

JOSH GREEN, M.D.  
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE  
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
KA 'OIHANA KUMUWAIWAI 'ĀINA

P.O. BOX 621  
HONOLULU, HAWAII 96809

DAWN N.S. CHANG  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE  
MANAGEMENT

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FIRST DEPUTY

CIARA W.K. KAHAHANE  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
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BUREAU OF CONVEYANCES  
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CONSERVATION AND RESOURCES  
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ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

November 14, 2025

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

Ref: EO 4584

OAHU

Authorize the Withdrawal of Approximately 100.7 Acres from Governor's Executive Order No. 4584 to the Department of Agriculture & Biosecurity (formerly known as the Department of Agriculture) for Agriculture Purposes, Honouliuli, Ewa, Oahu, Tax Map Key: (1) 9-1-031:001; Lot 12022, Map 888, Land Court Application No. 1069; Certificate of Title No. 498,504.

APPLICANT:

Department of Land and Natural Resources (Department).

LEGAL REFERENCE:

Section 171-11, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Honouliuli, Ewa, Oahu, Tax Map Key: (1) 9-1-031: 001, por., as shown on the attached map labeled **Exhibit A**.

AREA:

Total Area under Executive Order No 4584 (EO4584):	Approximately 110.1 acres.
Area to be Withdrawn from EO4584:	Approximately 100.7 acres.

ZONING:

State Land Use District: Urban  
County Zoning: I-2 Intensive Industrial District

TRUST LAND STATUS:

Acquired after 8/59, i.e., non-ceded.

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

CURRENT USE STATUS:

EO4584 setting aside to the Department of Agriculture & Biosecurity (DAB) for agriculture purposes (**Exhibit B**). DAB subsequently leased the land to Hawaii Land & Livestock, LLC (HLL) under DAB General Lease No. S-3138 (GL3138) for diversified agriculture including animal feedlot purposes for finishing prior to slaughter of livestock (**Exhibit C**).

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules (HAR) §11-200.1-15 and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated 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 36 that states, “Transfer of management authority over state-owned land, such as setting aside of state lands to or from other government agencies through a Governor’s executive order.”

The proposed disposition 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.

BACKGROUND:

At its meeting of November 9, 2018, under Agenda Item D-16 (**Exhibit D**), the Board of Land and Natural Resources (Board) approved the set aside of the subject parcel to DAB for agricultural purposes. The subject parcel was formally set aside to DAB via EO4584 on May 15, 2019. Subsequently, DAB leased the subject parcel to HLL under GL3138. GL3138 was executed on December 26, 2019, for a term of 35 years for diversified agriculture including animal feedlot purposes for finishing prior to slaughter of livestock.

Beginning in January 2022, staff visited the subject parcel and observed substantial misuse at the permission of DAB and its tenant, HLL. DAB and HLL permitted American Hauling to occupy the subject parcel and use a significant portion of it for an industrial base yard dubbed “the boneyard”. This area contained an assortment of road building equipment and debris, abandoned vehicles, industrial equipment, and support and maintenance buildings. Staff immediately notified DAB of the misuse of the subject parcel and later informed the Board at its meeting of April 8, 2022, under Agenda Item



D-4 (**Exhibit E**). At its April 8 meeting, the Board also approved a right-of-entry permit to Euris Energy America LLC to conduct due diligence in support of a potential future request for a directly negotiated lease should the Department secure the return of all, or a portion, of the subject parcel. HLL's misuse of the subject parcel was subsequently before the Board on December 9, 2022, under Agenda Item D-11 (**Exhibit F**), February 10, 2023, under Agenda Item D-4 (**Exhibit G**), and March 24, 2023, under Agenda Item D-6 (**Exhibit H**). Note that voluminous and duplicative exhibits have been removed from the attached exhibits, original and complete documents may be viewed on the Board's website for the respective meeting at the following link: <https://dlnr.hawaii.gov/boards-commissions/blnr-board/>. At the three most recent meetings, HLL stated that it intended to remedy the situation by removing American Hauling from the premises. Most recently, at the March 24, 2023, meeting, HLL assured the Board that American Hauling would be removed by April 1, 2023. Less than a week later, HLL sent a letter stating that it would require an additional six months to remove American Hauling. On August 2, 2023, through its attorney, HLL notified the Chairperson that it had secured a Writ of Possession ousting American Hauling but would require yet another 60 to 90 days to remedy the situation.

At the request of the Governor, efforts to forcefully remove American Hauling from the subject parcel were suspended to provide American Hauling the opportunity to secure an alternative location for its operation and for the Department and DAB to negotiate a sharing arrangement that would benefit both Departments. Negotiations have proven fruitful and HLL has agreed to surrender approximately 100.7 of the 110.1 acres it currently leases. American Hauling was able to secure a lease with the Department of Hawaiian Home Lands and relocated its operation. Staff most recently visited the subject parcel on July 1, 2025, and verified that American Hauling has removed its material and equipment from the subject parcel and cleaned the area it formerly occupied.

#### REMARKS:

Chapter 171-11, HRS, allows land previously set aside to a government agency to be withdrawn when not needed or used for its intended purpose. Specifically, the statute states:

Whenever lands set aside for a public purpose to the various departments and agencies of the State, or to any city and county, county, or other political subdivisions of the State, or to the United States, are not being utilized or required for the public purpose stated, the order setting aside the lands shall be withdrawn and the lands shall be returned to the department.

In this case, the public purpose for withdrawing land from EO4584 is to pursue renewable energy development to generate revenue to support the Department's mission.

Prior to setting the subject parcel aside to DAB, staff pursued various renewable energy projects on the subject parcel. When the subject parcel was set aside to DAB a reservation to the Department was added to EO4584 to ensure that the Department retained its right to pursue renewable energy projects on the subject parcel in the future (**Exhibit B**, page

2). GL3138 contains a related provision allowing the Lessor to withdraw land for renewable energy or other public purposes.

Accordingly, staff is recommending that the Board withdraw approximately 100.7 acres from EO4584 for development for future renewable energy development. This will leave approximately 9.4 acres for HLL's future cattle resting and agricultural purposes. The proposed division of the subject parcel is shown on **Exhibit A**.

In the interest of expediting and simplifying the process of dividing the subject parcel as well as future development, this Board and the Board of Agriculture and Biosecurity (BAB) agreed to deregister it from Land Court. This Board approved the deregistration of the subject parcel from Land Court at its November 8, 2024, meeting under Agenda Item D-7 (**Exhibit I**). DAB has taken the following steps to effectuate this withdrawal. On June 24, 2025, DAB staff secured BAB approval to cancel Transfer Certificate of Title (TCT) 498,504 and issue individual TCTs for each parcel formerly listed and deregister the subject parcel from Land Court under Agenda Item A-2 (**Exhibit J**). Additionally, the Agribusiness Development Corporation (ADC) was required to approve the cancellation of TCT 498,504 and issuance of individual TCTs because it holds one of the listed parcels via Governor's Executive Order No. 4465. ADC's Board of Directors approved that request on June 26, 2025, under Agenda Item E-7 (**Exhibit K**). At its meeting of October 28, 2025, under Agenda Item IV-B-4, BAB approved the withdrawal of 100.7 acres from EO4584, as well as the associated subdivision and reduction in acreage of GL3138 (**Exhibit L**).

Finally, as discussed in previous submittals on this matter, the original purpose of DAB's request for the subject parcel was to provide additional water to HLL's slaughterhouse on an adjoining parcel. When the State purchased these parcels from the Campbell Estate, the deeds carried restrictive covenants limiting the amount of water allotted to each parcel based on respective acreage. This was to ensure that Campbell Estate would have enough water in the area to support its agricultural operations, which were still active at the time. The allotment for the slaughterhouse parcel was not adequate to support slaughterhouse operations, so DAB requested the subject parcel to secure access to its additional water allotment. On June 24, 2025, the James Campbell Company executed documents terminating the restrictive covenants. These documents were subsequently recorded in Land Court on June 30, 2025 (**Exhibit M**). The Honolulu Board of Water Supply also confirmed that it has adequate water service in the area to support both HLL's operations and a potential renewable energy project on the subject parcel.

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 as a de minimis action.
2. Approve of and recommend to the Governor the issuance of an executive order withdrawing approximately 100.7 acres from the Governor's Executive Order No. 4584, subject to:
  - A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
  - B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
  - C. Review and approval by the Department of the Attorney General; and
  - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



\_\_\_\_\_  
Luke J. Sarvis  
Special Assistant

APPROVED FOR SUBMITTAL:

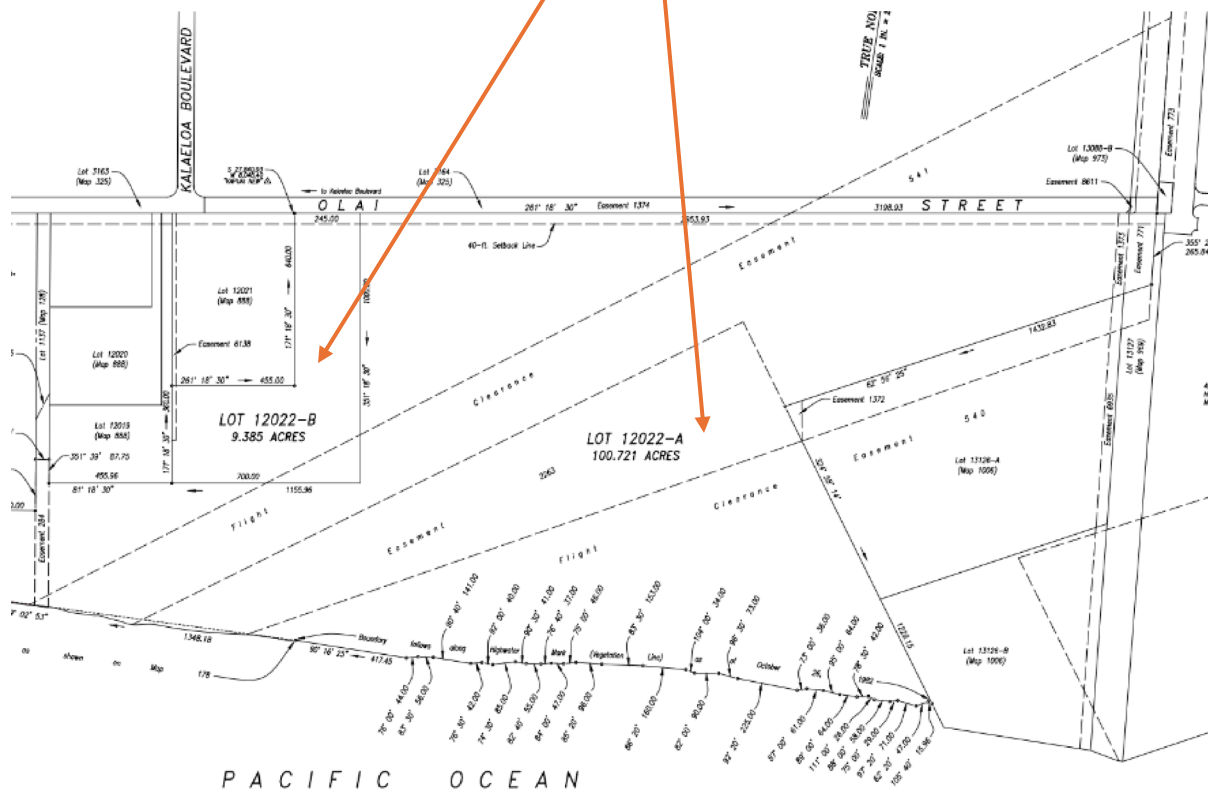


For: \_\_\_\_\_  
Dawn N. S. Chang, Chairperson

Exhibit A



DAB DLNR



OFFICE OF THE  
ASSISTANT REGISTRAR LAND COURT  
STATE OF HAWAII  
(Bureau of Conveyances)

The original of this document was recorded as follows:

DOCUMENT NO. \_\_\_\_\_ Doc T-10739196  
CT 498504  
DATE \_\_\_\_\_ May 28, 2019 3:29 PM

LAND COURT SYSTEM      REGULAR SYSTEM  
Return by Mail ( ) Pickup ( / ) To:  
**DEPT. OF LAND AND NATURAL RESOURCES**  
**LAND DIVISION**

Total Number of Pages: 6  
Tax Map Key No. (1) 9-1-031:001

FROM: STATE OF HAWAII  
BOARD OF LAND AND NATURAL RESOURCES

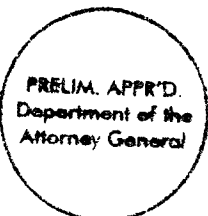
TO: STATE OF HAWAII  
DEPARTMENT OF AGRICULTURE  
1428 South King Street  
Honolulu, Hawaii 96814

EXECUTIVE ORDER NO. 4584

SETTING ASIDE LAND FOR PUBLIC PURPOSES

BY THIS EXECUTIVE ORDER, I, the undersigned, Governor of the State of Hawaii, by virtue of the authority in me vested by Section 171-11, Hawaii Revised Statutes, as amended, and every other authority me hereunto enabling, do hereby order that the public land and improvements hereinafter described be, and the same is, hereby set aside for the following public purposes:

FOR AGRICULTURAL PURPOSES, to be under the control and management of the State of Hawaii, Department of Agriculture, being that parcel of land situate at Honouliuli, Ewa, Oahu, Hawaii, and identified as "Agricultural Purposes Site," being all of Lot 12022 as shown on Map 888 of Land Court Application 1069 filed in the Office of the Assistant Registrar of the Land Court







of the State of Hawaii covered by Transfer Certificate of Title 498504 issued to the State of Hawaii, containing an area of 110.106 acres (Land Office Deed S-28204, more particularly described in Exhibit "A" and delineated on Exhibit "B," both of which are attached hereto and made parts hereof, Exhibit "A" being respectively a survey description prepared by the Survey Division, Department of Accounting and General Services, State of Hawaii, designated C.S.F. No. 25,720 and dated March 8, 2019, and Exhibit "B" being a copy of Land Court Map 888 of Land Court Application 1069. TOGETHER WITH the above-described parcel of land, all of the submerged lands seaward of the Highwater Mark (Vegetation Line) as shown on Map 888 to the Mean Lower Low Water Mark at seashore, and SUBJECT, HOWEVER, to any and all encumbrances that may be noted on Transfer Certificate of Title 498504. Lot 12022 shall have access across Lots 3163 and 3164 as shown on Map 325 as set forth by Land Court Order 127022.

RESERVING to the State of Hawaii, Board of Land and Natural Resources the right to issue leases for renewable energy projects on the land to the extent such leases will not unreasonably interfere with the State of Hawaii, Department of Agriculture's use of the land, provided that the State of Hawaii, Department of Agriculture and its tenants shall not be prohibited from installing photovoltaic arrays or locating other renewable energy projects on the land as long as the power generated thereby is wholly consumed on the land; and provided further that the State of Hawaii, Department of Agriculture and its tenants shall obtain the prior written consent of the Chairperson of the Board of Land and Natural Resources before installing photovoltaic arrays or locating any other renewable projects on the land.

SUBJECT, HOWEVER, to the condition that upon cancellation of this executive order or in the event of non-use or abandonment of the premises or any portion thereof for a continuous period of one (1) year, or for any reason whatsoever, the State of Hawaii, Department of Agriculture shall, within a reasonable time, restore the premises to a condition satisfactory and acceptable to the Department of Land and Natural Resources, State of Hawaii.


SUBJECT, FURTHER, to disapproval by the Legislature by two-thirds vote of either the Senate or the House of Representatives or by majority vote of both, in any regular or special session next following the date of this Executive Order.

This executive order does not authorize the recipient of the set aside to sell or exchange or otherwise relinquish the




State of Hawaii's title to the subject public land.

IN WITNESS WHEREOF, I have hereunto set my hand and  
caused the Great Seal of the State of Hawaii to be affixed.  
Done at the Capitol at Honolulu this 15th day of  
May, 2019.

  
\_\_\_\_\_  
DAVID Y. IGE  
Governor of the State of Hawaii

APPROVED AS TO FORM:

  
\_\_\_\_\_  
DANIEL A. MORRIS  
Deputy Attorney General  
Dated: MAR 20 2019



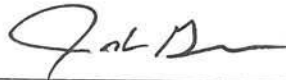


STATE OF HAWAII

Office of the Lieutenant Governor

THIS IS TO CERTIFY That the within is a true copy of  
Executive Order No. 4584 setting aside land for public  
purposes, the original of which is on file in this office.

IN TESTIMONY WHEREOF, the Lieutenant  
Governor of the State of Hawaii, has  
hereunto subscribed his name and caused  
the Great Seal of the State to be affixed.



JOSH GREEN

Lieutenant Governor of the State of Hawaii

DONE in Honolulu, this 21<sup>st</sup> day of  
May, A.D. 2019



STATE OF HAWAII  
SURVEY DIVISION  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
HONOLULU

C.S.F. No. 25,720

March 8, 2019

AGRICULTURAL PURPOSES SITE

Honouliuli, Ewa, Oahu, Hawaii

Being all of Lot 12022 as shown on Map 888 of Land Court Application 1069 filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii covered by Transfer Certificate of Title 498504 issued to the State of Hawaii and containing an AREA OF 110.106 ACRES (Land Office Deed S-28204).

Lot 12022 shall have access across Lots 3163 and 3164 as shown on Map 325 as set forth by Land Court Order 127022.

TOGETHER WITH the above-described parcel of land, all of the submerged lands seaward of the Highwater Mark (Vegetation Line) as shown on Map 888 to the Mean Lower Low Water Mark at seashore.

SUBJECT, HOWEVER, to any and all encumbrances that may be noted on Transfer Certificate of Title 498504.

SURVEY DIVISION  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
STATE OF HAWAII

By: *Gerald Z. Yonashiro*

Gerald Z. Yonashiro  
Land Surveyor

rk

Compiled from Land Court  
Records.



**EXHIBIT "A"**

# LAND COURT

## STATE OF HAWAII

### LAND COURT APPLICATION 1069

CONSOLIDATION OF LOT 3805-A

AS SHOWN ON MAP 378

LOTS 1136-B AND 1136-C

AS SHOWN ON MAP 165

LOT 1909-B

AS SHOWN ON MAP 410

AND RESUBDIVISION OF SAID CONSOLIDATION  
INTO LOTS 12019, 12020, 12021 AND 12022,

CANCELLATION OF EASEMENT 488

AS SHOWN ON MAP 165,

CANCELLATION OF PORTIONS OF EASEMENT 5

AS SHOWN ON MAP 1

AND DESIGNATION OF EASEMENT 6138

HONOLULU, EWA, OAHU, HAWAII

Kobayashi Building  
1151 Punchbowl St.  
Honolulu, Hawaii  
July 17, 1996

STATE OF HAWAII  
DEPARTMENT OF ACCOUNTING  
AND GENERAL SERVICES  
SURVEY DIVISION



*Robert W. Williams*  
Robert W. Williams  
Licensed Professional Land Surveyor  
Certificate No. 154  
Registered Land Court Surveyor  
Certificate No. 255

OWNER, TRUSTEES UNDER THE WILL AND OF THE  
ESTATE OF JAMES CAMPBELL, DECEASED  
TRANSFER CERTIFICATE OF TITLE: 410,853

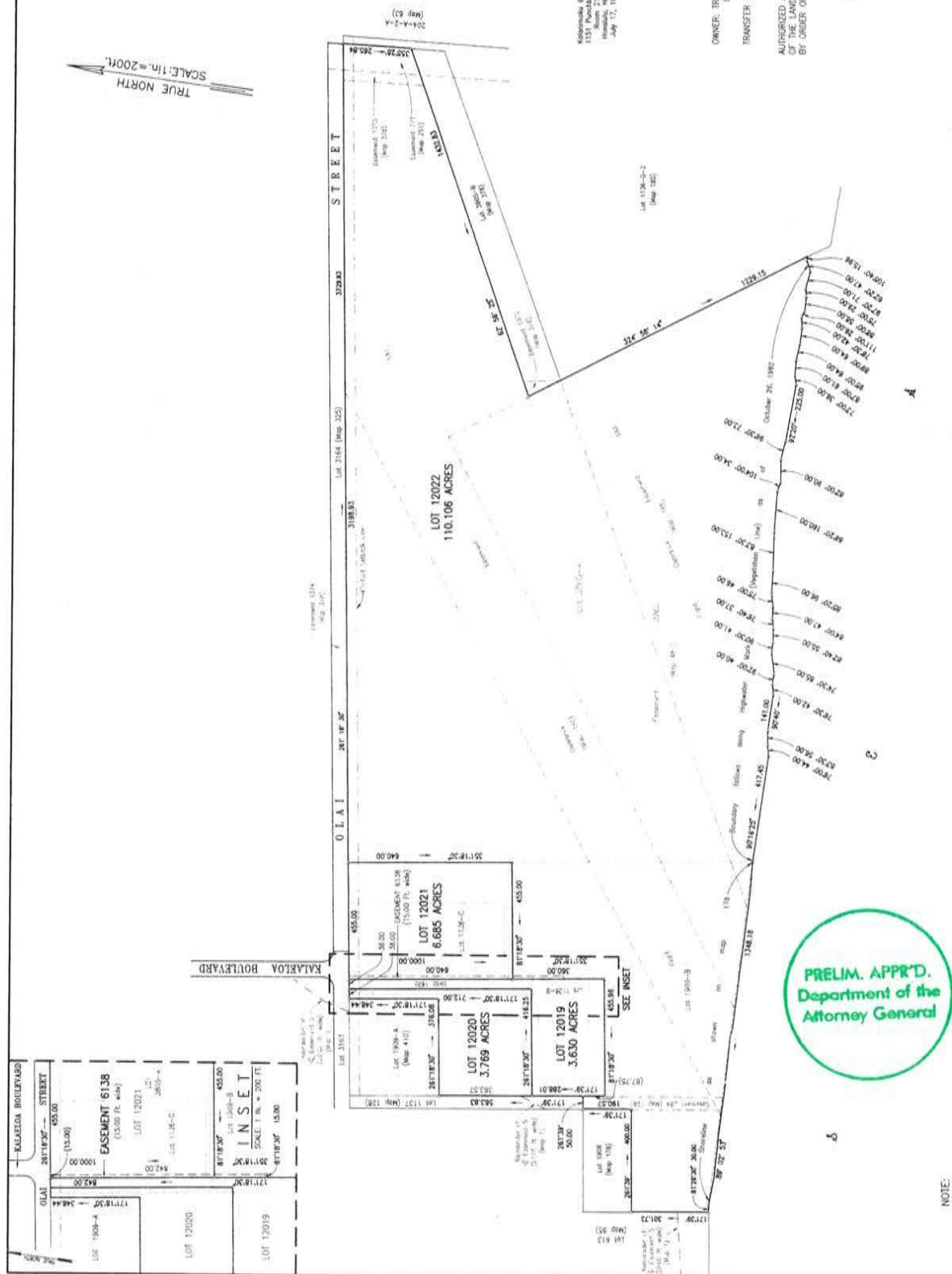
AUTHORIZED AND APPROVED BY ORDER OF THE JUDGE  
OF THE LAND COURT DATED FEBRUARY 20, 1997  
BY ORDER OF THE COURT

*William J. Williams*  
William J. Williams  
REGISTERAR OF THE LAND COURT

# EXHIBIT "B"

## REDUCED NOT TO SCALE

NOTE:  
EASEMENT 6138 = 12,630 Sq. Ft. for Waterline and Electric Purposes affecting Lots 12021 and 12022.



**OFFICE OF THE  
ASSISTANT REGISTRAR, LAND COURT  
STATE OF HAWAII  
(Bureau of Conveyances)**

**The original of this document was  
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**DOCUMENT NO.** - Doc T - 10952244  
CT 498504  
**DATE/TIME** - December 27, 2019 11:00 AM

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DEPARTMENT OF AGRICULTURE  
AGRICULTURAL RESOURCE MANAGEMENT DIVISION  
1428 SO. KING STREET  
HONOLULU, HAWAII 96814  
No. of Pages: 62

Tax Map Key No. 1<sup>st</sup> DIV/9-1-031:001

STATE OF HAWAII

DEPARTMENT OF AGRICULTURE

GENERAL LEASE NO. S - 3138

between

STATE OF HAWAII

and

HAWAII LAND & LIVESTOCK, LLC  
A Hawaii Limited Liability Company

LOCATION: HONOULIULI, EWA, ISLAND OF OAHU, HAWAII

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STATE OF HAWAII  
DEPARTMENT OF AGRICULTURE  
GENERAL LEASE NO. S-3138

THIS INDENTURE OF LEASE, is made and entered into this 26<sup>th</sup> day of December, 2019, by and between the STATE OF HAWAII, hereinafter referred to as the "Lessor", by its Board of Agriculture, hereinafter referred to as the "Board", whose business address is 1428 South King Street, Honolulu, Hawaii 96814, and HAWAII LAND & LIVESTOCK, LLC, a Hawaii Limited Liability Company, whose business and post office address is 91-319 OLAI STREET, KAPOLEI, HAWAII 96707, hereinafter referred to as the "Lessee".

WITNESSETH:

THAT, the Lessor for and in consideration of the rent to be paid and of the terms, covenants, and conditions contained herein, all on the part of the Lessee to be kept, observed, and performed, does hereby demise and lease unto the Lessee, and the Lessee does hereby lease and hire from the Lessor the premises identified as Tax Map Key 1-9-1-031:001 containing approximately 110.016 gross acres, of land at Honouliuli, Ewa Island of Oahu, Hawaii, more particularly described in Exhibit A, and the premises outlined in red on Exhibit B, which are attached hereto and made a part hereof.



TO HAVE AND TO HOLD the demised premises unto the Lessee for the term of THIRTY-FIVE (35) years commencing on the 1<sup>st</sup> day of January, 2020, and ending on the 31<sup>st</sup> day of December, 2055, unless sooner terminated as provided herein, or extended upon mutual written agreement of the Lessor and Lessee to the extent allowed under the Hawaii Revised Statutes and Hawaii Administrative Rules, the Lessor reserving and the Lessee yielding and paying to the Lessor at the office of the Department of Agriculture, Honolulu, Oahu, a base annual rental as provided herein, payable in advance without notice or demand, in semi-annual installments on January 1 and July 1 of each and every year during the lease term, except as otherwise provided, as follows:

A. Base annual rental. For the first ten (10) years, the base annual rental shall be the sum of EIGHTEEN-THOUSAND THREE-HUNDRED AND NO/100 DOLLARS (\$18,300.00); as offered and accepted by the Board; except, the Board may, at its sole discretion, permit the Lessee to offset the cost of land clearance and leasehold improvements against not more than two years of base annual rental, the evidence of which shall be submitted to the Lessor within the first year of the lease term.

B. Additional rental. Each year on or before the 30th day of April, the Lessee shall submit to the Lessor a report disclosing the gross proceeds from the sale of commodities produced on the demised premises during the

year immediately preceding. Together with the report, the Lessee shall pay to the Lessor any additional rental due, which amount shall be determined in the manner described below:

From the report, determine a value representing 1.5 per cent (%) of the gross proceeds, which includes revenues from consignment sales and subletting. Any excess of the value so derived over the base annual rental constitutes the additional rental.

C. Reopening of annual rental. The annual rental shall be reopened and redetermined at the expiration of the 10<sup>th</sup>, 20<sup>th</sup>, and 30<sup>th</sup>, years of the term herein, provided however, in no event shall the base annual rental be revised downward.

D. Determination of annual rental upon reopening. The base annual rental and additional 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 Lessor, and the Lessee shall be notified promptly of the determination; provided that should the Lessee disagree with the fair market rental as determined by the Lessor's appraiser, the Lessee 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 a majority of the appraisers, shall be in writing and shall be final and binding upon both the Lessor and the Lessee, subject to chapter 658A, Hawaii Revised Statutes ("HRS"). The Lessee shall pay for its own appraiser. The cost of the services of the third appraiser shall be borne equally by the Lessor and the Lessee. All appraisal reports shall become part of the public record of the Lessor.

In rendering such decision, the appraisers shall assume that neither Lessor or Lessee is under a compulsion to rent and both are typically motivated, well-informed, well-advised and each is acting in what it considers its own best interest and the premises are fit for immediate occupancy and use "as is".

In the event that the appraisers are unable to determine the fair market rental before the reopening date, the Lessee shall continue to pay the rent at the rate effective for the previous rental period, but the Lessee shall make up any deficiency within thirty days after the new rental has been determined. The Lessee's or its appraiser's failure to comply with the procedures set forth herein shall constitute a waiver of the Lessee's right to contest the new fair market rental, and the Lessee shall pay the rental as determined by the Lessor's appraiser without adjustment. Alternatively, the Board may, at its option, treat the failure as a breach of this lease and terminate this lease.

E. Facilities capital recovery fee. The facilities capital recovery ("FCR") fee is payable annually and shall be for the full term of this lease, commencing on the date the Lessor installs improvements as described herein in support of the Lessee's operations, or the commencement of the term of this lease, whichever is later. The FCR fee is based on the Lessor's expenditures to install the improvements and is calculated on one-tenth of one per cent of the Lessor's expenditures and will be added to the base annual rental, except that Capital Improvement Projects, as may be authorized by the State of Hawaii Legislature, which are constructed to repair or remedy defects to the physical facility and are not used to expand operations shall not be



included as the Lessor's expenditure upon which the FCR fee is based.

F. Interest on delinquent rental. Interest at the rate of one per cent (1%) per month shall be charged to any delinquent rentals.

G. Holdover. Upon expiration of the lease term, if the land is not otherwise disposed of, the Lessor may allow the lessee to continue to hold the land for a period not exceeding one year upon such rent, terms and conditions as the Lessor may prescribe, and further as provided in section 4-158-31, Hawaii Administrative Rules ("HAR").

RESERVING UNTO THE LESSOR THE FOLLOWING:

1. Minerals and water rights. (a) All minerals as hereafter defined, in, on, or under the demised premises and the right, on its own behalf or through persons authorized by it, to prospect for, mine, and remove the minerals and to occupy and use so much of the surface of the ground as may be required for all purposes reasonably extending to the mining and removal of the minerals by any means, including strip mining, shall be reserved to the Lessor. "Minerals", as used herein, means any and all oil, gas, coal, phosphate, sodium, sulfur, iron, titanium, gold, silver, bauxite, bauxitic clay, diaspore, boehmite, laterite, gibbsite, alumina, all ores of aluminum, and all other mineral substances and ore deposits, whether solid, gaseous, or liquid, including all geothermal resources in, on, or under the demised premises, fast or submerged;

provided that "minerals" shall not include sand, gravel, rock, or other material suitable for use and when used in general construction in furtherance of the Lessee's permitted activities on the demised premises and not for sale to others.

(b) All surface and ground waters appurtenant to the demised premises and the right on its own behalf; or through persons authorized by it, to capture, divert, or impound the same and to occupy and use so much of the demised premises as may be required in the exercise of this right shall be reserved to the Lessor; provided that as a condition precedent to the exercise by the Lessor of the rights reserved in this paragraph, just compensation shall be paid to the Lessee for any of the Lessee's improvements taken.

2. Prehistoric and historic remains. All prehistoric and historic remains found in, on, or under the demised premises shall be reserved to the Lessor.

3. Ownership of fixed improvements. The ownership of all improvements, including but not limited to farm dwellings, barns, maintenance sheds, shadehouses, fences, irrigation and stockwater systems located on the demised premises prior to or on the commencement date of this lease, excluding the improvements constructed during the term of this lease, unless provided otherwise, shall be reserved to the Lessor.

4. Withdrawal. The Lessor shall have the right to withdraw the demised premises, or any portion thereof, at any time during the term of this lease with reasonable notice and without compensation, except as provided herein, for public uses or purposes, for leasing to renewable energy producers and/or for the creation of photovoltaic projects, for constructing new roads or extensions, or changes in line or grade of existing roads, for rights-of-way and easements of all kinds, and shall be subject to the right of the Lessor to remove soil, rock, or gravel as may be necessary for the construction of roads and rights-of-way within or without the demised premises; provided that upon the withdrawal or taking which causes any portion of the land originally demised to become unusable for the specific use or uses for which it was demised, the base annual rental shall be reduced in proportion to the value of the land withdrawn or made unusable. If any permanent improvement constructed upon the demised premises by the Lessee is destroyed or made unusable in the process of the withdrawal or taking, the proportionate value thereof shall be paid based upon the unexpired term of this lease; provided that no withdrawal or taking shall be had as to those portions of the land which are then under cultivation with crops until the crops are harvested, unless the Lessor pays to the Lessee the value of the crops; and provided further that upon withdrawal the Lessee shall be compensated for the present value of all permanent

improvements in place at the time of withdrawal that were legally constructed upon the demised premises by the Lessee of the leased land being withdrawn. For tree or orchard crops taken, payment shall be based on the residual value of trees taken and, if there are unharvested crops, the value of such unharvested crops.

THE LESSEE COVENANTS AND AGREES WITH THE LESSOR AS FOLLOWS:

1. Payment of rent. The Lessee shall pay the required rent in legal tender of the United States of America to the Lessor at the times, in the manner and form, and at the place specified above, or at any other place designated by the Lessor, without any deduction and without any notice or demand.

2. Taxes, assessments, etc. The Lessee shall pay or cause to be paid when due the amount of all taxes, rates, assessments, and other outgoings of every description as to which the demised premises or any part thereof, or any improvements thereon, or the Lessor or the Lessee in respect thereof, are now or may be assessed or become liable by authority of law during the term of this lease; provided that with respect to any assessment made under any betterment or improvement law which may be payable in installments, the Lessee shall be required to pay only such installments, together with interest, as shall become due and payable during the lease term.



3. Utility services. The Lessee shall pay when due all charges, duties, and rates of every description, including water, sewer, gas, refuse collection, or any other charges, as to which the demised premises, any part thereof, any improvements thereon, or the Lessor or the Lessee in respect thereof may become liable during the lease term, whether assessed to or payable by the Lessor or the Lessee.

4. Irrigation costs. Without limiting the provisions of the proceeding section, the Lessee shall be responsible for its share of operating and maintenance costs associated with the irrigation system which provides irrigation water to the demised premises. The Lessee agrees not to oppose the establishment of an irrigation project under Chapter 167, HRS, under which assessments, tolls, fees, and charges for water usage and irrigation system operation and maintenance shall be set; and the Lessee agrees to abide by and to pay when due all rates and charges set by such irrigation project.

The Lessee shall use due care to protect the ditches, flumes, pipelines, gates, valves, and all other property and appurtenances of the irrigation system and shall not cause or suffer any damage or destruction thereof.

5. Character of use. (a) The Lessee shall use the premises hereby demised solely for Diversified Agriculture including animal feedlot purposes for finishing prior to

slaughter of livestock. No other use shall be permitted except as provided in sections 4-158-18 and 4-158-19, HAR.

(b) No cesspools shall be constructed on the premises. However, the Lessee may use alternative wastewater treatment and disposal systems, which do not pose a threat to the groundwater and provided the Lessee obtains the prior written approval from the Department of Health.

(c) Disposal of all solid and liquid animal waste must be by a means acceptable to the Hawaii Department of Health.

(d) The covenants, conditions, and restrictions contained in this section shall run with the land until the time that the land is reclassified to a land use district other than an agricultural district, provided that if less than all the premises is reclassified, then the covenants, conditions, and restrictions shall terminate only as to the portion of the premises which is reclassified to a land use district other than an agricultural district. Any transfer, assignment, sublease, mortgage, or other instrument of conveyance of the premises shall expressly contain the restrictions on uses and the conditions in this section.

6. Dwelling restrictions. Residential use and residential dwellings shall not be permitted on the premises. The Board may permit a farm dwelling on the premises if the need is clearly demonstrated. The farm dwelling shall be used in direct connection with the

agricultural activities on the premises and shall not be used for rental purposes. The dwelling shall be subject to such additional terms and conditions as the Board may require including, but not limited to, an adjustment of lease rental. All construction on the premises shall be in accordance with plans approved by the Lessor and shall be in accordance with all applicable federal, state and county laws, ordinances, regulations and rules, including, but not limited to, laws regarding environmental quality control.

7. Utilization and development of the demised premises.

The development of the demised premises shall be completed within three years from the commencement date of this lease, with not less than fifty per cent (50%) developed within the first two years of the lease term. The above schedule shall be in accordance with a Plan of Utilization and Development (P.U.D.) which shall be prepared by the Lessee and approved by the Lessor before the execution of this lease. Any modification or deviation from the plan, without the prior written approval of the Lessor, may constitute a breach of this lease and cause for the termination thereof.

8. Good husbandry and conservation practices. The Lessee shall at all times practice good husbandry with regard to the use of the demised premises for the use permitted and shall carry out a program of conservation based upon a Conservation Plan (CP) developed by the Lessee in cooperation with the appropriate Soil and Water

Conservation District. In the event the activities of the Lessee are determined to be contrary to the Conservation Plan, the Lessor shall notify the Lessee of the discrepancy and the Lessee shall be required, within sixty days of the notice, to cure the discrepancy and to submit proof thereof satisfactory to the Lessor.

9. Invasive species. Lessee shall immediately notify Lessor of any suspected or known presence of invasive species on the Premises and/or adjoining or nearby lots. Lessee and Lessor may collaborate on remedial actions to eradicate suspected or identified invasive species, however, it shall be Lessee's responsibility to take action to eradicate and/or prevent the spread of invasive species on the Premises and/or adjoining or nearby lots. In the event Lessee fails to take appropriate action to eradicate or control known presence of invasive species on the Premises and/or adjacent or nearby lands, then Lessor shall have the right to participate in remedial action to exterminate such invasive species which may include administering pesticides or other methods of remediation approved and accepted by the Department of Agriculture.

10. Major portion of income. Within three years following the commencement date of this lease, the Lessee shall attain and maintain throughout the remainder of the lease term a level of agricultural operation that generates more than fifty per cent (50%) of the Lessee's total annual income; except, that this requirement shall not apply if



failure to meet the requirement results from mental or physical disability or the loss of a spouse, or if the premises are fully utilized in the production, marketing, and sale of crops or products for which this lease was granted. Each year on or before April 30th following the third year of the lease term, the Lessee shall submit a copy of its federal or state income tax return for the year immediately preceding. The submitted tax return shall be subject to audit and verification by the Lessor, who may impose additional requirements to carry out the requirements of this section.

11. Sanitation, etc. The Lessee shall keep the demised premises and improvements in a strictly clean, sanitary, and orderly condition.

12. Waste and unlawful, improper, or offensive use of the premises. The Lessee shall not commit, suffer, or permit to be committed any waste, nuisance, strip or unlawful, improper, or offensive use of the demised premises or any part thereof, nor cut down, remove, or destroy, or suffer to be cut down, removed, or destroyed, any trees now growing on the premises without the prior written approval of the Lessor.

13. Inspection of premises. The Lessee shall permit the Lessor and its representatives, at all reasonable times during the lease term, to enter the demised premises and examine the state of repair and condition thereof and the improvements, equipment, chattels, books, and records of

the Lessee in connection with the administration of this lease.

14. Improvements. At any time during the lease term, the Lessee shall not construct, place, maintain, or install on the premises any building, structure, sign, or improvement, except with the prior written approval of the Lessor and upon such conditions as the Lessor may impose. All buildings, structures, signs, or improvements shall be in accordance with all applicable federal, state, and county laws, ordinances, and rules. The ownership thereof shall be in the Lessee until the expiration or sooner termination of this lease, at which time the ownership thereof shall, at the option of the Lessor, vest in the Lessor or shall be removed by the Lessee, at the Lessee's sole cost and expense.

15. Repairs to improvements. The Lessee shall, at the Lessee's own expense, keep, repair, and maintain all buildings, structures, and improvements now existing or hereafter constructed or installed on the demised premises in good order, condition, and repair, reasonable wear and tear excepted.

16. Insurance. At all times during the term of this lease, the Lessee shall keep insured all buildings and improvements erected on the demised premises in the joint names of the Lessor, the Lessee, and any mortgagee, as their interests may appear, against loss or damage by fire, including perils specified in the extended coverage

endorsement and in an amount equal to the maximum insurable value thereof, and shall pay the premiums thereon at the time and place the same are payable; the policy or policies of insurance shall be made payable in case of loss to the Lessor, the Lessee, and any mortgagee, as their interests may appear, and any proceeds derived therefrom in the event of total or partial loss shall be immediately available, and as soon as reasonably possible, to be used by the Lessee for rebuilding, repairing, or otherwise reinstating the same buildings or improvements in a good and substantial manner according to the plans and specifications approved in writing by the Board; except, that with the approval of the Lessor, the Lessee may surrender this lease and pay the balance owing on any mortgage and forfeiting all interest in the proceeds of insurance and in any remaining improvements, with the Lessor to retain the balance of the proceeds; any policy or current certificate of insurance certifying that such policy has been issued and is in effect shall be delivered to Lessor upon commencement of the term of the Lease and Lessor may, at any time and from time to time, inspect and/or copy any and all insurance policies required to be procured by Lessee hereunder.

17. Right of first refusal. A lease or any interest therein, including stock of a corporation holding the lease or an interest in a partnership or association holding the lease, shall not be transferred or assigned unless the

lease and improvements, or any interest therein, are first surrendered to the Board, as follows:

- (1) The Board shall have the option to re-purchase the lease for the price paid by the current lessee, including closing costs, or the fair market value, less appreciated value, at the time of re-purchase, as determined in paragraph (3), whichever is the lower but not less than zero. For the purposes of this section, "price paid by the current lessee" means the consideration paid for the lease exclusive of improvements and "appreciated value" means the replacement cost for developing the leased premises.
- (2) Any improvements affixed to the realty, including trade fixtures and growing crops, shall be re-purchased at their fair market value.
- (3) At the time of the re-purchase, the fair market value of the lease less appreciated value and the fair market value of any improvements shall be determined by a qualified appraiser whose services shall be contracted for by the Lessor; provided that should the Lessee disagree with the values, the Lessee may appoint the Lessee's own appraiser who together with the Lessor's



appraiser shall appoint a third appraiser, and the fair market value shall be determined by arbitration as provided in chapter 658A, HRS. In this event, the Lessee shall pay for the Lessee's own appraiser, the Lessor shall pay for its appraiser, and the cost of the third appraiser shall be borne equally by the Lessee and the Lessor.

- (4) The Board may re-purchase the lease and improvements with funds from the non-agricultural park lands special fund or may accept a surrender of the lease subject to the offer by a qualified applicant to purchase the lease and improvements, including any encumbrances, for not less than the amount to be paid therefor by the Board; provided that the purchase by a qualified applicant shall be subject to sections 4-158-22 and 4-158-29, HAR.
- (5) Notwithstanding the conditions herein, the consideration for the applicant's purchase of the lease as provided in paragraph (4) shall not be less than the total of all encumbrances that have been approved by the Lessor at the time of the re-purchase.
- (6) This section shall not apply to a holder of record having security interest upon

foreclosure pursuant to section 4-158-34,  
HAR.

18. Assignments of lease, lease interest, etc. (a)

Any transferee, assignee, or sublessee of a non-agricultural park lease shall satisfy applicant qualification requirements. No lease or any interest therein, including corporate stock or an interest in a partnership or association, shall be transferred or assigned without the consent of the Board, except by devise, bequest, or intestate succession and upon the further condition that there is a dwelling on the property in which the devisee or heir resides or that more than fifty per cent (50%) of the devisee's or heir's income is derived from the productive use of the demised premises. In the absence of or upon cessation of these conditions, the devisee or heir shall surrender the lease and improvements, or any interest therein, to the Board pursuant to its right of first refusal.

(b) With the approval of the Board, and subject to its right of first refusal, the assignment and transfer of a lease or any interest therein, including stock of a corporation holding the lease or an interest in a partnership or association holding the lease, may be made if:

- (1) The Lessee becomes mentally or physically disabled;

(2) Extreme economic hardship is demonstrated to the satisfaction of the Board; or

(3) The assignment is to the corporate successor of the Lessee;

provided that with the prior written approval of the board the assignment and transfer of this lease or any portion may be made in accordance with current industry standards, as determined by the Board; provided further, that prior to the approval of any assignment of lease, the board shall have the right to review and approve the consideration 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 assignment, whether by cash, credit, or otherwise, exceeds the straight-line depreciated cost of improvements and trade fixtures being transferred to the assignee pursuant to the Assignment of Lease Evaluation Policy adopted by the board on October 23, 2007; as amended, a copy of which is attached hereto as Exhibit "C." The premium on any subsequent assignments shall be based on the difference in the selling and purchase price plus the straight-line depreciated cost of any improvements constructed by the then assignor, pursuant to the above-mentioned Evaluation Policy. With respect to state agricultural leases, in the event of foreclosure or sale, the above described premium shall be assessed only after the encumbrances of record and any other advances made by the holder of a security

interest are paid; and provided further that the Lessor may adjust the base annual rental and additional rental pursuant to section 4-158-21, HAR.

19. Subletting. The Lessee shall not rent or sublet the whole or any portion of the demised premises without the prior written approval of the Board; provided that before approval, the Board shall have the right to review and approve the rental to be charged to the sublessee; provided further that where the Lessee is required to pay rent based on a percentage of its gross receipts, the rents paid to the Lessee by the sublessee shall be included as part of the Lessee's gross receipts; provided further that the Board shall have the right to review and, if necessary, revise the rental of the demised premises based upon the rent charged to the sublessee; and provided further that the rental may not be revised downward.

20. Mortgage. Except as provided, the Lessee shall not mortgage, hypothecate, or pledge the premises or any portion thereof, or this lease or any interest herein, without the prior written approval of the Chairperson, on behalf of the Lessor, and any mortgage, hypothecation, or pledge without such approval shall be void. That upon application and with the prior written consent of the Lessor, the Lessee may mortgage this lease or any interest herein or create a security interest in the leasehold of the public land demised. If the mortgage or security interest is to a recognized lending institution authorized



to do business in the State of Hawaii, consent shall extend to foreclosure and sale at the foreclosure to any purchaser, provided that the purchaser is qualified to lease and hold the land or any interest therein.

21. Breach. Except as otherwise provided, in the event of a breach or default of any term, covenant, restriction, or condition of this lease, the Board shall deliver a written notice of the breach or default by personal service or by registered or certified mail to the Lessee and to each holder of record having any security interest in the land covered by or subject to this lease, making demand upon the Lessee to cure or remedy the breach or default within sixty days from the date of receipt of the notice; provided that where the breach involves a failure to make timely rental payments, including payment of any additional rent, the written notice shall include a demand upon the Lessee to cure the breach within thirty days after the receipt of the notice. Upon failure of the Lessee to cure or remedy the breach or default within the time period provided, or within such additional period as the Board may allow for good cause, the Board may exercise the rights it may have, subject to the rights of a holder of a security interest. Without limiting the foregoing, the Board, after due notice of default shall terminate this lease or tenancy and take possession of the premises together with all improvements placed thereon, without demand or previous entry and without legal process, and



shall retain all rental paid in advance as damages for the violations. The retention of advance rental as liquidated damages shall be in addition to any other rights and remedies available to the Lessor.

22. Rights of holder of record of security interest.

(a) Prior board action shall be required when an institutional lender acquires the Lessee's interest through a foreclosure sale, judicial or nonjudicial, or by way of assignment in lieu of foreclosure, or when the institutional lender sells or causes the sale of the Lessee's interest in a lease by way of a foreclosure sale, judicial or nonjudicial. The institutional lender shall convey a copy of the sale or assignment as recorded in the bureau of conveyances.

(b) Notwithstanding any provisions of this lease, if any lease is subject to a security interest held by an institutional lender and if the institutional lender has given to the Board a copy of the encumbrance as recorded in the bureau of conveyances:

(1) If the lease is canceled for violation of any non-monetary lease term or condition, or if the lease is deemed terminated or rejected under bankruptcy laws, the institutional lender shall be entitled to issuance of a new lease in its name for a term equal to the term of the lease remaining immediately prior to the cancellation, termination, or rejection, with all terms and conditions being the same as in the canceled, terminated, or rejected

lease, except only for the liens, claims, and encumbrances, if any, that were superior to the institutional lender before cancellation, termination, or rejection. If a lease is rejected or deemed rejected under bankruptcy law, the lease shall be deemed canceled and terminated for all purposes under state law;

(2) If the Lessee's interest under a lease is transferred to an institutional lender, including by reason of the provisions of paragraph (1), by reason of acquisition of the Lessee's interest pursuant to a foreclosure sale, judicial or nonjudicial, and by reason of an assignment in lieu of foreclosure:

(A) The institutional lender shall be liable for the Obligations of the Lessee under the lease for the period of time during which the institutional lender is the holder of the Lessee's interest but shall not be liable for any obligations of the lessee arising after the institutional lender has assigned the lease; and

(B) The provisions of section 166E-8(b)(1) and (2) shall not apply to the lease or the demised land during such time as the institutional lender holds the lease; provided that:

(i) For non-monetary lease violations, the institutional lender shall first remedy the lease terms that caused the cancellation,

termination, or rejection to the satisfaction of the Board; and

- (ii) The new lease issued to the institutional lender shall terminate one hundred twenty days from the effective date of issuance, when the institutional lender shall either sell or assign the lease, after which date section 166E-8(b)(1) and (2) shall apply to the new lease;

(3) As long as there is a delinquent loan balance secured by a security interest, the lease may not be canceled or terminated, except for cancellation by reason of default of the lessee, and no increase over and above the fair market rent, based upon the actual use of the land demised and subject to the use restrictions imposed by the lease and applicable laws, may be imposed or become payable, and no lands may be withdrawn from the lease, except by eminent domain proceedings beyond the control of the Board, except with the prior written consent by the institutional lender and that consent shall not be unreasonably withheld; and

(4) If the lease contains any provision requiring the payment of a premium to the Lessor on assignment of the lease, any premium shall be assessed only after all amounts owing by any debt secured by a security interest held by an institutional lender shall have been paid in full.

(c) Ownership of both the lease and security interest by an institutional lender shall not effect or cause a

merger thereof, and both interests shall remain distinct and in full force and effect unless the institutional lender elects in writing to merge the estates with the consent of the Board.

(d) The Board may include in any consent form or document provisions consistent with the intent of this section as may be required to make a lease mortgageable or more acceptable for mortgageability by an institutional lender.

(e) The rights of a purchaser, assignee, or transferee of an institutional lender's security interest, including a junior lien holder, shall be exercisable by the purchaser, assignee, or transferee as successor in interest to the institutional lender; provided that:

(1) The purchase, assignment, or transfer shall conform with subsection (b) (4); and

(2) The purchase, assignment, or transfer of such rights shall be reserved for and exercisable only by an institutional lender. Other purchasers may not be precluded from acquiring the institutional lender's security interest but shall not have rights as successor interest to the original institutional lender.

23. Acceptance of rent not a waiver; no accord and satisfaction; no waiver. The acceptance of rent by the Lessor shall not be deemed a waiver of any breach by the Lessee of any term, covenant, or condition of this lease, of the Lessor's right to re-entry for breach of covenant,



nor of the Lessor's right to declare and enforce a forfeiture for any breach. Further, no acceptance by Lessor of a lesser sum of rent or any other charge then due shall be deemed to be other than on account of the earliest installment of such rent or charge due, nor shall any endorsement or statement on any check or letter accompanying said payment be deemed an accord and satisfaction, and Lessor may accept such payment without prejudice to its right to recover the balance of such installment or pursue any other remedy as provided by the Lease.

The failure of the Lessor 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 term, covenant, condition, or option. Any consent or permission by Lessor to any act or omission by Lessee shall not be deemed to be consent or permission by Lessor to any other similar or dissimilar act or omission and any such consent or permission in one instance shall not be deemed to be consent or permission in any other instance.

24. Liability insurance. The Lessee shall procure and maintain during the entire period of this lease, a policy or policies of commercial general liability insurance, in an amount to be determined by the Lessor and approved by the Board, subject to periodic review and adjustment every two years, insuring the Lessor and the Lessee against all



claims for personal injury, death and property damage. The policy or policies shall cover the entire premises, including all buildings, improvements, and grounds and all roadways or sidewalks on or adjacent to the demised premises in the control or use of the Lessee. The Lessee shall furnish the Lessor with a certificate verifying the policy and shall furnish a certificate upon each renewal of the policy, each certificate to contain or be accompanied by an assurance of the insurer to notify the Lessor of any intention to cancel any policy prior to actual cancellation. The certificate of insurance shall name the Lessor as an additional insured and shall require a thirty day notice to the Lessor of any policy change or cancellation. The procuring of this policy shall not release or relieve the Lessee of its responsibility under this lease or limit the amount of its liability under this lease.

25. Performance bond. The Lessee shall procure and deposit with the Lessor and thereafter keep in full force and effect during the term of this lease, 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 Lessee of the lease terms, conditions, and covenants of this lease. 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 Lessor as liquidated and ascertained damages and not as a penalty.

The Lessor may waive or suspend the performance bond requirement at its discretion; provided that the Lessee has substantially complied with the terms, conditions, and covenants of this lease; and provided further that the Lessor reserves the right to reinstate the performance bond requirement at any time throughout the term of this lease.

26. Justification of sureties. The bonds that are required herein shall be supported by the obligation of a corporate surety organized for the purpose of being a surety and qualified to do business as a surety in the State of Hawaii, or by no less than two personal sureties, corporate or individual, for which justifications shall be filed as provided in section 78-20, HRS; provided that the Lessee may furnish a written bond in the same amount and with the same conditions, executed by it alone as obligor, if, in lieu of any surety or sureties, the Lessee shall furnish and at all times thereafter keep and maintain any of the forms of financial guarantee of performance that is approved by the Lessor.

27. Indemnity. The Lessee shall indemnify, defend, and hold harmless the Lessor from and against any claim or demand for loss, liability, or damage, including claims for property damage, personal injury, or death, arising out of any occurrence on the demised premises or on sidewalks, parking areas, and roadways adjacent thereto resulting from

any act or omission of the Lessee, 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 the Lessee to maintain the premises in a safe condition, or by any act or omission of the Lessee, and from and against all actions, suits, damages, and claims 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, and rules of the federal, state, or county governments. This provision shall survive the expiration or earlier termination of this lease.

28. Costs of litigation. If the Lessor shall be made a party to any litigation commenced by or against the Lessee (other than condemnation proceedings), without any fault on the Lessor's part, the Lessee shall pay all costs and expenses incurred by or imposed on the Lessor, including, but not limited to, attorney's fees; furthermore, the Lessee shall pay all costs and expenses which may be incurred by or paid by the Lessor in enforcing the covenants and agreements of this lease, in recovering possession of the demised premises, or in the collection of delinquent rental, taxes, and any and all other charges.

29. Liens. The Lessee will not commit or suffer any act or neglect whereby the demised premises or any improvement thereon or the estate of the Lessee in the same shall become subject to any attachment, lien, charge, or

encumbrance, except as provided herein, and shall indemnify, defend, and hold harmless Lessor from and against all attachments, liens, charges, and encumbrances and all expenses resulting therefrom.

30. Lessor's lien. The Lessor shall have a lien on all the buildings and improvements placed on the premises by the Lessee, on all property kept or used on the demised premises, whether the same is exempt from execution or not, and on the rents of all improvements and buildings situated on the premises for all costs, attorney's fees, and rent reserved, for all taxes and assessments paid by the Lessor on behalf of the Lessee, and for the payment of all moneys as provided in this lease to be paid by the Lessee, and the lien shall continue until the amounts due are paid.

31. Condemnation. If any portion of the demised premises shall be condemned for public purposes by the State of Hawaii, a county, or any other governmental agency, the base annual rental shall be reduced in proportion to the value of the portion of the premises condemned. The Lessee shall be entitled to receive from the condemning authority:

- (1) The value of growing crops which the Lessee is not permitted to harvest; and
- (2) The proportionate value of the Lessee's permanent improvements so taken in the proportion that it bears to the unexpired term of the lease;



provided that in the alternative, the Lessee may remove and relocate its improvements to the remainder of the lands occupied by the Lessee. The Lessee shall not by reason of the condemnation be entitled to any claim against the Lessor for compensation or indemnity for the leasehold interest, and all compensation payable or to be paid for or on account of the leasehold interest by reason of the condemnation shall be payable to and be the sole property of the Lessor. The foregoing rights of the Lessee shall not be exclusive of any other to which the Lessee may be entitled by law. Where the portion so taken renders the remainder unsuitable for the use or uses for which the land was demised, the Lessee shall have the option to surrender this lease and be discharged and relieved from any further liability therefor; provided that the Lessee may remove the permanent improvements constructed, erected, and placed by the Lessee within such reasonable period as may be allowed by the Lessor.

32. Right to enter. The Lessor, the City and County of Honolulu, or their representatives shall have the right at all reasonable times to enter and cross any portion of the demised premises for the purpose of performing any public or official duties; provided that in the exercise of the rights, the Lessor, the City and County of Honolulu, or their representatives shall not interfere unreasonably with the Lessee or the Lessee's use and enjoyment of the premises.



33. Extension of time. Notwithstanding any provision to the contrary, wherever applicable, the Lessor, for good cause shown, may allow additional time beyond the time or times specified herein to the Lessee, in which to comply, observe and perform any of the terms, conditions, and covenants contained in this lease.

34. Quiet enjoyment. The Lessor covenants and agrees with the Lessee that upon payment of rent at the times and in the manner specified and the observance and performance of the covenants, terms, and conditions hereof on the part of the Lessee to be observed and performed, the Lessee shall have, hold, possess, and enjoy the demised premises for the term demised, without hindrance or interruption by the Lessor or any other person or persons lawfully claiming by, through, or under it.

35. Surrender. At the end of the term or other sooner termination of this lease, the Lessee shall peaceably deliver unto the Lessor possession of the demised premises, together with all improvements existing or constructed thereon unless provided otherwise in this lease. Furthermore, upon the expiration, termination, or revocation of this lease, should the Lessee fail to remove any and all of the Lessee's personal property from the premises, the Lessor may remove any and all personal property from the premises and either deem the property abandoned and dispose of the property or place the property in storage at the cost and expense of the Lessee, and the

Lessee shall pay all costs and expenses for the disposal, removal, or storage of the personal property. This provision shall survive the expiration or earlier termination of this lease.

36. Non-warranty. The Lessor does not warrant the conditions of the leased premises, as the same is being leased as is.

37. Covenant against discrimination. The use and enjoyment of the premises shall not be in support of any policy which discriminates against anyone based upon race, creed, color, national origin, sex, familial status, ancestry, physical handicap, disability, age or HIV (human immunodeficiency virus) infection.

38. Hunting. No hunting shall be allowed on the demised premises during the term of this lease.

39. Boundary stakeout. The Lessor shall not be responsible or liable for surveying and boundary stakeout of the demised premises; the Lessee shall be solely responsible for any survey and boundary stakeout of the demised premises.

40. Setback requirements. Building setback lines shall be in accordance with applicable county ordinances and rules.

41. Drainage easements. The demised premises shall be subject to drainage and flowage easements as applicable. An easement area shall not be altered or used for any purposes which may obstruct flow or reduce the

effectiveness of the drainageway. The Lessee shall accept the storm runoff draining into and through the easement area and shall be responsible for the maintenance and protection of the drainage easements against deterioration or loss of functional effectiveness.

42. Roadway and utility easements. The demised premises shall be subject to roadway and utility easements as applicable, which easements shall be in favor of property owners served by the easements; provided that the Lessee may cross the easements at any point; provided further that the Lessee shall be responsible for maintenance of the easements.

43. Animal waste management. The Lessee shall implement a waste management system to handle solid waste and wastewater generated from the feedlot operation. It shall include waste collection system, treatment and storage of facilities and adequate irrigation areas for application of the animal waste effluent. Submittals and designs of the waste management system shall all comply with the State of Hawaii, Department of Health's Guidelines for Livestock Waste Management dated June 1996. The construction and operation of the waste management facilities shall be concurrent with the Lessee's operation. Lessee shall contact the State of Hawaii, Department of Health, Wastewater Branch at (808) 586-4294 for annual site inspections of the waste management system.

44. Compliance with laws. The Lessee shall comply with the requirements of all federal, state, and county authorities and observe all federal, state, and county laws, ordinances, and rules pertaining to the premises which are now in force or later may be in force.

45. Interpretation. The use of any gender shall include all genders. If there is more than one Lessee, all words used in the singular shall extend to all Lessees. The paragraph headings in this lease are for convenience and are not intended to construe the intent or the meaning of any of the provisions.

46. Hazardous materials. (a) The Lessee shall not use, generate, manufacture, treat, handle, refine, produce, process, store, discharge, release, dispose of, or allow to exist on, within, under, or about the premises any hazardous materials, except in full compliance with all applicable hazardous materials laws. If the Lessee at any time becomes aware of any past, present, or contemplated hazardous discharge or of any hazardous materials claims with respect to the premises which could subject the Lessor, the Lessee, any mortgagee, or the premises to any liability or restrictions on ownership, occupancy, transferability, or use of the premises under any hazardous materials laws, the Lessee shall immediately advise the Lessor thereof in writing and provide to the Lessor such detailed reports thereof as may be reasonably requested by the Lessor. The Lessor 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) The Lessee shall be responsible for and shall indemnify, defend, and hold harmless the Lessor 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 past, present, or future use, generation, manufacture, treatment, handling, refining, production, processing, storage, release, threatened release, discharge, disposal, or presence of hazardous materials on, under, or about the premises, 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 the Lessor'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 the Lessor's enforcement of this covenant, whether or not a lawsuit is brought therefor; and (5) all reasonable costs and expenses incurred by the Lessor in connection with clauses (1), (2), (3), and (4) including, without limitation, reasonable attorney's fees.



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

47. Hazardous waste evaluation. Prior to the termination of the lease, Lessee, at its sole cost and expense, 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 and the Department of Agriculture. The termination will not be approved by the Board of Agriculture or Department of Agriculture unless this evaluation and abatement provision has been executed.

48. Commercial operations. The Lessee, its employees, customers, guests, agents and/or invitees shall not display or offer for sale or sell any article(s) or merchandise whatsoever within the premises without prior written approval of the Lessor. No commercial activities whatsoever shall be allowed within the premises without the prior written approval of the Lessor.

49. Abandoned vehicles. Lessee shall take all steps necessary to prevent the placing or storing of abandoned vehicles within the premises. Any and all abandoned vehicles within the premises shall be removed by Lessee at Lessee's cost and expense.

50. Boundary fences. The Lessee shall, within six (6) months of the lease commencement date, install stockproof

fence along the entire perimeter of the land under lease where fencing does not now exist, regardless of whether the Lessee has an interest or ownership in adjoining lands, and shall maintain these fences in good order and condition throughout the term of this lease and those now existing on the premises. The Lessee shall, wholly at its own cost and expense, stake out the boundaries wherever necessary in conformance with the legal descriptions provided in this lease.

51. Partial invalidity. If any term, provision, covenant or condition of this lease should be held to be invalid, void or unenforceable, the remainder of this lease shall continue in full force and effect and shall in no way be affected, impaired or invalidated thereby.

52. Incorporation; amendments. Lessee expressly acknowledges and agrees that Lessor has not made and is not making, and Lessee, in executing and delivering this Lease, is not relying upon, any warranties, representations, promises or statements, except to the extent that the same are expressly set forth in this Lease. All understandings and agreements heretofore made between the parties are merged in this Lease, which alone fully and completely expresses the agreement of the parties and which is entered into after full investigation, neither party relying upon any statement or representation not embodied in this Lease.

This Lease may be amended and the provisions modified only by instruments in writing executed by Lessor and Lessee.

53. Hawaii law. This lease shall be construed, interpreted, and governed by the laws of the State of Hawaii.

#### SPECIAL CONDITIONS

##### DEFINITIONS

As used in this lease, unless the context otherwise requires:

"Chairperson" means the Chairperson of the Board of Agriculture.

"Corporate successor" means a solely owned corporation which, through an assignment of lease, succeeds a non-agricultural park lessee who shall own all of the stock issued by and be the principal officer of the corporation.

"Diversified agriculture" means the conduct of activities concerned with the production and marketing of nursery products and horticultural crops such as vegetables, melons, orchards, flowers, foliage, and others, including activities related thereto, and shall include aquaculture, livestock feedlot operations for temporary holding of cattle, sheep, goats, hogs and any approved animals.

"Drainage easements" and "flowage easements" mean natural or improved drainage courses that serve to convey stream flows or run-off 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" means and includes 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, and any and all other substances or materials defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," and/or "toxic substances" under or for the purposes of the hazardous materials laws.

"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 the Lessee'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 the Lessee's knowledge, contemplated or threatened by any third party against the Lessee 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 49 U.S.C. §1801, 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, 15 U.S.C. §§2601 through 2629, 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, Hawaii Revised Statutes, and any similar state or local laws, ordinances, and the regulations now or hereafter adopted, published, and/or promulgated pursuant thereto.

"Holder of record of a security interest" means a person who is the owner or possessor of a security interest in the land demised and who has filed a copy of the interest with the Department of Agriculture and with the Bureau of Conveyances.



"Institutional lender" means a federal, state, or private lending institution licensed to do business in the State and that make loans to qualified applicants under this lease on the basis of a lease awarded pursuant to Chapter 166E, Hawaii revised Statutes for security, in whole or in part, together with any other entity that acquires all or substantially all of an institutional lender's loan portfolio.

"Invasive species" means any organism which may include (but not limited to) plant, animal, fungus, or bacterium, that has negative effects that threaten biodiversity by causing disease, acting as predators or parasites, acting as competitors, altering habitat, and/or hybridizing with local species, likely causing harm to the economy, environment and/or human health thereby affecting the agricultural industries of the State of Hawaii, as determined and so designated from time to time by the Department of Agriculture. The term shall also include any and all noxious weeds, as that term is defined herein, regardless of whether the noxious weed is native to Hawaii or not.

"Lessee" includes the Lessee, its heirs, personal representatives, executors, administrators, successors, or permitted assigns.

"Making a loan" means lending of new money or the renewal or extension of indebtedness owing by a qualified applicant to an institutional lender, after June 30, 2006.

"Noxious weed" means any plant species which is injurious, harmful, or deleterious or which may be likely to become so to the agricultural industries of the State of Hawaii, as determined and so designated from time to time by rule of the Department of Agriculture.

"Premises" or "demised premises" includes the land hereby demised and all buildings and improvements now or hereinafter constructed and installed thereon.

"Security interest" means any interest created or perfected by a mortgage, assignment by way of mortgage, or by a financing statement and encumbering a lease, land demised by the lease, or personal property located at, affixed or to be affixed to, or growing or to be grown upon the demised land.

"Special Equestrian Activities" shall mean the raising, keeping, care, breeding, training buying, selling and showing of equine animals.

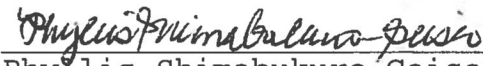
"Waste" includes (1) permitting the premises or any portion thereof to become unduly eroded or failure to take proper precautions or make reasonable effort to prevent or correct same; (2) permitting any material increase in noxious weeds in uncultivated portions thereof; (3) failure to employ all of the usable portions of the demised premises; and (4) abandonment of the demised premises.

IN WITNESS WHEREOF, the parties hereto have caused  
these presents to be executed this 26<sup>th</sup> day of  
December, 20 19.

APPROVED AS TO FORM:


STATE OF HAWAII  
DEPARTMENT OF AGRICULTURE

  
\_\_\_\_\_  
Deputy Attorney General

  
\_\_\_\_\_  
Phyllis Shimabukuro-Geiser  
Chairperson  
Board of Agriculture

LESSOR

HAWAII LAND & LIVESTOCK, LLC

  
\_\_\_\_\_  
By ROBERT J FARINA JR.  
Its PRES.

LESSEE

STATE OF HAWAII )  
 ) SS.  
CITY AND COUNTY OF HONOLULU )

On this 20<sup>th</sup> day of December, 20 19, before  
me personally appeared Robert J. Ferris Jr,  
to me known to be the person described in and who executed  
the foregoing instrument General Lease No. S- 3138 and  
acknowledged that he/she executed the same as his/her free  
act and deed.



Notary Public, State of Hawaii

Jan Y. Ferrer

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

Document Date: Undated # of Pages: 62

Notary Name: Jan Y. Ferrer First Circuit

Document Description: SDH DOA General Lease No. S-3138

between SDH + Hawaii Land + Livestock LLC DEC 20 2019

Jan Y. Ferrer  
Notary Signature

Date



STATE OF HAWAII )  
 ) SS.  
CITY AND COUNTY OF HONOLULU )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before  
me personally appeared \_\_\_\_\_,  
to me known to be the person described in and who executed  
the foregoing instrument General Lease No. S-\_\_\_\_ and  
acknowledged that he executed the same as his free act and  
deed.

Notary Public, State of Hawaii

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

Document Date: \_\_\_\_\_ # of Pages: \_\_\_\_\_  
Notary Name: \_\_\_\_\_ First Circuit  
Document Description: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Notary Signature

\_\_\_\_\_  
Date





STATE OF HAWAII  
SURVEY DIVISION  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
HONOLULU

C.S.F. No. 25,720

March 8, 2019

AGRICULTURAL PURPOSES SITE

Honouliuli, Ewa, Oahu, Hawaii

Being all of Lot 12022 as shown on Map 888 of Land Court Application 1069 filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii covered by Transfer Certificate of Title 498504 issued to the State of Hawaii and containing an AREA OF 110.106 ACRES (Land Office Deed S-28204).

Lot 12022 shall have access across Lots 3163 and 3164 as shown on Map 325 as set forth by Land Court Order 127022.

TOGETHER WITH the above-described parcel of land, all of the submerged lands seaward of the Highwater Mark (Vegetation Line) as shown on Map 888 to the Mean Lower Low Water Mark at seashore.

SUBJECT, HOWEVER, to any and all encumbrances that may be noted on Transfer Certificate of Title 498504.

SURVEY DIVISION  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
STATE OF HAWAII

By: Gerald Z. Yonashiro

Gerald Z. Yonashiro  
Land Surveyor

rk

Compiled from Land Court  
Records.

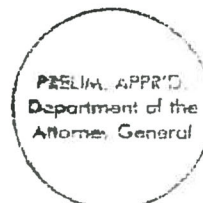
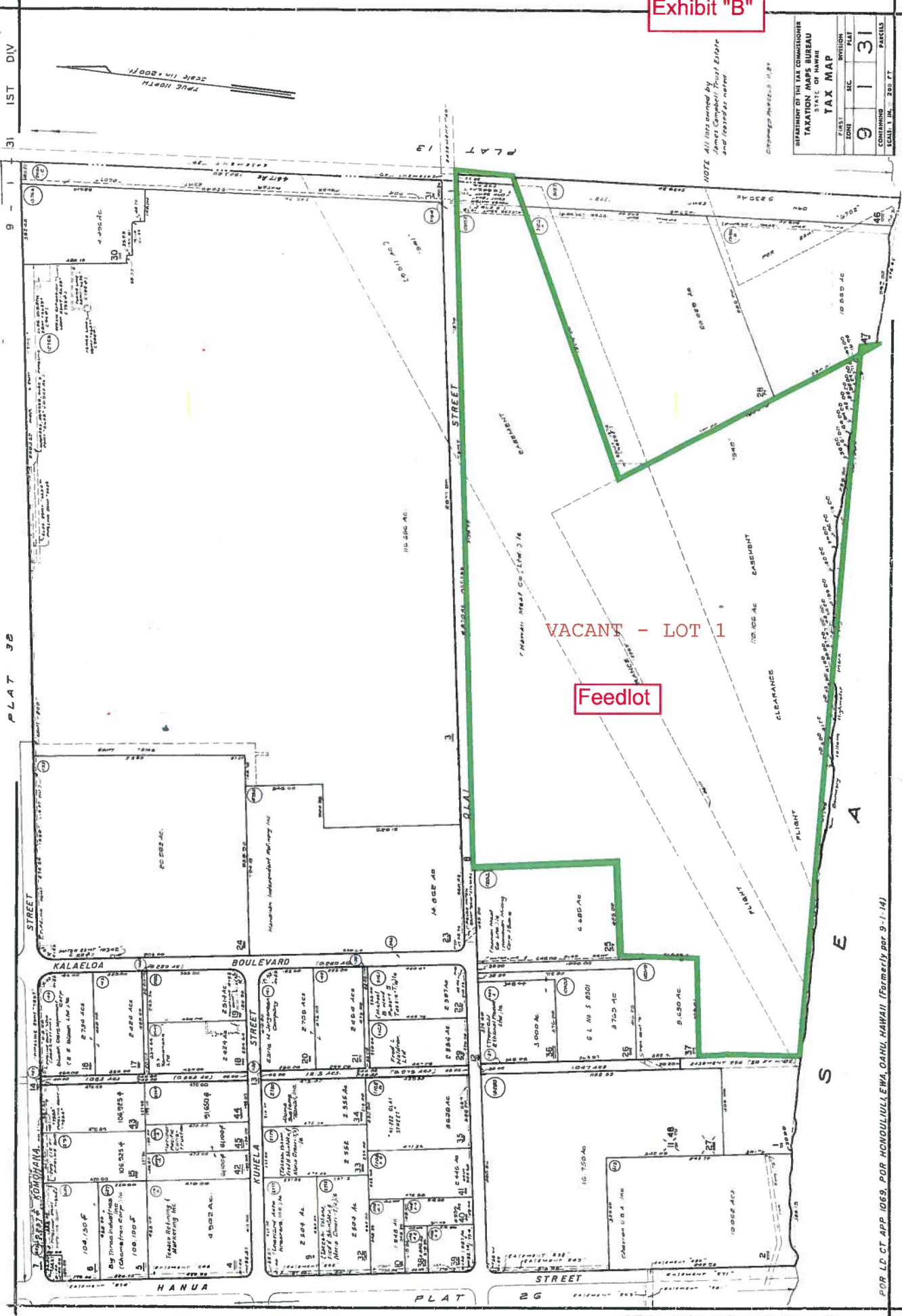


EXHIBIT "A"

DEPARTMENT OF THE TAX COMMISSIONER			
TAXATION MAPS BUREAU			
STATE OF HAWAII			
TAX MAP			
EDITION	SIC	FILE	PARTIAL
9	1	31	
CONTAINING			
SCALE 1 IN. = 200 FT.			

NOTE: All lots shown by  
James Campbell Trust Estate  
and 100-100-00-000

Copyright 1994-95, 1997



POR. LD. CT. APP. 1069, POR. HONOLULU, LEWA, OAHU, HAWAII (Formerly por 9-1-14)

**EXHIBIT "C"**

**DEPARTMENT OF AGRICULTURE  
ASSIGNMENT OF LEASE EVALUATION POLICY**

**1. Reference**

§4-158-19(a)(5), effective December 6, 2007, reads in part:

“Prior to the approval of any assignment of lease permitted by this section, 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 lease on payment by the lessee of a premium based on the amount by which the consideration for assignment, whether by cash, credit or otherwise, exceeds the depreciated cost of improvements and trade fixtures being transferred to the assignee; provided further that 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; provided further that the board may adjust the base and additional rental pursuant to the method outlined in section 4-158-21;”

**2. Qualifying Leases**

This policy shall be applicable to the subject lease.

**3. Prior Approval**

Prior to giving its consent to an assignment, the Department of Agriculture (DOA) 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 Board of Agriculture (Board) has given its approval. Such assignments shall be entertained only if they meet the criteria set forth in §§4-158-19(a)(3) and (4), HAR.

**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 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 rule 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 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 days after 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 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. Only in cases where the lessee has essentially constructed or directed the construction of its own improvements, may the lessee be given the option of paying for an appraiser, but to be selected by the state, to determine the valuation 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 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**

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. 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. State-owned Improvements**

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 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

Example:	Actual cost:	\$500,000
	CCI (most recent):	121.1
	CCI (base):	102.3
	Expired term:	57 mos.
	Whole term:	408 mos.

1.      **Adjusted Cost of Improvements or Renovations:**  
  
$$\text{Actual Cost} \times \text{CCI (most recent)} / \text{CCI (base)}$$
$$\$500,000 \times 121.1 / 102.3 = \$591,887$$
2.      **Depreciation:**  
  
$$\$591,887 / 408 \text{ mos.} \times 57 \text{ mos.} = \$82,690$$
3.      **Adjusted Depreciated Cost of Improvements or Renovations:**  
  
$$\$591,887 - \$82,690 = \underline{\underline{\$509,197}}$$

**SCHEDULE B.****Adjusted Depreciated Cost of Trade Fixtures****1. Adjusted Cost of Trade Fixture.**

Multiply the actual cost of the improvements or renovations 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

**Example:****Refrigerator**

Actual cost:	\$1,510
CPI (most recent):	118.1
CPI (base):	104.6
Expired term:	57 mos.
Whole term (Anticipated Life)	96 mos.

**1. Adjusted Cost of Trade Fixture:**

Actual Cost x CPI (most recent) / CPI (Base Year)

$$\$1,510 \times 118.1 / 104.6 = \$1,705$$

**2. Depreciation:**

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

**3. Adjusted Depreciated Cost of Trade Fixture:**

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



**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 and over	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 may impose a ten percent (10%) surcharge if the assignor has not performed lease covenants to improve or use the property.

## **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 nos. 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 102.3, 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>	
3.	Adj. Cost Imp/Ren:		-509,197
	Adj. Cost Trade Fixture:	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

## **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 Received:		\$1,000,000
2.	Consideration Paid:	\$600,000	
	Premium:	<u>- 45,055</u>	
	Net Consideration <u>Paid</u> :		\$554,945
3.	Adj. Value Consideration (improvements):		
	\$554,945 x (156.4 / 121.1):		\$716,708
	Depreciation:		
	\$716,708 x (107 mos. / 408 mos.):	<u>- 187,960</u>	
	Adj. Depreciated Value Consideration:		<u>- 528,748</u>
4.	Excess:		471,252
5.	Premium:	Percentage: 45%	\$212,063

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

November 9, 2018

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

PSF No.: 17OD-074

Oahu

Set Aside to Department of Agriculture for Agricultural Purposes; Issuance of Immediate Management Right-of-Entry to Department of Agriculture, Honouliuli, Ewa, Oahu, Tax Map Key: (1) 9-1-031:001.

APPLICANT:

Department of Agriculture

LEGAL REFERENCE:

Sections 171-11 and -55, Hawaii Revised Statutes (HRS), as amended, and Act 90 Session Laws of Hawaii 2003, now codified at Chapter 166E, HRS.

LOCATION:

Portion of Government lands situated at Honouliuli, Ewa, Oahu, identified by Tax Map Key: (1) 9-1-031:001, as shown on the maps attached as **Exhibits A1 and A2**.

AREA:

110.106 acres, more or less.

ZONING:

State Land Use District: Urban  
County of Honolulu CZO: I-2 Intensive Industrial District

TRUST LAND STATUS:

Acquired after Statehood, i.e. non-ceded land.  
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No



CURRENT USE STATUS:

Vacant and unencumbered.

PURPOSE:

Agricultural purposes.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred by the Environmental Council on June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, "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," Item 43, which states the "Transfer of management authority over state-owned land, such as setting aside of state lands to or from other government agencies through a Governor's executive order," and Item 51, "Permits, licenses, registrations, and rights-of-entry issued by the department that are routine in nature, involving negligible impacts beyond that previously existing." (See **Exhibit B**)

BACKGROUND:

At its meeting of August 25, 2006, under agenda item D-12, the Board of Land and Natural Resources Board found that the public interest demanded that a lease for the property be disposed of through negotiation pursuant to Section 171-59(a) of the Hawaii Revised Statutes, as amended, and delegated the authority to the Chairperson to issue a Request for Qualifications/Request for Proposals (RFQ/RFP).

On November 8, 2009, DLNR issued an RFQ/RFP to select a developer for the Subject Property. As a result of the RFQ/RFP process, the State of Hawaii, by its Chairperson of the Board of Land and Natural Resources (Chairperson) entered into a Development Agreement with West Wind Works, LLC (3W) made effective November 24, 2011 for the development of the Oahu Renewable Energy Park and terminating on December 31, 2013 or sooner.

Following 3W's default on its monetary and non-monetary obligations, staff requested the Board cancel the Development Agreement at its meeting on May 25, 2012, Item D-16. After deferring action on the cancellation, the Board approved the assignment of the Development Agreement to International Electric Power, LLC.

Through subsequent assignments of and amendments to the Development Agreement, PSP III, LLC assumed the role of developer, and the termination date of the Development Agreement was amended to December 31, 2016 or sooner.

Unable to negotiate a power purchase agreement with Hawaiian Electric Co., Inc. (HECO),

PSP III, LLC exercised its option to cancel the Development Agreement in a letter dated December 5, 2016.

#### REMARKS:

The Subject Property is located at Honouliuli, Ewa, Oahu within the Campbell Industrial Park. The Subject Property was acquired by the State by condemnation in 1997 for the purposes of “land banking, protection and preservation of agricultural land, and for providing for various public uses.” Prior to condemnation, the Subject Property was used as a livestock feedlot. Since termination of feedlot operations, the property has remained vacant and underutilized, in large part due to the lack of roadways and utility infrastructure.

In a letter dated April 12, 2016, the Department of Agriculture (DOA) inquired about the possibility of setting aside approximately 35 acres of the subject parcel to the DOA for water credits. The Chairperson responded in a letter dated May 20, 2016 that a set aside was not possible at that time, as the property was encumbered through December 31, 2016.

Following the Developer’s cancellation of the Development Agreement, the DOA has again requested this property be set aside to it pursuant to Act 90, Session Laws of Hawaii 2003, which provides for the transfer of non-agricultural park lands to DOA from the Department of Land and Natural Resources. The DOA seeks to return the use of this parcel to its original purpose as a cattle feed lot, which is permitted under the zoning, and to provide DOA the needed water allocation for an adjacent property. The set-aside furthers the State’s goals of greater food security by increasing local food production, which is one of the Governor’s initiatives.

In the event staff receives proposals in the future to lease portions of this property for renewable energy projects, staff is recommending that the Board reserve the right to withdraw appropriate acreage or use rights from the set-aside for leasing to renewable energy producers, provided such leases will not unreasonably interfere with DOA’s use of the land. In response, DOA expressed concerns that its prospective tenants may want to install photovoltaic arrays on the land to generate power in support their operations, and DOA has therefore requested that the Board’s reserved right not prohibit renewable energy projects by DOA or its tenants.

In staff’s view, the parcel is large enough to accommodate small-scale photovoltaic projects providing energy only to the tenants on site, as well as larger scale projects that would generate power for consumption off-site under a power purchase agreement with HECO. Accordingly, staff is agreeable to the Board’s reserved right being qualified as DOA suggests, provided that DOA and its tenants obtain the prior written approval of the Chairperson before installing any photovoltaic arrays or other renewable energy projects on the land.<sup>1</sup>

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<sup>1</sup> If a renewable energy project by DOA or its tenants involves a lease, sublease, license, easement or permit to a third party, DOA would additionally need to obtain the Board’s consent thereto under Section 171-11, HRS.

Staff consulted the agencies listed below on the submittal and proposed exemption from an environmental assessment with the results indicated:

Agency	Comments
State Historic Preservation Division	SHPD has no objections to this Board submittal at this time, however SHPD requests the opportunity to review and comment on any future permit application involving ground disturbing activities.
Division of Forestry and Wildlife	No comments received by suspense date.
Division of Aquatic Resources	DAR has no objections to this Board submittal at this time, however DAR requests the opportunity to review and comment on any future development other than stated in this Board submittal.
Office of Conservation and Coastal Lands	No comments received by suspense date.
Department of Agriculture	DOA has no objection to the set aside, and has subsequently been made aware of the 2008 Phase II Environmental Assessment findings of elevated levels of Contaminants of Concern in both soil and groundwater and has no comments or concerns with this Board submittal at this time. Future development of the land may trigger reevaluation, investigation and/or remediation of the site.
Office of Hawaiian Affairs	No comments received by suspense date.
Board of Water Supply	BWS has no objections to this Board submittal at this time. BWS plans to obtain a Grant of Pipeline Easement along Olai Street in the future.
C&C Department of Facility Maintenance	DFM has no objections to this Board submittal at this time, however they pointed out a 50-foot drainage easement on the west side of the parcel that must be maintained by the owner as shown on Exhibit A1.

Although the parcel is located next to the ocean, staff has determined that there is existing lateral public access to the beach in the vicinity of the parcel 0.26 miles away, from Barbers Point Beach Park to the west and that there is no need to reserve additional rights-of-way to the beach over the subject industrial land.

Staff proposes to establish the seaward boundary in the executive order setting aside the property at the mean lower low water line. This will give the DOA management

jurisdiction over the entire area instead of leaving DLNR with management responsibility for a strip of land seaward of the shoreline. The executive order will provide that no agricultural activity will be permitted seaward of the shoreline, and that the public will continue to have lateral access to the shoreline from Barbers Point Beach Park.

Staff believes this is an equitable arrangement given that Board is setting aside scarce and valuable industrial land. This arrangement will also allow staff to focus on other higher priority items such as converting certain revocable permits to other types of appropriate dispositions and working on the various complex shoreline issues. This set aside of the makai boundary at the mean low water line is modeled after other set asides to County Parks (e.g., Kuhio Beach, Waialea Beach and Black Pots on Kauai) where the makai boundary of the set aside are located at the mean lower low water line. This approach allows for a single management agency over the subject land and simplifies enforcement in the area. The DOA is agreeable to accepting the set aside to the mean low water line.<sup>2</sup>

Due to its location within the Campbell Industrial Park, this property is subject to the Conditions, Covenants and Restrictions (CC&Rs) made by the Trustees Under the Will and of the Estate of James Campbell, Deceased and assigned to MMGD LLC (MMGD). Pursuant to Section 2.04c of the CC&Rs, MMGD invoices the property owners within the industrial park annually for their pro rata share of common area costs. This expense has already been paid by DLNR for 2018, and will be DOA's responsibility once the Executive Order is executed. In the event the Executive Order is executed prior to MMGD's next billing cycle, DOA agrees to pay its prorated share of the common area costs for that year.

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, 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. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject land to the Department of Agriculture under the terms and conditions cited above, including the establishment of the seaward boundary of the subject land at the mean lower low water line, which are by this reference incorporated herein and subject further to the following:
  - A. The standard terms and conditions of the most current executive order form, as may be amended from time to time; provided, however, that the set-aside shall reserve to the Board the right to issue leases for renewable energy projects on the land to the extent such leases will not unreasonably interfere with DOA's use of the land; provided further that DOA and its tenants shall

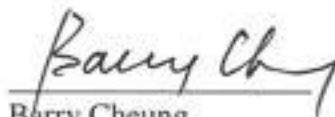
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<sup>2</sup> In addition, in the past the Department set aside the prime usable and developable lands to other requesting agencies while retaining hazardous mountainsides thereby leaving mitigation responsibility and liability (e.g., Ko Road and Menehune Road hazard mitigation projects) with the Department. This set aside seeks to avoid such result.



- not be prohibited from installing photovoltaic arrays or locating other renewable energy projects on the land as long the power generated thereby is wholly consumed on the land; and provided further that DOA and its tenants shall obtain the prior written consent of the Chairperson of the Board of Land and Natural Resources before installing photovoltaic arrays or locating any other renewable projects on the land;
- B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
  - C. Review and approval by the Department of the Attorney General; and
  - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
3. Grant an immediate management right-of-entry to the Department of Agriculture over the subject lands, under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
- A. The standard terms and conditions of the most current management and construction right-of-entry form, as may be amended from time to time;
  - B. The right-of-entry shall be effective upon acceptance and shall terminate upon issuance of the executive order; and
  - C. The Department of Land and Natural Resources reserves the right to impose additional terms and conditions at any time if it deems necessary while this right-of-entry is in force.

Respectfully Submitted,



Barry Cheung  
District Land Agent

APPROVED FOR SUBMITTAL:

  
Suzanne D. Case, Chairperson



**TMK (1) 9-1-031:001**

## EXHIBIT A1



**Subject**

**TMK (1) 9-1-031:001**

**EXHIBIT A2**



**EXEMPTION NOTIFICATION**

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title:	Set aside of State lands to Department of Agriculture (DOA) and issuance of immediate management right-of-entry.
Project / Reference No.:	PSF 17OD-074
Project Location:	Honouliuli, Ewa, Oahu, identified by Tax Map Key: (1) 9-1-031:001
Project Description:	Set aside to DOA for agricultural purposes and issuance of immediate management right-of-entry.
Chap. 343 Trigger(s):	Use of State Land
Exemption Class No. and Description:	In accordance with Hawaii Administrative Rule Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred by the Environmental Council on June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, "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," Item 43, which states the "Transfer of management authority over state-owned land, such as setting aside of state lands to or from other government agencies through a Governor's executive order," and Item 51, "Permits, licenses, registrations, and rights-of-entry issued by the department that are routine in nature, involving negligible impacts beyond that previously existing."
Cumulative Impact of Planned Successive Actions in Same Place Significant?	No. The proposed action involves a one-time set aside of land in the area to DOA for agricultural use. Staff believes there are no cumulative impacts involved.
Action May Have Significant Impact on Particularly Sensitive Environment?	No. There are no particular sensitive environmental issues involved with the proposed use of the property.
Analysis:	The proposed action involves the transfer of management jurisdiction over the subject land from the Board of Land and Natural Resources to DOA. DOA will be responsible for

**EXHIBIT B**



compliance with Chapter 343, HRS, in the event it proposes any development of the land that is not exempt from Chapter 343. As such, staff believes that transfer of management jurisdiction to DOA involves negligible or no expansion or change of use beyond that previously existing, and should therefore be found exempt from the preparation of an environmental assessment under Chapter 343, HRS.

Consulted Parties:

Historic Preservation Division, Division of Forestry and Wildlife, Division of Aquatic Resources, Office of Conservation and Coastal Lands, Department of Agriculture, Office of Hawaiian Affairs, Board of Water Supply, City and County Department of Facility Maintenance. See agency comments in attached submittal.

Recommendation:

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.

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

April 8, 2022

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

PSF No.: 22OD-002  
Oahu

Issuance of Right-of-Entry Permit to Eurus Energy America LLC to Conduct Topographic, Easement, Geotechnical, Biological, and Cultural Surveys on Land Set Aside to the Department of Agriculture under Executive Order No. 4584 at Honouliuli, Ewa, Oahu, Tax Map Key: (1) 9-1-031: 001.

APPLICANT:

Eurus Energy America LLC (Eurus), a Delaware limited liability company.

LEGAL REFERENCE:

Section 171-55, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Honouliuli, Ewa, Oahu, Tax Map Key: (1) 9-1-031: 001, as shown on the attached map labeled Exhibit A.

AREA:

110 acres, more or less.

ZONING:

State Land Use District: Urban  
County Zoning: I-2 Intensive Industrial District

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

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

CURRENT USE STATUS:

The subject parcel was set aside to the Department of Agriculture (DOA) on May 15, 2019, for agricultural purposes via Executive Order No. 4584 (Exhibit B) and is leased to Hawaii Land & Livestock, LLC (HLL) under DOA General Lease No. S-3138 (Exhibit C). HLL uses the land for livestock resting pens.

CHARACTER OF USE:

Conduct Topographic, Easement, Geotechnical, Biological, and Cultural Surveys.

TERM OF RIGHT-OF-ENTRY (ROE) PERMIT:

One (1) year with authorization for the Chairperson to extend the ROE for additional one year periods, or such shorter period as Eurus may require, for good cause shown.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

Gratis.

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 (Department) 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" and Part 1, Item 44 that states, "Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing" and General Exemption Type 5 that states, "Basic data collection, research, experimental management, and resource and infrastructure testing and evaluation activities that do not result in a serious or major disturbance to an environmental resource" and Part 1, Item 1 that states, "Conduct surveys or collect data on existing environmental conditions (e.g. noise, air quality, water flow, water quality, etc.)", Item 2 that states, "Non-destructive data collection and inventory, including field, aerial and satellite surveying and mapping", Item 3 that states, "Conduct topographic, sounding, wave, littoral transport, bathymetric, and location surveys", Item 12 that states, "Conduct terrestrial and marine archeological surveys", Item 19 that states, "Conduct planning and feasibility studies", and Item 20 that states, "Permission to enter lands for the purpose of conducting those activities listed above."

The proposed disposition 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:

Eurus Energy America LLC is a Delaware limited liability company, does not (yet) conduct business in Hawaii and is not required to register with the Department of Commerce and Consumer Affairs at this time.

REMARKS:

At its meeting of November 9, 2018, the Board of Land and Natural Resources (Board) approved the set aside of the subject parcel to DOA for agricultural purposes. The subject parcel was formally set aside via Executive Order No. 4584 on May 15, 2019, subject to a reservation to the Board of the right to issue leases for renewable energy projects on the land provided that the projects do not unreasonably interfere with DOA's or its lessee's use of the land for agricultural purposes.<sup>1</sup>

On December 26, 2019, DOA executed General Lease No. S-3138 with HLL for a term of 35 years. The lease was solely for Diversified Agriculture including animal feedlot purposes for finishing prior to slaughter of livestock and the lease specified that DOA maintained the right to withdraw any portion of the premises for leasing to renewable energy producers and/or for the creation of photovoltaic projects and supporting infrastructure (Exhibit C, page 8).

On January 12, 2022, Eurus submitted its Request for State Lands for an ROE permit onto the subject parcel (Exhibit D). The purpose of this ROE is to conduct topographic, easement, geotechnical, biological, and cultural surveys necessary to: (a) evaluate the feasibility and design of a solar-based electricity and renewable hydrogen generation facility; (b) comply with relevant state and local laws including Chapter 343, HRS, and permit requirements including Special Management Area User Permit requirements; (c) evaluate other approvals necessary for a potential long-term lease of the parcel. Eurus has contacted DOA to discuss this project and DOA has initiated discussions between Eurus and DOA's lessee, HLL. Staff notes that HLL pays DOA \$18,300 in base rent annually under DOA Lease S-3138, with a provision for additional rent based on 1.5% of gross proceeds to the extent they are in excess of the base rent.

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<sup>1</sup> The Department reserved rights for developing renewable energy projects on the land because the land was once designated as income-producing as a prime site for renewable energy projects with its location in Campbell Industrial Park across a Hawaiian Electric Company, Inc. (HECO) facility and close to the west side energy corridor. The land was previously under a Board-approved development agreement for a renewable energy project, but the developer was not able to secure the HECO power purchase agreement for its project and the development agreement terminated. Soon thereafter, DOA requested the land be transferred to it.



The subject parcel consists of approximately 110 acres. Eurus requests permission to conduct studies over the entire parcel although its renewable energy project would require use of a maximum of 90 acres.

Staff visited the subject parcel on January 21 and February 22, 2022. On these visits staff observed that a significant portion of the parcel is being used for purposes other than those prescribed in the lease and executive order. There is what appears to be an extensive industrial base yard running along the makai portion of the parcel parallel to Olai Road. Staff documented numerous excavators and other heavy equipment, shipping containers and rusting trailers stacked and strewn throughout the parcel, large piles of what appear to be construction fill and rubble, abandoned and wrecked vehicles ranging from cars to construction equipment to semi-trucks, large vehicle repair bays and support structures, stacks of concrete girders and barriers, and other industrial and construction materials (Exhibit E). Aside from a small corral situated behind the HLL office, staff did not observe any cattle or other agricultural activity taking place on the subject parcel.

HLL employees explained that the vehicles and materials located on the subject parcel are the property of a hauling company that provides hauling services in support of HLL's slaughterhouse business, and that its use of the subject parcel was with the permission of HLL. Upon returning from the January 21 site visit, staff informed DOA of the condition and use of the subject parcel and provided DOA with pictures. Staff intends to discuss HLL's use of the land with DOA and explore options for bringing the use into compliance with the executive order and the DOA lease.

Staff notes that the ongoing use of subject parcel as an industrial base yard is not compliant with the terms of Executive Order No. 4584 or General Lease No. 3138, which only make exceptions from agricultural use for renewable energy projects. Due to the small footprint of HLL's authorized operations on the property, there does appear to be potential for development of a large portion of it for renewable energy purposes.

This ROE shall remain in effect for one (1) year, however it may be extended by the Chairperson for additional one (1) year periods, or such short period as Eurus may require, for good cause shown.

Comments were solicited from the agencies below with the results indicated:

Agency:	Comment:
DBEDT-State Energy Office	Exhibit F
DOA	Exhibit G

Applicant 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.

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1-16, 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.
2. Grant an access right-of-entry permit to Eurus Energy America LLC covering the subject area 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 access right-of-entry form, as may be amended from time to time;
  - B. This access right-of-entry is effective upon Land Board approval and shall remain in effect for one (1) year. The Chairperson is authorized to extend the ROE for additional one-year periods, or such shorter period as Eurus may require, for good cause shown;
  - C. The Department of Land and Natural Resources reserves the right to impose additional terms and conditions at any time if it deems necessary while this right-of-entry is in force; and
  - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

*Luke Sarvis*

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Luke J. Sarvis  
Project Development Specialist

APPROVED FOR SUBMITTAL:

*Suzanne D. Case*

*RT*

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Suzanne D. Case, Chairperson

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

December 9, 2022

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

OAHU

Cancellation of Governor's Executive Order No. 4584 to the Department of Agriculture for Agriculture Purposes, Honouliuli, Ewa, Oahu, Tax Map Key: (1) 9-1-031:001.

APPLICANT:

Department of Agriculture.

LEGAL REFERENCE:

Sections 171-6 and 11, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Honouliuli, Ewa, Oahu, Tax Map Key: (1) 9-1-031: 001, as shown on the attached map labeled **Exhibit A**.

AREA:

110 acres, more or less.

ZONING:

State Land Use District: Urban  
County Zoning: I-2 Intensive Industrial District

TRUST LAND STATUS:

Acquired after 8/59, i.e., non-ceded.

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

CURRENT USE STATUS:

Governor's Executive Order No. 4584 setting aside to the Department of Agriculture (DOA) for agriculture purposes. DOA subsequently leased the land to Hawaii Land & Livestock, LLC (HLL) under DOA General Lease No. S-3138 for diversified agriculture<sup>1</sup> including animal feedlot purposes for finishing prior to slaughter of livestock.

#### 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 (Department) 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" and Part 1, Item 36 that states, "Transfer of management authority over state-owned land, such as setting aside of state lands to or from other government agency through a Governor's Executive Order".

The proposed disposition 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.

#### REMARKS:

At its meeting of November 9, 2018, the Board of Land and Natural Resources (Board) approved the set aside of the subject parcel to DOA for agricultural purposes. The subject parcel was formally set aside via Executive Order No. 4584 on May 15, 2019, subject to a reservation to the Board of the right to issue leases for renewable energy projects on the land provided that the projects do not unreasonably interfere with DOA's or its lessee's use of the land for agricultural purposes.<sup>2</sup>

On December 26, 2019, DOA executed General Lease No. S-3138 with HLL for a term of 35 years. The lease was solely for Diversified Agriculture including animal feedlot purposes for finishing prior to slaughter of livestock and the lease specified that DOA

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<sup>1</sup> "Diversified agriculture" as defined in the lease means the conduct of activities concerned with the production and marketing of nursery products and horticultural crops such as vegetables, melons, orchards, flowers, foliage, and others, including activities related thereto, and shall include aquaculture, livestock feedlot operations for temporary holding of cattle, sheep, goats, hogs and any approved animals.

<sup>2</sup> The Department reserved rights for developing renewable energy projects on the land because the land was once designated as income-producing as a prime site for renewable energy projects with its location in Campbell Industrial Park across a Hawaiian Electric Company, Inc. (HECO) facility and close to the west side energy corridor. The land was previously under a Board-approved development agreement for a renewable energy project, but the developer was not able to secure the HECO power purchase agreement for its project and the development agreement terminated. Soon thereafter, DOA requested the land be transferred to it.



maintained the right to withdraw any portion of the premises for leasing to renewable energy producers and/or for the creation of photovoltaic projects and supporting infrastructure.

At its meeting of April 8, 2022, under agenda item D-4,<sup>3</sup> the Board authorized the issuance of a right-of-entry permit to Eurus Energy America LLC (Eurus) for due diligence purpose regarding a proposed renewable energy project planned on the subject parcel.

As reported in the April 2022 submittal:

staff visited the subject parcel on January 21 and February 22, 2022. On these visits staff observed that a significant portion of the parcel is being used for purposes other than those prescribed in the lease and executive order. There is what appears to be an extensive industrial base yard running along the makai portion of the parcel parallel to Olai Road. Staff documented numerous excavators and other heavy equipment, shipping containers and rusting trailers stacked and strewn throughout the parcel, large piles of what appear to be construction fill and rubble, abandoned and wrecked vehicles ranging from cars to construction equipment to semi-trucks, large vehicle repair bays and support structures, stacks of concrete girders and barriers, and other industrial and construction materials. Aside from a small corral situated behind the HLL office, staff did not observe any cattle or other agricultural activity taking place on the subject parcel.

HLL employees explained that the vehicles and materials located on the subject parcel are the property of a hauling company that provides hauling services in support of HLL's slaughterhouse business, and that its use of the subject parcel was with the permission of HLL.

At the April 8, 2022 Board meeting, representatives from both DOA and its tenant disagreed with the division's position and responded that the presence of the heavy equipment and vehicles observed was not abnormal for a large farm operation. DOA and its tenant explained that the equipment and vehicles were meant to be utilized for the agricultural use as permitted under DOA's lease. Since the April 2022 meeting was for the issuance of a right-of-entry to Eurus, staff did not pursue any remedy for the discrepancy noted between the public purposes in EO 4584 and the actual use Land Division staff observed on the ground.

Another site visit to the subject property was conducted on November 1, 2022, this time led by Chairperson Case. The site inspection team observed the same use being made of the land as Land Division staff had noted during its inspections of January and February 2022. Heavy construction equipment and vehicles were still present and there was no sign of any active agricultural use on the property. The best description of the use observed by the Department on November 1, 2022 is base yard for industrial activities. Multiple photos taken during the latest site visit are attached as **Exhibits B-1 to B-3** for the Board's reference.

<sup>3</sup> Submittal can be downloaded from <https://dlnr.hawaii.gov/wp-content/uploads/2022/04/D-4.pdf>

Staff notes that the ongoing use of subject parcel as an industrial base yard is not compliant with the terms of Executive Order No. 4584. Staff believes proper utilization of State land following the permitted uses is the key as a steward of the natural resources. Therefore, staff recommends the Board authorize the cancellation of Executive Order No. 4584. Upon approval, Land Division will assume the ongoing management of the subject parcel as the Lessor under DOA General Lease No. S-3138.

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 as a de minimis action.
2. Approve of and recommend to the Governor issuance of an executive order cancelling Governor's Executive Order No. 4584, subject to:
  - A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
  - B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
  - C. Review and approval by the Department of the Attorney General; and
  - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

*Barry Cheung*

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Barry Cheung  
District Land Agent

APPROVED FOR SUBMITTAL:

*Suzanne D. Case*

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Suzanne D. Case, Chairperson

*PCM*

*RT*

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

February 10, 2023

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

Ref: EO 4584

OAHU

Report on Agenda Item D-11 at the Board meeting of December 9, 2022 regarding Cancellation of Governor's Executive Order No. 4584 to the Department of Agriculture for Agriculture Purposes, Honouliuli, Ewa, Oahu, Tax Map Key (1) 9-1-031:001.

BACKGROUND:

The subject request was deferred by the Board at its meeting of December 9, 2022 under agenda item D-11 for 60 days. A copy of the submittal is attached as **Exhibit 1**. The deferral was to allow Mr. Farias of Hawaii Land & Livestock, LCC (HLL) to report on (1) a schedule for the removal of the industrial equipment and objects from the subject 110-acre parcel; and (2) HLL's plan for use of the subject 110-acre parcel.

On December 27, 2022, staff sent an email to the Department of Agriculture (DOA) reiterating the Board's directives and requesting a copy of the same information be copied to the Division prior to the meeting. DOA acknowledged receipt of the email.

On January 23, 2023, the DOA Chairperson advised the Department of Land and Natural Resources (DLNR) that:

HDOA requests that the matter of an amendment to the lease to Bobby Farias/Hawaii Meats and HDOA be postponed. This was subject to an item being submitted by February 1, 2023 for the February 10, 2023 Land Board Meeting for the Board to consider returning some of the "air rights" to DLNR so long as agriculture production can continue. This return of the land's air rights was due to a DLNR inspection of the Kalaeloa property, where it was noted that the lessee was using the property for other than agriculture production use and the land was being used as a trucking equipment storage area. Since then, the trucking company (All American) has agreed to vacate by March 31, 2023, requiring his relocation from the property by April 1, 2023. This would be for other than specific equipment necessary to conduct the business of trucking on behalf of Hawaii Meats,

such as trucking equipment for hauling containers of cattle and equipment directly related to clearing the property and hauling debris.

Staff notes that the December 9, 2022 submittal actually recommended a cancellation of the Executive Order (“EO”) due to the activities observed on the subject parcel, which were not consistent with the public purposes stated in the EO. Under the EO itself, the Board has already reserved the “air rights” to issue leases for renewable energy project on the parcel<sup>1</sup> and the above-mentioned submittal was not related to any “returning of some of the air rights...” as suggested by DOA’s email.

While the above email is responsive to the first item required by the Board as to the schedule for the removal of industrial equipment from the subject parcel, it does not discuss the planned use of the parcel. By email dated December 27, 2022, DLNR requested DOA to provide a non-action informational update to the Board on HLL’s plan for use of the subject 110-acre parcel at today’s meeting.

At the time of preparing this report, DLNR had not received any information from either Mr. Farias or DOA on HLL’s plans for future utilization of the subject parcel.

Respectfully Submitted,

*Barry Cheung*

Barry Cheung  
District Land Agent

APPROVED FOR SUBMITTAL:



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Dawn N. S. Chang, Chairperson

*KOM*

*RT*

<sup>1</sup> The reservation in the EO is more accurately stated as, “RESERVING to the State of Hawaii, Board of Land and Natural Resources the right to issue leases for renewable energy projects on the land to the extent such leases will not unreasonably interfere with the State of Hawaii, Department of Agriculture’s use of the land . . . .”



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

March 24, 2023

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

Ref: EO 4584

OAHU

Report on Board of Land and Natural Resources' Questions to the Department of Agriculture and Hawaii Land & Livestock LLC Relating to the Cancellation of Governor's Executive Order No. 4584 to the Department of Agriculture for Agriculture Purposes, Honouliuli, Ewa, Oahu, Tax Map Key (1) 9-1-031:001.

BACKGROUND:

This matter was originally deferred by the Board of Land and Natural Resources (Board) at its meeting of December 9, 2022 under agenda item D-11 for 60 days. A copy of the submittal is attached as **Exhibit 1**. The deferral was to allow Mr. Farias of Hawaii Land & Livestock, LCC (HLL) to report on (1) a schedule for the removal of the industrial equipment and objects from the subject 110-acre parcel; and (2) HLL's plan for use of the subject 110-acre parcel.

On December 27, 2022, staff sent an email to the Department of Agriculture (DOA) reiterating the Board's directives and requesting a copy of the same information be copied to the Division prior to the meeting. DOA acknowledged receipt of the email.

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necessary to conduct the business of trucking on behalf of Hawaii Meats, such as trucking equipment for hauling containers of cattle and equipment directly related to clearing the property and hauling debris.

Staff notes that the December 9, 2022 submittal actually recommended a cancellation of the Executive Order (“EO”) due to the activities observed on the subject parcel, which were not consistent with the public purposes stated in the EO. Under the EO itself, the Board has already reserved the “air rights” to issue leases for renewable energy project on the parcel<sup>1</sup> and the above-mentioned submittal was not related to any “returning of some of the air rights...” as suggested by DOA’s email.

While the above email is responsive to the first item required by the Board as to the schedule for the removal of industrial equipment from the subject parcel, it does not discuss the planned use of the parcel. By email dated December 27, 2022, DLNR requested DOA to provide a non-action informational update to the Board on HLL’s plan for use of the subject 110-acre parcel at today’s meeting.

As requested by the Board at its December 9, 2022, meeting, staff returned to provide a report to the Board on HLL’s plans for removal of the industrial equipment and future agricultural usage of the subject parcel at the Board’s meeting of February 10, 2023, under agenda Item D-4. While DOA Deputy Director Morris Atta attended, Mr. Farias was not present at this meeting and Deputy Atta was not able to answer the Board’s questions which were largely specific to HLL’s progress and plans for the parcel. The Board requested the written questions be sent to Mr. Farias and that Mr. Farias respond to these questions in writing prior to returning to the Board. The Board also requested Mr. Farias’ presence in person.

On February 16, 2023, staff sent a memorandum to DOA enclosing the Board’s questions, this memorandum is attached as **Exhibit 2**. On February 28, 2023, Mr. Farias of HLL and Mr. Eddington of Hawaii Meats LLC (HM) sent written responses to DOA which DOA then forwarded to staff, these responses are attached as **Exhibit 3**. Staff reviewed these responses and provides the following comments in response:

1. Board Member Smith Question:

Does DOA have the ability to manage this lease based on their statements at the last meeting? Does DOA have expertise to manage this lease?

HLL/HM Response:

We have been pleased to cooperate with DOA staff throughout the duration of the lease and believe we have been able to work together effectively to answer questions and resolve issues. While we do not feel it is appropriate here to give

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<sup>1</sup> The reservation in the EO is more accurately stated as, “RESERVING to the State of Hawaii, Board of Land and Natural Resources the right to issue leases for renewable energy projects on the land to the extent such leases will not unreasonably interfere with the State of Hawaii, Department of Agriculture’s use of the land . . . .”

our opinion on the effectiveness or capability of either the DOA or the DLNR, we respectfully request ongoing communication and coordination between the two government agencies so that we can effectively carry out our commercial operations with certainty and a clear understanding of expectations to the benefit of agriculture and food sustainability across the state.

DLNR Comment:

No Comments.

2. Board Member Smith Question:

Do you know the last time Mr. Farias was physically on the property as he doesn't live here anymore? Confirm that lessee is at least periodically present at the property.

HLL/HM Response:

Mr. Farias is part of a third generation Kauai ranching family, born a kama'aina and an ongoing resident of Hawaii. Unfortunately, personal family concerns have necessitated Mr. Farias spending more time in Texas. However, he travels regularly to Hawaii, including to the "feed lot" property. In fact, at the time of DLNR's February 10, 2023 board meeting, Mr. Farias was in Honolulu and would have been pleased to attend in person if we had understood his presence to be required.

By way of background, Mr. Farias, through his company Hawaii Land and Livestock LLC, is in a commercial partnership with Hawaii Meats LLC and its owner, which fund and operate the beef harvest plant located on the neighboring property. The two entities coordinate and cooperate in the active and ongoing management of both Lease S-8500 (the harvest facility) and Lease S-3138 (the "feedlot").

DLNR Comment:

This only answers half the question and does not answer Member Smith's question of when Mr. Farias was last physically on the property.

3. Board Member Smith Question:

DLNR has the right to use some of the property. Please confirm with tenant before returning that he understands the reservation in the lease in favor of DLNR.

HLL/HM Response:

We are of course happy to confirm that we understand the terms of the Executive Order No. 4584, in particular the 3<sup>rd</sup> paragraph of that order, "reserving to the State of Hawaii, Board of Land and Natural Resources the right to issue leases for renewable energy projects on the land to the extent such leases will not unreasonably interfere with the State of Hawaii, Department of

Agriculture's use of the land." See attached Exhibit A.

However, please note that the term "air rights" has been used repeatedly by many parties including in writing by members of the BLNR in reference to the above reservation. We are unable to find any contractual or legal basis for the use of this term. We believe the proper understanding of the reservation in favor of the State, is more accurately stated exactly as the language of the executive order specifies, namely, "leases for renewable energy projects" that do not "unreasonably interfere" with the DOA's use of the land.

This proper understanding of the nature of the reservation is exactly on point to understanding our interactions with the Eurus Energy Project. Eurus was first introduced by a member of the Board of the DLNR pursuant to an email on April 4<sup>th</sup>, 2020 stating that the DLNR was interested in a project that could "benefit both Bobby and DLNR". See attached Exhibit B. Numerous meetings were held by the lessee with representatives of the Eurus Energy Project. Eurus made it clear early in the process that it required an outright lease of 90 acres of the feedlot and was unwilling to consider options such as elevating the solar panels in order to attempt to not "unreasonably interfere" with the use of the property. As a result, the lessee opposed further access to the property by Eurus which ultimately led to a hearing by DLNR requiring a right of entry for Eurus. We have cooperated fully with subsequent access by Eurus.

DLNR Comment:

The EO expressly reserves "land" for renewable energy, not just "air rights." Under our statute and rules, land includes subsurface (e.g., steam for geothermal energy), submerged lands, water column, in addition to air space over the land. Eurus Energy is still exploring the possibility of elevating the solar panels for its proposed renewable energy project so as not to unreasonably interfere with DOA's and HLL's use of the land.

4. Board Member Smith Question:

Mr. Farias' February 6 letter talks about the important factor of 20,000 gallons per day (GPD) of water for the slaughter facility. The Board of Water Supply (BWS) does not typically consent to allow water from one parcel to go to another parcel. If tenant relies on that, it is not a good statement to put in a document. If Mr. Farias is saying it is critical to his operation, then he needs to confirm with BWS that the arrangement is permissible, Member Smith does not think it is.

HLL/HM Response:

The need for additional water beyond the 800 gallon per acre per day allocation has been recognized, documented and approved by each of the governmental entities involved in the lease of the feedlot parcel.



In 2016, a request was sent from the Chairperson of the DOA to the DLNR requesting an additional water allocation for the benefit of the plant lessee which was, at the time, Hawaii Livestock Cooperative. See attached Exhibit C. The 2016 letter notes that the Campbell Industrial Park restricts water usage to 800 gallons per acre per day and explains that this water allocation is “short of the 32,000 gallons per day required” by the tenant at the time based on the size of their operations. Please note that based on the more than \$20 million dollars that Hawaii Meats has invested in the equipment and operation of the facility, the capacity has significantly increased. This activity is prior to either Hawaii Land and Livestock or Hawaii Meat having any part of the lease on the property.

In 2018, the need for additional water to be allocated from the feedlot parcel to the plant was again expressly contemplated and approved at a DLNR Board meeting where the DLNR Board recommended the issuance of the Executive Order transferring the feedlot property to the jurisdiction DOA. The meeting minutes specifically reference “the needed water allocation for an adjacent property,” meaning the plant. The meeting minutes note that the DLNR consulted with various government agencies including the Board of Water Supply which had “no objections”. See Exhibit D.

Finally, the plant lease itself, Lease S-8500, states in Special Condition 15 that the Lessor will provide “approximately 20,000 gallons per day above the amount allocated to the Lessee” and that “Lessor shall request such additional amount of domestic water from the bulk allocation of water available for State of Hawaii projects, but until such time that the Lessor is able to procure such additional amount of domestic water the Lessor shall procure such additional amount of domestic water from the Department of Land and Natural Resources.” See Exhibit E.

Finally, as a matter of simple practicality, we are aware of only one water meter. The water meter is located on the plant parcel, and not on the feedlot property. The Board of Water Resources has been billing, and the tenant has been paying, the water usage bill on a combined allocation basis.

**DLNR Comment:**

This explanation makes sense and seems to address most of Member Smith’s questions. However, HLL/HM do not outright say that BWS is fine with water from one parcel being used on another. If the assertion that there is only one meter for the two parcels and that it is located on slaughterhouse parcel is correct and HLL/HM have been paying the full bill for water for usage across both parcels, then it seems BWS may not be concerned. That said, when Mr. Farias is referring to 20,000 gpd of water, he is referring to DOA and the slaughterhouse lease, if any, and not the lease to the subject parcel for which DOA issued a separate lease with no reference to right to water in the amount of 20,000 gpd.

5. Board Member Ono Question:

Before issuing the lease, did DOA inspect the property to verify that there was no scrap metal on the parcel already or was it cleared? Lessee should be involved in these hearings.

HLL/HM Response:

To the best of our knowledge, neither DLNR nor DOA cleared, inspected, documented or inventoried the condition of the property to identify trash, squatters, deteriorating concrete and metal improvements from the prior feedlot tenants etc. prior to the handover of the property from the DLNR to the DOA or the execution of the feedlot lease. On March 16, 2022 we were notified that a Phase II Environmental Survey was conducted in 2008 which identified possible areas of contamination on a part of the property.

In addition to rent and common area charges for a property not yet suitable for use, we have spent over \$150,000 to clear the property of rusted metal and extraneous concrete. Kiawe trees and other plant materials have been cleared, mulched and spread over the area to promote future grass growth. Where possible, rock and concrete have been crushed and are being used as a base for roadways.

DLNR Comment

Staff visited the subject land regarding a homeless encampment sometime in the lead-up to the handover to DOA. HLL/HM's comment about already spending over \$150,000 to clear the property does not seem relevant. HLL/HM should have been aware of the work required to make the site usable prior to entering an agreement with DOA. Spending money to clear land is just the nature of any project at the feedlot and not relevant to the question. It was Mr. Farias' responsibility to do his due diligence and inspect the property before signing this lease. He is fortunate to have a directly negotiated lease from DOA at a very low rental rate, especially considering the actual use of the site. HRS Chapter 171, which governs public lands, requires an auction<sup>2</sup> for commercial uses, including cattle holding or feedlot leases. However, renewable energy projects are eligible for directly negotiated leases under Section 171-95, HRS. The legislature expressed its desire for the State to prioritize renewable energy projects and Governors in recent history (e.g., at least since Linda Lingle) expressed their support of renewable energy projects on State lands.

6. Board Member Yoon Question:

Where is American Hauling going to relocate to?

HLL/HM Response:

As explained in our prior letter of February 6, 2023, American Hauling, Inc.

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<sup>2</sup> The upset rent for a public auction would be established by appraisal at fair market value. HRS171-17(a).

existed on the plant site prior to Kunoa obtaining the lease. They were relocated to the adjacent feedlot in order for the slaughterhouse to proceed with its renovations. The DOA inspected the properties and via a letter dated September 17, 2020 approved the use of the feedlot for this purpose. The DOA revoked this approval on November 15, 2022 and as a result of that action we have sent a multiple written demands to American Hauling to relocate from the premises. Although we were willing to file an eviction action against American Hauling, after discussions with the DOA, we have asked American Hauling to execute an Agreement to Vacate that requires their relocation by April 1, 2023. A small area will be allowed to house equipment directly related to their work supporting the harvest facility including hauling cattle, and clearing the feedlot site.

As noted above, American Hauling was on the premises before we arrived. We have no agreement with American Hauling regarding their occupancy, we do not receive rent from American Hauling and we are willing to take all legal remedies at our disposal to remove American Hauling from the premises.

We do not have any knowledge of where American Hauling intends to relocate.

**DLNR Comment:**

HLL/HM say that they have asked American Hauling to execute an agreement to vacate by April 1, 2023 implying that they will be off the property by that point. At the December 9, 2022 Board meeting, Mr. Farias said that it would probably take a year to relocate American Hauling's materials and that American Hauling had just begun the process of trying to find/secure an alternate base yard site. April 1 seems unrealistically ambitious and raises the question of whether American Hauling has actually executed the agreement to vacate. There is abundant open space on the slaughterhouse parcel, including the derelict old building site. What HLL/HM describe as equipment directly related to their work supporting the harvest facility and clearing the feedlot site could probably be situated there and not at all on the feedlot. There is no fencing between the two parcels and any vehicles that would need to access the feedlot for clearance purposes could just drive over. Staff is surprised by Mr. Farias' recent claim that he had nothing to do with allowing American Hauling to use the leased premises for a "boneyard" (a term used earlier by Mr. Farias to describe the industrial use and heavy equipment on the site). Staff wonders who else would have allowed American Hauling to use the site as a "boneyard" rent-free?

7. Board Member Yoon Question:  
Will Mr. Farias be available next meeting?

**HLL/HM Response:**

The undersigned representatives of both Hawaii Land & Livestock and Hawaii

Meats would be pleased to attend the next meeting. We would be grateful for notice in advance of the time and place such meeting.

DLNR Comment:

No comments.

8. Board Member Canto Question:

Mr. Farias' letter mentions 20,000 GPD water which is a very precise amount. Please provide an explanation of that amount.

HLL/HM Response:

Please see our answer to question (4) above and the relevant provisions of the plant lease agreement referenced both there and in our prior letter dated February 6, 2023.

DLNR Comment:

No additional comments beyond #4 above.

9. Board Member Canto Question:

Mr. Farias mentioned potential partnerships with other farms, more info please?

HLL/HM Response:

Please see our response to question 11 below.

DLNR Comment:

No comments.

10. Board Member Canto Question:

Mr. Farias says that he is considering Suma Farms as a potential partner. Next time around Member Canto wants more information on whether partnerships are in place and how stable they are.

HLL/HM Response:

Please see our response to question 11 below.

DLNR Comment:

HLL/HM discuss a potential partnership with Suma Farms and mention the hog farmers but offer no information on progress of discussions toward a partnership or how stable they may be. Staff is skeptical about Suma farms coming in and growing 40+ acres of grass. At prior meetings Mr. Farias has repeatedly said that the feedlot is not capable of growing much due to the coral being right below the surface. HLL/HM mention potential soil building but for an area of that acreage, it could be many years before growing anything



productive is feasible.

11. Board Member Char Question:

Member Char wants Mr. Farias to provide details as to what he intends to use the property for, not just assure that it will be cleared of the noncompliant trucking company material. Mr. Farias needs to explain the agricultural use as he said at the last meeting that it was no longer suitable for a feedlot.

HLL/HM Response:

We are committed to the mission of creating a viable sustainable beef industry in Hawaii. We strongly believe this will benefit not only cattle ranchers and consumers but also result in even better stewardship of the land. We have approached this mission with prioritized investment focusing on the immediate challenges. In a short period of time we have significantly invested in and improved the quality and capacity of the harvest facility. Notwithstanding the challenging environment of the pandemic, we were able to source parts and equipment, hire staff and continuously operate the harvest facility. At the same time, we have cleared and improved the condition of the feedlot property in anticipation of being able to use the property for not only the additional water allocation discussed above, but also for complementary agricultural purposes. Some of these agricultural purposes include the following:

- Feedlot: the property is suitable for a feedlot but the challenge of operating a feedlot in Hawaii is sourcing economical feed. Currently, there is no commercially available feed for cattle and the site is not able to grow the amount of grass/feed needed to support a continuous feeding operation. Part of the restoration will be to develop that opportunity with soil building and potential irrigation.
- Hog Farmers: The hog farmers have approached the state for an appropriation to construct and manage a small animal slaughterhouse. It would require 3-5 acres. A bill/appropriation is currently being considered by the legislature.
- Suma Farms: Suma Farms is working to develop a Hawaii grown feed source for cattle that would support better weight gain and finishing operations. They are also proposing a bio digester that would assist with harvest facility waste disposal. This would require approximate 40 acres.
- Harvest Facility: the plant itself needs an overflow area capable of holding cattle awaiting processing. This would require a minimum of 10 acres.

These partnerships are in process, but we are aware that any sublease arrangement requires approval by the DOA.

DLNR Comment:

As with #10 above, HLL/HM talk about potential partnerships at some point in the future but provide no concrete explanation of how they intend to physically use the land which seemed to be the direction of the Board's questions, rather than asking for vague contemplations of future partnerships. Mr. Farias will have to show how these other uses he talks about are allowed under the use restrictions in the EO and the DOA lease. The "harvest facility" is not on the feedlot parcel but Mr. Farias is referring to the slaughterhouse, which is under a separate DOA lease. To the extent Mr. Farias is thinking about renewable energy, under the EO, it will be limited to energy only for the feedlot parcel. DLNR has the reservation to do renewable energy projects, whether to sell power directly back to the grid (requiring a PPA with HECO) or not (e.g., what Eurus is contemplating with Hawaii Gas).

12. Russell Tsuji Question:

Asked Mr. Atta about the 3-year deadline in the lease requiring the lessee to utilize at least 50% of the land for agriculture and earn at least 50% of its income from agricultural operations on the parcel.

HLL/HM Response:

We believe that we can achieve this agricultural use objective without difficulty, but we will require additional time to finalize the agricultural partnerships described above. It is our understanding that the DOA has the discretion to grant time extensions as they deem appropriate. We intend to seek the approval of the Board of the DOA to receive an extension of time based on their evaluation of our proposed use of the property.

DLNR Comment:

HLL/HM have had the land for over 3 years and unless the hauling company is paying them rent, they do not appear to directly generate any income from the feedlot parcel, much less 50% of their revenue from agricultural activity on the parcel. They do not appear to currently be using any of the land for agriculture. When it comes down to it, if DOA is going to give them an extension every time they want more time, this lease provision seems kind of pointless. Mr. Farias also seems to miss the point. The 3-year deadline came and went already. It is unclear why anyone would sign a lease years ago knowing they would not be able to utilize the site without later finding others to form partnerships to help use the land, unless that person who signed the lease did not need (or had only a minimal need) the land for its operations and signed the lease for another purpose (e.g., water?).

13. Russell Tsuji Question:

Where in the DOA lease is the guarantee of 20,000 GPD, or any water at all?

HLL/HM Response:

Please see our answer to question (4) above and the relevant provisions of the plant lease agreement referenced both there and in our prior letter dated February 6, 2022.

DLNR Comment:

No additional comments beyond #4 above.

Finally, staff has been informed that DOA intends to seek an amendment to General Lease No. S-3138 to HLL for use of the feedlot parcel at the next meeting of the Board of Agriculture. Staff inquired with DOA on March 8, 2023, as to the intent of the proposed amendment but as of March 14, 2023, have not received a response.

Respectfully Submitted,

*Luke Sarvis*

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Luke J. Sarvis  
Project Development Specialist

APPROVED FOR SUBMITTAL:



*RT*

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Dawn N. S. Chang, Chairperson

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

November 8, 2024

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

Oahu

Authorize the Deregistration from Land Court, Lot 12022, Map 888, Land Court Application No. 1069; Certificate of Title No. 498,504; Honouliuli, Ewa, Oahu, Tax Map Key: (1) 9-1-031:001

APPLICANT:

Department of Land and Natural Resources (Department)

LEGAL AUTHORITY:

Sections 171-6 and 501-261.5, Hawaii Revised Statutes (HRS)

LOCATION & AREA:

110.106 acres situated at Honouliuli, Ewa, Oahu, and further described in Exhibit A.

BACKGROUND:

In 1936, Trustees under the Will and the Estate of James Campbell, deceased, registered portions of the Ahupuaa of Honouliuli, Ewa, Oahu, in Land Court, pursuant to Land Court Application No. 1069.

The Board of Land and Natural Resources (Board) initially approved the acquisition of over 4,000 acres in Kapolei from Campbell Estate at its July 22, 1988 meeting, under agenda item F-9. Subsequently, after lengthy negotiations, the Office of State Planning and Campbell Estate reached an agreement for the State to acquire a total of 1,236 acres. The Board ultimately approved this acquisition at its April 26, 1991 meeting, under agenda item F-13. The acquisition was intended for developing housing, public facilities, and land banking in anticipation of the growth of Oahu's master planned second city. By Final Order of Condemnation dated August 22, 1994, and Stipulated Final Judgment in Eminent Domain dated July 19, 1994, the State acquired title to 1,100 acres including the subject parcel for the sum of \$31.7 million.

Over the intervening years, lands were subdivided out from the originally acquired acreage and transferred to various State agencies including the Departments of Hawaiian Home



Lands (DHHL) and Education (DOE), and the University of Hawaii (UH) as part of the ongoing development of Kapolei as Oahu's master planned second city. The Department retained several parcels including the subject parcel.

At its meeting of November 9, 2018, under agenda item D-16, the Board authorized the set-aside of the subject parcel to the Department of Agriculture (DOA) to ensure that its lessee, which operates a slaughterhouse on an adjoining parcel, could access adequate water to sustain its operations. The subject parcel was set aside to DOA via Governor's Executive Order No. 4584 (EO 4584) on May 15, 2019. EO 4584 contained a reservation to the Department to issue leases to develop renewable energy projects to the extent that they do not unreasonably interfere with DOA's use of the land. The Department has been pursuing renewable energy development and has been negotiating with DOA on a potential division of the subject parcel that would suit both departments' needs. Staff is recommending that the Board authorize the deregistration of the subject parcel from Land Court to streamline future subdivision and development efforts.

REMARKS:

The subject lot was registered in Land Court by the Estate of James Campbell. The State of Hawaii acquired the fee interest from the successor landowner by order of condemnation in 1994. For purposes of Section 501-261.5, HRS, the State is a self-insured sovereign. There is no obvious downside to deregistering the subject lots from Land Court.

The principal benefit of land registered with Land Court versus the regular system is that a landowner cannot lose title via adverse possession. The State, however, by virtue of its sovereign character, cannot lose title to land via adverse possession, irrespective of whether the land is registered in Land Court.

The downside to keeping the subject lots in Land Court is the lengthy backlog at Land Court which frequently causes delays, the need to obtain additional surveys and documents that would not be required in the regular system, and the need to navigate Land Court procedures.

This request represents a continuation of a larger initiative to deregister lands formerly owned by the Estate of James Campbell from Land Court to expedite planned development in Kapolei. At its meetings of October 24, 2022, under Agenda Item M-15 and April 26, 2024, under Item D-10, the Board considered and approved similar requests from the Department and DHHL to deregister other parcels acquired from Campbell Estate.

To accelerate the Department's development process, staff is requesting that the Board authorize the deregistration from Land Court Lot 12022, Map 888, Land Court Application No. 1069; Certificate of Title No. 498,504.

Staff contacted DOA to check if it had concerns regarding deregistration of the subject parcel from Land Court but have not received a response to date.

RECOMMENDATION: That the Board:

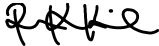
1. Authorize the deregistration of Lot 12022, Map 888, Land Court Application No. 1069; Certificate of Title No. 498,504

Respectfully Submitted,

*Luke Sarvis*

Luke J. Sarvis  
Project Development Specialist

APPROVED FOR SUBMITTAL:



RT

Dawn N.S. Chang, Chairperson

# LAND COURT

STATE OF HAWAII

## LAND COURT APPLICATION 1069

CONSOLIDATION OF LOT 3805-A

AS SHOWN ON MAP 378

LOTS 1136-B AND 1136-C

AS SHOWN ON MAP 165

LOT 1909-B

AS SHOWN ON MAP 410

AND RESUBDIVISION OF SAID CONSOLIDATION  
INTO LOTS 12019, 12020, 12021 AND 12022,

CANCELLATION OF EASEMENT 488

AS SHOWN ON MAP 165,

CANCELLATION OF PORTIONS OF EASEMENT 5

AS SHOWN ON MAP 1

AND DESIGNATION OF EASEMENT 6138

HONOLULU, EWA, OAHU, HAWAII

Mapmakers Building  
1001 Kalia Road, Suite 210  
Honolulu, Hawaii  
May 11, 1998



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
SURVEY DIVISION

*Rosemarie W. Williams*  
Licensed Professional Land Surveyor  
Certificate No. 7549  
Registered Land Court Surveyor  
Commission No. 255

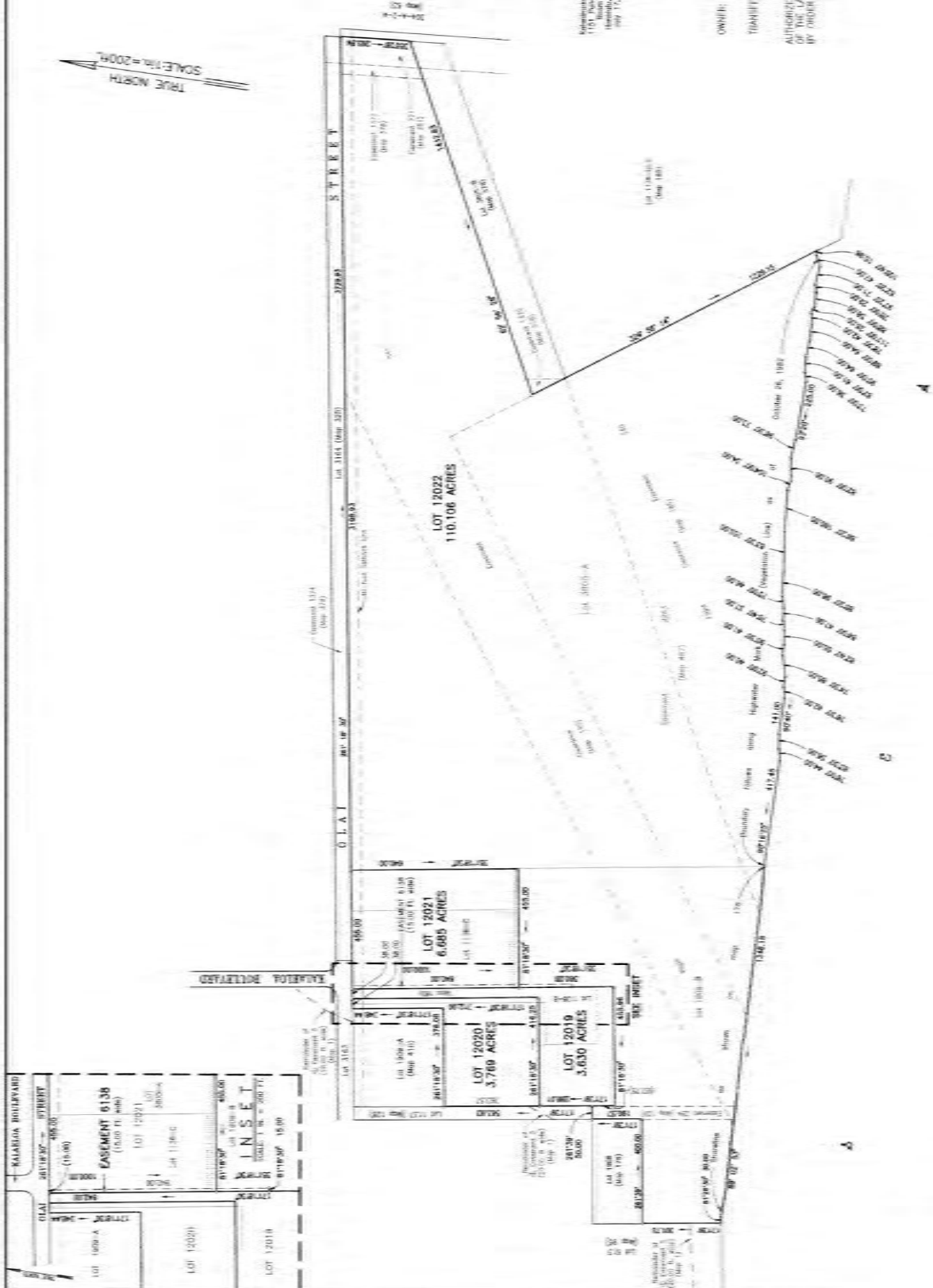
OWNER: TRUSTEES UNDER THE WILL AND OF THE  
ESTATE OF JAMES CAMPBELL, DECEASED  
TRANSFERT CERTIFICATE OF TITLE: 410,483

AUTHORIZED AND APPROVED BY ORDER OF THE JUDGE  
OF THE LAND COURT DATED FEBRUARY 10, 1997  
BY ORDER OF THE COURT

*Richard L. Sauerbald*  
Attorney at Law  
RIGHTWAY OF THE LAND COURT

Filed June 20, 1997  
2000 Pg. 01

21" X 32" = 4.7 Sq. Ft.



NOTE:  
EASEMENT 6138 = 12,630 Sq. Ft. for Waterline and Control, purposes affecting lots 12021 and 12022.

STATE OF HAWAI'I  
DEPARTMENT OF AGRICULTURE  
AGRICULTURAL RESOURCE MANAGEMENT DIVISION  
HONOLULU, HAWAI'I

June 24, 2025

Board of Agriculture  
Honolulu, Hawai'i

Subject: REQUEST FOR AUTHORIZATION TO:

(1) CANCEL LAND COURT TRANSFER CERTIFICATE OF TITLE NO. 498,504 COVERING LOTS 12020, 12021, & 12022, MAP 888, LAND COURT APPLICATION NO. 1069, DESIGNATED AS TMKS: (1) 9-1-031:026, (1) 9-1-031:025, & (1) 9-1-031:001, RESPECTIVELY, AND ISSUE SEPARATE TRANSFER CERTIFICATES OF TITLE FOR EACH LOT; AND

(2) DEREGISTER FROM LAND COURT LOT 12022, LAND COURT APPLICATION NO. 1069, DESIGNATED AS TMK: (1) 9-1-031:001, HONO'ULI'ULI, 'EWA, O'AHU, HAWAI'I

Authority: Sections 166E-3 and 501-261.5, Hawaii Revised Statutes ("HRS"), and Sections 4-158-2(a)(13) and 4-158-2(c)(5), Hawaii Administrative Rules ("HAR")

Lessee: Lot 12020 - S-8501 to Hawaii Moi Fish, LLC  
Lot 12021 - S-8500 to Hawaii Land & Livestock, LLC  
Lot 12022 - S-3138 to Hawaii Land & Livestock, LLC

Land Area: Lot 12020 = 3.769 acres  
Lot 12021 = 6.685 gross acres  
Lot 12022 = 110.106 acres

Tax Map Keys: Lot 12020 - (1) 9-1-031:026  
Lot 12021 - (1) 9-1-031:025  
Lot 12022 - (1) 9-1-031:001  
(see Exhibit "A")

Land Status: Lot 12020 - Encumbered by Governor's Executive Order No. 3801 to the Department of Agriculture for agricultural park purposes.

Lot 12021 - Encumbered by Governor's Executive Order No. 3801 to the Department of Agriculture for agricultural park purposes.

Lot 12022 - Encumbered by Governor's Executive Order No. 4584 to the Department of Agriculture for agricultural purposes on May 15, 2019.

Lease Terms: Lot 12020 - 45 years, January 1, 2006 – December 31, 2050  
Lot 12021 - 35 years, February 1, 2000 – January 31, 2035  
Lot 12022 - 35 years, January 1, 2020 – December 31, 2055

Current Rent: Lot 12020 - \$9,440.00 per year  
Lot 12021 - \$16,320.00 per year  
Lot 12022 - \$18,300.00 per year

Additional Rent: Lot 12020 - 2% of gross proceeds, which includes revenues from consignment sales and subletting.

Lot 12021 - 2% on \$1,000,000 to \$1,500,000 of gross revenue; 1.75% of \$1,500,000 or more of gross revenue.

Lot 12022 - 1.5% of the gross proceeds, which includes revenues from consignment sales and subletting.

Permitted Use: Lot 12020 - Aquaculture purposes.

Lot 12021 - Animal livestock slaughtering and processing purposes and for the distribution of resulting value-added food products.

Lot 12022 - Solely for diversified agriculture including animal feedlot purposes for finishing prior to slaughter of livestock.

#### BACKGROUND:

Pursuant to Section 171-11, HRS, as amended, Executive Order No. 4584 ("EO4585"), dated May 15, 2019, set aside 110.106 acres for agricultural purposes, and established a non-agricultural park parcel currently under the control and management of the Department of Agriculture ("HDOA"), Agricultural Resource Management Division ("ARMD"). EO4585 reserved to the Board of Land and Natural Resources ("BLNR") the right to issue leases for renewable energy projects on the land to the extent such leases will not unreasonably interfere with HDOA's use of the land.

The Board of Agriculture ("BOA") awarded General Lease No. S-3138 to HAWAII LAND & LIVESTOCK, LLC, ("HL&L") for a term of THIRTY-FIVE (35) years



commencing on January 1, 2020, with the permitted use of diversified agriculture including animal feedlot purposes for finishing prior to slaughter of livestock. Tracking the language of EO4585 regarding renewable energy projects, General Lease No. S-3138 reserves to HDOA the right to withdraw the leased premises, or a portion thereof, for leasing to renewable energy producers.

In August 2020, ARMD became aware that a trucking company called AMERICAN HAULING, INC. ("American Hauling") was using a portion of the lease premises to stage trucks, trailers and other equipment. When ARMD staff questioned HL&L about American Hauling's presence on the premises, HL&L explained that it used American Hauling trucks to transport products, that American Hauling fabricated cattle shipping containers for HL&L, and American Hauling also supplied large forklifts needed to load and unload containers. Initially ARMD accepted this explanation and raised no objection to American Hauling's presence, but when it became apparent from inspections that American Hauling was storing many more vehicles and pieces of equipment than needed for HL&L's operations, ARMD required HL&L to remove American Hauling from the premises.

On March 22, 2023, HL&L filed a Complaint for Ejectment and Damages in the First Circuit Court of the State of Hawai'i to evict American Hauling from the premises. HL&L received a Writ of Possession from the Court to eject American Hauling from the property. Staff understands that American Hauling has secured a lease with the Department of Hawaiian Home Lands and will vacate the premises by June 2025.

HDOA and the Department of Land and Natural Resources ("DLNR") have come to an agreement to remove a portion of the area set aside under EO4584 for the potential future development of a solar-to-hydrogen plant on a portion of a property. While certain details of the subdivision of the land remain to be worked out between DLNR, HDOA, HL&L and EURUS ENERGY AMERICA LLC, any path forward for the project will require the following to occur:

- 1) American Hauling must vacate the property, identified as TMK: (1) 9-1-031:001, also known as the Feedlot at Kalaeloa.
- 2) The entire parcel should be deregistered from the Land Court system.

The BLNR already approved the deregistration of the parcel from Land Court at its meeting of November 8, 2024, Item D-7. The staff submittal to the BLNR noted that the primary benefit of Land Court registration is that it precludes claims of adverse possession from being made against private property owners. However, by law adverse possession claims cannot be made against the State. As noted in the BLNR staff submittal, the downside to keeping property in Land Court, "is the lengthy backlog at Land Court which frequently causes delays, the need to obtain additional surveys and documents that would not be required in the regular system, and the need to navigate Land Court procedures." HDOA staff is in agreement that the land should be deregistered from Land Court.

The proposed action to deregister the feedlot parcel (Lot 12022) affects other lots listed on the relevant certificate of title. In this case, Transfer Certificate of Title ("TCT") 498,504 lists four lots, three of which have been set aside to HDOA with the fourth (Lot 12019, TMK: (1) 9-1-031:037) set aside to the Agribusiness Development Corporation ("ADC"). To avoid a Land Court requirement that all lots on a TCT be deregistered together, staff is recommending that TCT 498,504 be canceled and separate TCTs be issued for the three HDOA lots. BOA only has jurisdiction over the three lots identified on pages 1-2 above that are set aside to it (Lots 12020, 12021 and 12022). ADC action will be needed to authorize the deregistration of the fourth lot (Lot 12019).

RECOMMENDATION:

That the Board of Agriculture authorize:

1. The cancellation of Land Court Transfer Certificate of Title No. 498,504 covering Lots 12020, 12021 and 12022, Map 888, Land Court Application No. 1069, designated as TMKs: (1) 9-1-031:026; (1) 9-1-031:025; and (1) 9-1-031:001, respectively, and the issuance of separate TCTs for each lot; and
2. The deregistration from Land Court of Lot 12022, Land Court Application No. 1069, designated as TMK: (1) 9-1-031:001.

All related documents are subject to approval as to form by the Office of the Attorney General, and such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully submitted,



BRIAN KAU, P.E.  
Administrator and Chief Engineer  
Agricultural Resource Management Division

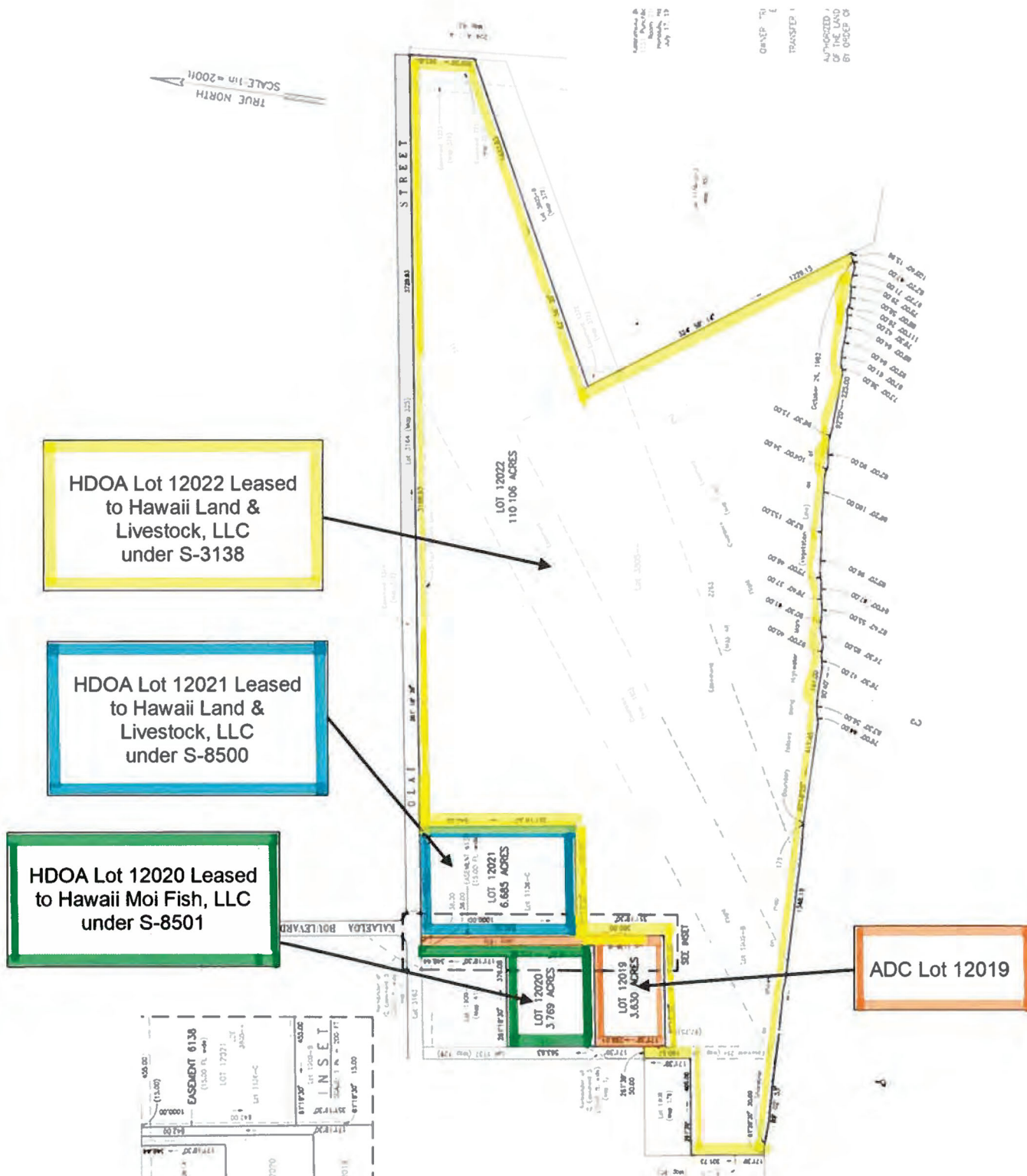
Attachment – Exhibit "A"

APPROVED FOR SUBMISSION:



SHARON HURD  
Chairperson, Board of Agriculture

## EXHIBIT "A"





STATE OF HAWAII  
AGRIBUSINESS DEVELOPMENT CORPORATION

E-7

STAFF SUBMITTAL TO THE BOARD OF DIRECTORS  
June 26, 2025

Subject: Request to consent to the cancellation of Transfer Certificate of Title No. 498504 and issuance of new Certificates of Title including for Lot 12019 as shown on Map 888 of Land Court Application 1069 in Honouliuli, City and County of Honolulu, State of Hawaii, Tax Map Key Nos. (1) 9-1-031:037; :026; :025; :001

Applicant: Agribusiness Development Corporation (ADC)

Authority: Section 501-85, Hawaii Revised Statutes

Tax Map Key: (1) 9-1-031:037 – Lot 12019 (Premises)

Land Status: Set aside to the Agribusiness Development Corporation by Governor's Executive Order No. 4465 for *Agricultural Purposes*

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: Urban  
CZO: I-2 Intensive Industrial

*Request to consent to the cancellation of Transfer Certificate of Title No. 498504 and issuance of new Certificates of Title including for Lot 12019 as shown on Map 888 of Land Court Application 1069 in Honouliuli, City and County of Honolulu, State of Hawaii, Tax Map Key Nos. (1) 9-1-031:037; :026; :025; :001*  
June 26, 2025

#### BACKGROUND:

Governor's Executive Order No. 3801 (EO No. 3801) dated October 15, 1999, set aside property in Honouliuli, Ewa, Oahu, Hawaii, identified as Tax Map Key Nos. (1) 9-1-031:025 and :026, for Agricultural Park purposes, to be under the control and management of the State of Hawaii, Department of Agriculture (HDOA). EO No. 3801 set aside two lots to HDOA. Part 1 being Lot 12020, as shown on Map 888 of Land Court Application 1069, containing 3.769 acres subject to encumbrances, and covered by Transfer Certificate of Title No. 498504. Part 2 being Lot 12021, as shown on Map 888 of Land Court Application 1069, containing 6.685 acres subject to encumbrances, and covered by Transfer Certificate of Title No. 498504.

Governor's Executive Order No. 4465 (EO No. 4465) dated August 21, 2014, set aside property in Honouliuli, Ewa, Oahu, Hawaii, identified as Tax Map Key No. (1) 9-1-031:037, for Agricultural Purposes, to be under the control and management of the State of Hawaii, Agribusiness Development Corporation (ADC). EO No. 4465 set aside Lot 12019, as shown on Map 888 of Land Court Application 1069, containing 3.630 acres subject to encumbrances, and covered by Transfer Certificate of Title No. 498504. See Exhibit A.

Governor's Executive Order No. 4584 (EO No. 4584) dated May 15, 2019, set aside property in Honouliuli, Ewa, Oahu, Hawaii, identified as Tax Map Key No. (1) 9-1-031:001, for Agricultural Purposes, to be under the control and management of HDOA. EO No. 4584 set aside Lot 12022, as shown on Map 888 of Land Court Application 1069, containing 110.106 acres subject to encumbrances, and covered by Transfer Certificate of Title No. 498504.

Lots 12019, 12020, 12021, and 12022 are all included in Transfer Certificate of Title 498504. All four lots are subject to lease/license agreements between HDOA/ADC and private parties. Lot 12019 is subject to Lease No. LE-KO1501 between ADC and Baker Commodities, Inc.

The State of Hawaii, Department of Land and Natural Resources (DLNR) on behalf of the State of Hawaii, seeks to petition the Land Court to cancel Transfer Certificate of Title 498504 and ask that one certificate of title be issued for each lot. DLNR and HDOA plan to subdivide the property. The set aside of Lot 12019 to ADC under EO No. 4465, and Lease No. LE-KO1501 between ADC and Baker Commodities, Inc. will not be affected.

#### REQUEST:

Staff requests that the Board of Directors (Board) provide their consent to the cancellation of Transfer Certificate of Title No. 498504 and authorize the Deputy Attorney General to work with the Parties to effectuate the cancellation and have separate certificates issued for the affected property (Request).

#### 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[.]" In this case, the project does not trigger an environmental assessment because the action is de minimis, does not have the potential to individually or cumulatively



*Request to consent to the cancellation of Transfer Certificate of Title No 498504 and issuance of new Certificates of Title including for Lot 12019 as shown on Map 888 of Land Court Application 1069 in Honouliuli, City and County of Honolulu, State of Hawaii, Tax Map Key Nos (1) 9-1-031 037; 026; 025; 001*  
June 26, 2025

adversely affect the environment, and does not rise to the level of requiring environmental review.

DISCUSSION:

The process to deregister, or cancel, a land court transfer certificate of title is straight-forward as proscribed by law and staff does not currently anticipate much difficulty. The project work will be accomplished by DLNR attorneys.

RECOMMENDATION:

Based on the foregoing, staff recommends that the Board:

1. Approve the Request.
2. Declare that the Request is de minimis, not having the potential to individually or cumulatively adversely affect the environment and not rising to the level of requiring environmental review.

Respectfully Submitted,

Lyle Roe

LYLE ROE

Asset Manager

*Approved for Submittal:*

Wendy Gady

Wendy Gady

Executive Director

Attachment(s):

Exhibit A Governor's Executive Order No. 4465

McGee



STATE OF HAWAII  
OFFICE OF ASSISTANT REGISTRAR  
RECORDED

August 27, 2014 8:02 AM

Doc No(s) T-9004275  
on Cert(s) 498504  
Issuance of Cert(s)



1 1/1 SMC  
B-32512476

/s/ NICKI ANN THOMPSON  
ASSISTANT REGISTRAR

S

LAND COURT SYSTEM )  
Return by Mail ( ) Pickup (✓) To: REGULAR SYSTEM

DEPT. OF LAND AND NATURAL RESOURCES  
LAND DIVISION

Total Number of Pages: 6  
Tax Map Key No. (1)9-1-031:037

FROM: STATE OF HAWAII  
BOARD OF LAND AND NATURAL RESOURCES

TO: AGRIBUSINESS DEVELOPMENT CORPORATION,  
a public body corporate and politic and an  
instrumentality and agency of the State of Hawaii  
235 South Beretania Street, Room 205  
Honolulu, Hawaii 96813

EXECUTIVE ORDER NO. 4465

SETTING ASIDE LAND FOR PUBLIC PURPOSES

BY THIS EXECUTIVE ORDER, I, the undersigned, Governor of the State of Hawaii, by virtue of the authority in me vested by Section 171-11, Hawaii Revised Statutes, as amended, and every other authority me hereunto enabling, do hereby order that the public land and improvements hereinafter described be, and the same is, hereby set aside for the following public purposes:

FOR AGRICULTURAL PURPOSES, to be under the control and management of the Agribusiness Development Corporation, a public body corporate and politic and an instrumentality and agency of the State of Hawaii, being that parcel of land situate at Honouliuli, Ewa, Oahu, Hawaii, identified as "Agricultural Purposes Site," being all of Lot 12019 as shown on Map 888 of

Land Court Application 1069 filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii, containing an area of 3.630 acres, covered by Transfer Certificate of Title No. 498504 issued to the State of Hawaii, more particularly described in Exhibit "A" and delineated on Exhibit "B," both of which are attached hereto and made parts hereof, said exhibits being respectively, a survey description prepared by the Survey Division, Department of Accounting and General Services, State of Hawaii, being designated C.S.F. No. 25,381 and dated July 8, 2014, and as shown on a copy of Land Court Map 888.

This executive order is subject to the State of Hawaii's right to designate a non-exclusive access and utility easement of thirty (30) feet wide, more or less, between Lot 12020 and Lot 12021, both of said lots are as shown on Map 888 of Land Court Application 1069, Transfer Certificate of Title No. 498504. This right to designate said easement shall be in favor of the State of Hawaii, Board of Land and Natural Resources. The State of Hawaii, Board of Land and Natural Resources reserves the right to grant easements upon said easement. The right to designate said easement for access and utility purposes is to benefit Lot 12022 of said map and land court application, being designated Tax Map Key No. (1) 9-1-031:001.

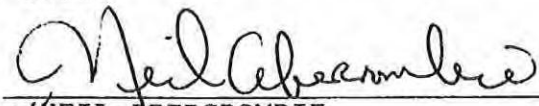
SUBJECT, HOWEVER, to the condition that upon cancellation of this executive order or in the event of non-use or abandonment of the premises or any portion thereof for a continuous period of one (1) year, or for any reason whatsoever, Agribusiness Development Corporation shall, within a reasonable time, restore the premises to a condition satisfactory and acceptable to the Department of Land and Natural Resources, State of Hawaii.

SUBJECT, FURTHER, to disapproval by the Legislature by two-thirds vote of either the Senate or the House of Representatives or by majority vote of both, in any regular or special session next following the date of this Executive Order.

This executive order does not authorize the recipient of the set aside to sell or exchange or otherwise relinquish the State of Hawaii's title to the subject public land.



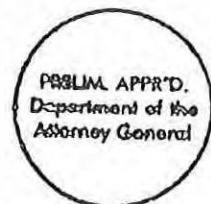
IN WITNESS WHEREOF, I have hereunto set my hand and  
caused the Great Seal of the State of Hawaii to be affixed.  
Done at the Capitol at Honolulu this 21<sup>st</sup> day of  
August, 2014.

  
NEIL ABERCROMBIE  
Governor of the State of Hawaii

APPROVED AS TO FORM:

  
JULIE H. CHINA  
Deputy Attorney General

Dated: August 4, 2014





STATE OF HAWAII

Office of the Lieutenant Governor

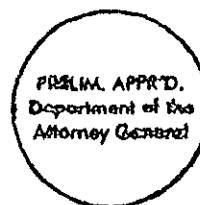
THIS IS TO CERTIFY That the within is a true copy of  
Executive Order No. 4465 setting aside land for public  
purposes, the original of which is on file in this office.

IN TESTIMONY WHEREOF, the Lieutenant  
Governor of the State of Hawaii, has  
hereunto subscribed his name and caused  
the Great Seal of the State to be affixed.

*S. Tsutsui*

SHAN S. TSUTSUI  
Lieutenant Governor of the State of Hawaii

DONE in Honolulu, this 22<sup>nd</sup> day of  
August, A.D. 2014





STATE OF HAWAII  
SURVEY DIVISION  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
HONOLULU

C.S.F. No. 25,381

July 8, 2014

AGRICULTURAL PURPOSES SITE

Honouliuli, Ewa, Oahu, Hawaii

Being all of Lot 12019 as shown on Map 888 of Land Court Application 1069 filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii containing an AREA OF 3.630 ACRES covered by Transfer Certificate of Title No. 498504 issued to the State of Hawaii (Land Office Deed S-28204).

Lot 12019 shall have access across Lot 3163 as provided by Land Court Order 127022.

SUBJECT, HOWEVER, to any and all encumbrances that may be noted on Transfer Certificate of Title No. 498504.

SURVEY DIVISION  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
STATE OF HAWAII

By: *Gerald Z. Yonashiro*  
Gerald Z. Yonashiro  
Land Surveyor tkt

Compiled from Land Court  
Records.



**EXHIBIT "A"**

LAND COURT  
STATE OF HAWAII  
LAND COURT APPLICATION 1069  
CONSOLIDATION OF LOT 3805-A  
AS SHOWN ON MAP 378  
LOTS 1136-B AND 1136-C  
AS SHOWN ON MAP 165  
LOT 1909-B  
AS SHOWN ON MAP 410  
AND RESUBDIVISION OF SAID CONSOLIDATION  
INTO LOTS 12019, 12020, 12021 AND 12022.  
CANCELLATION OF EASEMENT 488  
AS SHOWN ON MAP 165.  
CANCELLATION OF PORTIONS OF EASEMENT 5  
AS SHOWN ON MAP 1  
AND DESIGNATION OF EASEMENT 6138  
HONOLULU, EWA, OAHU, HAWAII

STATE OF HAWAII  
COMMISSION OF ACCOUNTING  
AND FINANCE  
200000  
JANUARY 1998



1151  
HAWAIIAN  
JULY 11, 1998

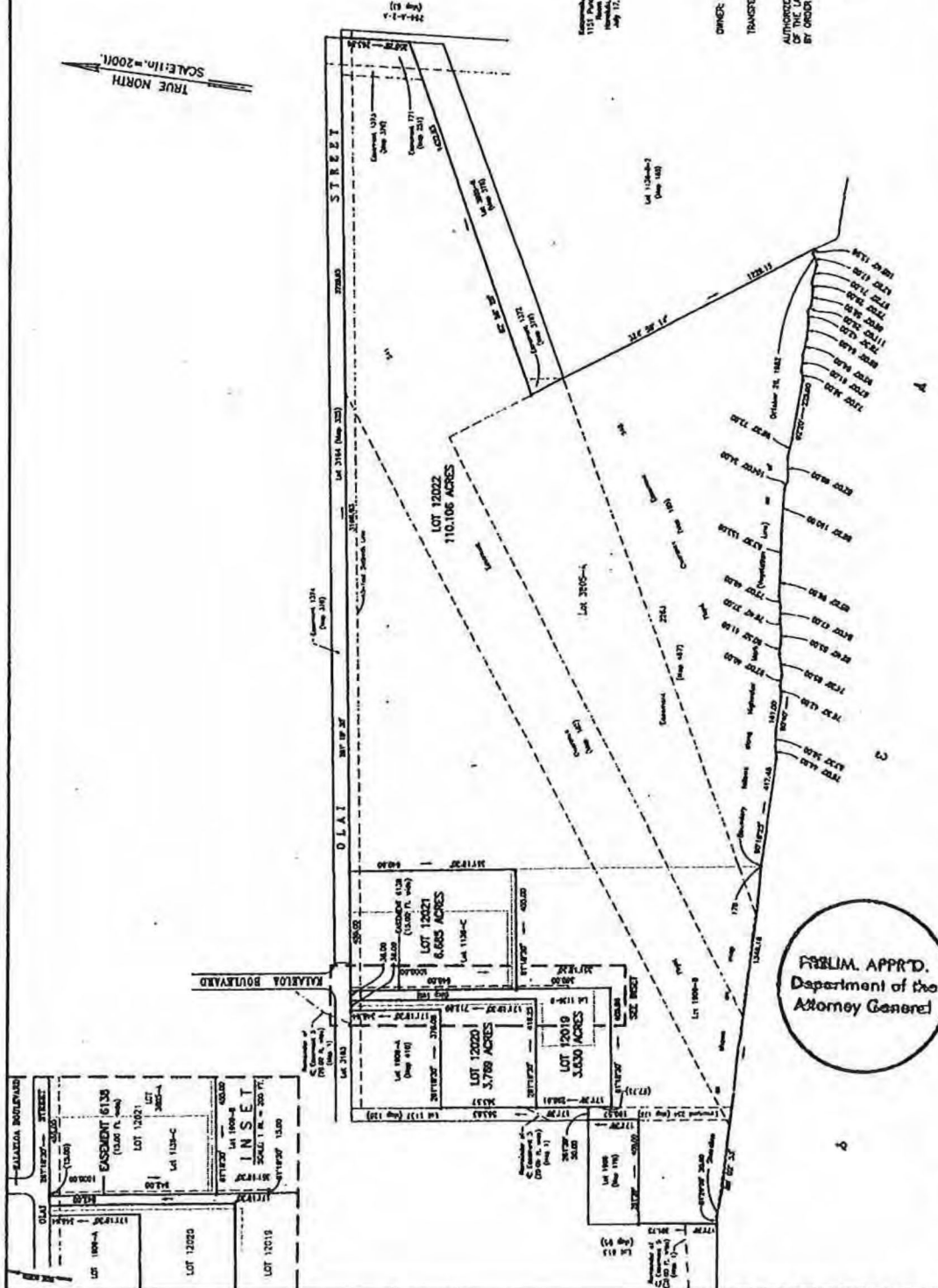
OWNER TRUSTEES UNDER THE WILL AND OF THE  
ESTATE OF JAMES CAMPBELL, DECEASED  
TRANSFER CERTIFICATE OF TITLE: 410,853

AUTHORIZED AND APPROVED BY ORDER OF THE JUDGE  
OF THE LAND COURT DATED FEBRUARY 10, 1998  
BY ORDER OF THE COURT

*William S. Hume*  
JUDGE, REGISTER OF THE LAND COURT

FILED JUNE 16, 1998  
COUNTY OF HAWAII

SCALE: 1/4" = 200 FT.  
TRUE NORTH



PRELIM. APPR'D.  
Department of the  
Attorney General

NOTE:  
EASEMENT 6138 = 12,620 SQ. FT. for Waterline and Electric Purpose affecting Lots 12021 and 12022.

EXHIBIT "B"

888 9AM 2201 99A

STATE OF HAWAII  
DEPARTMENT OF AGRICULTURE AND BIOSECURITY  
AGRICULTURAL RESOURCE MANAGEMENT DIVISION  
HONOLULU, HAWAII

October 28, 2025

Board of Agriculture and Biosecurity  
Honolulu, Hawai'i

Subject: REQUEST FOR:

(1) APPROVAL FOR DEPARTMENT OF LAND AND NATURAL RESOURCES / EURUS ENERGY AMERICA LLC TO SUBDIVIDE TMK: (1) 9-1-031:001, INCLUDING GENERAL LEASE S-3138, HAWAII LAND & LIVESTOCK, LLC, LESSEE, INTO TWO PARCELS CONSISTING OF 9.385 AND 100.721 ACRES;

(2) APPROVAL OF MODIFICATION OF GENERAL LEASE S-3138; HAWAII LAND & LIVESTOCK, LLC, LESSEE, CONTINGENT UPON SUBDIVISION OF TMK: (1) 9-1-031:001, REFLECTING: A REDUCTION IN AREA FROM 110.106 TO 9.385 ACRES; A REDUCTION IN RENT FROM \$18,300.00 PER YEAR TO \$1,600.00 PER YEAR; AND THE CORRECTION OF THE LEASE EXPIRATION DATE FROM DECEMBER 31, 2055 TO DECEMBER 31, 2054;

(3) DELEGATION TO THE CHAIRPERSON TO NEGOTIATE AND EXECUTE LEASE MODIFICATION DOCUMENTS TO BE RECORDED AT THE BUREAU OF CONVEYANCES CONTINGENT UPON COMPLETION OF ALL THE ABOVE; AND

(4) CONCURRENCE WITH PARTIAL WITHDRAWAL FROM GOVERNOR'S EXECUTIVE ORDER 4584 (DATED MAY 15, 2019) OF APPROXIMATELY 100.721 ACRES, MORE OR LESS, FOR REVERSION TO THE DEPARTMENT OF LAND AND NATURAL RESOURCES CONTINGENT UPON COMPLETION OF (i) THE SUBDIVISION OF TMK: (1) 9-1-031:001, AND (ii) THE MODIFICATION OF GENERAL LEASE S-3138; HAWAII LAND & LIVESTOCK, LLC, LESSEE, HONO'ULI'ULI, 'EWA, O'AHU, HAWAII



Authority:	Section 166E-3, Hawaii Revised Statutes (“HRS”), and Sections 4-158-2(a)(13) and 4-158-2(c)(5), Hawaii Administrative Rules (“HAR”)
Lessee:	Hawaii Land & Livestock, LLC
Land Area:	110.106 acres
Tax Map Key:	(1) 9-1-031:001 (see Exhibit “A”)
Land Status:	Encumbered by Governor’s Executive Order No. 4584 to the Department of Agriculture for agricultural purposes on May 15, 2019.
Lease Term:	35 years, January 1, 2020 – December 31, 2055 [sic – should be December 31, 2054]
Current Rent:	\$18,300.00 per year
Additional Rent:	1.5% of the gross proceeds, which includes revenues from consignment sales and subletting.
Permitted Use:	Solely for diversified agriculture including animal feedlot purposes for finishing prior to slaughter of livestock.

BACKGROUND:

Pursuant to Section 171-11, HRS, as amended, Executive Order No. 4584 (“EO4585”), dated May 15, 2019, set aside 110.106 acres for agricultural purposes, and established a non-agricultural park parcel currently under the control and management of the Department of Agriculture and Biosecurity (“DAB”), Agricultural Resource Management Division (“ARMD”). EO4585 reserved to the Board of Land and Natural Resources (“BLNR”) the right to issue leases for renewable energy projects on the land to the extent such leases will not unreasonably interfere with DAB’s use of the land.

The Board of Agriculture and Biosecurity (“Board”) awarded General Lease No. S-3138 to HAWAII LAND & LIVESTOCK, LLC, (“HL&L”) for a term of THIRTY-FIVE (35) years commencing on January 1, 2020, with the permitted use of diversified agriculture including animal feedlot purposes for finishing prior to slaughter of livestock. The lease set the expiration date as December 31, 2055, but that is in error as a 35-year term actually expires on December 31, 2054. Staff is including a recommendation below that the erroneous expiration date be corrected by an amendment of the lease.

In August 2020, ARMD became aware that a trucking company called AMERICAN HAULING, INC. ("American Hauling") was using a portion of the leased premises to stage trucks, trailers and other equipment. HL&L commenced efforts to relocate American Hauling first amicably and ultimately by legal eviction proceedings. This resulted in a long-standing non-compliance issue under General Lease No. S-3138 that was finally resolved when American Hauling secured a lease with the Department of Hawaiian Home Lands and vacated the property as of June 30, 2025. HL&L then dismissed its case against American Hauling.

At its meeting of June 24, 2025, under agenda Item IV.A.2, the Board approved the deregistration from Land Court of the subject parcel as well as two abutting parcels under the management control of DAB. At its meeting of June 26, 2025, the Agribusiness Development Corporation approved the deregistration of one other parcel that appears on the same Transfer Certificate of Title as the DAB-managed parcels. The Department of the Attorney General is working with the Bureau of Conveyances to complete the deregistration.

At its meeting of August 26, 2025, under agenda Item IV.B.1, the Board consented to the addition and withdrawal of officers of HL&L, which resulted in Jeff Rivera replacing Robert Farias as a member/owner of HL&L.

DAB and the Department of Land and Natural Resources ("DLNR") have come to an agreement to remove a portion of the area set aside under EO4584 for the potential future development of a solar-to-hydrogen plant on a portion of a property. Once the deregistration process is complete, the following must still occur to return a portion of the land to DLNR for its renewable energy project:

- 1) The parcel must be subdivided to facilitate the prospective use of approximately 100.721 acres as a solar-to-hydrogen facility under DLNR.
- 2) The lease that DAB currently has with HL&L will be amended to reduce the area of the leased premises to 9.385 acres, reduce the annual rent payable under the lease from \$18,300.00 to \$1,600.00 until the first rental reopening under the lease scheduled for January 1, 2030, and correct the lease expiration date to December 31, 2054.
- 3) The 100.721-acre portion will be withdrawn from EO4584 to DAB, resulting in the withdrawn acreage reverting to DLNR management.

Staff understands that HL&L is willing to reduce its acreage to approximately 9.385 acres of the total 110.106 acres of the feedlot parcel. One of the reasons for this is the smaller parcel will still have an ample supply of water available for slaughterhouse operations. DAB originally requested the transfer of the 110.106-acre parcel from DLNR in 2016 because the slaughterhouse needed the 800-gallon-per-acre water allocation for the parcel provided for under a 1997 Declaration of Covenants Regarding Water Consumption and Development, James Campbell Industrial Park ("Declaration"). The Declaration was put in place at a time when an agricultural water supply system served the industrial park and Campbell Estate required irrigation water for its remaining agricultural operations in the area.

With the phasing out of agriculture in in the vicinity of the industrial park and the development of an improved Board of Water Supply delivery system, the water restrictions under the Declaration were no longer required. As a result, Campbell Estate's successor-in-interest released and terminated the Declaration earlier this year.

Staff further understands that HL&L and EURUS ENERGY AMERICA LLC ("EURUS"), who is the project proponent for the proposed solar-to-hydrogen facility, have agreed on the location of the 9.385 acres on the feedlot parcel to remain with HL&L. The agreed location ensures that EURUS's renewable energy project will not interfere with HL&L's operations and vice versa.

Once the Board approves the foregoing, then DLNR, with EURUS, will move toward subdivision of the property. After the subdivision, DLNR intends to request BLNR to approve a partial withdrawal of acreage from EO4584 that originally set aside the lands to DAB. The withdrawal will only cover the 100.721 acres, and the remaining 9.385 acres under EO4584 will stay with DAB.

#### RECOMMENDATION:

That the Board of Agriculture and Biosecurity:

1. Approve DLNR's / EURUS's request to subdivide TMK: (1) 9-1-031:001 including General Lease No. S-3138 into two parcels consisting of 9.385 and 100.721 acres;
2. Approve the modification of General Lease No. S-3138, Hawaii Land & Livestock, LLC, Lessee, contingent upon completion of the subdivision of TMK: (1) 9-1-031:001, to reflect a reduction in area from 110.106 to 9.385 acres, a reduction of the annual rent payable under the lease from \$18,300.00 to \$1,600.00 until the first rental reopening under the lease scheduled for January 1, 2030, and correction of the lease expiration date to December 31, 2054;
3. Delegate to the Chairperson the authority to negotiate and execute the lease modification documents to be recorded at the Bureau of Conveyances, contingent upon completion of all the above; and
4. Concur with the partial withdrawal of approximately 100.721 acres, more or less, from Governor's Executive Order No. 4584 (dated May 15, 2019) for reversion to DLNR contingent upon the completion of (i) the subdivision of TMK: (1) 9-1-031:001; and (ii) the modification to General Lease S-3138.

All related documents are subject to approval as to form by the Office of the Attorney General, and such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.



Respectfully submitted,



BRIAN KAU

Administrator and Chief Engineer

Agricultural Resource Management Division

Attachment – Exhibit “A”

APPROVED FOR SUBMISSION:

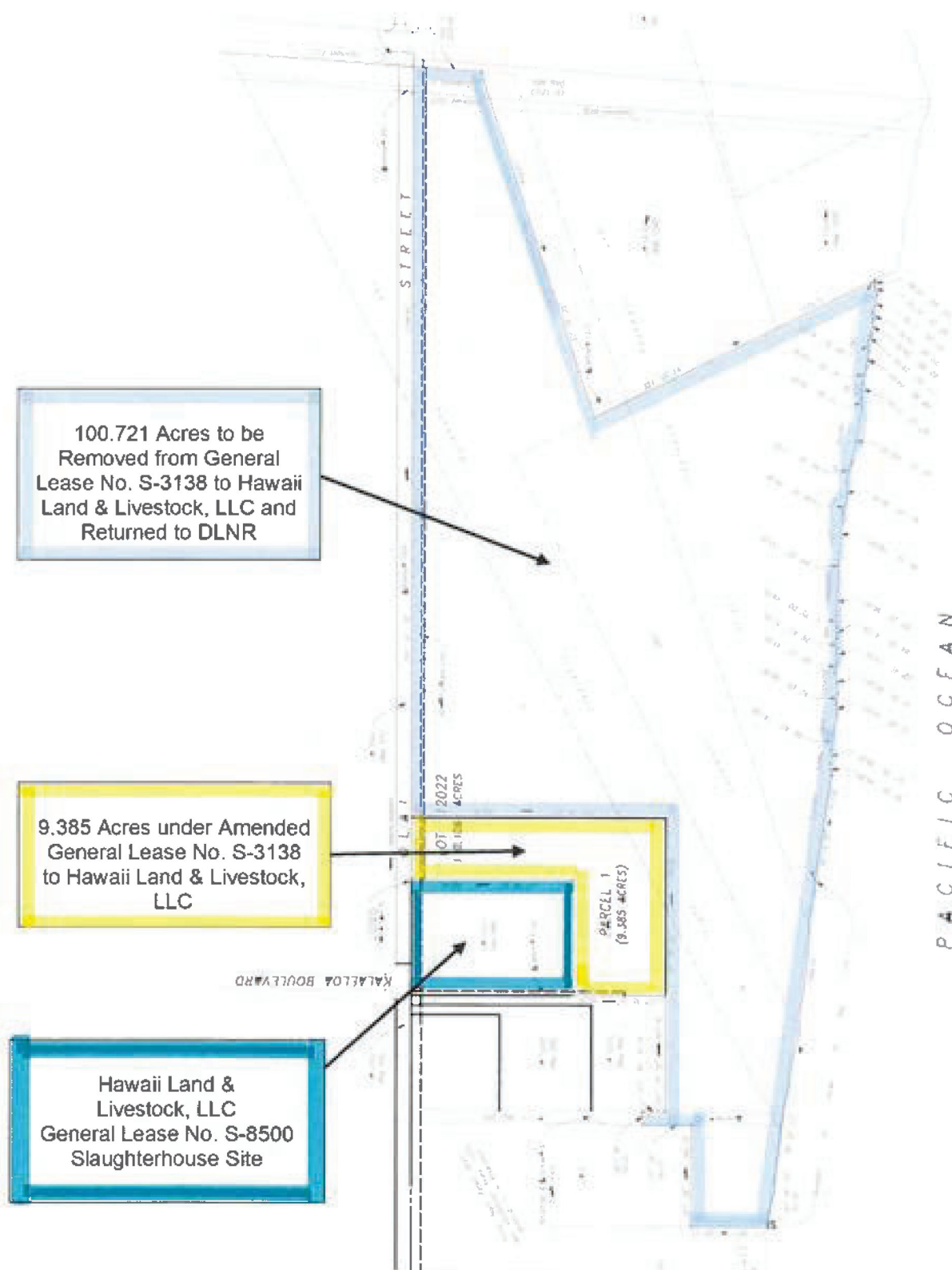


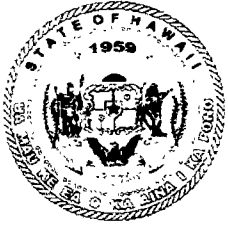
SHARON HURD

Chairperson, Board of Agriculture and Biosecurity









**STATE OF HAWAII  
OFFICE OF THE ASSISTANT REGISTRAR  
RECORDED**

June 30, 2025 3:19 PM

Doc No(s) T - 12964293

on Cert(s) 498504

Issuance of Cert(s)

/s/ MIKE H. IMANAKA  
ASSISTANT REGISTRAR

Pkg 12565548 KM

LAND COURT

REGULAR SYSTEM

Return By Mail ☒ Pick-Up ☐ To:

Cades Schutte LLP  
1000 Bishop Street, 12<sup>th</sup> Floor  
Honolulu, Hawaii 96813  
Attention: Mark K. Murakami  
Telephone: 808.521.9293

**TITLE OF DOCUMENT:**

**RELEASE AND TERMINATION OF DECLARATION OF COVENANTS REGARDING WATER  
CONSUMPTION AND DEVELOPMENT JAMES CAMPBELL INDUSTRIAL PARK**

**PARTIES TO DOCUMENT:**

**DECLARANT:** **JAMES CAMPBELL COMPANY LLC**, a Delaware limited liability  
company  
James Campbell Building, Suite 200, 1001 Kamokila Boulevard, Kapolei,  
Hawaii 96707

Tax Map Key(s): **See Exhibit 1 for Certificate of Title**  
**See Exhibit 1 for Tax Map Key Numbers**

(This document consists of 6 pages.)

**RELEASE AND TERMINATION OF DECLARATION OF COVENANTS REGARDING  
WATER CONSUMPTION AND DEVELOPMENT**

THIS RELEASE AND TERMINATION is made as of June 30, 2025, by **JAMES CAMPBELL COMPANY LLC**, a Delaware limited liability company ("**Declarant**"), whose address is James Campbell Building, Suite 200, 1001 Kamokila Boulevard, Kapolei, Hawaii 96707.

**R E C I T A L S:**

1. The Trustees under the Will and of the Estate of James Campbell, Deceased made that certain Declaration of Covenants Regarding Water Consumption and Development James Campbell Industrial Park dated January 21, 1997 (Agreement No. A01063500), recorded in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 2361779 (sometimes referred to herein as the "**Declaration**"), and noted on the **Certificate of Title Listed on Exhibit 1** attached hereto and incorporated herein by this reference. ✓

2. The Trustees under the Will and of the Estate of James Campbell, Deceased assigned all of their right, title and interest arising under, vested in or reserved unto them under the Declaration to James Campbell Company LLC by instrument recorded in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. T-12961240, and noted on the **Certificate of Title Listed on Exhibit 1**, and therefore James Campbell Company LLC is the successor to said Trustees under the Declaration.

3. The reservations set forth in the Declaration are no longer necessary.

4. The land described in **Exhibit 1** is all of the land encumbered by the Declaration.

5. In accordance with Declarant's rights under section 3.02 (Termination and Modification) of the Declaration, Declarant desires to release and terminate the Declaration as an encumbrance against title to the property that is subject to the Declaration.

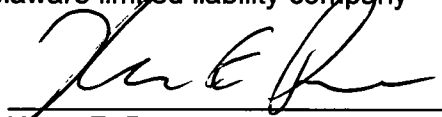
**NOW THEREFORE**, in consideration of the foregoing, **DECLARANT DOES HEREBY RELEASE** the property described in **Exhibit 1** from the terms, covenants, conditions and restrictions contained in that certain Declaration of Covenants Regarding Water Consumption and Development James Campbell Industrial Park dated January 21, 1997, made by the Trustees under the Will and of the Estate of James Campbell, Deceased (Agreement No. A01063500), recorded in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 2361779, and noted on the **Certificate of Title Listed on Exhibit 1**, and the Declaration is hereby terminated and shall hereafter be of no further force or effect.




**IN WITNESS WHEREOF**, the undersigned has executed this instrument as of the date first above written.

**Declarant:**

**JAMES CAMPBELL COMPANY LLC**, a  
Delaware limited liability company

By 

Kevin E. Penn  
Its President & Chief Executive Officer

By 

Name: Ryan K. Notriga  
Its Executive Vice President/Chief  
Financial Officer

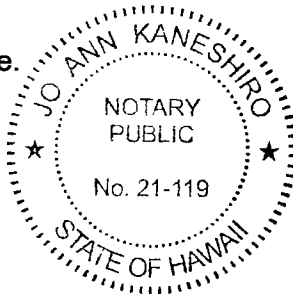
STATE OF HAWAII )  
 ) ss.  
CITY AND COUNTY OF HONOLULU )

On this 24th day of June, 2025, before me personally appeared Kevin E. Penn, to me 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.

Check One:

☐ This notarial act involved the use of communication technology in the manner provided by applicable law.

☒ Not Applicable.



[Signature]  
Name:  
Notary Public, State of Hawaii

My commission expires: Jo Ann Kaneshiro  
Notary Public, State of Hawaii  
My commission expires: 08/29/2025

**NOTARY CERTIFICATION STATEMENT**

Document Identification or Description: **RELEASE AND TERMINATION OF DECLARATION OF COVENANTS REGARDING WATER CONSUMPTION AND DEVELOPMENT JAMES CAMPBELL INDUSTRIAL PARK**

Document Date: (undated at time of notarization)

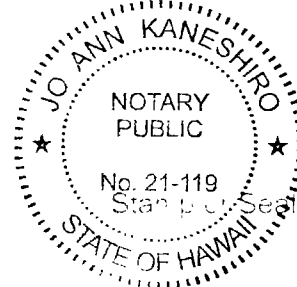
No. of Pages: 6

Jurisdiction (in which notarial act is performed): First Circuit

[Signature]  
Signature of Notary

6/24/2025  
Date of Notarization and  
Certification Statement

Jo Ann Kaneshiro  
Notary Public, State of Hawaii  
My commission expires: 08/29/2025



Printed Name of Notary

Date of Notary Commission Expiration:

(James Campbell Company LLC)

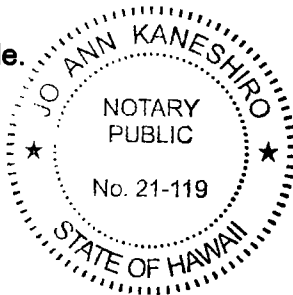
STATE OF HAWAII )  
 ) ss.  
CITY AND COUNTY OF HONOLULU )

On this 24th day of June, 2025, before me personally appeared Ryan K. Nobriga, to me 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.

Check One:

☐ This notarial act involved the use of communication technology in the manner provided by applicable law.

☒ Not Applicable.



[Signature]  
Name:  
Notary Public, State of Hawaii

My commission expires: Jo Ann Kaneshiro  
Notary Public, State of Hawaii  
My commission expires: 08/29/2025

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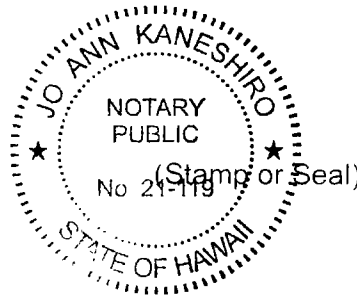
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Signature of Notary

6/24/2025  
Date of Notarization and  
Certification Statement

Jo Ann Kaneshiro  
Notary Public, State of Hawaii  
My commission expires: 08/29/2025



\_\_\_\_\_  
Printed Name of Notary

\_\_\_\_\_  
Date of Notary Commission Expiration:

(James Campbell Company LLC)

**EXHIBIT 1**  
**LIST OF CERTIFICATE OF TITLE**  
**AND TAX MAP KEY PARCEL NUMBERS**

<b>Certificate of Title No.</b>	<b>Deregistration</b>	<b>Lots</b>	<b>Map,<sup>1</sup> File Plan or DPP Subdivision Number</b>	<b>Tax Map Key No(s).</b>
<b>498,504</b>		Lot 12019	888	(Oahu) 9-1-031-037
<b>498,504</b>		Lot 12020	888	(Oahu) 9-1-031-026
<b>498,504</b>		Lot 12021	888	(Oahu) 9-1-031-025
<b>498,504</b>		Lot 12022	888	(Oahu) 9-1-031-011

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<sup>1</sup> Map references are to maps filed with Land Court Application No. 1069 of the Trustees under the Will and of the Estate of James Campbell, Deceased.