

DAVID Y. IGE  
Governor

JOSH GREEN  
Lt. Governor



PHYLLIS SHIMABUKURO-GEISER  
Chairperson, Board of Agriculture

MORRIS M. ATTA  
Deputy to the Chairperson

State of Hawaii  
DEPARTMENT OF AGRICULTURE  
1428 South King Street  
Honolulu, Hawaii 96814-2512  
Phone: (808) 973-9600 FAX: (808) 973-9613

May 12, 2020

Mr. David Tanoue  
RP2 Ventures, LLC  
2024 North King Street, Suite 200  
Honolulu, Hawaii 96819

COPY

Sharene Saito Tam  
Vice President  
Haseko Development, Inc.  
91-1001 Kaimālie Street Suite 205  
'Ewa Beach, HI 96706

Dear Mr. Tanoue and Ms. Tam:

Subject: *Fourth Amendment to Amendment and Restatement of Memorandum of Understanding*

2020 MAY 18 P 12:14  
LAND USE COMMISSION  
STATE OF HAWAII

Please find enclosed a copy of the signed *Fourth Amendment to Amendment and Restatement of Memorandum of Understanding* ("Fourth MOU"), as agreed upon by RP2 Ventures, LLC (RP2) and the Department of Agriculture (DOA). The intent of the MOU is to provide the Land Use Commission with a mutually agreed upon schedule for the fulfillment of past obligations under Section IV, Decision and Order, Item A.1 of that certain Land Use Commission (LUC) Order filed January 28, 2015 ("Amended Order") under Docket No. A92-683. The DOA expects to continue its work with RP2 in presenting this MOU to the LUC.

We understand that RP2 is in the process of selling property in Royal Kunia to Haseko, including their obligations under the LUC Amended Order and the Fourth MOU. We are therefore providing an official copy of this Fourth MOU to Haseko. The DOA expects RP2's successor to comply with the previously agreed upon terms.



May 12, 2020  
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If you have any questions regarding this letter, please contact Ms. Janice Fujimoto of my staff at 808-973-9493.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian", with a horizontal line extending to the right.

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

Attachment

C:  
HRT Ltd.  
Stephen Mau, Attorney - Robinson Kunia Land LLC  
State of Hawaii, Land Use Commission  
State of Hawaii, Office of Planning  
Deputy Attorney General Valerie Kato

**FOURTH AMENDMENT  
TO  
AMENDMENT AND RESTATEMENT  
OF  
MEMORANDUM OF UNDERSTANDING**

THIS FOURTH AMENDMENT TO AMENDMENT AND RESTATEMENT OF MEMORANDUM OF UNDERSTANDING (“2020 MOU”) is made this 16 day of March, 2020, by and between RP2 VENTURES, LLC (“RP2”), a Hawaii domestic limited liability company, successor in interest to CANPARTNERS IV ROYAL KUNIA PROPERTY LLC (“Canpartners”), HALEKUA DEVELOPMENT CORPORATION (“Halekua”), and the DEPARTMENT OF AGRICULTURE, STATE OF HAWAII (“DOA”);

**RECITALS:**

1. Halekua and DOA entered into that certain *Memorandum of Understanding* (“Original MOU”) dated March 30, 1993, for the purpose of setting forth the agreements and understanding by and between Halekua and DOA with respect to establishment and integration into the master plan for the Royal Kunia Phase II development by Halekua of a state agricultural park.

2. Halekua and DOA subsequently amended that Original MOU in writing and entered into that certain *Amendment and Restatement of Memorandum of Understanding* dated March 2, 2007 (“2007 MOU”), for the purpose of restating the agreements and understanding by and between Halekua and DOA with respect to establishment and integration into the master plan for the Royal Kunia Phase II development by Halekua of a state agricultural park.

3. Halekua and DOA further amended that 2007 MOU in writing and entered into that certain *First Amendment to Amendment and Restatement of Memorandum of Understanding* (“2009 MOU”) dated February 19, 2009, for the purpose of amending Paragraph E.a. of the 2007 MOU to extend the deadline for completion and submittal of the preliminary site plan to the DOA from December 31, 2008 to December 31, 2009.

4. Canpartners, as successor in interest to Halekua, and DOA subsequently amended that 2009 MOU in writing and entered into that certain *Second Amendment to Amendment and Restatement of Memorandum of Understanding* (“2012 MOU”) dated September 20, 2012, for the purpose of amending Paragraph E.a. of the 2009 MOU to extend the deadline for completion and submittal of the preliminary site plan to the DOA from December 31, 2009 to December 31, 2013.

5. Canpartners and DOA subsequently amended the 2012 MOU in writing and entered into that certain *Third Amendment to Amendment and Restatement of Memorandum of Understanding* (“2015 MOU”) dated July 28, 2015, for the purpose of amending Paragraph E.a. of the 2012 MOU to extend the deadline for completion and submittal of the preliminary site plan to the DOA from December 31, 2013 to December 31, 2015, and construction and installation of off-site infrastructure no later than December 31, 2016.

6. RP2 and DOA now desire to further amend and restate the Original MOU, the 2007 MOU, the 2009 MOU, the 2012 MOU, and the 2015 MOU (the Original MOU, as amended, is hereinafter sometimes referred to as the "MOU") to (a) acknowledge RP2 as successor in interest to Canpartners and Halekua, (b) acknowledge the conveyance of the 150 acre agricultural park site to the DOA and the acceptance thereof by the DOA in partial satisfaction of the agreements in the MOU, (c) to restate and modify the agreements between RP2 and the DOA with respect to the timing for design and construction of the off-site infrastructure to the state agricultural park and submittal of a revised master plan pursuant to Paragraph IV(A)(1) and (2) of that certain Order Granting Successor Petitioner (To Parcel 52), Ho'ohana SolarI, LLC's Motion for Order Amending the Amended Findings of Fact, Conclusions of Law, and Decision and Order Filed on October 1, 1996 filed on January 28, 2015 ("Amended Order").

NOW, THEREFORE, in consideration of the Recitals set forth above and other consideration, the receipt and sufficiency of which is hereby acknowledged, RP2 and DOA do hereby amend and restate Paragraphs A through N of the MOU in their entirety as follows:

A. Confirmation of Conveyance of 150-Acre Parcel. DOA does hereby acknowledge and confirm that by Warranty Deed with Reversion dated February 23, 2004, recorded in the Bureau of Conveyances of the State of Hawai'i as Document No. 2004-040601 (the "State Ag Park Deed"), the agreed upon 150 acres of land within the Royal Kunia Phase II development was conveyed by Halekua to the State of Hawai'i, by and through its Board of Land and Natural Resources, for the DOA's use as and to establish a state agriculture park thereon (herein the "State Agricultural Park"). The DOA further confirms that it has accepted the conveyance of the lands comprising the State Agricultural Park by the State Ag Park Deed as being in full and complete satisfaction of the land conveyance component of its agreements with Canpartners notwithstanding the fact that the actual conveyance occurred beyond the original December 31, 1997 deadline date.

B. Use of State Agricultural Park. The State Agricultural Park is intended to benefit the small diversified farmer and use of the State Agricultural Park shall be intended for diversified agricultural production, including, without limitation, floriculture, foliage and orchard production. In addition, the DOA shall have the right and option (but is not required) to develop and construct up to a maximum of fifty (50) related agricultural farm dwellings or farm employee housing units within the State Agricultural Park. If any of these agricultural farm dwellings or farm employee housing units are developed by the DOA on the State Agricultural Park the same shall not at any time be offered for sale by the DOA.

C. Certain Use Prohibitions within State Agricultural Park. Since the State Agricultural Park will be located adjacent to an urban residential community, commercial livestock or other activities associated with or related thereto shall be prohibited within the State Agricultural Park.

D. Canpartners to Include State Agricultural Park in Land Plan. Canpartners has incorporated the State Agricultural Park into its land plan for the Royal Kunia Phase II subdivision and jointly with the DOA has prepared a preliminary site plan for the State Agricultural Park reflecting the locations of the roadway and infrastructure connections to be

provided to the boundary of the State Agricultural Park parcel. The DOA has accepted and approved Canpartner's preliminary site plan by letter dated March 31, 2015. The DOA extends this acceptance to RP2.

E. RP2 to Design and Construct Certain Off-Site Infrastructure to the State Agricultural Park. RP2 shall design and construct off-site infrastructure improvements for the State Agricultural Park including roadway, potable and irrigation water lines (exclusive of water commitment), and sewer lines and utility connections, up to the property boundary of the State Agricultural Park at no cost to the DOA. These off-site infrastructure improvements shall be sufficient to service the agricultural uses contemplated by the DOA for the State Agricultural Park and shall be sufficient to service the maximum of fifty (50) agricultural farm dwellings or farm employee housing units (if the DOA determines that the same shall be a part of the State Agricultural Park). In connection therewith RP2 and the DOA agree as follows:

a. RP2 has prepared preliminary design plans for the off-site infrastructure necessary to provide the agreed upon roadway access, water, sewer, and other appropriate utility connections to the boundary of the State Agricultural Park to service the contemplated improvements on the State Agricultural Park in accordance with the preliminary site plan accepted by the DOA by letter on March 31, 2015. RP2 shall obtain DOA approval for the off-site infrastructure and submit construction permit applications no later than May 31, 2020, or such later date to which RP2 and the DOA shall mutually agree, which approval by the DOA shall not be unreasonably withheld or delayed. It is understood and accepted that RP2 shall be entitled to make such changes and modifications to the approved design plans as may be required to address and satisfy any comments made or issues raised by appropriate governmental agencies of the State of Hawai'i and/or City and County of Honolulu, with the further consent or approval of the DOA, which consent or approval shall not be unreasonably withheld or delayed.

b. After the DOA approves the offsite infrastructure plans, RP2 shall, at its sole cost and expense, (i) obtain all necessary governmental permits and approvals for construction of such off-site infrastructure, (ii) arrange for and complete the construction and installation of the irrigation infrastructure no later than February 28, 2021, and (iii) arrange for and complete the construction and installation of the remainder of the off-site infrastructure to service the State Agricultural Park no later than ~~June 30, 2020~~, June 30, 2021, unless approved by DOA.

F. DOA Responsible for All Other Costs of State Agricultural Park. The DOA shall assume responsibility for the development and payment of all costs (other than those set forth in this Agreement as being assumed by RP2) associated with the State Agricultural Park and the agricultural farm dwellings and/or farm employee housing units to be developed thereon.

G. Coordinate Developments. Canpartners and the DOA shall use their best efforts to work jointly to coordinate the development of their respective portions of the Royal Kunia Phase II project.

H. Hawaii Farm Bureau Federation. The DOA, to the extent permitted by law or regulation, shall involve the Hawaii Farm Bureau Federation in the utilization, operation and

management of the State Agricultural Park with the intent of maximizing the efficiency and success of the diversified farming efforts at the State Agricultural Park.

I. DOA Support of Land Use Approvals. The DOA shall assist and support RP2 in its efforts to obtain and maintain the necessary land use approvals for the Royal Kunia Phase II project, as well as in RP2's efforts to obtain the necessary off-site infrastructure permit approvals. Any assistance and support by the DOA shall be limited to the extent permitted by the applicable statutes and rules.

J. Restrictive Use Covenant on State Agricultural Park. The time periods for initiation of the development of on-site improvements for the State Agricultural Park and for the DOA to achieve active utilization of the State Agricultural Park set forth in Paragraph K of the Original MOU are hereby deleted in their entirety. Instead the State Agricultural Park shall be subject to a restrictive use covenant providing that the State Agricultural Park shall only be used as an agricultural park or for the current or similar agricultural purposes, including diversified agriculture. If at any time in the future the DOA ceases to use or abandons the use of the State Agricultural Park as an agriculture park or for the current or similar agricultural purposes, including diversified agricultural, then, and in such event, the 150 acre parcel comprising the State Agricultural Park shall be subject to a reversion in favor of certain "Robinson Owners" as more particularly defined in the State Ag Park Deed. It is understood that the fact that any portion of the State Agricultural Park may lie vacant or fallow shall not constitute the cessation or abandonment of the agricultural use.

K. No Adverse Impact on Lands Adjoining State Agricultural Park. The DOA agrees to use its best efforts to minimize the impact of the State Agricultural Park on the adjacent lands being developed for residential, industrial and other urban uses.

L. Assistance with Non-Potable Water System. The DOA shall assist RP2, to the extent allowable by law and subject to the availability of funds, in obtaining and developing a non-potable water system to service irrigation and other non-potable water needs of the Royal Kunia Phase I and Phase II projects, including the State Agricultural Park.

M. Purpose of Amended and Restated MOU. The parties hereto agree that this Amended and Restated MOU is being executed to evidence their mutual understandings and agreements regarding the conveyance of the 150-acre parcel comprising the State Agricultural Park to the DOA, the design and development by RP2 of certain off-site infrastructure to service the State Agricultural Park, and certain use restrictions and limitations applicable to the DOA's use of the State Agricultural Park. This 2020 MOU replaces the Original MOU, the 2007 MOU, the 2009 MOU, the 2012 MOU, and the 2015 MOU in their entirety.


N. Amendment. This 2020 MOU may be amended from time to time by instrument in writing signed by both RP2 and the DOA.

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IN WITNESS WHEREOF, this Fourth Amendment to Amendment and Restatement of Memorandum of Understanding is made and executed by RP2 and the DOA as of the day and year first above written.

**RP2 VENTURES, LLC,**

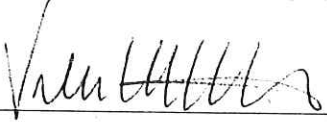
a Hawaii limited  
liability company

By:   
Name: Robert Spencer  
Title: Manager

**DEPARTMENT OF AGRICULTURE,  
STATE OF HAWAII**

By:   
Name: Phyllis Shimabukuro-Geiser  
Title: chairperson

**APPROVED AS TO FORM:**

  
Name: Valerie M. Kato  
Deputy Attorney General