

STATE OF HAWAII
DEPARTMENT OF AGRICULTURE
AGRICULTURAL RESOURCE MANAGEMENT DIVISION
HONOLULU, HAWAII

April 23, 2024

Board of Agriculture
Honolulu, Hawaii

Subject: REQUEST TO APPROVE RENTAL OFFSET, GENERAL LEASE NO. S-3155; TREE CONCEPTS HAWAII LLC, LESSEE; TMK: (1) 4-1-027:023, WAIMANALO, KOOLAUPOKO, ISLAND OF OAHU, HAWAII

Authority: Section 166E-6, Hawaii Revised Statutes (HRS), and Section 4-158-2(a)(3), Hawaii Administrative Rules (HAR)

Lessee: Tree Concepts Hawaii LLC

Land Area: 15.101 gross acres

Tax Map Key: (1) 4-1-027:023 (see Exhibit "A")

Lease Term: 35 years, May 1, 2023 through April 30, 2058

Land Status: Encumbered by Governor's Executive Order No. 4534, dated July 21, 2017, to the Department of Agriculture for agriculture purposes

Annual Base Rental: \$30,084.00 per year, until rental reopening on May 1, 2038

Character of Use: Diversified agriculture

BACKGROUND:

In 2017, Governor's Executive Order No. 4534 transferred the subject land parcel to the Department of Agriculture for management purposes. The Agricultural Resource Management Division requested and received the Board of Agriculture's (BOA) approval to dispose of the parcel and by way of sealed bids the subject property was awarded to the successful bidder, Tree Concepts Hawaii LLC. A thirty-five (35) year lease was issued for the parcel commencing May 1, 2023 through April 30, 2058.

Tree Concepts Hawaii LLC submitted expense receipts for equipment and services rendered. The Lessee had the parcel surveyed, cut vegetation, and is installing a perimeter fence. The Lessee continues to clear the land in anticipation of planting coconut trees, palm trees,

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ornamental shrubs, banana, mango, avocado, taro, breadfruit, tapioca, and sod. The expenses to prepare the land for planting have exceeded the amount totaling two years of rental offset for the lease.

The issuance of the lease and cleaning of the property resulted in fewer reports of homeless encampments and substance abuse.

Pursuant to 4-158-2(a)(3), HAR, and the Lease, the BOA may permit the Lessee to offset the cost of land clearance and improvements against not more than two (2) years of base annual rental. The Lessee is requesting rental offsets of two years of base annual lease rent in the amount of \$60,168.00.

RECOMMENDATIONS:

That the Board of Agriculture approve the Lessee's request for a rental offset of up to two years of base annual lease rent from August 1, 2024 through July 31, 2026, in accordance with the terms and conditions of General Lease No. S-3155 and Section 4-158-2(a)(3), HAR, and such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully submitted,



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

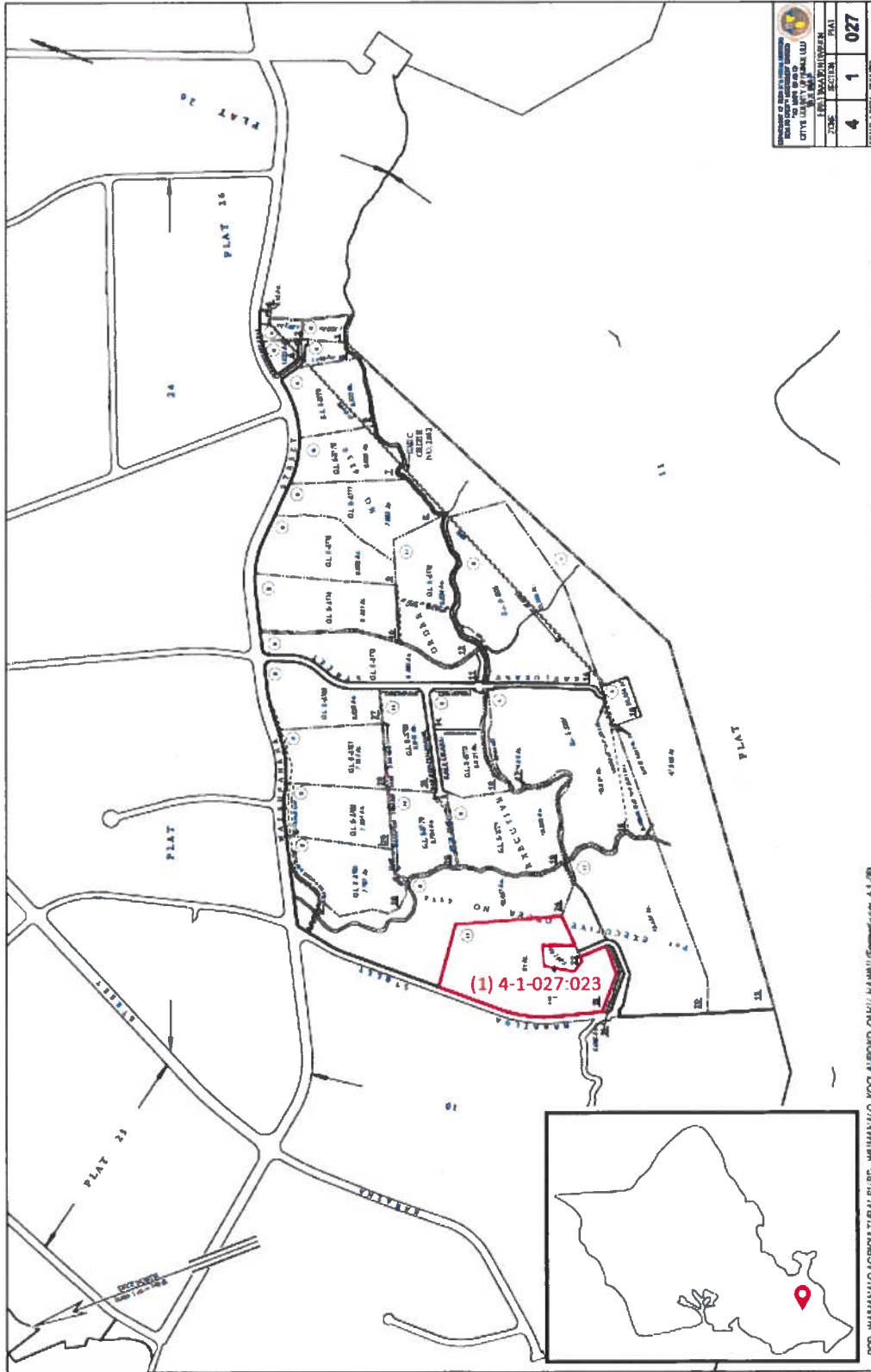
Attachment - Exhibit "A"

APPROVED FOR SUBMISSION:



SHARON HURD
Chairperson, Board of Agriculture

Exhibit "A"



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PHOTOS



STATE OF HAWAII
DEPARTMENT OF AGRICULTURE
AGRICULTURAL RESOURCE MANAGEMENT DIVISION
HONOLULU, HAWAII

April 23, 2024

Board of Agriculture
Honolulu, Hawaii

Subject: REQUEST FOR CONVERSION OF GENERAL LEASE NO. S-4475; KK RANCH INC., LESSEE; TMK: 3rd DIV/4-4-014:002, GOVERNMENT LAND OF KALOPA AND KAOHE-3, HAMAKUA, HAWAII

Authority: Section 166E-4 Hawaii Revised Statutes, (HRS), and Section 4-158-8, Hawaii Administrative Rules (HAR)

Lessee: KK Ranch, Inc.

Land Area: Approximately 5,105.792 acres

Tax Map Key: 3rdDiv/4-4-014:002 (Exhibit "A")

Lease Term: 55-years, March 1, 1976, through February 28, 2031

Land Status: Encumbered by Governor's Executive Order No. 4698 to the Department of Agriculture for agricultural purposes, October 20, 2023.

Annual Base Rent: \$20,000.00/year

Character of Use: Pasture purposes and alternate agriculture on 10% of lands

BACKGROUND:

General Lease S-4475 was sold at public auction on August 25, 1975 to Richard Toledo for a term of 35 years commencing on March 1, 1976. On March 12, 1976, the Board of Land and Natural Resources consented to the assignment of S-4475 from Richard Toledo to KK Ranch, Inc. General Lease S-4475 was transferred to the Department of Agriculture by Governor's Executive Order No. 4698, dated October 20, 2023.

KK Ranch, Inc. has developed, maintained, and utilized the subject property as a beef cattle operation.

KK Ranch, Inc. has requested conversion of the said lease in accordance with Section 4-158-8, HAR, to a new 35-year lease term, subject to the requirements of the administrative rules which are stated, in pertinent sections as follows:

The department shall:

- Require an appraisal of the parcel in accordance with Section 4-158-21, HAR;

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- Impose other lease terms, provisions, restrictions, and conditions as provided in this chapter as may be required to protect the State's interest;
- Require the payment of annual lease rent by appraisal and a premium computed at twenty-five percent (25%) of the annual base rent for each year of the lease equal to the number of years that person occupied the land, but not to exceed seven (7) years; and
- Require those qualifying under subsection (a) to meet the bona fide farmer criteria as defined in section 4-158-1, HAR.

An appraisal was completed pursuant to Section 4-158-21, HAR, for the purpose of determining the fair market rental for the subject parcel. The Department of Agriculture contracted ACM Consultants, Inc., to determine the fair market annual base rental for the initial fifteen (15) year term of the lease. The appraised annual rental for the new lease is \$20,000.00. The appraised annual rental for this lease will be applied to the effective date of the lease. In accordance with Section 4-158-8(b)(4), the lessee shall also pay an annual premium equal to 25% of the annual base rental for a period not to exceed seven (7) years.

Further, the Board and Lessee mutually agree to cancel the existing General Lease No. S-4475 by executing a Mutual Cancellation of General Lease No. S-4475 subject to execution of the converted general lease documenting the effective date so that only one lease is in full force and effect. Since the mutual cancellation of the lease is agreed upon and executed by the parties and is not due to breach or default by the Lessee, Lessee is eligible and qualified for the new general lease, in this respect only. All other eligibility terms must be met to the satisfaction of the Board.

RECOMMENDATION:

That the Board of Agriculture:

1. Finds that by allowing the conversion of General Lease S-4475 to a new long-term lease, the State would realize greater returns and reduce disruptions to current ongoing farming operations and is, therefore, in the public interest.
2. Approve Lessee's request to convert General Lease No. S-4475 to a new Non-Agricultural Park Lands lease of not more than thirty-five (35) years for its initial lease term subject to the conversion provisions of Chapter 4-158-8, HAR with rent reopening's at the expiration of the 15th and 30th years.
3. Accept the fair market base rental rate of \$20,000.00 per year.
4. Approve the Mutual Cancellation of General Lease No. S-4475, subject to the execution of the effective date of the new general lease.

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All related documents are subject to the review and approval as to form by the Department of the Attorney General, and such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully submitted,



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

Attachments - Exhibit "A"

APPROVED FOR SUBMISSION:



Sharon Hurd
Chairperson, Board of Agriculture

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EXHIBIT "A"

