

**REVISED EXHIBIT 1
OFFICE OF PLANNING'S PROPOSED AMENDED CONDI**



Condition A.

1. Royal Kunia Agricultural Park Off-site Infrastructure. Within six (6) months of the date of the Commission's Order, ~~the~~ landowner(s) within the Petition Area shall ~~[finalize]~~ execute an amendment to the Memorandum of Understanding (dated 1993 and subsequent amendments in 2007, 2009, ~~[and]~~ 2012, 2015, and 2020) with the Department of Agriculture, and comply with this amended Memorandum of Understanding. This Memorandum shall require that off-site infrastructure to the State of Hawai'i's Kunia Agricultural Park be completed no later than ~~[December 31, 2016]~~ June 30, 2023. "Offsite-infrastructure" includes, but is not limited to, all utilities and appurtenant works, roadways, potable water lines, electrical utilities, sewer lines, utility connections, and the non-potable waterline system appurtenances, in place, complete.
2. Revised Master Plan. ~~[Within twelve (12) months of the date of the Commission's Order, the]~~ All landowners within the Petition Area shall submit revised master plan(s) and schedule(s) for the development of their respective Increments 1, 2, and 3, comprising the Royal Kunia Phase II project to the Commission no later than December 31, 2021.
3. Status Report. By ~~[March 31, 2015]~~ March 15, 2021, all landowners within the Petition Area shall submit to the Commission a status report on the development of their respective parcels of land and their construction or contribution to the construction of the off-site infrastructure.
4. Notice to Commission. Petitioner shall provide notice to the Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interests in the subject property prior to or during development of the subject property, excluding, however, sales or 53 leases of the individual lots or condominium units in a residential development, or leases in an industrial development.
5. Compliance with Representations. Failure of the landowners to construct the off-site infrastructure for the Kunia Agricultural Park will constitute good cause for the Commission to issue an Order to Show Cause to the landowners pursuant to Section 15-15-93 of the Commission Rules.
6. Failure of Solar Project. Should Ho'ohana fail to construct and complete the Solar Project, the easement(s), construction, maintenance and cost of the non-potable

waterline described under Condition B.1., shall revert to the responsibility and expense of the landowners.

Condition B.

1. Royal Kunia Agricultural Park Non-Potable Water Connection. **[By December 31, 2016] Prior to the connection of the Solar Project to the grid.** Ho'ohana shall, at no cost to the State and concurrent with construction of the solar farm, design and provide an off-site, non-potable waterline from Reservoir 225 to the boundary of the Royal Kunia Agricultural Park (the "**non-potable waterline**"), [~~to specifications mutually acceptable to Ho'ohana and the Department of Agriculture~~] using the design and specifications acceptable to the Department of Agriculture that were submitted to the Department of Planning and Permitting by RP2 Ventures, LLC. Prior to providing the non-potable waterline, Ho'ohana shall at its sole cost and expense, cause Robinson Kunia Land LLC to grant any required non-exclusive, perpetual utility easement(s) to the State of Hawai'i for the alignment of the non-potable waterline. Ho'ohana shall provide contracted Maintenance on the installed non-potable waterline and maintain the non-potable waterline in an operable condition for the duration of the operation of the solar farm at no cost to the State. The Department of Agriculture shall be solely responsible for obtaining the non-potable water allocation to service the Royal Kunia Agricultural Park. **If Ho'ohana is required to perform an environmental impact statement pursuant to Chapter 343, Hawai'i Revised Statutes, then the time period set forth in this condition shall be extended by the number of days that Ho'ohana is delayed as a result.**

2. Fish and Wildlife Protection. Ho'ohana shall comply with the following:
 - a. Consult with the US Fish and Wildlife Service to coordinate staff training programs and measures to mitigate adverse impacts on endangered and migratory avian species.
 - b. Prior to clearing vegetation, twilight pre-construction surveys shall be conducted by qualified biologists. If pueo nests are present, DOFAW shall be notified and a buffer zone established in which no clearing occurs until nesting ceases.
 - c. If State listed water birds such as the Hawaiian Duck (*Anas wyvilliana*), Hawaiian Stilt (*Himantopus mexicanus knudseni*), Hawaiian Coot (*Fulica alai*), and Hawaiian Common Gallinule (*Gallinula choropus sandvicensis*) are present during construction activities, all activities within 100 feet (30 meters) shall cease, and the bird should not be approached. Work may continue after the bird leaves the area of its own accord. If a nest is discovered at any point, DOFAW shall be contacted.
 - d. The movement of plant soil material between worksites such as in fill shall be minimized. Petitioner shall contact the Oahu Invasive Species Committee to minimize the risk of spreading invasive species. All

- equipment, materials and personnel should be cleaned of excess soil and debris to minimize the risk of spreading invasive species.
- e. Construction activity shall be restricted to daylight hours as much as practicable during the seabird breeding season (April through November) to avoid the use of nighttime lighting that could be an attraction to seabirds.
 - f. All nighttime work that requires outdoor lighting shall be avoided during the seabird fledging fallout period from September 15 through December 15.
 - g. All outdoor lighting at the Project shall be shielded to prevent upward radiation so as to reduce the potential for seabird attraction.
 - h. To avoid potential impacts to the Hawaiian hoary bat, the clearing of dense vegetation, including woody plants greater than 15 feet should not occur between June 1 to September 15 when bats may be carrying young and potentially at risk by such clearing activities. If this cannot be avoided, woody plants greater than 15 feet tall should not be disturbed, removed, or trimmed without consulting DOFAW.

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- 4. Aircraft and Traffic Hazard. If the photovoltaic array creates a hazardous condition for pilots or motorists, the facility operator shall immediately initiate steps to mitigate the hazard upon notification by the Department of Transportation (DOT).

Ho'ohana shall resubmit a Federal Aviation Form (FAA) 7460-1 Notice of Proposed Construction or Alteration for the proposed increase in the number of photovoltaic (PV) solar panels. A glint and glare analysis shall be attached to the FAA Form 7460-1. Ho'ohana shall provide DOT a copy of the FAA determination of the FAA Form 7460-1.

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- 6. Compliance with Representations. Ho'ohana shall develop the non-potable waterline and solar farm in substantial compliance with its representations reflected in the Decision and Order. Failure to develop the non-potable waterline and/or Parcel 52 as a solar farm as represented will constitute good cause for the Commission to issue an Order to Show Cause to Ho'ohana pursuant to Section 15-15-93 of the Commission Rules.