

CARLSMITH BALL LLP

JENNIFER A. LIM 8357

JOHN P. MANAUT 3989

DEREK B. SIMON 10612

ASB TOWER

1001 Bishop Street, Suite 2100

Honolulu, Hawai'i 96813

Tel No. 808.523.2500

Fax No. 808.523.0842

Jlim@carlsmith.com

Dsimon@carlsmith.com

Attorney for Successor Petitioner Ho'ohana Solar 1, LLC

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of

HALEKUA DEVELOPMENT
CORPORATION, a Hawaii corporation

To Amend the Agricultural Land Use District
Boundary into the Urban Land Use District for
Approximately 503.886 Acres at Waikele and
Ho'ae'ae, 'Ewa, O'ahu, City and County of
Honolulu, State of Hawai'i, Tax Map Key No.
9-4-02: 1, portion of 52, 70 and 71

DOCKET NO. A92-683

**SUCCESSOR PETITIONER (AS TO
PARCEL 52) HO'OHANA SOLAR 1, LLC'S
FIRST LIST OF EXHIBITS;
DECLARATION OF DEREK B. SIMON;
EXHIBITS "15" - "53"; CERTIFICATE OF
SERVICE**

HO'OHANA SOLAR 1, LLC'S FIRST LIST OF EXHIBITS

Ho'ohana Solar 1, LLC ("**Ho'ohana**"), as Successor Petitioner to that certain portion of the 503.886-acre Petition Area identified as Tax Map Key No. 9-4-002:052, by and through its legal counsel, CARLSMITH BALL LLP, hereby respectfully submits to the Land Use Commission of the State of Hawai'i its *First List of Exhibits* and Exhibits "15" through "53" in support of its *Motion for Modification and Time Extension*, filed August 17, 2020.

Ho'ohana reserves the right to amend its list of exhibits and identify additional exhibits not expressly noted herein in response to any pleadings, arguments, exhibits or witnesses identified by any party.

DATED: Honolulu, Hawai'i, September 25, 2020.



JENNIFER A. LIM
JOHN P. MANAUT
DEREK B. SIMON

Attorneys for Successor Petitioner
HO'OHANA SOLAR 1, LLC

PETITIONER'S EXHIBIT NO.	DESCRIPTION	PARTY OBJECTIONS	ADMIT
*Petitioner's Exhibits 1-14 were filed on August 17, 2020, with Ho'ohana Solar 1, LLC's (" Ho'ohana ") <i>Motion for Modification and Time Extension</i> (" Motion ").			
1	Graphic prepared by Group 70 International, Inc., dba G70 (" G70 "), showing the Tax Map Key (" TMK ") Nos. comprising the Petition Area, including TMK No.: (1) 9-4-002:052 (" Parcel 52 "), and the State Land Use Districts of the Petition Area and surrounding properties		
2	Fee Owner's Letter of Authorization, executed by Robinson Kunia Land LLC, as fee owner of Parcel 52. as fee owner of Parcel 52		
3	Graphic prepared by G70 showing the current City and County of Honolulu zoning designation for Parcel 52		
4	Graphic prepared by G70 showing the current City and County of Honolulu Central Oahu Sustainable Communities Plan designations for Parcel 52		
5	Site Plan prepared by G70 for Ho'ohana's proposed solar project on Parcel 52		
6	Email dated March 11, 2015, from Ho'ohana's prior project manager to Aaron Nadig, Island Team Manager at the United States Fish and Wildlife Service		
7	<i>An Archaeological Inventory Survey Report for the Ho'ohana Solar Farm Project in Kunia, Waikele Ahupua'a, 'Ewa District, Island of O'ahu, Hawai'i</i> [TMK: (1) 9-4-002:052] (" AIS "), prepared by Scientific Consultant Services, Inc.		

PETITIONER'S EXHIBIT NO.	DESCRIPTION	PARTY OBJECTIONS	ADMIT
8	Letter from the State of Hawai'i Department of Land and Natural Resources, State Historic Preservation Division, dated February 19, 2015, approving the AIS		
9	Graphic prepared by G70 showing the distances from Parcel 52 to the Daniel K. Inouye International Airport and Kalaeloa Airport		
10	<i>Construction Traffic Assessment for the Proposed Hoohana Solar Farm (Oahu, HI)</i> , dated June 8, 2020, prepared by Fehr & Peers		
11	View study, dated May 15, 2020, prepared by G70		
12	<i>Cultural Impact Assessment of Ho'ohana Solar Energy Facility, Waikele and Hō'ae'ae Ahupua'a, Ewa District, O'ahu, Island of Hawai'i</i> , dated July 2020, prepared by TCP Hawai'i, LLC		
13	<i>Natural Resources Survey for the Ho'ohana Solar Farm Site in Kunia, O'ahu</i> , dated September 24, 2014, prepared by AECOS, Inc.		
14	Act 97 (2015) of the Hawai'i State Legislature		
15	Declaration of Conditions Imposed by the State Land Use Commission, recorded with the State of Hawai'i Bureau of Conveyances (" Bureau ") on March 30, 2015, as Regular System Document No. A-55670868A through A-55670868E		
16	<i>Order Granting Successor Petitioner (To Parcel 52), Ho'ohana Solar I, LLC's Motion for Order Amending the Amended Findings of Fact, Conclusions of Law, and Decision and Order filed on October 1, 1996</i> , dated January 28, 2015		

PETITIONER'S EXHIBIT NO.	DESCRIPTION	PARTY OBJECTIONS	ADMIT
17	Letter from HRT Realty, LLC to the State of Hawai'i Land Use Commission (" Commission "), dated August 10, 2020, and received by the Commission August 14, 2020		
18	Email correspondence circulating draft of the Motion, dated July 30, 2020, July 31, 2020 (with exhibits), August 3, 2020, and August 4, 2020 (with exhibits)		
19a	Memorandum of Understanding, dated March 30, 1993		
19b	Amendment and Restatement of Memorandum of Understanding, dated March 2, 2007		
19c	First Amendment to Amendment and Restatement of Memorandum of Understanding, dated February 19, 2009		
19d	Second Amendment to Amendment and Restatement of Memorandum of Understanding, dated September 20, 2012		
19e	Third Amendment to Amendment and Restatement of Memorandum of Understanding, dated July 28, 2015		
19f	Fourth Amendment to Amendment and Restatement of Memorandum of Understanding, dated March 16, 2020, with transmittal letter from the State of Hawai'i Department of Agriculture, dated May 12, 2020, and received by the Commission May 18, 2020		
20	Transcript of May 24, 2018 status hearing in Docket No. A92-683		
21a	Graphic prepared by ITC Water Management, Inc.		

PETITIONER'S EXHIBIT NO.	DESCRIPTION	PARTY OBJECTIONS	ADMIT
21b	Email and attachment from Harold Edwards to Jon Wallenstrom, dated November 12, 2014		
22	Email from Nonie Toledo to Scott Enright, dated July 19, 2015		
23	Plans for Royal Kunia Irrigation Line, prepared by R. M. Towill Corporation for RP2 Ventures LLC		
24	Graphic prepared G70 showing Hawaiian Electric Company, Inc.'s ("HECO") existing 138 kilovolt ("kV") lines and Ho'ohana's proposed interconnection		
25	Photograph from the boundary of Parcel 52 and TMK No. 9-4-002:071 ("Parcel 71") showing HECO's existing 138 kV and 46 kV lines		
26	Graphic prepared by G70 showing HECO's existing 46 kV line and its proposed relocation		
27	Graphic prepared by G70 showing distances of substations for the solar project approved by the Commission in 2015 (" 2015 Solar Project ") and Ho'ohana's proposed solar project (" 2020 Solar Project ")		
28	Graphic prepared by G70 comparing solar panel locations for 2015 Solar Project and 2020 Solar Project		
29	Revised Ordinances of Honolulu, Chapter 21, Table 21-3 (Master Use Table)		
30	Landscape concept plan for the 2020 Solar Project, dated September 23, 2020, prepared by Walters Kimura Motoda, Inc.		

PETITIONER'S EXHIBIT NO.	DESCRIPTION	PARTY OBJECTIONS	ADMIT
31	Rendering prepared by G70 showing view from the boundary of Parcel 52 and Parcel 71 towards the 2020 Solar Project with fence and landscape screen		
32	Letter (with enclosures) from City and County of Honolulu Department of Planning and Permitting ("DPP") to G70, dated August 14, 2020, approving minor modifications to Conditional Use Permit 2014/CUP-76		
33	March 27, 2019 Star Advertiser article reporting on Hawai'i Public Utilities Commission approving power purchase agreement between Ho'ohana and HECO for the 2020 Solar Project		
34	Emails from David Tanoue and Janice Fujimoto, dated August 26, 2020, circulating the attached draft motion and accompanying documents prepared on behalf of Haseko Royal Kunia, LLC		
35	Approval of Zoning Waiver 2020/W-27 from DPP, dated August 14, 2020		
36	Resume of Laurence Robert Greene		
37	Resume of Brian E. Quinn		
38	Resume of Jon Wallenstrom		
39	Resume of Jeffrey H. Overton		
40	Resume of Paul T. Matsuda		
41	Resume of Sohrab Rashid		

PETITIONER'S EXHIBIT NO.	DESCRIPTION	PARTY OBJECTIONS	ADMIT
42	Resume of Christopher M. Monahan		
43	Written Direct Testimony of Laurence Robert Greene		
44	Written Direct Testimony of Jon Wallenstrom		
45	Written Direct Testimony of Jeffrey H. Overton		
46	Written Direct Testimony of Sohrab Rashid, dated September 23, 2020		
47	Written Direct Testimony of Christopher M. Monahan, dated September 23, 2020		
48	Written Direct Testimony of Eric B. Guinther, dated November 17, 2014		
49	Written Direct Testimony of Robert L. Spear, dated November 18, 2014		
50	Map of Petition Area showing Increments I, II and III of Royal Kunia Phase II, filed with the Commission by the State of Hawai'i Department of Agriculture on May 24, 2018		
51	Warranty Deed, dated August 12, 2020, and recorded with the Bureau on August 12, 2020 as Regular System Document No. A-75290285		
52	Declaration of Conditions and Consent, dated April 8, 1994, and recorded in the Bureau on April 4, 1994 as Regular System Document No. 94-065022		
53	Amendment to Declaration of Conditions and Consent, dated		

PETITIONER'S EXHIBIT NO.	DESCRIPTION	PARTY OBJECTIONS	ADMIT
	December 10, 1997, and recorded with the Bureau on April 13, 1999 as Regular System Document No. 99-056493		

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of

HALEKUA DEVELOPMENT
CORPORATION, a Hawaii corporation

To Amend the Agricultural Land Use District
Boundary into the Urban Land Use District for
Approximately 503.886 Acres at Waikele and
Ho'ae'ae, 'Ewa, O'ahu, City and County of
Honolulu, State of Hawai'i, Tax Map Key No.
9-4-02: 1, portion of 52, 70 and 71

DOCKET NO. A92-683

DECLARATION OF DEREK B. SIMON

DECLARATION OF DEREK B. SIMON

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

DEREK B. SIMON, being first sworn on oath, deposes and says that:

1. I am an attorney at the firm of Carlsmith Ball LLP, located at 1001 Bishop Street, Suite 2100, American Savings Tower, Honolulu, Hawai'i, 96813, am duly admitted to practice law in the State of Hawai'i, and am one of the attorneys for Successor Petitioner Ho'ohana Solar 1, LLC in the above-referenced Docket (hereinafter referred to as "**Ho'ohana**").

2. I have personal knowledge of the matters set forth herein and am qualified and competent to make this affidavit.

3. Petitioner's Exhibits 1 - 14 were filed with Ho'ohana's *Motion for Modification and Time Extension* (the "**Motion**"), filed with the State of Hawai'i Land Use Commission ("**Commission**") on August 17, 2020.

4. Attached hereto as **Petitioner's Exhibit 15** is a true and correct copy of the Declaration of Conditions Imposed by the State Land Use Commission, recorded with the State of Hawai'i Bureau of Conveyances ("**Bureau**") on March 30, 2015, as Regular System Document No. A-55670868A through A-55670868E.

5. Attached hereto as **Petitioner's Exhibit 16** is a true and correct copy of the Commission's *Order Granting Successor Petitioner (To Parcel 52), Ho'ohana Solar 1, LLC's Motion for Order Amending the Amended Findings of Fact, Conclusions of Law, and Decision and Order filed on October 1, 1996*, dated January 28, 2015.

6. Attached hereto as **Petitioner's Exhibit 17** is a true and correct copy of a letter from HRT Realty, LLC to the Commission, dated August 10, 2020, and received by the Commission on August 14, 2020.

7. Attached hereto as **Petitioner's Exhibit 18** is a true and correct copy of email correspondence from Ho'ohana circulating a draft of the Motion, dated July 30, 2020, July 31, 2020 (with exhibits), August 3, 2020, and August 4, 2020 (with exhibits).

8. Attached hereto as **Petitioner's Exhibit 19a** is a true and correct copy of the Memorandum of Understanding, dated March 30, 1993, between the Department of Agriculture, State of Hawai'i ("**DOA**") and Halekua Development Corporation ("**Halekua**").

9. Attached hereto as **Petitioner's Exhibit 19b** is a true and correct copy of the Amendment and Restatement of Memorandum of Understanding, dated March 2, 2007, between the DOA and Halekua.

10. Attached hereto as **Petitioner's Exhibit 19c** is a true and correct copy of the First Amendment to Amendment and Restatement of Memorandum of Understanding, dated February 19, 2009, between the DOA and Halekua-Kunia, LLC.

11. Attached hereto as **Petitioner's Exhibit 19d** is a true and correct copy of the Second Amendment to Amendment and Restatement of Memorandum of Understanding, dated September 20, 2012, between the DOA and Canpartners IV Royal Kunia Property LLC ("**Canpartners**").

12. Attached hereto as **Petitioner's Exhibit 19e** is a true and correct copy of the Third Amendment to Amendment and Restatement of Memorandum of Understanding, dated July 28, 2015, between the DOA and Canpartners.

13. Attached hereto as **Petitioner's Exhibit 19f** is a true and correct copy of the Fourth Amendment to Amendment and Restatement of Memorandum of Understanding, dated March 16, 2020, between the DOA and RP2 Ventures, LLC ("**RP2**"), with transmittal letter from the DOA, dated May 12, 2020, and received by the Commission on May 18, 2020.

14. Attached hereto as **Petitioner's Exhibit 20** is a true and correct copy of the transcript from the May 24, 2018 status hearing in Docket No. A92-683.

15. Attached hereto as **Petitioner's Exhibit 21a** is a true and correct copy of a graphic prepared by ITC Water Management, Inc ("**ITC**").

16. Attached hereto as **Petitioner's Exhibit 21b** is a true and correct copy of an email and attachment from Harold Edwards, of ITC, to Jon Wallenstrom, dated November 12, 2014.

17. Attached hereto as **Petitioner's Exhibit 22** is a true and correct copy of an email from Nonie Toledo to Scott Enright, dated July 19, 2015.

18. Attached hereto as **Petitioner's Exhibit 23** is a true and correct copy of the plans for the Royal Kunia Irrigation Line, prepared by R. M. Towill Corporation for RP2.

19. Attached hereto as **Petitioner's Exhibit 24** is a true and correct copy of a graphic prepared by Group 70 International, Inc., dba G70 ("**G70**"), showing Hawaiian Electric

Company, Inc.'s ("**HECO**") existing 138 kilovolt ("**kV**") lines and Ho'ohana's proposed interconnection.

20. Attached hereto as **Petitioner's Exhibit 25** is a true and correct copy of a photograph taken from the boundary of TMK No.: (1) 9-4-002:052 ("**Parcel 52**") and TMK No.: 9-4-002:071 ("**Parcel 71**") showing HECO's existing 138 kV and 46 kV lines.

21. Attached hereto as **Petitioner's Exhibit 26** is a true and correct copy of a graphic prepared by G70 showing HECO's existing 46 kV line and its proposed relocation.

22. Attached hereto as **Petitioner's Exhibit 27** is a true and correct copy of a graphic prepared by G70 showing the distances of substations for the solar project approved by the Commission in 2015 ("**2015 Solar Project**") and Ho'ohana's proposed solar project ("**2020 Solar Project**") from Parcel 71.

23. Attached hereto as **Petitioner's Exhibit 28** is a true and correct copy of a graphic prepared by G70 comparing solar panel locations for the 2015 Solar Project and 2020 Solar Project.

24. Attached hereto as **Petitioner's Exhibit 29** is a true and correct copy of Table 21-3 (Master Use Table) of the Revised Ordinances of Honolulu, Chapter 21.

25. Attached hereto as **Petitioner's Exhibit 30** is a true and correct copy of the landscape concept plan for the 2020 Solar Project, dated September 23, 2020, prepared by Walters Kimura Motoda, Inc.

26. Attached hereto as **Petitioner's Exhibit 31** is a true and correct copy of a rendering prepared by G70 showing the view from the boundary of Parcel 52 and Parcel 71 towards the 2020 Solar Project with the planned fence and landscape screen.

27. Attached hereto as **Petitioner's Exhibit 32** is a true and correct copy of a letter (with enclosures) from the City and County of Honolulu Department of Planning and Permitting ("DPP") to G70, dated August 14, 2020, approving minor modifications to Conditional Use Permit 2014/CUP-76.

28. Attached hereto as **Petitioner's Exhibit 33** is a true and correct copy of an article published in the Star Advertiser on March 27, 2019, reporting on the Hawai'i Public Utilities Commission's approval of the power purchase agreement between Ho'ohana and HECO for the 2020 Solar Project.

29. Attached hereto as **Petitioner's Exhibit 34** is a true and correct copy of email correspondence from David Tanoue and Janice Fujimoto, dated August 26, 2020, circulating a draft motion and accompanying documents prepared on behalf of Haseko Royal Kunia, LLC.

30. Attached hereto as **Petitioner's Exhibit 35** is a true and correct copy of DPP's approval of Zoning Waiver 2020/W-27 from DPP, dated August 14, 2020.

31. Attached hereto as **Petitioner's Exhibit 36** is a true and correct copy of the resume of Laurence Robert Greene.

32. Attached hereto as **Petitioner's Exhibit 37** is a true and correct copy of the resume of Brian E. Quinn.

33. Attached hereto as **Petitioner's Exhibit 38** is a true and correct copy of the resume of Jon Wallenstrom.

34. Attached hereto as **Petitioner's Exhibit 39** is a true and correct copy of the resume of Jeffrey H. Overton.

35. Attached hereto as **Petitioner's Exhibit 40** is a true and correct copy of the resume of Paul T. Matsuda.

36. Attached hereto as **Petitioner's Exhibit 41** is a true and correct copy of the resume of Sohrab Rashid.

37. Attached hereto as **Petitioner's Exhibit 42** is a true and correct copy of the resume of Christopher M. Monahan.

38. Attached hereto as **Petitioner's Exhibit 43** is a true and correct copy of the Written Direct Testimony of Laurence Robert Greene, dated September 25, 2020.

39. Attached hereto as **Petitioner's Exhibit 44** is a true and correct copy of the Written Direct Testimony of Jon Wallenstrom, dated September 25, 2020.

40. Attached hereto as **Petitioner's Exhibit 45** is a true and correct copy of the Written Direct Testimony of Jeffrey H. Overton, dated September 25, 2020.

41. Attached hereto as **Petitioner's Exhibit 46** is a true and correct copy of the Written Direct Testimony of Sohrab Rashid, dated September 23, 2020.

42. Attached hereto as **Petitioner's Exhibit 47** is a true and correct copy of the Written Direct Testimony of Christopher M. Monahan, dated September 23, 2020.

43. Attached hereto as **Petitioner's Exhibit 48** is a true and correct copy of the Written Direct Testimony of Eric B. Guinther, dated November 17, 2014.

44. Attached hereto as **Petitioner's Exhibit 49** is a true and correct copy of the Written Direct Testimony of Robert L. Spear, dated November 18, 2014.

45. Attached hereto as **Petitioner's Exhibit 50** is a true and correct copy of a map of the Petition Area showing Increments I, II and III of Royal Kunia Phase II, filed with the Commission by the DOA on May 24, 2018.

46. Attached hereto as Petitioner's Exhibit 51 is a true and correct copy of a Warranty Deed, dated August 12, 2020, and recorded with the Bureau on August 12, 2020 as Regular System Document No. A-75290285.

47. Attached hereto as Petitioner's Exhibit 52 is a true and correct copy of the Declaration of Conditions and Consent, dated April 8, 1994, and recorded in the Bureau on April 4, 1994 as Regular System Document No. 94-065022.

48. Attached hereto as Petitioner's Exhibit 53 is a true and correct copy of the Amendment to Declaration of Conditions and Consent, dated December 10, 1997, and recorded with the Bureau on April 13, 1999 as Regular System Document No. 99-056493.

I make this affidavit under Hawai'i Administrative Rules, § 15-15-70(c).

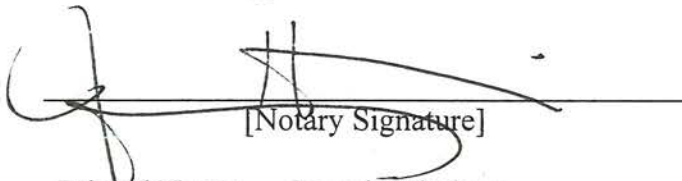
Further affiant sayeth naught.

DATED: September 25, 2020.



DEREK. B. SIMON

The attached document:
Affidavit of Derek B. Simon,
dated this 25th day of September, 2020,
which consists of seven
(7) pages (including this page), was
executed by Derek B. Simon who was
subscribed and sworn to before me
this 25th day of September, 2020 in the First
Judicial Circuit of the State of Hawai'i.



[Notary Signature]

Printed Name: Jeannie Hirabara

My commission expires: 02/07/2022

