent to assignment of lease form, as may be modified from time to time;
 2. Payment to the State of Hawaii, Department of Land and Natural Resources, of a lease assignment premium in the amount of \$125,142 within 30 days of **today's action**;
 3. Review and approval by the Department of the Attorney General; and
 4. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interest of the State.
- E. Authorize the cancellation of RP S-7256 to Sunrise, Permittee, covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
1. Effective December 31, 2024; and
 2. The Level One (1) Hazardous Waste Evaluation required under section 14 of the permit shall be waived.

- F. Authorize the issuance of a new RP to Aloun Kauai Farming LLC covering the subject area for parking, storage and/or access purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
1. Effective January 1, 2025;
 2. The standard terms and conditions of the most current revocable permit form, as may be amended from time to time;
 3. Review and approval by the Department of the Attorney General; and
 4. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interest of the State.

Respectfully Submitted,

Alison Neustein
District Land Agent

APPROVED FOR SUBMITTAL:

RT



Dawn N. S. Chang, Chairperson


EXHIBIT A



Hanapepe, Kauai. Premises of General Lease No. S-4946, TMK: (4) 1-9-010:037, shown in blue border. Premises of Revocable Permit No. S-7256 are in same vicinity. See following location maps for more information.

EXHIBIT A



General Lease No. S-4946 Parcel: 


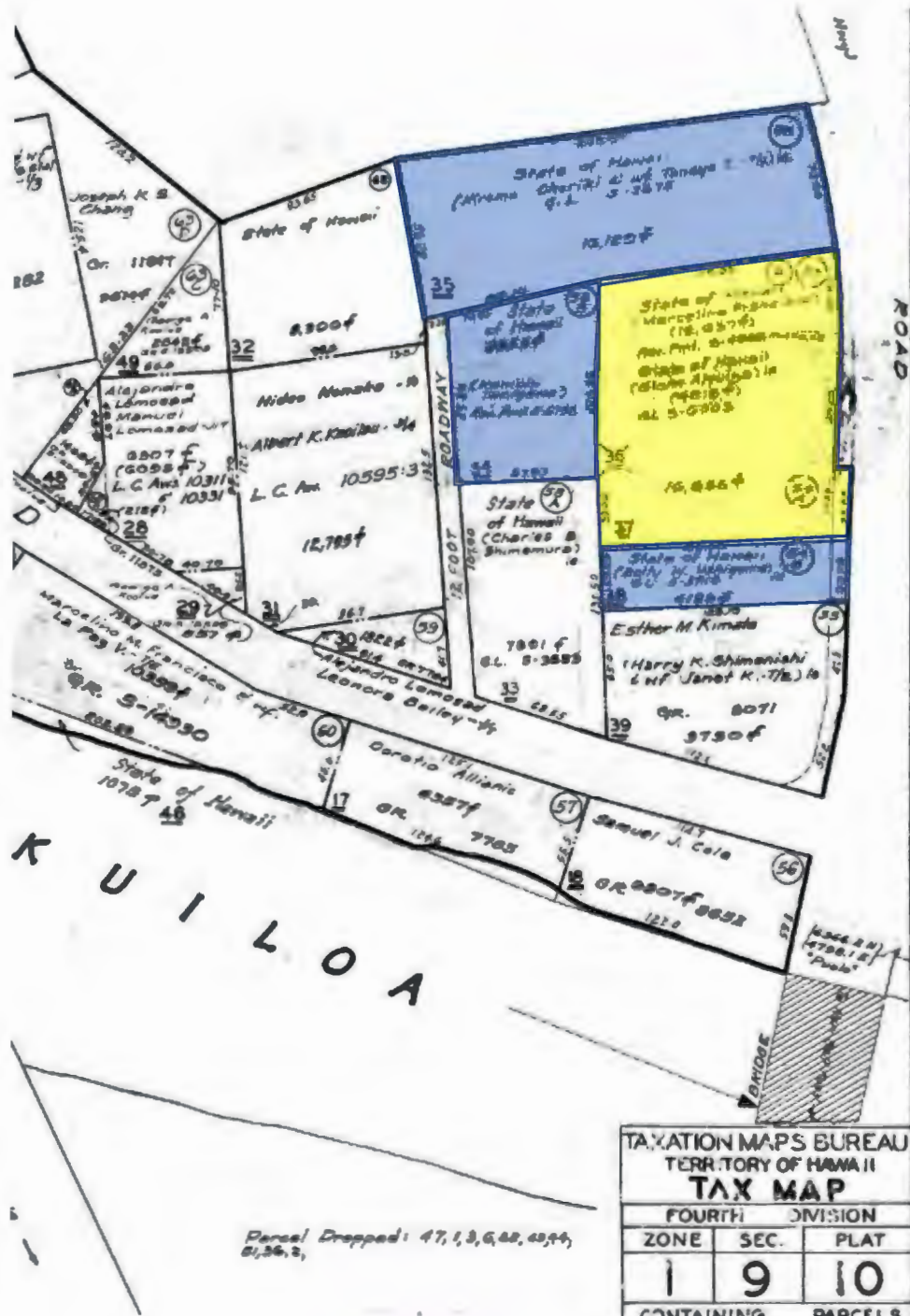
Revocable Permit No. S-7256 Parcels: 

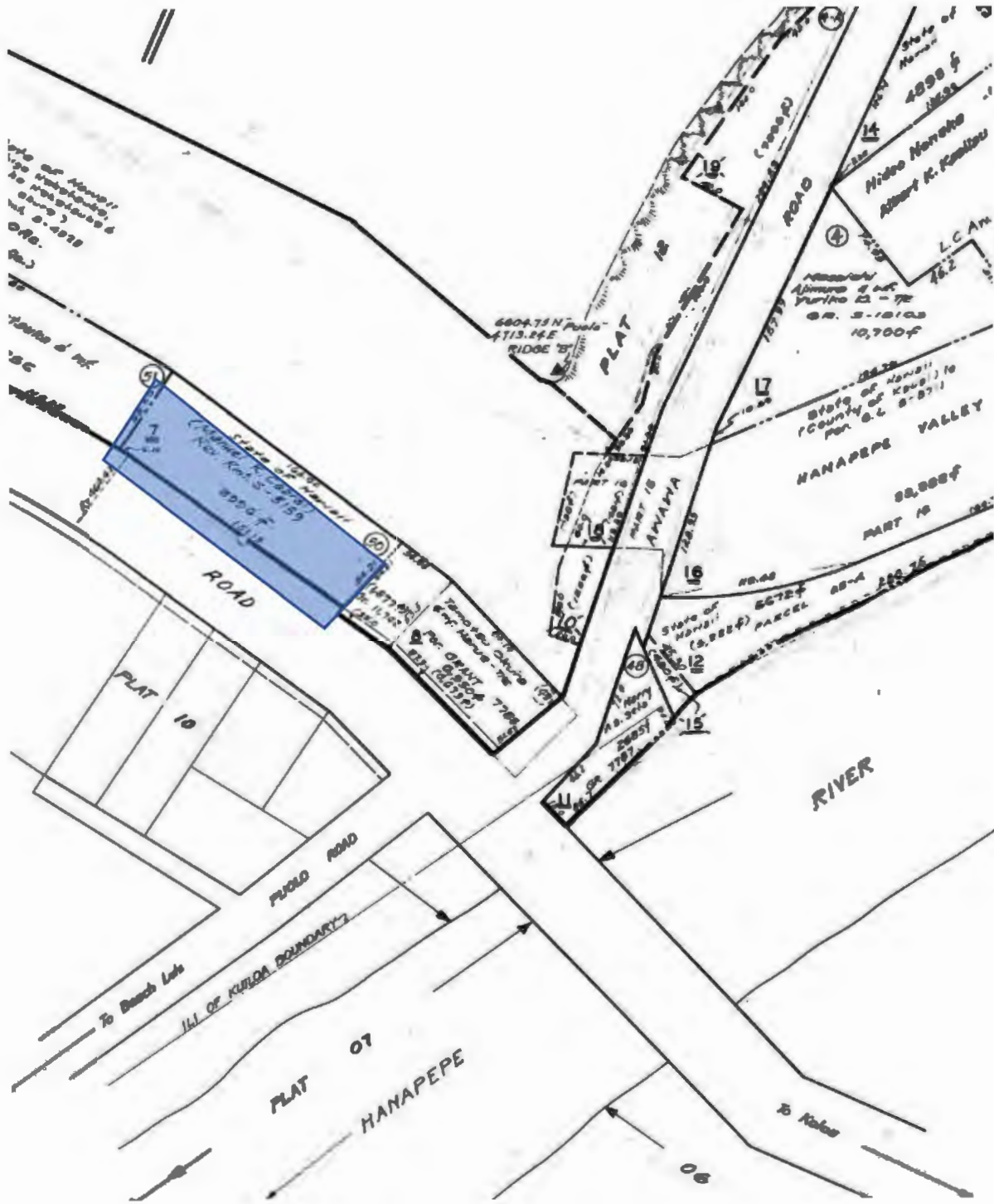
EXHIBIT A



General Lease No. S-4946 Parcel:

Revocable Permit No. S-7256 Parcels:

EXHIBIT A



Revocable Permit No. S-7256 Parcel: [REDACTED]

EXHIBIT B

ASSIGNMENT OF LEASE EVALUATION POLICY

1. Enabling Statute.

Act 104, effective May 24, 1989, amended Chapter 171-36(a) (5) to read in part:

"... provided further that prior to the approval of any assignment of lease, the board shall have the right to review and approve the consideration to be paid by the assignee and may condition its consent to the assignment of the lease on payment by the lessee of a premium based on the amount by which the consideration for the assignment, whether by cash, credit, or otherwise, exceeds the depreciated cost of improvements and trade fixtures being transferred to the assignee;" (revision underlined)

2. Qualifying Leases.

This policy shall be applicable to the subject lease.

3. Prior Approval.

Prior to giving its consent to an assignment, DLNR must receive (i) the name, legal composition and address of any proposed assignee, (ii) a complete copy of the purchase agreement and the proposed assignment agreement, including the total consideration to be paid by the assignee for the assignment whether by cash, credit or otherwise, and (iii) the best available financial statement or balance sheet no older than 1 year prior to date of purchase agreement of the proposed assignee or any other such statement, audited or certified as correct by a financial officer of the proposed assignee.

Assignments of lease shall not be entered into until the Attorney General has reviewed the proposed assignment and the Land Board have given their approval. Such assignments shall be entertained only if they meet the criteria set forth in Section 171-36(a) (5), HRS.

4. Qualifications of Assignee.

If qualification was required of a lessee as a pre-condition of the lease, the prospective assignee must also be qualified to assume the lease.

5. Consideration to be Paid.

Prior to review by the Attorney General and approval by the Land

EXHIBIT B

Board, the lessee (assignor) must present with written evidence of the consideration to be paid by the assignee and any other cost data that the state may require.

6. Payment of Premium.

The act permits the state to receive from the lessee (assignor) a premium based on the amount by which the consideration for the assignment, whether by cash, credit, or otherwise, exceeds the depreciated cost of improvements and trade fixtures being transferred to the assignee. The value of the inventory of merchandise and any other tangible assets in the sale of a business shall be deducted from the consideration paid. The appropriate cost index is then applied to determine the adjusted depreciated cost.

All lessees shall be required to furnish the state with the actual costs of construction of all improvements and renovations within 30 calendar days after its completion as well as the purchase costs of all trade fixtures acquired for the lessee's operation on the premises within 30 calendar days after their purchase. Lessees shall be required to furnish evidence of the actual costs by copy of the construction contract, receipts or otherwise. Lessees shall also be required to furnish an inventory of all personal property placed on the premises. Records of all costs incurred by the lessee for construction of improvements or renovations as well as trade fixtures submitted by the lessee shall be maintained in the lease file and shall include the Construction Cost Index for Apartments, Hotels, Office Buildings (CCI) and the Honolulu Consumer Price Index for All Urban Consumers (CPI) as published by the U.S. Department of Labor, Bureau of Labor Statistics for the year construction is completed.

The replacement cost for improvements or renovations is calculated by using the CCI for the evaluation year divided by the CCI for the year in which the improvements or renovations were completed (base year). The result is then multiplied by the original cost of the improvements or renovations. For trade fixtures, the cost is similarly calculated by using the CPI for the purchase year (base year) and the evaluation year.

Depreciation of improvements and trade fixtures will be determined on a straight line basis. Depreciation of improvements or renovations will be determined in the same proportion that the expired term of the improvements or renovations bear to the whole term. The whole term will be from the date the construction of the improvements or renovations are

EXHIBIT B

completed until the termination date of the lease. Depreciation of trade fixtures will be determined in the same manner, except that the whole term will be the anticipated life of the trade fixture.

The premium will be a maximum of 50% of the excess. The percentage will decrease by 5% after every 5 years of the term has elapsed in accordance with Schedule C. The sliding scale will encourage long term occupancy and prevent speculation as well as recognize the investment, effort, and risk of the lessee.

In cases where the lessee is unable to furnish the Department of Land and Natural Resources with evidence of the actual cost of construction of improvements because the lessee has performed the work itself, the State may determine the cost or the lessee shall have the option of paying for an appraiser, to be selected by the Department of Land and Natural Resources, to determine what the improvements would have cost if the labor had been performed by a third party rather than the lessee. The lessee shall exercise its option by giving written notice to the lessor within thirty (30) calendar days after completion of construction of the improvements. If the lessee fails to exercise its option within this period, the lessor shall have the right to determine the cost of the improvements.

Schedule D attached provides a typical example of the evaluation calculations using Schedule A to calculate the replacement cost for improvements or renovations and depreciation, Schedule B to calculate the cost and depreciation for trade fixtures, and Schedule C to obtain the premium percentage.

7. Non-qualifying Deductions.

The statute only recognizes tangible items. Intangibles such as "goodwill", business name recognition, etc., are not deductible.

8. Subsequent Assignments.

If the consideration for any subsequent assignment includes the purchase of existing tenant owned improvements, the evaluation will be conducted in a similar manner as the first assignment. An example is shown on Schedule E.

Using Schedule E, the consideration the assignor paid less included inventory and any premiums will be used to obtain the adjusted depreciated cost of improvements and trade fixtures. Also, the Base Year is redefined to be the date the assignor received the Consent of the Board to occupy the premises. The

EXHIBIT B

holding period (redefined Base Year to assignment date), or actual occupancy of the assignor, is used in place of the "expired term" when calculating depreciation. Depreciation will be calculated by dividing the holding period by the whole term of the lease (The whole term will remain unchanged).

The change in the CCI will be reflected by comparing the CCI for the redefined base year to the most current CCI.

The holding period will be the basis for determining the appropriate premium percentage. Subtracting the included inventory and any premiums from the consideration the assignor paid will result in a reassessment of the market value of the improvements. If additional improvements were constructed by the assignor, they will be treated in the same manner as improvements constructed by an original lessee.

The excess of subtracting the adjusted depreciated consideration the assignor paid and the adjusted depreciated cost of additional improvements, if any, from the consideration the assignor received will be used against the appropriate premium percentage to determine the amount payable to the state.

9. Rights of Holders of Security Interest-Agricultural Leases only.

In the event of foreclosure or sale, the premium, if any, shall be assessed only after the encumbrances of record and any other advances made by the holder of a security interest are paid.

10. When state-owned improvements are included in the leased premises, improvement renovation requirements shall be recognized as being tenant-owned improvements for evaluation in the policy.

In other words, the total expenditure of the lessee to fulfill the requirement would be treated as though a new improvement was constructed.

SCHEDULE A. Adjusted Depreciated Cost of Improvements or Renovations

1. Adjusted Cost of Improvements or Renovations.

Multiply the actual cost of the improvements or renovations by the most recent U.S. Construction Cost Index for Apartments, Hotels, Office Buildings (CCI)* and divide the result by the CCI of the year construction was completed (base year) to

EXHIBIT B

get the adjusted cost of improvements or renovations.

2. Depreciation

Determine the depreciation percentage on a straight-line basis by dividing the expired term of the improvements or renovations by the whole term of the improvements or renovations, the whole term beginning on the date the improvements or renovations are completed to the expiration date of the lease. Multiply the adjusted cost of the improvements or renovations by the depreciation percentage to determine the depreciation.

3. Depreciated Cost of Improvements or Renovations

Subtract the depreciation from the adjusted cost of improvements or renovations. The balance is the depreciated cost of improvements or renovations.

*As published by the U.S. Department of Labor, Bureau of Labor Statistics

<u>Example</u>	Actual cost:	\$500,000
	CCI (most recent):	121.1
	CCI (base year):	102.3

1. Adjusted Cost of Improve-ments or Renovations	Expired term:	57 mos.
	Whole term:	408 mos.

Actual Cost X $\frac{\text{CCI (most recent)}}{\text{CCI (base year)}}$

$$\$500,000 \times \frac{121.1}{102.3} = \$591,887$$

2. Depreciation

$$\$591,887 \times \frac{57 \text{ mos.}}{408 \text{ mos.}} = \$82,690$$

3. Adjusted Depreciated Cost of Improvements or Renovations

$$\$591,887 - \$82,690 = \underline{\underline{\$509,197}}$$

EXHIBIT B

SCHEDULE B. Adjusted Depreciated Cost of Trade Fixtures

1. Adjusted Cost of Trade Fixture.

Multiply the actual cost of the trade fixture by the most recent Honolulu Consumer Price Index for All Urban Consumers (CPI)* and divide the result by the CPI of the year in which the purchase was made (base year).

2. Depreciation.

Determine the depreciation percentage on a straight-line basis by dividing the expired term of the trade fixture by its anticipated life. Multiply the adjusted cost of the trade fixture by the depreciation percentage to determine the depreciation.

3. Depreciated Cost of Trade Fixtures.

Subtract the depreciation from the adjusted cost of the trade fixture. The balance is the depreciated cost of the trade fixture.

*As published by the U.S. Department of Labor, Bureau of labor Statistics

Refrigerator

Example

	Actual cost:	\$1,510
	CPI (most recent):	118.1
	CPI (base year):	104.6
1. Adjusted Cost of Trade Fixture	Expired term:	57 mos.
	Whole term:	96 mos.
	(Anticipated life)	

$$\text{Actual Cost} \times \frac{\text{CPI (most recent)}}{\text{CPI (base year)}}$$

$$\$1,510 \times \frac{118.1}{104.6} + \$1,705$$

2. Depreciation

$$\$1,705 \times \frac{57 \text{ mos.}}{96 \text{ mos.}} = \$1,012$$

3. Adjusted Depreciated Cost of Trade Fixture

$$\$1,705 - \$1,012 = \$ 693$$

EXHIBIT B

SCHEDULE C. Premium Percentages

1. For the first 5 years, the premium is 50% of the amount by which the consideration for the assignment, whether by cash, credit, or otherwise, exceeds the depreciated cost of improvements and trade fixtures being transferred to the assignee. The percentage will decrease by 5% after every 5 years of the total term has elapsed.

<u>Years</u>	<u>Percentage</u>
1 - 5	50%
6 - 10	45%
11 - 15	40%
16 - 20	35%
21 - 25	30%
26 - 30	25%
31 - 35	20%
36 - 40	15%
41 - 45	10%
46 - 50	5%
51 -	0%

As an example, if a 55 year lease was assigned after 57 months, the premium percentage would be 50%. If the assignment occurs after 130 months (10+ years), the percentage would be 40%.

2. The Board of Land and Natural Resources may impose a ten percent (10%) surcharge if the assignor has not performed lease covenants to improve or use the property.

EXHIBIT B

SCHEDULE D. Assignment of Lease Calculations

1. Subtract from the consideration for the assignment that amount, if any, that is attributable to inventory.
2. Calculate the Adjusted Depreciated Cost of Improvements or Renovations (see Schedule A).
3. Calculate the Adjusted Depreciated Cost of Trade Fixtures (see Schedule B).
4. Calculate the amount by which the consideration for the assignment, whether by cash, credit, or otherwise, exceeds the depreciated cost of improvements and trade fixtures being transferred to the assignee by subtracting the amounts derived by no. 2 and 3 from the amount in no. 1 above.
5. Determine the appropriate premium percentage (see Schedule C). Multiply by the excess, if any, derived by no. 4.

Example

A lease is being assigned 57 months after completion of the improvements at a consideration of \$600,000.

The initial cost of the improvements was \$500,000 while the current year CCI and base year CCI were 121.1 and 102.3, respectively. The whole term for the improvements is 408 months.

For the trade fixtures, the initial cost was \$1,510 with the current year CPI and base year CPI being 118.1 and 104.6, respectively. The total life expectancy is 96 months.

1.	Net Consideration:		\$600,000
2.	Adj Cost Imp/Ren:	\$591,887	
	Depreciation:	<u>- 82,690</u>	
	Adj Dep Cost Imp/Ren:		-509,197
3.	Adj Cost Trade Fixtures:	1,705	
	Depreciation:	<u>- 1,012</u>	
	Adj Dep Cost Trade Fixtures:		- <u>693</u>
4.	Excess:		\$ 90,110
5.	Premium:	Percentage: 50%	\$ 45,055

EXHIBIT B

SCHEDULE E. Subsequent Assignment of Lease Calculations

1. Subtract from the consideration the assignor received for the assignment that amount, if any, that is attributable to inventory to derive the net consideration received.
2. Subtract from the consideration the assignor previously paid for the assignment that amount, if any, that was attributable to inventory. Also, subtract from the consideration the assignor previously paid for the assignment that amount, if any, that was attributable to premiums. The net consideration paid is now defined to be the value of improvements as of the date of the occupancy by the assignor.
3. Using the result from no. 2, calculate the Adjusted Depreciated Value of Improvements or Renovations (see Schedule A).
4. Subtract the amount derived by no. 3 from the amount in no. 1 to determine the amount by which the consideration received for the assignment, whether by cash, credit, or otherwise, exceeds the adjusted depreciated value of improvements being transferred to the assignee.
5. Determine the appropriate premium percentage (see Schedule C). Multiply by the excess, if any, derived by no. 4.

Example

An assignor is assigning a lease 107 months after receiving the consent of the Board. Occupancy or the holding period is defined to be 107 months. The consideration received is \$1,000,000.

The consideration paid by the assignor was \$600,000 while the current year CCI and redefined base year CCI were 156.4 and 121.1, respectively. The whole term was 408 months.

No inventory was included in either consideration. However, a premium of \$45,055 was paid to the state by the previous occupant from the \$600,000 consideration.

1.	Net Consideration <u>Received</u> :		\$1,000,000
2.	Consideration <u>Paid</u> :	\$600,000	
	Premium:	<u>- 45,055</u>	
	Net Consideration <u>Paid</u> :		\$554,945

EXHIBIT B

3. Adj Value Consideration (improvements):
\$554,945 X $\frac{156.4}{121.1}$ = \$716,708

Depreciation:
\$716,708 X $\frac{107 \text{ mos.}}{408 \text{ mos.}}$ = -187,960

Adj Dep Value Consideration: - 528,748

4. Excess: \$ 471,252

5. Premium: Percentage: 45% \$ 212,063

Exhibit C

Table 1	Assignment of Lease Premium Calculation 48.56% Interest in GL4946: Sunrise Capital, Inc.	Lease 1/18/1985 1/17/2024
Net Consideration	\$353,000	For 48.56% Interest
Improvement Cost	\$ (92,163)	48.56% of (\$189,791)
CCI (most recent)	268.7	2020
CCI (base year)	255.8	2017
Expired Term	180	mos.
Whole Term	468	mos.
1 Adjusted Cost of Improvements or Renovations		
Actual Cost	x $\frac{\text{CCI (most recent)}}{\text{CCI (base year)}}$	
(\$92,163)	x	$\frac{268.7}{255.8} =$ (\$96,811)
2 Depreciation		
(\$96,811)	x	$\frac{180}{468} =$ (\$37,235)
3 Adjusted Depreciated Cost of Improvements or Renovations		
(\$96,811) -	(\$37,235) =	(\$59,576)
4 Premium Calculation		
Net Consideration		\$ 353,000
Adjusted Cost of Imp.	(\$96,811)	
Depreciation	\$37,235	
Adjusted Deprec. Cost of Imp.		(\$59,576)
Excess		\$ 412,576
Premium Percentage	x	<u>20%</u>
Premium		\$82,515

Based on Bd action of 12/8/17, Item D-1

months from 6/15/05 to 7/1/2020

months from 1/18/85 to expiration

Table 2 Assignment of Lease Premium Calculation
 100% Interest in GL4946: Sunrise Capital, Inc.

Lease
 1/18/1985 1/17/2025

Net Consideration	\$1,020,000	
Improvement Cost	\$ 178,110	
CCI (most recent)	315.7	2025
CCI (base year)	268.7	2020
Expired Term	54	mos.
Whole Term	480	mos.

\$353,000 - \$102,511 - \$72,379 = \$178,110
 Only 2024 data available

months from 7/1/20 to 1/31/25
 # months from 1/18/85 to expiration

1 Adjusted Cost of Improvements or Renovations

Actual Cost	x	$\frac{\text{CCI (most recent)}}{\text{CCI (base year)}}$	=	
\$178,110	x	$\frac{315.7}{268.7}$	=	\$209,264

2 Depreciation

\$209,264	x	$\frac{54}{480}$	=	\$23,542
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3 Adjusted Depreciated Cost of Improvements or Renovations

\$209,264	-	\$23,542	=	\$185,722
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4 Premium Calculation

Net Consideration		\$ 1,020,000
Adjusted Cost of Imp.	\$209,264	
Depreciation	(\$23,542)	
Adjusted Deprec. Cost of Imp.		\$185,722
Excess		\$ 834,278
Premium Percentage	x	15%
Premium		\$125,142

EXHIBIT D