

LAW OFFICE OF JENNIFER A. LIM, LLLC

JENNIFER A. LIM 8357
2299 B Round Top Drive
Honolulu, Hawai'i 96822
Tel No. 808.542.8516
JenniferLim@jenniferlimlaw.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
STATEMENT OF NO OPPOSITION TO
HASEKO ROYAL KUNIA, LLC'S MOTION
FOR ORDER AMENDING THE
MEMORANDUM OF UNDERSTANDING'S
OFFSITE INFRASTRUCTURE DATE IN
CONDITION A.1; CERTIFICATE OF
SERVICE

**HO'OHANA SOLAR 1, LLC'S STATEMENT OF NO OPPOSITION TO HASEKO
ROYAL KUNIA, LLC'S MOTION FOR ORDER AMENDING THE MEMORANDUM
OF UNDERSTANDING'S OFFSITE INFRASTRUCTURE DATE IN CONDITION A.1**

Haseko Royal Kunia, LLC ("Haseko"), on February 15, 2024, filed with the State of
Hawai'i Land Use Commission ("LUC") a motion asking that the LUC amend the offsite
infrastructure date in condition A.1 of that certain *Amended Order Granting Successor Petitioner
(As to Parcel 52), Ho'ohana Solar 1, LLC's Motion for Modification and Time Extension*, issued
by the LUC on November 1, 2021 (the "2021 Order").

Ho‘ohana Solar 1, LLC (“**Ho‘ohana**”) is the lessee of TMK No. (1) 9-4-002:052 (“**Parcel 52**”), which is a portion of the 503.886-acre¹ Petition Area that was reclassified by the LUC in this Docket.² Ho‘ohana is the developer of the solar farm on Parcel 52 that was authorized by the LUC under the 2021 Order. Under Hawai‘i Revised Statutes Chapter 205, and Title 15, Subtitle 3, Chapter 15 of the Hawai‘i Administrative Rules (“**HAR**”), Ho‘ohana is a party to the proceedings in this Docket.

Pursuant to HAR § 15-15-70 (as modified by HAR § 15-15-45(f)), Ho‘ohana files this Statement of No Opposition to Haseko’s motion, which seeks to modify a deadline in one of the “A” conditions set forth in the 2021 Order. The specific condition at issue in Haseko’s motion is condition A.1, which established offsite infrastructure requirements for the State Agricultural Park, aka the Royal Kunia Agricultural Park, operated by the State of Hawai‘i Department of Agriculture, and located to the north-west of the Petition Area, at TMK No. (1) 9-4-002:080.

The 2021 Order established two distinct sets of conditions—the “A” conditions and the “B” conditions. The “A” conditions “apply to the Petition Area but not to the solar farm development on Parcel 52.” *See* 2021 Order at 36. Ho‘ohana does not have any obligations under the “A” conditions in the 2021 Order. The “B” conditions apply “only to the solar farm on Parcel 52, and shall be applicable only upon development of the solar farm use on Parcel 52.” *Id.* at 37. Both the “A” and the “B” conditions have provisions addressing the DOA Agricultural Park.³ *See* 2021 Order at 36 – 37, *see also* Table 1.

¹ Halekua Development Corporation (“**Halekua**”) was the original Petitioner in this Docket. On September 6, 1995, in response to Halekua Development Corporation’s oral request to correct the metes and bounds description of the Petition Area, the LUC issued its *Order Granting Motion to Correct Metes and Bounds Description of the Petition Area*. Thereafter, the size of the Petition Area was confirmed at approximately 503.886 acres (rather than the original 504.865 acres).

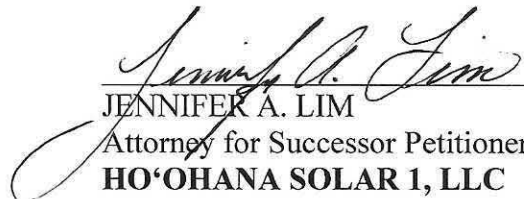
² The fee owner of Parcel 52 is Robinson Kunia Land LLC.

³ Moreover, under condition A.6, “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.”

Table 1

2021 Order, Condition A.1	2021 Order, Condition B.1
<p><u>Royal Kunia Agricultural Park Offsite Infrastructure.</u></p> <p>Within six (6) months of the date of the Commission’s Order, the landowner(s) within the Petition Area shall execute an amendment to the Memorandum of Understanding (dated 1993 and subsequent amendments in 2007, 2009, 2012, 2015 and 2020) with the Department of Agriculture, and comply with this amended Memorandum of Understanding.</p> <p>This Memorandum shall require that off-site infrastructure to the State of Hawai‘i’s Kunia Agricultural Park be completed no later than June 30, 2023.</p> <p>“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 appurtenances in place, complete.</p>	<p><u>Royal Kunia Agricultural Park Non-Potable Water Connection.</u></p> <p>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 “nonpotable waterline”), 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.</p> <p>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.</p> <p>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.</p> <p>The Department of Agriculture shall be solely responsible for obtaining the non-potable water allocation to service the Royal Kunia Agricultural Park.</p> <p>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.</p>

Ho'ohana has completed its non-potable waterline installation and related grant of non-exclusive utility easement obligations under condition B.1. As such, Ho'ohana has no opposition to the relief sought by Haseko in its motion.



JENNIFER A. LIM
Attorney for Successor Petitioner
HO'OHANA SOLAR 1, LLC

Dated: Honolulu, Hawai'i, February 26, 2024.