

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS
HAWAIIAN HOMES COMMISSION MEETING/WORKSHOP AGENDA

91-5420 Kapolei Parkway, Kapolei, O‘ahu, Hawai‘i

Monday, September 21, 2020 at 9:30 a.m. to be continued, if necessary, on

Tuesday, September 22, 2020, at 9:30 a.m.

Livestream available at www.dhhl.hawaii.gov/live

Note: Commission Meeting Packets will be available at dhhl.hawaii.gov, by Thursday, September 17, 2020.

I. ORDER OF BUSINESS

- A. Roll Call
- B. Approval of Agenda
- C. Approval of Minutes for August 18, 2020 HHC Meeting
- D. Public Testimony on Agendized Items – Via weblink only; see information below

II. ITEMS FOR DECISION MAKING

A. CONSENT AGENDA

Homestead Services Division

- D-3 Ratification of Loan Approvals (see exhibit)
- D-4 Approval of Consent to Mortgage (see exhibit)
- D-5 Approval of Homestead Application Transfers / Cancellations (see exhibit)
- D-6 Approval of Designation of Successors to Leasehold Interest and Designation of Persons to Receive the Net Proceeds (see exhibit)
- D-7 Approval of Assignment of Leasehold Interest (see exhibit)
- D-8 Approval of Amendment of Leasehold Interest (see exhibit)
- D-9 Approval to Issue Non-Exclusive Licenses for Rooftop Photovoltaic Systems for Certain Lessees (see exhibit)
- D-10 Commission Designation of Successor – DOLORES W.K. KONG, Residential Lease No. 8311, Lot No. 20, Princess Kahanu Estates, Oahu

B. REGULAR AGENDA

Office of the Chairman

- C-1 Approval of Activities for the July 9, 2021 – July 8, 2022 Centennial Celebration of the Hawaiian Homes Commission Act of 1920, as Amended
- C-2 Approval of Lease Awards Kanehili Subdivision Kapolei, Hawai‘i and Lāna‘i Subdivision, Lana‘i, Hawai‘i (see exhibit)
- C-3 Approval of 2021 Legislative Proposals
- C-4 Approval of license to operate and maintain non-potable stock water system pursuant to *Honokaia ‘Ohana, et al., v. Masagatani, et al.*, Civ. No. 09-1-1615-07 – Wai Ola Honokaia, Honokaia, Hawaii Island, TMK Nos.: (3)4-6-013 :001 through :046; and (3)4-7-007:005.

Homestead Services Division

- D-2 Approval to Extend Postponement of Mortgage Payments

Land Development Division

- E-1 Approval to Delegate Authority to the Chairman to negotiate and execute Project Lands Agreement and Promissory Note to Ikaika Ohana/A0597 Kona, LP for Hawaiian Home Lands Rental Housing in the Villages of La'i'ōpua.

Land Management Division

- F-1 Approval to Issuance of Right of Entry Permit to Waimea Hawaiian Homesteaders' Association, Inc (WHHAI), Waimea, Hawaii Island, TMK: (3)6-4-001:059(por.)
- F-2 Approval to Issuance of Right of Entry Permit to Kukulu Kumuhana 'O Anahola (KKOA), Anahola Farm Lots, Anahola, Kaua'i Island, TMK No. (4) 4-8-005:026 (por.)
- F-3 Approval and Authorization for an Additional Rent Relief and Deferment Period, to DCI Paradise LLC, Hilton Garden Inn-Kauai, General Lease Nos. S-3831, S-3840, and S-4647, Wailua, Kauai Island, TMK Nos. (4)3-9-006:016 and 020
- F-4 Approval of Annual Renewal of Right of Entry Permits, Maui Island Administrative Services Office

Administrative Services Office

- H-1 Transfer of Hawaiian Home Lands Receipts Fund Moneys at the End of the First Quarter, FY 2021

III. ITEMS FOR INFORMATION/DISCUSSION

A. GENERAL AGENDA

Requests to Address the Commission – In writing via weblink only; see information below

- J-1 Blossom Feiteira - Association of Hawaiians for Homestead Lands
- J-2 Lauae Kekahuna – Makuu Farmers Association
- J-3 Maile Lavea-Malloe – Hawai'i Community Lending
- J-4 Sharmaine Taua – Homestead Vandalism
- J-5 Kathleen Chase – Waiver of Interest, Fees and Penalty for Deferred Taxes
- J-6 Pat Aiona - Kohana-Kahanuola
- J-7 Louise Mata – Blood Quantum Review
- J-8 Kelii Ioane – Kings Landing
- J-9 Kekoa Enomoto – Maui/Lanai Mokupuni Council
- J-10 Donna Sterling – KHHAA and Fire Mitigation at Kahikinui
- J-11 Cora Schnackenberg – Ahonui Homestead Association Cultural and Resource Management Plan
- J-12 Shawndelle Kamalani – Puunani Homestead Association
- J-13 Kimberly Balauro – Waiahole Agriculture Leases

B. WORKSHOPS

Planning Office

- G-1 For Information Only – Re-affirm and authorize the borrowing of a total of \$11,555,000 under the U.S. Department of Agriculture Rural Development (USDA RD) Water and Environment Program (WEP) for major capital improvements to the DHHL-owned

- Anahola Farm Lots Water System (PWS 432) on the island of Kaua'i and Ho'olehua Water System (PWS 230) on the island of Moloka'i
- G-2 For Information Only – Memorandum of Understanding Agreement Among DHHL, Hawaii Housing Finance Development Authority, and the Natural Energy Laboratory of Hawaii Authority Regarding Allocation of Water Credits from the Ota Well Development, North Kona, Hawaii Island TMK (3) 7-5-001: 165

Homestead Services Division

- D-1 HSD Status Reports
- A - Homestead Lease and Application Totals and Monthly Activity Reports
 - B – Delinquency Report
 - C – DHHL Guarantees for FHA Construction Loans

IV. EXECUTIVE SESSION

The Commission anticipates convening in executive meeting pursuant to Section 92-5(a)(4), HRS, to consult with its attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities on these matters.

1. Update on issues related to Sandwich Isles Communications
2. Discussion on U.S. Department of Agriculture Rural Development (USDA RD) Water and Environment Program (WEP) for major capital improvements to the DHHL-owned Anahola Farm Lots Water System (PWS 432) on the island of Kaua'i and Ho'olehua Water System (PWS 230) on the island of Moloka'i
3. Update on Honokaia Non-Potable Water System Settlement

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS
HAWAIIAN HOMES COMMISSION MEETING/WORKSHOP AGENDA

91-5420 Kapolei Parkway, Kapolei, O'ahu, Hawai'i
Tuesday, September 22, 2020, at 9:30 a.m.

I. ORDER OF BUSINESS

- A. Roll Call
- B. Public Testimony on Agendized Items

II. ITEMS FOR DECISION MAKING

Planning Office

- G-1 Re-affirm and authorize the borrowing of a total of \$11,555,000 under the U.S. Department of Agriculture Rural Development (USDA RD) Water and Environment Program (WEP) for major capital improvements to the DHHL-owned Anahola Farm Lots Water System (PWS 432) on the island of Kaua'i and Ho'olehua Water System (PWS 230) on the island of Moloka'i
- G-2 Authorize the Chairman to Enter into Memorandum of Understanding Agreement Among DHHL, Hawaii Housing Finance Development Authority, and the Natural Energy Laboratory of Hawaii Authority Regarding Allocation of Water Credits from the Ota Well Development, North Kona, Hawaii Island TMK (3) 7-5-001: 165

III. ITEMS FOR INFORMATION/DISCUSSION

A. REGULAR AGENDA

Office of the Chairman

- C-5 For Information Only - Report of the Investigative Committee on Native Hawaiian Qualification Process

B. WORKSHOP

Office of the Chairman

- C-6 For Information Only – Update on Administrative Rules for Supplemental Dwelling Units
- C-7 For Information Only – Update on Native Hawaiian Qualification Process

Land Development Division

- E-2 For Information Only – Bowl-O-Drome/Isenburg
- E-3 For Information Only – Hawaii Island Project Updates

Planning Office

- G-3 For Information Only – DHHL Beneficiary Consultation Policy

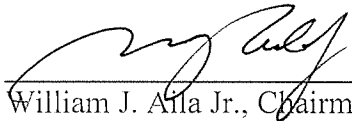
V. EXECUTIVE SESSION

The Commission anticipates convening in executive meeting pursuant to Section 92-5(a)(4), HRS, to consult with its attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities on these matters.

1. Update on *Richard Nelson, III et al., v Hawaiian Homes Commission*, Civil No. 07-1-1663
2. Discussion on *Bank of America Corp. et al. v. County of Maui*, Civ No. 1:20-cv-00310, U.S. District Court for the District of Hawaii
3. Update on Waiahole Agriculture Leases
4. Continued Discussion on Panaewa Hawaiian Home Lands Community Association Leadership
5. Update on DHHL Relocation Policy

VI. ANNOUNCEMENTS AND ADJOURNMENT

- A. Next Meeting –October 19 & 20, 2020, TBA
- B. Adjournment



William J. Aila Jr., Chairman
Hawaiian Homes Commission

COMMISSION MEMBERS

Randy K. Awo, Maui
Patricia L. Teruya, O'ahu
Pauline N. Namu'o, O'ahu
Michael L. Kaleikini, East Hawai'i

Zachary Z. Helm, Moloka'i
David B. Ka'apu, West Hawai'i
Dennis L. Neves, Kaua'i
Russell K. Kaupu, O'ahu

Public testimony can be submitted in writing via the Department of Hawaiian Home Lands website at www.dhhl.hawaii.gov/hhc/hhc-contact

Livestream available at www.dhhl.hawaii.gov/live

Pursuant to the Governor's August 20, 2020 Supplementary Emergency Proclamation for COVID-19, Hawai'i Revised Statutes Chapter 92 regarding public agency meetings and records is currently suspended through till September 30, 2020 to the extent necessary to enable boards to conduct business without holding meetings open to the public and to allow state agencies the ability to effectively and efficiently provide emergency relief and engage in emergency management functions.

ITEM C-2 EXHIBIT**APPROVAL OF LEASE AWARDS KANEHILI SUBDIVISION, KAPOLEI AND LANA'I**

NAME	APPL DATE	LOT NO	TAX MAP KEY	LEASE NO
Naalehu I.K. Mano	06/27/2005	1180	(2) 4-9-024:010	12889
Lovee Garringer	05/21/1986	18539	(1) 9-1-153:002	12905

ITEM D-3 EXHIBIT**RATIFICATION OF LOAN APPROVALS**

LESSEE	LEASE NO.	AREA
BELL, Russell V. I.	TBD	Kauluokahai, Oahu
KALAU LI, Keni L.	18664	Kanehili, Oahu
KEKAHUNA, Lauae K.	6973-B	Maku'u, Hawaii

ITEM D-4 EXHIBIT**APPROVAL OF CONSENT TO MORTGAGE**

LESSEE	LEASE NO.	AREA
AHULAU, Lance K.	12046	Kaupea, Oahu
AKOI, Samuel A., IV	7718	Waiohuli, Maui
ALAMEDA, Avonelle L.	8960	Keaukaha, Hawaii
ALBERTO, Chanda K.	1794	Nanakuli, Oahu
ANDUHA, Tracy L.	12610	Kanehili, Oahu
BOWDEN, Shon C., III	4154A	Panaewa, Hawaii
CARROLL, William R., Jr.	12837	Kauluokahai, Oahu
CASHMAN, Alexander J.	6185	Puukapu, Hawaii
CASUGA, Darlene K.	3096	Waiakea, Hawaii
DESANTOS, Jay A.	9559	Kalawahine, Oahu
DIAMOND, Charles, Jr.	12628	Kanehili, Oahu
DIAS, Gary K.	8272	Paukukalo, Maui
FOSTER, Clinton	12909	Kanehili, Oahu
GAMBILL, Mahealani M.	7128	Kawaihae, Hawaii
GIFFORD, Steve P.	3788	Nanakuli, Oahu
GUZMAN, Francine K.	3131	Nanakuli, Oahu
HIAPO, Edward K. N. G.	7046	Puupulehu, Hawaii
HOKE, Terinamai P.	12472	Kanehili, Oahu
HOOHULI, Kristi H.	12672	Kanehili, Oahu
KAAHAAINA TORRES, Jennifer K.	5754	Waimanalo, Oahu
KAALELE, Danielle L. P.	2010	Waimanalo, Oahu
KAAUAMO, Vance K.	10167	Waiehu 3, Maui
KAIMI, Daniel K.	5150	Nanakuli, Oahu
KALAMA, Blake S. K.	4120	Waimanalo, Oahu
KALEIKINI, Melvin K.	12780	Maluohai, Oahu
KAMOKU, Paul P., Jr.	12803	Maluohai, Oahu
KAONOHU, Miles M. S.	11761	Kanehili, Oahu
KAOPUA, Isaac James, Jr.	8222	Waimanalo, Oahu
KAPELE, Almadine G. M.	8898	Nanakuli, Oahu

KAUIHOU, Shaun K.	9854	Maluohai, Oahu
KUALII, Randall K.	12156	Kaumana, Hawaii
LEWIS, Lauren G.	11397	Kaupea, Oahu
LIMA-PO, Charelle K.	5551	Lualualei, Oahu
LOPES, Russell H.	8644	Nanakuli, Oahu
LYMAN, Danna K.	12409	Kauluokahi, Oahu
MAKUAKANE, Kawaipuna C. J.	11205	Kakaina, Oahu
MALAKI, Nathan H. B.	280	Nanakuli, Oahu
MENTO, Nola K. P.	9801	Maluohai, Oahu
NAHALEA, Valmajan L.	7300	Nanakuli, Oahu
NAPOLEON, Sherman, Jr.	10259	Hoolehua, Molokai
NEGRILLO, Richard, Jr.	6085	Kalamaula, Molokai
NOBRIGA, Lance M.	11126	Anahola, Kauai
PAAKAULA, Lori L.	8707	Lualualei, Oahu
PAIK, Wayne C. M.	11908	Kaupea, Oahu
PENNINGTON, Aaron H.	11383	Kaupea, Oahu
PILILAAU, Cameron K.	12060	Kaupea, Oahu
POKINI, Norbert K.	12305	Hikina, Maui
RASMUSSEN, Joel	12903	Kauluokahai, Oahu
SEPTIMO, Reri N. L.	9496	Waiehu 2, Maui
SHIBATA, Debra Ann G.	10437	Hikina, Maui
STEVENS, Sydney Lee M.	2705B	Puukapu, Hawaii
SWINSON, Tracyly P.	7337	Nanakuli, Oahu
TAUMUA, Karen N. L.	11746	Kanehili, Oahu
TUZON, Ursula-Diane P.	12559	Kanehili, Oahu
VALDEZ, Julie M. L.	12693	Kaupuni, Oahu
VELASCO, Joetta Mae N.	670	Waimanalo, Oahu
VELASCO, Quinn I.	670	Waimanalo, Oahu
VIERRA, Annette L.	12906	Kanehili, Oahu
WAIKIKI, Rulan G. N.	3490	Paukukalo, Maui
WATSON, David K.	11478	Leialii, Maui
WRIGHT, Wayne	10418	Waiohuli, Maui

ITEM D-5 - EXHIBIT

HOMESTEAD APPLICATION TRANSFERS / CANCELLATIONS

APPLICANT	AREA
AIPOALANI, Robert M., Jr.	Nanakuli Area / Oahu IW Res
APANA, Haven Richard	Waimanalo Area / Oahu IW Res
APANA, Ikaika M.	Kauai IW Res
ASINSIN, Leona P.	Oahu IW Res
AU, Clayton K.T.K.	Hawaii IW Res to Kauai IW Res
BORTON, Lani K.P.	Hawaii IW Res to Kauai IW Res
CARVALHO, Ellen P.	Kauai IW Res to Oahu IW Res
DAVIS, John L., Jr.	Lanai IW Res
FILIMOEATU, Renee-May K.A.	Maui IW Res
GAGNON, Beverly P.	Maui IW Agr to Kauai IW Agr
HAUPU, Waverlyn M.	Oahu IW Res

JOHNSON, Ezra	Oahu IW Res
KAAHANUI-ROSA, William K.	Waimanalo Area / Oahu IW Res
KAHOHALAHALA, Kaulana P.	Lanai IW Res
KAMANA, Malie M.	Oahu IW Res
KAPELIELA, Kenneth K.R.	Hawaii IW Res
KAUAI, Casey K.K.	Maui IW Res
MOFFETT, Donna M.	Hawaii IW Res
MOREY, Jordan B.	Waimanalo Area / Oahu IW Res
MOSES, Shaylla-Ann R.H.	Oahu IW Res
NOMURA, Nadine M.	Oahu IW Res
REYES-LENCHANKO, Katja K.	Kauai IW Agr to Hawaii IW Agr
SANTANA, Leimomi	Maui IW Res to Lani IW Res
VICTOR, Winona K.	Oahu IW Res
VICTOR, Winona K.	Hawaii IW Agr
WONG, Apryle M.	Kauai IW Res

ITEM D-6 EXHIBIT

APPROVAL OF DESIGNATION OF SUCCESSORS TO LEASEHOLD INTEREST AND DESIGNATION OF PERSONS TO RECEIVE THE NET PROCEEDS

LESSEE	LEASE NO.	AREA
BERDON, Bernice	4058	Waimea, Hawaii
BERTELMANN, Priscilla H.	4932	Kuhio Village, Hawaii
KAHAUNAELE, David K.K., Sr.	4310	Anahola, Kauai
KAHOOKELE, Charles K., Sr.	3549	Nanakuli, Oahu
KALEIOPU, Solomon A., Jr.	4720	Waianae, Oahu
LOVELL, Castro	3253	Anahola, Kauai
MACHADO, Gurdy A.	4397	Nanakuli, Oahu
MALANI, Clement K., Sr.	6202	Panaewa, Hawaii
MALANI, Clyde K.	6954	Makuu, Hawaii
SIMEONA, Randall	4112	Waimanalo, Oahu
SOUZA, Alberta K.	1937	Nanakuli, Oahu

ITEM D-7 EXHIBIT

APPROVAL OF ASSIGNMENT OF LEASEHOLD INTEREST

LESSEE	LEASE NO.	AREA
ANDRADE, Noe K.	12773	Maluohai2, Oahu
DUDOIT, Horace K., III	11690	Kanehili, Oahu
HIAPO, Edward K.	7046	Puupulehu, Hawaii
KAIWI, Alva H.	12865	Kauluokahai, Oahu
KAMAE, Alexander K.	11746	Kanehili, Oahu
CABEBE, Andrew F.	11746	Kanehili, Oahu
KAUHI, Ann Marie U.H.	4120	Waimanalo, Oahu
KUAMOO, Kris P.	8819	Waiakea, Hawaii
FRANCISCO, Velma Joy K.	3908	Panaewa, Hawaii
LABOY, Rusty K.	3689	Waimanalo, Oahu
LANNING, Earlet M.	3090	Anahola, Kauai

MANUWA, Barbara K.	1379	Keaukaha, Hawaii
MOLER, Earl	9140	Kahikinui, Maui
MORISHITA, Michelle C.M.	6339	Keaukaha, Hawaii
POLLACK, Lovee-Ann I.	12905	Kanehili, Oahu
PURDY, Leroy K.	4502	Nanakuli, Oahu
RASMUSSEN, Mildred A.	12903	Kanehili, Oahu
SABAGALA, Patricia L.	5349	Waianae, Oahu
SCOTT, Joe E., Jr.	3893	Nanakuli, Oahu
SPENCER, Samuel James M., Jr.	12576	Kanehili, Oahu
ISAACS-RAMIRO, Lei'Vonchon K.B.	12576	Kanehili, Oahu
VELASCO, Pearl K.	12693	Kaupuni, Oahu
WELLER, Corinne K.N.	4058	Waimea, Hawaii
WESTBROOKS, Roberta M.	5195	Nanakuli, Oahu
YORO-LEONG, Brianne K.	9883	Maluohai, Oahu
MALETA, Nicole P.	9883	Maluohai, Oahu
LEONG, Sarah-Lyn K.	9883	Maluohai, Oahu
BAILEY-ALOALO, Gloria J.K.	12482	Kapolei, Oahu
LLANES, Edwina K.	10749	Laiopua, Hawaii
PAGAN, Prudence N.	10610	Waiohuli, Maui
STONE-CABAEI, Frances Ann K.	7738	Waiohuli, Maui
WALLACE, Donald A., Jr.	10415	Waiohuli, Maui
TEJEDA-FIGUEROA, Esmeralda M.	7694	Waiohuli, Maui
WALLACE, Eltness L.	7694	Waiohuli, Maui

ITEM D-8 EXHIBIT

APPROVAL OF AMENDMENT OF LEASEHOLD INTEREST

LESSEE	LEASE NO.	AREA
ALULI, Kimo D.	6504	Anahola, Kauai
BERDON, Bernice	4058	Waimea, Hawaii
CONTRADES, Anita L.K.	7794	Hoolehua, Molokai
CONTRADES, Anita L.K.	2949	Kapaakea, Molokai
FRANCISCO, Velma Joy K.	3908	Panaewa, Hawaii
KAHLBAUM, Jennie K.	1713	Waimanalo, Oahu
KAHOOKELE, Charles K., Sr.	3549	Nanakuli, Oahu
KANEAKUA, John N., III	2826	Kewalo, Oahu
KAWAAUHAU, Paula Ann	1210	Keaukaha, Hawaii
KONANUI, Charles K., Sr.	2917	Keaukaha, Hawaii
KUAMOO, Kris P.	8819	Waiakea, Hawaii
LOVELL, Castro	3253	Anahola, Kauai
MANUWA, Barbara K.	1379	Keaukaha, Hawaii
MORISHITA, Michele C.M.	6339	Keaukaha, Hawaii
SCOTT, Joe E., Jr.	3893	Nanakuli, Oahu
SIMEONA, Randall	4112	Waimanalo, Oahu
SOUZA, Alberta K.	1937	Nanakuli, Oahu

ITEM D-9 EXHIBIT

**APPROVAL TO ISSUE A NON-EXCLUSIVE LICENSE FOR ROOFTOP PHOTOVOLTAIC
SYSTEMS FOR CERTAIN LESSEES**

LESSEE	LEASE NO.	AREA
ENOS, Venetta O.	8607	University Heights, Hawaii
HANOHANO, Lynn P.	10279	Waiohuli, Maui
KEALOHA, Elaine K.	694	Waimanalo, Oahu
LEONG, Richard K. C., Jr.	7752	Waiohuli, Maui
PERRY, Joseph F. K.	8802	Waimanalo, Oahu
VIELA, Raymond	9788	Maluohai, Oahu
WALLACE, Diana M.	8274	Paukukalo, Maui
WATSON, Aaron K. W. K.	4502	Nanakuli, Oahu

ITEM F-4 EXHIBIT

RIGHT OF ENTRY PERMITS, MAUI ISLAND

NO.	ACRE	USE	PERMITTEE	AREA	DATE STARTED
493	6.820	<u>Community</u>	<u>Waiohuli Hawaiian Homesteaders' Association Inc.</u>	<u>Kula</u>	<u>10/1/2005</u>
496	69.0	Community	Keokea Homestead Farm Lot Association	Keokea	2/8/2010
497	3.0	Community	<u>Village of Lei Alii Association</u>	Lealii	4/1/2013


**HAWAIIAN HOMES COMMISSION
SEPTEMBER 21 & 22, 2020
TELECONFERENCE
9:30 A.M.**



**C – ITEMS
OFFICE OF THE CHAIRMAN**

STATE OF HAWAI'I
DEPARTMENT OF HAWAIIAN HOME LANDS

September 21, 2020

To: Chairman and Members, Hawaiian Homes Commission

Through: Tyler I. Gomes, Deputy to the Chairman 

From: Niniau Kawaihae, Special Assistant 
Cedric Duarte, Information & Community Relations 
Officer

Subject: Approval of Activities for the July 9, 2021 - July 8,
2022 Centennial Celebration of the Hawaiian Homes
Commission Act of 1920, as Amended

RECOMMENDED MOTION:

To approve the proposed activities for the July 9, 2021 - July 8, 2022 Centennial Celebration of the Hawaiian Homes Commission Act of 1920, as amended.

DISCUSSION:

The Hawaiian Homes Commission Act of 1920 was passed in session I of the Sixty-Seventh United States Congress by voice votes on the Senate floor on June 27, 1921 and the House floor on June 30, 1921 before being signed into law on July 9, 1921 by newly-elected President William G. Harding. The Hawaiian Homes Commission approved Resolution No. 303 at its March 16, 2020 meeting prior to the escalation of the COVID19 pandemic. The purpose of this submittal is to seek the Commission's approval of the suggested activities below. Additional information has been included based on feedback from the Commission at its August 2020 meeting. Of note is that this submittal is not a request for budget approval. The department will be seeking partners, sponsors, and in-kind donations to reduce costs to the department.

Suggested Activities:

- A. Creation of a Centennial Logo/Theme: to be used throughout the Centennial Year on applicable letterhead; banners; website; social media; and if any, sponsored events.

E. Creation of Ten (10) Documentaries: 50 minutes, 1 episode per month for ten months. Suggested episode topics include:

- Episode One: chronicling the life and public policy work of Prince Jonah Kūhiō Kalanianaʻole
- Episode Two: the creation of Ahahui Puuhonua o na Hawaii which documented the socio-economic needs of Hawaiians from 1912-1919. Said data was used to introduce the HHCA in 1918 & 1919 into the Territorial Legislature.
- Episode Three: a look at the US Congress during Kuhio's time in elected office (1902-1922). Understanding the political forces at the national level. Visits to Hawaii by prominent US officials.
- Episode Four: insight into the Territorial and US Congressional committee hearings on the HHCA. The passing of the HHCA and Kuhio's passing.
- Episode Five: "The Great Experiment" as the first 5 years of the HHCA was called. A look into Kalanianaʻole Settlement and the first homesteaders on Molokai. A look into the first residential settlement of Keaukaha, Kuhio Settlement.
- Episode Six: the development of the HHC from 1926-1940. Using DHHL archival records, weave the story of the first commissions pre- World War II. Review of Territorial and US Congressional political influence as well as profiling noted historical figures of the time.
- Episode Seven: the impact of World War II on the HHC and Trust Lands; a look at Executive Orders for Trust Lands spanning 1941- 1959; evolution of the Commission and the creation of the Department of Hawaiian Home Lands
- Episode Eight: a look at the Hawaiian Renaissance; the 1978 Hawaii Constitutional Convention; and the


U.S. Civil Rights Task Force; reviewing the homesteads created since Statehood.

- Episode Nine: Modern day; the impacts of the Nelson and Kalima lawsuits as seen from community, legal and administrative perspectives.
 - Episode Ten: "What the Future Holds?" a look from various perspectives on the future of the HHCA and its relevance to modern political movements
- I. Ho'onui 'Ike Lecture Series: social media hosting of a lecture series by notable scholars on Prince Kūhiō including Dr. Kalani Akana, Dr. Davianna McGregor, Manu Boyd, etc. Distribution and recording would be similar to what is now being scene on social media during the pandemic (Facebook Live, Kanaeokana, OHA, etc.)
- O. Creation of a printed calendar: featuring photos of the Prince; historic accounts/documents; homestead settlements.
- U. Publishing of a Limited Run Commemorative Book: composed of the Commission's first five annual reports.
- H. Huaka'i to Mauna 'Ala: for Commission and DHHL employees to honor the 100th anniversary of the Prince's passing, January 7, 2022.
- K. Viral Music Video: Project Kuleana will be invited to produce a video honoring the Centennial.
- L. Nā Hōkū Hanohano Awards Special Category: Commission will request a special category for Haku Mele (new songs about a homestead) and to have the awards show debut the Project Kuleana video.
- M. Commemorative Promotional Items: Centennial logo items for distribution at commission, community, orientation, lot selection, etc. Items may include pens, caps, lanyards, face masks, etc.
- N. Assuming ability to gather during the Centennial timeframe, HHC and DHHL participation in community and public events (such as parades, homestead celebration) will be included.

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

September 22, 2020

TO: Chairman and Members, Hawaiian Homes Commission

THROUGH: Paula Aila, Acting Administrator, Contact & Awards Division 

FROM: Michelle Hitzeman, HALE Manager

SUBJECT: Approval of Lease Award

RECOMMENDED MOTION/ACTION

Approve the awards of Department of Hawaiian Home Lands Residence Lot Leases to the applicants listed below for ninety-nine (99) years, subject to the purchase of the existing improvements on the lot by way of a loan or cash.

DISCUSSION

Kanehili Residential Subdivision, Kapolei, Hawaii

<u>NAME</u>	<u>APPL DATE</u>	<u>LOT NO</u>	<u>TAX MAP KEY</u>	<u>LEASE NO</u>
Lovee Garringer	05/21/1986	18539	(1) 9-1-153:002	12905

Lanai Residential Subdivision, Hawaii

Naalehua I.K. Mano	06/27/2005	1180	(2) 4-9-024:010	12889
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With the execution of the foregoing lease, one (2) single family home award has been completed.

ITEM NO. C-2

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

September 21-22, 2020

To: Chairman and Members, Hawaiian Homes Commission

From: Lehua Kinilau-Cano, HHL Legislative Analyst *Lehua Kinilau-Cano*

Subject: Approval of 2021 Legislative Proposals

RECOMMENDED ACTION/MOTION:

That the Hawaiian Homes Commission approve the legislative proposals to be recommended for inclusion in the Administration's legislative package for the 2021 Regular Session.

DISCUSSION

The Department of Hawaiian Home Lands has prepared draft legislative proposals to be recommended for inclusion in the next Administration's legislative package. The draft legislative proposals, upon submission, will be under review by the Department of the Attorney General, the Department of Budget & Finance, and the Governor. The proposals are pending final approval and no proposal is considered part of the package until final approval is granted. In this phase of the review process, the department may amend or withdraw measures.

The department solicited recommendations for legislative proposals and received 29 proposals. Here's a summary of the proposals:

Issue	Submitted by	Result
Operation of a Kupuna Day Care Center or one care home in the community	Homestead association	Sufficient sums budget included \$250,000 from Puwalu for feasibility study
Hawaiian Homes Commission nomination process	Homestead association	Consider a study
\$7 million for water source development	Homestead association	Sufficient sums budget included \$15.5 million from Puwalu
\$500,000 for community park	Homestead association	Sufficient sums budget included \$300,000 from Puwalu
Riparian Rights	Homestead association	More review

Issue	Submitted by	Result
ADU homes limited to immediate family or qualified lessee's only	Lessee	Proposed rules for SDUs would allow for pilot on res lots
Managing available funds to prepare beneficiaries to move quickly onto DHHL lands	Lessee	Legislation not required
Children of those who died on the waitlist have higher percentage than some of the recipients who have land passed on to them	Stakeholder	Kuhio Lease Option
Allow beneficiaries to grow marijuana to be sold in dispensaries managed by community associations	Lessee	Included
Private mortgage insurance should not be required for loans with a loan-to-value less than 80%	Lessee	More review
Streamline sales of existing homes where lessee failed to sell the home within 90 days at fair market value	Lessee	More review
Funding for Naiwa to provide infrastructure so lessees can build on the lots	Lessee	Sufficient sums budget included \$9 million
Counties responsible for infrastructure developed in compliance with county requirements	Lessee	Included
Independent legal counsel	Stakeholder	HHC approved proposal for 2017 & 2020 Sessions
Address Invasive Species	Staff	More review
Representation on the Commission on Water Resource Management	Staff	HHC approved proposal for 2017 Session
Representation on the Board of Agriculture	Staff	Model after representation on CWRM
Representation on the Board of Directors of the Agribusiness Development Corporation	Staff	Model after representation on CWRM
Reduce development fees	Staff	Included
Streamline grants process	Staff	More review
Community reinvestment	Staff	More review

Issue	Submitted by	Result
Ensure DHHL's allocation of Statewide resources	Staff	More review
Financing Cesspool conversion	Staff	Included
Counties treatment of DHHL in the management of water & awarding of water credits	Staff	Included
Increase cost of water license	Staff	Included
Exempt DHHL housing development from general excise tax	Staff	Included
Allow DHHL to assume review of historic properties or burials	Staff	Included
Establish an expedited agency hearing	Staff	Included
State agency assistance when expending federal funds	Staff	More review

After considering the responses received, the summary of the fourteen draft legislative proposals are presented below and the actual draft of the bills and justification sheets are enclosed in Exhibit 'A'.

PROPOSAL SUMMARIES

*Proposal HHL-01(21)
RELATING TO INDEPENDENT LEGAL COUNSEL.*

This proposal allows the Department to retain independent legal counsel to be paid by the State and use the services of the attorney general as needed when the interests of the State and the department are aligned.

The Department has a trust duty to its beneficiaries and in the fulfillment of its trust obligations, the department may at times be at odds with the interests of the State. It is at these times that the department must be assured that its counsel provides legal guidance strictly in the interest of its client. Independent counsel that is hired and retained by the department eliminates any cloud of uncertainty that there is a conflict of interest that the department is represented by the Attorney General's office that also represents the State of Hawai'i.

This measure has not been part of the Administration's legislative package, but has been introduced by several legislators over the past few years and has not passed.

Proposal HHL-02(21)

RELATING TO THE COMMISSION ON WATER RESOURCE MANAGEMENT

This proposal adds the Chairman of the Hawaiian Homes Commission or the Chairman's designee to the Commission on Water Resource Management.

The Water Code requires that planning decisions of the Commission on Water Resource Management ensure that sufficient water remain available for current and foreseeable development and use of Hawaiian Home Lands. In order to further the interest of beneficiaries, the Chairman of the Hawaiian Homes Commission or the Chair's designee should serve as an ex officio voting member of the Commission on Water Resource Management.

This measure has not been part of the Administration's legislative package, but has been introduced and has not passed.

Proposal HHL-03(21)

RELATING TO AGRICULTURE

This proposal adds the Chairman of the Hawaiian Homes Commission to the Board of Agriculture.

The Hawaii Department of Agriculture headed by the Board of Agriculture works to support, enhance, promote, and protect Hawaii's agriculture and aquaculture industries. The Hawaiian Homes Commission Act authorizes the Department to lease agricultural lands or lands used for aquaculture purposes. As the State looks to increase food security across the State, the interests of agricultural homestead lessees should be represented on the Board of Agriculture.

Proposal HHL-04(21)

RELATING TO AGRICULTURE

This proposal adds the Chairman of the Hawaiian Homes Commission to the Board of Directors of the Agribusiness Development Corporation.

The mission of the Agribusiness Development Corporation is to provide leadership and advocacy for the conversion of agribusiness into a dynamic growth industry. The Hawaiian Homes Commission Act authorizes the Department to lease agricultural lands or lands used for aquaculture purposes. As the State looks to increase food security across the State, the interests of agricultural homestead lessees should be represented on the Board of Directors of the Agribusiness Development Corporation.

Proposal HHL-05(21)
RELATING TO HOUSING

This proposal exempts any housing development for the Department of Hawaiian Home lands from school impact fee requirements.

Lands set aside for use as Hawaiian Home Lands were withdrawn for other purposes, including public schools, since the enactment of the Hawaiian Homes Commission Act. Additionally, the Department provides affordable housing that often account for the educational facilities that may be needed to support the community with the siting of public schools, public charter schools, early learning facilities, and other similar facilities on or near Hawaiian Home Lands.

Proposal HHL-06(21)
RELATING TO HOUSING

This proposal exempts any housing development for the Department of Hawaiian Home lands from general excise taxes.

The Department provides housing at affordable rates when compared to similar housing available in Hawaii. In order to further the interest of beneficiaries, any housing development for the Department should be exempt from general excise taxes.

Proposal HHL-07(21)
RELATING TO CESSPOOLS

This proposal establishes a low interest loan program to offer financial assistance for lessees on Hawaiian Home Lands with cesspools to be upgraded or converted to septic systems or aerobic treatment unit systems, or connected to existing sewer systems or any other wastewater treatment systems approved by the Department of Health.

Cesspools are a nonpoint contamination source of great concern. Collectively, the State's cesspools release more than 53 million gallons of untreated sewage into the ground each day. In response to the State's cesspool pollution problem, legislation was enacted in 2017 that requires all cesspools not excluded by the Director of Health to be upgraded or converted to septic systems or aerobic treatment unit systems, or connected to sewage systems by January 1, 2050. In order to work toward meeting this deadline, cesspools on Hawaiian Home Lands could be a good place to start.

Proposal HHL-08(21)

RELATING TO THE COUNTY BOARDS OF WATER SUPPLY

This proposal clarifies requirements on the County Boards of Water Supply to reserve water credits for the use of the Department of Hawaiian Home Lands.

The lack of available water has been and remains a significant barrier to the State's ability to develop Hawaiian Homes projects. Working with the Department of Hawaiian Home Lands, the Commission on Water Resource Management has set some ground water and surface water reservations for Hawaiian Homes projects on each island with lands set aside for homesteading purposes. Nevertheless, some Counties treat the Department of Hawaiian Home Lands like any other developer without differentiating or prioritizing water for Hawaiian Homes projects.

Proposal HHL-09(21)

RELATING TO WATER RIGHTS

This proposal sets the upset price for water that is leased to no less than 80% of the total cost of the least expensive actually practicable source of water for the given use, as determined by an independent third-party appraiser.

The Native Hawaiian Rehabilitation Fund, programs for watershed management by the Department of Land and Natural Resources, and funds for the betterment of conditions of native Hawaiians and Hawaiians by the Office of Hawaiian Affairs all benefit from revenues generated by the disposition of water rights, so setting an upset price is aimed at increasing revenues.

Proposal HHL-10(21)

RELATING TO COUNTIES

This proposal requires the Counties within 60 days to maintain infrastructure, under specified conditions, as part of any housing development for the Department of Hawaiian Home Lands.

The Department of Hawaiian Home Lands complies with County requirements when developing subdivisions, yet the maintenance of infrastructure is often still the responsibility of the Department. Moreover, lands utilized by DHHL to provide housing for native Hawaiians are offered at affordable rates when compared to similar housing available in Hawaii.

Proposal HHL-11(21)
RELATING TO MEDICAL CANNABIS

This proposal expands the medical cannabis dispensary program administered by the Department of Health on Hawaiian Home Lands to add 8 additional licenses - (2) City and County of Honolulu, (3) County of Hawai'i - (1) East Hawai'i, (1) North Hawai'i, and (1) West Hawai'i, (2) County of Maui - (1) Maui and (1) Molokai, and (1) Kaua'i.

The Department's purpose of rehabilitating native Hawaiians would be furthered by affording the opportunity to enter this highly profitable and successful market, while also providing additional opportunity for utilization of the Department's agricultural lands. Under the current pilot program, only eight (8) licenses were issued Statewide, which limits competition and the opportunity for native Hawaiian communities to participate.

Proposal HHL-12(21)
RELATING TO INDUSTRIAL HEMP

This proposal expands the industrial hemp pilot program administered by the Department of Agriculture on Hawaiian Home Lands.

The Department's large agricultural land holdings provide great opportunity to diversify economic outputs and revenue. The opportunity to cultivate industrial hemp would increase jobs and training for native Hawaiians in the development of this new sector. The Department of Hawaiian Home Lands, Department of Agriculture, and Board of Agriculture would need to collaborate to ensure proper compliance and development of the industrial hemp industry within the confines of the pilot program.

Proposal HHL-13(21)
RELATING TO HISTORIC PRESERVATION REVIEWS

This proposal allows the Department of Hawaiian Home Lands to assume review of the effect of any proposed project on historic properties or burial sites for lands under its jurisdiction.

Instead of requiring the Department of Hawaiian Home Lands to consult with the Department of Land and Natural Resources regarding the effect of a project upon historic properties or burial sites, this proposal would streamline the process by allowing the Department of Hawaiian Home Lands to assume this review.

Proposal HHL-14(21)
RELATING TO THE EXPEDITED AGENCY HEARING

This proposal establishes an expedited agency hearing for any criminal activity that threatens the health and safety of the community or any drug-related criminal activity.

Concerns have arisen regarding ongoing activity that is threatening the health and safety of the community. This bill will allow for a prompt response through an expedited agency hearing.

RECOMMENDED ACTION/MOTION:

Staff respectfully requests approval of the motion as recommended.

____.B. NO.____

A BILL FOR AN ACT

RELATING TO INDEPENDENT LEGAL COUNSEL.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 28-8.3, Hawaii Revised Statutes, is
2 amended as follows:

3 (1) By amending subsection (a) to read as follows:

4 "(a) No department of the State other than the attorney
5 general may employ or retain any attorney, by contract or
6 otherwise, for the purpose of representing the State or the
7 department in any litigation, rendering legal counsel to the
8 department, or drafting legal documents for the department;
9 provided that the foregoing provision shall not apply to the
10 employment or retention of attorneys:

11 (1) By the public utilities commission, the labor and
12 industrial relations appeals board, and the Hawaii
13 labor relations board;

14 (2) By any court or judicial or legislative office of the
15 State; provided that if the attorney general is
16 requested to provide representation to a court or
17 judicial office by the chief justice or the chief
18 justice's designee, or to a legislative office by the

____.B. NO.____

1 speaker of the house of representatives and the
2 president of the senate jointly, and the attorney
3 general declines to provide such representation on the
4 grounds of conflict of interest, the attorney general
5 shall retain an attorney for the court, judicial, or
6 legislative office, subject to approval by the court,
7 judicial, or legislative office;

8 (3) By the legislative reference bureau;

9 (4) By any compilation commission that may be constituted
10 from time to time;

11 (5) By the real estate commission for any action involving
12 the real estate recovery fund;

13 (6) By the contractors license board for any action
14 involving the contractors recovery fund;

15 (7) By the office of Hawaiian affairs;

16 (8) By the department of commerce and consumer affairs for
17 the enforcement of violations of chapters 480 and
18 485A;

19 (9) As grand jury counsel;

20 (10) By the Hawaii health systems corporation, or its
21 regional system boards, or any of their facilities;

22 (11) By the auditor;

____.B. NO.____

- 1 (12) By the office of ombudsman;
- 2 (13) By the insurance division;
- 3 (14) By the University of Hawaii;
- 4 (15) By the Kahoolawe island reserve commission;
- 5 (16) By the division of consumer advocacy;
- 6 (17) By the office of elections;
- 7 (18) By the campaign spending commission;
- 8 (19) By the Hawaii tourism authority, as provided in
- 9 section 201B-2.5;
- 10 (20) By the division of financial institutions for any
- 11 action involving the mortgage loan recovery fund;
- 12 (21) By the office of information practices; [~~or~~]
- 13 (22) By the department of Hawaiian home lands; provided
- 14 that:
- 15 (A) The department of Hawaiian home lands may use the
- 16 services of the attorney general as needed and
- 17 when the interests of the State and the
- 18 department of Hawaiian home lands are aligned;
- 19 and
- 20 (B) Legal fees owed to independent counsel shall be
- 21 paid by the State; or

____.B. NO.____

1 ~~[(22)]~~ (23) By a department, if the attorney general, for
2 reasons deemed by the attorney general to be good and
3 sufficient, declines to employ or retain an attorney
4 for a department; provided that the governor waives
5 the provision of this section."

6 (2) By amending subsection (c) to read as follows:

7 "(c) Every attorney employed by any department on a full-
8 time basis, except an attorney employed by the public utilities
9 commission, the labor and industrial relations appeals board,
10 the Hawaii labor relations board, the office of Hawaiian
11 affairs, the Hawaii health systems corporation or its regional
12 system boards, the department of commerce and consumer affairs
13 in prosecution of consumer complaints, insurance division, the
14 division of consumer advocacy, the University of Hawaii, the
15 Hawaii tourism authority as provided in section 201B-2.5, the
16 office of information practices, the department of Hawaiian home
17 lands, or as grand jury counsel, shall be a deputy attorney
18 general."

19 SECTION 2. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

____.B. NO.____

1 SECTION 3. This Act shall take effect upon its approval.

2

3 INTRODUCED BY:_____

4 BY REQUEST

____.B. NO.____

Report Title:

Department of Hawaiian Home Lands; Legal Counsel

Description:

Allows the Department of Hawaiian Home Lands to retain independent legal counsel as needed. Authorizes the Department of Hawaiian Home Lands to use the services of the Attorney General as needed and when the interests of the State and the Department of Hawaiian Home Lands are aligned. Provides that funds owed to independent legal counsel shall be paid by the State.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Hawaiian Home Lands

TITLE: A BILL FOR AN ACT RELATING TO INDEPENDENT
LEGAL COUNSEL.

PURPOSE: Allows the Department of Hawaiian Home
Lands to retain independent legal counsel
to be paid by the State and also use the
services of the Attorney General as
needed when the interests of the State
and the Department of Hawaiian Home Lands
are aligned.

MEANS: Amend section 28-8.3(a) and (c), Hawaii
Revised Statutes.

JUSTIFICATION: The department has a trust duty to its
beneficiaries and in the fulfillment of its
trust obligations, the department may at
times be at odds with the interests of the
State. It is at these times that the
department must be assured that its counsel
provides legal guidance strictly in the
interest of its client. Independent counsel
that is hired and retained by the department
eliminates any cloud of uncertainty that
there is a conflict of interest that the
department is represented by the Attorney
General's office that also represents the
State of Hawaii.

Impact on the public: This proposal further
protects the interest of beneficiaries of
the Hawaiian Homes Commission Act by
allowing the department to retain
independent legal counsel.

Impact on the department and other agencies:
This proposal could reduce the legal
services provided by the Attorney General's
office.

GENERAL FUND: \$500,000.

HHL-01(21)

EXHIBIT A

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: HHL 625.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.

____.B. NO.____

A BILL FOR AN ACT

RELATING TO THE COMMISSION ON WATER RESOURCE MANAGEMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the requirements of
2 section 174C-101(a), Hawaii Revised Statutes, providing that
3 adequate reserves of water for current and foreseeable
4 development of Hawaiian Home Lands be incorporated and protected
5 decisions of the commission on water resource management can be
6 improved through representation on the commission on water
7 resource management. The purpose of this bill is to add the
8 chairman of the Hawaiian homes commission or the chairman's
9 designated representative to the commission on water resource
10 management similar to the director of health or the director's
11 designee.

12 SECTION 2. Section 174C-7, Hawaii Revised Statutes, is
13 amended by amending subsections (a) and (b) to read as follows:

14 "(a) There is established within the department a
15 commission on water resource management consisting of [~~seven~~]
16 eight members which shall have exclusive jurisdiction and final
17 authority in all matters relating to implementation and

____.B. NO.____

1 administration of the state water code, except as otherwise
2 specifically provided in this chapter.

3 (b) Five members shall be appointed by the governor
4 subject to confirmation by the senate in the manner prescribed
5 in subsection (d). Each ~~[member]~~ of these five members shall
6 have substantial experience in the area of water resource
7 management; provided that at least one member shall have
8 substantial experience or expertise in traditional Hawaiian
9 water resource management techniques and in traditional Hawaiian
10 riparian usage such as those preserved by section 174C-101. The
11 chairperson of the board of land and natural resources shall be
12 the chairperson of the commission. The director of health or
13 the director's designee shall serve as an ex officio voting
14 member. The chairman of the Hawaiian homes commission or the
15 chairman's designated representative shall also serve as an ex
16 officio voting member."

17 SECTION 3. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 4. This Act shall take effect upon its approval.

20

21 INTRODUCED BY: _____

22

BY REQUEST

____.B. NO.____

Report Title:

Water Commission; Membership; Chairman of the Hawaiian Homes
Commission or Designee

Description:

Adds the Chairman of the Hawaiian Homes Commission or the
Chairman's designated representative to the Commission on Water
Resource Management.

*The summary description of legislation appearing on this page is for informational purposes only and is
not legislation or evidence of legislative intent.*

JUSTIFICATION SHEET

DEPARTMENT: Hawaiian Home Lands

TITLE: A BILL FOR AN ACT RELATING TO THE COMMISSION ON WATER RESOURCE MANAGEMENT.

PURPOSE: Adds the Chairman of the Hawaiian Homes Commission or the Chairman's designated representative to the Commission on Water Resource Management.

MEANS: Amend section 174C-7 (a) and (b), Hawaii Revised Statutes.

JUSTIFICATION: The Water Code requires that planning decisions of the Commission on Water Resource Management ensure that sufficient water remain available for current and foreseeable development and use of Hawaiian Home Lands. In order to further the interest of beneficiaries of the Hawaiian Homes Commission Act, the Chairman of the Hawaiian Homes Commission or the Chairman's designated representative should serve as an ex officio voting member of the Commission on Water Resource Management.

Impact on the public: This proposal further protects the interest of beneficiaries of the Hawaiian Homes Commission Act by allowing the Chairman of the Hawaiian Homes Commission or the Chairman's designated representative to serve as an ex officio voting member of the Commission on Water Resource Management.

Impact on the department and other agencies: An additional member would now serve on the Commission on Water Resource Management.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM

DESIGNATION: HHL 625.

OTHER AFFECTED

AGENCIES: Commission on Water Resource Management.

EFFECTIVE DATE: Upon approval.

____.B. NO.____

A BILL FOR AN ACT

RELATING TO AGRICULTURE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that section 207(a) of
2 the Hawaiian Homes Commission Act, 1920, as amended, authorizes
3 the department of hawaiian home lands to lease to native
4 Hawaiians the right to the use and occupancy of not more than
5 forty acres of agricultural lands or lands used for aquaculture
6 purposes. As the State of Hawaii looks to increase food
7 security across the State, the interests of agricultural
8 homestead lessees should be represented. The purpose of this
9 bill is to add the chairman of the Hawaiian homes commission or
10 the chairman's designated representative to the board of
11 agriculture, similar to the chairperson of the board of land and
12 natural resources and the director of business, economic
13 development, and tourism.

14 SECTION 2. Section 26-16, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) The department of agriculture shall be headed by an
17 executive board to be known as the board of agriculture. The
18 board shall consist of [~~ten~~] eleven members:

____.B. NO.____

- (1) One who shall be a resident of the county of Hawaii;
- (2) One who shall be a resident of the county of Maui;
- (3) One who shall be a resident of the county of Kauai;
- (4) Four at large; and
- (5) The chairperson of the board of land and natural resources; the chairman of the Hawaiian homes commission; the director of business, economic development, and tourism; and the dean of the University of Hawaii college of tropical agriculture and human resources, or their designated representatives, who shall serve as ex officio voting members.

The majority of the members of the board shall be from the agricultural community or the agricultural support sector. The appointment, tenure, and removal of the members and the filling of vacancies on the board shall be as provided in section 26-34. The governor shall appoint a chairperson of the board from the members."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

____.B. NO.____

1 SECTION 4. This Act shall take effect upon its approval.

2

3 INTRODUCED BY:_____

4

BY REQUEST

____.B. NO.____

Report Title:

Board of Agriculture; Membership; Chairman of the Hawaiian Homes Commission

Description:

Adds the Chairman of the Hawaiian Homes Commission to the Board of Agriculture.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Hawaiian Home Lands

TITLE: A BILL FOR AN ACT RELATING TO AGRICULTURE.

PURPOSE: Adds the Chairman of the Hawaiian Homes Commission to the Board of Agriculture.

MEANS: Amend section 26-16(a), Hawaii Revised Statutes.

JUSTIFICATION: The Hawaii Department of Agriculture headed by the Board of Agriculture works to support, enhance, promote, and protect Hawaii's agriculture and aquaculture industries. In order to further the interest of beneficiaries of the Hawaiian Homes Commission Act, the Chairman of the Hawaiian Homes Commission or the Chairman's designated representative should serve as an ex officio voting member of the Board of Agriculture.

Impact on the public: This proposal further protects the interest of beneficiaries of the Hawaiian Homes Commission Act by allowing the Chairman of the Hawaiian Homes Commission or the Chairman's designated representative to serve as an ex officio voting member of the Board of Agriculture.

Impact on the department and other agencies: An additional member would now serve on the Board of Agriculture.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: HHL 625.

OTHER AFFECTED
AGENCIES: Board of Agriculture.

HHL-03 (21)

EXHIBIT 4

EFFECTIVE DATE: Upon approval.

____.B. NO.____

A BILL FOR AN ACT

RELATING TO AGRICULTURE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that section 207(a) of
2 the Hawaiian Homes Commission Act, 1920, as amended, authorizes
3 the department of Hawaiian home lands to lease to native
4 Hawaiians the right to the use and occupancy of not more than
5 forty acres of agricultural lands or lands used for aquaculture
6 purposes. As the State of Hawaii looks to increase food
7 security across the State, the interests of agricultural
8 homestead lessees should be represented. The purpose of this
9 bill is to add the chairman of the Hawaiian homes commission or
10 the chairman's designated representative to the board of
11 directors of the agribusiness development corporation, similar
12 to the director of business, economic development, and tourism;
13 the chairperson of the board of agriculture; and the chairperson
14 of the board of land and natural resources.

15 SECTION 2. Section 163D-3, Hawaii Revised Statutes, is
16 amended by amending subsection (b) to read as follows:

17 "(b) The board of directors of the corporation shall
18 consist of [~~eleven~~] twelve voting members, of whom eight shall

____.B. NO.____

1 be appointed by the governor. The terms of these eight members
2 shall be four years; provided that, commencing on July 1, 2005,
3 the governor shall reduce the terms of those initially appointed
4 so as to provide, as nearly as can be, for the expiration of an
5 equal number of terms at intervals of one year. The eight
6 members shall be selected on the basis of their knowledge,
7 experience, and proven expertise in small and large businesses
8 within the agricultural industry, agricultural economics,
9 banking, real estate, finance, promotion, marketing, and
10 management. Of these eight members, one shall be from the city
11 and county of Honolulu, one shall be from the county of Hawaii,
12 one shall be from the county of Maui, one shall be from the
13 county of Kauai, and four shall be appointed at-large. The
14 director of business, economic development and tourism; the
15 chairperson of the board of agriculture; [and] the chairperson
16 of the board of land and natural resources; and the chairman of
17 the Hawaiian homes commission, or their designated
18 representatives, shall be ex-officio, voting members of the
19 board. All members shall continue in office until their
20 respective successors have been appointed and qualified. The
21 board shall annually elect its chairperson from among its

____.B. NO.____

1 members; provided that the chairperson shall not be an ex-
2 officio member."

3 SECTION 3. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 4. This Act shall take effect upon its approval.

6

7 INTRODUCED BY: _____

8

BY REQUEST

____.B. NO.____

Report Title:

Agribusiness Development Corporation; Board Membership; Chairman of the Hawaiian Homes Commission

Description:

Adds the Chairman of the Hawaiian Homes Commission to the Board of Directors of the Agribusiness Development Corporation.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Hawaiian Home Lands

TITLE: A BILL FOR AN ACT RELATING TO AGRICULTURE.

PURPOSE: Adds the Chairman of the Hawaiian Homes Commission to the Board of Directors of the Agribusiness Development Corporation.

MEANS: Amend section 163D-3(b), Hawaii Revised Statutes.

JUSTIFICATION: The mission of the Agribusiness Development Corporation is to provide leadership and advocacy for the conversion of agribusiness into a dynamic growth industry. In order to further the interest of beneficiaries of the Hawaiian Homes Commission Act, the Chairman of the Hawaiian Homes Commission or the Chairman's designated representative should serve as an ex officio voting member of the Board of Directors of the Agribusiness Development Corporation.

Impact on the public: This proposal further protects the interest of beneficiaries of the Hawaiian Homes Commission Act by allowing the Chairman of the Hawaiian Homes Commission or the Chairman's designated representative to serve as an ex officio voting member of the Board of Directors of the Agribusiness Development Corporation.

Impact on the department and other agencies: An additional member would now serve on the Board of Directors of the Agribusiness Development Corporation.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: HHL 625.

OTHER AFFECTED

AGENCIES:

Agribusiness Development Corporation.

EFFECTIVE DATE:

Upon approval.

____.B. NO.____

A BILL FOR AN ACT

RELATING TO HOUSING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that lands utilized by
2 the department of Hawaiian home lands to provide housing for
3 native Hawaiians are offered at affordable rates when compared
4 to similar housing available in Hawaii. Since the enactment of
5 the Hawaiian Homes Commission Act, 1920, as amended, lands set
6 aside for use as Hawaiian home lands have been withdrawn for
7 other purposes, including public schools. Moreover, development
8 on Hawaiian home lands often account for the educational
9 facilities that may be needed to support the community with the
10 siting of public schools, public charter schools, early learning
11 facilities, and other similar facilities on or near Hawaiian
12 home lands. The purpose of this bill is to exempt any housing
13 development for the department of Hawaiian home lands from
14 school impact fee requirements.

15 SECTION 2. Section 302A-1603, Hawaii Revised Statutes, is
16 amended by amending subsection (b) to read as follows:

17 "(b) The following shall be exempt from this section:

____.B. NO.____

- (1) Any form of housing permanently excluding school-aged children, with the necessary covenants or declarations of restrictions recorded on the property;
- (2) Any form of housing that is or will be paying the transient accommodations tax under chapter 237D;
- (3) All nonresidential development; [~~and~~]
- (4) Any development with an executed contribution agreement or other like document with the department for the contribution of school sites or payment of fees for school land or school construction; and
- (5) Any housing development for the department of Hawaiian home lands."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

INTRODUCED BY: _____

BY REQUEST

____.B. NO.____

Report Title:

School Impact Fees; Exemption

Description:

Exempts any housing development for the Department of Hawaiian Home Lands from school impact fee requirements.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Hawaiian Home Lands

TITLE: A BILL FOR AN ACT RELATING TO HOUSING.

PURPOSE: Exempts any housing development for the Department of Hawaiian Home Lands from school impact fees.

MEANS: Amend section 302A-1603(b), Hawaii Revised Statutes.

JUSTIFICATION: Lands set aside for use as Hawaiian Home Lands were withdrawn for other purposes, including public schools, since the enactment of the Hawaiian Homes Commission Act, 1920, as amended. Additionally, the Department of Hawaiian Home Lands provides affordable housing that often account for the educational facilities that may be needed to support the community. In order to further the interest of beneficiaries of the Hawaiian Homes Commission Act, any housing development for the Department of Hawaiian Home Lands should be exempt from school impact fees.

Impact on the public: This proposal further protects the interest of beneficiaries of the Hawaiian Homes Commission Act by exempting any housing development for the Department of Hawaiian Home Lands from school impact fees.

Impact on the department and other agencies: More funding could be allocated toward the development of housing instead of fees.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: HHL 625.

Page 2

OTHER AFFECTED

AGENCIES:

Department of Education.

EFFECTIVE DATE:

Upon approval.

HHL-05 (21)

EXHIBIT 4

____.B. NO.____

A BILL FOR AN ACT

RELATING TO HOUSING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that lands utilized by
2 the department of Hawaiian home lands to provide housing for
3 native Hawaiians are offered at affordable rates when compared
4 to similar housing available in Hawaii. The purpose of this
5 bill is to exempt any housing development for the department of
6 Hawaiian home lands from general excise taxes.

7 SECTION 2. Section 237-29, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "(a) All gross income received by any qualified person or
10 firm for the planning, design, financing, construction, sale, or
11 lease in the State of a housing project that has been certified
12 or approved under section 201H-36 shall be exempt from general
13 excise taxes.

14 (b) All gross income received by a nonprofit or a limited
15 distribution mortgagor for low- and moderate-income housing
16 project certified or approved under section 201H-36 shall be
17 exempt from general excise taxes.

____.B. NO. ____

1 (c) All gross income received by any qualified person or
2 firm for the planning, design, financing, or construction of any
3 housing development for the department of Hawaiian home lands
4 shall be exempt from general excise taxes.

5 (d) The director of taxation and the Hawaii housing
6 finance and development corporation shall adopt rules pursuant
7 to chapter 91 for the purpose of this section, including any
8 time limitation for the exemptions."

9 SECTION 3. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 4. This Act shall take effect upon its approval.

12

13 INTRODUCED BY: _____

14

BY REQUEST

____.B. NO.____

Report Title:

Housing; General Excise Tax Exemption

Description:

Exempts any housing development for the Department of Hawaiian Home Lands from general excise taxes.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Hawaiian Home Lands

TITLE: A BILL FOR AN ACT RELATING TO HOUSING.

PURPOSE: Exempts any housing development for the Department of Hawaiian Home Lands from general excise taxes.

MEANS: Amend section 237-29, Hawaii Revised Statutes.

JUSTIFICATION: The Department of Hawaiian Home Lands provides housing at affordable rates when compared to similar housing available in Hawaii. In order to further the interest of beneficiaries of the Hawaiian Homes Commission Act, any housing development for the Department of Hawaiian Home Lands should be exempt from general excise taxes.

Impact on the public: This proposal further protects the interest of beneficiaries of the Hawaiian Homes Commission Act by exempting any housing development for the Department of Hawaiian Home Lands from general excise taxes.

Impact on the department and other agencies: More funding could be allocated toward the development of housing instead of taxes.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: HHL 625.

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: Upon approval.

HHL-06(21)

EXHIBIT A

____.B. NO.____

A BILL FOR AN ACT

RELATING TO CESSPOOLS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the State's streams,
2 groundwater, and ocean are being harmed by nonpoint
3 contamination sources that flow directly off the land, rather
4 than through pipes or ditches. Cesspools are a nonpoint
5 contamination source of great concern. These substandard
6 systems are essentially holes in the ground that do not treat
7 wastewater but merely dispose of it.

8 The legislature further finds that there are approximately
9 88,000 cesspools in the State, with nearly 50,000 on Hawaii
10 island, approximately 14,000 on Kauai, over 12,000 on Maui, over
11 11,000 on Oahu, and approximately 1,400 on Molokai.

12 Collectively, the State's cesspools release more than 53,000,000
13 gallons of untreated sewage into the ground each day. Hawaii
14 relies on groundwater for ninety per cent of its drinking water.

15 In response to the State's cesspool pollution problem,
16 legislation was enacted in 2017 that requires all cesspools not
17 excluded by the director of health to be upgraded or converted
18 to septic systems or aerobic treatment unit systems, or

____.B. NO.____

1 connected to sewage systems by January 1, 2050. In order to
2 work toward meeting this deadline, cesspools on Hawaiian home
3 lands could be a good place to start.

4 The purpose of this Act is to establish a low interest loan
5 program to offer financial assistance for lessees on Hawaiian
6 home lands with cesspools to be upgraded or converted to septic
7 systems or aerobic treatment unit systems, or connected to
8 existing sewer systems or any other wastewater treatment systems
9 approved by the department of health.

10 SECTION 2. Chapter 342D, Hawaii Revised Statutes, is
11 amended by adding a new section to be appropriately designated
12 and to read as follows:

13 "§342D- Cesspool remediation and conversion loan
14 program. (a) There is established the cesspool remediation and
15 conversion loan program to be administered by the department in
16 coordination with each county water and sewage department. The
17 program may provide low interest loans to lessees of the
18 department of Hawaiian home lands who:

19 (1) Upgrade or convert a cesspool to:

20 (A) A septic system; or

____.B. NO.____

1 (B) An aerobic treatment unit system, as defined in
2 section 342D-72 and approved by the department;
3 or

4 (2) Connect a cesspool to:

5 (A) An existing sewer system; or

6 (B) Any wastewater treatment system approved by the
7 department

8 (b) The loan program may include an on-bill financing
9 option supported by the water pollution control revolving fund
10 established in section 342D-83."

11 SECTION 3. Section 342D-83, Hawaii Revised Statutes, is
12 amended by amending subsection (b) to read as follows:

13 "(b) The purpose of the revolving fund is to provide
14 financial assistance to eligible parties for projects or
15 activities to:

16 (1) Enable counties and state agencies to plan, design,
17 and construct publicly owned wastewater treatment
18 works in accordance with title 33 United States Code
19 sections 1381 to 1387;

20 (2) Enable eligible parties to implement management
21 programs established under title 33 United States Code
22 section 1329;

____.B. NO.____

- 1 (3) Enable eligible parties to implement conservation and
2 management plans established under title 33 United
3 States Code section 1330;
- 4 (4) Enable eligible parties to construct, repair, or
5 replace a privately owned decentralized wastewater
6 treatment system and individual wastewater system that
7 treats municipal wastewater or domestic sewage under
8 title 33 United States Code section 1383;
- 9 (5) Enable eligible nonprofit entities to provide
10 assistance to small and medium sized publicly owned
11 treatment works for training activities, planning,
12 design, and associated preconstruction activities
13 under title 33 United States Code section 1383;
- 14 (6) Enable eligible parties to manage, reduce, treat, or
15 recapture stormwater or subsurface drainage water
16 under title 33 United States Code section 1383;
- 17 (7) Enable eligible parties to develop and implement
18 watershed projects meeting the criteria under title 33
19 United States Code section 1274;
- 20 (8) Enable counties and state agencies to reduce the
21 demand for publicly owned treatment works capacity

____.B. NO.____

1 through water conservation, efficiency, or reuse under
2 title 33 United States Code section 1383;

3 (9) Enable counties and state agencies to reduce the
4 energy consumption needs for publicly owned treatment
5 works under title 33 United States Code section 1383;

6 (10) Enable eligible parties to reuse or recycle
7 wastewater, stormwater, or subsurface drainage water
8 under title 33 United States Code section 1383; [~~and~~]

9 (11) Enable eligible parties to increase the security of
10 publicly owned treatment works under title 33 United
11 States Code section 1383 [~~-~~]; and

12 (12) Enable the department to coordinate with each county
13 agency responsible for wastewater to establish a low
14 interest loan program to upgrade or convert cesspools
15 for lessees on Hawaiian home lands to septic systems
16 or aerobic treatment unit systems, or to connect
17 cesspools to existing sewer systems or any other
18 wastewater treatment systems approved by the
19 department. "

20 SECTION 4. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.

____.B. NO.____

1 SECTION 5. This Act shall take effect upon its approval.

2

3

INTRODUCED BY: _____

4

BY REQUEST

____.B. NO.____

Report Title:

Cesspools; Upgrade and Conversion; Low Interest Loan Program

Description:

Authorizes the Department of Health to coordinate with each county wastewater agency to establish a low interest loan program for lessees on Hawaiian Home Lands to upgrade or convert cesspools to septic systems or aerobic treatment unit systems, or to connect cesspools to existing sewer systems or other wastewater treatment systems approved by the department.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Hawaiian Home Lands

TITLE: A BILL FOR AN ACT RELATING TO CESSPOOLS.

PURPOSE: Establishes a low interest loan program to offer financial assistance for lessees on Hawaiian Home Lands with cesspools to be upgraded or converted to septic systems or aerobic treatment unit systems, or connected to existing sewer systems or any other wastewater treatment systems approved by the Department of Health.

MEANS: Adds a new section to Chapter 342D, Hawaii Revised Statutes.

JUSTIFICATION: Cesspools are a nonpoint contamination source of great concern. Collectively, the State's cesspools release more than 53 million gallons of untreated sewage into the ground each day. In response to the State's cesspool pollution problem, legislation was enacted in 2017 that requires all cesspools not excluded by the Director of Health to be upgraded or converted to septic systems or aerobic treatment unit systems, or connected to sewage systems by January 1, 2050. In order to work toward meeting this deadline, cesspools on Hawaiian Home Lands could be a good place to start.

Impact on the public: This proposal further protects the interest of beneficiaries of the Hawaiian Homes Commission Act by establishing a low interest loan program to offer financial assistance for lessees on Hawaiian Home Lands with cesspools to be upgraded or converted to septic systems or aerobic treatment unit systems, or connected to existing sewer systems or any other wastewater treatment systems approved by the Department of Health.

HHL-07(21)

EXHIBIT A

Impact on the department and other agencies:
Reduce the number of cesspools across the
State.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: HHL 625.

OTHER AFFECTED
AGENCIES: Department of Health.

EFFECTIVE DATE: Upon approval.

____.B. NO.____

A BILL FOR AN ACT

RELATING TO THE COUNTY BOARDS OF WATER SUPPLY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that Article XII, Section
2 2 of the Constitution, states in part that "The State and its
3 people do further agree and declare that the spirit of the
4 Hawaiian Homes Commission Act looking to the continuance of the
5 Hawaiian homes projects for the further rehabilitation of the
6 Hawaiian race shall be faithfully carried out." This obligation
7 held by the State is also held by the counties, which are under
8 Article VIII of the Constitution administrative subdivisions of
9 the state.

10 The legislature further finds that the lack of available
11 water has been and remains a significant barrier to the state's
12 ability to faithfully carry out Hawaiian homes projects. The
13 county boards and departments of water supply have no
14 administrative rules or policies for differentiating and
15 prioritizing the development and provision of water for Hawaiian
16 homes projects when compared to other State or even private
17 projects, and therefore some counties have treated the
18 department of Hawaiian home lands like any other developer.

.B. NO.

1 The legislature further finds that working with the
2 department of Hawaiian home lands, the commission on water
3 resource management has set some ground water and surface water
4 reservations for Hawaiian homes projects on Kaua'i, O`ahu,
5 Moloka`i, Lāna`i, Maui, and Hawai`i islands, and continues to
6 set additional reservations in partial fulfillment of the
7 requirements of section 174C-101(a), Hawaii Revised Statutes.

8 The legislature further finds that this necessary action by
9 the commission on water resource management will result in being
10 nothing more than the noting of numbers on paper unless the
11 counties as administrative subdivisions of the state, and
12 particularly their boards and departments of water supply,
13 fulfill their legal obligations to faithfully take actions
14 within their powers to fulfill the Hawaiian Homes Commission Act
15 in spirit and practice.

16 The purpose of this bill is to clarify requirements on the
17 county boards of water supply to fulfill the Constitutional
18 mandate.

19 SECTION 2. Chapter 54, Hawaii Revised Statutes, is amended
20 by adding a new section to be appropriately designated and to
21 read as follows:

____.B. NO.____

1 "§54- County boards of water supply and their obligation
2 to the department of hawaiian home lands. (a) All boards have,
3 as parts of their counties which are subdivisions of the State,
4 legal obligations to faithfully take actions within their powers
5 to fulfill the Hawaiian Homes Commission Act in spirit and
6 practice.

7 (b) Prior to June 30 of each fiscal year, the boards shall
8 transmit to the department of Hawaiian home lands an accounting
9 of all water credits held by the county for all of their
10 respective systems. The department of Hawaiian home lands shall
11 inform the counties by no later than September 30 of that same
12 fiscal year which credits it will need to be allocated towards
13 its uses under Section 221 of the Hawaiian Homes Commission Act.
14 The boards shall reserve those credits for the use of the
15 department of Hawaiian home lands and not allocate them to any
16 other user unless the department of Hawaiian home lands
17 surrenders those credits.

18 (c) In the negotiation of any water development, water
19 credit, or similar agreement, the counties shall not withhold
20 any water developed by the department of Hawaiian home lands for
21 the board's own use and allocation, but shall instead credit the

____.B. NO.____

1 department of Hawaiian home lands the full amount of credits
2 justified by the water development.

3 (d) The boards shall develop policies to implement in case
4 of water shortage that do not call for equal percentage
5 reductions in use, but rather first require reductions in non
6 public trust uses of water, including the uses on Hawaiian home
7 lands under Section 221 of the act.

8 (e) No later than July 30, 2022, the boards shall apply
9 for water licenses of any waters they develop or have in their
10 system emanating from state lands, under section 171-58, Hawaii
11 Revised Statutes.

12 (f) All sections in this Part shall apply, any provisions
13 in a county charter or ordinance notwithstanding."

14 SECTION 3. Section 54-12, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "If a county does not have an existing board of water
17 supply, there shall be a board of water supply for each county
18 consisting of seven members of whom five shall be nominated, and
19 by and with the advice and consent of the council, appointed by
20 the mayor, provided that at least one of the five members shall
21 represent the interests to be served by the allocation of water
22 for current and foreseeable development and use of Hawaiian home

.B. NO.

1 lands as set forth in section 221 of the Hawaiian Homes
2 Commission Act, one of whom shall be the state district engineer
3 of the state department of transportation and one of whom shall
4 be the chief engineer of the respective county.

5 No employee or officer of any county shall be eligible to
6 serve as a board member, except as otherwise provided herein.

7 The members of the board shall serve without pay, but shall
8 be reimbursed for their reasonable expenses incurred in the
9 discharge of their duties as members of the board.

10 The term of office of each appointed member of the board
11 shall be five years from the date of the member's appointment;
12 provided that of the initial members one shall be appointed for
13 a term to expire on January 1, 1963; one for a term to expire on
14 January 1, 1964; one for a term to expire on January 1, 1965;
15 one for a term to expire on January 1, 1966; and one for a term
16 to expire on January 1, 1967. Any vacancy occurring on the
17 board shall be filled in accordance with the foregoing
18 provisions for the unexpired portion of the term concerned."

19 SECTION 4. Section 54-52, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "The eight appointive members of the board of water supply
22 shall be appointed by the chairperson of the council of the

____.B. NO.____

1 county, with the approval of the council, provided that at least
2 two of the eight members shall represent the interests to be
3 served by the allocation of water for current and foreseeable
4 development and use of Hawaiian home lands as set forth in
5 section 221 of the Hawaiian Homes Commission Act. The
6 chairperson shall likewise designate the chairperson of the
7 board of water supply from among the appointive members. The
8 members of the board shall serve without pay, but shall be
9 reimbursed for their reasonable expenses. Each member of the
10 board shall be, at the time of the member's appointment, an
11 elector of the county of Hawaii and shall have been such for at
12 least three years next preceding the member's appointment. Any
13 member of the board may be removed from office by the
14 chairperson of the council of the county, with the approval of
15 the council.

16 Membership of the board shall include four members who are
17 residents of the district of North or South Hilo, provided that
18 at least one of the four members shall represent the interests
19 to be served by the allocation of water for current and
20 foreseeable development and use of Hawaiian home lands as set
21 forth in section 221 of the Hawaiian Homes Commission Act and;
22 one of the four members shall be the person who for the time

____.B. NO.____

1 being shall be the legal incumbent of the office of the chief
2 engineer of the department of public works of the county. In
3 addition, one member shall be a resident of the district of
4 North Kona or South Kona, one member shall be a resident of the
5 district of North Kohala or South Kohala, one member shall be a
6 resident of the district of Hamakua, one member shall be a
7 resident of the district of Puna, and one member shall be a
8 resident of the district of Kau. Of these five members from
9 different geographic regions of the county of Hawaii, at least
10 one of the five members shall represent the interests to be
11 served by the allocation of water for current and foreseeable
12 development and use of Hawaiian home lands as set forth in
13 section 221 of the Hawaiian Homes Commission Act.

14 The term of office of the appointive members of the board
15 shall be five years from and after the date of their respective
16 appointments. Any vacancy occurring on the board shall be
17 filled by appointment. The one appointed to fill the vacancy
18 shall serve only for the unexpired term of the person whom the
19 appointive member succeeds. Officers and employees of the
20 county of Hawaii shall not be eligible for appointive membership
21 on the board."

22 SECTION 5. New statutory material is underscored.

____.B. NO.____

1 SECTION 6. This Act shall take effect upon its approval.

2

3

INTRODUCED BY: _____

4

BY REQUEST

____.B. NO.____

Report Title:

County Boards of Water Supply; Department of Hawaiian Home Lands

Description:

Clarify requirements on the County Boards of Water Supply. Add representation on the County Boards of Water Supply of the interests to be served by the allocation of water for current and foreseeable development and use of Hawaiian Home Lands as set forth in section 221 of the Hawaiian Homes Commission Act.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Hawaiian Home Lands

TITLE: A BILL FOR AN ACT RELATING TO THE COUNTY
BOARDS OF WATER SUPPLY.

PURPOSE: Clarifies requirements on the County
Boards of Water Supply and adds
representation on the County Boards of
Water Supply of the interests to be
served by the allocation of water for
current and foreseeable development and
use of Hawaiian Home Lands as set forth
in section 221 of the Hawaiian Homes
Commission Act.

MEANS: Adds a new section to Chapter 54, Hawaii
Revised Statutes and amends section 54-12
and 54-52.

JUSTIFICATION: The lack of available water has been and
remains a significant barrier to the state's
ability to faithfully carry out Hawaiian
Homes projects. The County Boards and
Departments of Water Supply have no
administrative rules or policies for
differentiating and prioritizing the
development and provision of water for
Hawaiian Homes projects when compared to
other State or even private projects. In
order to further the interest of
beneficiaries of the Hawaiian Homes
Commission Act, this bill clarifies the
requirements and adds representation on the
County Boards of Water Supply.

Impact on the public: This proposal further
protects the interest of beneficiaries of
the Hawaiian Homes Commission Act by
clarifying the requirements and adding
representation on the Boards of Water
Supply.

Impact on the department and other agencies:
More accountability for the allocation of
water for current and foreseeable
development and use of Hawaiian Home Lands.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: HHL 625.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.

____.B. NO.____

A BILL FOR AN ACT

RELATING TO WATER RIGHTS

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that programs for
2 watershed management by the department of land and natural
3 resources, the betterment of the conditions of native Hawaiians
4 and Hawaiians by the office of Hawaiian affairs, and operation
5 of the native Hawaiian rehabilitation fund all benefit from
6 revenues generated by the disposition of water rights.

7 SECTION 2. Section 171-58, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "(a) Except as provided in this section the right to any
10 mineral or surface or ground water shall not be included in any
11 lease, agreement, or sale, this right being reserved to the
12 State; provided that the board may make provisions in the lease,
13 agreement, or sale, for the payment of just compensation to the
14 surface owner for improvements taken as a condition precedent to
15 the exercise by the State of any reserved rights to enter,
16 sever, and remove minerals or to capture, divert, or impound
17 water.

.B. NO.

1 (b) Disposition of mineral rights shall be in accordance
2 with the laws relating to the disposition of mineral rights
3 enacted or hereafter enacted by the legislature.

4 (c) Disposition of water rights may be made by lease at
5 public auction as provided in this chapter or by permit for
6 temporary use on a month-to-month basis under those conditions
7 which will best serve the interests of the State and subject to
8 a maximum term of one year and other restrictions under the law;
9 provided that any disposition by lease shall be subject to
10 disapproval by the legislature by two-thirds vote of either the
11 senate or the house of representatives or by majority vote of
12 both in any regular or special session next following the date
13 of disposition; provided further that after a certain land or
14 water use has been authorized by the board subsequent to public
15 hearings and conservation district use application and
16 environmental impact statement approvals, water used in
17 nonpolluting ways, for nonconsumptive purposes because it is
18 returned to the same stream or other body of water from which it
19 was drawn, essentially not affecting the volume and quality of
20 water or biota in the stream or other body of water, may also be
21 leased by the board with the prior approval of the governor and

____.B. NO.____

1 the prior authorization of the legislature by concurrent
2 resolution.

3 (d) Any lease of water rights shall contain a covenant on
4 the part of the lessee that the lessee shall provide from waters
5 leased from the State under the lease or from any water source
6 privately owned by the lessee to any farmer or rancher engaged
7 in irrigated pasture operations, crop farming, pen feeding
8 operations, or raising of grain and forage crops, or for those
9 public uses and purposes as may be determined by the board, at
10 the same rental price paid under the lease, plus the
11 proportionate actual costs, as determined by the board, to make
12 these waters available, so much of the waters as determined by
13 the board to be surplus to the lessee's needs and for that
14 minimum period as the board shall accordingly determine;
15 provided that in lieu of payment for those waters as the State
16 may take for public uses and purposes the board may elect to
17 reduce the rental price under the lease of water rights in
18 proportion to the value of the waters and the proportionate
19 actual costs of making the waters available. Subject to the
20 applicable provisions of section 171-37(d), the board, at any
21 time during the term of the lease of water rights, may withdraw
22 from waters leased from the State and from sources privately

.B. NO.

1 owned by the lessee so much water as it may deem necessary to
2 (1) preserve human life and (2) preserve animal life, in that
3 order of priority; and that from waters leased from the State
4 the board, at any time during the term of the lease of water
5 rights, may also withdraw so much water as it may deem necessary
6 to preserve crops; provided that payment for the waters shall be
7 made in the same manner as provided in this section.

8 (e) Any new lease of water rights shall contain a covenant
9 that requires the lessee and the department of land and natural
10 resources to jointly develop and implement a watershed
11 management plan. The board shall not approve any new lease of
12 water rights without the forgoing covenant or a watershed
13 management plan. The board shall prescribe the minimum content
14 of a watershed management plan; provided that the watershed
15 management plan shall require the prevention of the degradation
16 of surface water and ground water quality to the extent that
17 degradation can be avoided using reasonable management
18 practices.

19 (f) Upon renewal, any lease of water rights shall contain
20 a covenant that requires the lessee and the department of land
21 and natural resources to jointly develop and implement a
22 watershed management plan. The board shall not renew any lease

____.B. NO.____

1 of water rights without the foregoing covenant or a watershed
2 management plan. The board shall prescribe the minimum content
3 of a watershed management plan; provided that the watershed
4 management plan shall require the prevention of the degradation
5 of surface water and ground water quality to the extent that
6 degradation can be avoided using reasonable management
7 practices.

8 (g) The department of land and natural resources shall
9 notify the department of Hawaiian home lands of its intent to
10 execute any new lease, or to renew any existing lease of water
11 rights. After consultation with affected beneficiaries, these
12 departments shall jointly develop a reservation of water rights
13 sufficient to support current and future homestead needs. Any
14 lease of water rights or renewal shall be subject to the rights
15 of the department of Hawaiian home lands as provided by section
16 221 of the Hawaiian Home Commission Act.

17 (h) Any disposition of water rights by the state, or land
18 with associated water rights, must comply with this
19 section. Permits issued under Part IV of HRS 174C must also
20 have a disposition under this section issued by the board no
21 later than December 31, 2025.

____.B. NO.____

Report Title:

Water Rights; Upset Price; Minimum Price

Description:

Sets the upset price if the disposition of water is by lease or the minimum price if disposed by direct negotiation.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Hawaiian Home Lands

TITLE: A BILL FOR AN ACT RELATING TO WATER RIGHTS.

PURPOSE: Sets the upset price if the disposition of water is by lease or the minimum price if disposed by direct negotiation.

MEANS: Adds two new subsections to 171-58, Hawaii Revised Statutes.

JUSTIFICATION: Revenues generated by the disposition of water rights benefit programs for watershed management by the Department of Land and Natural Resources, the betterment of conditions of native Hawaiians and Hawaiians by the Office of Hawaiian Affairs, and operation of the native Hawaiian rehabilitation fund.

Impact on the public: This proposal further protects the interest of beneficiaries of the Hawaiian Homes Commission Act by setting the upset price if the disposition of water is by lease or the minimum price if disposed by direct negotiation.

Impact on the department and other agencies: Increase revenue for the Department of Land and Natural Resources, Office of Hawaiian Affairs, and native Hawaiian rehabilitation fund.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: HHL 625.

OTHER AFFECTED AGENCIES: Department of Land and Natural Resources.
Office of Hawaiian Affairs.

HHL-09(21)

EXHIBIT A

EFFECTIVE DATE: Upon approval.

____.B. NO.____

A BILL FOR AN ACT

RELATING TO COUNTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that lands utilized by
2 the department of Hawaiian home lands to provide housing for
3 native Hawaiians are offered at affordable rates when compared
4 to similar housing available in Hawaii. The purpose of this
5 bill is to require counties to provide for the maintenance of
6 infrastructure for any housing development for the department of
7 Hawaiian home lands within a specified time and under certain
8 conditions.

9 SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended
10 by adding a new section to be appropriately designated and to
11 read as follows:

12 "§46- Infrastructure maintenance; housing development
13 for the department of hawaiian home lands. (a) Notwithstanding
14 any other provision to the contrary, infrastructure for any
15 housing development for the department of Hawaiian home lands
16 shall be maintained by the county in which the housing
17 development is located within sixty days of the receipt by the

____.B. NO.____

1 appropriate county council of a completed application for
2 maintenance request; provided that:

3 (1) Applicable meter and connection fees and utility costs
4 relating to the infrastructure have been paid;

5 (2) The infrastructure conforms to applicable county
6 standards in effect at the time of construction; and

7 (3) The completion of the improvements of the
8 infrastructure is granted approval by the county.

9 (b) For the purposes of this section:

10 "Infrastructure" includes waterlines and appurtenances,
11 storm drainage, including catch basins, sewerlines and
12 appurtenances, waste disposal and waste treatment systems,
13 roadway improvements including pavement, gutters, curbing,
14 sidewalks, street trees, and street lighting that connect to
15 county infrastructure."

16 SECTION 3. New statutory material is underscored.

17 SECTION 4. This Act shall take effect upon its approval.

18

19 INTRODUCED BY: _____

20

BY REQUEST

____.B. NO.____

Report Title:

Counties; Department of Hawaiian Home Lands; Infrastructure

Description:

Requires counties within 60 days to maintain infrastructure, under specified conditions, as part of any housing development for the Department of Hawaiian Home Lands.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Hawaiian Home Lands

TITLE: A BILL FOR AN ACT RELATING TO COUNTIES.

PURPOSE: Requires the Counties within 60 days to maintain infrastructure, under specified conditions, as part of any housing development for the Department of Hawaiian Home Lands.

MEANS: Adds a new section to Chapter 46, Hawaii Revised Statutes.

JUSTIFICATION: The Department of Hawaiian Home Lands complies with County requirements when developing subdivisions, yet the maintenance of infrastructure is often still the responsibility of the Department.

Impact on the public: This proposal further protects the interest of beneficiaries of the Hawaiian Homes Commission Act by requiring the Counties to maintain infrastructure as part of any housing development for the Department of Hawaiian Home Lands.

Impact on the department and other agencies: More funding could be allocated toward the development of housing instead of maintenance of infrastructure.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: HHL 625.

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: Upon approval.

____.B. NO.____

A BILL FOR AN ACT

RELATING TO MEDICAL CANNABIS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that Article XII, Section
2 2 of the Constitution, states in part that "The State and its
3 people do further agree and declare that the spirit of the
4 Hawaiian Homes Commission Act looking to the continuance of the
5 Hawaiian homes projects for the further rehabilitation of the
6 Hawaiian race shall be faithfully carried out." Affording the
7 opportunity to utilize lands designated for agriculture by the
8 department of Hawaiian home lands would allow for increased
9 revenue for both beneficiaries and the department of Hawaiian
10 home lands. The purpose of this bill is to increase the number
11 of licenses of medical cannabis dispensaries to the department
12 of Hawaiian home lands.

13 SECTION 2. Chapter 329D, Hawaii Revised Statutes, is
14 amended by adding a new section to be appropriately designated
15 and to read as follows:

16 "§329D- Medical cannabis dispensaries on hawaiian home
17 lands. (a) The department shall issue to the department of
18 Hawaiian home lands eight dispensary licenses; provided that two

____.B. NO.____

1 dispensary licenses shall be issued for the city and county of
2 Honolulu, three dispensary licenses shall be issued for the
3 county of Hawaii with one for east Hawaii, one for north Hawaii,
4 and one for west Hawaii, two dispensary licenses shall be issued
5 for the county of Maui, one for Maui and one for Molokai, and
6 one dispensary license shall be issued for the county of Kauai.

7 (b) The department shall advise and assist the department
8 of Hawaiian home lands in establishing a license application
9 procedure and verification in accordance with section 329D-4,
10 Hawaii Revised Statutes and the selection process in accordance
11 with section 329D-5, Hawaii Revised Statutes to include the
12 criteria of section 329D-7(3), Hawaii Revised Statutes.

13 (c) Each application for a dispensary license shall
14 include both an individual applicant and an applying entity.
15 The application shall be submitted to the department of Hawaiian
16 home lands and shall include the supporting documentation to
17 establish the following:

18 (1) That the individual applicant:

19 (A) Is native Hawaiian as defined in section 201 of
20 the Hawaiian Homes Commission Act;

____.B. NO.____

- 1 (B) Has been a legal resident of the State for not
2 less than five years preceding the date of
3 application;
- 4 (C) Is not less than eighteen years of age; and
- 5 (D) Has had no felony convictions;
- 6 (2) That the applying entity;
- 7 (A) Has been organized under the laws of the State;
- 8 (B) Has a Hawaii tax identification number;
- 9 (C) Has a department of commerce and consumer affairs
10 business registration division number and suffix;
- 11 (D) Has a federal employer identification number;
- 12 (E) Is not less than fifty-one per cent held by
13 native Hawaiians as defined in section 201 of the
14 Hawaiian Homes Commission Act or entities wholly
15 controlled by native Hawaiians as defined in
16 section 201 of the Hawaiian Homes Commission Act
17 who have been Hawaii legal residents for not less
18 than five years immediately preceding the date
19 the application was submitted;
- 20 (F) Has financial resources under its control of not
21 less than \$1,000,000 for the license applied for,
22 plus not less than \$100,000 for each retail

____.B. NO.____

Report Title:

Medical cannabis; Dispensaries on Hawaiian Home Lands

Description:

Requires the Department of Health to issue dispensary licenses to the Department of Hawaiian Home Lands allowing for increased revenue for beneficiaries.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Hawaiian Home Lands

TITLE: A BILL FOR AN ACT RELATING TO MEDICAL CANNABIS.

PURPOSE: Expands the medical cannabis dispensary program administered by the Department of Health on Hawaiian Home Lands to add 8 additional licenses - (2) City and County of Honolulu, (3) County of Hawaii - (1) East Hawai'i, (1) North Hawai'i, and (1) West Hawai'i, (2) County of Maui - (1) Maui and (1) Molokai, and (1) Kaua'i.

MEANS: Adds a new section to Chapter 329D, Hawaii Revised Statutes.

JUSTIFICATION: The Department's purpose of rehabilitating native Hawaiians would be furthered by affording the Department the opportunity to enter this highly profitable and successful market. Under the current pilot program, only eight (8) licenses were issued Statewide, which limits competition and the opportunity for native Hawaiian communities to participate.

Additionally, in furtherance of the Department's vision for agricultural development, this would provide greater opportunity for utilization of agricultural lands and diversification of the State's economic revenue streams to improve the long-term economic outlook post-COVID 19.

Impact on the public: This proposal merely increases the number of licenses within the pilot program, presenting no discernable impact to the public at large. Beneficiary rights and protections are not impacted, and the potential benefits and opportunities to beneficiaries are increased.

Impact on the department and other agencies:

The Department of Health would potentially need to amend its Administrative Rules to comply with the amended statute. The Department of Hawaiian Home Lands would likely sub-license the individual dispensaries and would have to dedicate staff to strict compliance monitoring for all dispensaries.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: HHL 625.

OTHER AFFECTED
AGENCIES: Department of Health.

EFFECTIVE DATE: Upon approval.

____.B. NO.____

A BILL FOR AN ACT

RELATING TO INDUSTRIAL HEMP.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that Article XII, Section
2 2 of the Constitution, states in part that "The State and its
3 people do further agree and declare that the spirit of the
4 Hawaiian Homes Commission Act looking to the continuance of the
5 Hawaiian homes projects for the further rehabilitation of the
6 Hawaiian race shall be faithfully carried out." Affording the
7 opportunity to utilize lands designated for agriculture by the
8 department of Hawaiian home lands would allow for increased
9 revenue for both beneficiaries and the department of Hawaiian
10 home lands. The purpose of this bill is to expand the
11 industrial hemp pilot program to the Hawaiian home lands.

12 SECTION 2. Chapter 141, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "141- Industrial hemp pilot program on hawaiian home
16 lands. (a) The department of agriculture shall advise and
17 assist the department of Hawaiian home lands in expanding the
18 industrial hemp pilot program on Hawaiian home lands."

____.B. NO.____

1 SECTION 3. New statutory material is underscored.

2 SECTION 4. This Act shall take effect upon its approval.

3

4

INTRODUCED BY: _____

5

BY REQUEST

____.B. NO.____

Report Title:

Industrial Hemp; Department of Hawaiian Home Lands

Description:

Expands the industrial hemp pilot program on Hawaiian Home Lands.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Hawaiian Home Lands

TITLE: A BILL FOR AN ACT RELATING TO INDUSTRIAL HEMP.

PURPOSE: Expands the industrial hemp pilot program administered by the Department of Agriculture on Hawaiian Home Lands.

MEANS: Adds a new section to Chapter 141, Hawaii Revised Statutes.

JUSTIFICATION: The Department's large agricultural land holdings provide great opportunity for the State to diversify its economic outputs and revenue. The opportunity to cultivate industrial hemp would increase jobs and training for native Hawaiians in the development of this new sector.

Impact on the public: The Department, its beneficiaries, and its licensees would have increased opportunity to take advantage of a burgeoning economic sector.

Impact on the department and other agencies: The Department of Hawaiian Home Lands, the Department of Agriculture, and the Board of Agriculture would need to collaborate to ensure proper compliance and development of the industrial hemp industry within the confines of the pilot program.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: HHL 625.

OTHER AFFECTED AGENCIES: Department of Agriculture.

EFFECTIVE DATE: Upon approval.

____.B. NO.____

A BILL FOR AN ACT

RELATING TO HISTORIC PRESERVATION REVIEWS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that section 6E-8, Hawaii
2 Revised Statutes, plays an important role in the protection and
3 management of the State's historic properties and burial sites.
4 Section 6E-8(c) requires the department of Hawaiian home lands,
5 prior to any proposed project relating to lands under its
6 jurisdiction, to consult with the department of land and natural
7 resources regarding the effect of the project upon historic
8 property or a burial site. The purpose of this bill is to allow
9 the department of Hawaiian home lands to assume review of the
10 effect of any proposed project on historic properties or burial
11 sites for lands under its jurisdiction.

12 SECTION 2. Section 6E-8, Hawaii Revised Statutes, is
13 amended by amending subsection (c) to read as follows:

14 "(c) The department of Hawaiian home lands[, ~~prior to~~]
15 may assume review of the effect of any proposed project relating
16 to lands under its jurisdiction[, ~~shall consult with the~~
17 ~~department~~] regarding the effect of the project upon historic
18 property or a burial site."

____.B. NO.____

1 SECTION 3. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect upon its approval.

4

5 INTRODUCED BY:_____

6

BY REQUEST

____.B. NO.____

Report Title:

DHHL; Project Reviews of Proposed State Projects

Description:

Allows the Department of Hawaiian Home Lands to assume review of the effect of any proposed project on historic properties or burial sites for lands under its jurisdiction.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Hawaiian Home Lands

TITLE: A BILL FOR AN ACT RELATING TO HISTORIC PRESERVATION REVIEWS.

PURPOSE: Allows the Department of Hawaiian Home Lands to assume review of the effect of any proposed project on historic properties or burial sites for lands under its jurisdiction.

MEANS: Amend section 6E-8 (c), Hawaii Revised Statutes.

JUSTIFICATION: Instead of requiring the Department of Hawaiian Home Lands to consult with the Department of Land and Natural Resources regarding the effect of a project upon historic properties or burial sites, this proposal would streamline the process by allowing the Department of Hawaiian Home Lands to assume this review.

Impact on the public: This proposal advances the interest of beneficiaries of the Hawaiian Homes Commission Act by streamlining the review process for any proposed project on Hawaiian Home Lands.

Impact on the department and other agencies: The Department of Hawaiian Home Lands would assume this function for lands under its jurisdiction freeing up those resources for the Department of Land and Natural Resources to service other agencies.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: HHL 625.

OTHER AFFECTED
AGENCIES:

Department of Land and Natural Resources.

EFFECTIVE DATE:

Upon approval.

____.B. NO.____

A BILL FOR AN ACT

RELATING TO THE EXPEDITED AGENCY HEARING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that certain activity
2 that threatens the health and safety of the community should be
3 expedited for review by each state agency. The purpose of this
4 bill is to establish an expedited agency hearing.

5 SECTION 2. Chapter 91, Hawaii Revised Statutes, is amended
6 by adding a new section to be appropriately designated and to
7 read as follows:

8 "§91- Expedited agency hearing. (a) The expedited
9 agency hearing is established for any proceeding that involves:

10 (1) Any criminal activity that threatens the health and
11 safety of the community, or

12 (2) Any drug-related criminal activity.

13 (b) The expedited agency hearing shall be promptly
14 scheduled for a time and place reasonably convenient to both the
15 party and the agency. A written notification specifying the
16 time, place, and procedures governing the hearing shall be
17 delivered to the party.

____.B. NO.____

Report Title:

Administrative Procedure; Expedited Agency Hearing

Description:

Establishes an expedited agency hearing for any criminal activity that threatens the health and safety of the community or any drug-related criminal activity.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Hawaiian Home Lands

TITLE: A BILL FOR AN ACT RELATING TO THE EXPEDITED AGENCY HEARING.

PURPOSE: Establishes an expedited agency hearing for any criminal activity that threatens the health and safety of the community or any drug-related criminal activity.

MEANS: Adds a new section to Chapter 91, Hawaii Revised Statutes.

JUSTIFICATION: Concerns have arisen regarding ongoing activity that is threatening the health and safety of the community. This bill will establish an expedited agency hearing allowing for a prompt response.

Impact on the public: This proposal protects the health and safety of communities.

Impact on the department and other agencies: All state agencies would have the means to promptly respond to concerns that threaten health and safety.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: HHL 625.

OTHER AFFECTED AGENCIES: State agencies.

EFFECTIVE DATE: Upon approval.

STATE OF HAWAII`I
DEPARTMENT OF HAWAIIAN HOME LANDS

September 21-22, 2020

To: Chairman and Members, Hawaiian Homes Commission

From: Tyler I. Gomes, Deputy to the Chairman

Subject: C-4 Approval of license to operate and maintain non-potable stock water system pursuant to *Honokaia 'Ohana, et al., v. Masagatani, et al.*, Civ. No. 09-1-1615-07 - Honokaia 'Ohana, Honokaia, Hawaii Island, TMK Nos.: (3)4-6-013:001 through :046; and (3)4-7-007:005

RECOMMENDED MOTION/ACTION:

The Hawaiian Homes Commission (HHC) approve the license to operate and maintain a non-potable stock water system pursuant to *Honokaia 'Ohana, et al. v. Masagatani, et al.* affecting Honokaia, Hawaii Island, Tax Map Key Nos: (3)4-6-013:001 through :046; and (3)4-7-007:005, and delegating to the Chairman the authority to finalize terms and execute said license.

DISCUSSION

Pursuant to the Settlement, Release, and Indemnity Agreement filed in *Honokaia 'Ohana, et al. v. Jobie Masagatani, et al.*, Civil No. 09-1-1615-07 ECN on September 19, 2013 ("Settlement Agreement"), DHHL agreed to fund the planning, design, engineering and construction of a gravity-fed, nonpotable water system for use as stock water only to serve all current and future lessees within the Honokaia subdivision, previously designated as TMK Nos.: (3)4-6-11:3, :5, :11, :12, & :13; and now designated as TMK Nos.: (3) 4-6-013:001-046, & (3)4-7-007:005 ("Water System"). A copy of the Settlement Agreement is attached as Exhibit 1.

The original terms of the Settlement Agreement set a budget ceiling for the design and construction of the Water System at \$1,165,000. On May 30, 2019, the HHC approved the increase of the budget ceiling for this project to \$1,465,000 subject to assurance from the Plaintiffs that the Water System will be maintained in compliance with the Settlement Agreement. On August 18, 2020, the HHC approved an additional increase of \$200,000 to the budget ceiling for this project.

The prospective licensee - Wai Ola Honokaia - accepts the terms of the license offered by DHHL, which complies with the terms of the Settlement Agreement. The finalized, executed license will be substantively similar to the draft attached as Exhibit 2, subject to further finalization by the Chairman as authorized under the above motion.

RECOMMENDED MOTION/ACTION:

Staff respectfully requests approval of the motion as recommended.

EXHIBIT 1

NATIVE HAWAIIAN LEGAL CORPORATION
1164 Bishop Street, Suite 1205
Honolulu, Hawaii 96813
Telephone: (808) 521-2303

1ST CIRCUIT COURT
STATE OF HAWAII
FILED

2013 SEP 19 PM 4:11

N. ANAYA

CLERK

ALAN T. MURAKAMI 2285
SHARLA A. MANLEY 8868
ASHLEY K. OBREY 9199
Attorneys for Plaintiffs

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

HONOKAIA 'OHANA, T.J. AKIONA,
DOLORES RAMOS, YVONNE L.K. DELUZ,
LEHUA HO'OPAI, DIANA TERUKINA,
RUBY ISAACS, and MICHAEL ISAACS,

Plaintiffs,

vs.

JOBIE MASAGATANI, in her capacity as
Chairperson of the Hawaiian Homes
Commission and the Director of the
Department of Hawaiian Home Lands; GENE
ROSS DAVIS, JEREMY K. HOPKINS,
PATRICIA W. SHEEHAN, WALLACE A.
ISHIBASHI JR., MICHAEL KAHIKINA,
RENWICK V.I. TASSIL, and LEIMANA K.
DAMATE, in their capacities as members of
the Hawaiian Homes Commission;
HAWAIIAN HOMES COMMISSION; and
the DEPARTMENT OF HAWAIIAN HOME
LANDS, STATE OF HAWAII, JOHN DOES
1-10; JANE DOES 1-10; Governmental Units or
Other Entities 3-20,

Defendants

Civil No. 09-1-1615-07 ECN
(Declaratory Relief and Other Civil Action)

STIPULATION FOR DISMISSAL WITH
PREJUDICE OF ALL CLAIMS AND
PARTIES; EXHIBIT A

Judge: Honorable Edwin C. Nacino

Trial Date: **Week of June 24, 2013**

**STIPULATION FOR DISMISSAL WITH PREJUDICE
OF ALL CLAIMS AND PARTIES**

WHEREAS, on July 13, 2009, the Honokaia `Ohana along with a number of Honokaia lessees or individuals related to them filed a complaint against the Hawaiian Homes Commission (“HHC”), the Department of Hawaiian Home Lands (“DHHL”), Jobie Masagatani, in her official capacity as Chairperson of the HHC and Director of the DHHL, and the other members of HHC, also in their official capacities (hereinafter, collectively, “Defendants”) in the Circuit Court of the First Circuit, State of Hawai`i (Civil No. 09-1-1615-07 ECN);

WHEREAS, on August 24, 2009, Defendants removed the case to the Federal District Court for the District of Hawai`i pursuant to 28 U.S.C. §§ 1441 and 1446.

WHEREAS, on May 5, 2010, with leave of court, Plaintiffs filed a second amended complaint, which listed as plaintiffs Honokaia `Ohana, T.J. Akiona, Joseph Papalimu, Allen H.N. Lindsey, Troy K. Familiar, Allison Mayeda, Dolores Ramos, Yvonne L.K. DeLuz, Lehua Ho`opai, Penny Miranda, Flora Beamer Solomon, Malama Solomon, Leimomi Lum, Angela Thomas, Diana Terukina, Ruby Isaacs, and Michael Isaacs;

WHEREAS, on July 23, 2010, Plaintiffs filed three motions for partial summary judgment claiming (1) breach of trust, (2) breach of settlement agreement, and (3) violation of Plaintiffs’ equal protection rights based on Defendants’ failure to provide water to the lessees at the DHHL’s Honokaia pastoral subdivision and Defendants also filed a motion for judgment on the pleadings and for summary judgment.

WHEREAS, on October 25, 2010, after a hearing on the motions on October 18, 2010, the Federal Court granted the Defendants’ Motion for Judgment on the Pleadings and for Summary Judgment with respect to two of the counts, denied Defendants’ Motion for Judgment on the Pleadings and for Summary Judgment with respect to the remaining counts, denied

Stipulation for Dismissal With Prejudice of All Claims and Parties; *Honokaia `Ohana, et al. vs. Jobie Masagatani, et al.*, Civil No. 09-1-1615-07 ECN.

Plaintiffs' motions for partial summary judgment, and remanded the remaining state law claims to the Circuit Court of the First Circuit in Hawai'i;

WHEREAS, during the pendency of this action, Jobie Masagatani replaced Micah Kane as Chairperson of the Hawaiian Homes Commission and the Director of the Department of Hawaiian Home Lands and new commissioners replaced named commissioners whose terms expired, *see* Hawai'i Rules of Civil Procedure (HRCP) Rule 25(d)(1);

WHEREAS, during the pendency of this action, the parties stipulated to dismiss with prejudice all individual claims of Flora Beamer Solomon, Malama Solomon, Leimomi Lum, Angela Thomas, Allen H.N. Lindsey, Troy K. Familiar, Allison Mayeda, and Penny Miranda;

WHEREAS, during the pendency of this action, Plaintiffs' counsel filed a Suggestion of Death Upon Record for Plaintiff Joseph Papalimu;

WHEREAS, the parties entered into settlement negotiations in 2011, resulting in a draft settlement agreement that was approved by the HHC in executive session on March 19, 2013 and approved by the Attorney General on or before April 8, 2013;

WHEREAS, on April 11, 2013, during a settlement conference with the Honorable Judge Karen Nakasone, the parties read into the record the key terms of the settlement agreement, referring specifically to the above-referenced settlement agreement;

WHEREAS, on August 20, 2013, the HHC formally ratified the Settlement, Release and Indemnity Agreement, attached hereto as Exhibit "A";

WHEREAS, in reliance on the terms and conditions of the attached Settlement, Release and Indemnity Agreement, all remaining Plaintiffs Honokaia `Ohana, T.J. Akiona, Dolores

Ramos, Yvonne L.K. Deluz, Lehua Ho`opai, Diana Terukina, Ruby Isaacs, and Michael Isaacs, have agreed to dismiss their lawsuit with prejudice;

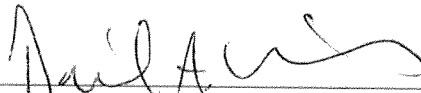
NOW THEREFORE, IT IS HEREBY STIPULATED by and amongst the parties through their respective undersigned counsel that, pursuant to Hawai'i Rules of Civil Procedure Rule 41(a)(1)(B), Plaintiffs HONOKAIA `OHANA, T.J. AKIONA, DOLORES RAMOS, YVONNE L.K. DELUZ, LEHUA HO`OPAI, DIANA TERUKINA, RUBY ISAACS, and MICHAEL ISAACS, by and through their undersigned counsel, and Defendants JOBIE MASAGATANI, in her capacity as Chairperson of the Hawaiian Homes Commission and the Director of the Department of Hawaiian Home Lands; GENE ROSS DAVIS, JEREMY K. HOPKINS, PATRICIA W. SHEEHAN, WALLACE A. ISHIBASHI JR., MICHAEL KAHIKINA, RENWICK V.I. TASSIL, and LEIMANA K. DAMATE, in their capacities as members of the Hawaiian Homes Commission, HAWAIIAN HOMES COMMISSION, the DEPARTMENT OF HAWAIIAN HOME LANDS, and the STATE OF HAWAII, by and through their undersigned counsel, hereby agree to dismiss the above-captioned case with prejudice.

However, upon proper motion filed by any aggrieved party, this Court retains jurisdiction over this matter to enforce the terms and conditions of the Settlement, Release and Indemnity Agreement.


Except as otherwise provided in the Settlement, Release and Indemnity Agreement, each party is to bear his or her own respective costs and attorneys' fees.

A trial date was set for the week of June 24, 2013. Upon approval by this Court of this Stipulation, all claims and parties to this action will be dismissed with prejudice.

DATED: Honolulu, Hawai'i, September 12, 2013.



DONNA H. KALAMA
DANIEL A. MORRIS
Attorneys for Defendants



ALAN T. MURAKAMI
SHARLA A. MANLEY
ASHLEY K. OBREY
Attorneys for Plaintiffs

DATED: Honolulu, Hawaii, _____.

APPROVED AND SO ORDERED



JUDGE OF THE ABOVE ENTITLED COURT

Stipulation for Dismissal With Prejudice of All Claims and Parties; *Honokaia `Ohana, et al. vs. Jobie Masagatani, et al.*, Civil No. 09-1-1615-07 ECN.

SETTLEMENT, RELEASE AND INDEMNITY AGREEMENT

This Settlement, Release and Indemnity Agreement, by and between Plaintiffs HONOKAIA `OHANA, T.J. AKIONA, DOLORES RAMOS, YVONNE L.K. DELUZ, LEHUA HO`OPAI, DIANA TERUKINA, RUBY ISAACS, and MICHAEL ISAACS and Defendants JOBIE MASAGATANI, in her capacity as Chairperson of the Hawaiian Homes Commission and the Director of the Department of Hawaiian Home Lands, GENE ROSS DAVIS, JEREMY K. HOPKINS, PATRICIA W. SHEEHAN, WALLACE A. ISHIBASHI JR., MICHAEL KAHIKINA, RENWICK V.I. TASSIL, and LEIMANA K. DAMATE, in their capacities as members of the Hawaiian Homes Commission; HAWAIIAN HOMES COMMISSION, and the DEPARTMENT OF HAWAIIAN HOME LANDS, STATE OF HAWAII, relates to Civil No. 09-1-1615-07.

W I T N E S S E T H

WHEREAS, on July 13, 2009, the Honokaia `Ohana along with a number of Honokaia lessees or individuals related to them filed a complaint against the Hawaiian Homes Commission ("HHC"), the Department of Hawaiian Home Lands ("DHHL"), Micah Kane, in his official capacity as Chairperson of the HHC and Director of the DHHL, and the other members of HHC, also in their official capacities (hereinafter, collectively, "Defendants") in the Circuit Court of the First Circuit, State of Hawai'i (Civil No. 09-1-1615-07 ECN) ("Action");

WHEREAS, on August 24, 2009, Defendants removed the case to the Federal District Court for the District of Hawai'i pursuant to 28 U.S.C. §§ 1441 and 1446;

WHEREAS, on May 5, 2010, with leave of court, Plaintiffs filed a second amended complaint, which listed as plaintiffs Honokaia `Ohana, T.J. Akiona, Joseph Papalimu, Allen H.N.

Lindsey, Troy K. Familiar, Allison Mayeda, Dolores Ramos, Yvonne L.K. DeLuz, Lehua Ho'opai, Penny Miranda, Flora Beamer Solomon, Malama Solomon, Leimomi Lum, Angela Thomas, Diana Terukina, Ruby Isaacs, and Michael Isaacs;

WHEREAS, on July 23, 2010, Plaintiffs filed three motions for partial summary judgment claiming (1) breach of trust, (2) breach of settlement agreement, and (3) violation of Plaintiffs' equal protection rights based on Defendants' failure to provide water to the lessees at the DHHL's Honokaia pastoral subdivision and Defendants also filed a motion for judgment on the pleadings and for summary judgment;

WHEREAS, on October 25, 2010, after a hearing on the motions on October 18, 2010, the Federal Court granted the Defendants' Motion for Judgment on the Pleadings and for Summary Judgment with respect to two of the counts, denied Defendants' Motion for Judgment on the Pleadings and for Summary Judgment with respect to the remaining counts, denied Plaintiffs' motions for partial summary judgment, and remanded the remaining state law claims to the Circuit Court of the First Circuit in Hawai'i;

WHEREAS, during the pendency of this action, Jobie Masagatani replaced Micah Kane as Chairperson of the Hawaiian Homes Commission and the Director of the Department of Hawaiian Home Lands and new commissioners replaced named commissioners whose terms expired, *see* Hawai'i Rules of Civil Procedure (HRCP) Rule 25(d)(1);

WHEREAS, during the pendency of this action, the parties stipulated to dismiss with prejudice all individual claims of Flora Beamer Solomon, Malama Solomon, Leimomi Lum, Angela Thomas, Allen H.N. Lindsey, Troy K. Familiar, Allison Mayeda, and Penny Miranda, and Plaintiffs' counsel filed a Suggestion of Death Upon Record for Plaintiff Joseph Papalimu; and

WHEREAS, the Parties desire to settle any and all issues related to the Action;

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, as follows:

A. Construction of a Non-Potable Water System

1. In consideration of the terms, conditions and promises to be made by the Parties¹ in this Settlement, Release and Indemnity Agreement (the "Agreement"), Defendants² will agree to fund the planning, design, engineering and construction of all primary components, including all laterals off the main line as well as submeters, of a gravity-fed, non-potable water system designed to serve all current and future lessees of the Honokaia subdivision³ (hereinafter referred to as the "Water System").
2. Defendants' obligation to fund the design and construction of the primary components of the Water System is conditioned on the following:
 - a. The cost to design and construct the Water System does not exceed \$1,165,000.00, based on actual bids/proposals received in response to solicitations by DHHL for bids/proposals to design and construct the Water System. If the Water System cannot be designed and constructed for less than \$1,165,000.00, Defendants shall enter into renegotiation with Releasors to assess the feasibility of a less costly design for the Water System.
 - b. In consultation with a designated representative of Releasors⁴ during the design phase of the planning for the Water System as to the (1) route of the pipeline, (2) the location of the meters, and (3) the general

¹ "Parties" refers to the Releasors and Defendants (defined below).

² "Defendants" refers to Jobie Masagatani, in her capacity as Chairperson of the Hawaiian Homes Commission and the Director of the Department of Hawaiian Home Lands, Gene Ross Davis, Jeremy K. Hopkins, Patricia W. Sheehan, Wallace A. Ishibashi Jr., Michael Kahikina, Renwick V.I. Tassill, Leimana K. DaMate, in their capacities as members of the Hawaiian Homes Commission, the Hawaiian Homes Commission, and the Department of Hawaiian Home Lands, State of Hawai'i.

³ The "Honokaia subdivision" means the subdivision at Honokaia, Honokaa, Big Island, Hawaii, previously designated as TMK: (3) 4-6-11: 3, 11, 12 & 13, which lots were consolidated and resubdivided by DHHL, including both Phase I and Phase II.

⁴ "Releasors" refers to Plaintiffs Honokaia `Ohana, T.J. Akiona, Dolores Ramos, Yvonne L.K. DeLuz, Lehua Ho`opai, Diana Terukina, Ruby Isaacs, and Michael Isaacs.

design/functionality of the design chosen as part of DHHL's request for proposals, Defendants will fund the design and construction of the water system, which consists of: a hookup to a Department of Water Supply, County of Hawaii ("DWS") line located at TMK (3) 4-7-07:05 (conditioned on the lessee of that parcel entering into a utility and access easement to allow the hookup and laying of pipe and other infrastructure); main storage tank(s) in such number, size, and location(s) to be determined by an engineer retained by DHHL to design the Water System; the main water meter(s) (no more than four of a type required and approved by DWS); the main lines running from the DWS hookup to the main storage tanks and from the main storage tanks to the Honokaia subdivision; laterals and individual submeters for each lot, to be placed as close to the property line as possible; and any air relief valves or other components necessary for proper functioning of the main lines, all subject to obtaining necessary easements. Each Honokaia lessee⁵ shall be responsible for constructing/installing and maintaining individual water lines only beyond the sub-meter and onto lessees' respective lots, and any other infrastructure the lessees may determine is appropriate to convey and store the water from the main lines to and on their respective lots, including pumps and individual storage systems, so long as such individual infrastructure does not impair proper functioning of the Water System.

- c. DWS' approval of the hookup of the Water System to its water system as contemplated by the Agreement.
- d. The Water System shall use water meters appropriately sized by engineers to service the system. The water meter(s) shall be assigned to four lots within the Honokaia subdivision to be determined by the engineers selected to design the system in consultation with a designated representative of Releasors and with the approval of DWS.
- e. Releasors agree not to hold Defendants responsible for the limitations on water availability imposed by DWS, whether for operational reasons or based on water shortages or drought. In entering into this Agreement, Releasors do not waive their right to sue DWS and/or the County if

⁵ "Honokaia lessee" means an individual who at the present time or in the future is a lessee under a valid, authorized pastoral lease issued by DHHL for a lot in Honokaia subdivision, or the duly authorized successor of such individual.

necessary to assert rights to additional water at Honokaia in support of homesteading contained in the Hawaiian Homes Commission Act (HHCA) § 221, or any other legal authority.

- f. It is expressly understood and agreed by all Parties that DWS has imposed restrictions on the amount of water that may be used for the proposed system for operational reasons and that it may further restrict or prohibit the use of water from its system for other operational reasons or due to water shortages or system malfunctions. Releasors, which consist of the Honokaia `Ohana and the individually named Plaintiffs in *Honokaia `Ohana, et al. v. Masagatani, et al.*, Civ. No. 09-01-1615-07 ENC, bear the risk of any such restrictions, prohibitions, and malfunctions, and Defendants shall in no way be responsible for DWS's actions or its system's performance or the inability of DWS to deliver water to the Water System for any reason, including but not limited to operational reasons or due to water shortages, system malfunctions, or drought, subject to paragraph B(5) below.
 - g. Releasors acknowledge that water from the Water System is non-potable and shall be used solely for stock water and shall not be used for irrigation or as potable water, and Releasors bear the risk of use of the water for any purposes.
 - h. This Agreement in no way modifies the leases issued by DHHL to Honokaia lessees or the ranch plans that were submitted by Honokaia lessees to DHHL, including but not limited to the obligation to build catchment or similar systems as a primary water system.
3. Benchmarks. Although the parties fully acknowledge that circumstances prevent a rigid schedule to implement the steps in paragraph A(2) above, they agree that time is of the essence to provide the contemplated water infrastructure. Accordingly, they agree to strive for meeting the benchmark steps to construct the planned Water System in twenty-four (24) months or less, in accordance with the sequential schedule below:
- a. Procure a Professional Engineer to design the project within three (3) months of the execution of this Agreement.
 - b. Design the Water System to specifications (including topography study, design, county plan review, permits) needed to issue a request for

proposals within nine (9) months following the procurement of a professional engineer pursuant to paragraph A(3)(a).

- c. Conduct a bidding process within one (1) month following final design of the Water System pursuant to paragraph A(3)(b).
 - d. Award and Contract with a general contractor to build the Water System within two (2) months after beginning the bidding process as contemplated by paragraph A(3)(c).
 - e. Complete construction with regular oversight by Defendants within nine (9) months after the award of the contract to build the Water System, pursuant to paragraph A(3)(d).
 - f. Within the construction period, insure completion of the Road A water system (Phase I) *before* completion of the Road B water system (Phase II).
4. Defendants shall confer with designated representative of Releasors to report on the progress made to achieve each benchmark (above) and any corrective action taken should there be a failure to meet any benchmark within the expected time frame (above). Upon request by Releasors, Defendants shall meet with Releasors to discuss any issue related to implementation of above benchmarks.

B. Operation and Maintenance of the Water System

- 1. The Water System will not be operated or maintained by Defendants. Defendants' continuing obligations under paragraph B(5) below are conditioned on a homestead association or other entity of which the Honokaia lessees are eligible for membership or participation (the "licensee") -- *e.g.*, the Waimea Hawaiian Homestead Association -- entering into a license or similar agreement with Defendants for the Water System, by which the licensee agrees to operate and maintain the Water System in accordance with this Agreement (*see* below).
- 2. Upon completion of design and construction of the Water System, Defendants shall, with the approval of the Commission, offer and, if agreement is reached, enter into a license or similar agreement with the Waimea Hawaiian Homestead Association or other licensee, which shall be responsible for the operation and maintenance of the Water System at no cost to Defendants. In agreeing to this term, Releasors do not waive any right to assert in other homestead areas that the State is obligated to fund such costs as administrative and operating expenses of the DHHL, or to assert in other homestead areas a claim for State funding of such

costs and expenses pursuant to Haw. Const., Art. XII, § 1, the HHCA or any other legal authority. Nothing in this Agreement shall be deemed to preclude DHHL from asserting claims or seeking funding from the legislature for operation, maintenance, or repair costs associated with this or any other water system.

3. The Waimea Hawaiian Homestead Association or designated licensee shall be the customer of DWS, responsible for paying all charges of DWS for the use of water from the DWS system or for any and all other charges levied or imposed by DWS (which charges the licensee will pass on to and collect from the Honokaia lessees).
4. The Waimea Hawaiian Homestead Association or designated licensee shall be responsible for the following:
 - a. Maintaining the Water System in good working order;
 - b. Operating the Water System for the benefit of all Honokaia lessees who choose to use the Water System, who pay for the installation of infrastructure from authorized connection points on the main lines of the Water System to their respective lots, and who agree to be bound by any operating agreement the licensee may impose on Honokaia lessees;
 - c. Performing daily maintenance tasks and paying for all minor maintenance of the Water System, including inspection of the system, any surface line repairs, and any necessary landscape maintenance;
 - d. Billing the Honokaia lessees for the use and maintenance of the Water System, including any charges for water taken from the Water System, collecting the same, and paying DWS any amounts billed to the licensee;
 - e. Acquiring and maintaining in force at all times insurance for the maintenance and operation of the Water System, in form and amounts to insure proper operation of the Water System, with Defendants named as additional insureds; and
 - f. Maintaining adequate signage that notifies persons who may come into contact with water from the Water System that the water is non-potable and not suitable for human consumption.
5. Notwithstanding the maintenance costs borne by the Waimea Hawaiian Homestead Association or designated licensee, Defendants shall be responsible for all major repairs of the Water System, including, but not limited to, major repair and replacement of tanks and pipelines and all major appurtenances due to

normal wear and tear, acts of God, accidents, vandalism, theft, or other human-caused events beyond the day-to-day maintenance activities of the Waimea Hawaiian Homestead Association or designated licensee. Defendants shall also be responsible for requiring that all non-Plaintiff and future Honokaia lessees understand that, in order to use the Water System, they must pay all fees pursuant to the agreement with the Waimea Hawaiian Homestead Association or designated licensee, including any pre-paid deposit requirements imposed, and assume liability of any costs and fees related to collection for unpaid fees that accrue. Defendants' responsibility under this paragraph in no way precludes Defendants' right to seek recovery of costs from others, including users of the Water System, who are or may be responsible for damage caused to the Water System.

6. Defendants make no warranties that the water from the Water System will provide a particular level of water pressure or that the water is adequate or safe for use by cattle or other animals.

C. Releases, Indemnification Obligations, and Dismissal

1. In consideration for the promises and other consideration given by Defendants, Releasors, for themselves and their heirs, executors, administrators, successors, and assigns, will fully and finally release, acquit, and forever discharge Defendants, the State of Hawaii, and their departments, agencies, directors, officers, agents, employees, representatives, insurers, attorneys, administrators, and assigns and all other persons acting on their behalf (collectively "Releasees"), from and against any and all claims against Releasees which Releasors have, or have ever had, or may ever have, whether known or unknown through oversight or error, and which, if known, would materially affect Releasors' decision to enter into the Agreement, resulting from, arising out of, to arise out of, or connected with, directly or indirectly, the events and claims described in Civil No. 09-1-1615-07 (the "Lawsuit"), the development and leasing of the Honokaia subdivision, the Settlement Agreement and Release and Stipulation for Dismissal With Prejudice and Order in the Aged Hawaiians lawsuit (Civil No. 89-244), the decision of Defendants to provide or not provide or fund water and water infrastructure for the Honokaia subdivision, the form of any water system that may be installed at the Honokaia subdivision in the future and any limitations on the amount of water or level of water pressure it may provide; including but in no way limited to all claims, theories, demands, and causes of actions asserted in the Lawsuit (collectively, the "Released Claims"), subject to the limitations in paragraph C(4) below.

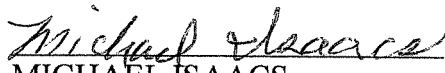
2. Concurrent with the execution of this Agreement, Releasors shall execute and deliver to Defendants' counsel for immediate filing a Stipulation for Dismissal With Prejudice of All Claims Against Defendants in the Lawsuit, Civil No. 09-1-1615-07, by which the Lawsuit and all claims therein shall be finally terminated.
3. Releasors expressly waive and release any and all damages claims that they may have against Releasees. No monetary payments of any kind shall be made to Releasors, except as explicitly provided in this Agreement.
4. In agreeing to the terms of this Agreement, Releasors do not waive any right to seek remedies in other homestead areas, based on the HHCA, the state Constitution, statutes, or any other legal authority, to (a) obtain water, including water "free of all charge" pursuant to HHCA § 221(c), in support of homesteading, from the county or any other agency; (b) seek general funds to defray the costs of operation and maintenance of water systems in other homestead areas as administrative and/or operational expenses of the DHHL. *Nelson v. Hawaiian Homes Commission*, 127 Hawaii 185, 277 P.3d 279 (2012). In addition, Defendants shall not assert that Releasors, in entering into this Agreement, have waived any claims other than those released in this Agreement to assert rights to water in support of homesteading contained in the HHCA, the state Constitution, statutes, or any other legal authority.
5. Subject to the foregoing paragraph, Releasors covenant and agree that they will forever refrain from instituting, prosecuting, maintaining, proceeding on or advising to be commenced against Releasees any action or proceeding which arises out of, or is or may be, in whole or in part, based upon, related to or connected with any of the Released Claims. Releasors understand that the releases and waivers contained in the Agreement will be a complete defense to any action or other proceeding asserting any of the Released Claims which may be instituted by or on behalf of Releasors.
6. Releasors expressly waive and release any and all claims they may have now or in the future based on the assertion that the Water System is inadequate to serve the water needs of Plaintiffs or that water from the Water System is not fit for human or animal consumption.

D. Additional Provisions

1. Attorneys' fees and costs. Each Party to this Agreement and each party in the Lawsuit shall bear their own attorneys' fees and costs, except that Defendants shall pay Plaintiffs \$10,000.00 for attorneys' fees and costs.
2. Advice of Counsel. All Parties represent that they are fully advised by counsel in this matter.
3. No Admission of Wrongdoing. The Parties agree that the covenants, promises, agreements, and releases contained in this Agreement are not to be construed as admissions of negligence, gross negligence, willful or intentional misconduct, breach of contract, breach of warranties, breach of trust duties, violation of any statute or constitutional provision, liability, or fault of any kind whatsoever but are to be construed solely as the compromise and settlement of disputed claims.
4. No Representations. The Parties acknowledge that no promise, agreement, fact, or opinion not expressed in this Agreement has been made by or to them to induce this Agreement and that the settlement is made with full knowledge of this fact and of the possibilities of the subject matters of the Agreement.
5. No Waiver. A waiver of any breach of this Agreement by any Party shall not be deemed to be a waiver by any Party of any other breach of this Agreement.
6. Interpretation. The terms of this Agreement have been negotiated at arms length among knowledgeable Parties represented by experienced counsel. As a result, the rule of "interpretation against the drafter" shall not apply in any dispute over interpretation of the terms of this Agreement.
7. Warranties. Releasors warrant that they are the owners in their respective names of all Released Claims, and that they have not assigned, sold, transferred, mortgaged, conveyed, hypothecated or otherwise disposed of the Released Claims or any of them to anyone.
8. Entire Agreement. This Agreement contains all of the terms and agreements between the Parties and supersedes and cancels each and every other prior conflicting agreement, promise, and negotiation between them.

9. Captions and Headings. The captions and headings or paragraphs in this Agreement are inserted for convenience, reference, and identification purposes only, and shall not control, define, limit, or affect any provisions of the Agreement.
10. Amendments. This Agreement, which shall constitute the entire agreement between the Parties, may be changed, amended, or modified only by a written instrument signed by all parties.
11. Counterparts. This agreement may be signed in two or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same instrument. Facsimile and Portable Document Format (PDF) signatures shall be deemed valid, original signatures.
12. Additional Documents. The Parties agree to cooperate fully and execute any and all supplementary documents and take additional actions which may be necessary or appropriate to give full force and effect to the basic terms and intent of this Agreement.
13. Authority. The Parties represent and warrant to each other that they have full power and authority to enter into this Agreement, and to perform in accordance with its provisions, and that any representative executing this Agreement on behalf of any Party is duly authorized by his, her, or its principal to execute and deliver the Agreement.

DATED: Honolulu, Hawai'i, August 25, 2013.


MICHAEL ISAACS
For Plaintiff Honokaia `Ohana



T.J. AKIONA
Plaintiff

DOLORES RAMOS
Plaintiff

YVONNE L.K. DELUZ
Plaintiff

LEHUA HO'OPAI
Plaintiff

MICHAEL ISAACS
Plaintiff

DIANA TERUKINA
Plaintiff

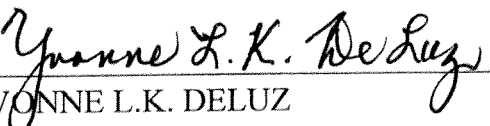
RUBY ISAACS
Plaintiff

APPROVED AS TO FORM AND CONTENT:

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ASHLEY K. OBREY
Attorneys for Plaintiffs

T.J. AKIONA
Plaintiff

DOLORES RAMOS
Plaintiff


YVONNE L.K. DELUZ
Plaintiff

LEHUA HO'OPAI
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LEHUA HO'OPAI
Plaintiff

Michael Isaacs
MICHAEL ISAACS
Plaintiff

DIANA TERUKINA
Plaintiff

Ruby Isaacs
RUBY ISAACS
Plaintiff

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T.J. AKIONA
Plaintiff

Dolores Ramos

DOLORES RAMOS
Plaintiff

YVONNE L.K. DELUZ
Plaintiff

LEHUA HO'OPAI
Plaintiff

MICHAEL ISAACS
Plaintiff

DIANA TERUKINA
Plaintiff

RUBY ISAACS
Plaintiff

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Attorneys for Plaintiffs

T.J. AKIONA
Plaintiff

DOLORES RAMOS
Plaintiff

YVONNE L.K. DELUZ
Plaintiff



LEHUA HO'OPAI
Plaintiff

MICHAEL ISAACS
Plaintiff

DIANA TERUKINA
Plaintiff

RUBY ISAACS
Plaintiff

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T.J. AKIONA
Plaintiff

DOLORES RAMOS
Plaintiff

YVONNE L.K. DELUZ
Plaintiff

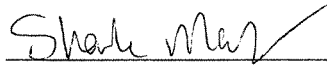
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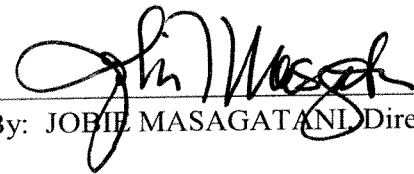

ALAN T. MURAKAMI
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HAWAIIAN HOMES COMMISSION



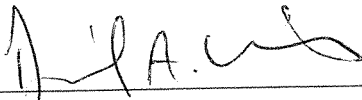
By: JOBIE MASAGATANI, Chairperson

THE DEPARTMENT OF HAWAIIAN
HOME LANDS



By: JOBIE MASAGATANI, Director

APPROVED AS TO FORM AND CONTENT:



DONNA H. KALAMA
DANIEL A. MORRIS
Deputy Attorneys General
Attorneys for Defendants

EXHIBIT 2

DRAFT

After Recordation Return By: Mail () Pickup () To:

Affects Tax Map Key Nos.: (3) 4-6-013:001-046, (3) 4-7-007:005

LICENSE AS EASEMENT NO. []
(Non-Exclusive Right)

between

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS
as "Licensor"

and

WAI OLA HONOKAI'A
Domestic Nonprofit Corporation
as "Licensee"

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

License As Easement No. []
(Non-Exclusive Right)

THIS LICENSE AS EASEMENT made and issued this ____ day of _____, 20____, by the State of Hawaii, DEPARTMENT OF HAWAIIAN HOME LANDS, whose principal place of business and mailing address is 91-5420 Kapolei Parkway, Kapolei, Hawaii 96707, hereinafter called "LICENSOR," and the WAI OLA HONOKAI'A, a domestic nonprofit corporation, whose principal place of business and mailing address is 46-4473 Old Mamalahoa Highway, Honokaa, Hawaii 96727, hereinafter called "LICENSEE."

WITNESSETH THAT:

Whereas, LICENSOR, pursuant to the authority granted to it by Section 207(c)(1) of the Hawaiian Homes Commission Act, 1920, as amended (HHCA), is authorized to grant licenses as easements for railroads, telephone lines, electric power and light lines, gas mains and the like.

Whereas, pursuant to that certain Settlement, Release, and Indemnity Agreement filed in *Honokaia 'Ohana, et al. v. Jobie Masagatani, et al.*, Civil No. 09-1-1615-07 ECN on September 19, 2013(hereinafter the "Settlement Agreement"), LICENSOR agreed to fund the planning, design, engineering and construction of a gravity-fed, non-potable water system for use as stock water only to serve all current and future lessees within the Honokaia subdivision, previously designated as TMK Nos.: (3) 4-6-11:3, :5, :11, :12, & :13, and now designated as TMK Nos.: (3) 4-6-013:001-046, (3) 4-7-007:005 (hereinafter the "Water System").

Whereas, upon the completion of the design and construction of the Water System, LICENSOR shall retain ownership of the Water System pursuant to Section 222 of the HHCA and license the Water System to an entity, which shall be responsible for the operation and maintenance of the Water System at no cost to the LICENSOR, except for provisions as herein provided.

NOW THEREFORE, LICENSOR and LICENSEE, in consideration of the Settlement Agreement and the terms, covenants and conditions herein contained to be kept, observed and performed by the LICENSEE, its approved successors and assigns, and LICENSOR agree as follows,

LICENSOR hereby grants and conveys unto LICENSEE a non-exclusive right and privilege (hereinafter "License") to manage, repair, maintain, and operate the Water System constructed on lands as shown on map attached herewith as Exhibit "A," incorporated herein (hereinafter referred to as the "easement area"),

TOGETHER with the right of ingress to and egress from said easement area over the land of LICENSOR, adjacent thereto, for all purposes in connection with this License, and together also with the right to manage, maintain, operate, and repair the Water System as LICENSEE shall deem necessary or expedient for the proper maintenance, operation, or repair of the Water System.

TO HAVE AND TO HOLD the same unto the LICENSEE, its successors and assigns, LICENSOR agreeing and LICENSEE understanding that the rental for the entire term is gratis pursuant to the Settlement Agreement.

The parties hereto do further mutually covenant and agree as follows:

1. TERM AND RENTAL. This License shall commence on _____, for a term of five (5) years following the commencement date, unless sooner terminated as hereinafter provided. LICENSOR shall conduct a review of LICENSEE's performance and compliance under the License annually. LICENSOR shall renew this License for additional terms of five (5) years each if LICENSEE satisfies the conditions of the License. LICENSOR agrees and LICENSEE understands that the rental for this License is waived.

2. COMPLIANCE WITH LAWS. That the LICENSEE, in the exercise of the rights granted herein, shall comply with all the requirements of the County, State and Federal authorities and observe all municipal ordinances and State and Federal statutes, rules and regulations, now in force or which may hereafter be in force, provided that nothing in this section constitutes a waiver of the right to challenge any County water limits provided in Section A(2)e of the Settlement Agreement. LICENSEE shall obtain and maintain at all times the licenses, certifications, or permits necessary for the operation, management, maintenance, and repair of the Water System.

3. NON-EXCLUSIVE EASEMENT. LICENSOR reserves unto itself, and its successors, the full use and enjoyment of the easement area, and to grant to others rights and privileges for

any and all purposes affecting the easement area, provided however that the rights herein reserved shall not be exercised by LICENSOR or any agent, representative or assign of the LICENSOR, in a manner which interferes unreasonably with LICENSEE's use of the easement area for the purposes for which this License is granted. Should LICENSOR wish to grant others rights or privileges that affect the easement area, then LICENSOR shall provide written notification of this License and the rights granted to LICENSEE herein to the intended recipient of such rights or privileges, and the recipient shall be prohibited from unreasonably interfering with LICENSEE's use of the easement area.

4. WASTE AND UNLAWFUL, IMPROPER OR OFFENSIVE USE OF EASEMENT AREA. That LICENSEE shall not commit, suffer or permit any waste, nuisance, strip or unlawful, improper or offensive use of the easement area, or any part thereof, nor, without the prior written consent of LICENSOR, cut down, remove or destroy any trees now growing in the easement area.

5. DUE CARE AND DILIGENCE. The LICENSEE shall use due care and diligence in the management, operation, repair, and maintenance of the Water System and shall keep the Water System in good and safe condition and repair.

6. INDEMNITY. LICENSEE shall, to the extent not prohibited by law, indemnify and hold harmless LICENSOR from any and all claims and demands against LICENSOR, its agents, employees, permittees, successors and assigns, for any loss or damage or injury or death to persons or property that shall or may arise by reason of the acts of the LICENSEE or LICENSEE's authorized representatives, successors and assigns in relation to the management, operation, repair, and maintenance of the Water System. LICENSEE shall not indemnify and hold harmless LICENSOR, or be responsible in any way, for any loss or damage or injury or death to person or property caused by the acts of the LICENSOR, its agents, servants or employees acting within the scope of their employment, or its assigns, or any other individual or entity to whom LICENSOR has granted rights or privileges to the Easement Area.

7. LIABILITY INSURANCE. That the LICENSEE shall procure, at its own cost and expense, and maintain during the entire period of this License, with an insurance company or companies acceptable to LICENSOR, a policy or policies of comprehensive liability insurance, that shall provide the following minimum coverage:

<u>COVERAGE</u>	<u>LIMIT</u>
<u>General Liability Insurance</u>	<u>Bodily Injury and Property Damage (combined single limit): \$1,000,000 per occurrence and \$2,000,000 aggregate.</u> <u>Personal Injury: \$1,000,000 per occurrence and \$2,000,000 aggregate</u>
<u>Automobile Insurance</u>	<u>Bodily Injury: \$1,000,000 per person and \$1,000,000 per occurrence.</u> <u>Property Damage: \$1,000,000 per accident or combined single limit of \$2,000,000.</u>

Said policy or policies shall name LICENSOR as an additional insured party. The procuring of policy or policies required herein shall not release or relieve LICENSEE of LICENSEE's responsibilities under this License as set forth herein or limit the amount of LICENSEE's liability under this License.

8. HAZARDOUS MATERIALS. Except in the normal course of the Water System maintenance and operations, LICENSEE shall not cause or permit the escape, disposal, or release of any hazardous materials. LICENSEE shall not allow the storage or use of hazardous materials in any manner not sanctioned by law or by the highest standards prevailing in the industry for the storage and use of such materials, nor allow to be brought onto the easement area any such materials except to use in the ordinary course of LICENSEE's business, and then only after written notice is given to the LICENSOR of the identity of such materials and upon LICENSOR's consent, which consent may be withheld at LICENSOR's sole and absolute discretion. If any governmental agency shall ever require testing to ascertain whether or not there has been any release of hazardous materials by LICENSEE, then LICENSEE shall be responsible for the costs thereof. In addition, LICENSEE shall execute affidavits, representations and the like from time to time at LICENSOR's request concerning LICENSEE's best knowledge and belief regarding the presence of hazardous materials on the easement area placed or released by LICENSEE.

LICENSEE shall agree to indemnify and hold harmless LICENSOR, its officers, employees, and agents from and against all liability, loss, damage, cost, and expense, including all attorney's fees, and all claims, suits, and demands therefore, arising out of or resulting from any use or release of hazardous materials on the easement area occurring while LICENSEE is in possession, if caused by LICENSEE or its employees or authorized agents. These covenants shall survive the expiration or earlier termination of this License.

For the purpose of this License, the term "hazardous material" as used herein shall include any substance, waste or material designated as hazardous or toxic or radioactive or other similar term by any present or future federal, state or local statutes, regulation or ordinance, such as the Resource Conservation and Recovery Act, as amended, the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, and the Federal Clean Water Act, as amended from time to time, and also including but not limited to petroleum, petroleum based substances, asbestos, polychlorinated-biphenyls ("PCB"), formaldehyde, and also including any substance designated by federal, state or local regulations, now or in the future, as presenting a risk to human health or the environment. However, the term "hazardous material" does not include materials collected and conveyed in the normal course of Water System operations.

9. CONDEMNATION. If at any time the easement area across which this License extends, or any part thereof, shall be condemned or taken for any public project by any governmental authority, LICENSEE shall have the right to pursue compensation from the condemning authority, but not from the LICENSOR, as is payable for this License and easement rights and for LICENSEE'S equipment, if any, used in connection with this License, which shall be payable to LICENSEE.

10. RELOCATION. If LICENSOR determines that the continued exercise of the easement rights granted constitutes an undue interference with a subdivision or development of the land over which the granted easement crosses, LICENSOR shall have the right to terminate the easement granted to the extent necessary to eliminate such interference, provided, however, that LICENSOR shall grant to the LICENSEE an equivalent easement within the reasonable vicinity to permit the LICENSEE to exercise the rights and purposes for which this easement is granted. Such equivalent easement shall be subject to the same terms and conditions as contained in this License. All costs incurred by

LICENSEE in the event of such relocation shall be borne by LICENSOR.

11. RIGHT TO ENTER. LICENSOR and its agents or representatives or persons or entities authorized by LICENSOR, including the County of Hawaii and its agents or representatives, shall have the right to cross any portion of the easement area for the purpose of performing any public or official duties, provided, that in the exercise of such rights, the LICENSOR or the County of Hawaii shall not interfere unreasonably with LICENSEE or LICENSEE's use and enjoyment of the easement area.

12. ASSIGNMENT. LICENSEE shall not assign any right herein granted or otherwise given, except to a successor or permitted assigns, without the written consent of LICENSOR.

13. INCONVENIENCE TO THE STATE, COUNTY, ETC. LICENSEE, while in the exercise of any of the rights and privileges granted hereunder, shall not unduly or unreasonably inconvenience LICENSOR, the County, the State or the lessees or permittees or licensees of the LICENSOR, in the use of the land crossed by or adjoining the easement area.

14. SEVERABILITY. Whenever possible, each provision of this License shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this License should be prohibited, or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity without invalidating the remaining provisions of this License.

15. SINGULAR/PLURAL. The singular or plural depends on its appropriate use.

16. TERMINATION. LICENSOR may terminate this License without fault or liability by providing LICENSEE with written notice if:

- a. LICENSOR has not or otherwise cannot obtain all necessary funding to construct Water System;
- b. LICENSOR has not or otherwise cannot obtain all necessary permits, approvals, easements, or other rights necessary to develop the Water System;
- c. LICENSOR determines, following a prior 90-day notice to and consultation with Honokaia subdivision lessees, that development of the Water System is impractical, infeasible, impossible, or

- otherwise not in the best interest of the LICENSOR or its beneficiaries; or
- d. LICENSEE fails to comply with any of the terms and conditions of this License.

17. ADMINISTRATIVE RULES. If, during the term of this License, LICENSOR enacts administrative rules pursuant to LICENSOR's authority under Sections 221 or 222 of the HHCA, the administrative rules shall supersede any provision in this License in conflict with said rules, except as noted.

18. SPECIAL CONDITIONS.

- a. LICENSEE shall have the necessary expertise required to manage, maintain, repair, and operate the Water System in good working order pursuant to a sound business plan, which shall include maintaining adequate reserve funds for emergency and operating purposes. LICENSEE shall provide its business plan to LICENSOR upon the commencement of this License and shall provide any updates of the business plan to LICENSOR during the term of this License.
- b. Prior to assuming operating and maintenance responsibilities under this License, LICENSEE shall submit a maintenance schedule for LICENSOR's review and approval. LICENSOR shall review maintenance schedule annually and make recommendations for amendment.
- c. LICENSEE shall be a customer of the County of Hawaii Department of Water Supply (hereinafter "DWS") and shall be responsible for paying all charges of DWS for the use of water from DWS or for any and all other charges levied or imposed by DWS, which shall be passed on to and collected from users of the Water System.
- d. LICENSEE shall operate the Water System for the benefit of all current and future lessees of the Honokaia subdivision.
- e. LICENSEE shall be responsible for performing daily maintenance tasks and paying for all minor maintenance of the Water System, as needed, which shall include system inspection, surface line repairs, and any necessary landscape maintenance.

"Minor maintenance" shall include any singular item of repair or replacement that requires materials and labor costs less than \$2,000 and does not require the removal and replacement of a major component, as defined in paragraph 18.f.iii below. LICENSOR shall notify LICENSEE when the need for a repair to the Water System is identified.

f. Notwithstanding the maintenance costs borne by LICENSEE, LICENSOR shall be responsible for all major repairs to the Water System, including, but not limited to, major repair and replacement of tanks and pipelines and all major components of the Water System due to normal wear and tear, acts of God, accidents not caused by LICENSEE, its employees, agents, permittees or assigns, vandalism, theft, or other human-caused events that is beyond the scope of maintenance activities for LICENSEE or its employees, agents, permittees or assigns;

i. LICENSOR's responsibility for all major repairs in no way shall preclude LICENSOR from seeking to recover costs from others who are or may be responsible for damage caused to the Water System.

ii. "Major repair" shall be defined as any singular item of repair or replacement that:

1. Requires the removal and replacement of a major component; or
2. Requires materials and labor costs in excess of \$2,000.

iii. "Major components" shall be defined as all Water System tanks, pipelines, master meters, valves, and any singular Water System component that costs in excess of \$1,500 per unit.

g. If any repairs or replacements of Water System components are needed within one year following the date of the completion of the Water System, LICENSEE shall immediately notify LICENSOR to inspect and determine whether such repairs or replacements are covered by materials or workmanship warranties. If covered by materials or workmanship warranties within the aforementioned one-year warranty period,

LICENSOR shall be responsible for said repairs or replacements.

- h. LICENSEE shall maintain signage that notifies persons who may come into contact with water from the Water System that the water is non-potable and not suitable for human consumption or irrigation.
- i. Water System users shall be individually responsible for the purchase, installation, repair, and maintenance of cross-connection controls and backflow prevention devices.
- j. LICENSOR makes no warranties that the water from the Water System will provide a particular level of water pressure or that the water is adequate or safe for use by cattle or other animals.
- k. LICENSEE shall participate with LICENSOR on its water utility system education program for all current and future Honokaia lessees.
- l. LICENSEE shall maintain and submit to LICENSOR a current list of 24/7 emergency contact personnel; and, annually submit an emergency response plan to LICENSOR, including list (in priority order) of contact information of emergency personnel.
- m. Once per quarter, LICENSEE shall submit reports to LICENSOR of LICENSEE's repair and maintenance activities in the preceding quarter.
- n. Once every two months, LICENSEE shall submit water consumption reports to LICENSOR, which shall include information on DWS master meter readings, DWS billings, and individual user meter readings, billings, and delinquencies.]
- o. When accessing Lot No. 1, TMK: (3)4-7-007:005 and Lot No. 6, TMK: (3)4-6-013:022, LICENSEE shall:
 - i. Open and immediately close any gates on the lots;
 - ii. Not unnecessarily disturb any pasture land;
 - iii. Use the existing roadways within the lots; and

- iv. Regularly consult with lessees of the lots to ensure proper access on and through the lots.
- p. In the absence of administrative rules contemplated in paragraph 17 above,
- i. LICENSEE shall ensure users of the Water System have executed an operating agreement governing the protection, use and operation of the Water System;
 - ii. LICENSEE shall establish written policies and procedures to monitor and enforce the distribution of stock water;
 - iii. LICENSEE shall be responsible for setting rates and billing Water System users for use and fixed maintenance costs of said system, including any charges for water taken from the Water System, collecting the same, and paying DWS any amounts billed to LICENSEE;
 - iv. LICENSEE is responsible for all costs with operating and maintaining the Water System, and may charge subscribers an appropriate fee (e.g. meter, use, fixed maintenance costs);
 - v. LICENSOR shall inform all lessees who use the Water System that they must pay all fees pursuant to this License and as established by LICENSEE;
 - vi. LICENSOR shall inform all lessees who use the Water System that they assume liability of any costs and fees related to the collection of unpaid fees that accrue in relation to their Water System use; and
 - vii. LICENSEE's operating agreement with users shall include a formal process for LICENSEE to enforce such agreement, including collection of delinquent water bill payments and any noncompliance with LICENSEE's operating agreement with Water System users. LICENSEE shall first make every attempt to

collect delinquent water bill payments, including penalties, fees, LICENSEE associated costs, water service disconnect, and cure any other noncompliance issues before private legal action. If such efforts are unsuccessful, the LICENSEE may petition the Hawaiian Homes Commission for a contested case hearing for lease cancellation. LICENSOR shall not be party to any civil suit related to the violation of any rules, regulations, policies adopted by the LICENSEE.

viii. LICENSEE's operating agreement shall include a notice and waiver to users that water from the Water System is non-potable and not suitable for human consumption and shall not be used for irrigation.

When the administrative rules contemplated in paragraph 17 are adopted, the parties shall amend this license accordingly.

19. AGREEMENT. This agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal successors and assigns.

20. DISPUTE RESOLUTION. In the event of a dispute or disagreement arising from this License, the parties agree to enter into further good faith negotiations to reach an equitable solution satisfactory to both parties before resorting to arbitration, litigation, or some other dispute resolution procedure.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties hereto have caused these presents to be duly executed the day and year first above written.

Approved by the Hawaiian
Homes Commission at its
meeting held on:

State of Hawaii
DEPARTMENT OF HAWAIIAN HOME LANDS

APPROVED AS TO FORM:

By _____
William J. Aila, Jr., Chairman
Hawaiian Homes Commission

Deputy Attorney General
State of Hawaii

"LICENSOR"

WAI OLA HONOKAI'A

By _____
Name _____
Its _____

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

On this _____ day of _____, 2020, before me appeared William J. Aila, Jr., to me personally known, who, being by me duly sworn, did say that he is the Chairman of the Hawaiian Homes Commission and the person who executed the foregoing instrument and acknowledged to me that he executed the same freely and voluntarily for the use and purposes therein set forth.

Notary Public, State of Hawaii

Print Name: _____

My commission expires: _____

NOTARY CERTIFICATION STATEMENT

Document Identification or Description:

Doc. Date: _____ or ☐ Undated at time
of notarization.

No. of Pages: _____ Jurisdiction: First Circuit (in which
notarial act is performed)

Signature of Notary

Date of Notarization and
Certification Statement

Print Name of Notary

STATE OF HAWAII)
 : ss.
COUNTY OF HAWAII)

On this _____ day of _____, 20____, before me appeared _____, to me personally known, who, being by me duly sworn, did say that he is the _____ of the WAI OLA HONOKAI'A, a domestic nonprofit corporation, and that the seal affixed to said instrument is the corporate seal of said corporation, and that the instrument dated _____, containing _____ pages, being a _____, was signed and sealed in behalf of said corporation by authority of its _____, and said _____ acknowledged the instrument to be the free act and deed of said corporation.

Notary Public, Third Circuit of the
State of Hawaii

Print Name of Notary Public

My commission expires:

G:\DHHL\401 Honokaa\Non-Pot\300
DSGN\310 Plans\AU
Instat\DHHL\401-General Layout_180315.dwg
Last Save by: LRS
Last Saved: 12/8/2018
Plotted on: 4/7/2020

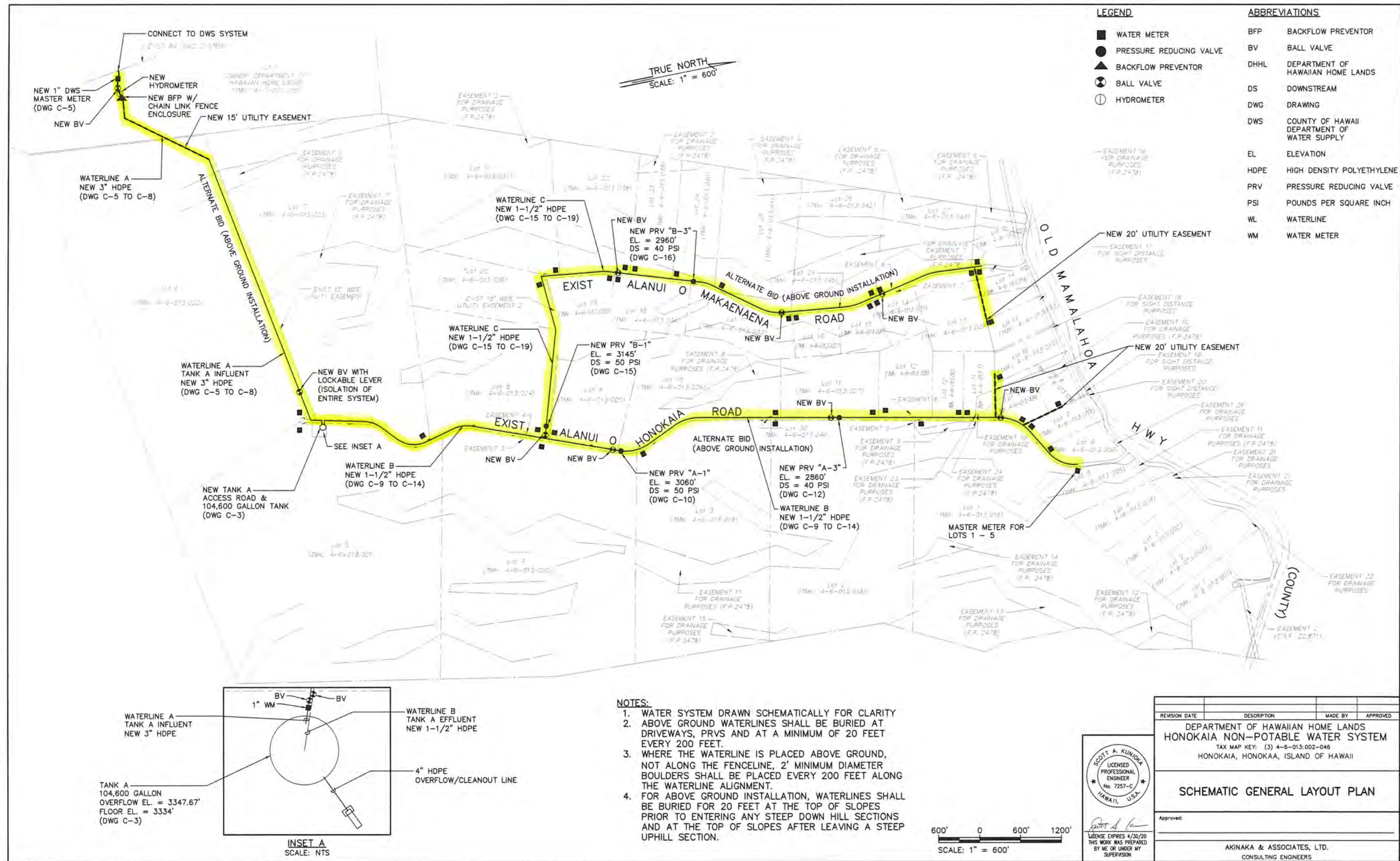


EXHIBIT A

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

September 21 & 22, 2020

TO: Chairman and Members, Hawaiian Homes Commission
FROM: Hokulei Lindsey, Administrative Rules Officer
SUBJECT: C-5 For Information Only – Report of the Investigative Committee on Native
Hawaiian Qualification Process

RELEVANT MATERIAL WILL BE DISTRIBUTED UNDER SEPARATE COVER.

ITEM NO. C-5



HAWAIIAN HOME LANDS

HAWAIIAN HOMES COMMISSION • DEPARTMENT OF HAWAIIAN HOME LANDS

C-6

For Information Only: Update on Administrative Rules for Supplemental Dwelling Units

September 21-22 2020



Roadmap

- Background
- Key Provisions
- Known Challenges
- Current Status



Background

- What is an “SDU”?
 - Supplemental Dwelling Unit
 - Smaller than the primary dwelling, separate entry, its own kitchen, bedroom, and bathroom
 - Includes “ohana dwelling unit” in Hawaii County and “additional dwelling unit” in Maui and Kauai Counties and the City and County of Honolulu



Background

- **Why on Hawaiian Home Lands?**
 - Crowding
 - Multi-generational households
 - Parity with the counties



Key Provisions & Challenges

- Pilot program
 - 5 years; review after 3 years; option to continue if found to be successful
 - All islands
- Residential lots only
 - Agriculture and Pastoral lots have options to increase number of dwellings
 - Beneficiary consultation feedback indicated a desire for all lot types to be eligible but staff recommendation was to limit to residential lots



Key Provisions & Challenges

- **Comply with County approval, permitting, and building code requirements**
 - Infrastructure capacity and occupant as well as public safety
 - Each county has its own terminology and its own process for approval and permitting



Key Provisions & Challenges

- **Waiver by the Commission and DHHL**
 - Lots in older developments in particular may not receive county approval
 - Commission may waive certain county requirements
 - If there is a denial by the county, DHHL may approve the SDU if the denial is based on lot conditions



Key Provisions & Challenges

- **Allowed uses**
 - Ohana occupancy; non-rental
 - Rental occupancy; tenant must be native Hawaiian as defined by the HHCA
- **No short term rentals**



Current Status

- Preparing to submit request to Governor for approval for public hearing

Mahalo



DEPARTMENT OF HAWAIIAN HOME LANDS

www.dhhl.hawaii.gov

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

August 18, 2020

TO: Chairman and Members, Hawaiian Homes Commission
FROM: Jobie Masagatani, Executive Assistant to the Chairman
SUBJECT: C-7 For Information Only – Report of the Investigative Committee on Native
Hawaiian Qualification Process

RELEVANT MATERIAL WILL BE DISTRIBUTED UNDER SEPARATE COVER.


ITEM NO. C-7

**HAWAIIAN HOMES COMMISSION
SEPTEMBER 21 & 22, 2020
TELECONFERENCE
9:30 A.M.**

**D – ITEMS
HOMESTEAD SERVICES DIVISION**

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

September 21, 2020

TO: Chairman and Members, Hawaiian Homes Commission
From: Juan Garcia, HSD Administrator 
SUBJECT: **Homestead Services Division Status Reports**

RECOMMENDED MOTION/ACTION

NONE

DISCUSSION

The following reports are for information only:

Exhibit A: Homestead Lease & Application Totals
and Monthly Activity Reports
Exhibit B: Delinquency Report
Exhibit C: DHHL Guarantees for FHA Construction
Loans

September 21, 2020

SUBJECT: Homestead Lease and Application Totals and Monthly Activity Reports

LEASE ACTIVITY REPORT

Month through August 31, 2020

	As of 7/31/20	Add	Cancel	As of 8/31/20
Residential	8,437	4	0	8,441
Agricultural	1,095	0	0	1,095
Pastoral	410	0	0	410
Total	9,942	4	0	9,946

The number of Converted Undivided Interest Lessees represents an increase of 517 families moving into homes. Their Undivided Interest lease was converted to a regular homestead lease.

	As of 7/31/20	Converted	Rescinded/ Surrendered/ Cancelled	As of 8/31/20
Undivided	804	0	0	804

Balance as of 8/31/2020

Awarded	1,434
Relocated to UNDV	7
Rescinded	111
Surrendered	5
Cancelled	4
Converted	517
Balance to Convert	804

Lease Report For the Month Ending August 31, 2020

	RESIDENCE				AGRICULTURE				PASTURE				TOTAL LEASES			
	Last Month	Add	Cancel	TOTAL	Last Month	Add	Cancel	TOTAL	Last Month	Add	Cancel	TOTAL	Last Month	Add	Cancel	TOTAL
OAHU																
Kakaina	24	0	0	24	0	0	0	0	0	0	0	0	24	0	0	24
Kalawahine	90	0	0	90	0	0	0	0	0	0	0	0	90	0	0	90
Kanehili	379	1	0	380	0	0	0	0	0	0	0	0	379	1	0	380
Kapolei	193	0	0	193	0	0	0	0	0	0	0	0	193	0	0	193
Kauluokahai	100	0	0	100	0	0	0	0	0	0	0	0	100	0	0	100
Kaupea	326	0	0	326	0	0	0	0	0	0	0	0	326	0	0	326
Kaupuni	19	0	0	19	0	0	0	0	0	0	0	0	19	0	0	19
Kewalo	248	0	0	248	0	0	0	0	0	0	0	0	248	0	0	248
Kumuohau	52	0	0	52	0	0	0	0	0	0	0	0	52	0	0	52
Luahale	148	0	0	148	31	0	0	31	0	0	0	0	179	0	0	179
Makua	226	0	0	226	0	0	0	0	0	0	0	0	226	0	0	226
Nanakuli	1,045	0	0	1,045	0	0	0	0	0	0	0	0	1,045	0	0	1,045
Papaikou	65	0	0	65	0	0	0	0	0	0	0	0	65	0	0	65
Princess Kahanu Estates	271	0	0	271	0	0	0	0	0	0	0	0	271	0	0	271
Waialae	0	0	0	0	16	0	0	16	0	0	0	0	16	0	0	16
Waianae	421	0	0	421	11	0	0	11	0	0	0	0	432	0	0	432
Waimanalo	721	0	0	721	2	0	0	2	0	0	0	0	723	0	0	723
TOTAL	4,328	1	0	4,329	60	0	0	60	0	0	0	0	4,388	1	0	4,389
MAUI																
Hikina	31	0	0	31	0	0	0	0	0	0	0	0	31	0	0	31
Kahikinui	0	0	0	0	0	0	0	0	75	0	0	75	75	0	0	75
Keokea	0	0	0	0	65	0	0	65	0	0	0	0	65	0	0	65
Leaili	104	0	0	104	0	0	0	0	0	0	0	0	104	0	0	104
Paukukalo	179	0	0	179	0	0	0	0	0	0	0	0	179	0	0	179
Waiehu 1	39	0	0	39	0	0	0	0	0	0	0	0	39	0	0	39
Waiehu 2	109	0	0	109	0	0	0	0	0	0	0	0	109	0	0	109
Waiehu 3	114	0	0	114	0	0	0	0	0	0	0	0	114	0	0	114
Waiehu 4	97	0	0	97	0	0	0	0	0	0	0	0	97	0	0	97
Waiohuli	593	0	0	593	0	0	0	0	0	0	0	0	593	0	0	593
TOTAL	1,266	0	0	1,266	65	0	0	65	75	0	0	75	1,406	0	0	1,406
EAST HAWAII																
Discovery Harbour	2	0	0	2	0	0	0	0	0	0	0	0	2	0	0	2
Kamoa	0	0	0	0	0	0	0	0	25	0	0	25	25	0	0	25
Kaunana	42	0	0	42	0	0	0	0	0	0	0	0	42	0	0	42
Keaukaha	471	1	0	472	0	0	0	0	0	0	0	0	471	1	0	472
Kurtistown	3	0	0	3	0	0	0	0	0	0	0	0	3	0	0	3
Makua	0	0	0	0	122	0	0	122	0	0	0	0	122	0	0	122
Panaua	0	0	0	0	262	0	0	262	0	0	0	0	262	0	0	262
Pihonua	17	0	0	17	0	0	0	0	0	0	0	0	17	0	0	17
Puueo	0	0	0	0	12	0	0	12	0	0	0	0	12	0	0	12
University Heights	4	0	0	4	0	0	0	0	0	0	0	0	4	0	0	4
Waikeke	299	0	0	299	0	0	0	0	0	0	0	0	299	0	0	299
TOTAL	838	1	0	839	396	0	0	396	25	0	0	25	1,259	1	0	1,260
WEST HAWAII																
Honokaa	0	0	0	0	0	0	0	0	24	0	0	24	24	0	0	24
Huonua	0	0	0	0	0	0	0	0	5	0	0	5	5	0	0	5
Kamoku	0	0	0	0	0	0	0	0	16	0	0	16	16	0	0	16
Kanaloa	224	0	0	224	0	0	0	0	0	0	0	0	224	0	0	224
Kawahae	191	0	0	191	0	0	0	0	1	0	0	1	192	0	0	192
Laiopua	284	0	0	284	0	0	0	0	0	0	0	0	284	0	0	284
Lalamo	30	0	0	30	0	0	0	0	0	0	0	0	30	0	0	30
Nihoa	0	0	0	0	0	0	0	0	21	0	0	21	21	0	0	21
Puukapu/Waimea/Kuhio VII	116	0	0	116	110	0	0	110	215	0	0	215	441	0	0	441
Puupulehu	33	0	0	33	0	0	0	0	0	0	0	0	33	0	0	33
TOTAL	878	0	0	878	110	0	0	110	282	0	0	282	1,270	0	0	1,270
KAUAI																
Anahola	532	0	0	532	46	0	0	46	0	0	0	0	578	0	0	578
Hanalei	47	0	0	47	0	0	0	0	0	0	0	0	47	0	0	47
Kekaha	117	0	0	117	0	0	0	0	0	0	0	0	117	0	0	117
Puu Opea	0	0	0	0	0	0	0	0	1	0	0	1	1	0	0	1
TOTAL	696	0	0	696	46	0	0	46	1	0	0	1	743	0	0	743
MOLOKAI																
Hoolehua	154	0	0	154	344	0	0	344	21	0	0	21	519	0	0	519
Kalamaua	165	0	0	165	71	0	0	71	3	0	0	3	239	0	0	239
Kapaakea	47	0	0	47	0	0	0	0	3	0	0	3	50	0	0	50
Momomi	0	0	0	0	3	0	0	3	0	0	0	0	3	0	0	3
O'ne Ahi	27	0	0	27	0	0	0	0	0	0	0	0	27	0	0	27
TOTAL	393	0	0	393	418	0	0	418	27	0	0	27	838	0	0	838
LANAI																
Lanai	38	2	0	40	0	0	0	0	0	0	0	0	38	2	0	40
TOTAL	38	2	0	40	0	0	0	0	0	0	0	0	38	2	0	40
STATEWIDE TOTAL	8,437	4	0	8,441	1,095	0	0	1,095	410	0	0	410	9,942	4	0	9,946

HOMESTEAD AREA AND ISLANDWIDE APPLICATIONS WAITING LIST MONTHLY REPORT FOR THE MONTH ENDING
August 31, 2020

AREA WAITING LIST

DISTRICT AREA	RESIDENCE				AGRICULTURE				PASTURE			
	Last Month	Add	Cancel	TOTAL	Last Month	Add	Cancel	TOTAL	Last Month	Add	Cancel	TOTAL
Oahu District	952	0	1	951	0	0	0	0	0	0	0	951
Maui District	50	0	0	50	4	0	0	4	5	0	0	59
Hawaii District	130	0	0	130	28	0	0	28	46	0	0	204
Kauai District	51	0	0	51	3	0	0	3	28	0	0	82
Molokai District	20	0	0	20	18	0	0	18	1	0	0	39
TOTAL	1,203	0	1	1,202	53	0	0	53	80	0	0	1,335

ISLANDWIDE WAITING LIST

ISLAND	RESIDENCE				AGRICULTURE				PASTURE			
	Last Month	Add	Cancel	TOTAL	Last Month	Add	Cancel	TOTAL	Last Month	Add	Cancel	TOTAL
Oahu	9,907	13	0	9,920	3,805	8	0	3,813	0	0	0	13,733
Maui	3,807	3	1	3,809	4,664	1	1	4,664	615	1	0	9,089
Hawaii	5,767	12	2	5,777	7,242	11	4	7,249	1,880	2	0	14,908
Kauai	1,651	0	4	1,647	2,236	1	1	2,236	299	0	0	4,182
Molokai	817	0	0	817	1,075	2	0	1,077	204	0	0	2,098
Lanai	81	0	5	76	0	0	0	0	0	0	0	76
TOTAL	22,030	28	12	22,046	19,022	23	6	19,039	2,998	3	0	44,086

AREA AND ISLANDWIDE LISTS

	RES				AG				PAS				TOTAL				ADDITIONS				CANCELLATIONS							
OAHU	10,871	3,813	0	14,684																								
MAUI	3,859	4,668	621	9,148																								
HAWAII	5,907	7,277	1,928	15,112																								
KAUAI	1,698	2,239	327	4,264																								
MOLOKAI	837	1,095	205	2,137																								
LANAI	76	0	0	76																								
TOTAL	23,248	19,092	3,081	45,421																								
					</																							

HOMESTEAD AREA AND ISLANDWIDE APPLICATIONS WAITING LIST MONTHLY REPORT FOR THE MONTH ENDING

August 31, 2020

	RESIDENCE				AGRICULTURE				PASTURE			
	Last Month	Add	Cancel	TOTAL	Last Month	Add	Cancel	TOTAL	Last Month	Add	Cancel	TOTAL
OAHU DISTRICT												
Nanakuli	168	0	1	167	0	0	0	0	0	0	0	0
Waiānae	142	0	0	142	0	0	0	0	0	0	0	0
Lualualei	0	0	0	0	0	0	0	0	0	0	0	0
Papāhāna/Keāloa	70	0	0	70	0	0	0	0	0	0	0	0
Waimanalo	572	0	0	572	0	0	0	0	0	0	0	0
Subtotal Area	952	0	1	951	0	0	0	0	0	0	0	0
Islandwide	9,907	13	0	9,920	3,805	8	0	3,813	0	0	0	0
TOTAL OAHU APPS	10,859	13	1	10,871	3,805	8	0	3,813	0	0	0	0
MAUI DISTRICT												
Paukukalo	50	0	0	50	0	0	0	0	0	0	0	0
Kula	0	0	0	0	4	0	0	4	0	0	0	0
Subtotal Area	50	0	0	50	4	0	0	4	5	0	0	5
Islandwide	3,807	3	1	3,809	4,664	1	1	4,664	615	1	0	616
TOTAL MAUI APPS	3,857	3	1	3,859	4,668	1	1	4,668	620	1	0	621
HAWAII DISTRICT												
Keāukaha/Wāialeale	69	0	0	69	0	0	0	0	0	0	0	0
Pānāe	0	0	0	0	16	0	0	16	0	0	0	0
Huānui	0	0	0	0	0	0	0	0	0	0	0	0
Kāwāihāe	16	0	0	16	0	0	0	0	0	0	0	0
Wāialeale	45	0	0	45	12	0	0	12	46	0	0	46
Subtotal Area	130	0	0	130	28	0	0	28	46	0	0	46
Islandwide	5,767	12	2	5,777	7,242	11	4	7,249	1,880	2	0	1,882
TOTAL HAWAII APPS	5,897	12	2	5,907	7,270	11	4	7,277	1,926	2	0	1,928
KAUAI DISTRICT												
Anahā	43	0	0	43	3	0	0	3	21	0	0	21
Keāhā/Puu Opaē	8	0	0	8	0	0	0	0	7	0	0	7
Subtotal Area	51	0	0	51	3	0	0	3	28	0	0	28
Islandwide	1,651	0	4	1,647	2,236	1	1	2,236	299	0	0	299
TOTAL KAUAI APPS	1,702	0	4	1,698	2,239	1	1	2,239	327	0	0	327
MOLOKAI DISTRICT												
Kālamā	4	0	0	4	0	0	0	0	0	0	0	0
Hoolēhā	8	0	0	8	18	0	0	18	1	0	0	1
Kapaakea	7	0	0	7	0	0	0	0	0	0	0	0
One Alii	1	0	0	1	0	0	0	0	0	0	0	0
Subtotal Area	20	0	0	20	18	0	0	18	1	0	0	1
Islandwide	817	0	0	817	1,075	2	0	1,077	204	0	0	204
TOTAL MOLOKAI APPS	837	0	0	837	1,093	2	0	1,095	205	0	0	205
LANAI DISTRICT												
Islandwide	81	0	5	76	0	0	0	0	0	0	0	0
TOTAL LANAI APPS	81	0	5	76	0	0	0	0	0	0	0	0
TOTAL AREA ONLY	1,203	0	1	1,202	53	0	0	53	80	0	0	80
TOTAL ISLANDWIDE	22,030	28	12	22,046	19,022	23	6	19,039	2,998	3	0	3,001
TOTAL STATEWIDE	23,233	28	13	23,248	19,075	23	6	19,092	3,078	3	0	3,081

DELINQUENCY REPORT - STATEWIDE

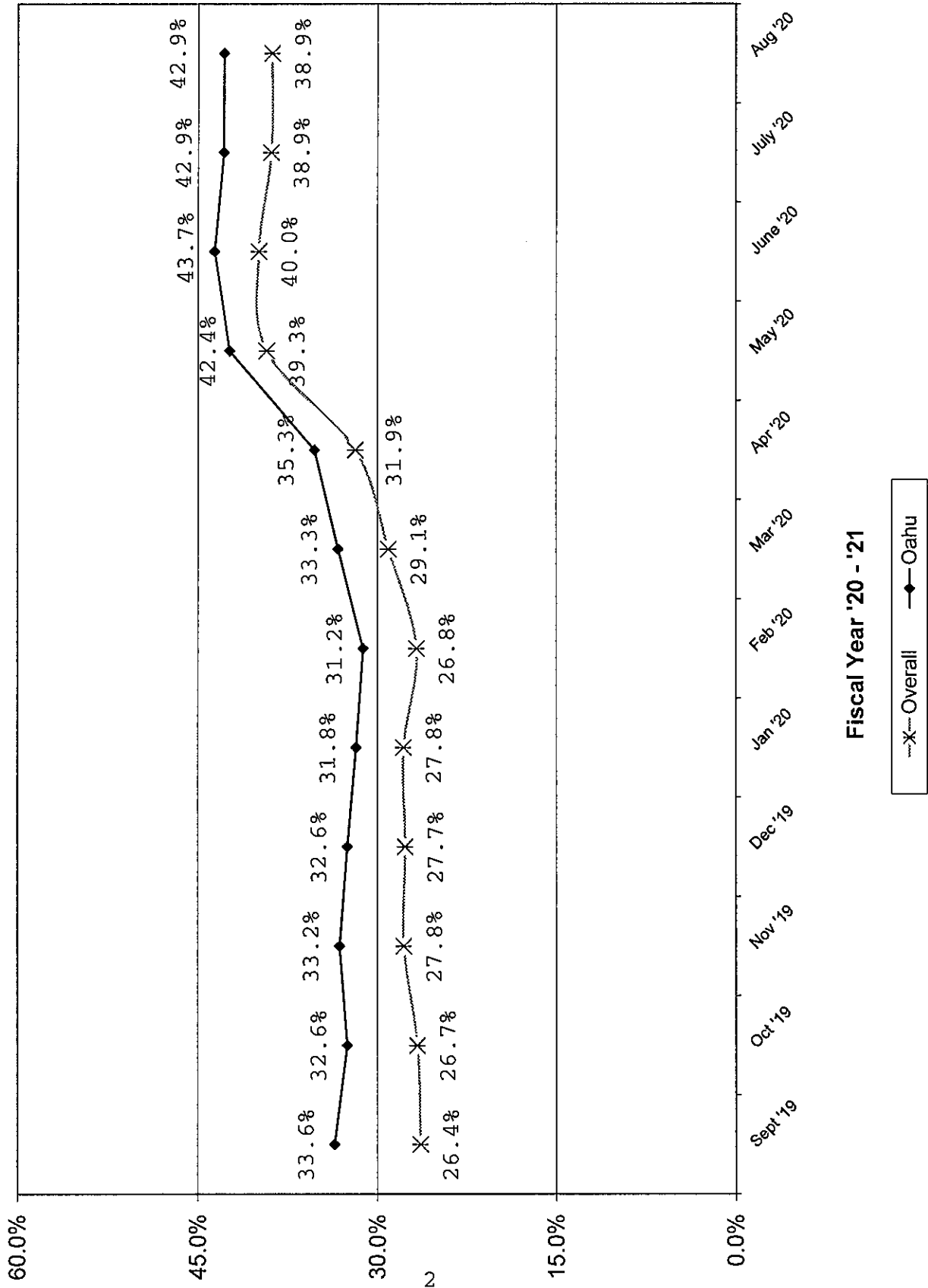
September 21, 2020

(\$Thousands)

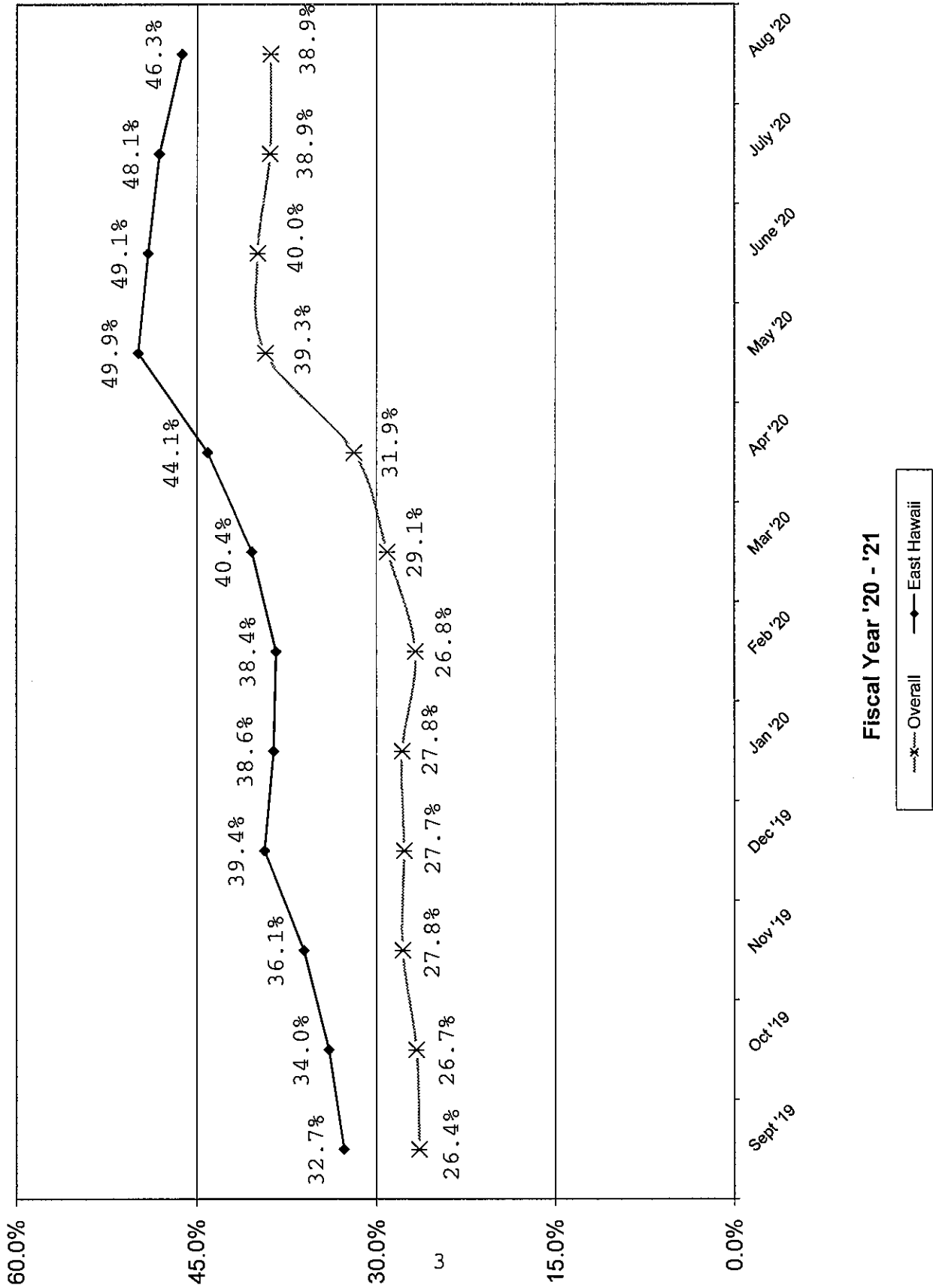
DIRECT LOANS	R I S K										% of Totals	
	Total Outstanding		Total Delinquency		30 Days (low)		60 Days (Medium)		90 Days (High)		180 Days (Severe)	
	No.	Amt. (000s)	No.	Amt. (000s)	No.	Amt. (000s)	No.	Amt. (000s)	No.	Amt. (000s)	No.	Amt. (000s)
OAHU	394	37,023	158	15,881	11	839	13	1,004	67	6,868	67	7,170
EAST HAWAII	211	12,749	88	5,897	6	267	3	175	38	2,042	41	3,412
WEST HAWAII	86	8,729	20	1,859	5	299	1	100	9	1,088	5	371
MOLOKAI	85	6,873	21	1,019	1	153	2	54	7	317	11	495
KAUAI	97	7,570	29	2,311	4	449	1	55	19	1,454	5	354
MAUI	93	12,243	47	6,129	2	145	2	82	31	3,904	12	1,998
TOTAL DIRECT	966	85,188	363	33,095	29	2,151	22	1,459	171	15,674	141	13,801
	100.0%	100.0%	37.6%	38.8%	3.0%	2.5%	2.3%	1.7%	17.7%	18.4%	14.6%	16.2%
Advances (including RPT)	244	8,333	244	8,333	0	0	0	0	244	8,333	100%	100%
DHHL LOANS & Advances	1,210	93,522	607	41,428	29	2,151	22	1,459	415	24,007	141	13,801
LOAN GUARANTEES as of June 30, 2019												
SBA	1	88	0	0	0	0	0	0	0	0	0.0%	0.0%
USDA-RD	297	35,079	53	6,039	0	0	0	0	53	6,039	17.8%	17.2%
Habitat for Humanity	56	2,142	22	896	0	0	0	0	22	896	39.3%	41.8%
Maui County	5	74	0	0	0	0	0	0	0	0	0.0%	0.0%
Nanakuli NHS	1	7	1	7	0	0	0	0	1	7	100.0%	100.0%
City & County	14	274	12	258	0	0	0	0	12	258	85.7%	94.2%
FHA Interim	11	1,445	0	0	0	0	0	0	0	0	0.0%	0.0%
OHA	21	87	1	6	0	0	0	0	1	6	4.8%	6.9%
TOTAL GUARANTEE	406	39,196	89	7,206	0	0	0	0	89	7,206	21.9%	18.4%
PMI Loans	167	25,155	6	1,198	3	549	1	233	2	416	3.6%	4.8%
HUD REASSIGNED for Recovery	157	19,235	137	17,708	2	54	0	0	7	549	87.3%	92.1%
FHA Insured Loans	2,819	460,207	346	58,361	0	0	0	0	346	58,361	12.3%	12.7%
TOTAL INS. LOANS	3,143	504,597	489	77,267	5	603	1	233	355	59,326	128	17,105
OVERALL TOTALS(EXC Adv/RPT's)	4,515	628,982	941	117,567	34	2,754	23	1,702	615	82,205	269	30,906
ADJUSTED TOTALS	4,759	637,315	1,185	125,901	34	2,754	23	1,702	859	90,539	269	30,906

Note: HUD 184A loan program has 499 loans, with a total outstanding principal balance of \$111,905,370.46 as of June 30, 2019. 23 loans, totalling \$5,381,378.94 are delinquent.

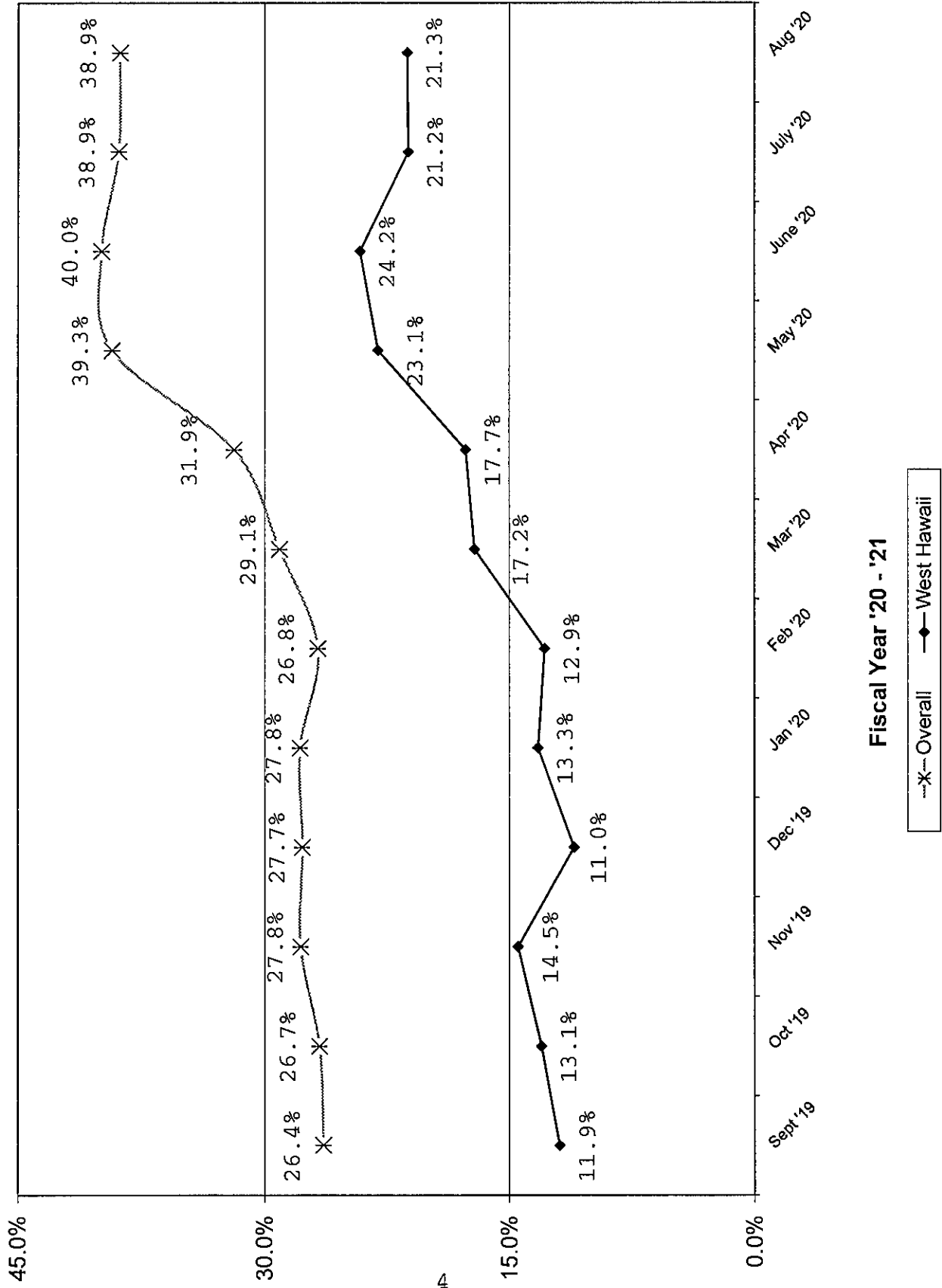
OAHU Direct Loans Delinquency Ratio Report



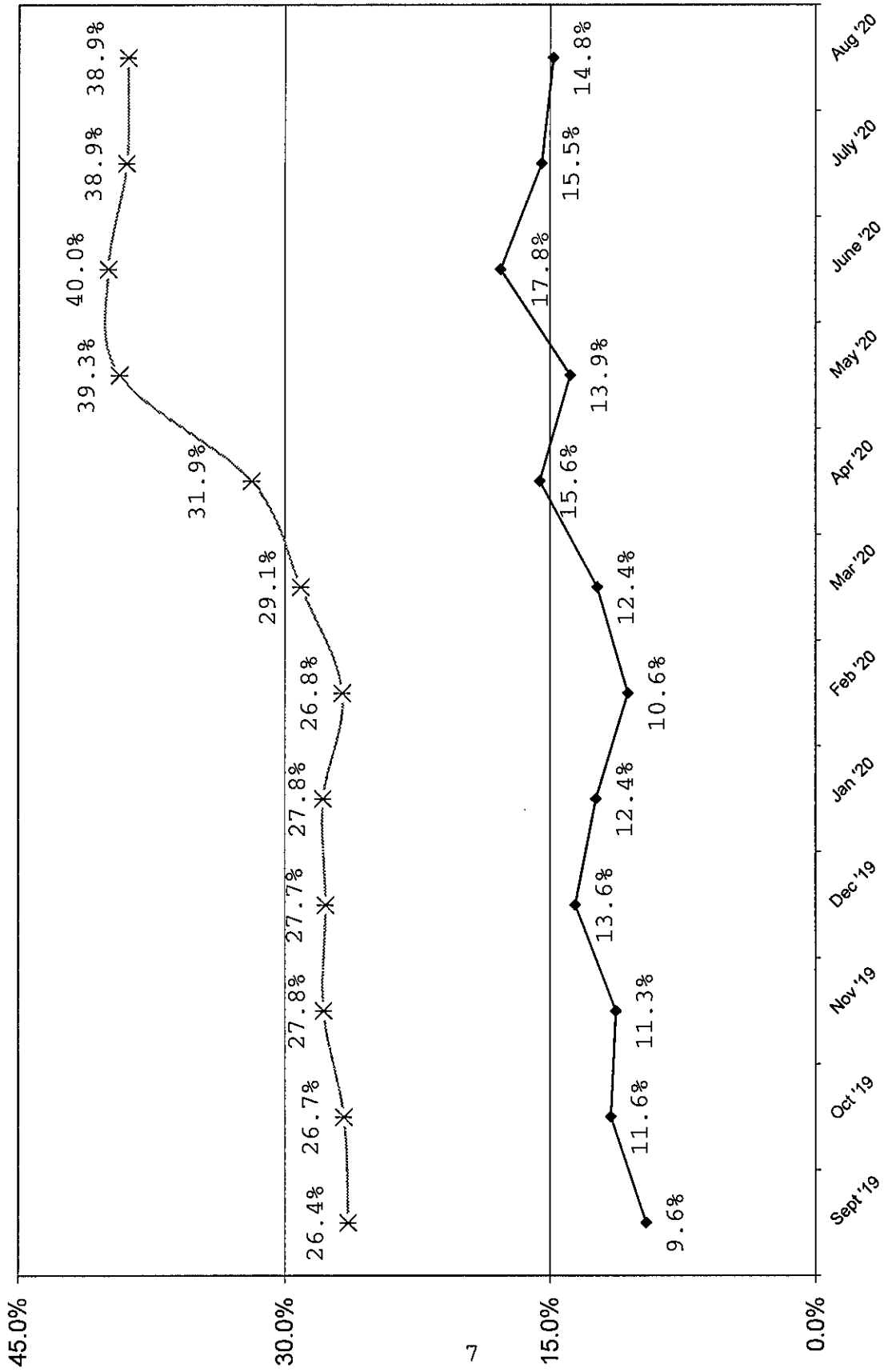
EAST HAWAII Direct Loans Delinquency Ratio Report



WEST HAWAII
Direct Loans
Delinquency Ratio Report



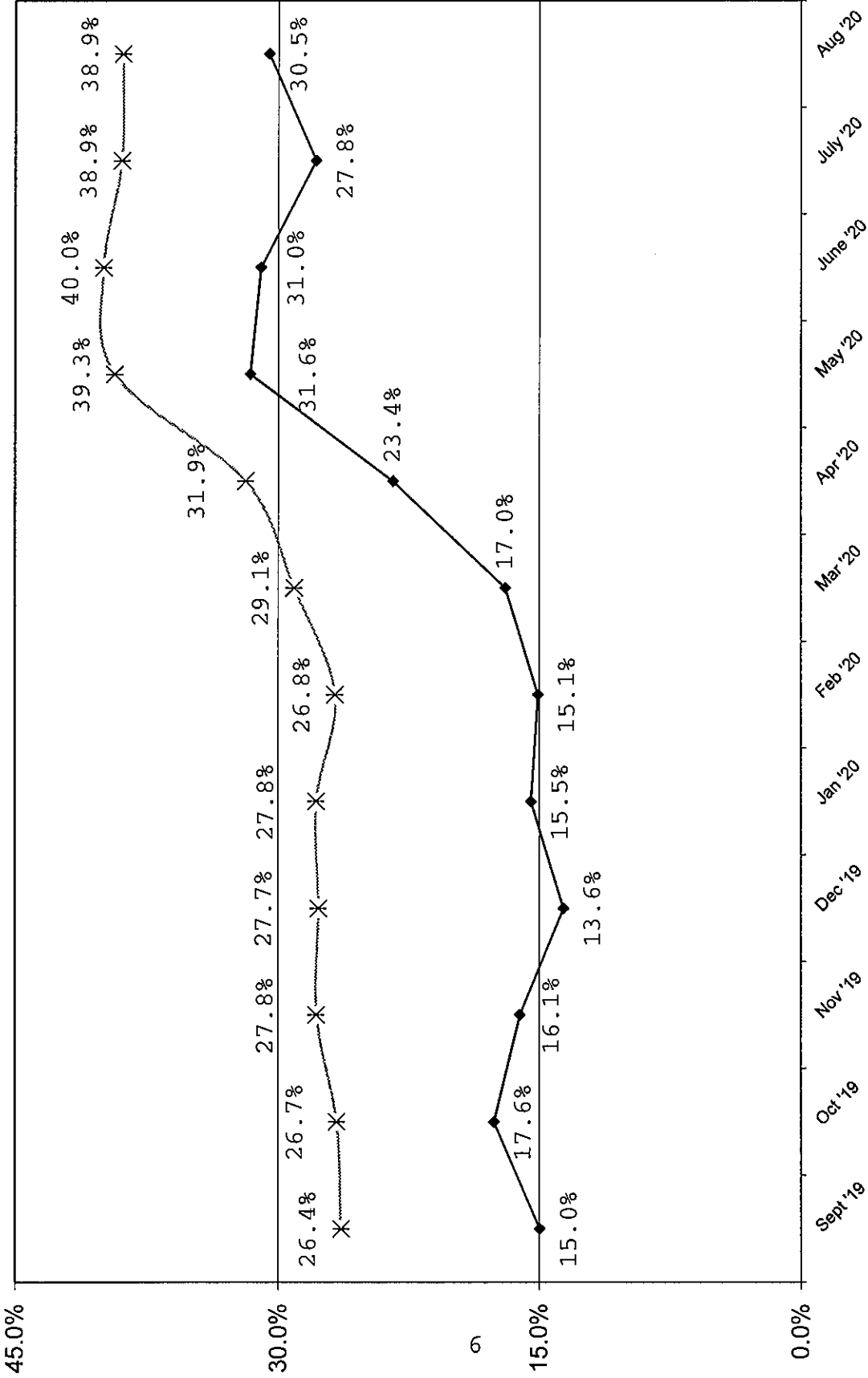
MOLOKAI
Direct Loans
Delinquency Ratio Report



Fiscal Year '20 - '21

---x--- Overall ---◆--- Molokai

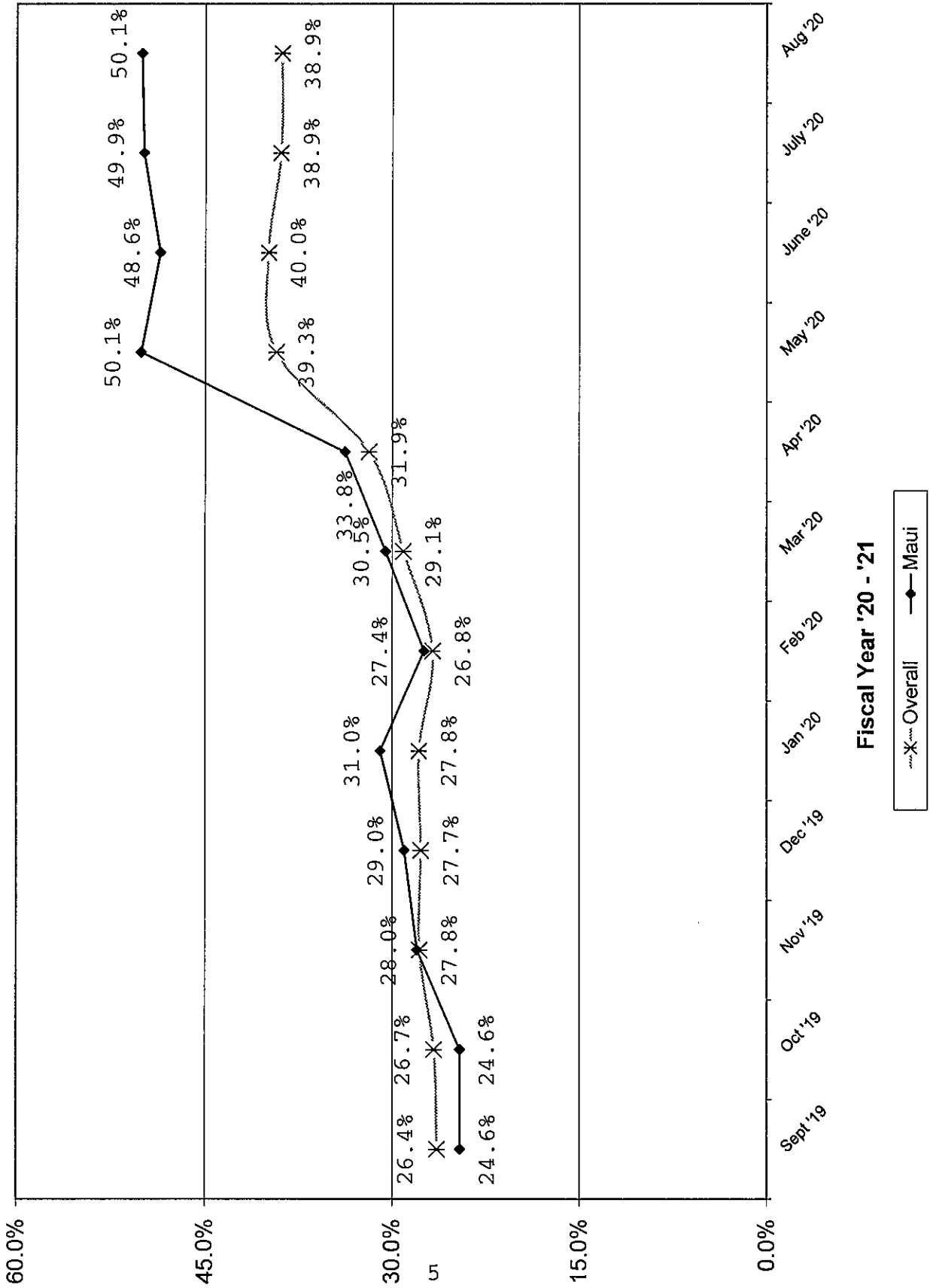
KAUAI Direct Loans Delinquency Ratio Report



Fiscal Year '20 - '21

---x--- Overall ---◆--- Kauai

MAUI
Direct Loans
Delinquency Ratio Report



September 21, 2020

SUBJECT: **DHHL Guarantees for FHA Construction Loans**

DISCUSSION: The Department issues guarantees to FHA lenders during the construction period of a home, as FHA does not insure the loan until the home is completed. The loan term for these loans do not exceed fifteen (15) months from the date of loan signing. The following FHA Interim Construction loans were issued guarantees:

*Note: FHA loans are insured by the U.S. Department of Housing and Urban Development (HUD) and do not impact the State's guaranty ceiling.


<u>LEASE NO.</u>	<u>AREA</u>	<u>LESSEE</u>	<u>Loan Amount</u>	<u>Date Approved</u>
1822	Nanakuli	Watson, Aljon K.H.M.	\$347,494	8/24/20

	<u>No.</u>	<u>Balance</u>
FY Ending 6/30/20	9	\$ 2,648,717
Previous Months	0	\$ -0-
This Month	<u>1</u>	<u>347,494</u>
FY '20-'21 to date	1	\$ 347,494

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

September 21, 2020

TO: Chairman and Members, Hawaiian Homes Commission
THRU: Juanito Garcia, HSD Administrator 
FROM: Dean Oshiro, Loan Services Branch Manager
SUBJECT: Approval To Extend Postponement of Mortgage Payments

RECOMMENDED MOTION/ACTION

To approve the continuance of postponement of mortgage loan payments for all Department of Hawaiian Home Lands ("DHHL") direct loans and loans assigned to DHHL for an additional three (3) month period, effective with the October 2020 payment.

Requests for further postponements of an additional three (3) months, if needed, to be delegated to the Chairman for consideration/action.

DISCUSSION

The Hawaiian Homes Act ("HHCA") Section 215 (2) reads...
"The payment of any installment due shall be postponed in whole or in part by the department for such reasons as it deems good and sufficient and until such later date as it deems advisable. Such postponed payments shall continue to bear interest on the unpaid principal at the rate established for the loan."

On March 24, 2020, The Hawaiian Homes Commission approved the postponement of mortgage loan payments for all DHHL direct loans and loans assigned to DHHL for a period of six (6) months, effective with the April 2020 payment. It also approved that lessees/borrowers that may need an additional six (6) months postponement can request relief from the department and will be evaluated on a case-by case basis. (see Exhibit A)

A report for the period ended August 31, 2020 prepared by DHHL's Fiscal Division, reflected that roughly 85% (135 of 158) of the loans reassigned by HUD/FHA took advantage of postponing one or more payments since April. In contrast, only 48% (465 of 961) of the accounts in the direct loan portfolio will have one or more payments being postponed.

As COVID 19 continues to impact the health and the finances on a global scale, many of our lessees/borrowers have been or will continue to be affected. Individuals have been laid off, have had a reduction in income due to work hours being decreased, have taken time off (maybe without pay) to care for themselves or family members who have contracted the virus or are "quarantined" due to the virus, as well as other various reasons.

Recent statistics related to COVID-19 reflect triple digit cases on a daily basis and the Mayor of Honolulu implementing a new "Act Now Honolulu - No Social Gatherings" order which was effective August 20, 2020 to September 16, 2020.

On August 25, 2020, another order; "Stay At Home, Work From Home" was issued to be effective for two (2) weeks from August 27, 2020 through September 9, 2020. This order compounds the economic issue as all "non-essential" businesses were once again forced to close like the action taken back in March of 2020.

Due to unforeseeable financial consequences that these orders are having on beneficiaries, DHHL is proposing to extend the postponement of mortgage loan payments beginning October 2020 payment through the December 2020 payment. The billing of payments will then once again begin with the January 2021 payment. As with the initial action, interest will continue to accrue during the postponement period however, no late fees shall be assessed.

Payments postponed shall be deferred to the maturity date of the loan. If the contract does not specify a maturity date, once the postponement period ends, the contracted loan payments shall continue until the loan is paid in full.

If a lessee/borrower decides to continue making payments or makes a payment during this period, DHHL will process the payment as in the normal course of business.

We humbly request approval of this item as submitted.

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

March 24, 2020

TO: Chairman and Members, Hawaiian Homes Commission

FROM: Dean Oshiro, Acting Administrator,
Homestead Services Division

SUBJECT: Postponement of Mortgage Payments

RECOMMENDED MOTION/ACTION

To approve the postponement of mortgage loan payments for all Department of Hawaiian Home Lands ("DHHL") direct loans and loans assigned to DHHL for a period of six (6) months, effective with the April 2020 payment.

Lessees/borrowers that may need an additional six (6) months postponement can request relief from the department and will be evaluated on a case-by case basis. Requests for further postponements will be presented to the Hawaiian Homes Commission for consideration/action.

DISCUSSION

The Hawaiian Homes Act ("HHCA") Section 215 (2) reads....
"The payment of any installment due shall be postponed in whole or in part by the department for such reasons as it deems good and sufficient and until such later date as it deems advisable. Such postponed payments shall continue to bear interest on the unpaid principal at the rate established for the loan."

As COVID 19 continues to impact the health and the finances on a global scale, many of our lessees/borrowers have been or will also be affected. Individuals have been laid off, have had a reduction in income due to work hours being decreased, have taken time off (maybe without pay) to care for themselves or family members who have contracted the virus or are "quarantined" due to the virus, as well as other various reasons.

As such, DHHL is proposing to postpone mortgage loan payments beginning with the April 2020 payment through the September 2020

ITEM NO. D-1

ITEM NO. D-2
EXHIBIT A

payment. The billing of payments will then begin with the October 2020 payment, unless the postponement is continued for an additional six (6) months for just cause, which would then initiate payments again in April of 2021. Interest will continue to occur during the postponement period however, no late fees shall be assessed.

Payments postponed shall be deferred to the maturity date of the loan. If the contract does not specify a maturity date, once the postponement period ends, the contracted loan payments shall continue until the loan is paid in full.

If a lessee/borrower decides to continue making payments or makes a payment during this period, DHHL will process the payment as in the normal course of business.


We humbly request approval of this item as submitted.

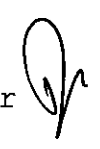
STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

September 21, 2020

TO: Chairman and Members, Hawaiian Homes Commission

THRU: Juan Garcia, HSD Administrator 
Homestead Services Division

FROM: Dean Oshiro, Loan Services Branch Manager 

SUBJECT: **Ratification of Loan Approvals**

RECOMMENDED MOTION/ACTION

To ratify the approval of the following loan previously approved by the Chairman, pursuant to section 10-2-17, Ratification of chairman's action, of the Department of Hawaiian Home Lands Administrative Rules.

<u>LESSEE</u>	<u>LEASE NO. & AREA</u>	<u>LOAN TERMS</u>
Kalauli, Keni L.	18664, Kanehili	NTE \$290,000 @ 4.5% interest per annum, NTE \$1,470 monthly, repayable over 30 years

Loan Purpose: Purchase existing improvements in conjunction with a new lease award.

<u>LESSEE</u>	<u>LEASE NO. & AREA</u>	<u>LOAN TERMS</u>
Bell, Russell V.I.	TBD, Kauluokahai	<p>Loan #1: Interim construction loan NTE \$360,000, 4.5% interest per annum, 1-year term, interest only payments</p> <p>Loan #2: Permanent mortgage loan to payoff Loan #1. NTE \$360,000, 4.5% interest per annum, NTE \$1,825 monthly, repayable over 30 years</p>

Loan Purpose: Construct a new home.

Kekahuna, Lauae K.	6973-B, Maku'u	<p>Loan #1: Interim construction loan NTE \$195,500, 4.5% interest per annum, 1-year term, interest only payments</p> <p>Loan #2: Permanent mortgage loan to payoff Loan #1. NTE \$195,500, 4.5% interest per annum, NTE \$991 monthly, repayable over 30 years</p>
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Loan Purpose: Construct a new home.

<u>REFINANCE</u>	<u>NO.</u>	<u>LOAN AMOUNT</u>
FY Ending 6/30/20	4	\$ 560,760
Prior Months	1	222,000
This Month	<u>0</u>	<u>-0-</u>
Total FY '20-'21	1	\$ 222,000
 <u>REPAIR</u>	 <u>NO.</u>	 <u>LOAN AMOUNT</u>
FY Ending 6/30/20	0	\$ -0-
Prior Months	0	-0-
This Month	<u>0</u>	<u>-0-</u>
Total FY '20-'21	0	\$ -0-
 <u>HOME CONSTRUCTION</u>	 <u>NO.</u>	 <u>LOAN AMOUNT</u>
FY Ending 6/30/20	0	\$ -0-
Prior Months	0	-0-
This Month	<u>2</u>	<u>555,500</u>
Total FY '20-'21	2	\$ 555,500
 <u>FARM</u>	 <u>NO.</u>	 <u>LOAN AMOUNT</u>
FY Ending 6/30/20	0	\$ -0-
Prior Months	0	-0-
This Month	<u>0</u>	<u>-0-</u>
Total FY '20-'21	0	\$ -0-
 <u>TRANSFER WITH LOAN</u>	 <u>NO.</u>	 <u>LOAN AMOUNT</u>
FY Ending 6/30/20	0	\$ -0-
Prior Months	0	-0-
This Month	<u>0</u>	<u>-0-</u>
Total FY '20-'21	0	\$ -0-
 <u>AWARD</u>	 <u>NO.</u>	 <u>LOAN AMOUNT</u>
FY Ending 6/30/20	4	\$ 491,818
Prior Months	0	-0-
This Month	<u>1</u>	<u>290,000</u>
Total FY '20-'21	1	\$ 290,000
 <u>OTHER</u>	 <u>NO.</u>	 <u>LOAN AMOUNT</u>
FY Ending 6/30/20	0	\$ -0-
Prior Months	0	-0-
This Month	<u>0</u>	<u>-0-</u>
Total FY '20-'21	0	\$ -0-

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

September 21, 2020

TO: Chairman and Members, Hawaiian Homes Commission

THROUGH: Juan Garcia, HSD Administrator
Homestead Services Division

FROM: Dean Oshiro, Loan Services Branch Manager

SUBJECT: **Approval of Consent to Mortgage**

RECOMMENDED MOTION/ACTION

To approve the following consents to mortgages for Federal Housing Administration (FHA) insured loans, Department of Veterans Affairs (VA) loans, United States Department of Agriculture, Rural Development (USDA, RD) guaranteed loans, United States Housing and Urban Development (HUD 184A) guaranteed loans and Conventional (CON) loans insured by private mortgage insurers.

DISCUSSION

<u>PROPERTY</u>	<u>LESSEE</u>	<u>LENDER</u>	<u>LOAN AMOUNT</u>
<u>OAHU</u>			
Maluohai Lease No. 9801 TMK: 1-9-1-119:040	MENTO, Nola K. P. (FHA)Cash Out Refi	Mid America Mortgage Inc.	\$ 313,000
Waimanalo Lease No. 8222 TMK: 1-4-1-037:034	KAOPUA, Isaac James, Jr. (FHA)Streamline Refi	HighTechLen- ding Inc.	\$ 379,000
Lualualei Lease No. 8707 TMK: 1-8-6-023:145	PAAKAULA, Lori L. (FHA)Rate Term Refi	HighTechLen- ding Inc.	\$ 175,000

OAHU

Nanakuli Lease No. 3788 TMK: 1-8-9-009:086	GIFFORD, Steve P. (FHA)Cash Out Refi	Mason- McDuffie Mortgage Corp	\$ 256,000
Kaupea Lease No. 12060 TMK: 1-9-1-140:076	PILILAAU, Cameron K. (FHA)Streamline Refi	Guild Mortgage Co.	\$ 335,000
Kanehili Lease No. 12906 TMK: 1-9-1-152:003	VIERRA, Annette L. (USDA, RD) Purchase	Freedom Mortgage Corp.	\$ 393,000
Nanakuli Lease No. 5150 TMK: 1-8-9-012:015	KAIMI, Daniel K. (FHA)Cash Out Refi	Guild Mortgage Co.	\$ 220,000
Maluohai Lease No. 9854 TMK: 1-9-1-120:030	KAUIHOU, Shaun K. (FHA)Streamline Refi	Mid America Mortgage Inc.	\$ 158,000
Kaupea Lease No. 11908 TMK: 1-9-1-139:143	PAIK, Wayne C. M. (FHA)Cash Out Refi	Mid America Mortgage Inc.	\$ 344,000
Nanakuli Lease No. 8644 TMK: 1-8-9-016:047	LOPES, Russell H. (FHA)Cash Out Refi	Mid America Mortgage Inc.	\$ 209,000
Kaupea Lease No. 11397 TMK: 1-9-1-139:132	LEWIS, Lauren G. (FHA)Streamline Refi	Mid America Mortgage Inc.	\$ 402,000

ITEM NO. D-4

OAHU

Kaupea Lease No. 12046 TMK: 1-9-1-140:104	AHULAU, Lance K. (FHA)Rate Term Refi	Mann Mortgage LLC	\$ 427,000
Kaupuni Lease No. 12693 TMK: 1-8-5-037:007	VALDEZ, Julie M. L. (FHA)Purchase	Mid America Mortgage Inc.	\$ 428,000
Waimanalo Lease No. 2010 TMK: 1-4-1-016:027	KAALELE, Danielle L. P. (FHA)Cash Out Refi	Guild Mortgage Co.	\$ 482,000
Nanakuli Lease No. 1794 TMK: 1-8-9-004:096	ALBERTO, Chanda K. (FHA)Cash Out Refi	Bank of Hawaii	\$ 176,080
Kakaina Lease No. 11205 TMK: 1-4-1-041:034	MAKUAKANE, Kawaipuna C. J. (FHA)Cash Out Refi	Bank of Hawaii	\$ 464,644
Lualualei Lease No. 5551 TMK: 1-8-6-023:002	LIMA-PO, Charelle K. (FHA)Purchase	Bank of Hawaii	\$ 260,417
Nanakuli Lease No. 280 TMK: 1-8-9-006:093	MALAKI, Nathan H. B. (FHA)Purchase	Guild Mortgage Co.	\$ 445,000
Nanakuli Lease No. 3131 TMK: 1-8-9-004:123	GUZMAN, Francine K. (FHA)Cash Out Refi	Guild Mortgage Co.	\$ 228,000
Waimanalo Lease No. 4120 TMK: 1-4-1-030:015	KALAMA, Blake S. K. (FHA)Purchase	Security National Mortgage Co.	\$ 303,000

ITEM NO. D-4

OAHU

Kanehili Lease No. 12610 TMK: 1-9-1-152:074	ANDUHA, Tracy L. (FHA)Cash Out Refi	HighTechLen- ding Inc.	\$ 508,000
Kanehili Lease No. 12472 TMK: 1-9-1-151:033	HOKE, Terinamai P. (FHA)Cash Out Refi	HighTechLen- ding Inc.	\$ 508,000
Kauluokahi Lease No. 12409 TMK: 1-9-1-017:088	LYMAN, Danna K. (HUD 184A) Rate Term Refi	Homebridge Financial Services, Inc.	\$ 345,263
Waimanalo Lease No. 670 TMK: 1-4-1-017:010	VELASCO, Joetta Mae N. &, VELASCO, Quinn I. (FHA)203k Rehab	HomeStreet Bank	\$ 528,807
Kanehili Lease No. 11761 TMK: 1-9-1-152:050	KAONOHII, Miles M. S. (HUD 184A) Cash Out Refi	HomeStreet Bank	\$ 300,000
Kanehili Lease No. 12559 TMK: 1-9-1-153:120	TUZON, Ursula-Diane P. (FHA)Cash Out Refi	Freedom Mortgage Corp.	\$ 352,000
Kanehili Lease No. 12628 TMK: 1-9-1-153:106	DIAMOND, Charles, Jr. (FHA)Cash Out Refi	Bank of Hawaii	\$ 340,084
Kalawahine Lease No. 9559 TMK: 1-2-4-043:070	DESANTOS, Jay A. (FHA)Cash Out Refi	HomeStreet Bank	\$ 285,000

ITEM NO. D-4

OAHU

Kanehili Lease No. 11746 TMK: 1-9-1-153:160	TAUMUA, Karen N. L. (USDA, RD) Purchase	Mid America Mortgage Inc.	\$ 490,000
Nanakuli Lease No. 7300 TMK: 1-8-9-017:022	NAHALEA, Valmajan L. (FHA)Cash Out Refi	HighTechLen- ding Inc.	\$ 197,000
Kanehili Lease No. 12672 TMK: 1-9-1-151:054	HOOHULI, Kristi H. (FHA)Cash Out Refi	HighTechLen- ding Inc.	\$ 469,000
Kaupea Lease No. 11383 TMK: 1-9-1-139:093	PENNINGTON, Aaron H. (FHA)Cash Out Refi	Guild Mortgage Co.	\$ 500,000
Maluohai Lease No. 12780 TMK: 1-9-1-120:101	KALEIKINI, Melvin K. (FHA)Cash Out Refi	Mid America Mortgage Inc.	\$ 254,000
Maluohai Lease No. 12803 TMK: 1-9-1-120:095	KAMOKU, Paul P. Jr. (FHA)Cash Out Refi	Mid America Mortgage Inc.	\$ 313,000
Nanakuli Lease No. 8898 TMK: 1-8-9-016:068	KAPELE, Almadine G. M. (FHA)Streamline Refi	Mid America Mortgage Inc.	\$ 250,000
Waimanalo Lease No. 5754 TMK: 1-4-1-030:011	KAAHAAINA TORRES, Jennifer K. (FHA)Cash Out Refi	Mid America Mortgage Inc.	\$ 292,000
Kauluokahai Lease No. 12837 TMK: 1-9-1-017:110	CARROLL, William R. Jr. (VA)Rate Term Refi	Department of Veterans Affairs	\$ 345,000

ITEM NO. D-4

OAHU

Nanakuli Lease No. 7337 TMK: 1-8-9-016:050	SWINSON, Tracyly P. (FHA) Purchase	Mann Mortgage LLC	\$ 530,000
Kanehili Lease No. 12909 TMK: 1-9-1-153:007	FOSTER, Clinton (FHA) Purchase	HomeStreet Bank	\$ 395,233
Kauluokahai Lease No. 12903 TMK: 1-9-1-152:149	RASMUSSEN, Joel (FHA) Purchase	Guild Mortgage Co.	\$ 400,000

MOLOKAI

Hoolehua Lease No. 10259 TMK: 2-5-2-017:037	NAPOLEON, Sherman, Jr. (FHA) Cash Out Refi	Bank of Hawaii	\$ 265,348
Kalamaula Lease No. 6085 TMK: 2-5-2-032:047	NEGRILLO, Richard, Jr. (FHA) Cash Out Refi	Mid America Mortgage Inc.	\$ 292,000

MAUI

Hikina Lease No. 12305 TMK: 2-2-2-031:036	POKINI, Norbert K. (HUD 184A) Cash Out Refi	HomeStreet Bank	\$ 191,450
Waiohuli Lease No. 10418 TMK: 2-2-2-033:035	WRIGHT, Wayne (HUD 184A) Rate Term Refi	Homebridge Financial Services, Inc.	\$ 330,945
Paukukalo Lease No. 3490 TMK: 2-3-3-005:041	WAIKIKI, Rulan G. N. (FHA) Streamline Refi	Mid America Mortgage Inc.	\$ 278,000

ITEM NO. D-4

MAUI

Waiehu 2 Lease No. 9496 TMK: 2-3-2-023:002	SEPTIMO, Reri N. L. (FHA)Cash Out Refi	Mid America Mortgage Inc.	\$ 293,000
Paukukalo Lease No. 8272 TMK: 2-3-3-006:094	DIAS, Gary K. (FHA)Cash Out Refi	Mid America Mortgage Inc.	\$ 168,000
Waiehu 3 Lease No. 10167 TMK: 2-3-2-024:084	KAAUAMO, Vance K. (HUD 184A) Rate Term Refi	Bank of Hawaii	\$ 266,136
Waiohuli Lease No. 7718 TMK: 2-2-2-027:116	AKOI, Samuel A., IV (FHA)Cash Out Refi	Mid America Mortgage Inc.	\$ 395,000
Hikina Lease No. 10437 TMK: 2-2-2-031:003	SHIBATA, Debra Ann G. (FHA)Cash Out Refi	Mid America Mortgage Inc.	\$ 292,000
Leialii Lease No. 11478 TMK: 2-4-5-036:011	WATSON, David K. (FHA)Cash Out Refi	Mid America Mortgage Inc.	\$ 277,000

KAUAI

Anahola Lease No. 11126 TMK: 4-4-8-022:027	NOBRIGA, Lance M. (FHA)Cash Out Refi	Guild Mortgage Co.	\$ 268,000
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HAWAII

Panaewa Lease No. 4154A TMK: 3-2-1-025:217	BOWDEN, Shon C., III (FHA)Cash Out Refi	Bank of Hawaii	\$ 117,952
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HAWAII

Puupulehu Lease No. 7046 TMK: 3-6-4-032:019	HIAPO, Edward K. N. G. (FHA)Purchase	Mid America Mortgage Inc.	\$ 212,000
Puukapu Lease No. 6185 TMK: 3-6-4-008:068	CASHMAN, Alexander J. (FHA)Cash Out Refi	V.I.P. Mortgage Inc.	\$ 408,000
Keaukaha Lease No. 8960 TMK: 3-2-1-021:080	ALAMEDA, Avonelle L. (FHA)Cash Out Refi	Mann Mortgage LLC	\$ 236,000
Kawaihae Lease No. 7128 TMK: 3-6-1-007:046	GAMBILL, Mahealani M. (FHA)Cash Out Refi	V.I.P. Mortgage Inc.	\$ 274,000
Waiakea Lease No. 3096 TMK: 3-2-2-059:021	CASUGA, Darlene K. (FHA)Cash Out Refi	Mid America Mortgage Inc.	\$ 210,000
Puukapu Lease No. 2705B TMK: 3-6-4-004:060	STEVENS, Sydney Lee M. (FHA)Cash Out Refi	Mid America Mortgage Inc.	\$ 158,000
Kaumana Lease No. 12156 TMK: 3-2-5-005:029	KUALII, Randall K. (FHA)Rate Term Refi	Mid America Mortgage Inc.	\$ 215,000

ITEM NO. D-4

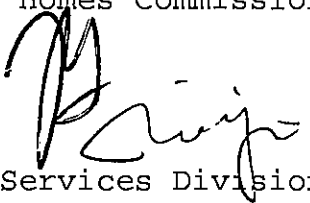
<u>RECAP</u>	<u>NO.</u>	<u>FHA</u> <u>AMOUNT</u>	<u>NO.</u>	<u>VA</u> <u>AMOUNT</u>
FY Ending 6/30/20	295	\$ 94,516,967	18	\$ 7,261,256
Prior Months	100	\$ 35,407,440	3	\$ 1,383,000
This Month	<u>52</u>	<u>16,486,565</u>	<u>1</u>	<u>345,000</u>
Total FY '20-'21	152	\$ 51,894,005	4	\$ 1,728,000

	<u>NO.</u>	<u>HUD 184A</u> <u>AMOUNT</u>	<u>NO.</u>	<u>USDA-RD</u> <u>AMOUNT</u>
FY Ending 6/30/20	61	\$ 18,080,394	12	\$ 3,322,000
Prior Months	6	\$ 2,109,566	1	\$ 492,000
This Month	<u>5</u>	<u>1,433,794</u>	<u>2</u>	<u>883,000</u>
Total FY '20-'21	11	\$ 3,543,360	3	\$ 1,375,000

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

September 21, 2020

TO: Chairman and Members, Hawaiian Homes Commission
THROUGH: Juan Garcia, HSD Administrator 
FROM: Nicole F. Bell, Specialist V
Application Branch, Homestead Services Division
SUBJECT: **Approval of Homestead Application Transfers/Cancellations**

RECOMMENDED MOTION/ACTION

To approve the transfers and cancellations of applications from the Application Waiting Lists for reasons described below:

DISCUSSION

1. Requests of Applicants to Transfer

MAUI ISLANDWIDE AGRICULTURAL LEASE LIST

GAGNON, Beverly P.	07/27/2005	KAUAI	AGR	02/27/2020
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MAUI ISLANDWIDE RESIDENTIAL LEASE LIST

SANTANA, Leimomi	07/23/2018	LANAI	RES	11/29/2019
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HAWAII ISLANDWIDE RESIDENTIAL LEASE LIST

AU, Clayton K.T.K.	01/09/2001	KAUAI	RES	07/08/2020
BORTON, Lani K.P.	07/15/1986	KAUAI	RES	06/17/2020

KAUAI ISLANDWIDE AGRICULTURAL LEASE LIST

REYES-LENCHANKO, Katja K.	06/05/2013	HAWAII	AGR	03/05/2020
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KAUAI ISLANDWIDE RESIDENTIAL LEASE LIST

CARVALHO, Ellen P.	12/14/2016	OAHU	RES	07/28/2020
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2. Deceased Applicants

OAHU ISLANDWIDE RESIDENTIAL LEASE LIST

VICTOR, Winona K.	PN 11/2016			04/04/1994
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HAWAII ISLANDWIDE AGRICULTURAL LEASE LIST

VICTOR, Winona K.	PN 11/2016			04/04/1994
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3. Awards of Leases

NANAKULI AREA / OAHU ISLANDWIDE RESIDENTIAL LEASE LIST

AIPOALANI, Robert M., Jr.	Assigned Residential Lease #12904, Lot 18498 in Kanehili, Oahu dated 08/07/2020. Remove application dated 12/28/1976.
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WAIMANALO AREA / OAHU ISLANDWIDE RESIDENTIAL LEASE LIST

APANA, Haven Richard	Assigned Residential Lease #12899, Lot 18487 in Kanehili, Oahu dated 07/31/2020. Remove application dated 11/22/1977.
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KAAHANUI-ROSA, William K.	Assigned Residential Lease #12901, Lot 18493 in Kanehili, Oahu dated 07/30/2020. Remove application dated 12/27/1976.
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MOREY, Jordan B.	Assigned Residential Lease #12896, Lot 18484 in Kanehili, Oahu dated 07/28/2020. Remove application dated 08/05/1971.
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OAHU ISLANDWIDE RESIDENTIAL LEASE LIST

ASINSIN, Leona P.	Assigned Residential Lease #12902, Lot 18494 in Kanehili, Oahu dated 07/29/2020. Remove application dated 07/18/1978.
HAUPU, Waverlyn M.	Assigned Residential Lease #6432, Lot 6 in Waimanalo, Oahu dated 05/31/2019. Remove application dated 01/11/1985.
JOHNSON, Ezra	Assigned Residential Lease #12900, Lot 18489 in Kanehili, Oahu dated 07/22/2020. Remove application dated 12/01/1980.
KAMANA, Maile M.	Assigned Residential Lease #8345, Lot 54 in Princess Kahanu Estates, Oahu dated 08/28/2018. Remove application dated 11/21/2002.
MOSES, Shaylla-Ann R.H.	Assigned Residential Lease #12146, Lot 16977 in Kaupe'a, Oahu dated 06/25/2018. Remove application dated 03/18/2016.
NOMURA, Nadine M.	Assigned Residential Lease #359, Lot 47 in Nanakuli, Oahu dated 03/12/2020. Remove application dated 10/31/2005.

MAUI ISLANDWIDE RESIDENTIAL LEASE LIST

FILIMOEATU, Renee-May K.A.	Assigned Residential Lease #10391, Lot 93 in Waiehu Kou 3, Maui dated 09/24/2019. Remove application dated 03/09/2012.
KAUAI, Casey K.K.	Assigned Residential Lease #7573, Lot 203 in Waiohuli, Maui dated 12/17/2019. Remove application dated 11/06/2017.

HAWAII ISLANDWIDE RESIDENTIAL LEASE LIST

KAPELIELA, Kenneth K.R.	Assigned Residential Lease #4451, Lot 69 in Waianae, Oahu dated 06/24/2020. Remove application dated 10/15/1986.
MOFFETT, Donna M.	Assigned Residential Lease #12918, Lot 131-A-1 in Keaukaha, Hawaii dated 08/28/2020. Remove application dated 11/03/1978

KAUAI ISLANDWIDE RESIDENTIAL LEASE LIST

APANA, Ikaika M.	Assigned Residential Lease #6534, Lot 4 in Anahola, Kauai dated 06/24/2020. Remove application dated 03/20/2000.
WONG, Apryle M.	Assigned Residential Lease #6509, Lot 31 in Anahola, Kauai dated 05/13/2020. Remove application dated 10/12/2005.

LANAI ISLANDWIDE RESIDENTIAL LEASE LIST

DAVIS, John L., Jr.	Assigned Residential Lease #12915, Lot 1182 in Lanai dated 08/28/2020. Remove application dated 03/21/2002.
KAHOOHALAHALA, Kaulana P.	Assigned Residential Lease #12876, Lot 1194 in Lanai dated 08/20/2020. Remove application dated 02/21/2002.

4. Native Hawaiian Qualification

NONE FOR SUBMITTAL

5. Voluntary Cancellation

NONE FOR SUBMITTAL

6. Successorship

NONE FOR SUBMITTAL

7. Additional Acreage

NONE FOR SUBMITTAL

8. HHC Adjustments

NONE FOR SUBMITTAL

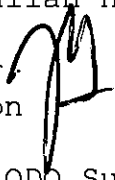
Last Month's Transaction Total	19
Last Month's Cumulative FY 2020-2021 Transaction Total	67
Transfers from Island to Island	6
Deceased	2
Cancellations:	
Awards of Leases	18
NHQ	0
Voluntary Cancellations	0
Successorship	0
Additional Acreage	0
HHC Adjustments	0
This Month's Transaction Total	26
This Month's Cumulative FY 2020-2021 Transaction Total	93

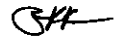
STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

September 21, 2020

TO: Chairman and Members, Hawaiian Homes Commission

THROUGH: Juan Garcia, Administrator
Homestead Services Division 

FROM: Ross K. Kapeliela, Acting ODO Supervisor 
Homestead Services Division

SUBJECT: **Approval of Designation of Successors to Leasehold
Interest and Designation of Persons to Receive the Net
Proceeds**

RECOMMENDED MOTION/ACTION

To approve the designation of successor to the leasehold interest and person to receive the net proceeds, pursuant to Section 209, Hawaiian Homes Commission Act, 1920, as amended.

*See attached list of Lessee.

Leasehold Interest:

Ratified for September 2020	11
Previous FY 2020 - 2021	<u>8</u>
FY 2020 - 2021 Total to Date	19

Ratified for FY '19 - '20	72
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Net Proceeds

Ratified for September 2020	0
Previous FY 2020- 2021	<u>0</u>
FY 2020 - 2021 Total to Date	0

Ratified for FY '19 - '20	0
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LIST OF LESSEES WHO DESIGNATED SUCCESSORS TO THEIR
LEASEHOLD INTEREST
FOR MONTH OF SEPTEMBER 2020

<u>Deceased Lessee</u>	<u>Designated Successor</u>
1. Bernice Berdon Lot No.: 21 Area: Waimea, Hawaii Lease No. 4058	<u>PRIMARY:</u> Corinne Weller, Daughter <u>ALTERNATE:</u> N/A <u>DESIGNEE TO RECEIVE NET PROCEEDS:</u> N/A
2. Priscilla H. Bertelmann Lot No.: 74-B Area: Kuhio Village, Hawaii Lease No. 4932	<u>PRIMARY:</u> Carol L. Davis, Sister <u>ALTERNATE:</u> N/A <u>DESIGNEE TO RECEIVE NET PROCEEDS:</u> N/A
3. David K. K. Kahaunaele, Sr. Lot No.: 50 Area: Anahola, Kauai Lease No. 4310	<u>PRIMARY:</u> Margaret H. Kahaunaele, Daughter <u>ALTERNATE:</u> N/A <u>DESIGNEE TO RECEIVE NET PROCEEDS:</u> N/A

4. Charles K. Kahookele, Sr.
Lot No.: 26
Area: Nanakuli, Oahu
Lease No. 3549
- PRIMARY: Tenants in Common
Shawn K. Kahookele, Grandson
John Kahookele, Son
- ALTERNATE:
N/A
- DESIGNEE TO RECEIVE NET
PROCEEDS:
*Rose W. Kahookele, Wife
*Omit due to lack of
genealogy documents to
determine eligibility to
successorship.
5. Solomon A. Kaleiupu, Jr.
Lot No.: 24
Area: Waianae, Oahu
Lease No. 4720
- PRIMARY:
Manuel S. Kaleiupu, Son
- ALTERNATE:
*Solomon Kaleiupu, III
*Omit due to death on
January 14, 2020.
- DESIGNEE TO RECEIVE NET
PROCEEDS:
N/A
6. Castro Lovell
Lot No.: 65
Area: Anahola, Kauai
Lease No. 3253
- PRIMARY:
Richard A. Lovell, Son
- ALTERNATE:
N/A
- DESIGNEE TO RECEIVE NET
PROCEEDS:
N/A

7. Gurdy A. Machado
Lot No.: 75
Area: Nanakuli, Oahu
Lease No. 4397
- PRIMARY:
Sierra K. Avilla,
Granddaughter
- ALTERNATE:
N/A
- DESIGNEE TO RECEIVE NET
PROCEEDS:
N/A
8. Clement K. Malani, Sr.
Lot No.: 26-A
Area: Panaewa, Hawaii
Lease No. 6202
- PRIMARY:
*Ruby L. Malani, Wife
*Omit due to death on
March 25, 2020.
- ALTERNATE:
Cynthia Malani, Daughter
- DESIGNEE TO RECEIVE NET
PROCEEDS:
N/A
9. Clyde K. Malani
Lot No.: 9
Area: Makuu, Hawaii
Lease No. 6954
- PRIMARY:
Carol Malani, Sister
- ALTERNATE:
N/A
- DESIGNEE TO RECEIVE NET
PROCEEDS:
N/A

10. Randall Simeona
Lot No.: 53
Area: Waimanalo, Oahu
Lease No. 4112

PRIMARY: Joint Tenants
Ran Li Nii, Daughter
Princeton Y. K. Simeona,
Grandson

ALTERNATE:
N/A

DESIGNEE TO RECEIVE NET
PROCEEDS:
N/A

11. Alberta K. Souza
Lot No.: 128-A-1
Area: Nanakuli, Oahu
Lease No. 1937

PRIMARY: Joint Tenants
*Charles John K. Souza, Son
Lorna L. Atualevao, Daughter
*Omit due to renouncement
dated May 8, 2020.

ALTERNATE:
N/A


DESIGNEE TO RECEIVE NET
PROCEEDS:
N/A

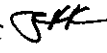
STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

September 21, 2020

TO: Chairman and Members, Hawaiian Homes Commission

THROUGH: Juan Garcia, Administrator 
Homestead Services Division

FROM: Ross K. Kapeliela, Acting ODO Supervisor 
Homestead Services Division

SUBJECT: **Approval of Assignment of Leasehold Interest**

RECOMMENDED MOTION/ACTION

To approve the assignment of the leasehold interest, pursuant to Section 208, Hawaiian Homes Commission Act, 1920, as amended, and subject to any applicable terms and conditions of the assignment, including but not limited to the approval of a loan.

DISCUSSION

Thirty-two (32) assignments of lease.

1. Lessee Name: Noe K. Andrade
Res. Lease No. 12773, Lot No. 13748
Lease Date: 3/14/2017
Area: Maluohai2, Oahu
Property Sold & Amount: Yes, \$270,000.00
Improvements: 4 bedroom, 2-1/2 bath dwelling

Transferee Name: Kaimio'kekai G. Andrade-Meyers
Relationship: Son
Loan Assumption: No
Applicant: No

Reason for Transfer: "Giving lease to relative." Special
Condition: Transferee to obtain funds to pay purchase price.

2. Lessee Name: Horace K. Dudoit, III
Res. Lease No. 11690, Lot No. 18644
Lease Date: 12/13/2008
Area: Kanehili, Oahu
Property Sold & Amount: Yes, \$227,155.00
Improvements: 3 bedroom, 2 bath dwelling

Transferee Name: Kathy A. Dudoit
Relationship: Sister
Loan Assumption: No
Applicant: No

Reason for Transfer: "Giving lease to relative." Special
Condition: Transferee to obtain funds to pay purchase price.

3. Lessee Name: Edward K. Hiapo
Res. Lease No. 7046, Lot No. 19
Lease Date: 3/14/1996
Area: Puupulehu, Hawaii
Property Sold & Amount: Yes, \$210,000.00
Improvements: 2 bedroom, 1 bath dwelling

Transferee Name: Edward K. N. G. Hiapo
Relationship: Son
Loan Assumption: No
Applicant: No

Reason for Transfer: "Moving off island." Special
Condition: Transferee to obtain funds to pay purchase price.

4. Lessee Name: Alva H. Kaiwi
Res. Lease No. 12865, Lot No. 148
Lease Date: 12/4/2019
Area: Kauluokahai, Oahu
Property Sold & Amount: Yes, \$485,000.00
Improvements: 3 bedroom, 2 bath dwelling

Transferee Name: Ashley K. Chandler
Relationship: Step-Daughter
Loan Assumption: No
Applicant: Yes, Oahu IW Res., 1/30/2007

Reason for Transfer: "Giving lease to relative." Special
Condition: Transferee to obtain funds to pay purchase price.

5. Lessee Name: Alexander K. Kamae
Res. Lease No. 11746, Lot No. 18441
Lease Date: 2/12/2011
Area: Kanehili, Oahu
Property Sold & Amount: Yes, \$515,000.00
Improvements: 3 bedroom, 2 bath dwelling
- Transferee Name: Andrew F. Cabebe
Relationship: None
Loan Assumption: No
Applicant: Yes, Kauai IW Res., 3/9/2017
- Reason for Transfer: "Moving off island." Special
Condition: Transferee to obtain funds to pay purchase price.
See simultaneous transfer below.
6. Lessee Name: Andrew F. Cabebe
Res. Lease No. 11746, Lot No. 18441
Lease Date: 2/12/2011
Area: Kanehili, Oahu
Property Sold & Amount: Yes, \$515,000.00
Improvements: 3 bedroom, 2 bath dwelling
- Transferee Name: Karen N. L. Taumua
Relationship: Daughter
Loan Assumption: No
Applicant: No
- Reason for Transfer: "Giving lease to relative." Special
Condition: Transferee to obtain funds to pay purchase price.
7. Lessee Name: Ann Marie U. H. Kauhi
Res. Lease No. 4120, Lot No. 7
Lease Date: 2/15/1974
Area: Waimanalo, Oahu
Property Sold & Amount: Yes, \$310,000.00
Improvements: 3 bedroom, 2 bath dwelling
- Transferee Name: Blake Shannon K. Kalama
Relationship: None
Loan Assumption: No
Applicant: Yes, Oahu IW Res., 4/12/2018
- Reason for Transfer: "Moving off island." Special
Condition: Transferee to obtain funds to pay purchase price.

8. Lessee Name: Kris P. Kuamoo
Res. Lease No. 8819, Lot No. 28
Lease Date: 8/9/1997
Area: Waiakea, Hawaii
Property Sold & Amount: No, N/A
Improvements: 3 bedroom, 2 bath dwelling with PV panels

Transferee Name: Kanoelani P. Sakanoi
Relationship: Daughter
Loan Assumption: No
Applicant: No

Reason for Transfer: "Giving lease to relative." See simultaneous transfer below.

9. Lessee Name: Velma Joy K. Francisco
Agr. Lease No. 3908, Lot No. 151
Lease Date: 11/10/1972
Area: Panaewa, Hawaii
Property Sold & Amount: Yes, \$425,000.00
Improvements: 5 bedroom, 3-1/2 bath dwelling

Transferee Name: Kris P. Kuamoo
Relationship: None
Loan Assumption: No
Applicant: Yes, Hawaii IW Agr., 6/21/1995

Reason for Transfer: "Moving off island." Special Condition: Transferee to obtain funds to pay purchase price.

10. Lessee Name: Rusty K. LaBoy
Res. Lease No. 3689, Lot No. 12-A
Lease Date: 2/24/1967
Area: Waimanalo, Oahu
Property Sold & Amount: No, N/A
Improvements: 3 bedroom, 1 bath dwelling

Transferee Name: Emily N. LaBoy
Relationship: Mother
Loan Assumption: No
Applicant: No

Reason for Transfer: "Giving lease to relative."

11. Lessee Name: Earlet M. Lanning
Res. Lease No. 3090, Lot No. 76
Lease Date: 5/17/1957
Area: Anahola, Kauai
Property Sold & Amount: No, N/A
Improvements: 3 bedroom, 1-1/2 bath dwelling

Transferee Name: Chassidy M. Simao
Relationship: Daughter
Loan Assumption: No
Applicant: No

Reason for Transfer: "Giving lease to relative."
12. Lessee Name: Barbara K. Manuwa
Res. Lease No. 1379, Lot No. 148
Lease Date: 7/18/1935
Area: Keaukaha, Hawaii
Property Sold & Amount: No, N/A
Improvements: 3 bedroom, 2 bath dwelling

Transferee Name: Kaleoaloha M. Warfield
Relationship: Daughter
Loan Assumption: No
Applicant: Yes, Hawaii IW Res., 1/11/1991

Reason for Transfer: "Giving lease to relative."
13. Lessee Name: Earl Moler
Pas. Lease No. 9140, Lot No. 104
Lease Date: 5/29/1999
Area: Kahikinui, Maui
Property Sold & Amount: No, N/A
Improvements: 2 bedroom, 1 bath dwelling

Transferee Name: Ikaika A. Moler
Relationship: Son
Loan Assumption: No
Applicant: No

Reason for Transfer: "Giving lease to relative."

14. Lessee Name: Michelle C. M. Morishita
Res. Lease No. 6339, Lot No. 151-D
Lease Date: 12/1/1985
Area: Keaukaha, Hawaii
Property Sold & Amount: No, N/A
Improvements: 4 bedroom, 2 bath dwelling

Transferee Name: Ashley Morishita
Relationship: Son
Loan Assumption: No
Applicant: No

Reason for Transfer: "Adding relative to lease."

15. Lessee Name: Lovee-Ann I. Pollack
Res. Lease No. 12905, Lot No. 18539
Lease Date: To be determined
Area: Kanehili, Oahu
Property Sold & Amount: Yes, \$425,000.00
Improvements: 4 bedroom, 3 bath dwelling

Transferee Name: Cherish K. S. Felise
Relationship: Daughter
Loan Assumption: No
Applicant: No

Reason for Transfer: "Giving lease to relative." Special
Condition: Transferee to obtain funds to pay purchase price.

16. Lessee Name: Leroy K. Purdy
Res. Lease No. 4502, Lot No. 151-D
Lease Date: 11/10/1977
Area: Nanakuli, Oahu
Property Sold & Amount: Yes, \$435,000.00
Improvements: 3 bedroom, 2-1/2 bath dwelling

Transferee Name: Aaron K. W. K. Watson
Relationship: None
Loan Assumption: No
Applicant: Yes, Oahu IW Res., 4/13/2017

Reason for Transfer: "Financial reasons." Special
Condition: Transferee to obtain funds to pay purchase
price.

17. Lessee Name: Mildred A. Rasmussen
Res. Lease No. 12903, Lot No. 18495
Lease Date: To be determined
Area: Kanehili, Oahu
Property Sold & Amount: Yes, \$387,000.00
Improvements: 5 bedroom, 3 bath dwelling
- Transferee Name: Joel K. Rasmussen
Relationship: Grandson
Loan Assumption: No
Applicant: No
- Reason for Transfer: "Giving lease to relative." Special
Condition: Transferee to obtain funds to pay purchase price.
18. Lessee Name: Patricia L. Sabagala
Res. Lease No. 5349, Lot No. 98
Lease Date: 8/2/1982
Area: Waianae, Oahu
Property Sold & Amount: Yes, \$240,000.00
Improvements: 3 bedroom, 2 bath dwelling
- Transferee Name: Veronica M. L. E. Rubin
Relationship: Daughter
Loan Assumption: No
Applicant: No
- Reason for Transfer: "Giving lease to relative." Special
Condition: Transferee to obtain funds to pay purchase price.
19. Lessee Name: Joe E. Scott, Jr.
Res. Lease No. 3893, Lot No. 216-B
Lease Date: 7/23/1971
Area: Nanakuli, Oahu
Property Sold & Amount: Yes, \$280,000.00
Improvements: 3 bedroom, 1 bath dwelling
- Transferee Name: Lopena K. H. K. O. Kamana
Relationship: None
Loan Assumption: No
Applicant: Yes, Oahu IW Res., 6/6/2013
- Reason for Transfer: "Moving off island and financial
reasons." Special Condition: Transferee to obtain funds to
pay purchase price.

20. Lessee Name: Samuel James M. Spencer, Jr.
Res. Lease No. 12576, Lot No. 18332
Lease Date: 4/1/2010
Area: Kanehili, Oahu
Property Sold & Amount: Yes, \$585,000.00
Improvements: 5 bedroom, 3 bath dwelling
- Transferee Name: Lei'Vonchon K. B. Isaacs-Ramiro
Relationship: None
Loan Assumption: No
Applicant: Yes, Oahu IW Res., 6/3/2009
- Reason for Transfer: "Financial reasons." Special
Condition: Transferee to obtain funds to pay purchase price.
See simultaneous transfer below.
21. Lessee Name: Lei'Vonchon K. B. Isaacs-Ramiro
Res. Lease No. 12576, Lot No. 18332
Lease Date: 4/1/2010
Area: Kanehili, Oahu
Property Sold & Amount: Yes, \$585,000.00
Improvements: 5 bedroom, 3 bath dwelling
- Transferee Name: Lei'Vonchon K. B. Isaacs-Ramiro & Ryan M. K. Ramiro
Relationship: Lessee & Husband
Loan Assumption: No
Applicant: No
- Reason for Transfer: "Adding relative to lease." Special
Condition: Transferee to obtain funds to pay purchase price.
22. Lessee Name: Pearl K. Velasco
Res. Lease No. 12693, Lot No. 383-B-7
Lease Date: 4/29/2011
Area: Kaupuni, Oahu
Property Sold & Amount: Yes, \$425,000.00
Improvements: 4 bedroom, 2-1/2 bath dwelling
- Transferee Name: Julia M. L. Valdez
Relationship: None
Loan Assumption: No
Applicant: No
- Reason for Transfer: "Moving off island." Special
Condition: Transferee to obtain funds to pay purchase price.

23. Lessee Name: Corinne K. N. Weller
Agr. Lease No. 4058, Lot No. 21
Lease Date: 5/28/1971
Area: Waimea, Hawaii
Property Sold & Amount: No, N/A
Improvements: 2 bedroom, 2 bath dwelling

Transferee Name: Jeremy K. M. H. Moniz
Relationship: Son
Loan Assumption: No
Applicant: No

Reason for Transfer: "Giving lease to relative."

24. Lessee Name: Roberta M. Westbrooks
Res. Lease No. 5195, Lot No. 62
Lease Date: 8/2/1982
Area: Nanakuli, Oahu
Property Sold & Amount: Yes, \$425,000.00
Improvements: 2 bedroom, 2 bath dwelling

Transferee Name: Janelle K. K. Chalker
Relationship: None
Loan Assumption: No
Applicant: Yes, Hawaii IW Res., 8/24/2007

Reason for Transfer: "Moving off island." Special
Condition: Transferee to obtain funds to pay purchase price.

25. Lessee Name: Brianne K. Yoro-Leong, Nicole P. Maleta &
Sarah-Lyn K. Leong
Res. Lease No. 9883, Lot No. 13848
Lease Date: 5/30/2003
Area: Maluohai, Oahu
Property Sold & Amount: Yes, \$425,000.00
Improvements: 3 bedroom, 2 bath dwelling

Transferee Name: Matthew Jordan K. P. Pahia
Relationship: None
Loan Assumption: No
Applicant: Yes, Oahu IW Res., 3/20/2013

Reason for Transfer: "Financial reasons." Special
Condition: Transferee to obtain funds to pay purchase price.

26. Lessee Name: Gloria J. K. Bailey-Aloalo
Res. Lease No. 12482, Lot No. UNDV163
Lease Date: 12/6/2008
Area: Kapolei, Oahu
Property Sold & Amount: No, N/A
Improvements: None

Transferee Name: Gloria J. K. Bailey-Aloalo & Matea K.
Bailey-Aloalo
Relationship: Lessee & Husband
Loan Assumption: No
Applicant: No

Reason for Transfer: "Adding relative to lease."

27. Lessee Name: Edwina K. Llanes
Res. Lease No. 10749, Lot No. UNDV123
Lease Date: 12/3/2005
Area: Laiopua, Hawaii
Property Sold & Amount: No, N/A
Improvements: None

Transferee Name: Briana K. Finley
Relationship: Granddaughter
Loan Assumption: No
Applicant: No

Reason for Transfer: "Giving lease to relative."

28. Lessee Name: Prudence N. Pagan
Res. Lease No. 10610, Lot No. UNDV313
Lease Date: 6/18/2005
Area: Waiohuli, Maui
Property Sold & Amount: No, N/A
Improvements: None

Transferee Name: Wesley S. Pagan
Relationship: Brother
Loan Assumption: No
Applicant: Yes, Maui IW Res., 12/11/2006

Reason for Transfer: "Giving lease to relative." See
simultaneous transfer below.

29. Lessee Name: Frances Ann K. Stone-Cabael
Res. Lease No. 7738, Lot No. 231
Lease Date: 2/7/2002
Area: Waiohuli, Maui
Property Sold & Amount: Yes, \$625,000.00
Improvements: 3 bedroom, 2-1/2 bath dwelling

Transferee Name: Prudence N. Pagan
Relationship: None
Loan Assumption: No
Applicant: No

Reason for Transfer: "Moving off island." Special
Condition: Transferee to obtain funds to pay purchase price.

30. Lessee Name: Donald A. Wallace, Jr.
Res. Lease No. 10415, Lot No. UNDV118
Lease Date: 6/18/2005
Area: Waiohuli, Maui
Property Sold & Amount: No, N/A
Improvements: None

Transferee Name: Keli K. Ho
Relationship: Cousin
Loan Assumption: No
Applicant: Yes, Maui IW Res., 10/9/2008

Reason for Transfer: "Giving lease to relative." See
simultaneous transfer below.

31. Lessee Name: Esmeralda M. Tejeda-Figueroa
Res. Lease No. 7694, Lot No. 280
Lease Date: 2/7/2002
Area: Waiohuli, Maui
Property Sold & Amount: Yes, \$400,000.00
Improvements: 3 bedroom, 2 bath dwelling

Transferee Name: Eltness L. Wallace
Relationship: None
Loan Assumption: No
Applicant: Yes, Maui IW Res., 5/30/2006

Reason for Transfer: "Moving off island." Special
Condition: Transferee to obtain funds to pay purchase price.
See simultaneous transfer below.

32. Lessee Name: Eltness L. Wallace
Res. Lease No. 7694, Lot No. 280
Lease Date: 2/7/2002
Area: Waiohuli, Maui
Property Sold & Amount: Yes, \$400,000.00
Improvements: 3 bedroom, 2 bath dwelling

Transferee Name: Donald A. Wallace, Jr.
Relationship: Son
Loan Assumption: No
Applicant: No

Reason for Transfer: "Giving lease to relative." Special
Condition: Transferee to obtain funds to pay purchase price.


Assignments for the Month of September `20	32
Previous FY '20 - '21 balance	<u>27</u>
FY '20 - '21 total to date	59
Assignments for FY '19 - '20	176


STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

September 21, 2020

TO: Chairman and Members, Hawaiian Homes Commission

THROUGH: Juan Garcia, Administrator 
Homestead Services Division

FROM: Ross K. Kapeliela, Acting ODO Supervisor 
Homestead Services Division

SUBJECT: **Approval of Amendment of Leasehold Interest**

RECOMMENDED MOTION/ACTION

To approve the amendment of the leasehold interest listed below.

DISCUSSION

Seventeen (17) amendments of lease.

1. Lessee: Kimo D. Aluli
Res. Lease No.: 6504
Lot No., Area, Island: 2, Anahola, Kauai
Amendment: To amend the commencement date due to relocation.
2. Lessee: Bernice Berdon
Agr. Lease No.: 4058
Lot No., Area, Island: 21, Waimea, Hawaii
Amendment: To amend the property description and to incorporate the currently used covenants, terms, and conditions to the lease.
3. Lessee: Anita L. K. Contrades
Agr. Lease No.: 7794
Lot No., Area, Island: 19, Hoolehua, Molokai
Amendment: To amend the tenancy to severalty due to the death of a joint lessee.

- ITEM NO. D-8

9. Lessee: Paula Ann Kawaauhau
Res. Lease No.: 1210
Lot No., Area, Island: 46, Keaukaha, Hawaii
Amendment: To amend the lease tile and Lessor's name, to incorporate the currently used covenants, terms, and conditions to the lease, and to extend the lease term to an aggregate term of 199 years.
10. Lessee: Charles K. Konanui, Sr.
Res. Lease No.: 2917
Lot No., Area, Island: 296, Keaukaha, Hawaii
Amendment: To amend the lease tile and Lessor's name, to incorporate the currently used covenants, terms, and conditions to the lease, and to extend the lease term to an aggregate term of 199 years.
11. Lessee: Kris P. Kuamoo
Res. Lease No.: 8819
Lot No., Area, Island: 28, Waiakea, Hawaii
Amendment: To incorporate the currently used covenants, terms, and conditions to the lease, and to release a life interest.
12. Lessee: Castro Lovell
Res. Lease No.: 3253
Lot No., Area, Island: 65, Anahola, Kauai
Amendment: To amend the lease title and Lessor's name, the property description and to incorporate the currently used covenants, terms, and conditions to the lease, and to extend the lease term to an aggregate term of 199 years.
13. Lessee: Barbara K. Manuwa
Res. Lease No.: 1379
Lot No., Area, Island: 148, Keaukaha, Hawaii
Amendment: To amend the lease tile and Lessor's name, and to incorporate the currently used covenants, terms, and conditions to the lease.

14. Lessee: Michele C. M. Morishita
 Res. Lease No.: 6339
 Lot No., Area, Island: 151-D, Keaukaha, Hawaii
 Amendment: To amend the property description and commencement date due to final subdivision.
15. Lessee: Joe E. Scott, Jr.
 Res. Lease No.: 3893
 Lot No., Area, Island: 216-B, Nanakuli, Oahu
 Amendment: To incorporate the currently used covenants, terms, and conditions to the lease.
16. Lessee: Randall Simeona
 Res. Lease No.: 4112
 Lot No., Area, Island: 53, Waimanalo, Oahu
 Amendment: To incorporate the currently used covenants, terms, and conditions to the lease.
17. Lessee: Alberta K. Souza
 Res. Lease No.: 1937
 Lot No., Area, Island: 128-A-1, Nanakuli, Oahu
 Amendment: To amend the lease tile and Lessor's name, to incorporate the currently used covenants, terms, and conditions to the lease, and to extend the lease term to an aggregate term of 199 years.


Amendments for the Month of September '20	17
Previous FY '20 - '21 balance	<u>16</u>
FY '20 - '21 total to date	33
Amendments for FY '19 - '20	138

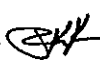
STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

September 21, 2020

TO: Chairman and Members, Hawaiian Homes Commission

THROUGH: Juan Garcia, Administrator 
Homestead Services Division

FROM: Ross K. Kapeliela, Acting ODO Supervisor 
Homestead Services Division

SUBJECT: **Approval to Issue a Non-Exclusive License for Rooftop
Photovoltaic Systems for Certain Lessees**

RECOMMENDED MOTION/ACTION

To approve the issuance of a non-exclusive license to allow the Permittee to provide adequate services related to the installation, maintenance, and operation of a photovoltaic system on the premises leased by the respective Lessees.

The non-exclusive license is necessary as the Lessee cannot issue his/her own licenses.

DISCUSSION

Eight (8) non-exclusive licenses.

1. Lessee: Venetta O. Enos
Res. Lease No.: 8607
Lot No., Area, Island: 40, University Heights, Hawaii
Permittee: SunRun, Inc.

2. Lessee: Lynn P. Hanohano
Res. Lease No.: 10279
Lot No., Area, Island: 120, Waiohuli, Maui
Permittee: SunRun, Inc.

3. Lessee: Elaine K. Kealoha
Res. Lease No.: 694
Lot No., Area, Island: 18B, Waimanalo, Oahu
Permittee: Vivint Solar

4. Lessee: Richard K. C. Leong, Jr.
Res. Lease No.: 7752
Lot No., Area, Island: FP217, Waiohuli, Maui
Permittee: SunRun, Inc.

5. Lessee: Joseph F. K. Perry
Res. Lease No.: 8802
Lot No., Area, Island: 38, Waimanalo, Oahu
Permittee: Vivint Solar

6. Lessee: Raymond Viela
Res. Lease No.: 9788
Lot No., Area, Island: 13833, Maluohai, Oahu
Permittee: SunRun, Inc.

7. Lessee: Diana M. Wallace
Res. Lease No.: 8274
Lot No., Area, Island: 21, Paukukalo, Maui
Permittee: SunRun, Inc.

8. Lessee: Aaron K. W. K. Watson
Res. Lease No.: 4502
Lot No., Area, Island: 162-A-1, Nanakuli, Oahu
Permittee: Vivint Solar


Non-Exclusive License for September '20	8
Previous FY '20 - '21 balance	<u>10</u>
FY '20 - '21 total to date	18
 Non-Exclusive License for FY '19 - '20	 53


STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

September 21, 2020

TO: Chairman and Members, Hawaiian Homes Commission

FROM: Juan Garcia, Administrator 
Homestead Services Division

THRU: Ross K. Kapeliela, Acting ODO Supervisor 
Homestead Services Division

SUBJECT: **Commission Designation of Successor - DOLORES W. K. KONG, Residential Lease No. 8311, Lot No. 20, PKE, Oahu**

RECOMMENDED MOTION/ACTION

1. To approve the selection of Coleen Neiani Spencer (Coleen) to succeed to the interest of Dolores W. K. Wong in Residential Lease No. 8311, Lot No. 20, PKE, Oahu (Lease) for the remaining term of the Lease;

2. To stipulate that Coleen's right and interest in the Lease does not vest until Coleen has signed that: (i) Transfer Through Successorship of Lease; (ii) Lease Addendum; and such necessary and appropriate instruments; and that if Coleen does not sign all such documents on or before **November 30, 2020** (the Deadline) that the Commission's selection of Coleen as a successor is automatically revoked;

3. To authorize the Department to extend the Deadline up to 30 days for good cause; and

4. To declare that if Coleen's selection as a successor is revoked; then under Section 209 (a) of the Hawaiian Homes Commission Act, as amended, "the lease shall resume its status as unleased Hawaiian home lands the department is authorized to lease the land to a native Hawaiian as provided by the Act."

DISCUSSION

Dolores W. K. Kong (Decedent) was awarded the Lease commencing on December 1, 1995.

On February 17, 2016, the Decedent passed away without naming a successor to her lease.

In compliance with the Administrative Rule 10-3-63, the Department published legal ads in the Honolulu Star Advertiser, the Hawaii Tribune Herald, the West Hawaii Today, The Maui News, and The Garden Island newspapers on December 1, 8, 15, 22 and 29, 2019, to notify all interested, eligible and qualified heirs of the Decedent, to submit their successorship claim to the Lease.

The Department received a successorship claim from the Decedent's granddaughter, Coleen Neiani Spencer (Coleen), who has been determined to be at least 31% Hawaiian ancestry and eligible for successorship to the Lease.

The Department also received a successorship claim from the Decedent's grandson, Jordan Cabral Chaves (Jordan), who has been determined to be at least 48% Hawaiian ancestry. However, on July 22, 2020, Jordan rescinded his successorship claim.

Pursuant to Section 209 of the Hawaiian Homes Commission Act of 1920, as amended (Act), when a lessee fails to designate a successor, the commission is authorized to terminate this lease or to continue the lease by designating a successor. Section 209 states in part that the department may select from only the following qualified relatives of the decedent:

1. Husband or wife; or
2. If there is no husband or wife, then the children; or
3. If there is no husband, wife, or child, then the grandchildren; or
4. If there is no husband, wife, child, or grandchild, then the brothers or sisters; or
5. If there is no husband, wife, child, grandchild, brother, or sister, then from the following relatives of the lessee who are native Hawaiian: father and mother, widows or widowers of the children, widows or widowers of the brothers and sisters, or nieces and nephews.

Improvements to the homestead lot consist of a 2 bedroom and 1 bath, single family dwelling, which was constructed in 1996.

There is an outstanding mortgage with M and T Bank dated January 4, 1996, with an original loan amount of \$77,550.00. Coleen is aware of the outstanding loan and have agreed to accept the loan obligation should she be designated as successor.

The lease rent account reports a credit balance of \$73.00 and the real property tax is current.

The Department requests approval of its recommendation.

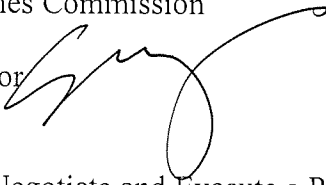
**HAWAIIAN HOMES COMMISSION
SEPTEMBER 21 & 22, 2020
TELECONFERENCE
9:30 A.M.**

**E – ITEMS
LAND DEVELOPMENT DIVISION**

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

September 21, 2020

TO: Chairman and Members, Hawaiian Homes Commission

FROM: Stewart Matsunaga, Acting Administrator
Land Development Division 

SUBJECT: Delegate Authority to the Chairman to Negotiate and Execute a Project Lands Agreement, Promissory Note and other associated financing documents required of Ikaika Ohana/A0597 Kona LP, developer for Hawaiian Home Lands Rental Housing in the Villages of La'iopu'a.

RECOMMENDED MOTION/ACTION

1. Recommend that the Hawaiian Homes Commission delegate authority to the Chairman to negotiate and execute a Project Lands Agreement, Promissory Note and other associated financing documents required of Ikaika Ohana/A0597 Kona LP, developer for Hawaiian Home Lands Rental Housing in the Villages of La'iopu'a.

DISCUSSION

1. On August 25, 2017, DHHL awarded Ikaika Ohana rights to develop 163 affordable housing units in Villages 4 and 5 of the Villages of Laiopua, pursuant to RFP-16-HHL-004. The project concept is a 15-year rent with an option to purchase. Families whose incomes do not exceed 60% of the area median income (AMI) can rent a unit, which must remain as an affordable rental for 15 years, and after which, if qualified, can purchase their unit. . Upon the sale of the homes, tenants would also be granted 99-year homestead residential leases.
2. This Rent with Option to Purchase project is funded through a combination of Low Income Housing Tax Credits and debt. In May 2019, the Hawaiian Homes Commission approved \$5,000,000 in Trust Funds for this project. These Trust Funds are being provided as a loan with favorable terms to ensure the affordability of the rental units, during the 15-year rental compliance period, as well as in the option to purchase price after the 15-year rental compliance period.
3. On February 12, 2019, DHHL and Ikaika Ohana executed a Development Agreement. On April 30, 2020, Ikaika Ohana partially assigned its rights to develop the first phase of 60

units in Village 4 Akau Subdivision to its subsidiary: A0597 Kona L.P. (the Phase 1 Units).

4. On, June 19, 2019 the Hawaii Housing Finance Development Corporation (HHFDC) awarded \$1,056,996 each in Federal and State LIHTC for the Phase 1 Units. Further, on July 9, 2020, A0597 Kona L.P. was granted additional LIHTC financing to bridge a gap in their financing, and was awarded an additional \$811,944 each in Federal and State LIHTC.
5. Under the Development Agreement, DHHL committed to grant the necessary land rights to the developer on the closing of financing. A0597 Kona LP is nearing the closing of a syndicated credit facility with American Savings Bank and additional funding via the Rental Housing Revolving Fund.
6. DHHL is negotiating the terms and conditions of a 65-year Project Land Agreement, which is a condition of HHFDC and LIHTC financing. While the total term of the Project Land Agreement is 65 years, this Rent with Option to Purchase project anticipates that after the 15-year affordable rental period is completed that the vast majority of the tenants will have executed their option to purchase the home they have been renting, qualify for the mortgage and purchase their home. Upon tenants purchasing their home and executing a Hawaiian Homes Commission residential lease, those lots will be terminated from the 65-year Project Lands Agreement. Should tenants not qualify for the purchase, applicants in rank order will be offered to purchase any non-purchased homes. Should no applicants be interested, the homes would be maintained at affordable housing rates or it would be in the best interest of DHHL to purchase any remaining inventory, if any exists. This would then fully terminate the term of the 65-year Project Lands Agreement.

RECOMMENDATION

Land Development Division recommends approval of the motions stated above.

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

September 22, 2020

To: Chairman and Members, Hawaiian Homes Commission

From: Stewart Matsunaga, Acting Administrator
Land Development Division

Subject: 820 Isenberg Street Redevelopment Project



RECOMMENDED ACTION:

For information only.

DISCUSSION:

820 Isenberg Street Redevelopment Project is located on the site of the former Stadium Bowl-O-Drome bowling alley, which opened in 1955 and closed in 2004. DHHL acquired the property from the State Department of Land and Natural Resources in 1995. This parcel is identified as Tax Map Key (1) 2-7-008: parcels 018 and 020, consisting of approximately 82,493 square feet or approximately 1.9 acres. The site was previously leased temporarily as a baseyard and vehicle storage for a tow company but is currently unoccupied.

Pursuant to Hawaii Revised Statutes (HRS) section 103D-303 and the Hawaiian Homes Commission Act (HHCA), section 207.5, a Request for Proposals (RFP) was issued on August 5, 2019. As stated in the RFP, DHHL's overall objectives for the project, are:

- To demolish the existing building in accordance with historic preservation measures to be identified in a Memorandum of Agreement (MOA) between DHHL and consulting parties under Section 106 of the National Historic Preservation Act, and in accordance with Hawaii Revised Statutes, Chapter 6E, Historic Preservation.
- To design, finance, construct, manage, operate, and maintain a multi-family residential rental facility as specified in the RFP.
- To provide affordable rental units to meet the needs of a range of DHHL beneficiaries in the moderate to very-low income brackets (below 100% of AMI as determined by HUD), including, but not limited to:
 - Medium term rentals to allow a family to resolve financial issues, and/or accumulate savings towards home purchase in other DHHL projects
 - Independent living facilities (no medical or other support provided) for elderly

- Student or faculty housing for beneficiaries at the University of Hawaii, Manoa Campus
- Homeless beneficiaries, excluding outreach and counseling services
- To develop non-residential facilities for:
 - Commercial purposes (retail and/or office), the rent from which would subsidize residential rents or common area maintenance costs; and/or
 - Community facilities for use by beneficiary organizations, or income generation
- To incorporate green building practices, including implementation of DHHL'S Ho'omalūō Energy Policy into the design and construction of the facilities in order to achieve a lower cost of operation and maintenance by minimizing energy use.

Five proposals were received in response to the RFP. An evaluation committee consisting of three DHHL staff, an economics consultant, and a representative from the Papakolea community scored each proposal based on the criteria specified in the RFP. The Chairman approved the selection committee's recommendation to award to SCD/HDCC, based on the determinations that: (1) all offerors are highly qualified with many years of construction and development experience, (2) SCD/HDCC was scored highest by a majority of the committee members, and highest in overall scoring.

The SCD/HDCC proposal to implement the redevelopment of the property at 820 Isenberg Street includes the following:

210-foot, 23-story, 270-unit high rise on the site's western edge, which will include management offices, laundry, mailroom, and community facilities.

Four-story, 266-stall parking structure lined with seven townhouse units along the side adjacent to the park.

4,680 square feet of retail space along Isenberg Street, plus 29 on-grade parking stalls.

Rental Units

<u>Units</u>	<u>Size</u>	<u>Estimated Rents</u>
23	Studio	\$633 – 1,266
23	1-bedroom	\$678 – 1,356
201	2-bedroom	\$1,627 – 2,712
23	3-bedroom	\$2,507
7	3-bedroom (townhouse)	\$3,133
277	Total	

The sizes of the community and retail facilities are subject to further discussions with the Papakolea community and potential tenants.

The estimated development cost is \$137 million, which SCD/HDCC will finance through the use of Low Income Housing Tax Credits, the State's Rental Housing Revolving Fund, and private sources; no DHHL funds will be used.

Renderings of the proposed development are attached as Exhibit A.

The next steps in the development process include:

- Negotiation and Execution of the Development Agreement

- Environmental Assessment pursuant to HRS Chapter 343

- Determination of historic preservation measures in accordance with Section 106 of the National Historic Preservation Act and Hawaii Revised Statutes, Chapter 6E, Historic Preservation

- Securing of financing by developer

- Consultations with Papakolea community

- Completion and approval of demolition and construction plans



DHHL ISENBERG RFP
PERSPECTIVE
A-903
Date: NOV 15, 2019

ALAKEA DESIGN GROUP, LLC
ARCHITECTURE & PLANNING INTERIORS
1100 Alakea Street, Suite 1500
Honolulu, Hawaii 96813



EXHIBIT A



DHL ISENBERG RFP
COVER SHEET
A-100
1060 NOV 15, 2019

ALAKA DESIGN GROUP LLC
ARCHITECTS AND PLANNERS
1111 K STREET, N.W.
WASHINGTON, D.C. 20004
(202) 462-1111



EXHIBIT A



ALAKA DESIGN GROUP, LLC
305 10125 TURTLE PLANNING, INTERIOR #01
1100 Arabian Drive Suite 100
Tomball, Texas 77375
www.alakadsgroup.com

ITEM NO. E-2



DHHL ISENBERG RFP
PERSPECTIVE
A-002
DATE NOV 15, 2019

ALASKA DESIGN GROUP LLC
ARCHITECTURAL / PLANNING / INTERIOR
1100 W. 10TH AVENUE, SUITE 100
ANCHORAGE, ALASKA 99501



EXHIBIT A



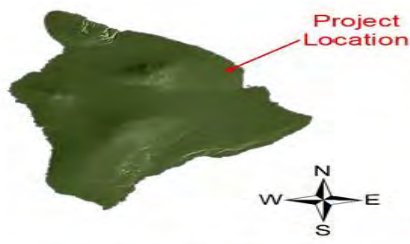


HAWAIIAN HOME LANDS
HAWAIIAN HOMES COMMISSION
DEPARTMENT OF HAWAIIAN HOME LANDS

EAST HAWAII

Project Updates

LAND DEVELOPMENT DIVISION
Item E-3 Workshop
September 22, 2020



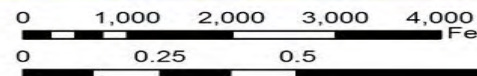
HONOMU SUBSISTENCE AGRICULTURE PROJECT AREA

**Final Environmental Assessment
Finding of No Significant Impact
October 2019**

Akaka Falls Road

HONOMU

Old Māmalahoa Highway



Phase 1

- **Phase 1:** 16 One-acre lots
- Environmental Site Assessment in process
- Subdivision Application to County of Hawaii on
- County Standard roadway with overhead electrical
- Construction bid in October 2020.
- Estimated Construction: \$2,000,000

Hawaii Community College Model Homes Project



Estimated Budget: \$230,000

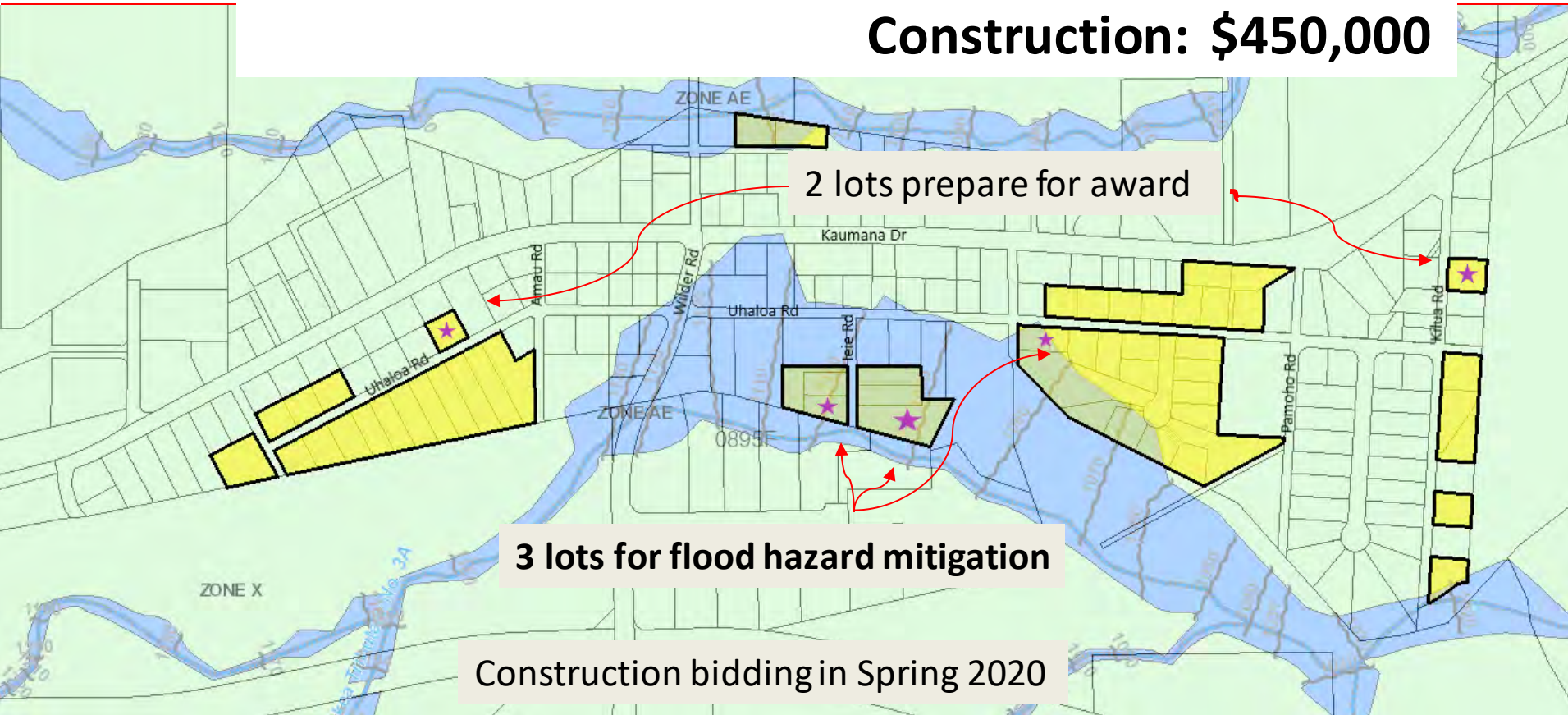


An aerial photograph of a residential area with a yellow rectangular overlay highlighting a specific plot of land. The plot is divided into several smaller sections by white lines, suggesting a subdivision. The surrounding area includes houses, trees, and roads. Labels for 'Kanoelehua Avenue', 'Kinau Street', 'Mahiai Street', and 'Drainage Channel' are visible on the map.

PANAEWA SUBSISTENCE AGRICULTURE LOTS SUBDIVISION OF LOT 185

- 16 half-acre lots
- County of Hawaii subdivision app
- Single Lane, potable water, overhead electrical
- Construction bid in October 2020.
- Construction start in Spring 2021.
- Estimated construction \$2,000,000

Legislative Appropriation Design: \$50,000
Construction: \$450,000



LEGEND



Planning Area

Land Use Designation

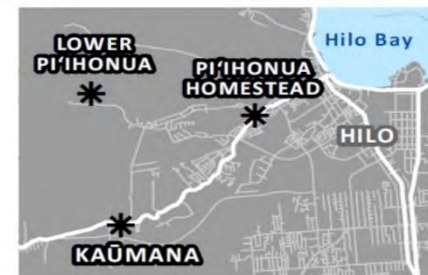


Residential



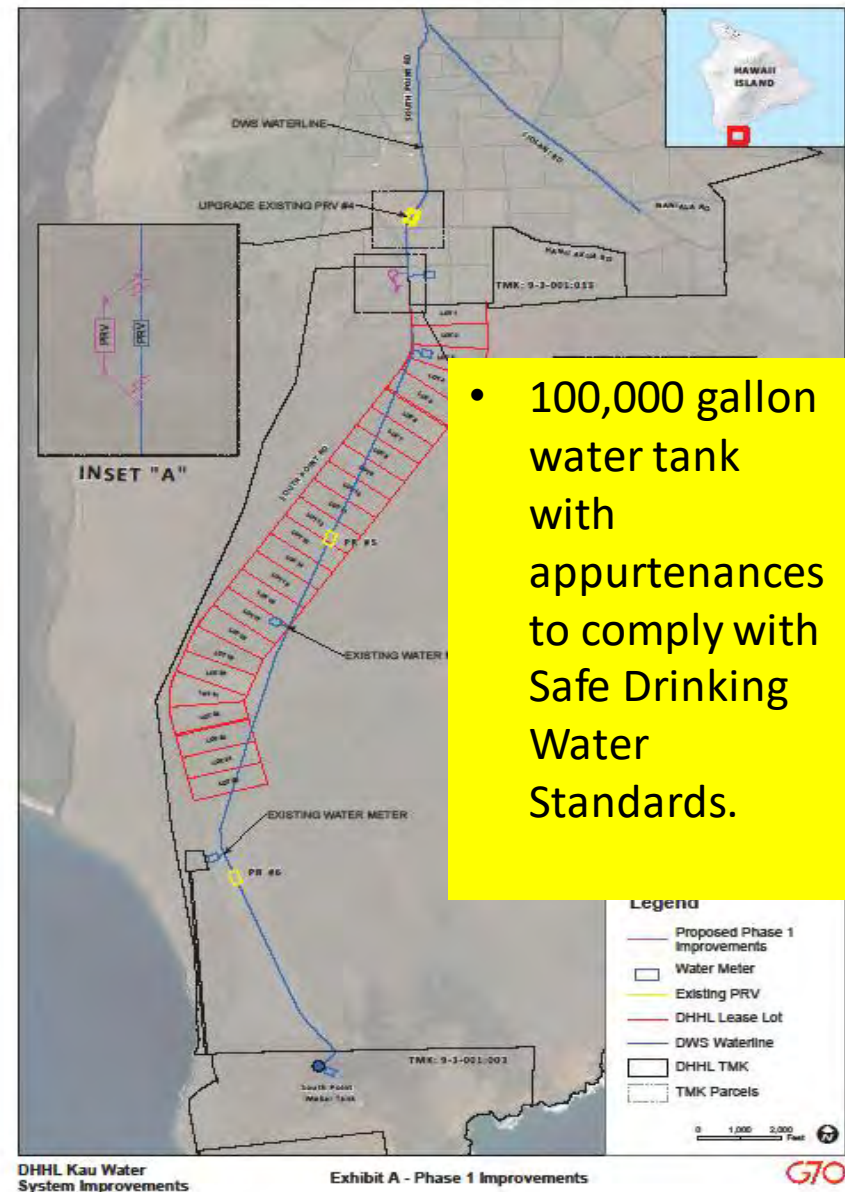
Flood Hazard Area

KAUMANA SUBDIVISION LOT REHABILITATION



Kau Water System – PHASE 1

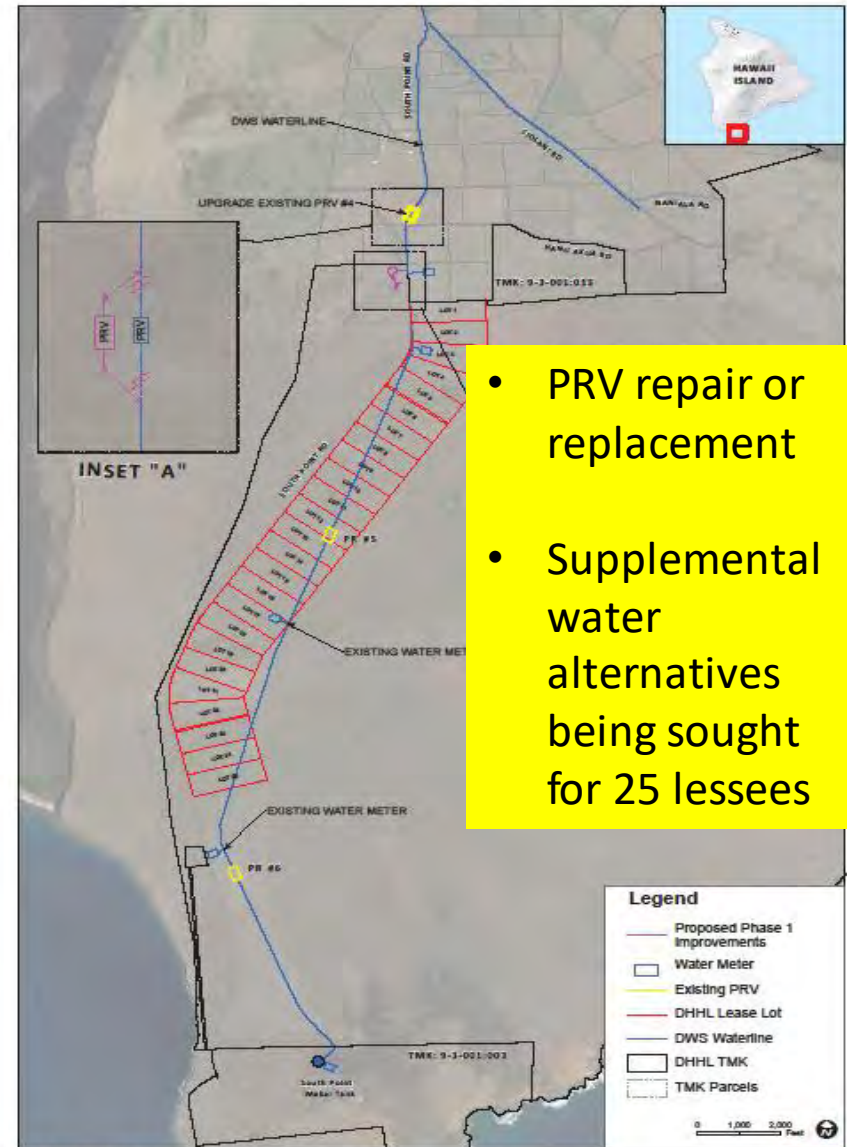
- Phase 1: Construction of a 100,000 gallon water storage tank and appurtenances.
- Construction Bids in May 2020.
- Construction cost \$2,700,000 funded by State Legislative CIP.
- County of Hawaii to maintain and operate water tank.
- Due to lack of funds, Pressure reducing valve replacements deferred to Fiscal Year 2021.
- Estimated cost: \$500,000



- 100,000 gallon water tank with appurtenances to comply with Safe Drinking Water Standards.

Kau Water System – PHASE 2

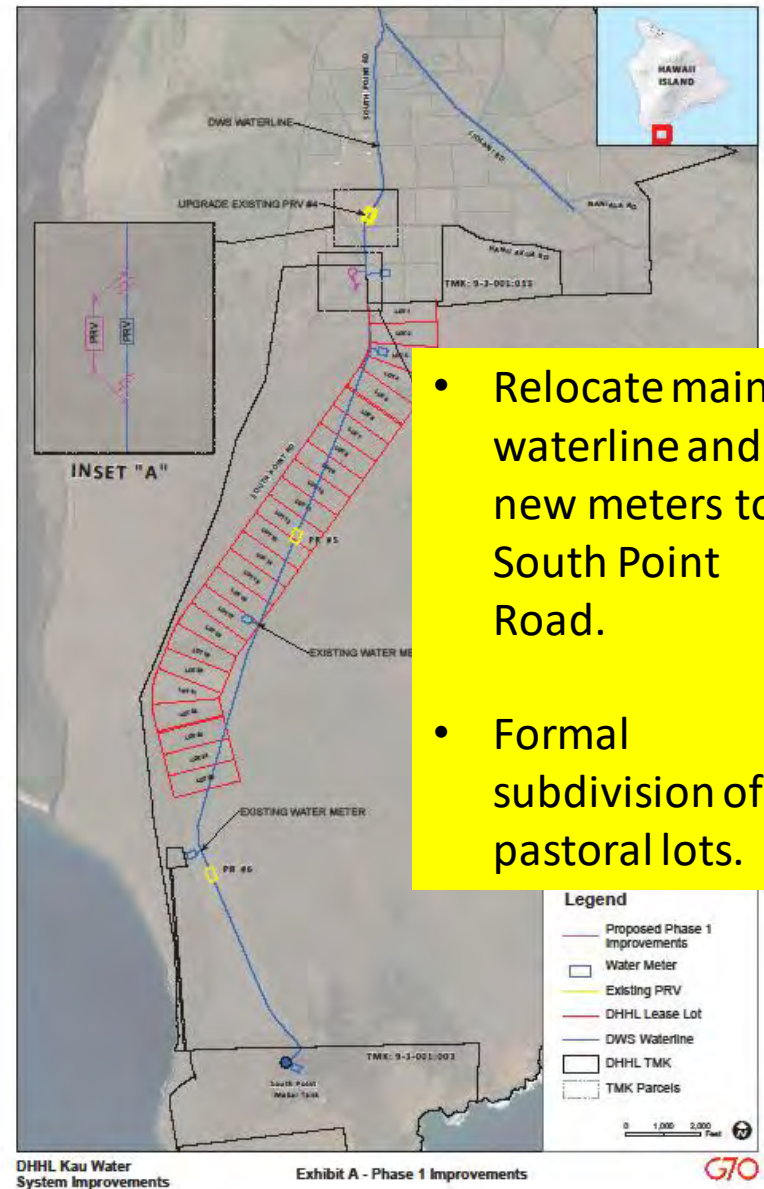
- Phase 2 to include repair/replacement of pressure reducing valve stations.
- Start designs to relocate existing waterline to South Point Road in Fiscal Year 2021.



- PRV repair or replacement
- Supplemental water alternatives being sought for 25 lessees

Kau Water System – PHASE 2

- Relocate existing waterline from within lots, to the South Point Road right-of-way.
- Install new water meters
- Provide fire protection.
- Subdivide 25 pastoral lots.
- Estimated cost of subdivision and construction \$15,000,000.
- Proposed request to Legislature in Fiscal Biennium Budget 2021-2023.





HAWAIIAN HOME LANDS

HAWAIIAN HOMES COMMISSION
DEPARTMENT OF HAWAIIAN HOME LANDS

WEST HAWAII

Project Updates

LAND DEVELOPMENT DIVISION

Item E-3 Workshop

September 22, 2020

VILLAGES OF LA'I 'OPUA, KEALAKEHE, HAWAII



Lai Opua Village 4 Subdivision

Phase 1 - Akau

- 118 residential lot subdivision
- Infrastructure construction complete
- Infrastructure Cost: \$10,346,493.00
- Ikaika Ohana to implement Rent with Option to Purchase program
- Offering for first 60 lots scheduled in November 2020.
- Tenant occupancy scheduled for first quarter 2021



Lai Opua Village 4 Subdivision

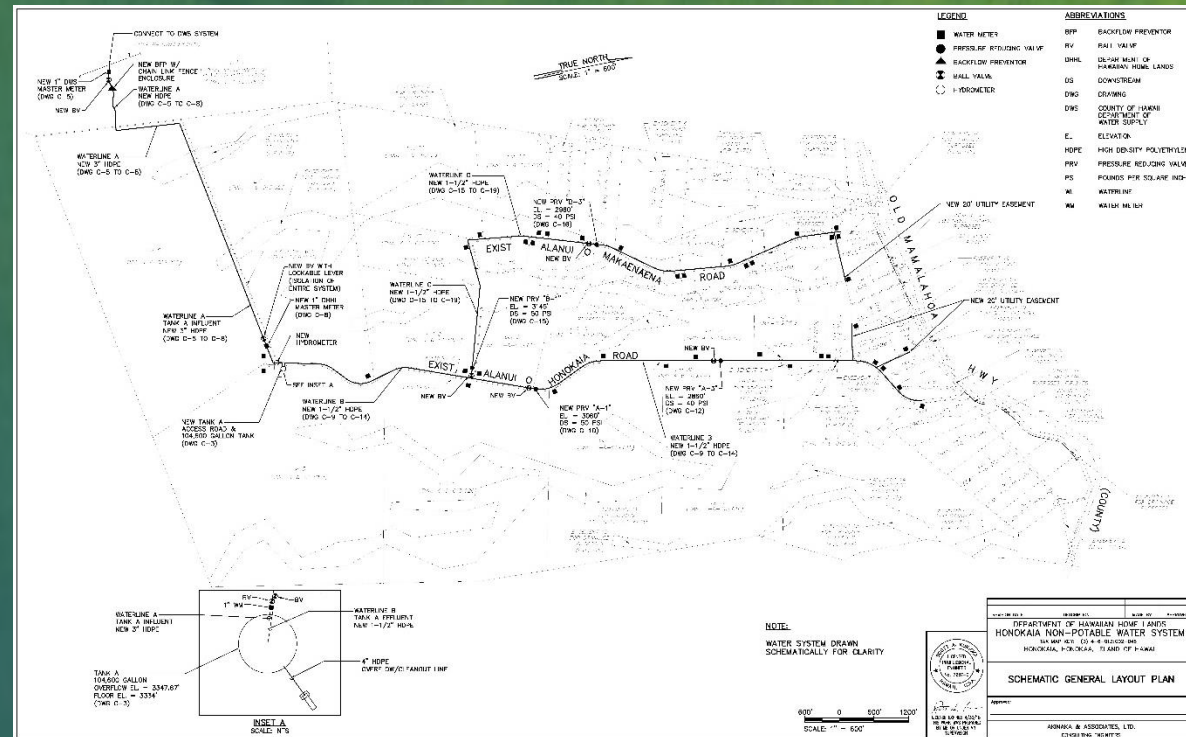
Phase 2 - Hema

- 101 Residential Lot Subdivision
- Est. Design and Construction Cost: \$14.9 M
- \$2,759,000 in USDA grant funds obligated for water, sewer and storm water improvements.
- Up to \$12.2M in Legislative appropriations to fund construction.
- Tentative Ad. for bids in late 2018, pending funding, and DHHL Administration and HHC approval



Honokaia Non-Potable Water System

- DHHL Settlement with Honokaia Ohana
- Water system to supplement individual catchment systems
- 6 mile pipeline for non-potable stock water system with 100,000 gallon storage tank to serve 42 lots.
- Pre-construction meeting on September 16, 2020
- Construction Cost of \$1.3M to be completed in Summer 2021.
- Wai Ola Honokaia to operate and maintain



Kawaihae Residential Habitat Lots

LDD-HSG Awarded Leases 2018-2019

NAHASDA Habitat loans

Construction pending completion of NAHASDA ERR/EA



**HAWAIIAN HOMES COMMISSION
SEPTEMBER 21 & 22, 2020
TELECONFERENCE
9:30 A.M.**

**F – ITEMS
LAND MANAGEMENT DIVISION**

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

September 22, 2020

To: Chairman and Members, Hawaiian Homes Commission

From: Peter "Kahana" Albinio, Jr., Acting Administrator
Land Management Division *KA*

Subject: Approval to Issuance of Right of Entry Permit to Waimea Hawaiian Homesteaders' Association, Inc. (WHHAI), Waimea, Hawai'i Island, TMK No. (3) 6-4-001:059 (por.)

APPLICANT:

Waimea Hawaiian Homesteaders' Association, Inc. (WHHAI), a Hawaii Nonprofit corporation
"PERMITEE"

RECOMMENDED MOTION/ACTION:

That the Hawaiian Homes Commission (HHC) authorize the issuance of a Right of Entry Permit, covering the subject area as identified and described more specifically in the attached maps ("A-1 – A-2") below for community food prep and distribution during COVID-19 Pandemic period and farmers' market purposes ONLY.

Approval and issuance of this Right of Entry Permit (ROE) shall be subject to the following conditions:

1. Authorize the issuance of a Right-of-Entry permit to WHHAI 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 right-of-entry permit form, as may be amended from time to time;
 - B. The premises shall be utilized strictly for community food prep and distribution during COVID-19 Pandemic period and farmers' market purposes ONLY and for no other purposes whatsoever; and
 - C. Such other terms and conditions as may be prescribed by the Hawaiian Homes Commission to best serve the interests of the Hawaiian Home Lands Trust;
2. 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.

LOCATION:

Portion of Hawaiian Home Lands situated Waimea, Island of Hawai'i, identified as Tax Map Key: (3) 6-4-001:059 (por.)

AREA:

1. Community Food Prep and Distribution – Kuhio Hale Grounds, and Hall Facilities, and
2. Homesteaders' Farmers Market – Kuhio Hale Grounds (Lawn only) area to be determined

DISCUSSION:

WHHAI President, Mike Hodson submitted a letter request (See Exhibit "B") for use of the WHDO Kuhio Hale Grounds and Hall Facilities. The proposed uses as requested is for two (2) purposes;

1. Food Distribution Program coined as "Umeke 'Ai" – a program that provides much needed food storage, and pick-up to feed families during these uncertain times of the COVID-19 Pandemic. WHHAI, is fortunate to have received funding from the County of Hawaii and OHA to operate its Umeke 'Ai Program. Since the duration of this Program is unknown due to the pandemic situation and availability of continuous funding, the term for this use would immediately expire once the situation returns to normal. It is further, understood that WHHAI is aware of the increased utility cost to the facility (Electric & Gas) and would be assessed a pro-rated charge accordingly.

The program operation consists of many moving parts that requires the use of the hall throughout the week and through the weekend. Food pick-up is during the normal business hours of the Farmer's Market on Saturdays.

2. Kuhio Hale Farmers' Market established for homestead beneficiaries to simply market their farm produce, crafts, and value-added products.

PLANNING AREA:

Waimea

LAND USE DESIGNATION:

Recommended for Pastoral, Hawai'i Island Plan (2002), Figure 3 – North Hawaii, Hawaii Land Inventory

CURRENT STATUS:

DHHL, West Hawaii District Office – Kuhio Hale Facility

CHARACTER OF USE:

Community Use Purposes

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

Triggers:

Use of State Lands

Exemption Class No. & Description:

In accordance with the "Comprehensive Exemption List for the State of Hawaii, Department of Hawaiian Home Lands, as Reviewed and Concurred Upon by the Environmental Council on June 30, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption List 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."

The direct, cumulative, and potential impacts of the action described have been considered pursuant to Chapter 343, Hawaii Revised Statutes and Chapter 11-200, Hawaii Administrative

Rules. Since the action as proposed is determined to have minimal or no significant impact on the environment it would therefore be exempt from the preparation of an environmental assessment. The Planning Office has reviewed the proposed action and determines it as being eligible for exemption from the preparation of an Environmental Assessment under the Exemption Class as referenced above.

CONSISTENCY WITH DHHL PLANS, POLICIES AND PROGRAMS

DHHL General Plan (2002)

The recommended disposition is consistent with the following General Plan goals and objectives:

Land Use Planning

Goals:

- Utilize Hawaiian Home Lands for uses most appropriate to meet the needs and desires of the beneficiary population.
- Develop livable, sustainable communities that provide space for or access to the amenities that serve the daily needs of its residents.

Objectives:

- Provide space for and designate a mixture of appropriate land uses, economic opportunities and community services in a native Hawaiian-friendly environment.

Land and Resource Management

Goals:

- Be responsible, long-term stewards of the Trust's lands and the natural, historic and community resources located on these lands.

Objectives:

- Manage interim land dispositions in a manner that is environmentally sound and does not jeopardize their future uses.

Program Plans

Water Policy Plan (2014)

While the ROE does not specify activities that would implement DHHL's Water Policy Plan, it is anticipated that renovations facilitated by the granting of the license will include water conservation measures to make the facility more efficient in the use of water if necessary.

Ho'omaluo Energy Policy (2009)

While the ROE does not specify activities that would implement DHHL's Energy Policy, it is anticipated that renovations facilitated by the granting of the license will include energy conservation measures to make the facility more efficient in the use of energy if necessary.

RECOMMENDATION:

Land Management Division respectfully requests approval of the motion as stated.

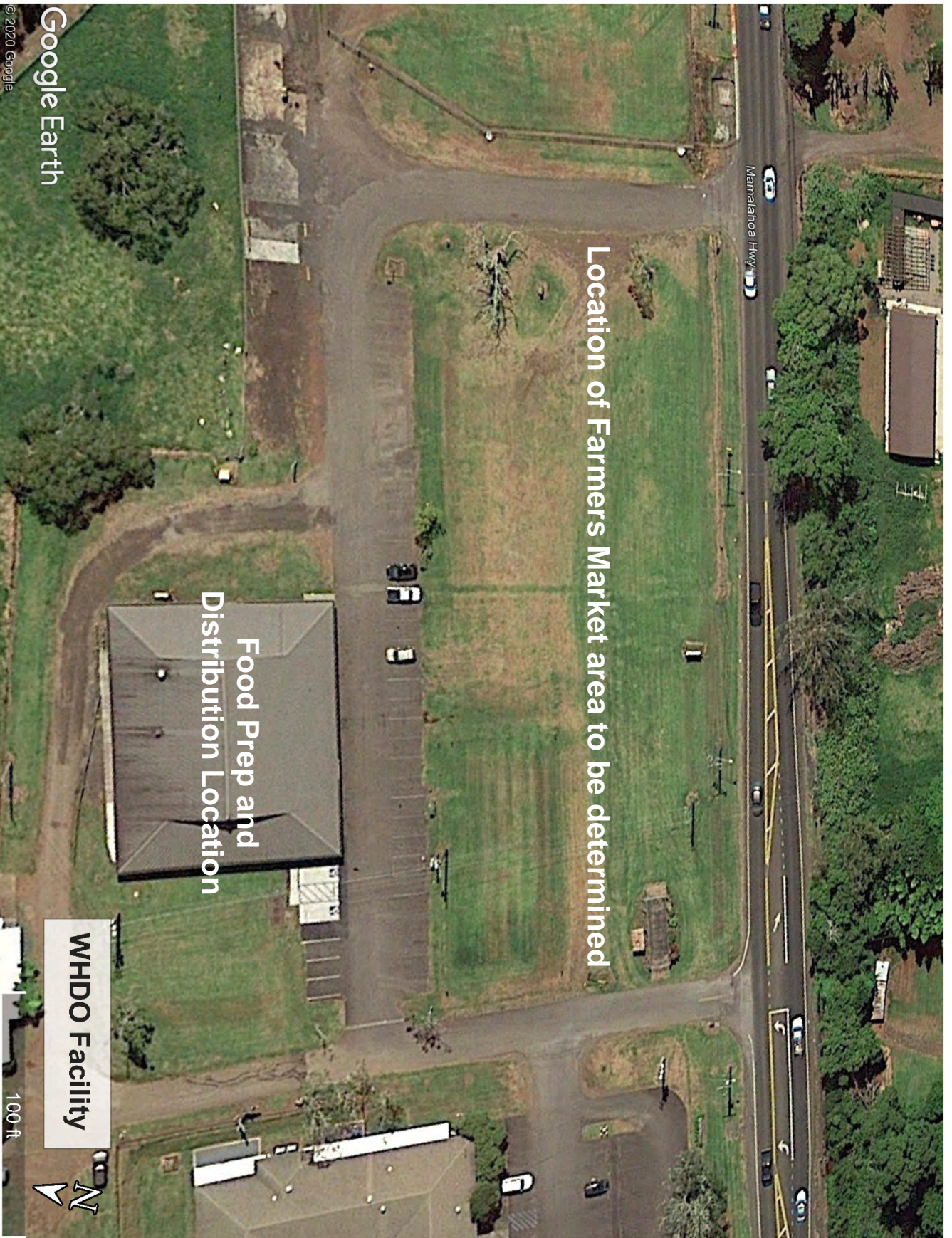


Exhibit "A-2"
Item No. F-1

Albinio Jr, Peter K

Mike Hodson
President WHHAI

From: Michael Hodson <h281dad@aol.com>
Sent: Thursday, September 03, 2020 2:56 PM
To: Albinio Jr, Peter K
Subject: [EXTERNAL] Use of Hall & Farmers Market

Aloha Kahana.

Re: Use of Hall & Use of Lawn for the Kuhio Hale Farmer's Market

I writing after having a conversation with District Manager James Dupont on a longer term use agreement for the facilities. At present we are using a ROE for the use for both programs.

We have started an "Uneke 'Ai" food calabash for our kanaka and having been doing it for the past 20 weeks. The program has been feeding 300 families, or about 1200 of our Kanaka. The facilities at the hall is the most ideal location for the program, due to the "Refer" for food storage and freezer space for cold storage of the products. The program is a drive through pickup and we follow all COVID guidelines! We were fortunate to receive private funding, County funding and OHA funding to operate the program. We have listed the HHC as providing an in-kind service to the program for the use of the facilities.

Duration of the program is not yet determined due to the pandemic situation and the availability of continuous funding. If a long term agreement is necessary for DHHL to continue the program I would be in agreement that a clause be place that DHHL could cancel the agreement once the situation gets back to normal. I'm aware that the continuous use of the hall throughout the week has increased the utility cost of the facility (Electric & Gas), and it is my hope that the HHC & DHHL would consider that expense as a contribution to the program for and by the Beneficiaries of the HHC/A for the program.

We have been using the hall throughout the week for food storage, pick-up and Uneke 'Ai preparations. We have at least 30 homestead volunteers that have focused and coordinated each food area so that the work is spread out and times are designated for each coordinator to use and prepare for the Uneke 'Ai (avoiding gatherings of more than 10). Therefore the hall has been used throughout the week and through the weekend. Pick-up is during the normal business hours of our Kuhio Hale Farmer's Market on Saturdays.

Our Kuhio Hale Farmer's Market, though small, will continue! The use of the lawn has been the preferred area, but with the Uneke 'Ai program, the patio area has been used. AS with the Uneke 'Ai program, once the hall is re-opened for normal business, we will go back to the lawn area (which may include the Uneke 'Ai program). Because our Market program has only attracted beneficiaries (about 6), our fee is only five (\$5) a week, which has been waived since March! This covers our cleaning necessities for the market only.


This long term disposition with WHHAI's Farmer's Market is at your consideration, obviously I would ask it to be as "gratis". I will ensure Liability Insurance for the facility and the market with DHHL's inclusion and have that available as soon as possible.


Aloha,

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

September 22, 2020

To: Chairman and Members, Hawaiian Homes Commission

Through: Peter "Kahana" Albinio, Jr., Acting Administrator
Land Management Division 

From: Kaipo Duncan, Land Agent
Land Management Division 

Subject: Approval to Issuance of Right of Entry Permit to Kukulu Kumuhana 'O Anahola (KKOA), Anahola Farm Lots, Anahola, Kaua'i Island, TMK No. (4) 4-8-005:026 (por.)

APPLICANT:

Kukulu Kumuhana 'O Anahola (KKOA), a Hawaii Nonprofit corporation "PERMITEE"

RECOMMENDED MOTION/ACTION:

That the Hawaiian Homes Commission (HHC) authorize the issuance of a Right of Entry Permit, covering the subject area as identified and described more specifically in the attached maps ("A-1 – A-2") below for temporary garden and agricultural purposes ONLY.

Approval and issuance of this Right of Entry Permit (ROE) shall be subject to the following conditions:

1. Authorize the issuance of a Right-of-Entry permit to WHHAI 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 right-of-entry permit form, as may be amended from time to time;
 - B. The premises shall be utilized strictly for temporary garden and agricultural purposes ONLY and for no other purposes whatsoever; and
 - C. Such other terms and conditions as may be prescribed by the Hawaiian Homes Commission to best serve the interests of the Hawaiian Home Lands Trust;
2. 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.

LOCATION:

Portion of Hawaiian Home Lands situated the Anahola Farm Lots, Anahola, Kaua'i Island, identified as Tax Map Key: (4) 4-8-005:026 (por.)

AREA:

Approximately one (1.0) acre

DISCUSSION:

KKOA President, Ms. Kuulei Punua Johnson has requested temporary use of the former Anahola Farm Lots Farmers Market site. At the decision of Kalalea Anehola Farmers Hui (KAF Hui) to cease its Farmers Market operations at the former site under ROE 584, ROE 584 was terminated in May 2020.

KKOA is now using the site under Limited Right of Entry Permit No. 21:011 (See Exhibit "B") to grow a garden and for agricultural purposes. They recently planted dry land taro stalks that was provided by a Kealia farmer who lost his lease and needed somewhere to plant the kalo.

KKOA has a second site in Anahola under Right of Entry No. 698 (See Exhibit "C"). This site is located just below DHHL's Piilani Mai Ke Kai residential subdivision and near the Anahola coastline. This location however lacks any access to water, therefore agricultural produce is taken to the Anahola Farm Lots Farmers Market for planting and nurturing. KKOA is working on acquiring and installing a water meter at this site for its purposes.

PLANNING AREA:

Anahola/Kamalomalo'o Lands

LAND USE DESIGNATION:

Recommended for Community Use, Kaua'i Island Plan (2002), Figure 8.2 – Anahola/Kamlomalo'o, Kaua'i Land Inventory

CURRENT STATUS:

Community Use

CHARACTER OF USE:

Community Use Purposes

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

Triggers:

Use of State Lands

Exemption Class No. & Description:

In accordance with the "Comprehensive Exemption List for the State of Hawaii, Department of Hawaiian Home Lands, as Reviewed and Concurred Upon by the Environmental Council on June 30, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption List 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."

The direct, cumulative, and potential impacts of the action described have been considered pursuant to Chapter 343, Hawaii Revised Statutes and Chapter 11-200, Hawaii Administrative Rules. Since the action as proposed is determined to have minimal or no significant impact on the environment it would therefore be exempt from the preparation of an environmental assessment. The Planning Office has reviewed the proposed action and determines it as being

eligible for exemption from the preparation of an Environmental Assessment under the Exemption Class as referenced above.

CONSISTENCY WITH DHHL PLANS, POLICIES AND PROGRAMS

DHHL General Plan (2002)

The recommended disposition is consistent with the following General Plan goals and objectives:

Land Use Planning

Goals:

- Utilize Hawaiian Home Lands for uses most appropriate to meet the needs and desires of the beneficiary population.
- Develop livable, sustainable communities that provide space for or access to the amenities that serve the daily needs of its residents.

Objectives:

- Provide space for and designate a mixture of appropriate land uses, economic opportunities and community services in a native Hawaiian-friendly environment.

Land and Resource Management

Goals:

- Be responsible, long-term stewards of the Trust's lands and the natural, historic and community resources located on these lands.

Objectives:

- Manage interim land dispositions in a manner that is environmentally sound and does not jeopardize their future uses.

Program Plans

Water Policy Plan (2014)

While the ROE does not specify activities that would implement DHHL's Water Policy Plan, it is anticipated that renovations facilitated by the granting of the license will include water conservation measures to make the facility more efficient in the use of water if necessary.

Ho'omaluo Energy Policy (2009)

While the ROE does not specify activities that would implement DHHL's Energy Policy, it is anticipated that renovations facilitated by the granting of the license will include energy conservation measures to make the facility more efficient in the use of energy if necessary.

RECOMMENDATION:

Land Management Division respectfully requests approval of the motion as stated.

DATE: SEPT. 1936

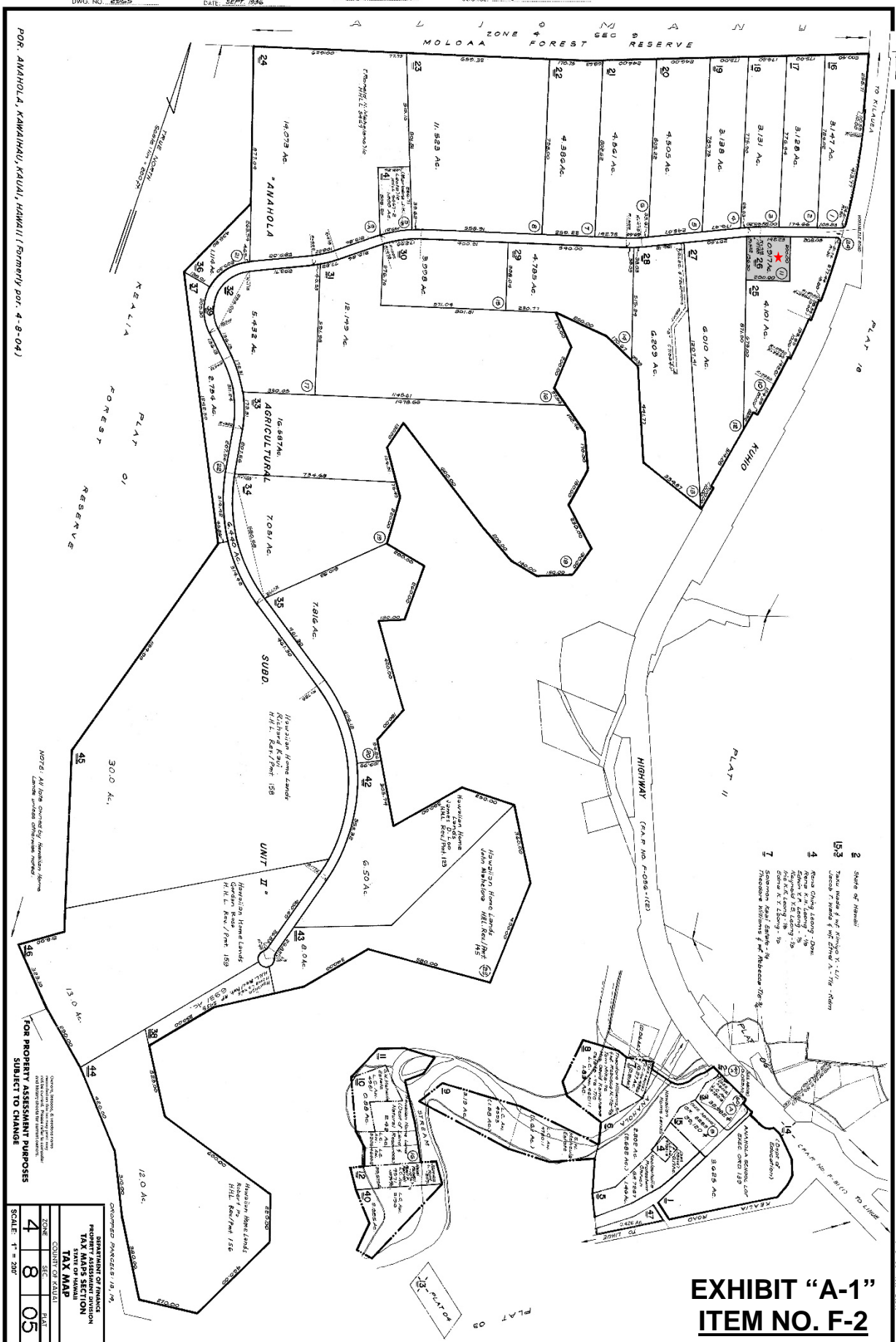


EXHIBIT "A-1"
ITEM NO. F-2

TMK (4) 4-8-005:026

Hokualele Rd

Farmers' Market
Location

Google Earth

© 2020 Google

200 ft



EXHIBIT "A-2"
ITEM NO. F-2

DAVID Y. IGE
GOVERNOR
STATE OF HAWAII

JOSH GREEN
LT. GOVERNOR
STATE OF HAWAII



WILLIAM J. AILA, JR.
CHAIRMAN
HAWAIIAN HOMES COMMISSION

TYLER I. GOMES
DEPUTY TO THE CHAIRMAN

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

P. O. BOX 1879
HONOLULU, HAWAII 96805

LIMITED RIGHT OF ENTRY PERMIT
LROE Permit No. 21:011

The DEPARTMENT OF HAWAIIAN HOME LANDS (DHHL), STATE OF HAWAII, by its Hawaiian Homes Commission, as PERMITOR, hereby grants a limited right of entry permit to:

PERMITEE Name: **Kukulu Kumuhana O Anahola(KKOA)**
Project Name: **Anahola Farm Lots-Farmers Market Site**
Contact Name: **Attn: Kuulei Johnson**
Cell. Ph.: 808.651.1481
Email: **KKOA96703@ymail.com**

Address: P.O. Box 370, Anahola, Hawaii 96703

To engage in the following activity:

~~Plant dry land Taro and other fruits/vegetables. For a period of approximately one (1) year or until the KKOA Right of Entry site below Piilani Mai Ke Kai (PMKK) has non-potable water they can use for their fruits/vegetables. KKOA will move from the Farm Lots to below PMKK when the water becomes available.~~ **KA 8/12/2020**

On the following date(s), time(s) and location(s):

Date: 12, August 2020 – 12, September 2020
Time: Normal day light hours
Location(s): Anahola Farm Lots, Kauai Island
Tax Map Key: (4) 4-8-005:026 (See Kauai County Parcel Map attached)
Fee: \$0.00

Special Conditions:

- 1.) The permission granted only limits the entry to PERMITEE, its employees, its consultant(s), and sub-consultant(s) to not exceed a total of twenty (20) personnel in the field at any time for the purpose as stated above and for no other purpose(s);
- 2.) In lieu of securing a Liability Insurance Certificate, PERMITEE, its employees, its consultant(s), sub-consultant(s), and/or volunteer(s) shall, for liability purposes complete the Assumption of Risk and Release for attached hereto and made a part hereof as Exhibit "A." This form indemnifies PERMITEE, its employees, its consultant(s), sub-consultant(s), and/or volunteer(s) from taking any legal action against PERMITTOR. For record and filing purposes, PERMITEE shall provide PERMITTOR copies of all completed forms.
- 3.) PERMITEE and all participants agree to not cause any action instituting any claim, suit or other similar cause against the State of Hawaii and its officers, employees, or agents because of death,

EXHIBIT "B"
ITEM NO. F-2

personal injury, property damage or property loss, if any, arising out of any accident on the premises covered by this Permit and roadways adjacent thereto occasioned by any act or omission of PERMITEE and all participants;

- 4.) PERMITEE agrees to save, defend and hold harmless the State of Hawaii, its Department of Hawaiian Home Lands, its officers, employees, and agents, from and against all liability, loss, damage, cost, and expense, including all attorneys' fees, and all claims, suits, and demands therefore, arising out of or resulting from the acts or omissions of PERMITEE or PERMITEE'S employees, officers, agents, or subcontractors under this [LROE];
- 5.) PERMITEE and all participants hereby assume the risk for any injuries that may be sustained in the pursuit of the activity while on the premises and does hereby remise, release, and forever discharge the State of Hawaii, its Department of Hawaiian Home Lands, its agents, officers, and employees, from any and all actions, suits, damages, claims or judgements, that may result from said death, personal injury, property damage, or property loss that PERMITEE and any participant may sustain while on the premises of the Department of Hawaiian Home Lands while engaged in the activities specified above;
- 6.) PERMITEE shall keep the premises neat and clean and shall remove all equipment and litter brought onto the property in conjunction with its activities; and
- 7.) Legal enforcement of these conditions shall be done by DHHL staff; DLNR Enforcement and Conservation Officers and/or applicable County Police Enforcement; and

THIS PERMIT IS NOT TRANSFERABLE

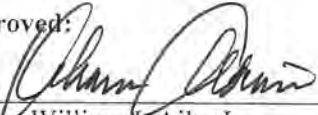
The permission granted shall not extend to any other organization or person and the PERMITEE(s) agree to save, defend, and hold harmless, the State of Hawaii, Department of Hawaiian Home Lands, its agents employees, against any claim or demand for loss or damage, including claims of personal injury or death to persons, if any, arising out of any accident on the premises covered by the Permit and walkways and roadways adjacent thereto occasioned by any act or omission of the PERMITEE(s).

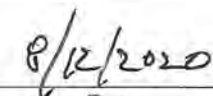
The PERMITEE hereby assumes the risk for any injuries including death or damages that may be sustained in the pursuit of the activity while on the premises and does hereby remise, release, and forever discharge the State of Hawaii, its Department of Hawaiian Home Lands, its agents, officers, and employees, from any and all actions, suits, damages, claims or judgements that may result from any personal injury, including death or property damage the PERMITEE, its agents, its invitees, or its employees may sustain or cause while on the premises of the Department of Hawaiian Home Lands under authority of this permit.

PERMITEE NAME

By _____
Kuulei Johnson, President

Date

Approved: 
By _____
For William J. Aila, Jr.,
Chairman, Hawaiian Homes Commission



Date

personal injury, property damage or property loss, if any, arising out of any accident on the premises covered by this Permit and roadways adjacent thereto occasioned by any act or omission of PERMITEE and all participants;

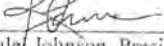
- 4.) PERMITEE agrees to save, defend and hold harmless the State of Hawaii, its Department of Hawaiian Home Lands, its officers, employees, and agents, from and against all liability, loss, damage, cost, and expense, including all attorneys' fees, and all claims, suits, and demands therefore, arising out of or resulting from the acts or omissions of PERMITEE or PERMITEE'S employees, officers, agents, or subcontractors under this [LROE];
- 5.) PERMITEE and all participants hereby assume the risk for any injuries that may be sustained in the pursuit of the activity while on the premises and does hereby remise, release, and forever discharge the State of Hawaii, its Department of Hawaiian Home Lands, its agents, officers, and employees, from any and all actions, suits, damages, claims or judgements, that may result from said death, personal injury, property damage, or property loss that PERMITEE and any participant may sustain while on the premises of the Department of Hawaiian Home Lands while engaged in the activities specified above;
- 6.) PERMITEE shall keep the premises neat and clean and shall remove all equipment and litter brought onto the property in conjunction with its activities; and
- 7.) Legal enforcement of these conditions shall be done by DHHL staff; DLNR Enforcement and Conservation Officers and/or applicable County Police Enforcement; and

THIS PERMIT IS NOT TRANSFERABLE

The permission granted shall not extend to any other organization or person and the PERMITEE(s) agree to save, defend, and hold harmless, the State of Hawaii, Department of Hawaiian Home Lands, its agents employees, against any claim or demand for loss or damage, including claims of personal injury or death to persons, if any, arising out of any accident on the premises covered by the Permit and walkways and roadways adjacent thereto occasioned by any act or omission of the PERMITEE(s).

The PERMITEE hereby assumes the risk for any injuries including death or damages that may be sustained in the pursuit of the activity while on the premises and does hereby remise, release, and forever discharge the State of Hawaii, its Department of Hawaiian Home Lands, its agents, officers, and employees, from any and all actions, suits, damages, claims or judgements that may result from any personal injury, including death or property damage the PERMITEE, its agents, its invitees, or its employees may sustain or cause while on the premises of the Department of Hawaiian Home Lands under authority of this permit.

PERMITEE NAME

By 
Kuulei Johnson, President

August 12, 2020
Date

Approved:

By _____
For William J. Aila, Jr.,
Chairman, Hawaiian Homes Commission

Date

Farmers Market-Ananoia Farm Lots



Motion that the Hawaiian Homes Commission authorizes the issuance of License Agreement, Kalalea/Anahola Farmer's Hui, Anahola Farm Lots Farmer's Market, Anahola, Island of Kaua'i, Tax Map Key No. (4) 4-8-005:026 (por.)

MOTION

Moved by Commissioner Teruya, seconded by Commissioner Ka'apu, to approve the motion as stated in the submittal. Commissioner Neves recused himself.

DISCUSSION

Agnes Keaulani Marti-Kini stated that they are the only Farmer's Market in Anahola.

ACTION

Motion carried unanimously.

ITEM F-8 Issuance of a Right of Entry Permit Ulupono Anahola Agricultural Garden Training Site and Youth Center, Kukulu Kumuhana O Anahola (KKOA) and Pi'ilani Mai Ke Kai (PMKK) Subdivision, Anahola, Kauai, Tax Map Key No.: (4)4-8-003:019 (por.) & 21 (por.)

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following: Motion that the Hawaiian Homes Commission authorizes the issuance of a Right of Entry Permit to KKOA and PMKK covering the subject area as identified and described below to use as the Ulupono Anahola Agricultural Garden Training Site and Youth Center (UAAG).

MOTION/ACTION

Moved by Commissioner Teruya, seconded by Commissioner Ka'apu, to approve the motion as stated in the submittal. Motion carried unanimously.

ITEM F-9 Issuance of a Right of Entry Permit, Green Energy Team LLC, One Time Albizia Removal/Cleanup with No Replanting, Anahola Mauka, Anahola, Tax Map Key Nos.: (4)4-7-002:004 and (4)4-8-002:001 and (4)4-8-003:006, 007, & 022 and (4) 4-8-005:006 & 011

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following: Motion that the Hawaiian Homes Commission authorize the issuance of a Right of Entry Permit to Green Energy Team LLC covering the subject area as identified and described below for the one-time removal of Albizia trees with no replanting at Anahola Mauka, Anahola, Kaua'i. Approval and issuance of this Right of Entry shall be subject to the conditions stated in the submittal.

MOTION

Moved by Commissioner Ka'apu, seconded by Commissioner Neves, to approve the motion as stated in the submittal.

DISCUSSION


Former Mayor Bernard Carvalho, Jr. testified in support of the Green Energy Team. He stated that this is an opportunity to clear the land of the albizia trees.

EXHIBIT "C"
ITEM NO. F-2

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

September 16-17, 2019

To: Chairman and Members, Hawaiian Homes Commission

From: Peter "Kahana" Albinio, Jr., Acting Administrator
Land Management Division 

Subject: Issuance of a Right of Entry Permit, Kukulu Kumuhana O Anahola (KKOA) and the Piilani Mai Ke Kai (PMKK) Association, Ulupono Anahola Agricultural Garden Training Site and Youth Center, Anahola, Island of Kaua'i, TMK No.: (4)4-8-003:019 (por.) & 021 (por.)

APPLICANT:

KKOA and PMKK (See Exhibit "A")

RECOMMENDED MOTION/ACTION: That the Hawaiian Homes Commission (HHC) authorize the issuance of a Two (2) year Right of Entry Permit to KKOA/PMKK covering the subject area as identified and described below to use as the Ulupono Anahola Agricultural Garden Training Site and Youth Center (UAAG).

Approval and issuance of this Two (2) year Right of Entry (ROE) shall be subject to the following conditions:

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 (EA).
2. Authorize the issuance of a 2-year ROE Permit to KKOA/PMKK, covering the subject area for use as the Ulupono Anahola Agricultural Garden Training Site and Youth Center (UAAG) 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 ROE Permit form, as may be amended from time to time;
 - 1) Permittee shall use the Premises for the Ulupono Anahola Agricultural Garden Training Site and Youth Center (UAGG). No other use shall be allowed without DHHL's prior written approval.
 - 2) KKOA/PMKK shall use approximately ten (10) acres of DHHL land to be used under this ROE permit for phase 1. An additional 20 acres or 30 total acres may be used for phases 2 and 3.

- 3) Monthly fee shall be gratis with the possibility of the future conversion of this ROE to a DHHL License.
 - 4) Permittee shall pay non-refundable processing and documentation fees totaling \$175.00.
3. This ROE shall conform to federal, state and county (government agencies) standards. Permittee shall obtain applicable permits and approvals from government agencies prior to the commencement of any work on the property that requires such permits and approvals;
 4. Any construction or alteration of the permit area shall require DHHL approval;
 5. All utilities shall be paid by the KKOA/PMKK. Approval by the DHHL Main Kapolei Office and the County of Kauai is needed to access potable water and address sewer requirements. Electricity needs the approval of Kauai Island Utility Cooperative (KIUC).
 6. All trash and debris accumulated shall be removed immediately from the site the same day or at the latest the next day. This is to deter the presence of flies and bad odors from being a nuisance to area neighbors. Furthermore, any bad odors from animals or any other entity shall be addressed immediately.
 7. The ROE document shall be subject to other standard terms and conditions of similar ROE's issued by DHHL;
 8. Review and approval by the State of Hawaii, Department of the Attorney General; and
 9. Such other terms and conditions deemed prudent and reasonable by the Chairman of the Hawaiian Homes Commission (HHC) and/or the HHC to serve the best interests of the trust and its beneficiaries.

LOCATION:

Hawaiian Home Lands situated East of Pilipoli Road Makai of the PMKK Subdivision in Anahola, Island of Kaua'i, identified as tax map key no.: (4)4-8-003:019 (por.) and 021 (por.)

AREA:

Approximately ten (10) acres for Phase 1. A total of 30 acres to include Phases 2 and 3 built out in the future.

DISCUSSION:

Mrs. Kahanu Keawe, PMKK submitted a Land Use Request Form (LURF) dated January 17, 2019, for the UAGG located Makai of PMKK at TMK No. (4)4-8-003:019 (por.) and 021 (por.), in Anahola, Kauai.

The current status of this land has been plagued with multiple fires that have been dangerous to the residential area of the PMKK Community and the Anahola Community at large. This Project would deter illegal dumping and provide a safe and productive environment for current and future beneficiaries.

The goal of PMKK is to partner with KKO A a well-respected non-profit organization in Anahola. Every summer KKO A puts on free movie nights at the Anahola Clubhouse to bring the Anahola Community together. The UAGG will provide an Agricultural Garden Training Center and youth facility providing education, skill building, and cultural practices.

Like the DHHL Hale Program which provides Homebuyer Education classes and Foreclosure Prevention Management, this training and youth facility would equip beneficiaries (lessees and applicants) with skills to choose the most effective method that would provide sustainability for their land and family (current and future).

An Agricultural training center and youth facility would provide skill-building, education and continued learning of cultural practices. Education referring to academics is only one aspect of learning. Providing resources, life skills and programs for youth and their families have the potential for lessee's and applicants to make choices to choose a meaningful and productive future.

DHHL staff has developed procedures, processing criteria, and the required documentation necessary to conduct a thorough due diligence review based on the Hawaiian Home Commission's (HHC) discussions and approvals of the Waimea Homestead Association's Waimea Nui Project.

Process/Procedure Work Flow

1. Applicant submits LURF
2. DHHL sends Acknowledgement letter, notification that additional documents will be required pending HHC submittal, and that other applicants may also be requesting use which will trigger a community meeting to insure a fair opportunity to use the land and so that the best project is selected for the property based on homestead community needs.
3. DHHL submits HHC submittal (September 16-17, 2019) which starts due diligence review sends checklist to applicant to collect all the documentation required for the disposition.
4. Applicant submits supporting documents to allow DHHL Divisions to conduct review and report to LMD.
5. LMD packages disposition for HHC approval.
6. LMD letter to applicant commencement of the disposition.

Proposed due Diligence Review Checklist:

1. Land Use Request Form (LURF)
2. Land Use Request Assessment Worksheet(consistency)
3. Governing Documents, Mission Statement, DCCA
4. Number of members who are homesteaders from the affected homestead community (controlling interest)
5. Business/Project Plan review (feasibility)
6. Financial Plan Review (sustainability)
7. Project development schedule and timeline
8. Verification experience, track record and homestead acceptance explain relationship to homestead community (consultation, letters of support, partnerships)
9. Environmental Review and Community Benefits if applicable.

DHHL staff has held discussions with PMKK/KKO A during 2018-2019 and they have provided the necessary documentation as follows:

1. Land Use Request Form (LURF) requests the use of a 30-acre property for the UAGG education training site and youth center a central place for the Anahola Community to gather and share crops and products. (January 17, 2019)
2. Land Use Request Assessment Worksheet was completed by DHHL staff. The use will not change and should not require an environmental assessment. (September 2019)
3. Governing Documents, Mission Statement, DCCA and IRS documents were submitted and are on file. (September 2019)
4. Business/Project Plan was submitted and is on file.
5. Financial Plan and Pro-forma were submitted and reviewed to assure sustainability for the first five years of operation. (September 2019)
6. Project development schedule and timeline will be further detailed during right of entry period and presented prior to consultation for long term lease or license.
7. Verification experience, track record and homestead acceptance explain and relationship to the Anahola DHHL Homestead community will be developed during right of entry period prior to consultation and disposition approval.
8. Environmental Review and Community Benefits, environmental not applicable, serves farm community and provides benefit to farmers to market their products.

PLANNING AREA:

PMKK Subdivision, Makai of Pilipoli Road, Anahola, Kauai (See Exhibit “B”)

LAND USE DESIGNATION:

Community Use (CU) and Residential (R), Kaua’i Island Plan (2004), Figure 8.2 – Anahola/Kamalomalo’o Land Use Plan, pg. 8-2

CURRENT STATUS:

The site is vacant with grass and shrubbery. In the last five (5) years many fires have burned in this vicinity causing panic to the area residents. Also, the site is prone to heavy illegal dumping.

CHARACTERER OF USE:

Ulupono Anahola Education Center and Youth Training Facility

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

Triggers:

Use of State Lands

Exemption Class No. & Description:

In accordance with the "Comprehensive Exemption List for the State of Hawaii, Department of Hawaiian Home Lands, as Reviewed and Concurred Upon by the Environmental Council on June 30, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption List Class No. 5, "Resource evaluation activities which do not result in a serious or major disturbance to an environmental resource. Any grubbing will be required to have erosion control measures in place."

Exemption Item Description from Agency Exemption List:

The direct, cumulative, and potential impacts of the action described have been considered pursuant to Chapter 343, Hawaii Revised Statutes and Chapter 11-200, Hawaii Administrative Rules. Since the action as proposed is determined to have minimal or no significant impact on the environment it would therefore be exempt from the preparation of an environmental assessment. The DHHL Planning Office (PO) has documented the action as being eligible for exemption from the preparation of an Environmental Assessment under the Exemption Class as referenced above.

CONSISTENCY WITH DHHL PLANS, POLICIES AND PROGRAMS

DHHL General Plan (2002)

The recommended disposition is consistent with the following General Plan goals and objectives:

Land Use Planning

Goals:

- Utilize Hawaiian Home Lands for uses most appropriate to meet the needs and desires of the beneficiary population.
- Develop livable, sustainable communities that provide space for or access to the amenities that serve the daily needs of its residents.

Objectives:

- Provide space for and designate a mixture of appropriate land uses, economic opportunities and community services in a native Hawaiian-friendly environment.

Kauai Island Plan (2004)

The recommended disposition is consistent with the following elements of the Kauai Island Plan:

The site is designated for Community Use (CU) and Residential (R) consistent with the Kauai Island Plan. Table 2.1 DHHL Land Use Designations page 2-7 and Figure 8.2 Anahola/Kamalomalo'o Land Use Plan page 8-4.

RECOMMENDATION:

Land Management Division (LMD) respectfully requests approval of the motion as stated.

DAVID Y. IGE
GOVERNOR
STATE OF HAWAII

SHAN S. TSUTSUI
LT. GOVERNOR
STATE OF HAWAII



RECEIVED
LAND MANAGEMENT
DIVISION
JOBIE M. K. MASAGATANI
CHAIRMAN
HAWAIIAN HOMES COMMISSION

WILLIAM J. AILA, JR.
DEPUTY TO THE CHAIRMAN

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

2019 FEB -7 AM 11:08

P. O. BOX 1879
HONOLULU, HAWAII 96805

REQUEST FORM FOR NON-HOMESTEADING LAND USE PURPOSES

PART I: APPLICANT INFORMATION

Name: _____

Address: _____

Phone No.: _____ Cell: _____ email: _____

If Corporation/Organization/Company/LLC/Non-Profit:

Name: Pi'ilani Mai Ke Kai Community Association

Address: P. O. Box 75, Anahola, HI 96703

Phone No.: _____ Cell: (808)392-6119 email: kahanukeawe@gmail.com

☒ Requesting Organization is a Non-Profit

Type of Non-Profit:

- ☐ Private Nonprofit – governed by self appointed board
☐ Member Nonprofit – governed by voting members
☒ Homestead Organization – governed by HHCA beneficiary members

☐ Requesting Organization is For Profit - Individual or Business

- ☐ Individual ☐ Sole Proprietorship ☐ Partnership
☐ Corporation ☐ Limited Liability Corporation ☐ Other

Is an Individual HHCA Beneficiary or is Owned by an HHCA Beneficiary ☐ Yes ☐ No

☐ Requesting Organization is a Government Agency

- ☐ Federal ☐ State ☐ County

Officers and/or Principal Representatives: _____

Karen Kahanu Keawe, President / Lance "Leko" Nobriga, Vice President / Kipukai Kualii, Secretary

Mission of Organization: To administer and manage community association created and established as a Pi'ilani Mai Ke Kai Community Association; for charitable purposes which promote the betterment of the Native Hawaiian community in the Anahola region by establishing, implementing and managing charitable, religious, educational and scientific programs.

Date Incorporated: _____ State of Incorporation: Hawaii

Federal Tax ID#: 45-5312378 State Tax ID#: GE 064-015-3600-01

PART 2: NON-HOMESTEADING LAND USE REQUEST

Describe proposed non-homesteading land use envisioned under this request as submitted The goal of Pi'ilani Mai Ke Kai Community Association is to partner with Kukulu Kumuhana O Anahola (KKOA), a non-profit organization serving the Anahola community, to provide an Agricultural Garden Training Center and Youth facility that will provide a place of education, skill building and cultural practices.

**Please attach additional information if necessary*

Land Request Form No. _____

ITEM NO. F-8

EXHIBIT "A"

Land Area requested: Acreage/Sq.Ft. 30 acres Term: Lease - 30 YEARS
Island: Kaua'i Tax Map Key No.: 4-4-8-003-19

Indicate Character of Use:

- ☒ Agricultural ☒ Commercial ☐ Church ☐ Other
☐ Pastoral ☐ Industrial ☒ Community Facility

Does applicant have any existing land disposition issued by Hawaiian home lands for non-homesteading use purposes? ☐ Yes ☒ No

If yes, under what type of use and disposition: _____

Describe how proposed land use request will have direct or significant indirect benefit to the Trust and/or its Beneficiaries (Applicants & Lessees): Please see attachment that responds to this question.

The following authorized representative submits this request for use of Hawaiian home lands under non-homesteading purposes and acknowledges that:

1. This is an application process that will be subject to further review, evaluation and consideration by DHHL and may require additional information to be submitted;
2. This request does not constitute any form of DHHL approval to this non-homesteading land use request as submitted;
3. In the best interest of the trust, DHHL reserves the right to exercise its prudent authority pursuant to and in accordance with the Hawaiian Homes Commission Act (Section III, Section 204(a)(2), Section 220.5, Section 207(c), Hawaii Revised Statutes, Chapter 171, as amended and the Hawaii Administrative Rules, Title 10;
4. Once the application is deemed complete, the non-homesteading land use request will be posted for a 30 day review period on the DHHL website for beneficiary and public comment;
5. Additional Island or Regional Specific Beneficiary Consultation will be required per the DHHL Beneficiary Consultation Policy;
6. All input/comments received will be provided to the Hawaiian Homes Commission if/when approval for disposition is considered by the HHC;
7. Associated non-refundable processing and documentation fees shall be assessed for each respective disposition request as follows:

Revocable Permit - \$100.00 License - \$200.00 General Lease - Cost Documentation (all)...\$75.00

Pi'ilani Mai Ke Kai Community Association

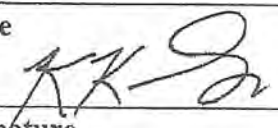
Print Individual or Organization Name

Kahanu Keawe, President

Authorized Representative Name & Title

1/17/19

Date

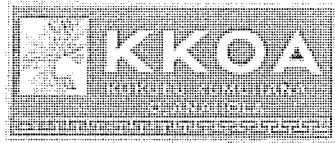

Signature

Response to the following question from Page 2 of
Request Form for Non-Homesteading Land Use Purposes

Describe how proposed land use request will have direct or significant indirect benefit to the Trust and/or its Beneficiaries (Applicants & Lessees):

- 1) The current status of this land has been plagued with multiple fires that have been dangerous to the residential area of the PMKK Community and the Anahola community at large. This project would deter illegal dumping and provide a safe and productive environment for current and future beneficiaries.
- 2) Similar to the DHHL Hale program, which provides Homebuyer Education classes and Foreclosure Prevention Management, this training and youth facility would equip beneficiaries (lessees and applicants) with skills to choose the most effective method that would provide sustainability for their land and family (current & future).
- 3) An agricultural training center and youth facility would provide skill-building, education and continued learning of cultural practices. Education referring to academics is only one aspect learning. Providing resources, life skills and programs for youth and their families have the potential for lessees and applicants to make choices to choose a meaningful and productive future.

EXHIBIT "A"



RECEIVED
LAND MANAGEMENT
DIVISION

PO Box 30891 • Anahola, HI 96703-0891

KKOA.org ~~2019 APR 2 AM 10:25~~
Email group: KKOALOHANA

February 21, 2019

Re: Application Submitted for TMK # 4.4.8.003.19

Aloha no Commissioner Jobie and Kaipo,

We hope this letter finds you and your 'ohana in the best of health.

Thank you for your direction and encouragement to complete and submit the Land Use Request Application.

As directed by Bob Freitas, KKOA has partnered with Piilani Mai Ke Kai Association to steward the 'aina ma kai of the PMKK residential area. PMKK President Kahanu Keawe submitted and confirmed with KKOA that your office has received the application.

This letter is to follow up with our (KKOA & PMKK) completed application. What are the next steps that we can look forward to from DHHL?

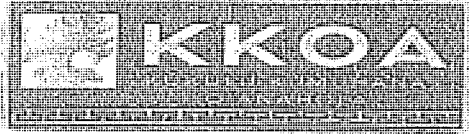
We are presently working on grant applications and other fund raising possibilities. In order to move forward with our grant applications and meet the required deadlines, the most essential support needed is from DHHL in the form of an agreement of commitment for KKOA's "Ulupono Anahola" - "Thrive Anahola" program.

We are hoping to start Phase 1 of "Ulupono Anahola" in September 2019. We appreciate your expertise and guidance in helping the Anahola Hawaiian Community to succeed.

For more info. Or any questions, please contact PMKK Kahanukeawe@gmail.com and KKOA kkoa96703@ymail.com, mitihi@gmail.com with future communications.

Mahalo nui loa,
Ke Akua pu
Me ke aloha pumehana,
In behalf of Kukulu Kumuhana O Anahola
Kuuleialoha Punua
President KKOA

EXHIBIT 'A'



Department of Hawaiian Homelands
Hale Kālanianaʻole
91-5420 Kapolei Parkway
Kapolei, Hawaii 96707

May 30, 2019

RE: KKOAs 2 year Timeline/ Checklist for Property TMK#4-4-8-00-019

Aloha Kaipo,

2017

Feb. 9:

Bob Freitas directed KKOAs to Property TMK#4-4-8-00-019 and encouraged KKOAs to meet with PMKK Assn., in order to share KKOAs vision and ask for PMKK's Partnership for future KKOAs plans.

Feb 22:

Met with Piilani Mai Ke Kai Assn. President – Kahanu Keawe.

Mar 1,2 ANA Grant Workshop-Oahu. KKOAs focus on " Garden/Farm training site".

Met with Kaipo Duncan on Wed, Mar 1.

Mar 8:

Kahanu – Pres. from Piilani Mai Ke Kai, informed us that Piilani Assn. Board voted last night to support garden idea, and discuss more.

Mar 8:

KKOAs Update Letter to Kaipo Duncan and Bob Freitas
with KKOAs recent activities and also Requested a map from Kaipo of Property TMK#4-4-8-00-019

Mar 14:

Kaipo sent KKOAs Map of TMK#4-4-8-00-019

June:

Deputy William Aila received a copy of the 3/16 /17 letter and said we would be hearing from the office of HHL. Two weeks later, KKOAs received an invitation from DHHL to the

August: Hawaii Agricultural Convention, which we did attend.

2018

Feb. 26:

KKOAs Letter to Kaipo: Present KKOAs proposal to DHHL from last year Feb. 2017. Also documents that account for KKOAs recent (2017) activities and ground work from 2/7/17-3/16/17. A site plan was also drafted and submitted.



EXHIBIT "A"

2018 continued:

Other actions such as taking detailed surveys from community, Meeting with Kilauea Comm. Garden Director, Yoshi LHote, another model of community garden, tightening up our vision, being involved with the Kalalea Anehola Farmers Hui weekly market, has given KKOAA a greater sense of determination for our Hawaiian community

July 6:

KKOAA Letter to Bob re: Meeting with PMKK Officers, Agreement to move forward with plans, and doing a presentation to the Community members.

August 9:

Meeting with KKOAA/PMKK Association members. Rae Makaanani Nam did the "Ulupono Anahola- Thrive Anahola" Presentation.

Community responded positively. Bob Freitas Attended this meeting. Notes?

August 20:

KKOAA presented the Vision Boards of "Ulupono Anahola- Thrive Anahola" to the Commissioners. KKOAA was Directed to Fill Land Use Request Application with PMKK, and submit to DHHL.

2019

Feb 2:

Kahanu Keawe, President of PMKK, submitted the Land Use Request Application to DHHL. Kaipo received Application.

Feb 21:

KKOAA Letter to DHHL Commissioner Jobie and Kaipo: Application Submitted... Next Steps? Grants require DHHL agreement/ commitment... KKOAA hopes to start Ulupono Anahola Program in Sept 2019.

Feb 25:

Letter from Kaipo: Dhhl will respond shortly. Kaipo mention Kaleo M. and Bob F no longer with DHHL. Andrew Choy in Kaleo's position and Nancy McPherson filling in for Bob.

May 11-13:

Kaipo and Nancy to meet KKOAA on Kauai 5/16... Cancelled

May 20:

KKOAA letter to Kaipo: Follow up on meeting Nancy and Kaipo. Also 4-6 cabins offered to KKOAA program. Need to move by end of June.

May 24:

County of Kauai Parks and Recreation, Kapaa Manager, Marta Hussman, notified KKOAA that The present storage space at the Clubhouse will need not be available, possibly in July-August for 6 months, due to renovations at Kapaa Neighborhood Center.

May 30:

Kuulei call Kaipo, Kaipo to set up meeting with Nancy and KKOAA for June 10 on Kauai. Kaipo will check with Nancy and let Kuulei know by 5/31. KKOAA has fulfilled the process that was advised by DHHL. Kuulei emphasized to Kaipo the circumstances are directing that this is the time to move. If meeting date for June 10th is confirmed, Rae will change her Honolulu stay to come home earlier for this meeting.

June 10 Meeting & site visit. Informed of need for Master Plan EA, BC Mtg. Question - BC needed for ROE? License < 5 years? or can wait? Not in RP. CU Id'd for education/ in KIP.

EXHIBIT "A"

ULUPONO ANAHOLA (Thrive Anahola) Community Center **An agricultural & youth training center**

Objective 1. Creating SAFE spaces and places (Rehabilitation)



Project Location - Existing Condition

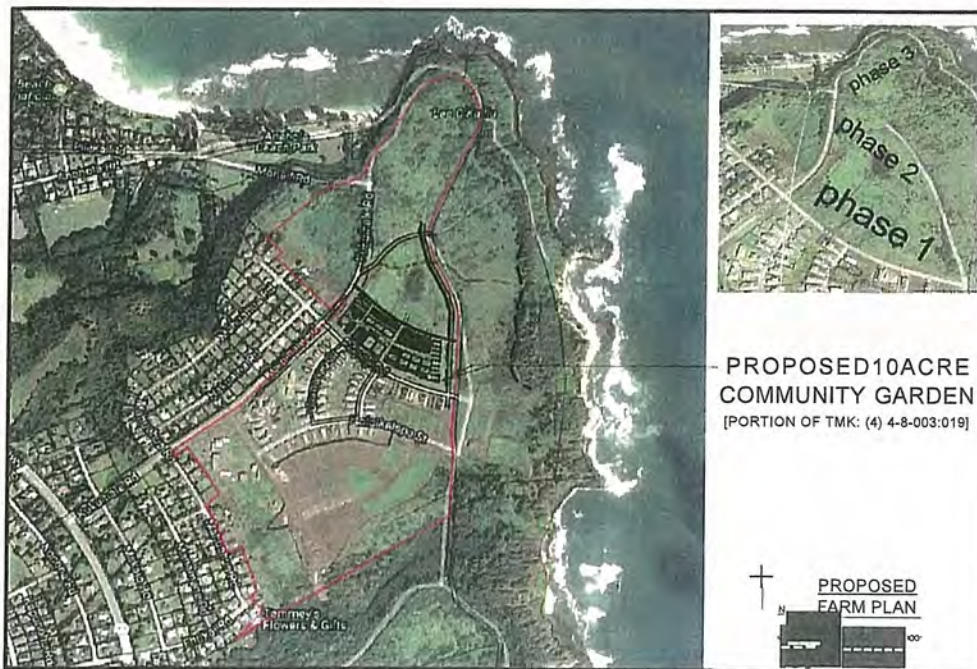


Community Garden Model

ITEM NO. F-~~8~~
EXHIBIT "B"

ULUPONO ANAHOLA (Thrive Anahola) Community Center
An agricultural & youth training center

Objective 2: Strengthening Self Identity



Phase 1: Prepare Site

- Clear land
- Mapping survey
- Test & amend soil
- Acquire permits
- Install infrastructure
- Prepare structures
- Fence borders
- Training



EXHIBIT "B"

ULUPONO ANAHOLA (Thrive Anahola) Community Center **An agricultural & youth training center**

Objective 3: Garden Training Options & Youth Clubhouse (Marae)

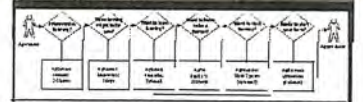
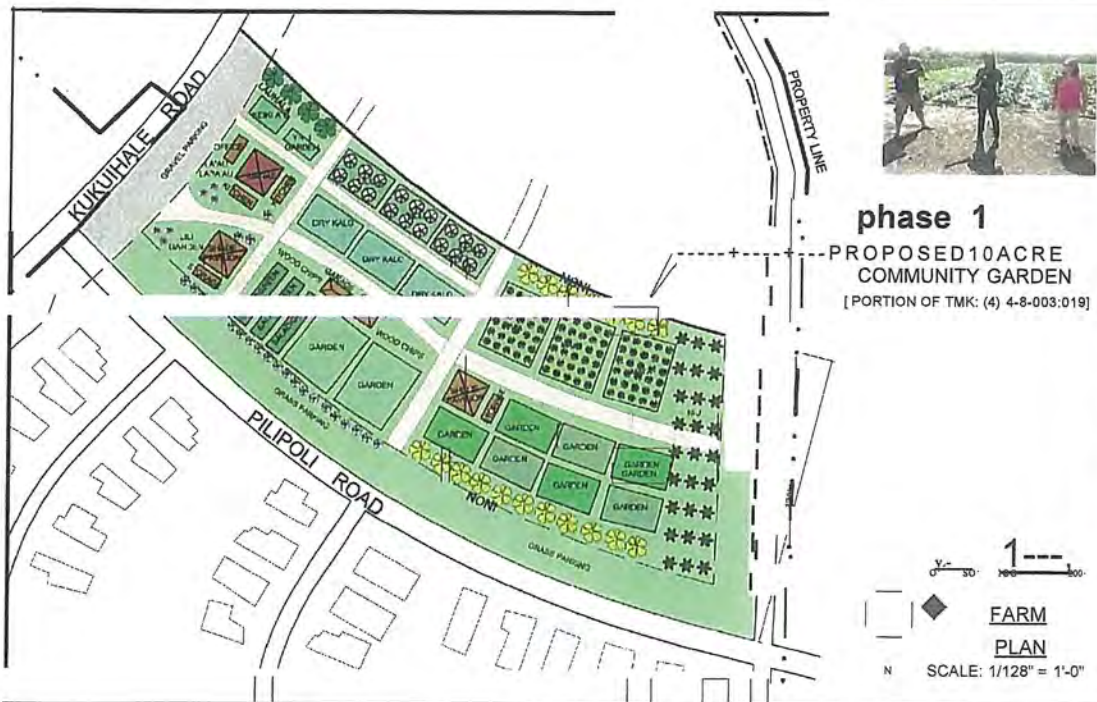


EXHIBIT "B"

ULUPONO ANAHOLA (Thrive Anahola) Community Center
An agricultural & youth training center

Objective 4: Building Community



Phase 2:

Native Hawaiian trained volunteers and staff start 10 acres of community garden and youth center.

Phase 3: Expand youth and community center; Prepare Nursery and Orchard; Processing Structure; Movie nite location.



Kukulu kumuhana means the pooling of strengths - emotional, psychological, and spiritual -- for a shared purpose.


EXHIBIT "B"


STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

September 22, 2020

To: Chairman and Members, Hawaiian Homes Commission

Thru: Peter "Kahana" Albinio, Jr., Acting Administrator
Land Management Division 

From: Kaipo Duncan, Land Agent
Land Management Division 

Subject: Approval and Authorization for an Additional Rent Relief and Deferment Period, to DCI Paradise LLC, Hilton Garden Inn-Kauai, General Lease Nos. S-3831, S-3840, and S-4647, Wailua, Kauai Island, TMK Nos. (4)3-9-006:016 and 020

RECOMMENDED MOTION/ACTION

That the Hawaiian Homes Commission approve and authorize consideration of an additional rent relief and deferment period, as requested and submitted by "LESSEE" DCI Paradise LLC, Hilton Garden Inn-Kauai, General Lease Nos. S-3831, S-3840, and S-4647, Wailua, Kauai Island, TMK Nos. (4)3-9-006:016 and 020 subject to the following conditions:

1. Additional Rent Relief and Deferment period shall be determined by the Hawaiian Homes Commission for a period not to exceed twelve (12) or past September 30, 2021 and shall be subject to terms and conditions as set forth by the Hawaiian Homes Commission(HHC).
2. An Addendum to the Lease document shall be subject to the review and approval of the State of Hawaii Department of the Attorney General.
3. All other terms and conditions of General Lease Nos. S-3831, S-3840, and S-4647 shall continue and remain in full force and effect; and
4. The Chairman of the Hawaiian Homes Commission (HHC) is authorized to set forth any additional terms and conditions which shall ensure and promote the purposes of the demised premises.

DISCUSSION

DCI Paradise LLC(Hilton Garden Inn-Kauai) has requested additional Rent Relief and Deferment due to the Coronavirus pandemic and the absence of tourists on Kauai and all of Hawaii (See Exhibit A).

At its meeting held on April 21, 2020 the HHC approved Rent Relief and Deferment to all Lessees, Licensees, and Permittees on DHHL lands who requested it (See Exhibit B).

An Addendum to the 3 General Leases under DCI Paradise LLC was completed to fulfill their original Rent Relief request from April 1, 2020 to September 30, 2020. However, due to the

continued absence of tourism on Kauai and to our State the owners have lost millions of dollars in revenues and are requesting additional Rent Relief past September 30, 2020.

DCI Paradise LLC owns and operates the only hotel on DHHL lands through a General Lease. Because their operation is heavily reliant on Kauai tourists, they are the only DHHL Lessee to date who is requesting additional Rent Relief past September 30, 2020.

The Hampton Inn and Suites hotel in Kapolei also sits on DHHL lands however they are a Sub-Lessee to the Ka Makana Alii Shopping Center owner The DeBartolo Group who is the General Lessee.

The following is pertinent information regarding each of the three general leases:

General Lease No. S-3831:

General Lessee:	Aloha Beach Hotel Partners, LLC
Location:	Wailua, Kauai
TMK Nos:	(4) 3-9-006:016 and 020 (See Exhibit "A")
Land Area:	2.497 Acres
Term:	70 years expires 5/17/2084
Annual Rental:	\$116,651.00
	1% annual increase thereafter on 5/17 through 2050
Character of Use:	Hotel-Resort purposes and accessory uses incidental to and customarily conducted within Resort areas
Improvements:	The Resort was fully renovated in 2015 at a cost of over \$27 million. There are substantial building improvements located on the subject property.

General Lease No. S-3840:

General Lessee:	Aloha Beach Hotel Partners, LLC
Location:	Wailua, Kauai
TMK Nos.:	(4) 3-9-006:016 and 020 (See Exhibit "A")
Land Area:	6.093 Acres
Term:	70 years expires 7/5/2084
Annual Rental:	\$224,368.00
	1% annual increase thereafter on 7/5 through 2050
Character of Use:	Hotel-Resort purposes and accessory uses incidental to and customarily conducted within Resort areas
Improvements:	The Resort was fully renovated in 2015 at a cost of over \$27 million. There are substantial building improvements located on the subject property.

General Lease No. S-4647:

General Lessee:	Aloha Beach Hotel Partners, LLC
Location:	Wailua, Kauai
TMK Nos:	(4) 3-9-006:016 and 020 (See Exhibit "A")
Land Area:	1.770 Acres
Term:	70 years expires 7/5/2084

Annual Rental:	\$17,131.00 1% annual increase thereafter on 7/5 through 2050
Character of Use:	Parking and landscaping
Improvements:	The Resort was fully renovated in 2015 at a cost of over \$27 million. There are substantial building improvements located on the subject property.

AUTHORIZATION

Section 171-36 (e), Hawaii Revised Statutes, as amended which reads as follows, “The Board, from time to time during the term of any agriculture, intensive agriculture, aquaculture, **commercial**, mariculture, special livestock, pasture, or **industrial** lease, may modify or eliminate any of the restrictions specified in subsection (a), extend or modify the fixed rental period of the lease, ...upon a showing of significant economic hardship directly caused by: (1) State disaster, pursuant to chapter 209, including seismic or tidal wave, tsunami, hurricane, volcanic eruption, typhoon, earthquake, flood, or severe drought”;

Section 209 (a), Hawaii Revised Statutes, as amended which reads as follows, “After any sudden extraordinary event that causes losses and suffering, the Governor shall make a determination as to whether a State disaster has occurred and thereafter may declare a State disaster for the entire State or any portion thereof. In making this determination, the Governor shall consider whether the effect on the health and living standards of a substantial number of persons and the effect on the economy of the State are of such a nature as to warrant assistance from the State government. (b) The Governor, in a proclamation, may designate the whole or any part of the State eligible from the relief provided for in this chapter and unless otherwise provided herein my authorize any or all of the relief measures provided for in parts II, III, and IV.”

RECOMMENDATION

Land Management Division requests approval of the recommended motion as stated.



133 E. Saint Joseph St.
Arcadia, CA. 91006
Phone: 626-507-5508
E-Mail: cindy@continmtal-mgmt.com

August 24, 2020

RE: DCI Paradise LLC dba Hilton Garden Inn 3-5920 Kuhio Hwy, Kapa'a, HI 96746

To: Department of Hawaiian Home Lands c/o Kahana Albinio

Acting Administrator, Land Management Division

Dear Mr. Albinio:

Since we last spoke I could not have imagined that the COVID crisis would go unresolved and the State of Hawaii would continue to be on lock down. Governor Ige just extended the 14 day quarantine order until Oct 1st for all inter island travel and any arriving travelers. This is the 5th extension and we were told that this may be moved to the beginning of January 2021.

As a business owner we are experiencing firsthand the crippling impact the coronavirus is having on our properties and workforce, and on the communities in which we serve. The situation is worsening by the day. Revenues have hit an all time low and the occupied rooms per day is less than 15 rooms out of the 216 rooms that are available. Unfortunately we have had to either layoff or furlough 90% of our staff and we now only have a handful of our managers to secure the property and protect the hotel.

At the Hilton Garden Inn Kauai our occupancies are now at an all time low of 10% points since the announcement. Our hotel is heavily reliant on leisure transient travelers and each time that Governor Ige holds a press conference restricting travel the cancellations for future reservations come pouring in and the loss in revenue is close to \$7,400,000 dollars thru July 2020 with projected loss in revenue for full year 2020 compared to 2019 of \$12,500,000.

The hotel is experiencing unprecedented drop in hotel demand that is gaining pace and getting progressively more severe each day that goes by. The hotel is now projected at single digit occupancies with severe negative NOI and with the announcement from Governor Ige new announcement we are reviewing our financial projections to look at closing the Hotel. The human toll is equally devastating with occupancies low our managers are filling shifts for the safety of our team members and provide minimum coverage.

As you can imagine forecasting or projecting financial outcomes have been challenging as the environment is so fluid and ever changing on a daily basis based on inconsistent leadership from the Governors office. Our teams have been working diligently to provide information and data to secure a financial picture for cash management but it is difficult when the Governor continues to move the date for re-opening every 2 weeks. There does not appear to be a long range plan that anyone can set a plan in motion to support a recovery.

As of 8-23-20 "SNAPSHOT"

- Loss in revenues equate to \$7.4 million dollars thru July.
- Occupancy dropped from 94% to 11% thru the 3rd & 4th QTR and cancellations continue to come in based on travel restrictions
- No new reservations for the next 120 days based on Hawaii Governor 14 day quarantine
- 90% of our loyal employees have been laid off and we can no longer pay for their healthcare benefits
- Only essential staff have been deployed to secure the safety of the asset
- Profit impact is reflecting a loss in excess of \$1.9 million for the year 2020
- Ownership Cash reserves required to offset shortfalls is in excess of \$1.9 million through 2020. This fund has been depleted.

Exhibit "A"
Item No. F-3

Several contingencies have been initiated and implemented to minimize impacts on the bottom line at Hotel Level

Property Specific Impacts factored into the forecast:

- The mix in this hotel is heavily reliant on leisure transient travelers & families on vacation – the only possible guests are locals on island looking to do “STAYCATIONS”
- F & B operations have been closed and only gift shop convenience items – per Hilton brand guidance to comply with social distancing requirements
- Strict cost contingencies have been implemented by Pacifica our Management Company and Hilton Brand guidance.
- Staff has been reduced and we furloughed or laid off for over 90% of our team members since March
- Hilton Brand has waived cancellation fee’s and suspended all brand inspections and any other initiatives that would burden ownership.
- Managers are working shifts to provide coverage at the bare minimum coverage for safety purposes
- Assessing and evaluating suspended operation to include closing of the Hotel

Governor Ige just issued another travel restriction to October 1 and rumor has it may be the beginning of 2021 . Since that announcement there has been an increase in future cancellations as travelers have now lost confidence in the re-opening. The mandate outlines that any visitors traveling to the state will be subject to a mandatory 14-day self quarantine.

Our Management team has invoked a more severe contingency plan and only scheduled a skeleton crew to preserve the asset.

The COVID-19 pandemic threatens the entire United States hospitality sector, and the loss in demand has created a liquidity crisis across hotel ownership groups. DHHL has always been a good partner and we are in hopes that you will try to work with us through this incredibly difficult time. We appreciate your consideration in the past and unfortunately reaching out for additional assistance.

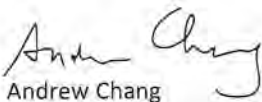
Concessions Requested of Lessor:

- ✓ Defer monthly ground rent payments of \$29,550 for at least 12 months starting October 1, 2020

Per our conversation on Friday Aug. 21, 2020 we informed you that due to the Governors orders to keep Hawaii closed until further notice we will not be able to make our ground rent payment due on October 1st.

We realize that you are inundated with these requests but as we stated on the call today we wanted to be proactive in our communications to garner your support to defer the lease payments for a reasonable period of time during the COVID-19 crisis.

Respectfully Yours,


Andrew Chang

CEO Continental Asset Management

Commissioner Awo supported the program and agreed with it being for Hawai'i waitlisters. He stated that seven million dollars are not much.

Commissioner Helm asked what the application process would look like. L. Kinilau-Cano stated the vendor would come up with the process, but the department will try to emphasize the message that the program requires lots of documentation because of the federal funding. Beneficiaries may find the documentation request challenging, but that is the requirement of where the funds are coming from.

Commissioner Kaleikini asked how beneficiaries would be notified about the program. L. Kinilau-Cano stated after the Commission's approval, a press release will be issued, the website will provide information, and a mailer will be sent out. If more outreach is needed, the department has the option of radio spots or newspaper ads.

MOTION/ACTION

Moved by Commissioner Awo to approve the motion, as stated in the submittal.						
Seconded by Commissioner Neves						
Commissioner	1	2	'AE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo	X		X			
Commissioner Helm			X			
Commissioner Ka'apu			X			
Commissioner Kaleikini			X			
Commissioner Ka'upu			X			
Commissioner Namu'o			X			
Commissioner Neves		X	X			
Commissioner Teruya			X			
Chairman Aila			X			
TOTAL VOTE COUNT			9			
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED						
Motion passes with nine (9) Yes votes						

LAND MANAGEMENT DIVISION

ITEM F-1 **Approval and authorization to consider rent relief requests submitted by various lessees, licensees, and permittees statewide as a result of the COVID-19 Pandemic and emergency orders implemented by the Governor and various Mayors in response to COVID-19.**

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following: Motion that the Hawaiian Homes Commission approve and consider rent relief requests submitted by various lessees, licensees, and permittees statewide as a result of the COVID-19 Pandemic and emergency orders implemented by the Governor and various Mayors in response to COVID-19.

DISCUSSION

Commissioner Kaapu is concerned about what documents are required in the application process. The department will likely receive fewer funds from the Legislature, so trust funds may already have to be used. He wouldn't want to give someone who has the ability to pay, a six-month deferral. There should be a good basis for granting deferrals. The lessees should know what the expectations are at the front. Chair Aila stated Ka Makana Alii had submitted a list of which vendors are paying rents.

Commissioner Kaapu stated he has no problem with deferring rents for beneficiary licensees. Chair Aila stated that some of the licenses or general leases expire prior to the timeframe of the submittal, it has been difficult to do a one-size-fits-all program. It may end up being a case-by-case process.

Commissioner Neves stated he agrees with Commissioner Kaapu that more financial documentation should be required.

Commissioner Teruya stated she supported the motion and thanked the department for reaching out to commercial licensees.

Commissioner Kaapu asked that the Commission be provided an update of those who requested assistance and how much was provided.

MOTION/ACTION

Moved by Commissioner Awo to approve the motion, as stated in the submittal.

Seconded by Commissioner Namu'o

Commissioner	1	2	'AE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo	X		X			
Commissioner Helm			X			
Commissioner Ka'apu			X			
Commissioner Kaleikini			X			
Commissioner Ka'upu			X			
Commissioner Namu'o		X	X			
Commissioner Neves			X			
Commissioner Teruya			X			
Chairman Aila			X			
TOTAL VOTE COUNT			9			

MOTION: ☒ UNANIMOUS ☐ PASSED ☐ DEFERRED ☐ FAILED

Motion passes with nine (9) Yes votes

ITEM F-2 Annual Renewal of Right of Entry Permit(s), Moloka'i Island


RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following: Motion that the Hawaiian Homes Commission approve the following actions while developing a process to making short-term agricultural and pastoral land dispositions available to beneficiaries:

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

September 22, 2020

To: Chairman and Members, Hawaiian Homes Commission

From: Peter "Kahana" Albinio, Jr., Acting Administrator
Land Management Division 

Subject: Approval of Annual Renewal of Right of Entry Permits, Maui Island

RECOMMENDED MOTION/ACTION:

That the Hawaiian Homes Commission (HHC) approve the following actions while developing a process to making short-term agricultural and pastoral land dispositions available to beneficiaries:

- A) Renew all Maui 3 Island Right of Entry Permits issued to Beneficiary Homestead Organizations as listed on Exhibit "A" and identified by approximate location on the Maui Island Map Exhibit "A-1" that are in compliance and issued temporary approvals, as of September 1, 2020.
- B) The annual renewal period, shall be on a month-to-month basis, for up to twelve (12) months, but no longer than August 31, 2021 or at the next scheduled HHC meeting on Maui island whichever occurs sooner.
- C) Authorize the Chairman to negotiate and set forth other terms and conditions that may be deemed to be appropriate and necessary.

DISCUSSION

This submittal represents annual renewals for all Maui Island ROE permit(s) only, issued to Beneficiary Homestead Organizations which expire on August 31, 2020. As a means of maintaining a process by which PERMITEE'S can be assured that their permits have been renewed, notification letters will be transmitted accordingly.

For information purposes Exhibit "A" references all Right of Entry Permits on Maui Island by order of commencement date, land use, then by acreage. While Right of Entry Permits generate additional revenue to the Trust, its primary purpose provides DHHL the ability to efficiently manage its lands through the issuance of these short-term dispositions which are typically not needed for longer-term dispositions (such as homesteading or general leases) over a 20-year time period or as dictated by DHHL's respective island plans. DHHL's total Maui Island land inventory covers approximately 31,000 acres¹ or 15% of DHHL's statewide inventory. The short-term disposition(s) issued to Beneficiary Homestead Organizations within the Maui Island inventory cover approximately 73.0 acres or .002% of its inventory.

¹ DHHL Maui Island Plan –PBR Hawaii, September 2004

Right of Entry Permits help in having presence on DHHL lands thereby reducing costs for land management activity functions (i.e. signage, landscaping, fencing, removing trash and derelict vehicles, and prevents trespassing on unencumbered lands) that DHHL would bear if the lands were to sit vacant. Permittee's are required to assume responsibility for the land, post insurance, indemnify the department, and manage and maintain the land.

Until improvements to the Revocable Permit Program can be implemented, this process will be used for Annual Renewals of these month-to-month ROE Permit dispositions.

The table below reflects the revenue generated from ROE permits on Maui Island, which is less than 1.0% (\$720) of the ROE total revenues (\$2,575,985) that DHHL received statewide for FY 2020. Maui Island holds 3 of the 145 ROE permits Statewide. These permittees fall under a variety of land use purposes with the most being community use.

FY 2020		Total	FY 2021		Total
Agriculture	\$0	-	Agriculture	\$0	-
Caretaker	\$0	-	Caretaker	\$0	-
Commercial	\$0	-	Commercial	\$0	-
Community	\$720	3	Community	\$720	3
Industrial	\$0	-	Industrial	\$0	-
Office	\$0	-	Office	\$0	-
Pastoral	\$0	-	Pastoral	\$0	-
Preservation	\$0	-	Preservation	\$0	-
Recreation	\$0	-	Recreation	\$0	-
Research	\$0	-	Research	\$0	-
Stabling	\$0	-	Stabling	\$0	-
	\$720	3		\$720	3

For FY 2021, renewals for the 3 Right of Entry Permits located Maui Island will total an annual rent revenue of \$720 as referenced in the table above. .

AUTHORITY / LEGAL REFERENCE:

§171-55, Hawaii Revised Statutes, as amended, a "permit on a month-to-month basis may continue for a period not to exceed one year from the date of issuance; provided that the commission may allow the permit to continue on a month-to-month basis for additional one-year periods."

RECOMMENDATION:

Land Management Division respectfully requests approval of the motion as stated.

RIGHT OF ENTRY PERMITS

TYPE	ISLAND	ACRE	NO.	USE	PERMITTEE/ADDRESS	LOCATION	TMK	Date Started	Current Fees, All Right of Entry Permits
ROE	MAUI	6.820	493	Community	Waiohuli Hawaiian Homesteaders Assoc., Inc., P. O. Box 698,	Kula	(2) 2-2-002:056(P) (2) 2-2-027:051(P) (2) 2-2-027:154(P)	10/1/2005	\$240
ROE	MAUI	69.000	496	Community	Keokea Homestead Farm Lot Association, P. O. Box 748, Kula, Hawaii 96790	Keokea	(2) 2-2-002:055	2/8/2010	\$240
ROE	MAUI	3.000	497	Community	Village of Lei Alii Assn., 124 Aupuni Street, Lahaina, Hawaii 96761	Leialii	(2) 4-5-021:020 (p)	4/1/2013	\$240
TOTAL	3	78.820							\$720

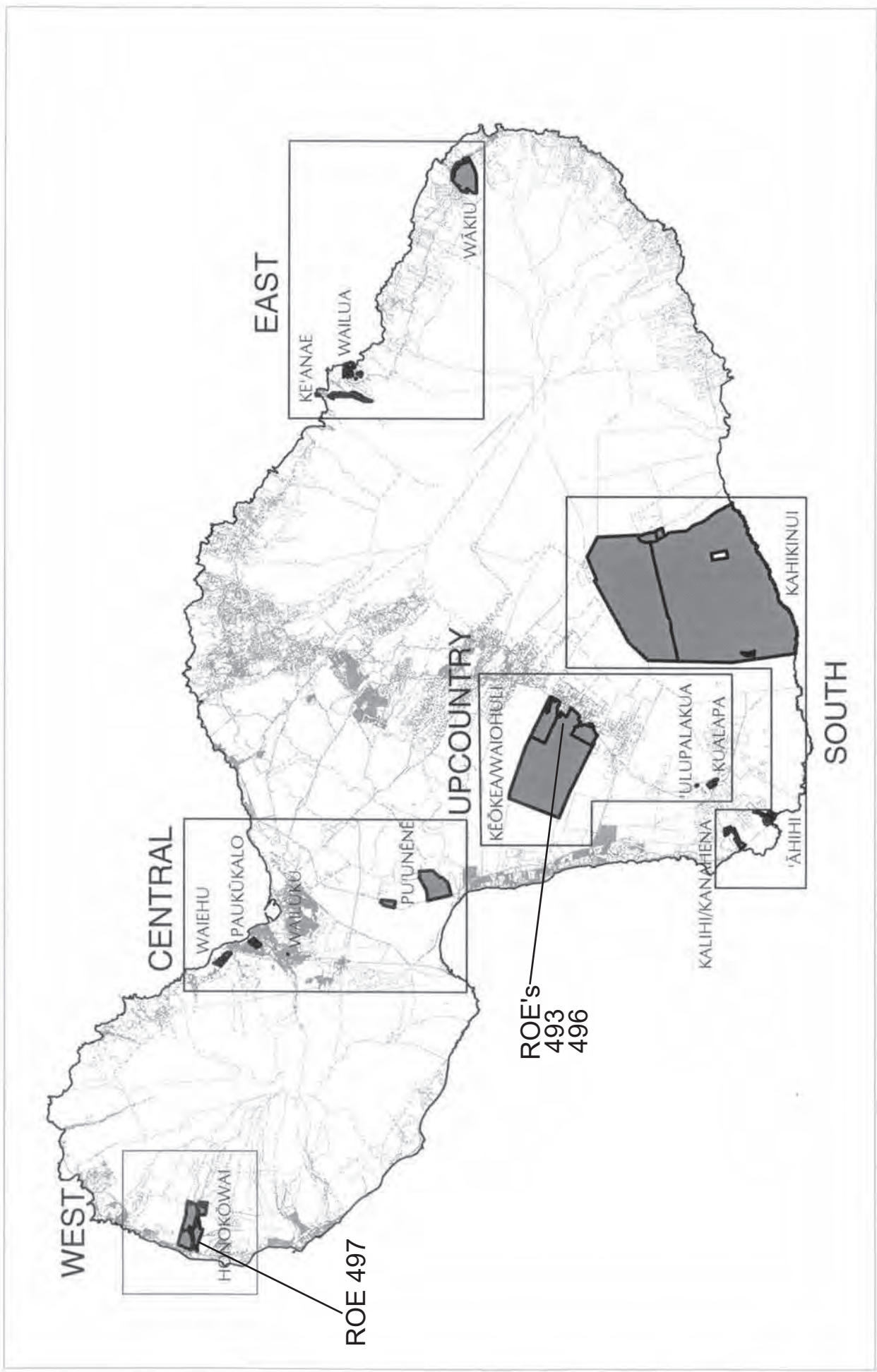


Figure A
DHHL Maui Regions
MAUI LAND INVENTORY

Exhibit "A-1"
Item No. F-4

HAWAIIAN HOMES COMMISSION
SEPTEMBER 21 & 22, 2020
TELECONFERENCE
9:30 A.M.

G – ITEMS
PLANNING OFFICE

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS
September 21 - 22, 2020

TO: Chairman and Members, Hawaiian Homes Commission

FROM: Andrew H. Choy, Acting Planning Program Manager *AC*
Gigi O. Cairel, Grants Specialist *MCairl*
Rodney Lau, Administrative Services Officer
Stewart Matsunaga, Acting Administrator, Land
Development Division

Subject: For Information Only - Confirm and reauthorize DHHL to borrow up to \$11,555,000 under the US Department of Agriculture Rural Development (USDA RD) Water and Environment Program (WEP) for approved capital improvements to the DHHL-owned Anahola Farm Lots Water System (PWS 432) on the island of Kaua'i and Ho'olehua Water System (PWS 230) on the island of Moloka'i.

RECOMMEND MOTION/ACTION

None; for information only.

BACKGROUND

The Department of Hawaiian Home Lands (DHHL) owns and operates four (4) water systems statewide.

- Ho'olehua water system, Moloka'i
- Anahola Farm Lots water system, Kaua'i
- Kawaihae water system, Hawai'i
- Pu'ukapu water system, Hawai'i (non-potable)

These water systems serve a total of over 800 homestead lots, community facilities (Ho'olehua Airport, Post Office, Schools) and businesses.

The Ho'olehua and Anahola water systems are over 80 years old and 30 years old, respectively, and need major capital

improvements. In addition to aging infrastructure, both these systems suffer from inconsistent water pressure to homestead lots, high energy costs, leaks and exposure to security threats and vandalism.

November 2018 and January 2020 Commission Actions

In 2016 and 2018, DHHL was awarded a total of \$28,214,166 in federal grant and loan funds from the USDA RD WEP for major capital improvements to the Ho'olehua and Anahola Water Systems. As a condition to receive those funds, DHHL had to contribute \$16,043,973 to the projects' costs. As a condition to receive the grant funds, DHHL must close the loans. The total project financing package is \$44,258,139 - Ho'olehua \$31,332,333 and Anahola \$12,925,806.

In November 2018 DHHL gave an informational workshop and presented a submittal (Items H-1 and H-2) describing the projects, the then-estimated costs, and proposed financing packages. DHHL requested that the HHC accept the USDA RD WEP supplemental grant and loan funds awarded to DHHL in 2018. (See Exhibit A.) The HHC unanimously approved accepting the 2018 USDA RD WEP supplemental funding obligations - \$3,592,279 grant and \$11,555,000 loan.

In January 2020, DHHL gave an informational workshop and presented a submittal (Items G-2 and H-1) requesting the HHC increase the DHHL Development Budget by \$20M. See Exhibit A. The HHC unanimously approved the budget increase.

TABLE 1
Summary of Project Financing

Project Financing Source	Anahola water system	Ho'olehua water system
DHHL contribution	\$3,770,723	\$12,273,250
2016 USDA RD WEP GRANT*	3,055,137	10,011,750
2018 USDA RD WEP GRANT*	1,999,946	1,592,333
2018 USDA RD WEP LOAN	4,100,000	7,455,000
TOTAL	\$12,925,806	31,332,333

*Note: USDA RD WEP grant funds are from the Congressional set-aside.

Anahola Farm Lots Water System Improvements

This project is broken into two (2) Phases.

Project Status

- Phase 1 construction started in February 2020. Phase 1 includes replacement of the distribution lines, creating dual water pressure zones, installing new water meters and backflow preventers, various repairs, and securing the emergency inter-connection tie to the County water system.
- Phase 2 is to replace the 500,000 gallon water storage tank. The Notice to Proceed for Phase 2 was issued in September 2020.

Ho'olehua Water System Improvements

This project is broken out in to four (4) packages. Construction for Package 1 and Package 2 are planned to start at the same time.

- Package 1 - improvements to various sites in Ho'olehua
- Package 2 - Improvements to various sites in Kalama'ula
- Package 3 - Photovoltaic System
- Package 4 - Procure equipment and supplies

Project Status

- Construction contracts for Package 1 and Package 2 received concurrence from USDA RD in March 2020.
- Two Conditional Notices to Proceed were issued in July 2020.
- Official Notice to Proceed and groundbreaking are estimated in October 2020.
- Package 3 Photovoltaic System is currently in the planning and design phase.
- Package 4 Equipment and Supplies - bid package is currently being drafted.

DISCUSSION

Since January 2020, DHHL and the USDA-RD have been negotiating the terms and conditions under which DHHL would borrower up to \$11.555M in loans from the USDA-RD WEP. The

parties are near agreement on the final terms and conditions of the Loan (a summary is included in Table 2).

TABLE 2
Key Terms

1.	Total Estimated Project Cost:	\$44,258,139
1.1.	DHHL Contribution:	\$16,043,973
1.2.	USDA RD WEP Grants	\$16,659,166
1.3.	Ho'olehua Loan	\$7,455,000
1.4.	Anahola Loan	\$4,100,000
2.	Interest Rate:	3.125%, subject to adjustment at Closing.
3.	Term/Repayment:	35 years, fully amortizing over 33 years: (a) interest only in years 1 - 2; then in equal monthly installments of principal and interest in years 3 - 35. Borrower may prepay all or any portion of any note at any time without penalty.
4.	Closing:	TBD
5.	Security	
5.1.	Promissory Note:	One or more promissory notes using form RD 440-22.
5.2.	Mortgage:	Not Required.
5.3.	Assignment of Incomes and Rents:	Assigning rights to accounts receivable from all "available lands" (under general leases, licenses, permits, and rights-of-entry), subordinate to: (a) DHHL revenue bond obligations, series 2017; and (b) DHHL certificate of participation, series 2017 A. (see separate attachment); and net

incomes from water systems (if any).

5.4. Fixture Filing: A financing statement in form and content sufficient to perfect a security interest in the fixtures constituting the water system purchased, installed, or paid for with the Loan, including any accessions, improvements, and replacements.

6. Other Agreements: Security Agreement
Loan Resolution and Security Agreement
Severance Agreement
Right of Way Certificate
*Third-Party Legal Opinion

Subject to further negotiation to ensure compliance with USDA statutes, rules, and regulations and with the statutes, rules, and regulations of the State of Hawaii.

7. Commission Approval: The transaction contemplated is conditioned on and subject to the approval of the Hawaiian Homes Commission. Any modification to the contemplated transaction must be approved by the parties in writing.

A critical document in the package of Loan Documents is the USDA Loan Resolution Security Agreement. See Exhibit B. It includes, among other things, the operational and administrative controls the department must implement or institute to administer the Loans and comply with the USDA-RD's program requirements. Fiscal has reviewed and confirms it is capable of complying with all of the institutional controls and is making appropriate preparations to implement any new or revised processes, procedures, and systems to ensure the department's compliance.

The other documents are mostly non-negotiable forms required by the USDA RD to comply with its program rules and requirements. The department has negotiated such documents with the assistance of the Department of the Attorney General to ensure their compliance with Hawaii law.

The department still needs to obtain a third-party legal opinion to comply with the USDA-RD's program rules and requirements. Such opinion must be obtained when the Loan Documents are in a final executable form. The department is procuring outside counsel to obtain that opinion with the assistance and guidance of the Department of the Attorney General.

CONCLUSION

DHHL is in continuous communication with USDA RD to address these matters above and is working diligently and collaboratively to close the Loans. The primary benefits to accessing the USDA RD WEP funds are (1) to fund and construct these improvements in a timely manner; and (2) to leverage DHHL resources that would otherwise be used for new homestead lot development to address the applicant wait list.

RECOMMENDATION

None; for your information only.

Exhibit A

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

January 27 - 28, 2020

TO: Chairman and Members, Hawaiian Homes Commission
Through: Andrew Choy, Acting Planning Program Manager *K*
FROM: Gigi Cairel, Grants Specialist *GC*
Subject: For information only - US Department of Agriculture
Rural Development Water and Environmental Program
project financing

RECOMMENDED MOTION/ACTION

None; for information only.

BACKGROUND

The Department of Hawaiian Home Lands (DHHL) owns and operates four (4) water utility systems statewide. All are potable water systems, except for the Pu'ukapu system on Hawai'i island.

- Ho'olehua water system, Moloka'i
- Anahola Farm Lots water system, Kaua'i
- Kawaihae water system, Hawai'i
- Pu'ukapu (non-potable) water system, Hawai'i

The Ho'olehua and Anahola water systems are over 80 years old and 30 years old, respectively, and are in need of major capital improvements. These systems suffer from inconsistent water pressure to homestead lots, high energy costs, leaks, and exposure to security threats and vandalism.

In 2016 and 2018, US Department of Agriculture Rural Development (USDA RD) Water and Environmental Program (WEP) awarded over \$28 million in federal loan and grant funds to improve the Ho'olehua and Anahola Farm Lots Water Systems. DHHL committed to over \$16 million. Today, the estimated project costs are \$44.3 million - \$31.3 million for Ho'olehua and \$13 million for Anahola. DHHL is expected to advance funds for the projects and USDA RD will reimburse DHHL with WEP funds. See Exhibit A.

At the November 2018 Hawaiian Homes Commission (HHC) meeting, an informational workshop and submittals (Items H-1 and H-2) were presented and included project descriptions, costs, and project financing packages. See Exhibits B and C.

DISCUSSION

Anahola Farm Lots Water System improvements

Project need

- Aging infrastructure
 - 0.5 MG steel storage tank has reached its useful life
 - Replace distribution lines, meters, backflow preventers, fire hydrants
- Inconsistent water pressure
- Improve system safety and security
 - Emergency inter-tie with County water system is highly vulnerable to vandalism

Project objectives

- Increase operational efficiencies and system reliability
- Replace the 0.5MG steel storage tank with a 0.5MG concrete tank
- Address water pressure issues by creating dual pressure zone areas
- Repair/replace system components including distribution lines, fire hydrants, water meters and backflow preventers
- Improve system safety and security, particularly at the emergency inter-tie with the County system

The project will not add new users to the system or expand the current service area beyond the existing homesteads in the Bay View residential subdivision and the Anahola Farm Lots.

Ho'olehua Water System Improvements

Project need

- Aging infrastructure
- Low water pressure
- Un-accounted for water due to leaks
- High energy costs to run the well pumps
- System components are inaccessible 24/7
- System is vulnerable to vandalism
- Maintenance building is inadequate to store water system equipment and supplies

Project objectives

- Increase operational efficiencies and system reliability
- Reduce energy costs

- Achieve 24/7 access to system components
- Address water pressure issues
- Repair/replace system components
- Increase fire protection
- Improve system safety and security

The project will not add new users to the system or expand the current service area beyond the existing homesteads in Ho'olehua and Kalama'ula.

US Department of Agriculture Rural Development Water and Environmental Program

The USDA RD WEP provides funding for clean and reliable drinking water and waste disposal systems serving rural communities. The WEP program is widely used across the nation by rural towns and federally-recognized tribes, with populations of less than 10,000. But, in Hawaii, only DHHL, the County of Hawaii, and small, private homeowner associations have used WEP funds. USDA RD WEP is generally under-utilized in Hawaii, resulting in a reduction of federal budget allocations to the WEP over the years and WEP funds for Hawaii moved to other states with a waiting list of shovel-ready projects.

USDA RD WEP funds are used to serve the needs of current rural residents without access to safe drinking water and sanitary waste disposal systems. Consequently, new construction and lot development projects are usually not eligible for USDA RD WEP funds. But, in DHHL's case, USDA RD and DHHL reached an understanding that DHHL's planned, rural communities constituted a "virtual community" eligible for WEP funds.

USDA RD WEP funds are offered at very low-interest rates, up to a 40-year re-payment term and potentially funding 100% of a project using a combination of loans and grants. The combination of grants to loans depends on several factors, like borrower's ability to re-pay the loan, median household income of the project area, and the USDA WEP budget allocation for federal grant funds.

Congressional set-aside for USDA RD WEP grant funds for DHHL

Starting in federal fiscal year 2009/2010, Congress allocated \$5M per year to the USDA WEP budget for DHHL and residents of Hawaiian Home Lands (the DHHL Grant Set-Aside), then reduced to \$1 million per year and, finally, deleted from the USDA WEP budget. USDA RD informed DHHL that they do not have rules to award federal grant funds to fund all project costs with federal grant funds, except in certain locations and for emergencies.

Since 2008, DHHL partnered with Nā Kupa'a o Kūhiō (501c3 Nonprofit) to access the DHHL Grant Set-Aside. USDA RD awarded \$19 million to fund 7 water and sewer projects serving DHHL homesteads. For a complete and detailed list of projects and funding see Exhibit D.

After these projects were funded, DHHL learned that the DHHL Grant Set-Aside had accumulated to almost \$20 million, despite the funding of the 7 projects. DHHL then discovered that instead of using the DHHL Grant Set-Aside, USDA RD had used USDA RD National Office loan and grant funds and special funds from the American Recovery and Reinvestment Act (ARRA or "federal stimulus"). The only project funded by the DHHL Grant Set-Aside was the project for the DHHL Ka'ulu'okah'i homestead (formerly East Kapolei Increment IIB) of about \$1.5 million

In federal fiscal year 2015/2016, USDA RD informed DHHL that the \$5M annual grant set-aside was no longer allocated in USDA's budget and that the then \$20 million balance of the DHHL Grant Set-Aside would be "de-obligated" or returned to USDA RD and unavailable to DHHL. By federal statute, funds allocated but unspent after 5 years are de-obligated.

In 2016, DHHL submitted 3 applications (which included the DHHL Ho'olehua and Anahola water systems) to USDA RD to use the DHHL Grant Set-Aside. All applications were funded with the DHHL Grant Set-Aside in 2016, but \$3.6 million balance remained. USDA encouraged DHHL to apply for additional funds, so DHHL re-evaluated project costs. In 2018, DHHL applied for and received a combination of loan and grant awards under WEP, which completely draws down the DHHL Grant Set-Aside. Because the 2018 awards were a combination loan/grant, USDA reverted to their standard program.

Benefits and Challenges

Benefits for DHHL to use the USDA RD WEP program are as follows:

- Leverages State CIP and DHHL Trust resources (approximately 1.75 federal funds/ DHHL funds)
- Allows DHHL to implement improvements in a timely manner
 - o Improvements are needed to protect public health and safety, increase operational efficiencies, and help keep water rates affordable for beneficiaries

Challenges to implement the USDA RD WEP funds are many, including the following summarized in Table 1 below.

TABLE 1
Challenges

Challenge	DHHL Response
5-year Federal statutory limit to spend down funds <ul style="list-style-type: none"> • 2016 grant award expires 2021 • 2018 loan/grant award expires 2023 	DHHL target to start construction by July 2020
WEP program rules has a prescribed order of priority on how funds are to be spent <ol style="list-style-type: none"> (1) DHHL contribution (2) USDA WEP Loan funds (3) USDA WEP Grant funds (2016) (4) USDA WEP Grant funds (2018) 	DHHL will advance its own funds
Interim construction loan	DHHL intends to self-fund construction.
USDA WEP grant funds disbursed by reimbursement	DHHL may request to be reimbursed as frequently as monthly
State versus Federal construction documents	DHHL and USDA negotiated final documents
Federal loan documents	DHHL and USDA currently negotiating

NEXT STEPS

Implement the USDA RD WEP Funds

WEP has a prescribed priority order on how project funds are to be spent and how USDA RD disburses WEP funds. For the DHHL projects, the following is the WEP prescribed order. Refer to Exhibit E for Anahola and Exhibit F for Ho'olehua.

- Priority 1 - Applicant contribution (2016 commitment)
- Priority 2 - USDA RD WEP Supplemental Loan (2018 award)
- Priority 3 - USDA RD WEP Grant Set-Aside (2016 award)
- Priority 4 - USDA RD WEP Supplemental Grant (2018)

It is DHHL's intent to fully utilize all WEP loan and grant funds. However, DHHL is aware that WEP has a stipulation that should there be remaining funds at construction completion, USDA may de-obligate such funds. Per WEP rules, any reduction in funds will be first applied to the oldest USDA RD grant award, which also happens to be the WEP Set-Aside. For the DHHL projects, the amount of un-used funds will be first taken out from the 2016 grant, then the 2018 grant. If there are more un-used funds, then WEP loan funds will be applied as an extra payment towards the USDA RD loan.

Execute DHHL construction contracts

In 2016, USDA RD obligated only grant funds to DHHL, with a DHHL contribution of its own funds. USDA RD regulations required DHHL, as a state agency, to use its own State of Hawaii

construction documents as opposed to the federal standard construction documents. Only the Anahola Phase 1 project was bid out and contract executed in July 2018 using State of Hawaii documents. In September 2018, for both projects, DHHL was awarded additional funds in a combination of WEP loan and grant funds. USDA RD notified DHHL that the department was no longer exempted from using the Federal standard documents.

As of January 9, 2020, USDA RD concurred on a modified set of construction documents.

DHHL to negotiate, finalize and execute USDA RD WEP loan documents

In November 2018, HHC delegated authority to the Chairman to negotiate with USDA RD the final loan terms and conditions and to execute related loan documents. DHHL is currently reviewing the loan documents.

CONCLUSION

The department is in continuous communication with USDA RD to address these matters above and is working diligently and collaboratively to find mutually-agreeable alternatives. The primary benefit to accessing the USDA RD federal funds today is to leverage DHHL resources that would otherwise be used for new homestead lot development to address the applicant wait list. Total federal funds for these two projects is \$28.2 million - \$11.5 federal loan and \$16.7 federal grant.

RECOMMENDATION

None; for your information only.

Water & Environmental Programs

To apply for Water & Environmental Grant and Loan funding, visit **RD Apply**, our newly developed, online application system

Through Rural Utilities Service Water and Environmental Programs (WEP), rural communities obtain the technical assistance and financing necessary to develop drinking water and waste disposal systems. Safe drinking water and sanitary waste disposal systems are vital not only to public health, but also to the economic vitality of rural America. Rural Development is a leader in helping rural America improve the quality of life and increase the economic opportunities for rural people.

WEP provides funding for the construction of water and waste facilities in rural communities and is proud to be the only Federal program exclusively focused on rural water and waste infrastructure needs of rural communities with populations of 10,000 or less. WEP also provides funding to organizations that provide technical assistance and training to rural communities in relation to their water and waste activities. WEP is administered through National Office staff in Washington, DC, and a network of field staff in each State.

USDA Rural Development Water and Environmental Programs:

- Circuit Rider Program
- Emergency Community Water Assistance Grants
- Grants for Rural and Native Alaskan Villages
- Household Water Well System Grants
- Individual Water & Wastewater Grants
- SEARCH - Special Evaluation Assistance for Rural Communities and Households
- Solid Waste Management Grants
- Water & Waste Disposal Grants to Alleviate Health Risks on Tribal Lands and Colonias
- Water & Waste Disposal Loans & Grants
- Water & Waste Disposal Loan Guarantees
- Water & Waste Disposal Predevelopment Planning Grants
- Water & Waste Disposal Revolving Loan Funds
- Water & Waste Disposal Technical Assistance & Training Grants

Reports

- WEP FY 2016 Annual Progress Report

Special Initiatives

- American Iron and Steel Requirement
- Electronic Preliminary Engineering Report (ePER)

EXHIBIT A

Water & Waste Disposal Loan & Grant Program

Program 101

Program Fact Sheet

Are applications currently being accepted: YES

What does this program do?

This program provides funding for clean and reliable drinking water systems, sanitary sewage disposal, sanitary solid waste disposal, and storm water drainage to households and businesses in eligible rural areas.

Who may apply?

This program assists qualified applicants who are not otherwise able to obtain commercial credit on reasonable terms. Eligible applicants include:

- Most state and local governmental entities
- Private nonprofits
- Federally-recognized tribes

What is an eligible area?

Areas that may be served include:

- Rural areas and towns with populations of 10,000 or less -- check eligible addresses
- Tribal lands in rural areas
- Colonias

What kinds of funding are available?

- Long-term, low-interest loans
- If funds are available, a grant may be combined with a loan if necessary to keep user costs reasonable.

How may the funds be used?

Funds may be used to finance the acquisition, construction or improvement of:

- Drinking water sourcing, treatment, storage and distribution
- Sewer collection, transmission, treatment and disposal
- Solid waste collection, disposal and closure
- Storm water collection, transmission and disposal

In some cases, funding may also be available for related activities such as:

- Legal and engineering fees
- Land acquisition, water and land rights, permits and equipment
- Start-up operations and maintenance
- Interest incurred during construction
- Purchase of facilities to improve service or prevent loss of service
- Other costs determined to be necessary for completion of the project
- See 7 CFR Part 1780.7 and 1780.9 for a complete list

What is the loan term and rate?

- Up to 40-year payback period, based on the useful life of the facilities financed

EXHIBIT A

- Fixed interest rates, based on the need for the project and the median household income of the area to be served

Contact us for details and current interest rates applicable for your project

Are there additional requirements?

- Borrowers must have the legal authority to construct, operate and maintain the proposed services or facilities.
- All facilities receiving federal financing must be used for a public purpose.
- Partnerships with other federal, state, local, private and nonprofit entities that offer financial assistance are encouraged.
- Projects must be financially sustainable.

How do we get started?

RD Apply

- Applications are accepted year round and may be filed electronically using **RD Apply**. The RD Apply Customer Help Guide is provided to help you get started and work through the application process
- Applications are also accepted through your local RD office.
- Program resources are available online (i.e., forms, guidance, certifications, etc.)

Who can answer questions?

- Contact the local representative who serves your area
- Participating nonprofits in your area may also offer assistance and training

What governs this program?

- Basic Program – 7 CFR, Part 1780
- Loan Servicing – 7 CFR, Part 1782
- Section 306 of the Consolidated Farm and Rural Development Act

Why does USDA Rural Development do this?

This program helps very small, financially distressed rural communities extend and improve water and waste treatment facilities that serve local households and businesses. Good practices can save tax dollars, improve the natural environment, and help manufacturers and businesses to locate or expand operations.

NOTE: Program details may change over time. Before you begin an application, please confirm you have the most current information by contacting a program specialist in your local RD office for assistance or consult the program instructions listed in the section above titled *"What Governs this Program?"*

Forms & Resources

NOTE: Please ensure that your state is selected in the dropdown menu above to find the state office contact information, and speak to a program specialist before attempting to fill out any forms or applications. This will save you time in completing your application.

Engineering

Key WEP Engineering Resource Page

Individual states will have particular requirements based on state and local regulations. Please contact the local RD office in the state where your project is located.

Environmental

EXHIBIT A

Interest Rates

Current interest rates for 1st Quarter FY 2020, effective October 1, 2019 to December 31, 2019

Poverty:	1.750%
Intermediate:	2.375%
Market:	3.000%



Water & Waste Disposal Loan & Grant Program

What does this program do?

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- Private nonprofits
- Federally-recognized tribes

What is an eligible area?

Areas that may be served include:

- Rural areas and towns with populations of 10,000 or less - [check eligible addresses](#)
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What kinds of funding are available?

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- Legal and engineering fees
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- Start-up operations and maintenance
- Interest incurred during construction
- Purchase of facilities to improve service or prevent loss of service
- Other costs determined to be necessary for completion of the project
- See [7 CFR Part 1780.7 and 1780.9](#) for a complete list

What is the loan term and rate?

The loan term is up to 40-year payback period, based on the useful life of the facilities financed with a fixed interest rate. The interest rate is based on the need for the project and the median household income of the area to be served.

Contact us for details and current interest rates applicable for your project.

Are there additional requirements?

- Borrowers must have the legal authority to construct, operate and maintain the proposed services or facilities.
- All facilities receiving federal financing must be used for a public purpose.
- Partnerships with other federal, state, local, private and nonprofit entities that offer financial assistance are encouraged.
- Projects must be financially sustainable.



United States
Department of
Agriculture

Rural Development

Water & Waste Disposal Loan & Grant Program

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This program helps very small, financially distressed rural communities extend and improve water and waste treatment facilities that serve local households and businesses. Good practices can save tax dollars, improve the natural environment, and help manufacturers and businesses to locate or expand operations.

EXHIBIT A

NOTE: Because citations and other information may be subject to change please always consult the program instructions listed in the section above titled "What Governs this Program?" You may also contact your **local RD office** for assistance. You will find additional forms, resources, and program information at www.rd.usda.gov. *USDA is an equal opportunity provider, employer, and lender.*

Last Updated August 2017

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

November 19 - 20, 2018

TO: Chairman and Members, Hawaiian Homes Commission

FROM: Rodney Lau, Administrative Services Officer
Norman Sakamoto, Administrator, Land Development
Division
Kaleo Manuel, Acting Planning Program Manager
Gigi Cairel, Grants Specialist

Subject: Approve to Accept the US Department of Agriculture
Rural Development Loan/Grant Financing for the
DHHL-owned Anahola Farm Lots Water System on the
Island of Kaua'i

RECOMMENDED MOTION/ACTION:

That the Hawaiian Homes Commission (HHC) approves to accept the subsequent \$4,100,000 loan and subsequent \$1,999,946 grant, as part of a financing package awarded to the Department of Hawaiian Home Lands (DHHL) by the US Department of Agriculture Rural Development (USDA RD) to fund capital improvements to the DHHL-owned Anahola Farm Lots Water System (Public Water System #432) on the Island of Kaua'i;

That the HHC delegates authority to the Chairman to negotiate final terms and conditions of the USDA RD loan, including execution of related documents.

BACKGROUND:

The DHHL-owned Anahola Farm Lots Water System serves 75 lessees and their families in the Bayview residential homestead and Anahola Farm Lots. Total population served is approximately 385 people. This water system also provides potable water to one non-homestead lot and has an interconnection tie to the County of Kaua'i, where DHHL may draw water from the County and vice versa for emergency purposes. All other homestead areas on Kaua'i receive potable water from the County of Kaua'i, including residential homesteads in Anahola, Pi'ilani Mai Ke Kai, Hanapepe, and Kekaha.

The Anahola Farm Lots Water System is supplied by a groundwater source from the DHHL Anahola well which was

constructed over 35 years ago by the Department of Land and Natural Resources. Major water system facilities include a half-acre site containing the well, control building, and a 0.5 million gallon (MG) steel storage tank; nearly two miles of distribution lines; and an emergency interconnection between the DHHL Anahola Farm Lots Water System and the County of Kaua'i. The well water is treated at the source with sodium hypochlorite. The system is classified by the Department of Health (DOH) as a Public Water System Grade 1 distribution system and requires a DOH certified operator with a Grade 1 operator license. The operations and maintenance services are provided by a DHHL contractor.

Water quality delivered by the Anahola water system currently meets all Federal and State drinking water quality standards. On a quarterly basis, the DHHL contracted operator conducts water quality testing, as required by DOH. Every three years, DOH conducts a sanitary survey to check site and facility conditions for compliance with Technical, Managerial and Financial capacity standards. Since there have been no significant deficiencies, DOH conducts its sanitary survey every five years. In prior DOH sanitary surveys, DOH provided recommendations to non-significant findings, which DHHL has remediated and corrected over the years, except for storage tank replacement. In the 2018 DOH survey, the Anahola system had no significant deficiencies, yet has six non-significant deficiencies such as recordkeeping and properly updating documents such as the mutual aid agreement with County of Kaua'i and the DHHL Vulnerability Assessment/Emergency Response Plan.

Need for project

The needs for this capital improvement project are many and include:

- (1) Since 1999, DOH has continuously recommended that DHHL replace the Anahola water storage because it is severely rusted on the roof and sides. The rust has degraded to loose flakes. DOH reported algal/fungal growth on the tank sides since 2008. Further, the tank's structural integrity is at risk. The tank has more than reached its useful life of over 30 years old.
- (2) The 2013 DOH sanitary survey noted the lack of security at the interconnect tie between the DHHL Anahola water system and the County. DOH recommended fencing the area and locking the standpipe caps and valves to prevent tampering with a public water supply.
- (3) Aging infrastructure where system components need major repairs or complete replacement.
- (4) Low water pressure in mauka areas and high water pressure in areas makai-side of Kūhio highway
- (5) High level of unaccounted for water due to leaks.

Improvements are needed to improve overall reliability and functionality of the water system. The improvements will not add new users to the system nor expand the service area beyond the Bayview residential homestead and Anahola Farm Lots. Due to the location of the Anahola water system, there is little to no opportunity to physically expand the water system or serve new homestead lots in the near term.

Project description/scope

The scope of this project is to implement much needed improvements to the Anahola Farm Lots Water System including the following.

- Increase operational efficiency
- Replace the storage tank
- Address water pressure issues
- Repair or replace components that have reached their useful life cycle
- Improve water system safety and security

The design and construction of the proposed Anahola Farm Lots Water Project is divided into two phases.

Phase 1 will address water distribution system improvements as follows.

- install a new dual water pressure zone which will increase the water pressure to customers in the mauka area and reduce the extreme high pressures to customers in the makai area, below Kūhio Highway.
- replace aging asbestos concrete pipes with Kaua'i County standard material that have a longer life expectancy.
- replace all fire hydrants, water meters and backflow preventers.
- improve the security in and around the interconnection facility at Kūhio Highway used for emergencies.

Phase 2 construction is to replace the water storage tank and improve the well site.

- construct a temporary 100,000 gallon steel tank.
- demolish the existing 500,000 gallon steel storage tank.
- construct a new concrete storage tank.
- Improve the well site, including replacement of well pump, install a booster pump, install an emergency diesel generator, install an improved chlorination system and install a Supervisory Control and Data Acquisition (SCADA) system. Currently, the well controls are operated manually; the SCADA

system will allow for remote operations and notifications of problems.

Project costs

In 2016, the project cost estimate was \$8.8M. DHHL sought federal funds from the USDA RD Water and Environment Program (WEP) (1) to access USDA RD set-aside grant funds that were available only to DHHL water and waste projects; and (2) to leverage DHHL resources for major capital improvements. USDA awarded \$3M and DHHL committed \$3.8M of its own funds. Total project cost was then reduced to \$6.8M.

In 2018, USDA RD approached and encouraged DHHL to consider applying for additional funds for anticipated project cost overruns. USDA RD had a national "call out" for projects due to the sudden availability of federal dollars that needed to be obligated by the end of the federal fiscal year, September 2018. DHHL submitted an application to seek an additional \$6.1M, thus bringing the total project cost to \$13M. USDA RD subsequently awarded the additional \$6.1M in the form of a loan/grant combination - \$4.1M Loan and \$2M Grant.

TABLE 1
Project Budget

Project Budget Category	2016	2018	Difference
Legal/Administration	\$150,000	\$150,000	\$0
Engineering	\$1,632,860	\$1,628,363	<\$4,497>
Construction	\$4,675,600	\$9,610,477	\$4,934,617
Contingency	\$397,400	\$1,566,966	\$1,169,566
TOTAL	\$6,855,860	\$12,955,806	\$6,099,946

TABLE 2
Summary of USDA Funds

YEAR	USDA awards	DHHL contribution	TOTAL
June 2016	Grant \$3,025,137	\$3,770,723	\$6,795,860
September 2018	Loan \$4,100,000 Grant \$1,999,946	-0-	\$6,099,946
TOTAL	\$9,125,083	\$3,770,723	\$12,895,806
DHHL	Loan re-payment	\$4,100,000	
TOTAL DHHL Contribution		\$7,870,723	

Loan terms (for planning purposes):
Period 35 years
Note: payments in first two years is interest only
Interest rate 3.1250%*
Amortization \$49/\$1000
Estimated annual payments \$200,900*

*Note: The precise payment amount will be based on the interest rate at which time the loan is closed and may be different than as stated above. See Exhibit A for the amortization schedule.

The following factors contributed to the differences in cost estimates.

- The 2016 engineering cost estimates were grossly undervalued for this type of project located on a neighbor island in the State of Hawai'i.
- Project costs generally have gone up in the 2-year period - 2016 and 2018.
- The lengthy DHHL procurement and contracting process.
- Guidance from USDA to increase Contingency to 20%.
- Guidance from USDA that they were flush with funds that must be obligated by September 2018.
- Guidance from USDA that there is no guarantee that USDA will fund future DHHL cost overruns for this Anahola water project.

During this period, the project scope remained the same.

Based on the factors above, DHHL was conservative in making the request to USDA RD for the additional \$6.1M. Since the \$6.1M award from USDA RD, DHHL again evaluated the project costs based on the actual final low bid numbers from Phase 1 at \$3.1M. Phase 2 is estimated at \$5.2M. With engineering design costs and contingency, this brings up the project cost estimate from \$6.8M (2016) to \$11.62M (2018). At this time, it appears the shortfall is \$4.8M, not \$6.1M. Thus, DHHL may have remaining funds amounting to \$1.3M.

Per USDA RD regulations, "remaining funds may be used for eligible loan and grant purposes, provided the use will not result in major changes to the original scope of work and the purpose of the loan and grant remains the same." DHHL has developed a list of items should there be such remaining funds when construction is complete for the original scope. Additional items include the following (in order of priority):

- Any cost overruns experienced during construction
- Replace grass area with pavement at the well/tank site

- Expand the existing control building to enclose well pumps and booster pumps to protect against moisture damage
- Add security measures, including enhanced lighting, to the well/tank site
- Exterior coating to the tank
- Purchase water truck for emergency use
- Stock equipment on island including pumps, motors, etc.

DHHL will seek preliminary approval from USDA RD to add these items in the event there are remaining funds.

TABLE 3
Updated Project Costs

Project Budget Category	USDA Award	DHHL Revised Costs	Difference
Legal/Administration	\$150,000	\$150,000	\$0
Engineering	\$1,628,363	\$1,628,363	\$0
Construction	\$9,610,477	\$8,300,000	<\$1,310,477>
Contingency	\$1,566,966	\$1,566,966	\$0
TOTAL	\$12,955,806	\$11,645,329	<\$1,310,477>

Project Status

At this time, the following is the status of this project.

- Phase 1 (water lines) - Construction contract executed.
- Phase 2 (tank replacement) - Currently is in the bidding process. Bid opening expected in early December 2018.

DISCUSSION

DHHL is seeking approval to accept the 2018 USDA RD loan/grant package to finance the proposed improvements to the Anahola water system. Should DHHL not proceed with the 2018 subsequent USDA RD loan/grant funds and, instead, proceed with the earlier 2016 USDA RD grant funds, the following are the impacts.

- DHHL may move forward with the 2016 USDA RD grant award (\$3,025,137) and DHHL contribution (\$3,770,723).
- There would be no need for DHHL to address USDA RD loan conditions - loan security, interim financing, change to use the federal bid and contract documents.
- DHHL may proceed with the Anahola water system improvements project with minimal disruption and time delays to the project.
- DHHL will continue to use the State bid and contract documents.

- DHHL will need to identify a new source of funds for the estimated project cost shortfall of \$4.8M and any future unforeseen cost overrun.
- DHHL will need to identify a new source of funds for the additional needs, not in the original 2016 scope - includes paving the well/tank site, enclose the well pump, coating of the tank, and purchase of equipment/supplies.

Should DHHL accept the 2018 USDA RD loan/grant package, there are major issues that need to be negotiated and resolved with USDA RD. The USDA RD loan is a new component to the overall financing package and with it comes new funding conditions. The major issues of concern to DHHL are as follows.

- Loan security, collateral, and general obligation bond financing
- Interim financing
- USDA priority order to disburse funds
- Use of State of Hawaii procurement and contracting documents versus federal standard documents

DHHL is optimistic that USDA RD will concur with our proposed alternatives.

Loan Security, Collateral, General Obligation Bond Financing

When a borrower is a public body, USDA's first preference for security are general obligation bonds, which is evidence of the full faith and credit of the borrower. DHHL is unable to provide such security. Instead, DHHL proposes to pledge all revenues from its "available lands" as security in lieu of general obligation bonds, subordinate to the DHHL Revenue Bonds, series 2017 and DHHL Certificates of Participation Series 2017 A (COPS). This proposal would place USDA RD in third position to all revenues from DHHL "available lands."

Status: DHHL will send this proposed alternative to USDA RD for its review and concurrence.

Interim Financing

USDA RD loans are long term (35 years) permanent take-out loans. USDA RD requires its borrowers to seek Interim Financing for the construction period. However, should a borrower be unable to obtain such interim financing with reasonable terms, borrower may request an exception whereby USDA RD would disburse the loans funds directly on a monthly or quarterly basis.

Status: DHHL is pursuing an exception to this USDA RD requirement to obtain Interim Financing.

USDA priority order to disburse funds

This federal requirement is in regards to USDA's priority order on how project funds are to spent and how USDA RD disburses the federal funds.

First priority	Applicant contribution
Second priority	USDA RD loan (awarded in 2018)
Third priority	USDA RD grant (awarded in 2016)
Fourth priority	USDA RD grant (awarded in 2018)

Further, there's a stipulation that should there be remaining funds upon construction completion (ie project comes under budget), USDA may de-obligate such funds. Any reduction in funds will be applied to the USDA RD grant funds first. Generally, the older grant funds from 2016 (\$3,025,127) will be de-obligated first, then the grant funds from 2018 (\$1,999,946). If un-used grant funds are totally de-obligated, then any un-used loan funds will be applied as an extra payment towards the USDA RD loan.

Status: The next opportunity to re-assess costs is when final bid tabulations for all phases are received by the DHHL. Secondly, as project construction nears completion, another assessment of project costs may be made to determine if there will be any remaining funds. Should this project come under budget, DHHL has planned for additional items to re-direct any remaining USDA funds.

Use of federal docs (EJCDC) versus State of Hawaii docs

At the time this project started in 2016, USDA RD obligated only grant funds to DHHL. USDA RD regulations required DHHL, as a state agency, to use its own State of Hawaii documents as opposed to the federal standard documents, called the Engineers Joint Contract Documents Committee or "EJCDC". Now in 2018, with the award of federal loan funds, DHHL is no longer exempted from using the EJCDC documents. The challenge is that DHHL has already executed bid and contract documents using the State templates. Changing existing State documents in mid-stream to the federal EJCDC documents will result in time delays and, possibly, loss of the vendors.

The construction contract for Phase 1 is executed, using State of Hawaii documents. DHHL is currently in the bid process for Phase 2 and expects bid opening by early December 2018. Again, State of Hawaii documents were used throughout the procurement process. Should this matter on the EJCDC not be resolved in a timely manner, DHHL may need to consider starting a new procurement process, thus further delaying the project timeline.

EJCDC documents include, but are not limited to, the following:
(a) contract documents between DHHL and engineer, construction contractor, inspector/construction management services; (b) Bid

forms; (c) Notice of Award; (d) Standard General Conditions; (e) Change Orders; etc.

Status: DHHL is proposing to USDA that we continue using the State documents throughout the project period and, as needed, include any federal EJCDC requirements by amendment.

CONCLUSION

The department is in continuous communication with USDA RD to address these matters above and is working diligently and collaboratively to find mutually-agreeable alternatives. The primary benefit to accessing the USDA RD federal funds today for the existing Anahola Farm Lots Water System is to leverage DHHL resources that would otherwise be used for new homestead lots to address the applicant wait list. Secondly, by utilizing the USDA RD funds, DHHL is creating templates for future use of the USDA RD WEP program to finance more DHHL water projects to develop new homestead lots.

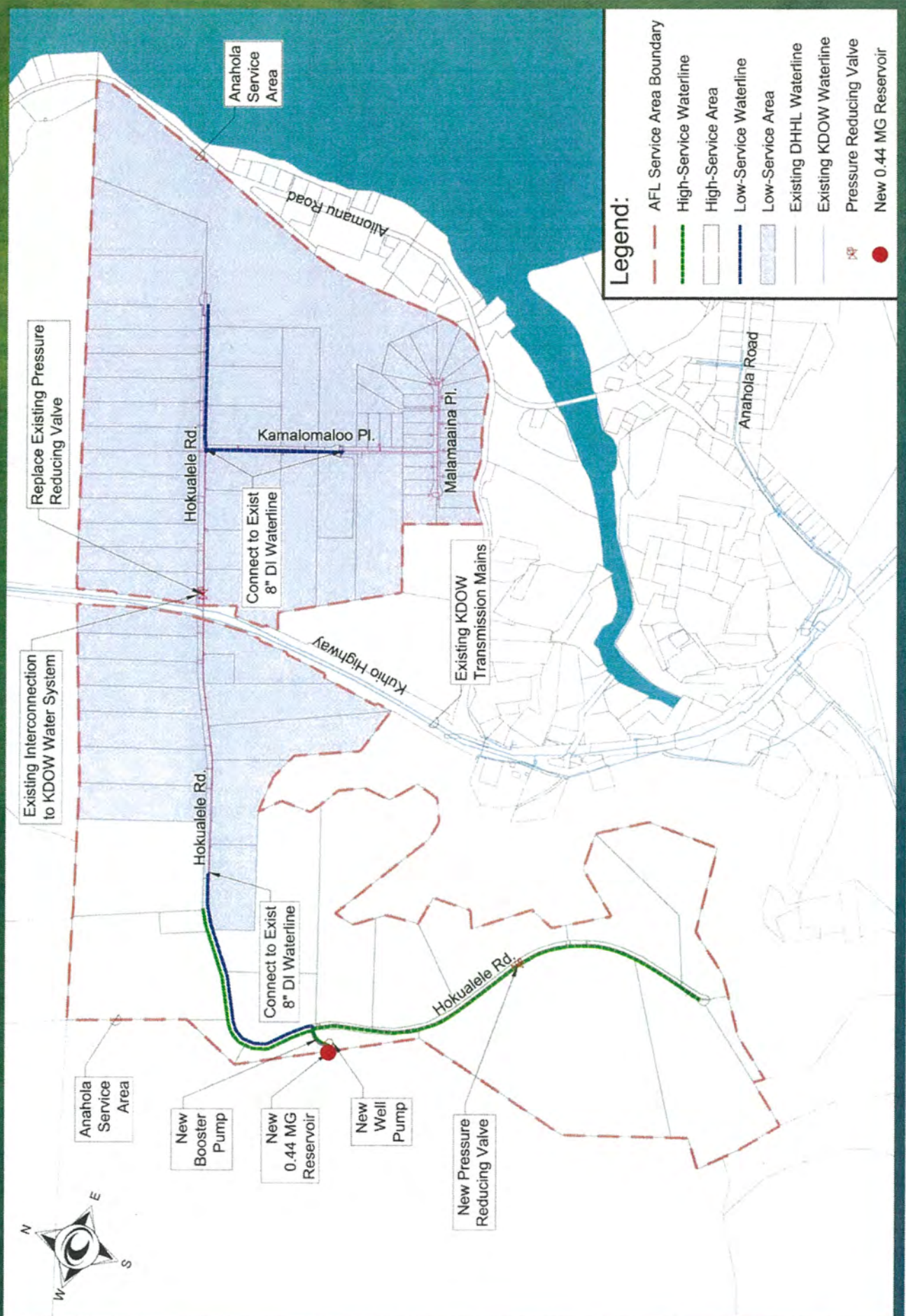
RECOMMENDATION

Staff respectfully requests approval of the recommended motion as stated above.

Anahola			Base Interst	3.125%					
			Adj Interest	37.500%					
Installment			N	33.000	PV	4,100,000.00			
calculated	200,896.58		Monthly Interest	10,877.08					
rounded	200,900.00		Annual Interest	128,125.00					
			Cumulative		Cumulative				
Year	P/I	Interest	Interest Pd	Principal	Principal Pd	Principal Bal	Pt pmts	Due Date	
1	128,125.00	128,125.00	128,125.00		-	4,100,000.00		8/31/2021	
2	128,125.00	128,125.00	256,250.00		-	4,100,000.00		8/31/2022	
3	200,900.00	128,125.00	384,375.00	72,775.00	72,775.00	4,027,225.00	1	8/31/2023	
4	200,900.00	125,850.78	510,225.78	75,049.22	147,824.22	3,952,175.78	2	8/31/2024	
5	200,900.00	123,505.49	633,731.27	77,394.51	225,218.73	3,874,781.27	3	8/31/2025	
6	200,900.00	121,086.91	754,818.18	79,813.09	305,031.82	3,794,968.18	4	8/31/2026	
7	200,900.00	118,592.76	873,410.94	82,307.24	387,339.06	3,712,660.94	5	8/31/2027	
8	200,900.00	116,020.65	989,431.59	84,879.35	472,218.41	3,627,781.59	6	8/31/2028	
9	200,900.00	113,368.17	1,102,799.76	87,531.83	559,750.24	3,540,249.76	7	8/31/2029	
10	200,900.00	110,632.81	1,213,432.57	90,267.19	650,017.43	3,449,982.57	8	8/31/2030	
11	200,900.00	107,811.96	1,321,244.53	93,088.04	743,105.47	3,356,894.53	9	8/31/2031	
12	200,900.00	104,902.95	1,426,147.48	95,997.05	839,102.52	3,260,897.48	10	8/31/2032	
13	200,900.00	101,903.05	1,528,050.53	98,996.95	938,099.47	3,161,900.53	11	8/31/2033	
14	200,900.00	98,809.39	1,626,859.92	102,090.61	1,040,190.08	3,059,809.92	12	8/31/2034	
15	200,900.00	95,619.06	1,722,478.98	105,280.94	1,145,471.02	2,954,528.98	13	8/31/2035	
16	200,900.00	92,329.03	1,814,808.01	108,570.97	1,254,041.99	2,845,958.01	14	8/31/2036	
17	200,900.00	88,936.19	1,903,744.20	111,963.81	1,366,005.80	2,733,994.20	15	8/31/2037	
18	200,900.00	85,437.32	1,989,181.52	115,462.68	1,481,468.48	2,618,531.52	16	8/31/2038	
19	200,900.00	81,829.11	2,071,010.63	119,070.89	1,600,539.37	2,499,460.63	17	8/31/2039	
20	200,900.00	78,108.14	2,149,118.77	122,791.86	1,723,331.23	2,376,668.77	18	8/31/2040	
21	200,900.00	74,270.90	2,223,389.67	126,629.10	1,849,960.33	2,250,039.67	19	8/31/2041	
22	200,900.00	70,313.74	2,293,703.41	130,586.26	1,980,546.59	2,119,453.41	20	8/31/2042	
23	200,900.00	66,232.92	2,359,936.33	134,667.08	2,115,213.67	1,984,786.33	21	8/31/2043	
24	200,900.00	62,024.57	2,421,960.90	138,875.43	2,254,089.10	1,845,910.90	22	8/31/2044	
25	200,900.00	57,684.72	2,479,645.62	143,215.28	2,397,304.38	1,702,695.62	23	8/31/2045	
26	200,900.00	53,209.24	2,532,854.86	147,690.76	2,544,995.14	1,555,004.86	24	8/31/2046	
27	200,900.00	48,593.90	2,581,448.76	152,306.10	2,697,301.24	1,402,698.76	25	8/31/2047	
28	200,900.00	43,834.34	2,625,283.10	157,065.66	2,854,366.90	1,245,633.10	26	8/31/2048	
29	200,900.00	38,926.03	2,664,209.13	161,973.97	3,016,340.87	1,083,659.13	27	8/31/2049	
30	200,900.00	33,864.35	2,698,073.48	167,035.65	3,183,376.52	916,623.48	28	8/31/2050	
31	200,900.00	28,644.48	2,726,717.96	172,255.52	3,355,632.04	744,367.96	29	8/31/2051	
32	200,900.00	23,261.50	2,749,979.46	177,638.50	3,533,270.54	566,729.46	30	8/31/2052	
33	200,900.00	17,710.30	2,767,689.76	183,189.70	3,716,460.24	383,539.76	31	8/31/2053	
34	200,900.00	11,985.62	2,779,675.38	188,914.38	3,905,374.62	194,625.38	32	8/31/2054	
35	200,707.42	6,082.04	2,785,757.42	194,625.38	4,100,000.00	0.00	33	8/31/2055	
Totals	5,022,307.42	2,785,757.42		4,100,000.00					
Year 35 numbers have been adjusted due to rounding of payments.									
Assumptions:									
(1) USDA RD Funding package									
DHHL contribution - \$3,770,723									
USDA Grant (2016) - \$3,055,137									
USDA Grant (2018) - \$1,999,946									
USDA Loan (2018) - \$4,100,000									
TOTAL - \$12,925,806									
(2) USDA Loan Terms									
Re-payment over a period of 35 years.									
Payments due the first two years will consist of interest only.									
Payments for the remaining 33 years will be equal amortized annual installments, beginning two years after loan closing.									
For planning purposes, use a 3.1250% interest rate and an amortization factor of \$49/\$1000, which provides for an annual payment of \$200,900.									
The precise payment amount will be based on the interest rate at loan closing.									
(3) Assumes construction completed by August 2021. First payment due August 31, 2021.									
							HHC ITEM H-1		
							EXHIBIT A		

EXHIBIT B

PROJECT SITE MAP



STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

November 19 - 20, 2018

TO: Chairman and Members, Hawaiian Homes Commission

FROM: Rodney Lau, Administrative Services Officer
Norman Sakamoto, Administrator, Land Development
Division
Kaleo Manuel, Acting Planning Program Manager
Gigi Cairel, Grants Specialist

Subject: Approve to Accept the US Department of Agriculture
Rural Development Loan/Grant Financing for the
DHHL-owned Ho'olehua Water System on the Island of
Moloka'i

RECOMMENDED MOTION/ACTION

That the Hawaiian Homes Commission (HHC) approves to accept the subsequent \$7,455,000 loan and subsequent \$1,592,333 grant, as part of a financing package awarded in September 2018 to the Department of Hawaiian Home Lands (DHHL) by the US Department of Agriculture Rural Development (USDA RD) to fund major capital improvements to the DHHL-owned Ho'olehua Water System (Public Water System #230) on the Island of Moloka'i; and

That the HHC delegates authority to the Chairman to negotiate final terms and conditions of the USDA RD loan, including execution of related documents.

BACKGROUND

The DHHL-owned Ho'olehua water system serves over 500 lessees and their families in Kalama'ula and Ho'olehua homesteads. Total population served is approximately 2,400 people. All other homesteads on Moloka'i receive potable water from the County of Maui, including Kapaakea and Kamiloloa-One Ali'i. In addition, this system delivers drinking water to community facilities such as the Ho'olehua airport, US Post Office, schools, churches and to commercial businesses. This is the only DHHL-owned water system that serves community facilities and businesses. This is an advantage to DHHL because these other water system users pay a higher water rate to help offset costs to operate the system that otherwise would be 100% borne by lessees.

The system is supplied by groundwater sources from the Kauluwai Well No. 1 and No. 2, both owned by DHHL. Water system facilities include a DHHL maintenance baseyard building, five storage tanks, one pressure breaker tank, two booster pumps, two altitude valves, and approximately 50 miles of pipeline. The water is treated at the source with sodium hypochlorite. The system is classified by the Department of Health (DOH) as a Public Water System Grade 2 distribution system and requires a DOH certified operator with a Grade 2 operator license. The system is operated by DHHL Moloka'i District Office personnel, who are all beneficiaries.

Water quality delivered by the Ho'olehua water system meets all federal and state drinking water quality standards. Every three to five years, DOH conducts a sanitary survey to check site and facility conditions and compliance with Technical, Managerial and Financial capacity standards. In prior DOH sanitary surveys, the Ho'olehua water system had significant deficiencies and DHHL water staff have fully addressed them to date. In the 2018 sanitary survey, the Ho'olehua system had no significant deficiencies.

Need for project

The needs for this capital improvement project are many and include:

- (1) Aging infrastructure, where some components have been operating since the 1930s such as the 3.5 million gallon (MG) concrete storage tanks located in Ho'olehua.
- (2) Water system components have reached the end of their useful life and are in need for major repairs or complete replacement.
- (3) Low water pressure in the Kalama'ula homestead, which is a priority project in the Moloka'i Regional Plan.
- (4) High level of unaccounted for water due to leaks.
- (5) High energy costs to operate the well pumps. The annual energy cost is \$310,000, which is 40% of the water system operating budget.

Improvements are needed to improve overall reliability and functionality of the water system. The proposed improvements are not intended to add new users to the system nor expand the service area beyond the existing homesteads in Ho'olehua and Kalama'ula.

Project description/scope

Overall objectives of the improvements are as follows:

- Increase operational efficiency
- Reduce energy costs
- Increase fire protection

- Achieve 24/7 access to system components by improving roadways
- Increase storage capacity
- Address water pressure issues
- Repair or replace components that have reached their useful life cycle
- Improve water system safety and security

The scope of the project is to implement much needed improvements to the Ho'olehua Water System to improve transmission and provide reliable water service to the existing population over a 35-year planning period. In addition to upgrading the reliability of the existing water system, improvements will seek to create a more sustainable system to minimize unexpected losses of service and reduce annual energy costs. The design and construction of the proposed Ho'olehua Water System improvements project is divided into four bid packages as follows.

Package 1 - Ho'olehua portion of the Ho'olehua Water System
Site numbers 1, 3, 4, 5, 6, 7. Refer to Exhibit B.

- Improve Kauluwai 1.0MG Storage Tank,
- Install a 1,000 gallon above-ground fuel storage tank for the generator.
- Repair the two Ho'olehua 3.5MG storage tanks.
- Replace aging asbestos water piping, pressure relief valves, gate valves, flow controls, well booster pumps and motors, which have reached the end of their useful life.
- Install new water lines and hydrants to provide fire protection to areas not protected now.
- Install new 0.2 MG storage water tank to lower the risk of low pressure and vacuum conditions in the waterline that could result in contamination of the drinking water system through an increase risk of backflow conditions. It will also provide adequate water pressure.
- Provide over 3 miles of all-weather roadways for 24/7 access to most of the water system, storage water tanks and well sites in order to properly maintain and service them.
- Demolish existing DHHL Molokai Maintenance warehouse and construct a new facility to house all of the new construction equipment and properly store water treatment supplies which will allow the Molokai District Office Maintenance crew to provide adequate maintenance and repairs to the Ho'olehua Water System.

Package 2 - Kalama'ula portion of the Ho'olehua Water System
Site number 2. Refer to Exhibit B.

- Improve roadway for 24/7 access to the 0.2MG Kalama'ula storage tank.
- Replace 12-inch transmission main water line.

Package 3 - Photovoltaic (PV) system and solar field

- Implementation of a large 1 mega-watt PV solar field. This should generate over \$300,000 (estimate) in annual electrical savings.

Package 4 - Equipment and supply needs for the entire Ho'olehua Water System.

Project costs

In 2016, the project cost estimate was \$25M. DHHL sought federal funds from the USDA RD Water Environment Program (WEP) (1) to access USDA RD set-aside grant funds available only to DHHL water and waste projects; and (2) to leverage DHHL resources for major capital improvements. USDA awarded \$10M in grant funds and DHHL committed \$12M of its own funds. Total project cost was then reduced to \$22M.

In 2018, USDA RD approached and encouraged DHHL to consider applying for additional funds for anticipated project cost overruns. USDA RD had a national "call out" for projects due to the sudden availability of federal dollars that needed to be obligated by the end of the federal fiscal year, September 2018. DHHL submitted an application to seek an additional \$9M, thus bringing the total project cost to \$31M. USDA RD subsequently awarded the additional \$9M in the form of a loan/grant combination - \$7.4M Loan and \$1.5M Grant.

TABLE 1
Project Budget

Project Budget Category	2016	2018	Difference
Engineering	\$2,035,444	\$2,518,663	\$483,219
Construction	\$18,481,503	\$24,013,781	\$5,532,278
Contingency	\$1,768,053	\$4,799,889	\$3,031,836
TOTAL	\$22,285,000	\$31,332,333	\$9,047,333

TABLE 2
Summary of USDA Funds

YEAR	USDA awards	DHHL contribution	TOTAL
June 2016	Grant \$10,011,750	\$12,273,250	\$22,285,000
September 2018	Loan \$7,455,000 Grant \$1,592,333	-0-	\$9,047,333
TOTAL	\$19,059,083	\$12,273,250	\$31,332,333
	DHHL Loan re-payment	\$7,455,000+	
TOTAL	DHHL Contribution	\$19,728,250+	

Loan terms (for planning purposes):
Period 35 years
Note: payments in first two years is interest only
Interest rate 3.1250%*
Amortization \$49/\$1000
Estimated annual payments \$365,295*

*Note: The precise payment amount will be based on the interest rate at which time the loan is closed and may be different than as stated above. See Exhibit A for the amortization schedule.

The following factors contributed to the differences in cost estimates from 2016 to 2018.

- Project costs generally have gone up in the 2-year period - 2016 and 2018.
- The lengthy DHHL procurement and contracting process
- USDA RD staff changes resulted in time delays of the USDA review of bid and contracting documents
- Guidance from USDA to increase Contingency to 20%
- Guidance from USDA that they were flush with funds that must be obligated by September 2018
- Guidance from USDA that there is no guarantee that USDA will fund future DHHL cost overruns for this Ho'olehua project

During this period, the project scope remained the same. The only change was that DHHL removed \$5M that was originally budgeted with USDA funds in 2016 for the PV project. Instead, DHHL anticipates the PV project to be self-financed through a Purchase Power Agreement (PPA). The \$5M in USDA funds was re-allocated to the other sub-projects - Bid Package 1 (Ho'olehua), Bid Package 2 (Kalama'ula) and Bid Package 4 (Equipment/Supplies).

Based on the factors above, DHHL was conservative in making the request to USDA RD for the additional \$9M. Since the \$9M award from USDA RD, DHHL again evaluated the project costs based on the actual final low bid numbers from Packages 1 and 2 - \$19,554,000 (USDA RD portion \$16,228,000) and \$3,048,540, respectively. Package 4 is estimated at \$1,411,242. With engineering design costs and 10% contingency, this brings up the project cost estimate from \$22M (2016) to \$25M (2018). At this time, it appears the shortfall is \$3M, not \$9M. Thus, DHHL may have remaining funds amounting to \$6M.

Per USDA RD regulations, "remaining funds may be used for eligible loan and grant purposes, provided the use will not result in major changes to the original scope of work and the purpose of the loan and grant remains the same." DHHL has developed a list of work items should there be such remaining

funds when construction is complete for the original scope. Additional items include the following (in order of priority):

- Any cost overruns experienced during construction, including funds needed for the PV project should the PPA fall through.
- Emergency repairs to the two 3.5MG concrete tanks.
- Replace and re-condition 278 fire hydrants, in addition to the 30 in the original scope.
- Construct protective structures over well pumps & booster pumps to protect moisture damage to pump motors.
- Stock equipment/supplies on island such as gate valves, water laterals, etc.
- Purchase equipment including tapping machine, bits & adapters, etc.

DHHL will seek preliminary approval from USDA RD to add these items in the event there are remaining funds.

TABLE 3
Updated Project Costs

	USDA Award Amounts	DHHL Revised Costs	Difference
Engineering	\$2,518,663	\$2,552,225	\$33,562
Construction	\$24,013,781	\$20,687,781	\$3,326,000
Contingency	\$4,799,889	\$2,068,778	\$2,731,111
TOTAL	\$31,332,333	\$25,308,784	\$6,090,673

Project Status

At this time, the following is the status of this project.

- Packages 1 and 2 - Bids received and ready to award contracts.
- Package 3 - PV project pending State (and possibly USDA RD) approval of bid documents.
- Package 4 - Equipment pending USDA RD approval of Request for Proposal documents.

DISCUSSION

DHHL is seeking approval to accept the 2018 USDA RD subsequent loan/grant package to finance the proposed improvements to the Ho'olehua water system. Should DHHL not proceed with the 2018 subsequent USDA RD loan/grant funds and, instead, proceed with the earlier 2016 USDA RD grant funds, the following are the impacts.

- There would be no need for DHHL to address USDA RD loan conditions - loan security, interim financing, change to use the federal bid and contract documents.
- DHHL may proceed with the Ho'olehua water system improvements project with minimal disruption and time delays to the project.
- DHHL will continue to use the State bid and contract documents.
- DHHL will need to identify a new source of funds for the estimated project cost shortfall of \$3M and any future unforeseen cost overruns during the construction period.
- Should the PV PPA fall through, DHHL will need to identify a new source of funds. The PV was part of the original scope for 2016 USDA RD funds. If the PV will be removed the original scope, it will result in a \$5M reduction in the original 2016 USDA RD grant of \$10,011,000.
- DHHL will need to identify a new source of funds for the additional needs, not in the original 2016 scope - includes emergency repairs to the two 3.5 MG concrete tanks, replace fire hydrants, construct new protective covering for the well pumps and booster pumps, etc.

Should DHHL accept the 2018 USDA RD loan/grant package, there are major issues that need to be negotiated and resolved with USDA RD. The USDA RD loan is a new component to the overall financing package and with it comes new funding conditions. The major issues of concern to DHHL are as follows.

- Loan security, collateral, and general obligation bond financing
- Interim financing
- USDA priority order to disburse and de-obligate funds
- Use of State of Hawaii procurement and contracting documents versus federal standard documents

DHHL is optimistic that USDA RD will concur with our proposed alternatives.

Loan Security, Collateral, General Obligation Bond Financing

When a borrower is a public body such as DHHL, USDA's first preference for security are general obligation bonds, which is evidence of the full faith and credit of the borrower. DHHL is unable to provide such security. Instead, DHHL proposes to pledge all revenues from its "available lands" as security in lieu of general obligation bonds, subordinate to the DHHL Revenue Bonds, series 2017 and DHHL Certificates of Participation Series 2017 A (COPS). This proposal would place USDA RD in third position to all revenues from DHHL "available lands."

Status: DHHL will send this proposed alternative to USDA RD for its review and concurrence.

Interim Financing

USDA RD loans are long term (35 years) permanent take-out loans. USDA RD requires its borrowers to seek Interim Financing for the construction period. However, should a borrower be unable to obtain such interim financing with reasonable terms, borrower may request an exception whereby USDA RD would disburse the loans funds directly on a monthly or quarterly basis.

Status: DHHL is pursuing an exception to this USDA RD requirement to obtain Interim Financing.

USDA priority order to disburse funds and de-obligate funds

This federal requirement is in regards to USDA's priority order on how project funds are to be spent and how USDA RD disburses the federal funds.

First priority	Applicant contribution
Second priority	USDA RD loan (awarded in 2018)
Third priority	USDA RD grant (awarded in 2016)
Fourth priority	USDA RD grant (awarded in 2018)

Further, there's a stipulation that should there be remaining funds upon construction completion, USDA may de-obligate such funds. Any reduction in funds will be applied to the USDA RD grant funds first. The amount of un-used funds will be taken out from the 2016 grant (\$10M) first, then the 2018 grant (\$1.6M). If there are more un-used funds, then loan funds will be applied as an extra payment towards the USDA RD loan.

Status: The next opportunity to re-assess costs is when final bid tabulations for all project components are received by DHHL. Secondly, as project construction nears completion, another assessment of project costs may be made to determine if there will be any remaining funds. Should this project come under budget, DHHL has planned for additional items to re-direct any remaining USDA funds.

Use of federal docs (EJCDC) versus State of Hawaii docs

At the time this project started in 2016, USDA RD obligated only grant funds to DHHL. USDA RD regulations required DHHL, as a state agency, to use its own State of Hawaii documents as opposed to the federal standard documents, called the Engineers Joint Contract Documents Committee or "EJCDC". Now in 2018, with the award of federal loan funds, DHHL is no longer exempted from using the EJCDC documents. The challenge is that DHHL has already executed bid and contract documents using the State templates. Changing existing State documents in mid-stream to the federal EJCDC documents will result in time delays and, possibly, loss of the vendors.

For Bid Packages 1 and 2, DHHL is at the point of contract award. Should this matter on EJCDC not be resolved in a timely manner and the current vendor declines the DHHL contract, DHHL would start a new procurement process. The second lowest bid in the first procurement was \$25,439,306, which is, coincidentally, about a \$6.0M difference from the lowest bidder (\$19,554,000). So, if there are remaining funds, first priority would apply to this situation.

EJCDC documents include, but are not limited to, the following: (a) contract documents between DHHL and engineer, construction contractor, inspector/construction management services; (b) Bid forms; (c) Notice of Award; (d) Standard General Conditions; (e) Change Orders; etc.

Status: The department is proposing to USDA that we continue using the State documents throughout the project period and, as needed, include any federal EJCDC requirements by amendment.

CONCLUSION

The department is in continuous communication with USDA RD to address these matters above and is working diligently and collaboratively to find mutually-agreeable alternatives. The primary benefit to accessing the USDA RD federal funds today for the existing Ho'olehua Water System is to leverage DHHL resources that would otherwise be used for new homestead lots to address the applicant wait list. Secondly, by utilizing the USDA RD funds, DHHL is creating templates for future use of the USDA RD WEP program to finance more DHHL water projects to develop new homestead lots.

RECOMMENDATION

Staff respectfully requests approval of the recommended motion as stated above.

	A	B	D	E	F	G	H	J	K	L	M
1	Hoolehua			Base Interest	3.125%						
2				Adj Interest	37.500%						
3		Installment		N	33.000	PV	7,455,000.00				
4	calculated	\$365,268.79		Monthly Interest	19,414.06						
5	rounded	365,295.00		Annual Interest	232,968.75						
6											
7				Cumulative		Cumulative					
8	Year	P/I	Interest	Interest Pd	Principal	Principal Pd	Principal Balance	Pi pmts	Due Date		
9	1	232,968.75	232,968.75	232,968.75		-	7,455,000.00		8/31/2021		
10	2	232,968.75	232,968.75	465,937.50		-	7,455,000.00		8/31/2022		
11	3	365,295.00	232,968.75	698,906.25	132,326.25	132,326.25	7,322,673.75	1	8/31/2023		
12	4	365,295.00	228,833.55	927,739.80	136,461.45	268,787.70	7,186,212.30	2	8/31/2024		
13	5	365,295.00	224,569.13	1,152,308.93	140,725.87	409,513.57	7,045,486.43	3	8/31/2025		
14	6	365,295.00	220,171.45	1,372,480.38	145,123.55	554,637.12	6,900,362.88	4	8/31/2026		
15	7	365,295.00	215,636.34	1,588,116.72	149,658.66	704,295.78	6,750,704.22	5	8/31/2027		
16	8	365,295.00	210,959.51	1,799,076.23	154,335.49	858,631.27	6,596,368.73	6	8/31/2028		
17	9	365,295.00	206,136.52	2,005,212.75	159,158.48	1,017,789.75	6,437,210.25	7	8/31/2029		
18	10	365,295.00	201,162.82	2,206,375.57	164,132.18	1,181,921.93	6,273,078.07	8	8/31/2030		
19	11	365,295.00	196,033.69	2,402,409.26	169,261.31	1,351,183.24	6,103,816.76	9	8/31/2031		
20	12	365,295.00	190,744.27	2,593,153.53	174,550.73	1,525,733.97	5,929,266.03	10	8/31/2032		
21	13	365,295.00	185,289.56	2,778,443.09	180,005.44	1,705,739.41	5,749,260.59	11	8/31/2033		
22	14	365,295.00	179,664.39	2,958,107.48	185,630.61	1,891,370.02	5,563,629.98	12	8/31/2034		
23	15	365,295.00	173,863.44	3,131,970.92	191,431.56	2,082,801.58	5,372,198.42	13	8/31/2035		
24	16	365,295.00	167,881.20	3,299,852.12	197,413.80	2,280,215.38	5,174,784.62	14	8/31/2036		
25	17	365,295.00	161,712.02	3,461,564.14	203,582.98	2,483,798.36	4,971,201.64	15	8/31/2037		
26	18	365,295.00	155,350.05	3,616,914.19	209,944.95	2,693,743.31	4,761,256.69	16	8/31/2038		
27	19	365,295.00	148,789.27	3,765,703.46	216,505.73	2,910,249.04	4,544,750.96	17	8/31/2039		
28	20	365,295.00	142,023.47	3,907,726.93	223,271.53	3,133,520.57	4,321,479.43	18	8/31/2040		
29	21	365,295.00	135,046.23	4,042,773.16	230,248.77	3,363,769.34	4,091,230.66	19	8/31/2041		
30	22	365,295.00	127,850.96	4,170,624.12	237,444.04	3,601,213.38	3,853,786.62	20	8/31/2042		
31	23	365,295.00	120,430.83	4,291,054.95	244,864.17	3,846,077.55	3,608,922.45	21	8/31/2043		
32	24	365,295.00	112,778.83	4,403,833.78	252,516.17	4,098,593.72	3,356,406.28	22	8/31/2044		
33	25	365,295.00	104,887.70	4,508,721.48	260,407.30	4,359,001.02	3,095,998.98	23	8/31/2045		
34	26	365,295.00	96,749.97	4,605,471.45	268,545.03	4,627,546.05	2,827,453.95	24	8/31/2046		
35	27	365,295.00	88,357.94	4,693,829.39	276,937.06	4,904,483.11	2,550,516.89	25	8/31/2047		
36	28	365,295.00	79,703.65	4,773,533.04	285,591.35	5,190,074.46	2,264,925.54	26	8/31/2048		
37	29	365,295.00	70,778.92	4,844,311.96	294,516.08	5,484,590.54	1,970,409.46	27	8/31/2049		
38	30	365,295.00	61,575.30	4,905,887.26	303,719.70	5,788,310.24	1,666,689.76	28	8/31/2050		
39	31	365,295.00	52,084.05	4,957,971.31	313,210.95	6,101,521.19	1,353,478.81	29	8/31/2051		
40	32	365,295.00	42,296.21	5,000,267.52	322,998.79	6,424,519.98	1,030,480.02	30	8/31/2052		
41	33	365,295.00	32,202.50	5,032,470.02	333,092.50	6,757,612.48	697,387.52	31	8/31/2053		
42	34	365,295.00	21,793.36	5,054,263.38	343,501.64	7,101,114.12	353,885.88	32	8/31/2054		
43	35	364,944.81	11,058.93	5,065,322.31	353,885.88	7,455,000.00	(0.00)	33	8/31/2055		
44	Totals	12,520,322.31	5,065,322.31		7,455,000.00						
45	Year 35 numbers have been adjusted due to rounding of payments.										
46											
47											
48	Assumptions:										
49	(1) USDA RD Funding package										
50	DHHL contribution - \$12,273,250										
51	USDA Grant (2016) - 10,011,750										
52	USDA Grant (2018) - \$1,592,333										
53	USDA Loan (2018) - \$7,455,000										
54											
55	TOTAL - \$31,332,333										
56											
57	(2) USDA Loan Terms										
58	Re-payment over a period of 35 years .										
59	Payments due the first two years will consist of interest only.										
60	Payments for the remaining 33 years will be equal amortized annual installments, beginning two years after loan closing.										
61	For planning purposes, use a 3.1250% interest rate and an amortization factor of \$49/\$1000, which provides for an annual payment of \$365,295 .										
62	The precise payment amount will be based on the interest rate at loan closing.										
63											
64	(3) Assumes construction completed by August 2021. First payment due August 31, 2021.										
65											
66											

HHC ITEM H-2
EXHIBIT A

EXHIBIT

C

Hoolehewa Water System



Multiple Improvement Projects Proposed In Seven Areas

EXHIBIT D

Nā Kupa'a o Kūhiō
2009 - 2011 Projects funded by USDA RD WEP

Project	DHHL	USDA Loan	USDA Grant	USDA ARRA Loan	USD ARRA Grant	USDA Set-Aside Grant	TOTAL
Ho'olehua water Moloka'i Project complete	\$98,500	\$1,323,525	\$1,163,475	-0-	-0-	-0-	\$2,585,500
Maku'u off-site well/reservoir Hawai'i - 978 lots De-obligated	309,000	3,148,000	2,100,000	-0-	-0-	-0-	5,557,000
Lai 'Opua Village 4 water/sewer, Hawai'i 252 lots De-obligated	251,650	2,134,000	917,350	-0-	-0-	-0-	3,303,000
Waiohuli / Kēōkea 3 and 4, Maui 157 lots De-obligated	216,800	1,913,000	855,655	-0-	-0-	-0-	2,985,455
Kaka'ina water/sewer, Waimānalo, O'ahu 50 lots Project complete	25,000	-0-	-0-	541,000	377,800	-0-	943,800
Pi'ilani Mai Ke Kai water, Kaua'i 56 lots Project complete	25,500	-0-	-0-	471,000	339,000	-0-	835,500
East Kapolei IIB water/sewer, O'ahu 160 lots Project complete	160,000	2,188,000	-0-	-0-	-0-	1,513,000	1,513,000
TOTAL	\$1,086,450	\$10,706,525	\$5,036,480	\$1,012,000	\$716,800	\$1,513,000	\$20,071,255
		TOTAL		USDA		\$18,984,805	

Department of Hawaiian Home Lands

Anahola Farm Lots Water System Improvements project
Project Funding Sources and Uses
(For Budget Planning Purposes)
January 27 – 28, 2020

TABLE 1
Project Funding Sources

PROJECT FUNDING SOURCES	(1) DHHL Contribution	(2) USDA Loan	(3) USDA 2016 Grant	(4) USDA 2018 Grant	TOTAL
	\$3,770,723	\$4,100,000	\$3,055,137	\$1,999,946	\$12,925,806.00

TABLE 2
USES

(This is not a spend down plan. This is an illustration to show the uses in relation to each source of funds. For example, "Construction Management" and "Construction Phase 1" may occur simultaneously under "DHHL Contribution".)

USES	Construction Management	Construction Phase 1	Construction Phase 1 continued	Construction Phase 2	Construction Phase 2 continued	Construction Phase 2 continued estimate	Other Project Costs (Cost overruns, price escalation, remaining funds)	TOTAL
	\$1,293,885	\$1,935,769	\$1,260,639	\$2,839,361 estimate	\$3,055,137 estimate	\$798,288 estimate	\$1,201,658	\$12,925,806.00
		Construction TOTAL (does not include Supplemental Contract No. 1 price escalation)	Phase 1 \$3,196,408	Construction Phase 2 TOTAL \$6,692,786 estimate				

TABLE 3
Encumbrances, Expenditures, Budget still needed

	Planning and Design	Construction Management	Construction Phase 1	Construction Phase 1 continued	Construct Phase 2	Construction Phase 2 continued	Construction Phase 2 continued estimate	Other Project Costs	TOTAL
Encumbered	\$1,293,885	\$541,069	\$1,935,769	\$1,260,639	\$0.00	\$0.00	\$0.00	N/A	\$5,031,362.00
Spent	1,032,687.37	\$9,579.73	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	N/A	\$1,092,267.10
Additional budget funds needed	\$0.00	\$0.00	\$0.00	TBD for Supplemental Contract No. 1	\$2,839,361 estimate	\$3,055,137 estimate	\$798,288 estimate	\$1,201,658 estimate	\$7,894,444
									\$8,000,000 rounded

Notes:
1) Contract amounts

USE	Vendor	Contract No.	Total Amount	Total Amount Encumbered	Spent	Contract Remaining Balance
Planning and Design	Oceanit	63707	\$286,606	\$286,606	\$286,606.00	\$0.00
Planning and Design	Oceanit	65504	1,007,279	1,007,279	746,081.37	261,197.63
Construction Management	Bowers + Kubota	64811	541,069	541,069	59,579.73	481,489.27
Construction Phase 1	Kaiwa Construction	67189	3,196,408	3,196,408	\$0.00	3,196,408.00
Construction Phase 1	Kaiwa Construction	Supplemental Contract No. 1 <i>pending</i>	TBD	TBD	\$0.00	N/A
Construction Phase 2	TBD	Contract <i>pending</i>	\$6,692,786	TBD	\$0.00	N/A
Other Project Costs	TBD		\$1,201,658	TBD	\$0.00	N/A
TOTALS			\$12,925,806	\$5,031,362	\$1,092,267	\$3,939,095

Department of Hawaiian Home Lands

Ho'olehua Water System Improvements project
Project Funding Sources and Uses
(For Budget Planning Purposes)
January 27 – 28, 2020

TABLE 1
Project Funding Sources

PROJECT FUNDING SOURCES	(1) DHHL Contribution	(2) USDA Loan	(3) USDA 2016 Grant	(4) USDA 2018 Grant	TOTAL
	\$12,273,250	\$7,455,000	\$10,011,750	\$1,592,333	\$31,332,333

TABLE 2
USES

(This is not a spend down plan. This is an illustration to show the uses in relation to each source of funds in Table 1 above. For example, Construction Management and Construction Packages 1 and 2 are expected to occur simultaneously)

USES	Planning and Design	Construction Management	Construction Package 1	Construction Package 1 Continued	Construction Package 1 estimate	Construction Package 2	Construction Package 2 estimate	Bid Package 4 Equipment	Bid Package 4 estimate	Bid Package 3 Photo Voltaic	Bid Package 3 estimate	Other Project Costs (Cost overruns, price escalation, remaining funds)	TOTAL
	\$1,163,125	\$662,049	\$10,448,076 estimate	\$7,455,000 estimate	\$1,650,924 estimate	\$3,048,540 estimate	\$1,600,000 estimate	\$3,712,286 estimate	\$1,287,714 estimate	\$304,619	\$31,332,333		
				Package 1 Total \$19,554,000		Package 2 Total \$3,048,540	Package 4 Total \$1,600,000	Package 3 Total \$5,000,000					

TABLE 3
Encumbrances, Expenditures, Budget still needed

	Planning and Design	Construction Management	Construction Package 1	Construction Package 1 Continued	Construction Package 1 estimate	Construction Package 2	Construction Package 2 estimate	Bid Package 4 Equipment	Bid Package 4 estimate	Bid Package 3 Photo Voltaic	Bid Package 3 estimate	Other Project Costs	TOTAL
Encumbered	\$1,163,125	\$662,049	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,825,174
Spent	1,060,006	8,962	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,068,968
Additional funds needed	\$0.00	\$0.00	\$0.00	\$153,076	\$1,650,924 estimate	\$3,048,540 estimate	\$1,600,000 estimate	\$3,712,286 estimate	\$1,287,714 estimate	\$304,619	\$11,757,159		\$12,000,000 rounded

Notes:

1) Contract amounts

USE	Vendor	Contract No.	Total Amount	Total Amount Encumbered	Spent	Contract Remaining Balance
Planning and Design	G70	65418	\$1,163,125	\$1,163,125	\$1,060,005.77	\$103,119.23
Construction Management	SSFM	65800	\$662,048.97	\$662,048.97	\$8,961.50	653,087.47
Construction Package 1	TBD	Contract pending	\$19,554,000 estimate	TBD	\$0.00	N/A
Construction Package 2	TBD	Contract pending	\$3,048,540 estimate	TBD	\$0.00	N/A
Package 4 equipment	TBD	To be bid	\$1,600,000 estimate	TBD	\$0.00	N/A
Package 3 PV	TBD	To be bid	\$5,000,000 estimate	TBD	\$0.00	N/A
Other Project Costs	TBD		304,619	TBD	\$0.00	N/a
TOTALS			\$31,332,333	\$1,825,173.97	\$1,068,967.27	\$756,206.70

2) DHHL Contribution TOTAL = \$12,273,250

Breakdown:

\$ 1,825,174 encumbered by various contracts, with budget from previous years

\$ 4,000,000 R/M CIP lump sum budget

\$ 6,448,076 currently budgeted in FY 2020 LDD Development Budget

3) USDA Loan TOTAL = \$7,455,000

Breakdown:

\$ 7,301,924 currently budgeted in FY 2020 LDD Development Budget

\$ 153,076 Unknown

4) Bid Package 3 – Photo Voltaic

Estimated at \$5M

Plan A – this sub-project is intended to be self-financed through a Purchase Power Agreement (PPA), which is still in negotiations.

Plan B – if the PPA falls through, DHHL proposes to seek HHC approval to amend the LDD Development budget to add in an estimated \$5M



HAWAIIAN HOME LANDS
HAWAIIAN HOMES COMMISSION
DEPARTMENT OF HAWAIIAN HOME LANDS

**Hawaiian Homes Commission meeting
January 27-28, 2020 – Agenda Item G-2**

**US Department of Agriculture
Water and Environmental Program
financing**

1

1

Workshop Agenda

- I. Introduction and Background**
- II. Ho'olehua water improvements project**
- III. Anahola water improvements project**
- IV. US Department of Agriculture WEP project financing**
 - a. Grant Set-Aside funds**
 - b. Benefits and Challenges**
- V. Next Steps**

2

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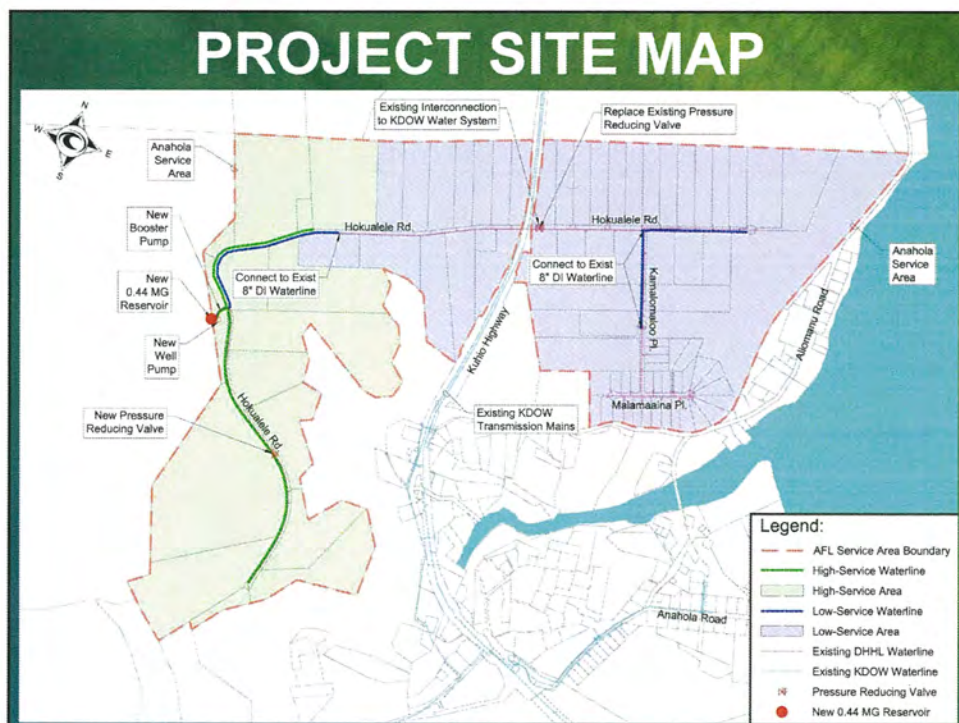
Introduction and Background

- Major capital improvements needed for DHHL water systems – Ho'olehua (Moloka'i) and Anahola (Kaua'i)
- In 2016 and 2018, DHHL was awarded over \$28M in federal grant and loan funds
- DHHL committed to provide a contribution of over \$16M

Refer to HHC Items H-1 and H-2, November 2018

3

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Anahola Farm Lots Water System improvements — Need for Project

- **Aging infrastructure**
 - 0.5 MG steel storage tank has reached its useful life
 - Replace distribution lines, meters, backflow preventers, fire hydrants
- **Inconsistent water pressure**
- **Improve system safety and security**
 - Emergency inter-tie with County water system is highly vulnerable to vandalism

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Anahola Farm Lots Water System Improvements – Project Objectives

- **Increase operational efficiencies and system reliability**
- **Address water pressure issues**
- **Repair/replace system components including distribution lines, fire hydrants, water meters and backflow preventers**
- **Improve system safety and security**

Project estimated cost = \$13 million

6

6

Hoolehua Water System



Multiple Improvement Projects Proposed In Seven Areas

7

7

Hoolehua Water System improvements Need for Project

- Aging infrastructure
- Low water pressure
- Un-accounted for water due to leaks
- High energy costs to run the well pumps
- System components are inaccessible 24/7
- System is vulnerable to vandalism
- Maintenance building is inadequate to store water system equipment and supplies

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8

Project Objectives

- Increase operational efficiencies and system reliability
- Reduce energy costs
- Achieve 24/7 access to system components
- Address water pressure issues
- Repair/replace system components
- Increase fire protection
- Improve system safety and security

Project estimated cost = \$31.3 million

9

9

US Department of Agriculture Water Environment Program

- Provides funding for clean and reliable drinking water systems, sanitary sewage disposal, sanitary solid waste disposal, and storm water drainage in eligible rural areas, with populations < 10,000.
- This is primarily a loan program. Grants may be combined with a loan based on several factors.
- WEP loans are offered at very low interest rates, up to 40-year re-payment term.

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10

US Department of Agriculture Water Environment Program

A word about the USDA Set-Aside grant funds

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11

Benefits

- ✓ **Leverages State CIP & DHHL Trust resources by 1.75 federal / DHHL**
- ✓ **Allows DHHL to implement much-needed improvements in a timely manner**
- ✓ **Improvements needed to protect public health & safety, increase operational efficiencies, keep water rates affordable**

12

12

USDA WEP Requirements Challenges

Challenge	DHHL response
5-year Federal statutory limit to spend down all funds	DHHL target to start construction by July 2020
WEP rules on priority order for spend down	DHHL will advance its own funds
Interim construction loan	DHHL intends to self-fund construction
USDA grant funds disbursed on a reimbursement basis	DHHL may request reimbursement as frequently as monthly
State versus Federal construction documents	DHHL and USDA negotiated final documents
Federal loan documents	DHHL and USDA negotiating

13

NEXT STEPS

Implement the USDA RD WEP Funds

Refer to:

Tables on “Sources and Uses”

Exhibit E Anahola and Exhibit F Ho‘olehua

14

14

Anahola – Budget Planning Purpose Refer to Exhibit E

TABLE 1 - Sources

(1) DHHL	(2) USDA Loan	(3) USDA 2016 Grant	(4) USDA 2018 Grant	TOTAL
\$3,770,723	\$4,100,000	\$3,055,137	\$1,999,946	\$12,925,806

TABLE 2 - Uses

Planning, Design, CM, Phase 1	Phase 1 (continued)	Phase 2	Phase 2 (continued) Other costs	TOTAL
\$3,770,723	\$4,100,000	\$3,055,137	\$1,999,946	\$12,925,806

This is not a spend down plan.
Information subject to change.

15

15

Anahola – Budget Planning Purpose Refer to Exhibit E

TABLE 3 DHHL Budget Need

	(1) DHHL	(2) USDA Loan	(3) USDA 2016 Grant	(4) USDA 2018 Grant	TOTAL
	\$3,770,723	\$4,100,000	\$3,055,137	\$1,999,946	\$12,925,806
Budget secured	\$3,770,723	\$1,260,639	\$0	\$0	\$5,031,362
Encumbered by contract	\$3,770,723	\$1,260,639	\$0	\$0	\$5,031,362
Additional funds needed	\$0.00	\$2,839,361	\$3,055,137	\$1,999,946	\$7,894,444 \$8,000,000 Rounded

\$4.1 M will be reimbursed by the USDA Loan
\$5.1 M will be reimbursed by the USDA Grants

16

16

Ho'olehua – Budget Planning Purpose Refer to Exhibit F

TABLE 1 - Sources

(1) DHHL	(2) USDA Loan	(3) USDA 2016 Grant	(4) USDA 2018 Grant	TOTAL
\$12,273,250	\$7,455,000	\$10,011,750	\$1,592,333	\$31,332,333

TABLE 2 - Uses

Planning, Design, CM, Package 1	Package 1 (continued)	Package 1 (continued) Package 2, 3, 4	Package 3 (continued) Other costs	TOTAL
\$12,273,250	\$7,455,000	\$10,011,750	\$1,592,333	\$31,332,333

This is not a spend down plan.
Information subject to change.

17

17

Ho'olehua – Budget Planning Purpose Refer to Exhibit F

TABLE 3 DHHL Budget Need

	(1) DHHL contribution \$12,273,250	(2) USDA Loan \$7,455,000	(3) USDA 2016 Grant \$10,011,750	(4) USDA 2018 Grant \$1,592,333	TOTAL \$31,332,333
Budget secured	\$12,273,250	\$7,301,924	\$0	\$0	\$19,575,174
Encumbered by contract	\$1,825,174	\$0	\$0	\$0	\$1,825,174
Additional funds needed	\$0	\$153,076	\$10,011,750	\$1,592,333	\$11,757,159 \$12,000,000 Rounded

\$7.5 M will be reimbursed by the USDA Loan
\$11.6 M will be reimbursed by the USDA Grants

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18

Next Steps

- DHHL to execute the construction contracts
- DHHL to negotiate, finalize and execute the USDA WEP loan terms and conditions

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Mahalo

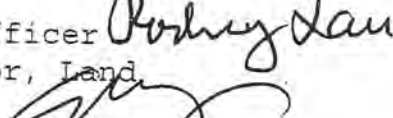
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STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

January 27, 2020

TO: Chairman and Members, Hawaiian Homes Commission

FROM: Rodney Lau, Administrative Services Officer 
Stewart Matsunaga, Acting Administrator, Land
Development Division

SUBJECT: Approval to Amend the FY 2020 Development Budget

RECOMMENDED MOTION/ACTION

That the Hawaiian Homes Commission approve Amendment No. 1 to the DHHL FY 2020 Development Budget.

I. DHHL Water System Improvements

BACKGROUND

In 2016 and 2018, the Department of Hawaiian Home Lands (DHHL) was awarded a total of \$28,214,166 in federal grant and loan funds from the US Department of Agriculture Rural Development (USDA RD) Water Environment Program (WEP) for major capital improvements to the DHHL-owned Ho'olehua and Anahola Farm Lots Water Systems. As a condition of these funding awards, DHHL committed to provide a contribution of \$16,043,973. This brings the total project to \$44,258,139 - Ho'olehua \$31,332,33 and Anahola \$12,925,806. Additionally, the USDA WEP program operates on a reimbursement basis, where the awardee is expected to upfront the cash for the project, including securing an interim construction loan.

At the November 2018 Hawaiian Homes Commission (HHC) meeting, an informational workshop and submittals (Items H-1 and H-2) were presented and included project descriptions, costs, and project financing packages. See Exhibits "B" and "C".

DISCUSSION

A. Anahola Farm Lots Water System improvements

The objectives for this project are as follows. See Exhibit "B" for further detail on the project description.

- Increase operational efficiencies and system reliability
- Address water pressure issues
- Repair/replace system components including water tank, distribution lines, fire hydrants, water meters and backflow preventers
- Improve system safety and security

The contracts for the Planning, Design, Construction Management, and Construction (Kaiwa Construction) for Anahola Farm Lots Water System Phase 1 have been awarded and encumbered with DHHL Trust Funds in prior years.

The Invitation for Bid for construction of Phase 2 was bid out in October 2018; bids were received in December 2018. The contract has been awarded to the low bidder, Kiewit Infrastructure West Co. in January 2020 following USDA RD concurrence with contract special conditions. DHHL also recently received concurrence by USDA RD to proceed with executing the construction contract for Phase 2.

Total Project estimated cost is \$12,925,806. See Table 1 below for the cost breakdown.

TABLE 1

Planning and Design	\$1,293,885
Construction Management	541,069
Phase 1 - replace distribution lines, create dual water pressure zones, repair and secure emergency inter-tie with County	3,196,408
Phase 2 - replace 0.5MG storage tank	6,692,786
Other project costs	1,201,658
TOTAL Project Costs	\$12,925,806

Of the total \$12,925,806, DHHL has budgeted for \$5,031,362, additional resources needed is approximately \$8,000,000. See Table 2 below.

TABLE 2

TOTAL Project Costs	\$12,925,806
TOTAL budget available in FY 2020 (encumbered by various contracts)	<5,031,362>
Budget request for FY 2020 Development Budget	7,894,444
	Round to \$8,000,000

After construction completion, should there be remaining federal funds, DHHL has prepared a list of other work items for which to utilize any remaining federal funds. (Note: additional work items must be approved by USDA RD) In priority order, these other items are as follows:

- Price escalation (bond, insurance, labor, and materials) in construction costs
- Change orders and cost overruns during construction
- Any additional equipment needed
- First year's operations and maintenance costs

Therefore, to award the Phase 2 construction contract for the Anahola water improvements project and for other project costs, DHHL is in need of an additional \$8,000,000 in the FY 2019 - 2020 Development Budget.

B. Ho'olehua Water System Improvements

The objectives for this project are as follows. See Exhibit "C" for further detail on the project description.

- Increase operational efficiencies and system reliability
- Achieve 24/7 access to system components
- Address water pressure issues
- Repair/replace system components
- Increase fire protection
- Reduce energy costs
- Improve system safety and security

The contracts for the Planning, Design, and Construction Management have been awarded and encumbered in prior years with DHHL Trust Funds.

Invitation for Bids for the construction of Bid Package 1 and Bid Package 2 were bid out separately in June 2018; bids were received in August 2018. Contracts were awarded to the low bidder for Package 1 and Package 2, Goodfellow Bros. LLC in January 2020 following USDA RD concurrence with contract special conditions. DHHL also recently received concurrence by USDA RD to proceed with executing the construction contracts.

Furthermore, DHHL anticipates purchasing necessary equipment and supplies (Bid Package 4). Lastly, this project includes constructing a photovoltaic system to reduce the high energy costs (approximately 40% of the water system operating budget) to operate this system (Bid Package 3).

Total Project estimated cost \$31,332,333. See Table 3 below for cost breakdown.

TABLE 3

Planning and Design	1,163,125
Construction Management	662,049
Bid package 1 - Ho'olehua sub-projects	19,554,000
Bid package 2 - Kalamaula sub-projects	3,048,540
Bid package 3 - Photo Voltaic project	5,000,000
Bid package 4 - Equipment and Supplies	1,600,000
Other project costs	304,619
TOTAL Project Costs	31,332,333

Of the total \$31,332,333, DHHL has budgeted for \$19,575,174, thus the additional resources needed for the Ho'olehua water project is approximately \$12,000,000. See Table 4 below.

TABLE 4

TOTAL Project Costs	\$31,332,333
DHHL funds encumbered via contracts	1,825,174
Currently budgeted in FY 2020 Development Budget	13,750,000
R/M CIP and or Trust Funds to be re-programmed	4,000,000
TOTAL budget available in FY 2020	19,575,174
Budget request for FY 2020 Development Budget	11,757,159
	Round to \$12,000,000

After construction completion, should there be remaining federal funds, DHHL has prepared a list of other work items for which to utilize any remaining federal funds. (Note: additional work items must be approved by USDA RD) In priority order, these other items are as follows:

- Price escalation (bond, insurance, labor, and materials) in construction costs
- Change orders and cost overruns during construction
- Emergency repairs to the two 3.5MG concrete storage tanks
- Construct protective structures over well pumps and booster pumps
- Stock equipment/supplies on island
- Purchase additional equipment

Therefore, to award the construction contracts and encumber the funds (for Bid Packages 3 PV and 4 Equipment) for the Ho'olehua water improvements project, DHHL is in need for an additional \$12,000,000 in the FY 2019 - 2020 Development Budget.

Summary: Water System Improvements for Anahola and Ho'olehua

This budget amendment request increasing the FY 2020 Hawaiian Home Lands Trust Fund Development budget in the amount of \$20 million to finance the Ho'olehua and Anahola water systems construction costs.

Of the total \$44,258,139 costs for the two (2) projects, approximately \$11,555,000 of the interim construction costs will be recovered when the USDA RD permanent take out loan reimburses the interim financing costs that was incurred for the two projects.

In addition, approximately \$16,629,166 in USDA RD grant funds will be reimbursed to DHHL for construction costs advanced by the department.

Table 5 is a recap of the costs described in the summary.

Table 5	Project Costs	USDA Loan: Reimbursing DHHL Interim Construction (Self-Financed)	USDA Grant: Reimbursing DHHL Construction Advance	Budget Increase
Anahola Farm Lots Water System Improvements	\$12,925,806	\$4,100,000	\$5,025,083	\$8,000,000
Ho'olehua Water System Improvements	\$31,332,333	\$7,455,000	\$11,604,083	\$12,000,000
Total Water System Improvements	\$44,258,139	\$11,555,000	\$16,629,166	\$20,000,000

II. Land Acquisition

Section 30 F., Item No. 16 of Act 49, SLH 2017 as amended by Act 53, SLH 2018, "Hawaiian Home Lands Lot Development, Oahu" provides a source of financing to the Department of Hawaiian Home Lands (HHL 602), to acquire suitable land. Pursuant to the Act, the Department of Agriculture is identified as the expending agency. The purpose of the Act is to transfer two (2) properties in the Whitmore Village (Wahiawa) area totaling 52.768 acres (tax map key numbers (1)1-7-002:044, 22.39 acres and (1)7-002-033, 30.378 acres) to the Department of Agriculture. DHHL is to use the released funds to acquire property for the purposes of the Hawaiian Homes Commission Act, 1920. DHHL intends to use the released funds to acquire three (3) residential properties on Oahu. Total amount for the purchase price, due diligence and initial proposed renovation of the acquired properties is approximately \$8,650,000. It is DHHL's intent to supplement the \$6,900,000 General Obligation Bond financing with the HHL Trust fund.

This budget amendment request increasing the FY 2020 Hawaiian Home Lands Trust Fund Development budget in the amount of \$1.75 million to allow DHHL to acquire property as provided in Act 49, SLH 2017 as amended by Act 53, SLH 2018.

RECOMMENDED MOTION

In summary, the total budget increase to the Hawaiian Home Lands Trust Fund (HHLTF) is \$21,750,000.

1. \$11,555,000 of the interim construction financing which is self-financed by DHHL will be reimbursed to the Hawaiian Home Lands Trust Fund upon the USDA RD permanent takeout loan taking effect.
2. \$16,629,166 of the USDA grant funds will be reimbursed to the Hawaiian Home Lands Trust Fund as costs advanced by DHHL is reimbursed by USDA RD.

Staff respectfully requests approval of the recommended motion as stated above.

Department of Hawaiian Home Lands			
FY 2020 Development Budget			
(000's omitted)			
	Hawaiian Home Lands Trust Fund		
Project / Description	Approved	Budget Increase	Amendment 1
PART A: Lot Development Projects (Addressing the homestead wait list)			
<u>OAHU</u>			
East Kapolei II-C Site Construction	15,000		15,000
Waianae Increment 4	833		833
Land Acquisition, Due Diligence, Renovation		1,750	1,750
Part A Subtotal	15,833	1,750	17,583
PART B: Repair, Maintenance, and Operating Costs (Promoting thriving, healthy communities)			
<u>MOLOKAI</u>			
Molokai Water System/Long-term Improvements	0	12,000	12,000
Drainage Basins and Ditches	1		1
<u>BIG ISLAND</u>			
Kawaihae Improvements	1		1
Laiopua Plant Preserves O/M	1		1
<u>KAUAI</u>			
Anahola Water System - Long-term Improvements	0	8,000	8,000
<u>STATEWIDE PROJECTS</u>			
Maintenance of Fire Breaks	1		1
Rock Fall Mitigation, Statewide	1		1
Street Lamp Repair, Replace, Upgrade	1		1
Part B Subtotal	6	20,000	20,006
Total HHL Trust Fund	\$15,839	\$21,750	\$37,589

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

November 19 - 20, 2018

TO: Chairman and Members, Hawaiian Homes Commission

FROM: Rodney Lau, Administrative Services Officer
Norman Sakamoto, Administrator, Land Development
Division
Kaleo Manuel, Acting Planning Program Manager
Gigi Cairel, Grants Specialist

Subject: Approve to Accept the US Department of Agriculture
Rural Development Loan/Grant Financing for the
DHHL-owned Anahola Farm Lots Water System on the
Island of Kaua'i

RECOMMENDED MOTION/ACTION:

That the Hawaiian Homes Commission (HHC) approves to accept the subsequent \$4,100,000 loan and subsequent \$1,999,946 grant, as part of a financing package awarded to the Department of Hawaiian Home Lands (DHHL) by the US Department of Agriculture Rural Development (USDA RD) to fund capital improvements to the DHHL-owned Anahola Farm Lots Water System (Public Water System #432) on the Island of Kaua'i;

That the HHC delegates authority to the Chairman to negotiate final terms and conditions of the USDA RD loan, including execution of related documents.

BACKGROUND:

The DHHL-owned Anahola Farm Lots Water System serves 75 lessees and their families in the Bayview residential homestead and Anahola Farm Lots. Total population served is approximately 385 people. This water system also provides potable water to one non-homestead lot and has an interconnection tie to the County of Kaua'i, where DHHL may draw water from the County and vice versa for emergency purposes. All other homestead areas on Kaua'i receive potable water from the County of Kaua'i, including residential homesteads in Anahola, Pi'ilani Mai Ke Kai, Hanapepe, and Kekaha.

The Anahola Farm Lots Water System is supplied by a groundwater source from the DHHL Anahola well which was

constructed over 35 years ago by the Department of Land and Natural Resources. Major water system facilities include a half-acre site containing the well, control building, and a 0.5 million gallon (MG) steel storage tank; nearly two miles of distribution lines; and an emergency interconnection between the DHHL Anahola Farm Lots Water System and the County of Kaua'i. The well water is treated at the source with sodium hypochlorite. The system is classified by the Department of Health (DOH) as a Public Water System Grade 1 distribution system and requires a DOH certified operator with a Grade 1 operator license. The operations and maintenance services are provided by a DHHL contractor.

Water quality delivered by the Anahola water system currently meets all Federal and State drinking water quality standards. On a quarterly basis, the DHHL contracted operator conducts water quality testing, as required by DOH. Every three years, DOH conducts a sanitary survey to check site and facility conditions for compliance with Technical, Managerial and Financial capacity standards. Since there have been no significant deficiencies, DOH conducts its sanitary survey every five years. In prior DOH sanitary surveys, DOH provided recommendations to non-significant findings, which DHHL has remediated and corrected over the years, except for storage tank replacement. In the 2018 DOH survey, the Anahola system had no significant deficiencies, yet has six non-significant deficiencies such as recordkeeping and properly updating documents such as the mutual aid agreement with County of Kaua'i and the DHHL Vulnerability Assessment/Emergency Response Plan.

Need for project

The needs for this capital improvement project are many and include:

- (1) Since 1999, DOH has continuously recommended that DHHL replace the Anahola water storage because it is severely rusted on the roof and sides. The rust has degraded to loose flakes. DOH reported algal/fungal growth on the tank sides since 2008. Further, the tank's structural integrity is at risk. The tank has more than reached its useful life of over 30 years old.
- (2) The 2013 DOH sanitary survey noted the lack of security at the interconnect tie between the DHHL Anahola water system and the County. DOH recommended fencing the area and locking the standpipe caps and valves to prevent tampering with a public water supply.
- (3) Aging infrastructure where system components need major repairs or complete replacement.
- (4) Low water pressure in mauka areas and high water pressure in areas makai-side of Kūhio highway
- (5) High level of unaccounted for water due to leaks.

Improvements are needed to improve overall reliability and functionality of the water system. The improvements will not add new users to the system nor expand the service area beyond the Bayview residential homestead and Anahola Farm Lots. Due to the location of the Anahola water system, there is little to no opportunity to physically expand the water system or serve new homestead lots in the near term.

Project description/scope

The scope of this project is to implement much needed improvements to the Anahola Farm Lots Water System including the following.

- Increase operational efficiency
- Replace the storage tank
- Address water pressure issues
- Repair or replace components that have reached their useful life cycle
- Improve water system safety and security

The design and construction of the proposed Anahola Farm Lots Water Project is divided into two phases.

Phase 1 will address water distribution system improvements as follows.

- install a new dual water pressure zone which will increase the water pressure to customers in the mauka area and reduce the extreme high pressures to customers in the makai area, below Kūhio Highway.
- replace aging asbestos concrete pipes with Kaua'i County standard material that have a longer life expectancy.
- replace all fire hydrants, water meters and backflow preventers.
- improve the security in and around the interconnection facility at Kūhio Highway used for emergencies.

Phase 2 construction is to replace the water storage tank and improve the well site.

- construct a temporary 100,000 gallon steel tank.
- demolish the existing 500,000 gallon steel storage tank.
- construct a new concrete storage tank.
- Improve the well site, including replacement of well pump, install a booster pump, install an emergency diesel generator, install an improved chlorination system and install a Supervisory Control and Data Acquisition (SCADA) system. Currently, the well controls are operated manually; the SCADA

system will allow for remote operations and notifications of problems.

Project costs

In 2016, the project cost estimate was \$8.8M. DHHL sought federal funds from the USDA RD Water and Environment Program (WEP) (1) to access USDA RD set-aside grant funds that were available only to DHHL water and waste projects; and (2) to leverage DHHL resources for major capital improvements. USDA awarded \$3M and DHHL committed \$3.8M of its own funds. Total project cost was then reduced to \$6.8M.

In 2018, USDA RD approached and encouraged DHHL to consider applying for additional funds for anticipated project cost overruns. USDA RD had a national "call out" for projects due to the sudden availability of federal dollars that needed to be obligated by the end of the federal fiscal year, September 2018. DHHL submitted an application to seek an additional \$6.1M, thus bringing the total project cost to \$13M. USDA RD subsequently awarded the additional \$6.1M in the form of a loan/grant combination - \$4.1M Loan and \$2M Grant.

TABLE 1
Project Budget

Project Budget Category	2016	2018	Difference
Legal/Administration	\$150,000	\$150,000	\$0
Engineering	\$1,632,860	\$1,628,363	<\$4,497>
Construction	\$4,675,600	\$9,610,477	\$4,934,617
Contingency	\$397,400	\$1,566,966	\$1,169,566
TOTAL	\$6,855,860	\$12,955,806	\$6,099,946

TABLE 2
Summary of USDA Funds

YEAR	USDA awards	DHHL contribution	TOTAL
June 2016	Grant \$3,025,137	\$3,770,723	\$6,795,860
September 2018	Loan \$4,100,000	-0-	\$6,099,946
	Grant \$1,999,946		
TOTAL	\$9,125,083	\$3,770,723	\$12,895,806
	DHHL Loan re-payment	\$4,100,000	
TOTAL	DHHL Contribution	\$7,870,723	

- Expand the existing control building to enclose well pumps and booster pumps to protect against moisture damage
- Add security measures, including enhanced lighting, to the well/tank site
- Exterior coating to the tank
- Purchase water truck for emergency use
- Stock equipment on island including pumps, motors, etc.

DHHL will seek preliminary approval from USDA RD to add these items in the event there are remaining funds.

TABLE 3
Updated Project Costs

Project Budget Category	USDA Award	DHHL Revised Costs	Difference
Legal/Administration	\$150,000	\$150,000	\$0
Engineering	\$1,628,363	\$1,628,363	\$0
Construction	\$9,610,477	\$8,300,000	<\$1,310,477>
Contingency	\$1,566,966	\$1,566,966	\$0
TOTAL	\$12,955,806	\$11,645,329	<\$1,310,477>

Project Status

At this time, the following is the status of this project.

- Phase 1 (water lines) - Construction contract executed.
- Phase 2 (tank replacement) - Currently is in the bidding process. Bid opening expected in early December 2018.

DISCUSSION

DHHL is seeking approval to accept the 2018 USDA RD loan/grant package to finance the proposed improvements to the Anahola water system. Should DHHL not proceed with the 2018 subsequent USDA RD loan/grant funds and, instead, proceed with the earlier 2016 USDA RD grant funds, the following are the impacts.

- DHHL may move forward with the 2016 USDA RD grant award (\$3,025,137) and DHHL contribution (\$3,770,723).
- There would be no need for DHHL to address USDA RD loan conditions - loan security, interim financing, change to use the federal bid and contract documents.
- DHHL may proceed with the Anahola water system improvements project with minimal disruption and time delays to the project.
- DHHL will continue to use the State bid and contract documents.

- DHHL will need to identify a new source of funds for the estimated project cost shortfall of \$4.8M and any future unforeseen cost overrun.
- DHHL will need to identify a new source of funds for the additional needs, not in the original 2016 scope - includes paving the well/tank site, enclose the well pump, coating of the tank, and purchase of equipment/supplies.

Should DHHL accept the 2018 USDA RD loan/grant package, there are major issues that need to be negotiated and resolved with USDA RD. The USDA RD loan is a new component to the overall financing package and with it comes new funding conditions. The major issues of concern to DHHL are as follows.

- Loan security, collateral, and general obligation bond financing
- Interim financing
- USDA priority order to disburse funds
- Use of State of Hawaii procurement and contracting documents versus federal standard documents

DHHL is optimistic that USDA RD will concur with our proposed alternatives.

Loan Security, Collateral, General Obligation Bond Financing

When a borrower is a public body, USDA's first preference for security are general obligation bonds, which is evidence of the full faith and credit of the borrower. DHHL is unable to provide such security. Instead, DHHL proposes to pledge all revenues from its "available lands" as security in lieu of general obligation bonds, subordinate to the DHHL Revenue Bonds, series 2017 and DHHL Certificates of Participation Series 2017 A (COPS). This proposal would place USDA RD in third position to all revenues from DHHL "available lands."

Status: DHHL will send this proposed alternative to USDA RD for its review and concurrence.

Interim Financing

USDA RD loans are long term (35 years) permanent take-out loans. USDA RD requires its borrowers to seek Interim Financing for the construction period. However, should a borrower be unable to obtain such interim financing with reasonable terms, borrower may request an exception whereby USDA RD would disburse the loans funds directly on a monthly or quarterly basis.

Status: DHHL is pursuing an exception to this USDA RD requirement to obtain Interim Financing.

USDA priority order to disburse funds

This federal requirement is in regards to USDA's priority order on how project funds are to spent and how USDA RD disburses the federal funds.

First priority	Applicant contribution
Second priority	USDA RD loan (awarded in 2018)
Third priority	USDA RD grant (awarded in 2016)
Fourth priority	USDA RD grant (awarded in 2018)

Further, there's a stipulation that should there be remaining funds upon construction completion (ie project comes under budget), USDA may de-obligate such funds. Any reduction in funds will be applied to the USDA RD grant funds first. Generally, the older grant funds from 2016 (\$3,025,127) will be de-obligated first, then the grant funds from 2018 (\$1,999,946). If un-used grant funds are totally de-obligated, then any un-used loan funds will be applied as an extra payment towards the USDA RD loan.

Status: The next opportunity to re-assess costs is when final bid tabulations for all phases are received by the DHHL. Secondly, as project construction nears completion, another assessment of project costs may be made to determine if there will be any remaining funds. Should this project come under budget, DHHL has planned for additional items to re-direct any remaining USDA funds.

Use of federal docs (EJCDC) versus State of Hawaii docs

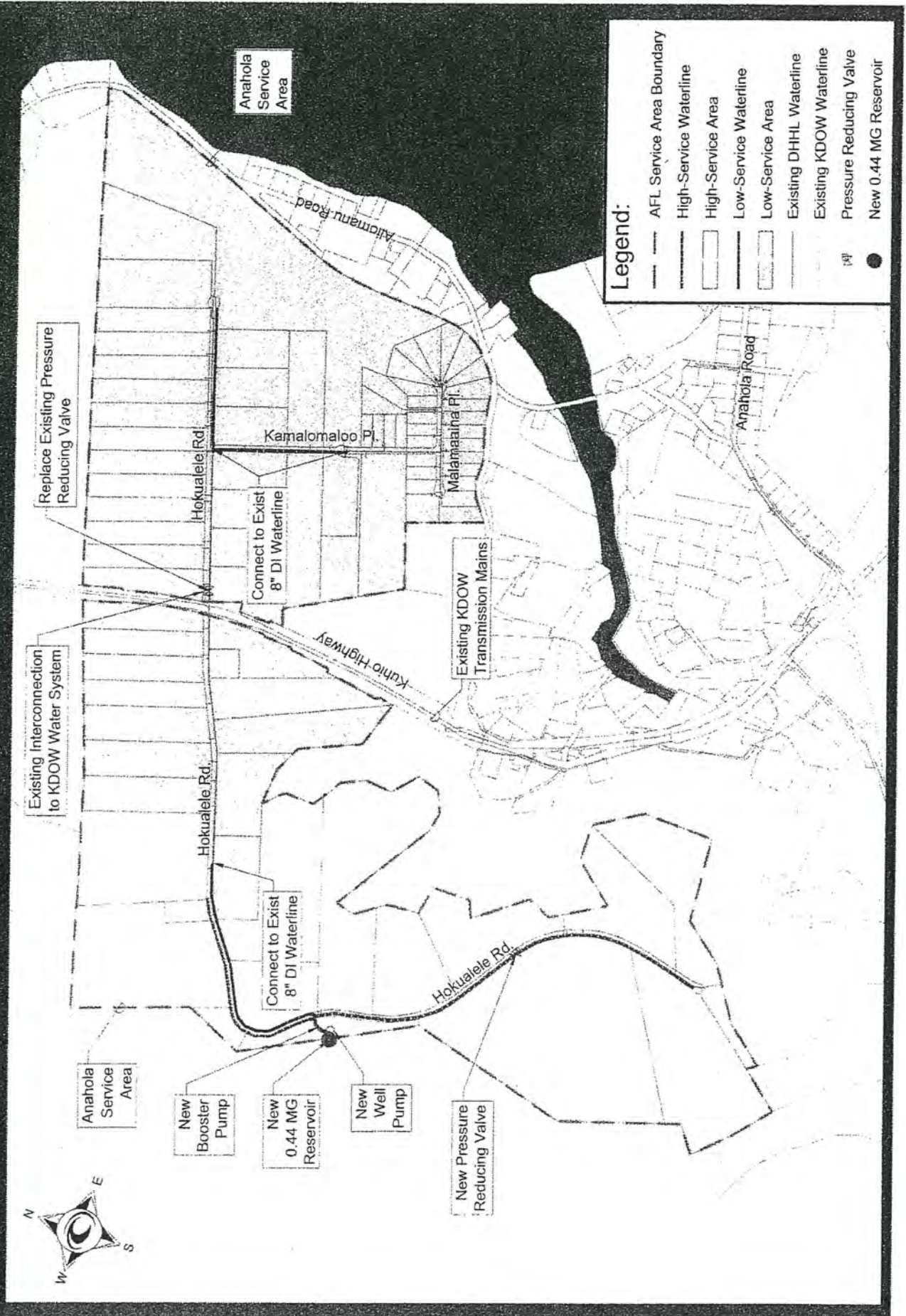
At the time this project started in 2016, USDA RD obligated only grant funds to DHHL. USDA RD regulations required DHHL, as a state agency, to use its own State of Hawaii documents as opposed to the federal standard documents, called the Engineers Joint Contract Documents Committee or "EJCDC". Now in 2018, with the award of federal loan funds, DHHL is no longer exempted from using the EJCDC documents. The challenge is that DHHL has already executed bid and contract documents using the State templates. Changing existing State documents in mid-stream to the federal EJCDC documents will result in time delays and, possibly, loss of the vendors.

The construction contract for Phase 1 is executed, using State of Hawaii documents. DHHL is currently in the bid process for Phase 2 and expects bid opening by early December 2018. Again, State of Hawaii documents were used throughout the procurement process. Should this matter on the EJCDC not be resolved in a timely manner, DHHL may need to consider starting a new procurement process, thus further delaying the project timeline.

EJCDC documents include, but are not limited to, the following:
(a) contract documents between DHHL and engineer, construction contractor, inspector/construction management services; (b) Bid

EXHIBIT B

PROJECT SITE MAP



STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

November 19 - 20, 2018

TO: Chairman and Members, Hawaiian Homes Commission

FROM: Rodney Lau, Administrative Services Officer
Norman Sakamoto, Administrator, Land Development
Division
Kaleo Manuel, Acting Planning Program Manager
Gigi Cairel, Grants Specialist

Subject: Approve to Accept the US Department of Agriculture
Rural Development Loan/Grant Financing for the
DHHL-owned Ho'olehua Water System on the Island of
Moloka'i

RECOMMENDED MOTION/ACTION

That the Hawaiian Homes Commission (HHC) approves to accept the subsequent \$7,455,000 loan and subsequent \$1,592,333 grant, as part of a financing package awarded in September 2018 to the Department of Hawaiian Home Lands (DHHL) by the US Department of Agriculture Rural Development (USDA RD) to fund major capital improvements to the DHHL-owned Ho'olehua Water System (Public Water System #230) on the Island of Moloka'i; and

That the HHC delegates authority to the Chairman to negotiate final terms and conditions of the USDA RD loan, including execution of related documents.

BACKGROUND

The DHHL-owned Ho'olehua water system serves over 500 lessees and their families in Kalama'ula and Ho'olehua homesteads. Total population served is approximately 2,400 people. All other homesteads on Moloka'i receive potable water from the County of Maui, including Kapaakea and Kamiloloa-One Ali'i. In addition, this system delivers drinking water to community facilities such as the Ho'olehua airport, US Post Office, schools, churches and to commercial businesses. This is the only DHHL-owned water system that serves community facilities and businesses. This is an advantage to DHHL because these other water system users pay a higher water rate to help offset costs to operate the system that otherwise would be 100% borne by lessees.

- Achieve 24/7 access to system components by improving roadways
- Increase storage capacity
- Address water pressure issues
- Repair or replace components that have reached their useful life cycle
- Improve water system safety and security

The scope of the project is to implement much needed improvements to the Ho'olehua Water System to improve transmission and provide reliable water service to the existing population over a 35-year planning period. In addition to upgrading the reliability of the existing water system, improvements will seek to create a more sustainable system to minimize unexpected losses of service and reduce annual energy costs. The design and construction of the proposed Ho'olehua Water System improvements project is divided into four bid packages as follows.

Package 1 - Ho'olehua portion of the Ho'olehua Water System
Site numbers 1, 3, 4, 5, 6, 7. Refer to Exhibit B.

- Improve Kauluwai 1.0MG Storage Tank.
- Install a 1,000 gallon above-ground fuel storage tank for the generator.
- Repair the two Ho'olehua 3.5MG storage tanks.
- Replace aging asbestos water piping, pressure relief valves, gate valves, flow controls, well booster pumps and motors, which have reached the end of their useful life.
- Install new water lines and hydrants to provide fire protection to areas not protected now.
- Install new 0.2 MG storage water tank to lower the risk of low pressure and vacuum conditions in the waterline that could result in contamination of the drinking water system through an increase risk of backflow conditions. It will also provide adequate water pressure.
- Provide over 3 miles of all-weather roadways for 24/7 access to most of the water system, storage water tanks and well sites in order to properly maintain and service them.
- Demolish existing DHHL Molokai Maintenance warehouse and construct a new facility to house all of the new construction equipment and properly store water treatment supplies which will allow the Molokai District Office Maintenance crew to provide adequate maintenance and repairs to the Ho'olehua Water System.

Package 2 - Kalama'ula portion of the Ho'olehua Water System
Site number 2. Refer to Exhibit B.

- Improve roadway for 24/7 access to the 0.2MG Kalama'ula storage tank.
- Replace 12-inch transmission main water line.

Package 3 - Photovoltaic (PV) system and solar field

- Implementation of a large 1 mega-watt PV solar field. This should generate over \$300,000 (estimate) in annual electrical savings.

Package 4 - Equipment and supply needs for the entire Ho'olehua Water System.

Project costs

In 2016, the project cost estimate was \$25M. DHHL sought federal funds from the USDA RD Water Environment Program (WEP) (1) to access USDA RD set-aside grant funds available only to DHHL water and waste projects; and (2) to leverage DHHL resources for major capital improvements. USDA awarded \$10M in grant funds and DHHL committed \$12M of its own funds. Total project cost was then reduced to \$22M.

In 2018, USDA RD approached and encouraged DHHL to consider applying for additional funds for anticipated project cost overruns. USDA RD had a national "call out" for projects due to the sudden availability of federal dollars that needed to be obligated by the end of the federal fiscal year, September 2018. DHHL submitted an application to seek an additional \$9M, thus bringing the total project cost to \$31M. USDA RD subsequently awarded the additional \$9M in the form of a loan/grant combination - \$7.4M Loan and \$1.5M Grant.

TABLE 1
Project Budget

Project Budget Category	2016	2018	Difference
Engineering	\$2,035,444	\$2,518,663	\$483,219
Construction	\$18,481,503	\$24,013,781	\$5,532,278
Contingency	\$1,768,053	\$4,799,889	\$3,031,836
TOTAL	\$22,285,000	\$31,332,333	\$9,047,333

TABLE 2
Summary of USDA Funds

YEAR	USDA awards	DHHL contribution	TOTAL
June 2016	Grant \$10,011,750	\$12,273,250	\$22,285,000
September 2018	Loan \$7,455,000 Grant \$1,592,333	-0-	\$9,047,333
TOTAL	\$19,059,083	\$12,273,250	\$31,332,333
	DHHL Loan re-payment	\$7,455,000+	
TOTAL	DHHL Contribution	\$19,728,250+	

Loan terms (for planning purposes):
Period 35 years
Note: payments in first two years is interest only
Interest rate 3.1250%*
Amortization \$49/\$1000
Estimated annual payments \$365,295*

*Note: The precise payment amount will be based on the interest rate at which time the loan is closed and may be different than as stated above. See Exhibit A for the amortization schedule.

The following factors contributed to the differences in cost estimates from 2016 to 2018.

- Project costs generally have gone up in the 2-year period - 2016 and 2018.
- The lengthy DHHL procurement and contracting process
- USDA RD staff changes resulted in time delays of the USDA review of bid and contracting documents
- Guidance from USDA to increase Contingency to 20%
- Guidance from USDA that they were flush with funds that must be obligated by September 2018
- Guidance from USDA that there is no guarantee that USDA will fund future DHHL cost overruns for this Ho'olehua project

During this period, the project scope remained the same. The only change was that DHHL removed \$5M that was originally budgeted with USDA funds in 2016 for the PV project. Instead, DHHL anticipates the PV project to be self-financed through a Purchase Power Agreement (PPA). The \$5M in USDA funds was re-allocated to the other sub-projects - Bid Package 1 (Ho'olehua), Bid Package 2 (Kalama'ula) and Bid Package 4 (Equipment/Supplies).

Based on the factors above, DHHL was conservative in making the request to USDA RD for the additional \$9M. Since the \$9M award from USDA RD, DHHL again evaluated the project costs based on the actual final low bid numbers from Packages 1 and 2 - \$19,554,000 (USDA RD portion \$16,228,000) and \$3,048,540, respectively. Package 4 is estimated at \$1,411,242. With engineering design costs and 10% contingency, this brings up the project cost estimate from \$22M (2016) to \$25M (2018). At this time, it appears the shortfall is \$3M, not \$9M. Thus, DHHL may have remaining funds amounting to \$6M.

Per USDA RD regulations, "remaining funds may be used for eligible loan and grant purposes, provided the use will not result in major changes to the original scope of work and the purpose of the loan and grant remains the same." DHHL has developed a list of work items should there be such remaining

funds when construction is complete for the original scope. Additional items include the following (in order of priority):

- Any cost overruns experienced during construction, including funds needed for the PV project should the PPA fall through.
- Emergency repairs to the two 3.5MG concrete tanks.
- Replace and re-condition 278 fire hydrants, in addition to the 30 in the original scope.
- Construct protective structures over well pumps & booster pumps to protect moisture damage to pump motors.
- Stock equipment/supplies on island such as gate valves, water laterals, etc.
- Purchase equipment including tapping machine, bits & adapters, etc.

DHHL will seek preliminary approval from USDA RD to add these items in the event there are remaining funds.

TABLE 3
Updated Project Costs

	USDA Award Amounts	DHHL Revised Costs	Difference
Engineering	\$2,518,663	\$2,552,225	\$33,562
Construction	\$24,013,781	\$20,687,781	\$3,326,000
Contingency	\$4,799,889	\$2,068,778	\$2,731,111
TOTAL	\$31,332,333	\$25,308,784	\$6,090,673

Project Status

- At this time, the following is the status of this project.
- Packages 1 and 2 - Bids received and ready to award contracts.
 - Package 3 - PV project pending State (and possibly USDA RD) approval of bid documents.
 - Package 4 - Equipment pending USDA RD approval of Request for Proposal documents.

DISCUSSION

DHHL is seeking approval to accept the 2018 USDA RD subsequent loan/grant package to finance the proposed improvements to the Ho'olehua water system. Should DHHL not proceed with the 2018 subsequent USDA RD loan/grant funds and, instead, proceed with the earlier 2016 USDA RD grant funds, the following are the impacts.

For Bid Packages 1 and 2, DHHL is at the point of contract award. Should this matter on EJCDC not be resolved in a timely manner and the current vendor declines the DHHL contract, DHHL would start a new procurement process. The second lowest bid in the first procurement was \$25,439,306, which is, coincidentally, about a \$6.0M difference from the lowest bidder (\$19,554,000). So, if there are remaining funds, first priority would apply to this situation.

EJCDC documents include, but are not limited to, the following: (a) contract documents between DHHL and engineer, construction contractor, inspector/construction management services; (b) Bid forms; (c) Notice of Award; (d) Standard General Conditions; (e) Change Orders; etc.

Status: The department is proposing to USDA that we continue using the State documents throughout the project period and, as needed, include any federal EJCDC requirements by amendment.

CONCLUSION

The department is in continuous communication with USDA RD to address these matters above and is working diligently and collaboratively to find mutually-agreeable alternatives. The primary benefit to accessing the USDA RD federal funds today for the existing Ho'olehua Water System is to leverage DHHL resources that would otherwise be used for new homestead lots to address the applicant wait list. Secondly, by utilizing the USDA RD funds, DHHL is creating templates for future use of the USDA RD WEP program to finance more DHHL water projects to develop new homestead lots.

RECOMMENDATION

Staff respectfully requests approval of the recommended motion as stated above.

	A	B	D	E	F	G	H	J	K	L	M
1		Hoolahua		Base Interest	3.125%						
2				Adj Interest	37.500%						
3		Installment		N	33.000	PV	7,455,000.00				
4	calculated	\$365,288.79		Monthly Interest	19,414.06						
5	rounded	365,295.00		Annual Interest	232,958.75						
6											
7				Cumulative		Cumulative					
8	Year	P/I	Interest	Interest Pd	Principal	Principal Pd	Principal Balance	Pi pmts	Due Date		
9	1	232,968.75	232,968.75	232,968.75		-	7,455,000.00		8/31/2021		
10	2	232,968.75	232,968.75	465,937.50		-	7,455,000.00		8/31/2022		
11	3	365,295.00	232,968.75	698,906.25	132,326.25	132,326.25	7,322,673.75	1	8/31/2023		
12	4	365,295.00	228,833.55	927,739.80	136,461.45	268,787.70	7,186,212.30	2	8/31/2024		
13	5	365,295.00	224,569.13	1,152,308.93	140,725.87	409,513.57	7,045,486.43	3	8/31/2025		
14	6	365,295.00	220,171.45	1,372,480.38	145,123.55	554,637.12	6,900,362.88	4	8/31/2026		
15	7	365,295.00	215,636.34	1,588,116.72	149,658.66	704,295.78	6,750,704.22	5	8/31/2027		
16	8	365,295.00	210,959.51	1,799,076.23	154,335.49	858,631.27	6,596,368.73	6	8/31/2028		
17	9	365,295.00	206,136.52	2,005,212.75	159,158.48	1,017,789.75	6,437,210.25	7	8/31/2029		
18	10	365,295.00	201,162.82	2,206,375.57	164,132.18	1,181,921.93	6,273,078.07	8	8/31/2030		
19	11	365,295.00	196,033.69	2,402,409.26	169,261.31	1,351,183.24	6,103,816.76	9	8/31/2031		
20	12	365,295.00	190,744.27	2,593,153.53	174,550.73	1,525,733.97	5,929,266.03	10	8/31/2032		
21	13	365,295.00	185,289.56	2,778,443.09	180,005.44	1,705,739.41	5,749,260.59	11	8/31/2033		
22	14	365,295.00	179,664.39	2,958,107.48	185,630.61	1,891,370.02	5,563,629.98	12	8/31/2034		
23	15	365,295.00	173,863.44	3,131,970.92	191,431.56	2,082,801.58	5,372,198.42	13	8/31/2035		
24	16	365,295.00	167,881.20	3,299,852.12	197,413.80	2,280,215.38	5,174,784.62	14	8/31/2036		
25	17	365,295.00	161,712.02	3,461,564.14	203,592.98	2,483,798.36	4,971,201.64	15	8/31/2037		
26	18	365,295.00	155,350.05	3,616,914.19	209,944.95	2,693,743.31	4,761,256.69	16	8/31/2038		
27	19	365,295.00	148,789.27	3,765,703.46	216,505.73	2,910,249.04	4,544,750.96	17	8/31/2039		
28	20	365,295.00	142,023.47	3,907,726.93	223,271.53	3,133,520.57	4,321,479.43	18	8/31/2040		
29	21	365,295.00	135,046.23	4,042,773.16	230,248.77	3,363,769.34	4,091,230.66	19	8/31/2041		
30	22	365,295.00	127,850.96	4,170,624.12	237,444.04	3,601,213.38	3,853,786.62	20	8/31/2042		
31	23	365,295.00	120,430.83	4,291,054.95	244,864.17	3,846,077.55	3,608,922.45	21	8/31/2043		
32	24	365,295.00	112,778.83	4,403,833.78	252,516.17	4,098,593.72	3,356,406.28	22	8/31/2044		
33	25	365,295.00	104,867.70	4,508,721.48	260,407.30	4,359,001.02	3,095,998.98	23	8/31/2045		
34	26	365,295.00	96,749.97	4,605,471.45	268,545.03	4,627,546.05	2,827,453.95	24	8/31/2046		
35	27	365,295.00	88,357.94	4,693,829.39	276,937.06	4,904,483.11	2,550,516.89	25	8/31/2047		
36	28	365,295.00	79,703.65	4,773,533.04	285,591.35	5,190,074.46	2,264,925.54	26	8/31/2048		
37	29	365,295.00	70,778.92	4,844,311.96	294,516.08	5,484,590.54	1,970,409.46	27	8/31/2049		
38	30	365,295.00	61,575.30	4,905,887.26	303,719.70	5,788,310.24	1,666,689.76	28	8/31/2050		
39	31	365,295.00	52,084.05	4,957,971.31	313,210.95	6,101,521.19	1,353,478.81	29	8/31/2051		
40	32	365,295.00	42,296.21	5,000,267.52	322,998.79	6,424,519.98	1,030,480.02	30	8/31/2052		
41	33	365,295.00	32,202.50	5,032,470.02	333,092.50	6,757,612.48	897,387.52	31	8/31/2053		
42	34	365,295.00	21,793.36	5,054,263.38	343,501.64	7,101,114.12	353,885.88	32	8/31/2054		
43	35	364,944.81	11,058.93	5,065,322.31	353,885.88	7,455,000.00	(0.00)	33	8/31/2055		
44	Totals	12,520,322.31	5,065,322.31		7,455,000.00						
45	Year 35 numbers have been adjusted due to rounding of payments.										
46											
47											
48	Assumptions:										
49	(1) USDA RD Funding package										
50	DHHL contribution - \$12,273,250										
51	USDA Grant (2016) - 10,011,750										
52	USDA Grant (2018) - \$1,592,333										
53	USDA Loan (2018) - \$7,455,000										
54											
55	TOTAL - \$31,332,333										
56											
57	(2) USDA Loan Terms										
58	Re-payment over a period of 35 years.										
59	Payments due the first two years will consist of interest only.										
60	Payments for the remaining 33 years will be equal amortized annual installments, beginning two years after loan closing.										
61	For planning purposes, use a 3.1250% interest rate and an amortization factor of \$49/\$1000, which provides for an annual payment of \$365,295.										
62	The precise payment amount will be based on the interest rate at loan closing.										
63											
64	(3) Assumes construction completed by August 2021. First payment due August 31, 2021.										
65										HHC ITEM H-2	
66										EXHIBIT A	

EXHIBIT

C

Exhibit B

A RESOLUTION OF THE _____
OF THE _____
AUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS IN THE
PRINCIPAL AMOUNT OF _____ FOR THE PURPOSE
OF PROVIDING A PORTION OF THE COST OF ACQUIRING AND CONSTRUCTING A
_____, PROVIDING FOR THE COLLECTION, HANDLING, AND
DISPOSITION OF REVENUES THEREFROM, AND AUTHORIZING MAKINGS OF PROMISSORY NOTE(S),
SECURITY INSTRUMENTS, AND PLEDGES OF REVENUES TO EVIDENCE AND SECURE THE PAYMENT OF
SAID INDEBTEDNESS AND FOR RELATED PURPOSES.

WHEREAS, the _____, (hereinafter
referred to as the "Organization"), was organized under _____
_____ for the purpose of providing a
_____ (hereinafter referred to as the
"Facility") to serve the Members of the said Organization; and

WHEREAS, a meeting of the members of the said organization was held on the _____ day of _____
pursuant to proper notice thereof to consider plans for the acquisition and construction methods of financing the Facility;
and, as shown by the minutes of said meeting, of the _____ members of record of the organization there were
present and voting _____, and by a recorded majority vote, the Facility and its financing authorized; and,

WHEREAS, the proposed Facility is to be constructed and equipped in accordance with plans, and specifications
prepared by _____

and in order to finance the Facility, the _____
(hereinafter referred to as the "Board") is authorized and empowered, in their discretion, for and in the name of the organization,
to make application to the United States of America, acting through the United States Department of Agriculture,
(hereinafter referred to as the "Government"), for financial assistance; to cause the execution and delivery of a
promissory note or notes or other evidence of indebtedness (hereinafter referred to as the "note"), and appropriate security instruments
to secure any loan or loans made or insured by the Government; to comply with any requirements, terms or conditions prescribed by the
Government or by Government regulations; and to execute contracts or enter into agreements and, without limitation, to take any and
all other action as may be necessary, incidental or appropriate to finance, acquire, construct, complete, and/or equip the Facility for and
on behalf of the Organization.
NOW THEREFORE, it is hereby resolved by the Board as follows:

Section I. (Determination of Board). That it is necessary to defray a portion of the costs of financing the Facility by obtaining
a loan made or insured by the Government in accordance with applicable provisions of the Consolidated Farm and Rural Development
Act, it being determined that the Organization is unable to obtain sufficient credit elsewhere to finance the Facility, taking into
consideration prevailing private and cooperative rates and terms currently available:

Section 2. (Terms of Loan). That the Organization borrow _____ and issue as evidence thereof an installment promissory note in the form prescribed by the Government for the full principal amount of the loan. The note shall be signed by the President, attested by the Secretary and have the corporate seal of the Organization affixed

thereto, and shall bear interest from its date, which shall be the date of delivery at a rate not to exceed _____ percent per annum;

the principal and interest shall be paid over a period of _____ years in accordance with the payment schedule set forth in the promissory note, until the principal and interest are fully paid except the final payment of the entire indebtedness, if not

sooner paid, shall be due and payable _____ years from the date of the note. Each payment shall be applied first to the payment of the accrued interest and second to the payment of the principal. Prepayments of any installment may be made in any amount at any time at the option of the Organization.

Section 3. (Assignment and Pledge of Revenue). The indebtedness hereby authorized to be incurred, together with the interest thereon, shall be payable from the gross income and revenue to be derived from the operation of the Facility, a sufficient portion of which, to pay the principal and interest as and when the same shall become due, is hereby assigned, and pledged and shall be set aside for that purpose and this assignment and pledge shall extend to and include any assessments that may be levied pursuant to Section 5 (d) hereof.

Section 4. (Protection and Disposition of Funds). The _____ of the Organization shall be the custodian of all funds of the Organization. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.

The _____ is hereby directed to establish the following accounts into which the current funds of the Organization, note proceeds, the revenues from the Facility and any other income shall be deposited, which accounts shall be continually maintained, except as otherwise provided, so long as the indebtedness hereby authorized remains unpaid:

(a) Construction Account.

The proceeds of the borrowing hereby authorized not disbursed contemporaneously with loan closing for incurred Facility costs, and at least the amount of _____ to be contributed by the Organization from the collection of initial connection fees, membership fees or contributions shall be deposited in the Construction Account which shall be established as required by the Government. Withdrawals from the construction account shall be made only on checks signed by the

_____ of the Organization as authorized by the Board from time to time, and with prior concurrence of the Government. At the option of the Government, the construction account may be established as a "supervised bank account". Amounts in the supervised bank account exceeding \$100,000 shall be secured by the depository bank in advance in accordance with U.S. Treasury Department Circular No. 176. Withdrawals from a supervised bank account

shall be made only on checks signed by the _____ of the Organization and countersigned by an authorized official of the Department of Agriculture. The Organization's share of any insurance or liquidated damages and other monies paid by defaulting contractors or their sureties will be deposited in the Construction Account to assure completion of the Facility. When all construction costs have been paid in full, any balance remaining in the Construction Account may be applied on the loan or used for other authorized purposes that have been approved by the Government and the Construction Account shall be closed.

(b) General Account

As soon as the facility becomes revenue producing, all funds received shall be set aside in an account to be designated as the General Account, and disbursements and transfers from this account shall be in the following priority: Debt Service, Operations and Maintenance, transfers to Reserve Account. Monies deposited in the General Account shall be used only in the manner and order as follows:

(1) Borrowers making monthly USDA Debt Service Payments shall use the General Account for making such payments plus operating and maintenance expenses. Also, funds will be transferred from this account to the Reserve Account in accordance with (d) below.

(2) Borrowers making other than monthly USDA Debt Service Payments shall use the General Account to pay operating and maintenance expenses. Other transfers from this account will be made in the following order: (i) Transfers to the Debt Service Account will be made in accordance with (c) below, (ii) Transfers to the Reserve Account will be made in accordance with (d) below.

(c) Debt Service Account

For borrowers on other than monthly debt service payments, transfers, in proportion to income availability, shall be made from the General Account and set aside in an account designated as the Debt Service Account, in sufficient amounts which will accumulate for the next installment on the note.

(d) Reserve Account

From the remaining funds in the General Account, after transfers and payments required in (b)(1) or (b)(2) and (c), there shall be set aside into an account(s) designated as the Reserve Account(s) the sum of _____

each month until the sum of _____ is reached. With the prior written approval of the Government, funds may be withdrawn and used for such things as loan installments, emergency maintenance, extensions to facilities and replacement of short-lived assets, subject to conditions established by the Government.

(e) Whenever there shall accumulate in the General Account amounts in excess of those required in subsections (b)(1) and (2), (c), and (d), such excess will be used by the organization to make prepayments on the loan or retained in the General Account.

(f) The accounts required in subsections (b)(1) and (2), (c), and (d) may be established and maintained as bookkeeping accounts or as separate bank accounts at the election of the Organization, unless otherwise directed by the Government.

Section 5. (Other Covenants and Agreements of the Organization). The Organization covenants and agrees that so long as the indebtedness hereby authorized remains unpaid:

(a) It will indemnify the Government for any payments made or losses suffered by the Government.

(b) It will comply with applicable State laws and regulations and continually operate and maintain the Facility in good condition.

(c) It will impose and collect such rates and charges that gross revenues will be sufficient at all times to provide for payment of the operation and maintenance thereof; the installment payments on the note; and the maintenance of the various funds herein created. All service rendered by or use of the Facility shall be subject to the full rates prescribed in the rules and regulations of the Organization; no free service by or use of the Facility will be permitted.

(d) It will cause to be levied and collected such assessments as may be necessary to operate and maintain the Facility in good condition and meet installment payments on the note when the same become due if, for any reason, gross revenues are insufficient.

(e) It will establish and maintain such books and records relating to the operation of the system and its financial affairs, and will provide for the annual audit thereof, in such manner as may be required by the Government; will provide the Government without its request a copy of each such audit; and will make and forward to the Government such additional information and reports as it may from time to time require.

(f) It will provide the Government, at all reasonable times, access to all books and records relating to the Facility and access to the property of the Facility so that the Government may ascertain that the Organization is complying with the provisions hereof and with the provisions of other instruments incident to the making or insuring of the loan.

(g) It will maintain at least such insurance and fidelity bond coverage as may be required by the Government.

(h) It will not borrow any money from any source or enter into any contract or agreement or incur any other liabilities in connection with making extensions or improvements to the Facility, exclusive of normal maintenance, without obtaining the prior written consent of the Government.

(i) It will not cause or permit any voluntary dissolution of its organization, or merge or consolidate with any other organization, without obtaining the prior written consent of the Government. It will not dispose of or transfer title to the facility or any part thereof, including lands and interest in lands, by sale, security instrument, lease or other encumbrance, without obtaining the prior written consent of the Government. Revenue in excess of the amount required to maintain the accounts described by Section 4 herein will not be distributed or transferred to any other organization or legal entity.

(j) It will not modify or amend the Articles of Incorporation or the Bylaws of the Organization without the written consent of the Government.

(k) It will provide adequate service to all persons within the service area who can feasibly and legally be served and will obtain USDA's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of action against the organization or public body.

(l) All present and future contract rights, accounts receivable, and general intangibles arising in connection with the facility are pledged as security for the loan.

(m) It will comply with the measures identified in the Government's environmental impact analysis for this facility for the purpose of avoiding or reducing adverse environmental impacts of the facility's construction or operation.

Section 6. (Security Instruments). In order to secure the payment of the principal and interest of the note, the President and Secretary of the Organization are hereby authorized and directed to execute and deliver good and sufficient lien instruments, where necessary, encumbering the properties and assets both real and personal constituting said Facility, as completed or as the same may be thereafter extended, including an assignment and pledge of revenues and such other instruments as may be prescribed by the Government

Section 7. (Refinancing). If at any time it shall appear to the Government that the Organization is able to refinance the amount of the indebtedness then outstanding, in whole or in part, by obtaining a loan for such purposes from responsible cooperative or private credit sources at reasonable rates and terms for loans for similar purposes and periods of time, the Organization will, upon request of the Government, apply for and accept such loan in sufficient amount to repay the Government and will take such actions as may be required in connection with such loan.

Section 8. ("Equal Employment Opportunity under Construction Contracts and Nondiscrimination"). The President and the Secretary be and they are hereby authorized and directed to execute for and on behalf of the Organization, Form RD 400-1, "Equal Opportunity Agreement", and Form RD 400-4, "Assurance Agreement".

Section 9. In the case of a grant in the sum not to exceed _____, the Organization hereby accepts the grant under the terms as offered by the Government and that the _____ and _____ of the Organization are hereby authorized and empowered to take all action necessary or appropriate in the execution of all written instruments as may be required in regard to or as evidence of such grant and the Organization hereby resolves to operate the facility under the terms as offered in said grant agreement(s).

Section 10. Default under the provisions of this agreement or any instrument incident to the making or issuing of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Organization, and default under any such instrument may be construed by the Government to constitute default hereunder.

Section 11. (Resolution of Contract). The provisions hereof and the provisions of all instruments incident to the making or the insuring of the loan, unless otherwise specifically provided by the terms of such instruments, shall constitute a contract between the Organization and the Government or assignee so long as the note hereby authorized remains unpaid.

Section 12. This resolution shall take effect and be in force from and after the _____ day of _____, being the date of its enactment.

The vote was: Yeas _____ Nays _____ Absent _____

(SEAL) (if applicable)

By _____

Attest:

Title _____

Title _____

CERTIFICATION

I, the undersigned, as secretary of the _____ hereby certify that the _____ of such Organization or Corporation is composed of _____ members of whom _____, constituting a quorum, were present at a meeting thereof duly called and held on the _____ day of _____; that the foregoing resolution was adopted at such meeting by the vote shown above, and that said resolution has not been rescinded or amended in any way.

Dated, this _____ day of _____

Secretary of _____

RIDER TO RUS BULLETIN 1780-28, LOAN RESOLUTION SECURITY AGREEMENT

1. The Department of Hawaiian Home Lands (the “Organization” or the “Borrower”) is an executive department of the State of Hawai‘i, headed by an executive board known as the Hawaiian Homes Commission (the “Commission”);

2. The Commission met on _____, 2020, and, after due notice and with a quorum present, authorized the construction and financing of the Anahola Farm Lots Water System, in Anahola, Island of Kauai (the “Facility”) with federal financial assistance from the United States Department of Agriculture, Rural Utilities Service or its successor agency (the “Government”) pursuant to the authority granted to the Commission under Section 214 of the Hawaiian Homes Commission Act of 1920, as amended.

3. The Organization also resolved to execute RUS Bulletin 1780-28, Loan Resolution Security Agreement (“RUS Bulletin 1780-28”) with this attached Rider to clarify certain terms and obligations set forth in RUS Bulletin 1780-28.

4. As used in RUS Bulletin 1780-28, the following terms have the meanings set forth below:

“*Board*” means the Hawaiian Homes Commission.

“*Organization*” or “*Borrower*” mean the Department of Hawaiian Home Lands.

The Organization’s “*Members*” means the members of the Board.

“*President*” means the Chairman of the Board and the Director of the Organization.

“*Secretary*” means the signatory duly authorized by the Board to attest to RUS Bulletin 1780-28 and related loan documents.

5. All references and requirements contained in RUS Bulletin 1780-28 relating to the “Corporate Seal,” “Articles of Incorporation” and “Bylaws” of the Organization shall not apply to the extent that Borrower is not legally required to, and does not, maintain such items.

6. Whenever “prior written consent” of the Government is required to be obtained, such consent shall not be unreasonably conditioned, withheld, or delayed.

7. The following provisions of RUS Bulletin 1780-28 are clarified as follows:

a) Section 5, subsection (a): The Borrower will indemnify the Government in accordance with and to the extent permitted by applicable law.

b) Section 5, subsection (c):

The Organization will impose and collect such rates and charges so that gross revenues, in addition to other funds legally available to the Borrower for such purpose, will be sufficient at all times to pay for the operation and maintenance of the Facility; the installment

payments on the note; and the maintenance of the various funds herein created. All service rendered by or use of the Facility shall be subject to the full rates prescribed in the rules and regulations of the Organization. Except as otherwise provided by law, no free service by or use of the Facility will be permitted.

c) Section 5, subsection (g): The Borrower will maintain, in aggregate, any combination of insurance, fidelity bond coverage, reserves, and self-insurance sufficient to meet the Government's requirements to insure its interest in the Facility.

d) Section 5, subsection (i):

The Organization will not cause or permit any voluntary dissolution of its organization, or merge, or consolidate with any other organization without obtaining the prior written consent of the Government. It will not dispose of or transfer title to the Facility or any part thereof, including lands and interest in lands, by sale, security instrument, lease or other encumbrance, without obtaining the prior written consent of the Government. Revenue from the Facility in excess of the amount required to maintain the accounts described by Section 4 herein will not be distributed or transferred to any other organization or legal entity.

e) Section 5, subsection (j):

The Borrower will provide adequate service to all persons within the service area who can feasibly and legally be served; and will obtain USDA's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of action against the organization or public body to the extent permitted by applicable law.

(SEAL)

By

Title

Attest

Title

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS
September 21 - 22, 2020

TO: Chairman and Members, Hawaiian Homes Commission

FROM: Andrew H. Choy, Acting Planning Program Manager *AC*
Gigi O. Cairel, Grants Specialist *G. Cairel*
Rodney Lau, Administrative Services Officer
Stewart Matsunaga, Acting Administrator, Land
Development Division

Subject: Confirm and reauthorize DHHL to borrow up to
\$11,555,000 under the US Department of Agriculture
Rural Development (USDA RD) Water and Environment
Program (WEP) for approved capital improvements to the
DHHL-owned Anahola Farm Lots Water System (PWS 432) on
the island of Kaua'i and Ho'olehua Water System (PWS
230) on the island of Moloka'i.

RECOMMEND MOTION/ACTION

That the Hawaiian Homes Commission (HHC) confirm and reauthorize DHHL to borrow up to \$11.555M from the USDA RD WEP (the Loan) to finance the construction of previously approved capital improvements to the DHHL-owned Anahola Farm Lots Water System (PWS 432) and Ho'olehua water systems (PWS 230); and

That the HHC authorize the Chairman to negotiate the final terms and conditions of the USDA WEP Loan Documents; and

That the HHC authorize the Chairman to sign the final USDA WEP Loan Documents and any ancillary instruments necessary or appropriate to close the Loan.

BACKGROUND

The Department of Hawaiian Home Lands (DHHL) owns and operates four (4) water systems statewide.

- Ho'olehua water system, Moloka'i
- Anahola Farm Lots water system, Kaua'i
- Kawaihae water system, Hawai'i
- Pu'ukapu water system, Hawai'i (non-potable)

These water systems serve a total of over 800 homestead lots, community facilities (Ho'olehua Airport, Post Office, Schools) and businesses.

The Ho'olehua and Anahola water systems are over 80 years old and 30 years old, respectively, and need major capital improvements. In addition to aging infrastructure, both these systems suffer from inconsistent water pressure to homestead lots, high energy costs, leaks and exposure to security threats and vandalism.

November 2018 and January 2020 Commission Actions

In 2016 and 2018, DHHL was awarded a total of \$28,214,166 in federal grant and loan funds from the USDA RD WEP for major capital improvements to the Ho'olehua and Anahola Water Systems. As a condition to receive those funds, DHHL had to contribute \$16,043,973 to the projects' costs. As a condition to receive the grant funds, DHHL must close the loans. The total project financing package is \$44,258,139 - Ho'olehua \$31,332,333 and Anahola \$12,925,806.

In November 2018 DHHL gave an informational workshop and presented a submittal (Items H-1 and H-2) describing the projects, the then-estimated costs, and proposed financing packages. DHHL requested that the HHC accept the USDA RD WEP supplemental grant and loan funds awarded to DHHL in 2018. (See Exhibit A.) The HHC unanimously approved accepting the 2018 USDA RD WEP supplemental funding obligations - \$3,592,279 grant and \$11,555,000 loan.

In January 2020, DHHL gave an informational workshop and presented a submittal (Items G-2 and H-1) requesting the HHC increase the DHHL Development Budget by \$20M. See Exhibit A. The HHC unanimously approved the budget increase.

TABLE 1
Summary of Project Financing

Project Financing Source	Anahola water system	Ho'olehua water system
DHHL contribution	\$3,770,723	\$12,273,250
2016 USDA RD WEP GRANT*	3,055,137	10,011,750
2018 USDA RD WEP GRANT*	1,999,946	1,592,333
2018 USDA RD WEP LOAN	4,100,000	7,455,000
TOTAL	\$12,925,806	31,332,333

*Note: USDA RD WEP grant funds are from the Congressional set-aside.

Anahola Farm Lots Water System Improvements

This project is broken into two (2) Phases.

Project Status

- Phase 1 construction started in February 2020. Phase 1 includes replacement of the distribution lines, creating dual water pressure zones, installing new water meters and backflow preventers, various repairs, and securing the emergency inter-connection tie to the County water system.
- Phase 2 is to replace the 500,000 gallon water storage tank. The Notice to Proceed for Phase 2 was issued in September 2020.

Ho'olehua Water System Improvements

This project is broken out in to four (4) packages. Construction for Package 1 and Package 2 are planned to start at the same time.

- Package 1 - improvements to various sites in Ho'olehua
- Package 2 - Improvements to various sites in Kalama'ula
- Package 3 - Photovoltaic System
- Package 4 - Procure equipment and supplies

Project Status

- Construction contracts for Package 1 and Package 2 received concurrence from USDA RD in March 2020.
- Two Conditional Notices to Proceed were issued in July 2020.
- Official Notice to Proceed and groundbreaking are estimated in October 2020.
- Package 3 Photovoltaic System is currently in the planning and design phase.
- Package 4 Equipment and Supplies - bid package is currently being drafted.

DISCUSSION

Since January 2020, DHHL and the USDA-RD have been negotiating the terms and conditions under which DHHL would borrow up to \$11.555M in loans from the USDA-RD WEP. The parties are near agreement on the final terms and conditions of the Loan (a summary is included in Table 2).

TABLE 2

Key Terms

1. Total Estimated Project Cost: \$44,258,139
 - 1.1. DHHL Contribution: \$16,043,973
 - 1.2. USDA RD WEP Grants \$16,659,166
 - 1.3. Ho'olehua Loan \$7,455,000
 - 1.4. Anahola Loan \$4,100,000
2. Interest Rate: 3.125%, subject to adjustment at Closing.
3. Term/Repayment: 35 years, fully amortizing over 33 years: (a) interest only in years 1 - 2; then in equal monthly installments of principal and interest in years 3 - 35. Borrower may prepay all or any portion of any note at any time without penalty.
4. Closing: TBD
5. Security
 - 5.1. Promissory Note: One or more promissory notes using form RD 440-22.
 - 5.2. Mortgage: Not Required.
 - 5.3. Assignment of Incomes and Rents: Assigning rights to accounts receivable from all "available lands" (under general leases, licenses, permits, and rights-of-entry), subordinate to: (a) DHHL revenue bond obligations, series 2017; and (b) DHHL certificate of participation, series 2017 A. (see separate attachment); and net incomes from water systems (if any).

5.4. Fixture Filing: A financing statement in form and content sufficient to perfect a security interest in the fixtures constituting the water system purchased, installed, or paid for with the Loan, including any accessions, improvements, and replacements.

6. Other Agreements: Security Agreement
Loan Resolution and Security Agreement
Severance Agreement
Right of Way Certificate
*Third-Party Legal Opinion

Subject to further negotiation to ensure compliance with USDA statutes, rules, and regulations and with the statutes, rules, and regulations of the State of Hawaii.

7. Commission Approval: The transaction contemplated is conditioned on and subject to the approval of the Hawaiian Homes Commission. Any modification to the contemplated transaction must be approved by the parties in writing.

A critical document in the package of Loan Documents is the USDA Loan Resolution Security Agreement. See Exhibit B. It includes, among other things, the operational and administrative controls the department must implement or institute to administer the Loans and comply with the USDA-RD's program requirements. Fiscal has reviewed and confirms it is capable of complying with all of the institutional controls and is making appropriate preparations to implement any new or revised processes, procedures, and systems to ensure the department's compliance.

The other documents are mostly non-negotiable forms required by the USDA RD to comply with its program rules and requirements. The department has negotiated such documents with the assistance

of the Department of the Attorney General to ensure their compliance with Hawaii law.

The department still needs to obtain a third-party legal opinion to comply with the USDA-RD's program rules and requirements. Such opinion must be obtained when the Loan Documents are in a final executable form. The department is procuring outside counsel to obtain that opinion with the assistance and guidance of the Department of the Attorney General.

CONCLUSION

DHHL is in continuous communication with USDA RD to address these matters above and is working diligently and collaboratively to close the Loans. The primary benefits to accessing the USDA RD WEP funds are (1) to fund and construct these improvements in a timely manner; and (2) to leverage DHHL resources that would otherwise be used for new homestead lot development to address the applicant wait list.

RECOMMENDATION

Staff respectfully requests approval of the recommend motion as stated above.

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

September 21-22, 2020

To: Chairman and Members, Hawaiian Homes Commission

From: Andrew H. Choy, Acting Planning Program Manager *AC*

Subject: (For Information Only) Memorandum of Understanding Agreement Among DHHL, Hawaii Housing Finance and Development Corporation, and the Natural Energy Laboratory of Hawaii Authority Regarding Allocation of Water Credits from the Ota Well Development, North Kona, Hawaii Island TMK (3) 7-5-001: 165

Recommended Action

For information only. No action required.

Purpose

The purpose of this informational submittal is to inform the Hawaiian Homes Commission (HHC) about the DHHL Memorandum of Understanding re: DHHL Allocation of Water Credits from the Ota Well Development, North Kona, Hawaii Island, TMK (3) 7-5-001: 165.

Background

In December of 2018, DHHL commented on a Well Construction / Pump Installation Permit Application for Ota Well (Well No. 8-3557-006) (Exhibit A), which is in the Keauhou Aquifer System Area (KASA). DHHL formally requested the state Commission on Water Resource Management (CWRM) to place conditions on the permit to accommodate DHHL's reservation of water in the KASA which are protected public trust uses of water. The well is funded by and will be operated for the benefit of the Hawaii Housing Finance and Development Corporation (HHFDC) and the Natural Energy Laboratory of Hawaii Authority (NELHA) and will primarily provide significant water for commercial and industrial (nonpublic trust uses). DHHL advocated that the permit

should be conditioned on HHFDC and NELHA providing a small percentage of the proposed yield to DHHL in the form of County water credits following successful dedication of the well to the County.

Discussion

Since December 2018, the parties to the Well Installation Permit, NELHA and HHFDC, have been working with DHHL towards a MOU (Exhibit B). Once fully executed, the terms and conditions outlined in the MOU amongst the parties would address the concerns raised by DHHL in its December 2018 comment letter to CWRM.

In summary, the terms of the MOU include the following:

- HHFDC and NELHA agree to allocate 18,077 gallons per day from the Ota Well;
- DHHL will not be obligated to contribute to the financing of the Ota Well development;
- DHHL agrees to act in good faith to support any entitlements and approvals necessary to develop, test, and dedicate Ota Well to DWS;
- In the event that Ota Well development is unsuccessful and abandoned, HHFDC and NELHA will have no further obligation to DHHL.

The proposed amount of water allocated to DHHL under this agreement (18,077 gallons per day) would equate to roughly 30 County Water Credits.¹ DHHL projects that it will need approximately 1,700 water credits for full buildout of residential homesteads in the region. In addition to homesteading, water credits are also needed for Community and Commercial uses in the region. While 30 water credits is a relatively small amount in meeting all the future water needs of DHHL in the region, the execution of this MOU would be precedent setting in terms of how DHHL water reservations could be actualized and result in "wet water" no development cost to DHHL.

¹One water credit is equivalent to 600 gallons per day; one water credit is also equivalent to one single-family residential unit.

Recommendation

For information only. No action required.

DAVID Y. IGE
GOVERNOR
STATE OF HAWAII



JOBIE M. K. MASAGATANI
CHAIRMAN
HAWAIIAN HOMES COMMISSION

JOSH GREEN
LT. GOVERNOR
STATE OF HAWAII

WILLIAM J. AILA, JR.
DEPUTY TO THE CHAIRMAN

**STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS**

P O BOX 1879
HONOLULU, HAWAII 96805

December 20, 2018

Ms. Suzanne Case, Chairperson
Mr. Jeff Pearson, PE, Deputy Director
Commission on Water Resource Management
P.O. Box 621
Honolulu, HI 96809

Dear Ms. Case and Mr. Pearson,

**Subject: Well Construction / Pump Installation Permit Review / Well
Permit Application
Ota Well (Well No. 8-3557-006)**

This letter is a formal review and request that conditions be placed on the proposed above referenced permits, by and on behalf the Department of Hawaiian Homes Lands. It is submitted to you as a timely response to your October 24, 2018 letter on this matter. We note that while your letter requested a response by November 23, 2018, my staff by email requested the opportunity to respond after that date but before the formal "90 day deadline" for CWRM action, which is listed in your November Water Resource Bulletin as January 16, 2019.

Below we summarize the proposed action and the legal basis for our request for conditions and then we describe the conditions we wish to see placed on these permits. If it is the staff's recommendation to not have these conditions placed or if the applicant does not wish to have them placed, we request that approval of these permits be made by the full Commission at a regular meeting.

Proposed action and water use

According to information in the applicant's Permit Application and an associated Environmental Assessment, these permits are being sought for a well that is funded by, is being proposed by, and will be operated for the benefit of two parts of the state of Hawai'i (the Natural Energy Laboratory of Hawai'i [NELHA] and the Hawai'i Housing Finance and Development Corporation [HHFDC]). It is intended that the well will be dedicated and operated by another subdivision of the state of Hawai'i, the Hawai'i County Department of Water Supply.

EXHIBIT "A"

The proposed uses of water from the first of two possible wells, expected to produce 0.672 million gallons per day (mgd), includes proposed commercial industrial uses at NELHA and a proposed commercial district and landscape buffers at the HHFDC Kamakana Villages development. In addition, a mixture of market rate and "affordable" housing is to be developed utilizing this water. The proposed well(s) would draw water from the Keauhou Aquifer System Area (KASA).

With the exception of the domestic (in house, and any gardening used for subsistence) needs of the housing component of this plan, none of the proposed uses are protected, public trust uses of water (see Kaua'i Springs, Inc. v. Planning Commission of County of Kauai, 133 Hawai'i 141, 173-75, 324 P.3d 951, 982-85 (2014) ("Kaua'i Springs"). All of the proposed commercial uses of water are, in Hawai'i law, of lower priority than public trust uses of water, which include DHHL reservations and uses.

Brief background and legal authority for the request

The State and its subdivisions (including the Commission on Water Resource Management (Commission)) has a duty to protect the rights of DHHL to water resources, as enumerated in the Hawaiian Homes Commission Act (HHCA) §§ 101(4), 220, 221; Hawai'i Constitution, Article XI, §§ 1 and 7 and Article XII, § 7; and Hawaii Revised Statutes (HRS) Chapter 174C, the State Water Code.

The Water Code makes it abundantly clear that Reservations for DHHL should be made during all allocation decisions whenever legally permissible. Specifically HRS 174C-101(a) notes in part that "Decisions of the commission on water resource management relating to the planning for, regulation, management, and conservation of water resources in the State shall, to the extent applicable and consistent with other legal requirements and authority, incorporate and protect adequate reserves of water for current and foreseeable development and use of Hawaiian home lands as set forth in section 221 of the Hawaiian Homes Commission Act." The issuance of any of the permits at issue here are clearly decisions related to the "planning for, regulation, management, and conservation of water resources" and hence must "protect" DHHL water reservations.

As you are aware, CWRM formally adopted reservations for DHHL in the KASA for 3.398 mgd on August 17, 2015. While not promulgated into rule, these reservations have equal standing to all other reservations of water for DHHL made by the CWRM. As such, it is the duty of CWRM to protect these reservations when issuing a permit such as this, particularly when they are for proposed commercial uses of water.

Conditions sought

Considering the above discussion, DHHL seeks to have its reservations of water in the KASA, which are protected public trust uses of water, provided and accommodated in these permits. If the reservations granted by CWRM for DHHL in the KASA are to have any meaning or practical application, they cannot be merely numerically tallied until such time that water demand and development has a) utilized nearly all of the hydrologically possible and economically feasible sites for well development, and b) water use and authorized planned use approaches or exceeds 90% of the Sustainable Yield in the aquifer. Carried to its logical end, such approach would merely allow DHHL a theoretical right to withdraw water miles from its lands and at enormous cost, which would mean that there is likely no actual "wet" water to be provided to fulfill DHHL's mission.

Rather, DHHL thinks that an appropriate application of Public Trust principles to this situation would be to condition issuance of the permit to provide a proportional amount of water to DHHL in relation to the permits overall proposed consumption of the available resource. As the proposed 0.672 mgd use represents 2.69% of the current unallocated portion of the 38 mgd sustainable yield of the aquifer which is approximately 25 mgd, the permits should be conditioned on the applicant providing an equivalent percentage of the proposed yield to DHHL in the form of County water credits, following successful dedication of the well to the County. This would allocate approximately 18,077 gallons per day of the yield of this well to DHHL.

As stated above, if it is the CWRM staff's recommendation to not have these conditions placed or if the applicant does not wish to have them placed, we request that approval of these permits be made by the full Commission at a regular meeting.

If there are any questions, please contact Kaleo Manuel, Acting Planning Program Manager at (808) 620-9481 or by email at Kaleo.L.Manuel@hawaii.gov.

Aloha,



Jobie M. K. Masagatani, Chairman
Hawaiian Homes Commission

EXHIBIT "A"

MEMORANDUM OF UNDERSTANDING
DHHL ALLOCATION FROM OTA WELL

THIS MEMORANDUM OF UNDERSTANDING, effective as of _____, made by and between the HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION, a public body and a body corporate and politic of the State of Hawaii ("HHFDC"), doing business at 677 Queen Street, Suite 300, Honolulu, Hawaii, 96813, the NATURAL ENERGY LABORATORY OF HAWAII ("NELHA"), doing business at 73-987 Makako Bay Drive, Kailua Kona, Hawaii 96740, and the DEPARTMENT OF HAWAIIAN HOME LANDS, State of Hawaii ("DHHL"), doing business at 91-5420 Kapolei Parkway, Kapolei, Hawaii 96707.

WITNESSETH:

WHEREAS, the Natural Energy Laboratory of Hawaii Authority ("NELHA") operates the Hawaii Ocean Science and Technology ("HOST") Park in Kailua-Kona, Hawaii. HOST Park is a major economic engine for West Hawaii, helping to create 600 jobs and \$120 million in economic activity annually;

WHEREAS, NELHA has permits from the County of Hawaii's Department of Water Supply ("DWS") for approximately 440,000 gallons per day but is using approximately 600,000 gallons per day of water from the DWS system and NELHA needs to develop a well source for the excess water it is using as well as to complete buildout of its HOST Park;

WHEREAS, Act 122, Item No. 25.01, SLH 2014 appropriated \$2.5 million in capital improvement project funds to NEHA for planning, design and construction to complete the exploratory phase for a potable water well;

WHEREAS, the HHFDC the Board of Directors at its meeting of March 10, 2016 approved NELHA as an eligible developer pursuant to Section 15-307-24, Hawaii Administrative Rules, and approved a Memorandum of Understanding ("MOU") with NELHA for the joint development of Ota Well as a potable water source for Kamakana Villages;

WHEREAS, Kamakana Villages is HHFDC's 2,330-unit master planned community on 272 acres in North Kona, Hawaii, where more than 50% of the residential units are affordable to households at 140 percent or below the U.S. Department of Housing and Urban Development's area median income;

WHEREAS, in 2008, through a request for proposals process, the HHFDC selected Forest City Hawaii Kona, LLC ("Forest City") as the master developer for the Kamakana Villages and a development agreement was executed on March 31, 2009;

WHEREAS, in 2008, an Environmental Impact Statement for Kamakana Villages was completed;

WHEREAS, Forest City or its successor is required to develop wells to supply potable water to Kamakana Villages;

WHEREAS, in 2011, Forest City subdivided, acquired and placed in escrow 2.265 acres at Tax Map Key No. (3) 7-5-001: 015 (por), now known as Tax Map Key No. (3) 7-5-001: 165, above Mamalahoa Highway for a second well site for Ota Well;

WHEREAS, on June 29, 2016, HHFDC, NELHA, FHT Kamakana, LLC ("FHT"), and Forest City, executed an MOU for the joint construction and dedication to DWS for the Ota Well Project;

WHEREAS, the allocation of water capacity from the Ota Well is based upon the pro rata share of total development cost contributed by HHFDC and NELHA, assuming a one-third allocation to DWS;

WHEREAS, on June 29, 2016, NELHA procured and executed a design-build contract with Water Resources International, Inc. ("WRI") for the planning, approvals, development and testing of an exploratory well at Ota Well;

WHEREAS, in 2018, a Final Environmental Assessment and a Finding of No Significant Impact was published for the Ota Well project;

WHEREAS, on October 18, 2018, WRI submitted an application with the Commission on Water Resource Management ("CWRM") for a Well Construction/Pump Installation Permit for an exploratory well at Ota Well;

WHEREAS, Hawaii State Constitution Article XII Section 2 was ratified on November 7, 1978 and states in part that "The State and its people do further agree and declare that the spirit of the Hawaiian Homes Commission Act looking to the continuance of the Hawaiian homes projects for the further rehabilitation of the Hawaiian race shall be faithfully carried out;

WHEREAS, at its August 17, 2015 meeting, the CWRM adopted reservations of 3.398 million gallons per day of water from the Keauhou Aquifer System Area ("KASA") for DHHL by its authority under HRS 174C-101, for various purposes in the planned development of its 1,510 acres of land in the KASA, including the development of homesteads under Section 221 of the Hawaiian Homes Commission Act;

WHEREAS, in a letter to CWRM, dated December 20, 2018, on Ota Well's permit application, DHHL requested its reservation of water from the KASA be fulfilled in part from Ota Well, and requested that CWRM condition issuance of Ota Well's permit application to provide approximately 18,077 gallons per day from the Project to DHHL as credits following successful dedication of the well to DWS ("DHHL Allocation"), or that the application be referred to the full Commission for decision-making;

WHEREAS, HHFDC, NELHA and DHHL would like to provide for the DHHL Allocation from Ota Well;

NOW, THEREFORE, the parties hereby agree as follows:

- A. HHFDC and NELHA will allocate approximately 18,077 gallons per day from Ota Well to DHHL at no charge.
- B. The water allocated to DHHL will be taken from both HHFDC and NELHA's share of Ota's Well production as water credits for 30.13 equivalent units ("EU") in proportion to the cost contributed to the development of the Ota Well by both HHFDC and NELHA, based upon 600 gallons per day of maximum-day demand per EU, following successful dedication of the well to DWS.
- C. DHHL will not be obligated to contribute to the financing of Ota Well.
- D. HHFDC and NELHA do not warrant or guarantee that Ota Well will be successful, nor that funding for completion of the Project is guaranteed, and reserves the right to abandon the Ota Well project at any time, at either parties sole discretion, for any reason including but not limited to the following:
 - 1. The Construction/Pump Installation Permits for Ota Well are not approved by CWRM;
 - 2. The exploratory well reveals that there is insufficient yield to warrant proceeding with development of a production well;
 - 3. The cost of the exploratory and/or production wells and dedication to DWS are deemed to be infeasible or unjustifiable for the yield at Ota Well; or
 - 4. DWS does not accept dedication of Ota Well.

In the event the Ota Well is abandoned as set forth herein, HHFDC and NELHA will have no further obligation to DHHL hereunder.

- E. DHHL shall act in good faith to support any entitlements and approvals necessary to develop, test, and dedicate Ota Well to DWS.
- F. This MOU shall be effective as of the date listed above.
- G. The terms of this MOU may not be waived, modified, or in any way changed by implication, through conduct, correspondence, or otherwise, unless such waiver, modification, or change shall be specifically agreed to in writing by HHFDC, NELHA, and DHHL. Any waiver in whole or in part to any of the terms and conditions hereunder, shall be specific and not general. Each waiver shall only apply to specific conditions and circumstances.
- H. This MOU shall be binding upon and inure to the benefit of HHFDC, NELHA, and DHHL, and their respective successors and assigns.

- I. The use of any pronoun in reference to HHFDC, NELHA, and DHHL shall be construed to mean the singular or plural, the masculine, feminine or neuter, as the instrument and context may require.
- J. The parties agree that neither HHFDC, NELHA, nor DHHL shall be deemed to be the drafter of this MOU and in the event this MOU is ever construed by a court of law, such court shall not construe this MOU or any provision hereof against any party as the drafter of this MOU.
- K. This MOU may be executed in any number of counterparts. Each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one MOU.
- L. If any provision of this MOU as applied to any party or to any circumstances shall be adjudged by a court of competent jurisdiction to be void or unenforceable for any reason, the same shall in no way effect any other provision under circumstances different from those adjudicated by the court, or the validity or enforceability of this MOU as a whole.
- M. This MOU shall be interpreted in accordance with the laws of the State of Hawaii as such laws are construed and amended from time to time.
- N. This MOU shall constitute the entire agreement between all parties regarding the services provided under this MOU. There are no other memorandums, agreements, conditions, promises, warranties, or representations between the parties with respect to the services provided under this MOU.
- O. This MOU shall not create any third-party benefits or rights in any person or entity not a party to this MOU.
- P. Any written notice required to be given by any party to this MOU shall be (a) delivered personally, or (b) sent by United States first class mail, postage prepaid. A notice shall be deemed to have been received three (3) days after mailing or at the time of actual receipt, whichever is earlier. The parties are responsible for notifying each other in writing of any change of address.

Notice to the HHFDC shall be addressed to:

Executive Director
Hawaii Housing Finance and Development Corporation
677 Queen Street, Suite 300
Honolulu, Hawaii 96813

Notice to the NELHA shall be addressed to:

Executive Director
Natural Energy Laboratory of Hawaii Authority
73-987 Makako Bay Drive
Kailua Kona, Hawaii 96740

Notice to the DHHL shall be addressed to:

Chairman
Department of Hawaiian Home Lands
91-5420 Kapolei Parkway
Kapolei, Hawaii 96707

EXHIBIT "B"

IN WITNESS WHEREOF, the undersigned have executed these presents as of the day and year first written above.

Approved as to Form:

Hawaii Housing Finance and Development Corporation

Deputy Attorney General
Representing HHFDC

By _____
Janice Takahashi
Its Interim Executive Assistant

Approved as to Form:

Natural Energy Laboratory of Hawaii Authority

Deputy Attorney General
Representing NELHA

By _____
Gregory P. Barbour
Executive Director

Approved as to Form:

Department of Hawaiian Home Lands

Deputy Attorney General
Representing DHHL

By _____
William J. Aila, Jr.
Its Chairperson, Hawaiian Homes Commission

EXHIBIT "B"

CITY AND COUNTY OF HONOLULU

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Doc. Date: _____
of Pages: _____

MEMORANDUM OF UNDERSTANDING, DHLH ALLOCATION FROM OTA WELL

EXHIBIT "B"

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

On this _____ day of _____, 20____, before me appeared GREGORY P. BARBOUR, to me personally known, who, being by me duly sworn, did say that he is the EXECUTIVE DIRECTOR of the NATURAL ENERGY LABORATORY OF HAWAII AUTHORITY, and the person described in and who executed this _____-page MEMORANDUM OF UNDERSTANDING, DHHL ALLOCATION FROM OTA WELL dated _____, and acknowledged to me that he executed the same freely and voluntarily for the use and purposes therein set forth.

Doc. Date: _____
of Pages: _____
Doc. Description: _____
MEMORANDUM OF UNDERSTANDING,
DHHL ALLOCATION FROM OTA WELL

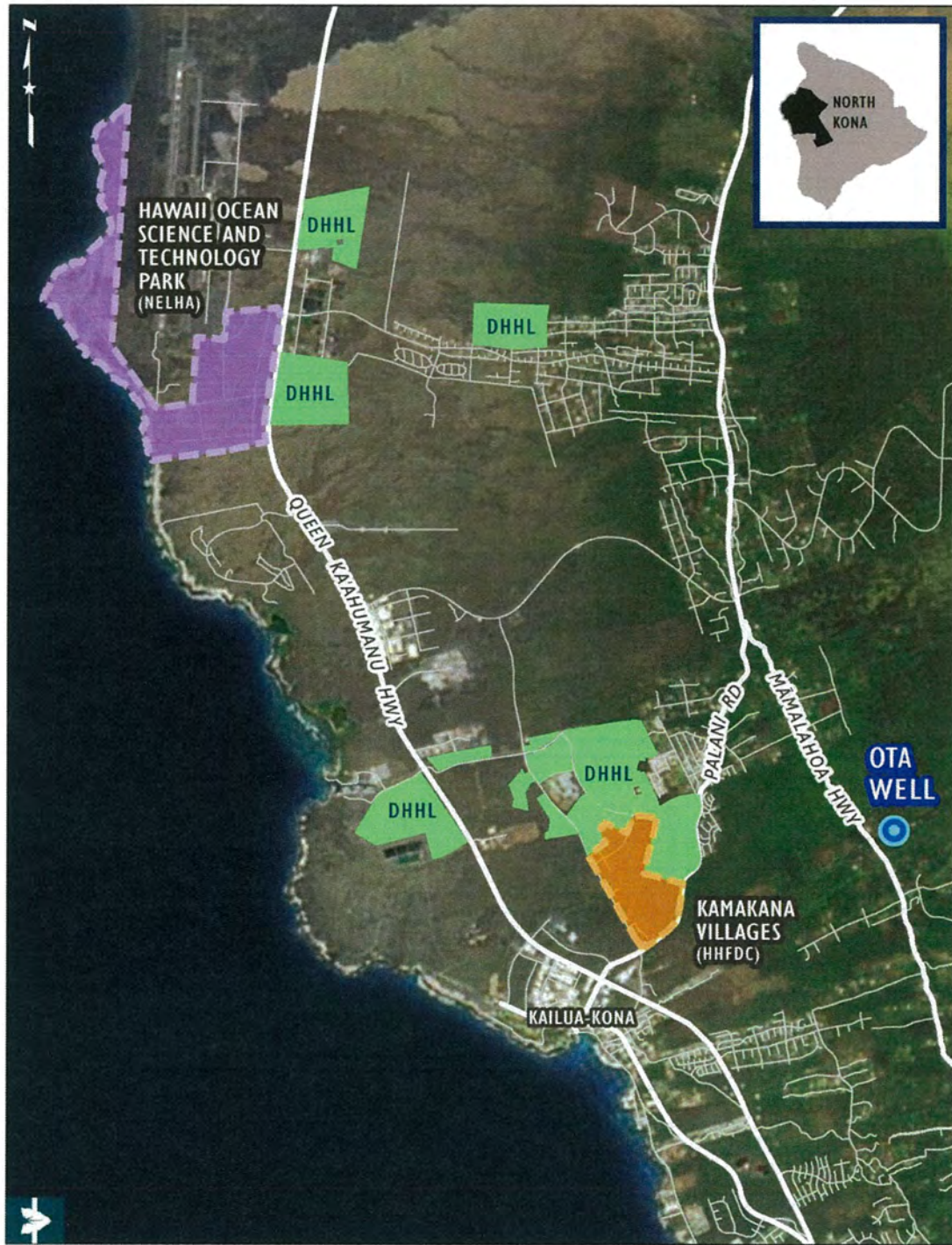
Print or Type Name: _____
 Notary Public, State of Hawaii
 First Judicial Circuit
 My commission expires _____

STATE OF HAWAII)

— BIT "B"

On this _____ day of _____, 20____, before me appeared WILLIAM J. AILA, JR., to me personally known, who, being by me duly sworn, did say that he is the CHAIRPERSON of the HAWAIIAN HOMES COMMISSION, DEPARTMENT OF HAWAIIAN HOME LANDS, STATE OF HAWAII, and the person described in and who executed this _____-page MEMORANDUM OF UNDERSTANDING, DHHL ALLOCATION FROM OTA WELL dated _____, and acknowledged to me that he executed the same freely and voluntarily for the use and purposes therein set forth.

My commission expires



OTA WELL PROJECT LOCATION

DAVID Y. IGE
GOVERNOR
STATE OF HAWAII

JOSH GREEN
J.T. GOVERNOR
STATE OF HAWAII



WILLIAM J. AILA, JR.
CHAIRMAN
HAWAIIAN HOMES COMMISSION

TYLER I. GOMES
DEPUTY TO THE CHAIRMAN

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

P. O. BOX 1879
HONOLULU, HAWAII 96805

August 14, 2020

Ref.No.:PO-20-198

The Honorable Ms. Suzanne Case, Chairperson
Mr. Kaleo Manuel, Deputy Director
Commission on Water Resource Management
P.O. Box 621
Honolulu, HI 96809

Dear Ms. Case and Mr. Manuel,

**Subject: Well Construction / Pump Installation Permit Review / Well
Permit Application
Ota Well (Well No. 8-3557-006)**

This is a follow-up letter to the previous Department of Hawaiian Home Lands (DHHL) comment letter to CWRM dated December 20, 2018 (Enclosed) regarding the above subject matter. In that letter, DHHL raised the following concerns and subsequent request related to the Ota Well Construction / Pump Installation Permit:

Concerns

1. With the exception of the domestic needs of the housing component of this plan (in house, and any gardening used for subsistence), none of the proposed uses of water from the Ota Well under this permit are protected, public trust uses of water (see Kaua'i Springs, Inc. v. Planning Commission of County of Kaua'i, 133 Hawai'i 141, 173-75, 324 P.3d 951, 982-85 (2014) ("Kaua'i Springs"). All of the proposed commercial uses of water are, in Hawai'i law, of lower priority than public trust uses of water, which include DHHL Reservations and uses.
2. The Water Code makes it abundantly clear that Reservations for DHHL should be made during all allocation decisions whenever legally permissible. (HRS 174C-101(a))
3. The issuance of any permits related to the Ota Well are clearly decisions related to the "planning for, regulation, management, and conservation of water resources" and hence must "protect" DHHL water reservations.

EXHIBIT "C"

The Honorable Ms. Suzanne Case
Mr. Kaleo Manuel
August 14, 2020
Page 2

Request

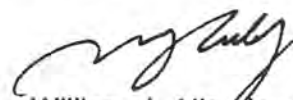
4. The permit application proposes 0.672 mgd use of water from the Ota Well which represents 2.69% of the current unallocated portion of the 38 mgd sustainable yield of the aquifer which is approximately 25 mgd, the permits should be conditioned on the applicant providing an equivalent percentage of the proposed yield to DHHL in the form of County water credits, following successful dedication of the well to the County. *This would allocate approximately 18,077 gallons per day of the yield of this well to DHHL.*

The parties to the Well Installation Permit Application, Natural Energy Lab of Hawai'i (NELHA) and the Hawai'i Housing and Finance and Development Corporation (HHFDC), have been working with DHHL towards a Memorandum of Understanding (MOU). Once fully executed, the terms and conditions outlined in the MOU amongst the parties would address the concerns and request raised by DHHL in its December 20, 2018 comment letter to CWRM.

The MOU recognizes the State's constitutional obligation to faithfully carry out the Hawaiian Homes Commission Act and DHHL's rights to water under the State Water Code. As such, both NELHA and HHFDC have agreed to allocate water credits for 30.13 equivalent units to DHHL, based upon 600 gallons per day of maximum-day demand per equivalent units following successful dedication of the well to DWS. DHHL appreciates the willingness of NELHA and HHFDC to acknowledge DHHL's rights to water and address DHHL's concerns related to the Ota Well Construction / Pump Installation Permit.

As such, DHHL is supportive of CWRM's approval of the Well Construction / Pump Installation Permit for the Ota Well, contingent upon the full execution of the three-party MOU that is described above. If there are any questions, please contact Andrew H. Choy, Acting Planning Program Manager at (808)620-9481 or by email at andrew.h.choy@hawaii.gov.

Aloha,



William J. Ailā, Jr., Chairman
Hawaiian Homes Commission

Enclosure (DHHL December 20, 2018 letter to CWRM)

EXHIBIT "C"

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

September 21-22, 2020

To: Chairman and Members, Hawaiian Homes Commission

From: Andrew H. Choy, Acting Planning Program Manager *HC*

Subject: Authorize the Chairman to Enter into Memorandum of Understanding Agreement Among DHHL, Hawaii Housing Finance and Development Corporation, and the Natural Energy Laboratory of Hawaii Authority Regarding Allocation of Water Credits from the Ota Well Development, North Kona, Hawaii Island TMK (3) 7-5-001: 165

Recommended Action

That the Hawaiian Homes Commission authorize its Chairman to enter into a memorandum of understanding agreement among DHHL, Hawaii Housing Finance and Development Corporation, and the Natural Energy Laboratory of Hawaii Authority Regarding Allocation of Water Credits from the Ota Well Development, North Kona, Hawaii Island TMK (3) 7-5-001:165

Purpose

The purpose of this informational submittal is to inform the Hawaiian Homes Commission (HHC) about the DHHL Memorandum of Understanding re: DHHL Allocation of Water Credits from the Ota Well Development, North Kona, Hawaii Island, TMK (3) 7-5-001: 165.

Background

In December of 2018, DHHL commented on a Well Construction / Pump Installation Permit Application for Ota Well (Well No. 8-3557-006) (Exhibit A), which is in the Keauhou Aquifer System Area (KASA). DHHL formally requested the state Commission on Water Resource Management (CWRM) to place conditions on the permit to accommodate DHHL's reservation of water in the KASA which are protected

public trust uses of water. The well is funded by and will be operated for the benefit of the Hawaii Housing Finance and Development Corporation (HHFDC) and the Natural Energy Laboratory of Hawaii Authority (NELHA) and will primarily provide significant water for commercial and industrial (nonpublic trust uses). DHHL advocated that the permit should be conditioned on HHFDC and NELHA providing a small percentage of the proposed yield to DHHL in the form of County water credits following successful dedication of the well to the County.

Discussion

Since December 2018, the parties to the Well Installation Permit, NELHA and HHFDC, have been working with DHHL towards a MOU (Exhibit B). Once fully executed, the terms and conditions outlined in the MOU amongst the parties would address the concerns raised by DHHL in its December 2018 comment letter to CWRM.

In summary, the terms of the MOU include the following:

- HHFDC and NELHA agree to allocate 18,077 gallons per day from the Ota Well;
- DHHL will not be obligated to contribute to the financing of the Ota Well development;
- DHHL agrees to act in good faith to support any entitlements and approvals necessary to develop, test, and dedicate Ota Well to DWS;
- In the event that Ota Well development is unsuccessful and abandoned, HHFDC and NELHA will have no further obligation to DHHL.

The proposed amount of water allocated to DHHL under this agreement (18,077 gallons per day) would equate to roughly 30 County Water Credits.¹ DHHL projects that it will need approximately 1,700 water credits for full buildout of residential homesteads in the region. In addition to homesteading, water credits are also needed for Community and Commercial uses in the region. While 30 water credits

¹One water credit is equivalent to 600 gallons per day; one water credit is also equivalent to one single-family residential unit.

is a relatively small amount in meeting all the future water needs of DHHL in the region, the execution of this MOU would be precedent setting in terms of how DHHL water reservations could be actualized and result in "wet water" no development cost to DHHL.

Recommendation

That the Hawaiian Homes Commission approve the recommended motion as stated.

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

September 20-21, 2020

To: Chairman and Members, Hawaiian Homes Commission

From: Andrew H. Choy, Acting Planning Program Manager *AC*

Subject: DHHL Beneficiary Consultation Policy

Recommended Action

For information only. No action required.

Purpose

The purpose of this informational submittal is to inform the Hawaiian Homes Commission (HHC) about the DHHL Beneficiary Consultation Policy that was adopted by the HHC in 2009.

Background

The HHC recognizes that meaningful, timely, and informative beneficiary consultation is necessary for the successful formulation and implementation of its policies, programs, and projects. In 2009, the Commission adopted a Beneficiary Consultation Policy [Exhibit A]. The purpose of the Beneficiary Consultation Policy is to ensure that appropriate beneficiary consultation processes and activities are incorporated into DHHL's planning and decision-making.

Summary of the Policy

The policy requires consultation for four types of proposals:

1. **Statewide Policy Issues** - These often involve revisions to the HHCA, other legislation at the Federal, State, or County levels, policy affecting native Hawaiian rights. Examples of completed consultations include: Administrative Rule

promulgation (2015-2018), and the DHHL Water Policy Plan (2013).

2. **Amendments to Land Use Designations** - Involving amendments to adopted Island Plan land uses involving a comprehensive, consistent, community-based planning process. Examples of completed consultations: Anahaki-Moomomi, Molokai Special District Designation (2010), Waimea, Hawaii Island, Community-Use Designation (2015), Malama Park, Molokai Special District Designation (2018).
3. **Development Proposals** - Involving revenue-producing, homestead and community developments on Hawaiian home lands. Consultations are held in the local area most affected. Examples of completed consultations include Renewable Energy Development Kahikinui, Maui, and Kalaeloa, Oahu (March 2019 upcoming); Kekaha Hawaiian Homestead Association Puu Opaie, Kauai, Farm and Irrigation Plan (2017);
4. **Development of DHHL Plans** - Beneficiary consultation will be sought in the development and revision of DHHL's plans. It is important to include beneficiary input in these plans since they direct and guide implementing actions that follow.

The DHHL Beneficiary Consultation Policy also allows for *informational meetings* in addition to consultation. Informational meetings occur when a decision has already been made and communication is required in order to ensure knowledge and compliance with the particular decision.

Beneficiary Consultation Process

The DHHL beneficiary consultation process that is outlined in the 2009 policy involved seven action-steps:

1. **Identification of the proposed issue.** The proposed action or issue for discussion is defined. The proposed action or issue must be consistent with the four proposals articulated above.
2. **Notification.** DHHL beneficiaries (lessees and applicants) impacted by the proposed action or issue will be notified via direct mail outs, posting on DHHL website, and/or through homestead associations to ensure maximum participation. *Notification will be given at least two (2) weeks before the consultation meeting occurs.*

3. **Presentation and Feedback.** The Planning Office conducts the beneficiary consultation meeting. Information is provided by the respective DHHL division that is responsible for the proposed action. Beneficiary questions and comments are collected at the meeting.
4. **Draft Beneficiary Consultation Report with Comments Received.** The Planning Office will develop a draft Consultation Report that identifies all proposals brought to the beneficiaries for consultation, and documents all comments received.
5. **Review Period.** The draft consultation report will be made available to all participants to review in order to ensure that their comments were presented properly. A review period of 30-days will be provided in order for participants to submit any corrections to their statements. The Planning Office will collect all comments/corrections.
6. **Final Beneficiary Consultation Report.** After the 30-day review period, the Planning Office will prepare a final Consultation Report that would document the major comments, respond to the comments and make recommendations to the Commission regarding the proposed policy or land use change. The Final Report would be posted on the DHHL website.
7. **Decision-Making.** The HHC makes decisions on each proposal. Proponents of the proposal would present their proposal and justification. The Planning Office would present the Consultation Report with recommendations based on the consultation. The HHC would be able to make its decision with consideration given to the proponent of the measure as well as beneficiary comments on the proposal. Decisions would be posted on the DHHL website.

Changes to the Beneficiary Consultation Policy

Since the adoption of the Beneficiary Consultation Policy in 2009 there has been modifications to both the types of proposals that require consultation and the consultation process. The following is a summary of the changes.

In consultation and coordination with DLNR, DHHL beneficiary consultation is now required for DLNR leasing of water [Exhibit B]. DHHL beneficiary consultation in the

water leasing process provides beneficiaries an opportunity to help identify potential DHHL water needs in the affected area. Based on the consultation with beneficiaries, DHHL develops its water rights reservation. There have been two beneficiary consultations that have been conducted related to DLNR water leasing: (1) Wailuku River, Hawaii Island (2017) and (2) East Maui Irrigation, Maui (on-going).

DHHL beneficiary consultation has also been conducted in assessing policy-decisions regarding water billing rates for DHHL owned systems. Four beneficiary consultation meetings were held in Puukapu, Kawaihae, Hoolehua, and Anahola regarding proposed water rate schedules. These meetings were held in 2018.

There have been two modifications to the consultation process since 2009. The first change involves the comment and review period. While the previous practice was to give beneficiaries a 30-day period to comment on a draft beneficiary consultation report, the current practice is now to give beneficiaries an additional 30-days from the date of the consultation meeting to submit additional comment on the subject-matter issue. If it is a state-wide consultation with multiple meetings on multiple islands, the comment period extends for 30-days from the date of the last consultation meeting held.

The second change to the beneficiary consultation policy is that the HHC now has to approve acceptance of the beneficiary consultation report as the official record of beneficiary input and comments on the subject matter issue. Acceptance of the beneficiary consultation report by the HHC is required prior to the HHC taking action on the particular subject matter.

DHHL Planning System Administrative Rules

In 2018, administrative rules related to the DHHL Planning System were adopted by the Governor. [Exhibit C] Beneficiary Consultation is articulated as its own subsection (HAR 10-4-60) within the DHHL Planning System Rules. The following is a summary of HAR 10-4-60.

HAR 10-4-60 identifies three types of consultations:

1. **Comprehensive.** Comprehensive Consultation is related to statewide policies and programs. Notice is provided to all existing lessees, waitlist applicants, and other native Hawaiians who have registered with DHHL.
2. **Place-based.** Place-based consultation is geographically specific. Notice for consultation is given to beneficiaries who are associated with the geographic area that may be impacted by the proposed action. The rule states that the Chairman shall determine the geographic scope of the notice. Place-based consultation is required for DHHL Island Plans, Regional Plans, Development Plans, Special Area Plans, and proposed projects that require an environmental assessment or environmental impact statement.
3. **Ad-Hoc.** Ad hoc consultation consists of the formation of an advisory body to provide input to DHHL for the preparation and amendment of any plan or implementing action. The Chairman may select the membership of the advisory body subject to consultation and ratification by the HHC. Ad hoc consultation is meant to supplement and not replace Comprehensive or Place-based consultation.

Implementation of the DHHL Beneficiary Consultation Policy 2009-2019

In the 10 years that the Beneficiary Consultation has been in place, DHHL has conducted over 50 consultation meetings.

A record of the most recent consultation meetings is kept on the DHHL website and can be found here:

<http://dhhl.hawaii.gov/po/beneficiary-consultation/>

Recommendation

For information only. No action required.

DEPARTMENT OF HAWAIIAN HOME LANDS
BENEFICIARY CONSULTATION
ON

Beneficiary Consultation

1	Proposed Action	Beneficiary Consultation Policy
2	Status	CONSULTATION COMPLETED
3	Decision-Making	Approved by the Hawaiian Homes Commission on January 27, 2009
4	Reports	HHC Item E-1 (January 27, 2009) Record of Comments (January 20, 2009)
5	Background Information	<i>SAMPLES OF PLANS:</i> DHHL General Plan (2002) DHHL Hawaii Island Plan (2002) Kealahou/Laiohua Regional Plan (2009)

Exhibit A

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

January 27, 2009

To: Chairman and Members, Hawaiian Homes Commission

From: Robert Hall, Executive Assistant *(Signature)*
Office of the Chairman

Darrell Yagodich, Planning Program Administrator
Planning Office *(Signature)*

Julie-Ann Cachola, Planner
Planning Office *(Signature)*

Subject: Beneficiary Consultation Policy

RECOMMENDED MOTION/ACTION

That the Commission approve the proposed Beneficiary Consultation Policy (Exhibit A) and direct the Chairman to issue guidelines for the Department's implementation and begin the rulemaking process.

DISCUSSION

1. Introduction

This submittal and attached Exhibits condenses a year of research, workshops, and community/beneficiary meetings that looked critically at how the Department consulted with beneficiaries in the past and opened discussion on how consultation could be conducted in the future to ensure that it is timely, efficient, and effective.

We are at the decision-making stage in the proposed consultation process. We had early discussions on the notion of developing a beneficiary consultation policy with homestead association leaders and in-house staff. We held open discussions in our homestead communities with both applicants and lessees at eleven (11) meetings that were held throughout the State from August 21, 2008 to September 24, 2008. From the rich input received in these meetings, we developed a draft beneficiary consultation policy. The policy was then

Exhibit A

reformatted in order to facilitate easy review and comment. The formatted document was mailed out to all lessees and applicants for their review and comment. The comment period was ended on January 19, 2009.

This submittal takes us through the final stage of the consultation process. Key comments and staff responses are identified and changes to the draft policy are recommended if necessary. Exhibit A is the revised Beneficiary Consultation Policy that incorporates the recommended changes.

2. Summary of Beneficiary Comments and Responses

This section reports summary findings from Exhibit B, which provides a complete "Record of Comments" received from the following sources:

- a. Meeting Notes which identify beneficiary comments raised at each of the 11 Beneficiary Consultation meetings that were conducted statewide between August 21, 2008 and September 24, 2008;
- b. Survey Results which identify beneficiary responses to a short survey that was administered at the conclusion of each of the 11 Beneficiary Consultation meetings; and
- c. Written correspondence from beneficiaries who chose to comment on the Proposed Beneficiary Consultation Policy document that they received in the mail.¹

The majority of comments validate the need for more information on current policies, programs, and procedures. The comments also indicate that there are a number of issues that require further discussion and resolution, including: successorship, subdivision of lots, sale of leases, lowering blood quantum requirements for successors, and loan information.

The table below identifies the key questions/comments raised by beneficiaries in their review of the draft policy. It also identifies staff responses and recommendations.

¹ The 8-page beneficiary consultation policy document was sent to the printer/printer on 11/26/08 and was supposed to be in the mail by 11/30/08. Based on this information, we set the deadline for comments at 12/31/08, affording beneficiaries the 30-day review and comment period. Unfortunately, the U.S. Postal Service implemented a Rule change which delayed the mail out, and it was the Christmas season. The document was mailed on 12/9/08, but beneficiaries did not receive it until 12/16/08 or later. We immediately posted a notice on our website extending the deadline for comments to January 15, 2009.

3. Key Questions, Comments, Responses and Recommendations

BENEFICIARY COMMENT	STAFF RESPONSE
<p>1. Why are you talking about this policy and at the same time there are projects going through that have not been subject to consultation?</p>	<p>It takes time to develop, consult, test, and implement a comprehensive consultation policy, as we are attempting to do. It has already taken a year to get this far and there are people who feel we are going too fast! It's important to understand that there will be a transitional period while the policy is being developed. During this transitional period, projects that have already received approvals would be allowed to proceed in order to meet our homestead development schedule. It is not feasible to stop work on existing projects nor would it be feasible to require these projects to start all over.</p> <p><i>Recommend: Establish a point in time, perhaps from the date of Commission approval, after which all projects would be subject to the consultation provision established in the policy.</i></p>
<p>2. You are proposing to go out for consultation only once a year. Is this sufficient?</p>	<p>We agree that opening the consultation agenda once a year may be too ambitious, but we fear that if we allow the process to be triggered as needed, or more than once a year, decisions can easily circumvent the more rigorous planning process and could eventually evolve into handling all development decisions on an ad hoc basis, i.e., it will encourage spot</p>

	<p>decision making. On a practical level, our limited staff resources are already strained to conduct the annual consultation process, which is in addition to their regular duties and functions. We simply don't have the staff resources to handle numerous consultation cycles. Finally, we recognize that there will be a lot of issues up-front that need to be addressed—since they have not been addressed in the past. After these "backlog" issues are addressed, we anticipate that an annual consultation agenda would be sufficient to handle statewide policy issues and amendments to Island Plan land use designations.</p> <p><i>No further action needed.</i></p>
<p>3. The federal government has a consultation policy and procedure they use to consult with American Indians and Alaska natives—why don't we use the same policy and procedure?</p>	<p>A review of existing native consultation practices, policies, and procedures of various federal agencies was our first step in developing our beneficiary consultation policy. We looked for something that was user friendly and interactive. We looked for a process that could find solutions—that promoted better understanding of each other. Federal consultation policies and procedures do not provide any of these features.</p> <p><i>No further action needed.</i></p>

	<p>the "short list" to our quarterly meetings with homestead leaders to get their input on consultation priorities. We also intend to have a means through our website to allow beneficiaries to "vote" on pressing issues for consultation.</p> <p><i>Recommend: The policy state that the agenda for annual consultation would be developed with the input of homestead leaders and beneficiaries.</i></p>
<p>6. Our primary concern is when the Department intends to issue long term leases to non-beneficiary parties for commercial purposes. Your Land Use Designation of "commercial" does not give us enough information on what kind of development will occur.</p>	<p>The "Commercial" land use designation covers a wide range of land uses and a wider range of building structures. In order to keep beneficiaries informed, engaged, and supportive of our revenue-generating activities, when General Lessees or potential General Lessees get that work preliminary or conceptual land use proposals are available, they should be shared with beneficiaries.</p> <p><i>Recommend: Involvement of beneficiaries early in the planning process.</i></p>

The recommended changes were incorporated in the policy document. For a detailed discussion of the consultation policy, turn to Exhibit A, which is the Beneficiary Consultation Policy document.

A. Next Steps

The Planning Office will start to develop procedures and processes to bring to the Chairman to address implementation issues within the Department and between the Department and Commission.

After a trial period of about 6 months, the Department will recommend rules for the Commission to promulgate.

DLNR's Water Leasing Process

Chapter 171-58, HRS

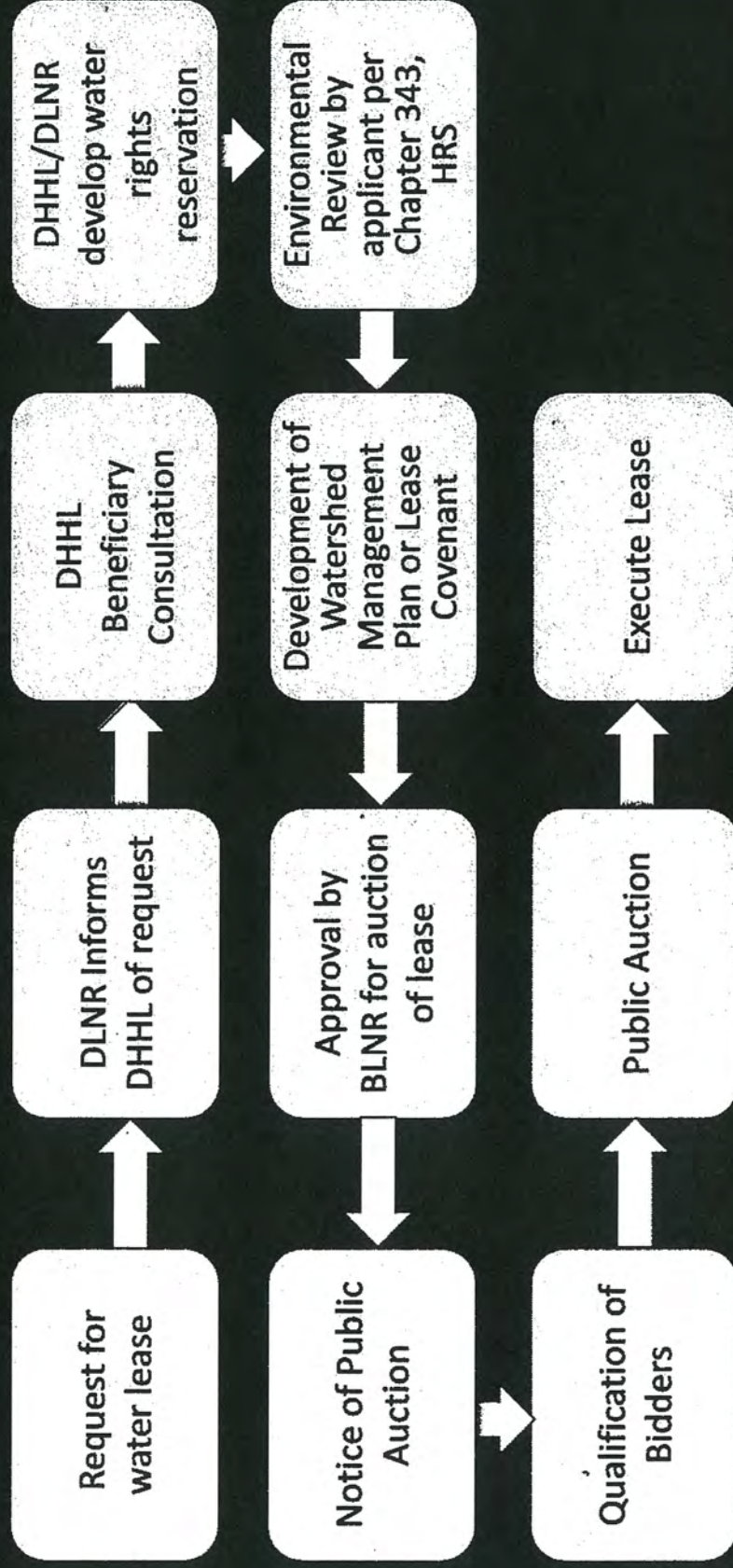


EXHIBIT "B"

collect and analyze pertinent data in the evaluation report. The chairman may include other measures of performance and effectiveness. The evaluation report shall include recommendations for improvements as applicable. The chairman shall bring to the attention of the commission development plans that are completed or outdated, and a majority vote of the commission shall void or update such plans. [Eff and comp HHC Act, all] (Auth: HHC Act §222) (Imp: **AUG 25 2010**)

\$10-4-60 Beneficiary consultation. (a)

Meaningful and timely consultation with beneficiaries promotes trust, partnership, and civic engagement. The type of consultation shall be appropriate to the potential impact of the decision or action.

(b) Types of consultation. The type of consultation is determined by the type of plan or implementing action:

- (1) Comprehensive. Comprehensive consultation is statewide. Notice shall be provided to all existing homesteaders, all waiting lists applicants, and other native Hawaiians who have registered with the department. The notice shall describe the proposed action and the date, time, and place of a public meeting to be held on each island. Comprehensive consultation shall apply to the preparation and amendment of Tier 1 plans, preparation and amendment of program plans, and promulgation of administrative rules.
- (2) Place-based. Place-based consultation is geographically specific. Notice shall be provided to existing homesteaders, waiting lists applicants, and other native Hawaiians who have registered with the department and who are associated with a geographic area impacted by the proposed action. The chairman shall determine the appropriate

scope of the notice. The notice shall describe the proposed action and the date, time, and place of a public meeting to be held within the geographic area. Place-based consultation shall apply to the preparation and amendment of island plans, preparation and amendment of tier 3 plans, and proposed projects that require an environmental assessment or environmental impact statement.

- (3) Ad hoc. Ad hoc consultation consists of the formation of an advisory body to provide input to the department for the preparation and amendment of any plan or implementing action. The chairman may select the advisory body, subject to consultation and ratification by the commission, for the preparation or amendment of any plans. Such ad hoc consultation for the preparation and amendment of plans shall supplement and not replace comprehensive or targeted consultation. The chairman may select an ad hoc body for an implementing action and provide a report to the commission.

(c) Consultation methods. The department shall use its best effort to employ diverse and creative notification and participation methods that reach the intended audience in the most effective yet efficient manner. [Eff and comp **AUG 25 2018**] (Auth: HHC Act §222) (Imp: HHC Act, all)

**HAWAIIAN HOMES COMMISSION
SEPTEMBER 21 & 22, 2020
TELECONFERENCE
9:30 A.M.**

**H – ITEMS
ADMINISTRATIVE SERVICES OFFICE**

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

September 21, 2020

TO: Chairman and Members, Hawaiian Homes Commission
FROM: Rodney K. M. Lau, Administrative Services Officer
SUBJECT: Transfer of Hawaiian Home Receipts Money at the End
Of the First Quarter, FY 2021



RECOMMENDED MOTION/ACTION

That the Commission approve the transfer of the entire receipts deposited in the Hawaiian Home Receipts Fund as of September 30, 2020 to the Hawaiian Home General Loan Fund.

DISCUSSION

Section 213 (g) of the Hawaiian Homes Commission Act, 1920, as amended, reads in part as follows:

"(3) Hawaiian home receipts fund. All interest moneys from loans or investments received by the department from any fund except as provided for in each respective fund, shall be deposited into this fund. At the end of each quarter, all moneys in this fund may be transferred to the Hawaiian home operating fund, the Hawaiian home administration account, the Hawaiian home trust fund, and any loan fund in accordance with rules adopted by the department."

Section 10-3-52(b) of Title 10, DHHL Administrative rules, provides that:

"If the Commission fails to approve a plan for transfer, all moneys in the Hawaiian home receipts fund shall be transferred at the end of that respective quarter as follows:

- (1) Nine per cent to the operating fund; and
- (2) Ninety-one per cent to the general loan fund."

As of September 30, 2020, the estimated balance in the Hawaiian Home Receipts Fund will be approximately \$500,000. Based on the

on-going loan requirements for fiscal year 2021, it is recommended that cash receipts in the Hawaiian Home Receipts Fund for the quarter ending September 30, 2020 be transferred to the Hawaiian Home General Loan Fund.

**HAWAIIAN HOMES COMMISSION
SEPTEMBER 21 & 22, 2020
TELECONFERENCE
9:30 A.M.**

**J – ITEMS
REQUESTS TO ADDRESS THE
COMMISSION**

Aloha Mr Chair and members of the Hawaiian Homes Commission. Mahalo for the opportunity to speak to you on matters of importance to your beneficiary community from Maui.

My name is Blossom Feiteira and I serve as the Maui Island President of the Association of Hawaiians for Homestead Lands.

Mr Chair, in October of 2019, the Department of Hawaiian Home Lands convened a meeting of lessees of the Kuleana Homesteading program. 75 lessees were awards were issued on 1999, and currently there are 22 structures on lots in Kahikinui. The purpose of the meeting was to notify lessees that they were in violation of their lease agreements. Those in attendance were informed that they would be given an opportunity to cure the non-compliance position and was presented with a timeline to do so. They were also informed that should the non compliance continue they would be subject to a contested case hearing process which may lead to a cancellation of their lease.

Next month will mark one year since that meeting. There have been several lessees who are now working on their lots in different stages of construction with a couple who have actually completed their structures and are occupying.

However a vast majority of those lessees have continued to ignore their responsibilities as lessees. All of the benchmarks have since passed, the last being May of 2020.

Several attempts to seek clarification from the district office has gone unanswered and so I bring the issue to this table for resolution.

As of December 31, 2018, there are 618 applicants on the pastoral waitlist for Maui Island. There are currently 30 vacant lots are available for awards now, along with an additional 15 that could be made available now. While there are some lots that have archaeological sites within their boundaries, a vast majority of these lots can be made available for awards.

Mr Chair. A commitment was made by the department to address the non compliance issue in Kahikinui. Its been 20 years since these lots were awarded. I believe that is long enough to show that their commitment to the terms of their lease and to Kahikinui is non-existent. I ask that the department move towards contested case hearings immediately to resolve this and other issues that remain in Kahikinui.

Mahalo for your time Commissioners and your consideration of this matter.

Blossom Feiteira

President, Association of Hawaiians for Homestead Lands blossom96708@yahoo.com



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Pahoa, HI 96778
Phone: (808) 896-5537
E-mail: makuufarmersassociation@gmail.com

"THE SECRET OF SUCCESS IS THE CONSTANCY OF PURPOSE"

Mission: To promote and perpetuate Native Hawaiian values and traditions, to provide educational and employment opportunities while also developing small businesses. To become self-sufficient as established by the Hawaiian Homes Commission Act of 1920

September 13, 2020

Aloha Mr. Chair and Commissioners,

I, Paula Kekahuna, President of the Makuu Farmer's Association located in lower Puna district, Hawaii.

Whatever happened to the relationship between the community association and the DHHL. Protocol, communication, and leadership beyond all trust are things that we expect. What is the purpose of misleading and sponsoring such programs for association boards, agricultural communities, Hawaii Island planning, Department of Interior workshops and meetings, water etc. Are we not part of DHHL decision making?

And yet stated in DHHL notes, "Homestead associations are not in any way affiliated with the DHHL." So this is my question, how do we as a community association for our Native Hawaiian lessees and beneficiaries accomplish the needs of our people.

So why is it as of today, why do we have no communication from the Department between our homestead community? Same issues are reported to the DHHL administration, East Hawaii, and Kapolei. Why are we always on the J Agenda if it's only a talk story message, and no action needs to be addressed?

Yes! Our homestead struggled to maintain our homestead without legal support from DHHL. So we will continue to do what we need to. The safety for our homestead is a No. 1 priority. DHHL's job is to put the people on the land to rehabilitate Hawaiian families. That is your No. 1 Priority!

Also, why wait to be shown on Facebook to react to problems and accuse the person for helping us. Yes! Ikaika Marzo who was asked to help our homestead. Because you, DHHL let it prolong for years. Yet my poor nephew gets a trespassing notice from you, Mr. Aila. No mahalo for the great job the association and the public did for cleaning the drug activities and pilau mess in Makuu that DHHL never attempted to clean. Not even one administrator came to help. The DHHL East Hawaii office was notified and was publicly announced of the set date.

So what are we going to do? Work together or keep going on Facebook media? Who knows their community association? The lessees who live on their lots.

Mahalo for all those that are serious. This power trip and monopoly game must stop! We, the Native Hawaiians, are what this whole act of 1920 is about.

Please no excuses! Or Buts! Let's move forward hand in hand. I pray for all homestead associations knowing we are all island wide and share the same problems year after year.

Oh, I'm tired of hearing about the waitlist put the people on the land. When ag lots haven't been awarded since 1986 and Makuu has unawarded lots over 34 years.

Also awards haven't been used or unoccupied over 35 years. How sad!

Mahalo,

A handwritten signature in black ink that reads "Paula Kekahuna". The script is fluid and cursive, with the first name "Paula" and last name "Kekahuna" clearly distinguishable.

Paula K. Kekahuna

President, Makuu Farmers Association



Maku'u Farmers Association
15-2131 Keaau Pahoa Highway
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September 13, 2020

To Chair and DHHL Commissioners:

The residents of Makuu Hawaiian Homestead are concerned about the lack of wifi accessibility from Hawaiian Tel Com during this COVID period. The residents in this area are in need of accessibility to wifi to work and especially for their children because schools are 100% online and will most likely continue throughout this year as this crisis continues. The stay at home work order will continue throughout this crisis. We all need internet service! This needs to be a top priority for the administration of the Department. The Department needs to move this process along with Hawaiian Tel Com so Hawaiian Homestead families can receive internet services. Every time Makuu residents call Hawaiian Tel Com we are given the same message about lack of service. Unacceptable!

We, the residents and the Makuu Farmer's Association, understand that fiber optic wires were installed since November 2019 and Hawaiian Tel Com received grant monies under the Lava Recovery Act to install lines for rural communities, yet we have no service. This is unacceptable considering the predicament we are currently in. We are requesting the following. Our association is interested in information regarding the grant and contract. When will internet service be provided to all residents? Why is Hawaiian Tel Com requesting a contract with DHHL? The request for a contract is delaying our service. Why does Hawaiian Tel Com even need a contract? What is the legal justification for contracted services for the internet with the Department? Does DHHL have legal authority for contracted services with Hawaiian Tel Com? Why isn't the administration of DHHL making this a priority for our residents?

Mahalo,

Pualeilani Fernandez

Pualeilani Fernandez

Resident at the Makuu Hawaiian Homestead Community



FOR HAWAII COUNTY

Item J-3



This program will provide **rent or mortgage payments not to exceed \$1,000 per month (March-December 2020)** for eligible households at or below 100% of the area median income who were affected by Covid-19.

GET YOUR DOCS READY - APPLICATIONS OPEN 8/24/20

ELIGIBILITY

- 18 years of age or older;
- Hawai'i County resident with government-issued ID. If you do not live on Hawai'i Island, your application will not be considered;
- Must show decrease in income or loss of work hours directly resulting from COVID-19;
- Total household income must be at or below 100% Area Median Income at time of application;
- Must not have received same benefits for the same period from another organization;
- No asset limit;
- Households already receiving federal housing subsidies (Section 8 or Public Housing participants) do not qualify.
- Funds are limited therefore the application will be available until resources have been exhausted.

REQUIRED DOCUMENTS*

1. **Proof of Residency** (submit 1 of the following)
 - Copy of valid Photo ID for applicant
 - Federal or State Tax returns
 - Copy of property tax statement
2. **Income Verification** (submit ALL that apply)
 - 30 days most recent paystubs for all working household members
 - 2 months most recent business bank statements for all self-employed household members
 - Unemployment or public assistance benefit letters for all household members
3. **Copy of rental lease or mortgage statement** to verify housing
4. **Proof of Hardship** (submit 1 of the following)
 - Unemployment or Pandemic Unemployment Assistance approval letter
 - Layoff letter from employer
 - 30 days paystubs for the month of February 2020 for household member/s impacted by COVID-19
 - 2 months business bank statements for January and February 2020 for household member/s who are self-employed and impacted by COVID-19
5. **Past due rent or mortgage notice** to show Need for Housing Assistance

***Please be sure ALL of your supporting documents are attached to your completed application for a quicker APPROVAL.**

For more information and application contact one of the following agencies:



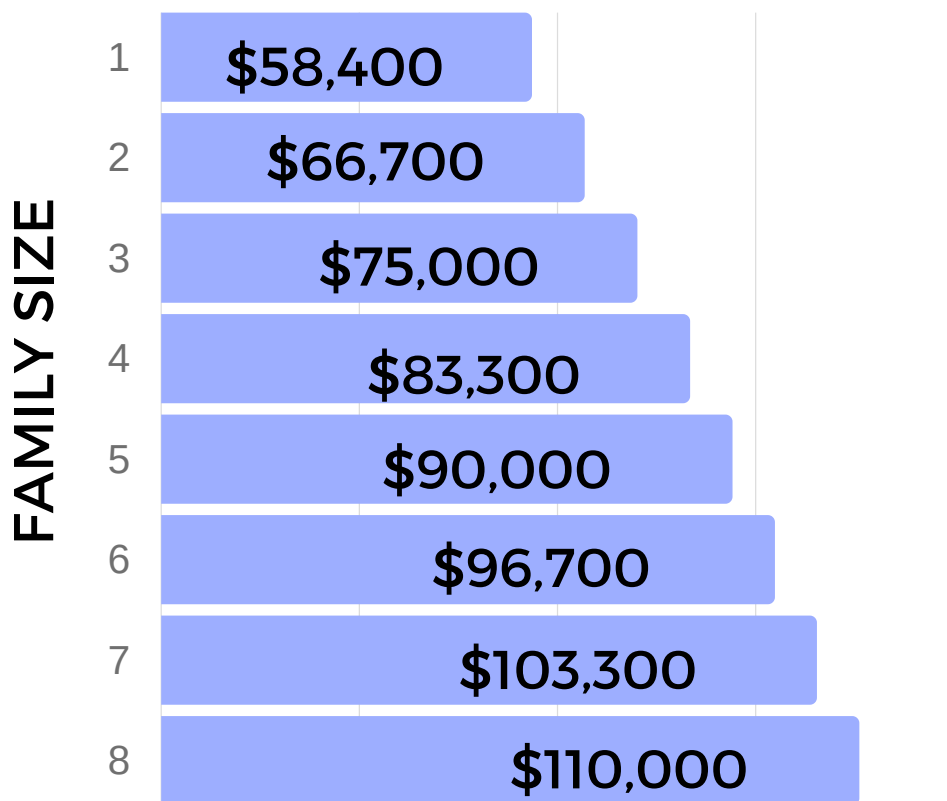
HOUSEHOLDS MAY ONLY APPLY TO ONE ORGANIZATION. ALL APPLICATIONS ARE REVIEWED FOR DUPLICATION.



FOR HAWAII COUNTY



AREA MEDIAN INCOME ELIGIBILITY CHART



*Add \$8,300 for each additional household member

MAX. HOUSEHOLD INCOME (ANNUAL)

To be eligible, at the time of application your annual income must at or below the Annual Household Income Maximum, which is 100% of the Area Median Income (AMI). In other words, to qualify, **your income must be at or below the level listed.**

GET YOUR DOCS READY - APPLICATIONS OPEN 8/24/20

For more information and application contact one of the following agencies

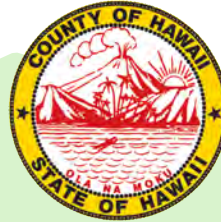


For contact information
and details



RENT & MORTGAGE ASSISTANCE PROGRAM

FOR HAWAII COUNTY



ABOUT THE PROGRAM

Through a \$8.5 million grant from the U.S. Federal CARES Act funds, the County of Hawaii's Office of Housing and Community Development in partnership with Hawaiian Community Assets (HCA)/Hawaii Community Lending (HCL), HOPE Services Hawaii (HOPE), Hawaii First Federal Credit Union (HFFCU), Neighborhood Place of Puna (NPP), Hawaii Island Home for Recovery (HIHR), Habitat for Humanity Hawaii Island (HFHHI), is launching a Rent and Mortgage Assistance Program to provide financial assistance to eligible households whose income has been impacted by Covid-19.

This program will provide **rent or mortgage payments not to exceed \$1,000 per month from March 2020 to December 2020** for eligible households at or below 100% of the area median income who were affected by Covid-19.

GET YOUR DOCS READY - APPLICATIONS OPEN 8/24/20

For more information and application contact one of the following agencies



NEIGHBORHOOD
PLACE OF PUNA



For contact information
and details



Please be sure ALL your supporting documents are attached to your application for a quicker APPROVAL.



FOR HAWAII COUNTY



ELIGIBILITY

- 18 years of age or older;
- Hawai'i County resident with government-issued ID. If you do not live on Hawai'i Island, your application will not be considered;
- Must show decrease in income or loss of work hours directly resulting from COVID-19;
- Total household income must be at or below 100% Area Median Income at time of application;
- No asset limit;
- Must not have received same benefits for the same period from another organization;
- Households already receiving federal housing subsidies (Section 8 or Public Housing participants) do not qualify.
- Funds are limited therefore the application will be available until resources have been exhausted;

GET YOUR DOCS READY - APPLICATIONS OPEN 8/24/20

For more information and application contact one of the following agencies



For contact information
and details



FOR HAWAII COUNTY



REQUIRED DOCUMENTS

1. **Proof of Residency** (submit 1 of the following)

- Copy of valid Photo ID for applicant
- Federal or State Tax returns
- Copy of property tax statement

2. **Income Verification** (submit ALL that apply)

- 30 days most recent paystubs for all working household members
- 2 months most recent business bank statements for all self-employed household members
- Unemployment or public assistance benefit letters for all household members

3. **Copy of rental lease or mortgage statement** to verify housing

4. **Proof of Hardship** (submit 1 of the following)

- Unemployment or Pandemic Unemployment Assistance approval letter
- Layoff letter from employer
- 30 days paystubs for the month of February 2020 for household member/s impacted by COVID-19
- 2 months business bank statements for January and February 2020 for household member/s who are self-employed and impacted by COVID-19

5. **Past due rent or mortgage notice** to show Need for Housing Assistance

GET YOUR DOCS READY - APPLICATIONS OPEN 8/24/20

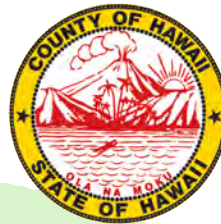
For more information and application contact one of the following agencies



For contact information
and details



FOR HAWAII COUNTY



ELIGIBILITY

- 18 years of age or older;
- Hawaii County resident with government-issued ID. If you do not live on Hawaii Island, your application will not be considered;
- Must show decrease in income or loss of work hours directly resulting from COVID-19;
- Total household income must be at or below 100% Area Median Income at time of application;
- No asset limit;
- Must not have received same benefits for the same period from another organization;
- Households already receiving federal housing subsidies (Section 8 or Public Housing participants) do not qualify.
- Funds are limited therefore the application will be available until resources have been exhausted;

GET YOUR DOCS READY - APPLICATIONS OPEN 8/24/20

For more information and application contact one of the following agencies



For contact information
and details



RENT & MORTGAGE ASSISTANCE PROGRAM

FOR HAWAII COUNTY



CAN THIS PROGRAM HELP ME?

HERE ARE SOME EXAMPLES OF WHO SHOULD APPLY

Ruby works at a hotel in Waikoloa, but her employer cut her hours in May. Since then she hasn't been able to pay her rent. Ruby can apply for assistance for May, June, July, and August. If she still needs help between September and December, she can contact her grantor and let them know (no need to apply again).

Koa owns a bar in Hilo, but to protect his 'ohana, he shut down in March, and has not had any income since. He's had trouble coming up with his mortgage payment, so he can apply for assistance from March to this month. Like Ruby, he can let his grantor know if he still needs help next month.

GET YOUR DOCS READY - APPLICATIONS OPEN 8/24/20

For more information and application contact one of the following agencies



For contact information
and details

Testimony

Aloha Hawaiian Homes Commission,

We are reaching out to Hawaiian Homes committee because people are trespassing onto our property vandalizing our home.

In 2000 my husband was fortunate to acquire a Homestead lease in Nanakuli homestead. A 4 bedroom, 2 bath home for us and our 3 kids. When we came to look at the property we got a chance to meet and speak to Mrs. Sniffen. Because so many renovations had been done to the home, my husband asked her "why are they selling their home?" Mrs. Sniffen said they were fed up with the neighbors. On one side she said is a thief and on the other side a ni'ele neighbor that watches what they do, when they leave and eavesdrops on what they talk about. Mrs. Sniffen hated that the neighbor had gone around and talked badly about them to the other neighbors. Her family felt that nobody liked them so they didn't want to live here in Nanakuli, next to those neighbors.

We moved out from my in laws home and into a home without many comforts. Our home echoed because our home was bare. The lack of home comforts gave the neighbors something to snicker at. We kept to ourselves because there was a lot of animosity with neighbors. We were 29 years old living in a cul de sac with neighbors who were the original owners of the homes with kids were older than us, living at home and had no idea of the struggle it was to pay a mortgage, utilities, food and raise a family on one income. Neighbors were critically judgmental and vocal about what we didn't have, what we did, how we did things on our property.

We concentrated on taking care of our yard, planting plants and buying one utensil at a time. My husband, not knowing the health benefits of Dragon fruit, cut the tree down. The ni'ele neighbor came to my husband and said "noticed my husband cut the tree down". He told my husband how "they would sneak into the Sniffen's yard, take the fruit and run back home to eat it".

That's probably why the Sniffens built a rock wall with a fence around the property and put plywood along the fence line of that neighbor.

As years have passed we have had our window shot with a b.b gun, yard tools stolen, water hose tightened with a plier and water sprinkler clogged with dirt and debris. Now that all the kids have grown up and graduated we have a new generation of trouble makers. We now have people who don't work, that come onto our property late at night while we're asleep or when we all go to work and vandalize our home, property and vehicles. We have had our plants trampled from people walking through them, our fence leans in from people climbing over the plywood, security light crossed wired, window screens broken and our dogs poisoned/died.

We filed two police reports, one for someone breaking into my husband's tool chest late one night and another for our jealousy window being broken from someone trying to pry it out. Due to no hard evidence HPD said there was nothing they could do. We purchased a security camera system and my husband installed it on our home.

We began to see people standing in the shadows at our fence line 2- 3 o'clock in the morning, people hiding in our plants, people coming into our garage at night to watch our t.v in our garage and we noticed that our neighbor washed her laundry 12- 2 o'clock at night even though she doesn't work.

We started getting signs that our system was being hacked. Tamperers on our video logs, our cameras turned off, ptz cameras moved, camera time changed and video footage erased.

On December 2, 2018 we filed a police report for Unauthorized computer access, report #18-457394 (Exhibit A). We were contacted by HPD and asked if they could check our system. A Detective came to our home ran a program that would let him see our erased footage, he then took our system apart to take a look at the hard drive, after he put it back together, he left and that was the extent of his investigation. He didn't check our computers router or our computer's IP configurations to see if anyone had come onto our computer system. After a few weeks we initiated contact with the Detective to find out the status of our case and were told to check our firewall, contact tech support cause there is a glitch and if we didn't want to get hacked to disconnect from the internet (Exhibit B). We felt like we had called the plumber to fix a leaking pipe and the plumber tells us to turn the water off if you don't want your pipes to leak. We contacted tech support and they said it's not a glitch cause there is more then one thing going on (Exhibit C). We weren't able to submit any additional evidence (Exhibit D) although we were told that they needed IP addresses, which we had retrieved from our router and computers IP configurations and also gave us the MAC addresses of the devices that had come onto our computer system.

When we were told that our case had been deemed investigated, our home continued being vandalized and property trespassed on. We contacted technical support to learn more about how our camera system worked. Having a better understanding of our system we filed a 2nd police report (Exhibit E). The one thing that we did learn about our system is that reconfigurations can only be done

physically from our camera system which is located in our bedroom. Reconfigurations can't be done Remotely from the app.

On April 22, 2020 our home electrical power went out. No one else's power in the neighborhood was out just. We found that our outside plug was shorted out. HECO needed to run a temporary power line until they could permanently fix it (Exhibit F). When we checked our logs we found Remote log ins onto our camera system, DOS and TEAR DROP attacks on our router(Exhibit G). We filed a 3rd police report on July 19, 2020 (Exhibit H). On July 26 while preparing for hurricane Douglas we found a panel on our shed had been unscrewed and pried open. When we checked our camera system our camera was turned off and also tampered with. We filed a 4th police report (Exhibit I) for Unauthorized computer access. On August 30 2020 my husband found our water hose was cut when he went to water the yard. We filed a 5th police report (Exhibit J) Miscellaneous damages. After checking our camera system we found Remote log ins (Exhibit K) and Video loss (Exhibit L).

For the past 3 years my husband and I have been trying to get Honolulu police department to thoroughly investigate our case. It seems they have written our family's safety as unimportant. We all have to go to work and we worry about our home. The damages that we will find when we return home. We don't have the luxury of being unemployed with a mortgage to pay. We can see that these neighbors want to instigate trouble to provoke us to retaliate so they can go around, telling the neighborhood we're no good. In this pandemic time it's sad not being able to grow our vegetables in order to supplement our family in fear that our vegetables could be poisoned. You would think that going through the process of filing a police report and presenting evidence would get your case investigated but this is not the case for us. In this time when schooling, businesses and community meetings are done online, more people are turning to CCTV for evidence in crimes. Today we hear black lives matter, it all stems from the corruption of police officers. What about Hawaiian lives, we don't matter? Are we not paying the same taxes that pay for our police department? Chief Ballard says that her Detective has fully investigated our case. Representative Eli forwarded us to Counsel member Pine who considered our case harassment. Chris Duque with the prosecutors office said there is nothing he can do if HPD doesn't forward the case to their office.

We're asking Hawaiian homes commission to help our Ohana in having Honolulu police investigate our case and if they don't have the resources then forward our case to the proper agency. We have done all that we could have civilly done and can only ask for your assistance. Thank you for the care and support of us Hawaiians.

Mahalo nui loa,

A hui hou.

Mrs.Sharmaine Taua
89-1140 Naniahihi Pl
(808)330-0117

State of Hawaii

Department of Hawaiian Homes Lands

91-5420 Kapolei Parkway

Kapolei, Hawaii 96707

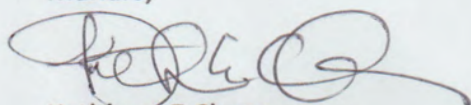
Aloha Chairperson William Aila and Commissioners,

I am a lessee, on the island of Hawaii Panaewa Agricultural Farm Lots, my name Kathleen E Chase, I am 50% Hawaiian thru Lease and the Designation of Successorship by my mother, Violet Kamalii Yogi, back in 1985.

My request to the commissioners is to please waive the interest and penalty fees on this tax advancement #80324 which was back in late 1995 or early 2000. My original tax payment previous years was \$75.00 but somehow the amount the County had taxed that year \$1778.50, that is huge. DHHL advance that amount to the Hawaii County Tax payment department. I have currently taken my stimulus money and reimbursed DHHL their original advancement \$1778.50.

With Covid-19 Pandemic that is upon us I had to make some tough decisions for our family run piggery, had to shut down due to social distancing/gathering, school closed, and restaurants closed. I got laid-off from my employment. Waiting on our Government to make decision on our future, for our State of Hawaii the uncertainty for what our future holds is scary. As of our current situation though we have no income except unemployment we are currently paying \$200.00 per month to the County of Hawaii for our taxes due now, eventually now that I qualify for a senior discount tax went down from \$2000.00 a year to \$400.00 a year for a commercial piggery with no live stock. At \$200.00 a month it will eventually pay the delinquent amount.

Mahalo,



Kathleen E Chase

Lessee

chaseroc@yahoo.com

cc: Commissioner Patricia (Patty) Kahanamoku-Teruya

cc: Commissioner Russell Kaupu

cc: Commissioner Randy Awo

cc: Commissioner Pauline Namu`o

cc: Commissioner Zachary Helm

cc: Commissioner Dennis Neves

cc: Commissioner Michael Kaleikini

cc: Commissioner David B. Ka'apu

Kahanuola
"The Breath of Life"

Item J-6

State of Hawaii
Department of Hawaiian Home Lands
91-5420 Kapolei Parkway
Kapolei, Hawaii 96707

Aloha Chairperson William Aila and Commisioners,

I am here with Robert Yamada representing a newly established organization named Kahanuola. Our membership comprises of 11 residents from the big island. Some are lessees, some on the wait list and other dedicated Hawaiians.

Our organization would like to have access to TMK: 3:5-6-001-080, the former Coast Guard Facility in Upolu Point, North Kohala. We also want to work with the Department of Hawaiian Home Lands to be the interim caretaker for said property. We have some short term goals to share and working on some long term goals for the property to serve our Hawaiian community.

Our short term goals are:

1. Put in a generator for temporary power.
2. Bring in a water catchment for water.
3. Provide solar lighting system for the camping area.
4. Provide a suitable/portable restroom for the area

Our current long term goals being formulated are:

1. With the assistance of the DHHL, we would acquire a long term lease
2. Determine the best use for the property that meets our mission statement

Kahanuola “The Breath of Life”

3. Construct a facility that incorporates educational teachings for the community
4. Incorporate our Hawaiian cultural practices to share with visitors
5. Utilize the land as stated in our mission statement with preference to the Native Hawaiian lessees and their beneficiaries of DHHL Ranch, Farm land and Residential properties.

MISSION STATEMENT

Our mission of Kahanuola is to Revive and / or Bring back to life Lae Kaulana o Upolu (famous point, cape of Upolu). Specifically we are here to improve the health and wellness of Upolu, and to also preserve and protect the lands, waters and culture of the area. Lae Kaulana o Upolu will be the base to preserve and perpetuate the Native Hawaiian culture while improving the quality of life and serving the needs of our Kupuna and Keiki of North Kohala, our Homesteaders from Kailapa in South Kohala and visitors who come see the beauty of the place.

VISION STATEMENT

Kahanuola has a vision for Kaulana o Upolu which consists of:

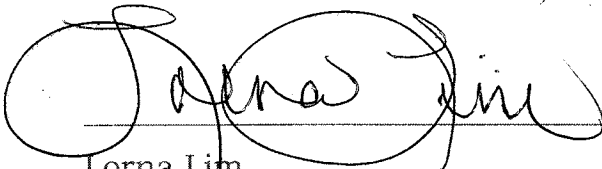
- Historic cultural preservation
- Protection of natural resources
- Preservation of dryland forests, coastal areas, natural beauty and agricultural lands
- Protecting watershed lands to preserve water quality and water supply

Kahanuola
"The Breath of Life"

- Recreation and Education
- Long term vision for the place to be self-sustainable with what would be Upolu Point Cultural and Community Resource Center

Today, we are requesting that the DHHL allow Kahanuola access to the aforementioned property and work with Kahanuola acquiring a long term lease to accomplish it's mission.

Respectively submitted,

A handwritten signature in black ink, appearing to read "Lorna Lim", written over a horizontal line.

Lorna Lim

President

Kahanuola

Email~kapualiko@gmail.com

Cc: Commissioner Patricia (Patty) Kahanamoku-Teruya

Cc: Commissioner Russell Kaupu

Cc: Commissioner Randy Awo

Cc: Commissioner Pauline Namu'o

Cc: Commissioner Zachary Helm

Cc: Commissioner Dennis Neves

Cc: Commissioner Michael Kaleikini

Cc: Commissioner David B. Ka'apu

September 03, 2020

**Department of Hawaiian Homelands
91-5420 Kapolei Parkway
Kapolei, Hawaii 96707**

**Louise U'ilani Mata
98-288 Kaonohi Street, APT#1603
Aiea, Hawaii 96701**

ATTENTION: Hawaiian Homelands Commission

TO WHOM IT MAY CONCERN:

My name is Louise Uilani Mata. On June of 2019, I had submitted my application at the "Kapolei Hawaiian Homelands Office." Upon submittal of the application, I was given contact information by the applications clerk. I was told I could contact her by email if I had any questions about the application. She also informed me that she would contact me if she had any questions or updates. I was never contacted regarding my application. I returned a few weeks later in person as a follow up. I waited for more than an hour for "Hi'ilei Sniffen, Applications Clerk" to provide what she had researched for my file and family heritage. She produced a legal-size paper of family decent names. I was told more research and info was needed. After more than a year of waiting, I contacted the department. I was then contacted by "Ms. Nicole F. Bell, Program Specialist V, Applications Branch" who took over the continuation of my file.

My case is unique because at the age of thirty-five I was told "Mr. Joseph K. Timas" was my biological father, not "George Joseph Eberly." Whom my mother was married to at the time of my birth and is listed as my birth father. Listed below, I have notarized testimonies attached from friends and family members:

1. Ms. Josephine E. Timas Case: My biological father's daughter.
2. Mrs. May K. Nahale'a: My mother's best friend.
3. Mr. Richard E. Timas: My biological father's brother.
4. Mrs. Harriet P. Timas: My biological father's wife.

My biological father, Joseph K. Timas and each person named above are all deceased. Therefore, the written testimonies are key to my specialized case. I would like to respectfully request that the commission review my case once more, take into account the written testimonials provided, and also acknowledgment of the link made by my biological father's brother, "Richard E. Timas." The "Department of Hawaiian Homelands" had approval from him to list me as family on his profile.

Lastly, Ms. Bell, Program Specialist V, advised me that I would need to have my birth certificate amended in "Family Court." Changing my birth certificate, would be the only way for my blood quantum to change. However, due to the "COVID-19 Pandemic," I would be unable to meet with anyone to submit revisions to my birth certificate. I am also sixty-seven years of age. Both my age and health complications place me under extreme risk of being affected by the virus.

I pray that the "Hawaiian Homelands Commission" will review and find favor of my specialized case. Also accept my blood quantum testimonies as a witness to what my blood quantum should be. In the past, I could not control the actions of my parents. Though I am grateful for their support and love.

Sincerely,

A handwritten signature in black ink, appearing to read "Louise Uilani Mata". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Louise Uilani Mata

Attachments

AFFIDAVIT

I, Mrs. Josephine E. Timas Case, of 1470 Renton Road, Apt. #3, Ewa Beach, County of Honolulu, State of Hawaii, do hereby state the following:

I am the half sister of Louise Uilani Eberly Shott, who was born on June 22, 1953, at the County of Honolulu, State of Hawaii.

Mr. Joseph K. Timas is the natural father of Louise Uilani Eberly Shott.

The reason that my father Mr. Joseph K. Timas's name was not listed on Louise Uilani Eberly Shott's birth certificate is because he was legally married to my step-mother, Mrs. Harriet P. Timas at the time of conception. Mrs. Julia Kupa was also legally married. My father spoke only once of my sister to my step-mother and because of their differences he spoke of her no more.

I make this statement voluntarily and without any coercion.

DATED: EWA BEACH, Hawaii, this 18th day of
JUNE 1996.

Josephine E. Timas Case
Mrs. Josephine E. Timas Case

Subscribed and sworn to before me
this 18th day of June
A.D. 1996.

[Signature]
Notary Public, FIRST Judicial
Circuit, State of Hawaii.

My Commission Expires: 8-28-98

AFFIDAVIT

I, Mrs. May K. Nahale'a, of 89-145-B Mano Avenue, Waianae, County of Honolulu, state of Hawaii, do hereby state the following:

NPB I was a very close friend of Mr. & Mrs. Joseph K. Timas and also of Mrs. Julia Mitchell Kupa. Mr. Joseph K. Timas is the natural father of Louise Uilani Eberly Shott who was born on June 22, 1953.

NPB The reason that Mr. Joseph K. Timas's name was not listed on Louise Uilani Eberly Shott's birth certificate is because he was legally married to Mrs. Harriet P. Timas at the time of conception. Mrs. Julia Kupa was also legally married to Mr. Edward Kupa at conception also. Mrs. Kupa told me that she was pregnant and the father of this baby was Joseph K. Timas. Before delivery of said child, Mrs. Kupa then married Mr. George J. Eberly.

I make this statement voluntarily and without any coercion.

DATED: Hapelee, Hawaii, this 18 day of

June 19 96

May K. Nahale'a
Mrs. May K. Nahale'a

Subscribed and sworn to before

me this 18th day of June
A.D. 1996.

Antonia C. Lim hoo

Notary Public, First Judicial
Circuit, State of Hawaii.

My Commission Expires: 2-27-97

AFFIDAVIT

I, Mr. Richard E. Timas, of 89-706 Nanakuli Avenue, Waianae, County of Honolulu, State of Hawaii, do hereby state the following:

I am the brother of Mr. Joseph K. Timas who is the natural father of the said child Louise Uilani Eberly Shott, who was born on June 22, 1953 at the County of Honolulu, State of Hawaii.

Mr. Joseph K. Timas is the natural father of Louise Uilani Eberly Shott.

The reason that my brother's name was never listed on Louise Uilani Eberly Shott's birth certificate is because my brother was legally married to my sister-in-law Mrs. Harriet P. Timas. I was very aware of the hidden relationship between my brother and Mrs. Julia Kupa.

I make this statement voluntarily and without any coercion.

DATED: Honolulu RP, Hawaii, this 18th day of June 1996.

Mr Richard E Timas
Mr. Richard E. Timas

Subscribed and sworn before

me this 18th day of June
A.D. 1996.

Theresa M. Loo

Notary Public, 1st Judicial
Circuit, State of Hawaii.

My Commission Expires: 9-9-96



AFFIDAVIT

I, Harriet P. Timas, of 89-246 Kawao Avenue, County of Honolulu, State of Hawaii, do hereby state the following:

I am the wife of Mr. Joseph K. Timas who is the birth father of the child Louise Uilani Shott who was born on June 22, 1953 at County of Honolulu, State of Hawaii.

Mr. Joseph K. Timas is the natural father of Louise Uilani Shott.

The reason that Joseph K. Timas's name was not listed on her birth certificate is because I was legally married to Mr. Timas upon conception of Louise Uilani Shott upon which her birth mother was legally married to Mr. Edward Kupa; after which three (3) months before delivery married Mr. George Joseph Eberly.

I make this statement voluntarily and without any coercion.

DATED: Waipahoehoe, Hawaii, this 16 day of

May, 1996.

Mrs. Harriet P. Timas
Mrs. Harriet P. Timas

Subscribed and sworn to before
me this 16 day of MAY
A.D. 1996.

James W. Willard
Notary Public, 1st Judicial
Circuit, State of Hawaii.

My Commission Expires: My Commission Expires Aug. 28, 1996



8-17-20

Item J-8

Aloha Kaka,

I am Keli W. Ioane Jr.
I would almost humbly request
to be placed on the Sept 21
Big Island commission agenda
please. I am a resident
of the King's Landing Village
and I would like to discuss
an addendum to our
R.O.E. Mahalo nui

Keli W. Ioane Jr.

2020 AUG 17 AM 9:14

DEPARTMENT OF
HAWAIIAN HOMELANDS
AND BRANCH

Sept. 22, 2020

Aloha mai e na Hawaiian Homes Commissioners,

On behalf of the Maui/Lana`i Moku-puni Council, I present a coterie of homestead leaders offering J Agenda advocacy regarding the 2002 DHHL General Plan. The department currently is updating the latter every-20-year document that is meant to prioritize and guide department action. The 18-year-old, five-page DHHL General Plan features seven focus areas with 21 goals and 28 objectives, including a final document objective under the area heading “Building Healthy Communities”: To establish and implement a planning system that increases beneficiary participation in the development and use of Hawaiian home lands, and improves communications between DHHL and the beneficiary community.

In the interest of agency accountability and transparency, this J Agenda testimony highlights Maui County homestead leaders requesting DHHL data, per island, from 2002 to the present in four of the seven focus areas, as follows:

- **Land Use Planning** — Paukukalo homesteader and next-generation leader Pa`ahana Kincaid does “humbly ask” for data on: DHHL land-use plans to meet development needs of beneficiary communities; DHHL support of Native Hawaiian-owned/operated businesses potentially bidding to be involved in department planning; average time DHHL takes to plan, award and build “sustainable communities” and department measures to address barriers to this process, and which areas DHHL approved for land use and development. Also, under the goal to “Develop livable, sustainable communities that provide space for or access to the amenities that serve the daily needs of its residents,” what does DHHL constitute as “amenities”?

- **Residential Uses** — Sybil Lopez, vice president of the Sovereign Council of Hawaiian Homestead Associations (SCHHA) and president of Kalama`ula Mauka Homestead Association on Molokai, wants 2002-20 data on:

- . Number of residential homestead awards.
- . Types of mixed-housing opportunities provided.
- . Housing and financing programs and opportunities, and their successes and challenges, especially for those most in need.
- . Integrated residential communities reflecting beneficiaries’ diverse socioeconomic profiles.
- . Work, successes and challenges with existing homestead neighborhoods to maintain healthy and attractive communities for future

generations.

• **Agricultural and Pastoral Uses** — Paukukalo beneficiary and veteran contractor James Kahelelani Kincaid seeks 2002-20 data on: the number of agricultural and pastoral lease awards; ag/pastoral infrastructure, technical assistance and financial support provided; ag/pastoral commercial leases to beneficiaries, and identifying, conserving and awarding the “premium,” most productive ag lands for intensive ag and/or pastoral use.

• **Economic Development** — Native Hawaiian mercantile operator and waitlist beneficiary Kainoa Lei MacDonald of Wailuku asks, as follows:

1. What startup education, business planning and capital funding has DHHL provided to assist and support new native Hawaiian entrepreneurial ventures in Maui County?

2. What higher-learning programs, technical training, financial planning and other support opportunities has DHHL provided to assist and support current native Hawaiian-owned/operated businesses in Maui County and statewide?

3. What actions is DHHL taking to address barriers, in order to make this process more efficient?

4. Regarding the goal to “Generate significant revenue to provide greater financial support towards fulfilling the Trust’s mission,” what does DHHL constitute as “fulfilling the Trust’s mission”?

5. What economic opportunities for lessees and waitlisters has DHHL provided on each island’s homelands to support native Hawaiian entrepreneurial ventures since 2002?

In conclusion, one might recommend an overall strategic plan and timeline to implement the General Plan; quantifiable, measurable objectives; beneficiary/staff cohorts to facilitate achieving each focus area’s goals and objectives, and biannual reports to beneficiaries by island on progress in implementing the General Plan. Mahalo in advance for any and all data that the department can provide on its implementation of the current General Plan, to prepare homestead leaders and beneficiaries to offer input for the 2022 DHHL General Plan.

Me ka ha’aha’a,

-Kekoa Enomoto

2019-23 president, Maui/Lana’i Mokupuni Council

Item J-10

Kealoha Nui Commissioners:

Mahalo for this opportunity to address DHHL regarding the formation of our Kahikinui Hawaiian Homestead Association. The corporation is organized under the Hawaii Nonprofit Corporation act and the corporation has members.

Our members include those lessees who are permanent resident homesteaders living on their awarded lots, those lessees who are in the process of building their homes, also waitlisters numbering approximately 600, and all Beneficiaries throughout the State of Hawaii who are interested in DHHL activities and Kahikinui. Our purpose is to be inclusive, transparent including all beneficiaries, as conceived by Prince Jonah Kuhio Kalanianaʻole the father of the Hawaiian Homes Act of 1921 an important obligation promised in the constitution of our state of Hawaii.

We will continue to engage productively with DHHL with respect to the following goals for the benefit of all Kahikinui Lessees, Waitlisters, and all other Beneficiaries under the HHC Act of 1921.

1. Fire

Helekunihi Cultural Foundation, Located in Kahikinui, has submitted a \$49,999.99 Maui County Office of Economic Development Grant for Fire Brush Clearing equipment. And is submitting another BLM Bureau of Land Management Federal Grant for a Heavy Equipment Dozer for Fire Mitigation throughout the Moku of Kahikinui. On going meetings with DOFAW, Haleakala Leeward Watershed Partnership, Kaupo, Ulupalakua Ranches and Hawaiian Island Land Trust to do fire mitigation communities plans.

2. Water for Kahikinui. This information is being shared with the DHHL Commissioners and will also be included in the 2002 General Plan Update.

- Regarding the Water Resources section of the 2002 General Plan generated by the Department of Hawaiian Home Lands also known as DHHL (here forward referred to as Department)

Under “Goals” bullets

- ability to provide access to quality water in the most cost-effective and efficient manner

This is contingent upon the DHHL's ability to understand Maui island's water supply. The intent of an understanding must be exercised when making water allocation considerations. Maui County's recent legal conclusions surrounding water have begun to point Maui County in a productive direction to act upon the legal creed that agriculture use is a priority and the native tenants thereunto.

- ensure the availability of sufficient water to carry out Hawaiian Home Lands’ mission

To fulfill this aforementioned goal, the Department must assert the needs of homesteaders in relative governing agencies meetings such as but not limited to:

1. Maui County Council Water, Infrastructure & Transportation Committee (WIT)
2. Maui County Council Environmental, Agriculture & Cultural Preservation which oversees, Water in Agriculture (EACP)
3. Maui Board of Water Supply (BWS)

4. Commission on Water Resources and Management (CWRM)

5. Department of Land and Natural Resources (DLNR)

- aggressively exercise and protect Hawaiian home land water rights.

To consider any efforts an “aggressive exercise” the Department must inspire each Homestead Association to clearly communicate their water needs. This is true even for those who may rely on suburban oriented delivery, the Department must ask simple questions like, Do any homesteaders struggle to pay water bills? In helping homesteads protect water rights, the Department must consider the ways in which it can make it easy for homesteaders to convey their water needs and interests.

Under “Objectives” bullets

- Establish water partnership arrangements.

The Department must allocate Department personnel time to engage with the above mentioned governing agencies or staff positions to conduct the work therein.

- Identify and establish a clear understanding of existing water resources available to the Hawaiian Home Lands Trust.

This must be re-examined because while it is of critical interest to “understand the water resources available”, a pivot in thinking must be adopted wherein homesteaders assert themselves as the first and rightful users. Appointed Department staff to this task be the ones who convey these legal and riparian rights.

- Implement State water use plans, rules, and permits to ensure access to water resources for current and future uses on Hawaiian homelands.

This objective area also must be revisited as this General Plan is outdated and the State is presently in a quandary with how to move forward after such lengthy court battles have ensued.

3. Forest Restoration along with effective ungulate management

4. Roads

Areas of interest we would also like you to know, when we received orders to:

1. No hunting without permit if caught you could lose your lease.
2. Promises of investigation of misconduct by other organizations with no response from DHHL. Findings of the Kahikinui Investigative Commission Committee no response.
3. Dhhl homestead lessees. Kahikinui lessees informed by DHHL if they did not build their houses by a certain time and occupy we would lose their lease. We do not believe that DHHL has the authority to threaten lessees with these orders.

Our Kahikinui Hawaiian Homestead Association new Board of Directors are as follows;

Donna Sterling/President

Kawika Davidson/Vice-President

Michael Pascua/Treasurer

Kentrie Ho/Secretary

Jade Aloha Smith/Director

Our Website is under construction and will be up to show tons of information for all beneficiaries.

Contact phone 808-446-4171

email: dhelekunihi@yahoo.com

or dhelekunihi44@protonmail.com

Look forward to many more communications with DHHL.

Hope the upcoming Zoom process is up and running for all to watch,

Mahalo

Donna Sterling

President

Kahikinui Hawaiian Homestead Association

September 8, 2020

ITEM J-11

Aloha! Hawaiian Homes Commissioners,

Ahonui Homestead Association is grateful to have funds allocated for the Environmental Assessment and a planner to assist with Ualapue project. However, due to governor's order to freeze state new hire, we understand that two of DHHL staff, Gigi Cairel and Julie Cachola are assigned to assist with project. Is anyone on staff has the expertise and ability to conduct and complete an environmental assessment?

I have made several attempts contacting Shelly Carreira to no avail. Ahonui is attempting to obtain a Right of Entry (ROE) to begin our Cultural and Resource Management Plan. Our Commissioner, Mr. Helm have advocated for 90 days instead of 30 days ROE. Please confirmed approval of 90 days, right of entry to Ualapue by Ahonui Homestead Association.

It is my understanding that there are several projects on Molokai going on at the same time. Why is that? I would like to know the consultation dates on these projects as many of our homestead associations or members and or beneficiaries are unaware of these projects. Are there any consultation meeting scheduled for any of these projects? What are the meeting links to allow beneficiaries for participations?

Ahonui Homestead Association supports and advocates the below homesteaders and beneficiaries with their project endeavors.

Paukukalo, Jimmy/Pa`ahana , Makena 228 acres

Waiehu Kou 2, Kalele Kekauoha-Schultz, no RoundUp

Leali`i, Abner Nakihei, Honokowai 850 acres plus Leali`i 2, on behalf of sister

Waiohuli Undivided, Frances Williams, deploy \$8 million appropriation for undivided infrastructure

Maui Homestead Farmers & Ranches Association, Christi Keli`ikoa, Pulehunui 720 acres; and/or Keanuenuelowahine Kana`e, Honokowai 850 acres

Association of Hawaiians for Homestead lands, Deb Kaiwi, a waitlister's mo`olelo

Pu`unani, Keoia Kamalani

Pa`upena, Norman Abihai, General Plan and Waiohuli/Keokea 5,057 acres

Kahikinui Hawaiian Homestead Association, Kealapono Sterling, mitigate fires

Maui/Lana`i Mokupuni Council, Kainoa Lei MacDonald, puwalu

Wakiu, Alohalani Smith, Wakiu 743 acres

Naiwa, Liko Wallace, potable water

Thank you for addressing Ahonui Homestead Association concerns. We await confirmation on the 90 days, Right of Entry of Ualapue.

Mahalo,

Cora Schnackenberg

Ahonui Homestead Association

Pu'unani
Hawaiian Homestead Association
225 Halona Street
Kihei, HI. 96753
Call/Text: (808) 344-9762
Email: keoiwa7@gmail.com

September 14, 2020

William Aila, Chairman
Department of Hawaiian Homelands
91-5420 Kapolei Pkwy
Kapolei, HI. 96707

RE: DHHL General Plan

Dear Mr. Aila,

As my September 22, 2020, Hawaiian Homes Commission J Agenda advocacy, it is with humility that I write to you today in regards to the DHHL General Plan approved by the Hawaiian Homes Commission, dated February 26, 2002. Specifically regarding to Residential Uses. I entreat you, Chairman, and your DHHL staff to provide waitlisters and lessees with a status report. The report shall embody each goal and how the Department had met these goals from 2002 to current by including data and analysis. Here are some questions that should guide the data and analysis.

Stated in this document are the following **Goals for Residential Use**:

1. Substantially increase the number of residential homesteads awarded each year.
How many residential homesteads have been awarded from 2002 till now for each island?
2. Provide a mix of housing opportunities that reflect the needs and desires of native Hawaiian beneficiaries.
What types of mix housing opportunities has DHHL provided from 2002 till now for each island?
3. Provide residential homesteads, financing, and other housing opportunities, especially to those most in need.
What programs and opportunities has DHHL developed and provided for the wait listers and beneficiaries from 2002 till now for each island?

4. Develop integrated residential communities that are reflective of the diverse socio-economic profiles of the native Hawaiian community.

How has DHHL developed, and integrated residential communities statewide, that reflects the diverse socio-economic profiles of the native Hawaiian community. Please provide detailed case studies and examples from 2002 till now 2020.

5. Ensure existing homestead neighborhoods are maintained as healthy and attractive communities for future generations.

How has DHHL worked with existing homestead neighborhoods? What has been the challenges and successes? What goals are set for the future generations?

6. Increase the potential for beneficiaries to qualify for residential housing financing.

What types of opportunities and/or programs if any, has the Department developed from 2002 till current, statewide? If there are residential housing financing available through the Department, what is it; and how wait listers or lessees benefited? What are the challenges and successes?

With the **Objectives for Residential Use** stated as follows:

1. Devote a significant share of time and resources to serve applicants with income below 80% of the median family income level.
2. Provide a variety of residential types to meet the needs of beneficiaries in terms of construction procedures (owner-builder, turnkey, self-help), types of housing units (single-family, multi-family, kupuna housing, rental, etc.) and financing.
3. Ensure the availability of housing with a range of types and affordability to accommodate persons and families of all income levels and in locations that are convenient to employment and quality public and private facilities.
4. Deliver an average of 500 new residential housing opportunities per year in proportion to the number of applicants on the residential waiting list for each island.
5. Facilitate education in home ownership, financing, maintenance and long-term financial resource management.
6. Work with homestead associations to identify opportunities to revitalize existing neighborhoods.

I recognize the Department's mission to execute the Hawaiian Home Lands trust **competently** and **to develop and deliver lands to native Hawaiians expeditiously**. Chairman, knowing that DHHL's intentions state that they will partner with others towards developing self-sufficient and healthy communities, I hold you accountable as the Director of the Department, and Chairman of the Commission. As a homestead association officer and 13-year wait lister, I demand that the Hawaiian Homes Commission do an audit on the 2002 DHHL General Plan. The purpose of the audit is to give wait listers and lessees a picture of

how effective the Department is or has been. It is to bring a STOP, of the Department and Commission in playing the **EXCUSE GAME!**

Sincerely,

A handwritten signature in black ink, reading "Shawndelle Kamalani". The script is cursive and fluid, with the first name "Shawndelle" and last name "Kamalani" clearly distinguishable.

Shawndelle Keoiwa Kamalani
Hawaiian Homes Residential Wait Lister &
Interim President of Pu'unani Hawaiian Homestead Association

Shannon A. T. Domingo
824 Niheu Street
Lahaina, HI. 96761
Email: satomi18@yahoo.com

September 14, 2020

William Aila, Chairman
Department of Hawaiian Home Lands
91-5420 Kapolei Parkway
Kapolei, HI. 96707

Dear Mr. Aila,

I hope this letter finds you well. I write to you in regards to the DHHL General Plan approved by the Hawaiian Homes Commission and dated February 26, 2002. Specifically, in reference to **Building Healthy Communities**.

Stated in the document are the **Goals**:

- Empower the homestead associations to manage and govern their communities.
- Establish self-sufficient and healthy communities on Trust lands.

Following are the **Objectives**:

- Build partnerships with public and private agencies to ensure reliable and adequate delivery of services to homesteaders.
- Establish and implement a planning system that increases beneficiary participation in the development and use of Hawaiian home lands and improves communications between DHHL and the beneficiary community.

I humbly ask, with the associations that are currently up and running in the different communities:

How empowered are the associations, and are they given full reigns of managing and governing their lands and communities, since 2002 till now statewide? How self-sufficient and healthy are the communities, since 2002 till now statewide? Can the Department provide detailed examples of self-sufficient communities? (Include the challenges and successes from 2002 till 2020). If the department can give a status to beneficiaries on the objectives, such as what partnerships and/or private agencies were

built to ensure reliable and excellent services to homesteaders. What planning system if any has been established by the Department for beneficiaries on the development and use of the Hawaiian home lands? Is there a plan on how the Department communicates with its beneficiaries? I only ask that question because when I got put on the list back in 2007, I received only two announcements via the United States Postal Service. My information is up to date.

I recognize the DHHL's mission is to manage the Home Land trust effectively, and to develop and deliver the Trust Lands to Native Hawaiians. If the Department was to get graded on how efficient it has been, the grade would be a "D- ", to many kupuna are still dying on the list, since 2002 till now, 2020. I highly encourage the Chairman to please hold yourself and your commissioners accountable for their choices and actions they make on behalf of all the Native Hawaiians, and would you leave your family out in the cold?

Sincerely



Shannon A. T. Domingo

Hawaiian Homestead Wait Lister

Aloha Commissioners,

"At this time, DHHL will not be looking to convert your agricultural lease to a residential lease." Are you saying the attached letter signed by Craig K. Hirai, Executive Director Hawaii Housing Finance and Development Corporation, has "no" merit, although it clearly states my lot 23 is residential? Can you clarify?

Last year I sat in front of the commissioners to request an amendment to lot 23 from agricultural to residential because, at the time of the exchange from the HHFDC to DHHL, there was no amendment made.

My original lease was agricultural for Lualualei in Waianae. Still, because of water issues and other land issues at the time, DHHL asked me to surrender Lualualei for Waiahole, and I agreed and was awarded a "residential" lot in Waiahole, 1998.

All the commissioners agreed that it should be reclassified as residential, mainly because it's only 6,800 square feet.

My request to be placed on the agenda to ask the commissioners to authorize an amendment to my lease is a reasonable request. I'd like this to be done not just for myself but for my future successors.

Also, I'd like to ask if you made an effort to contact the HUD office in Washington DC for written clarification and evidence of the actual document as to what the local HUD office is claiming? To me, the seriousness of the matter in regards to HUD 184a would have a substantial negative impact on all Kanaka and trust lands. I hope this is concerning to DHHL as much as it worries my Ohana and me.

I'm looking forward to your response/clarification. I also cc'd my Senator Gil Riviere and Robin Danner, SCHHA Chair, to bring awareness to this matter.

Mahalo,
Kim Balauro
Waiahole Valley Lessee Lot 23