

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

August 23, 2013

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF: 13MD-134

Maui

Consent to Sublease, General Lease No. S-5284-A, Hawaiian Cement, Lessee, to Haleakala Solar Inc., Sublessee, Pulehunui, Maui, Tax Map Key: (2) 3-8-008:031 por.

APPLICANT:

Hawaiian Cement, a domestic general partnership, as Sublessor, to Haleakala Solar Inc., a domestic profit corporation, as Sublessee.

LEGAL REFERENCE:

Section 171-36(a) (6), Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Pulehunui, Maui, identified by Tax Map Key: (2) 3-8-008:031 por., as shown on the attached map labeled Exhibit A.

LEASE AREA:

45.957 acres, more or less.

TRUST LAND STATUS:

Section 5(a) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

LEASE CHARACTER OF USE:

1) development and operation of a rock crushing plant, concrete and asphaltic concrete batching plants, and other support and accessory uses; 2) manufacturing and storage of concrete hollow tile blocks and other concrete products; 3) stockpiling of

quarrying materials and other materials used in the production of concrete, asphaltic concrete hollow tile blocks and other concrete product purposes.

SUBLEASE CHARACTER OF USE:

Alternative energy production purposes for powering Hawaii Cement's rock-crushing plant and related facilities under General Lease No. S-5284-A.

TERM OF LEASE:

45 years, commencing on 6/3/1993 and expiring on 6/2/2038. Last rental reopening occurred on 6/3/2013; next rental reopening is scheduled for 6/3/2023.

TERM OF SUBLEASE:

21 years, commencing on 7/12/2013 and expiring on 7/12/2034.

ANNUAL RENTAL GL S-5284-A:

\$150,000.00

ANNUAL SUBLEASE RENTAL

Not Applicable. The Sublease is for alternative energy production only using a net metering approach subject to a Power Purchase Agreement at \$0.24 per kilowatt hour.

RECOMMENDED ADJUSTMENT TO LEASE RENTAL:

None as the Power Purchase Agreement covers improved property only, the improvements are not owned by the State and the Lessee pays fair market rent.

DCCA VERIFICATION:

SUBLESSOR:

Place of business registration confirmed:	YES	<u>x</u>	NO	_____
Registered business name confirmed:	YES	<u>x</u>	NO	_____
Good standing confirmed:	YES	<u>x</u>	NO	_____

SUBLESSEE:

Place of business registration confirmed:	YES	<u>x</u>	NO	_____
Registered business name confirmed:	YES	<u>x</u>	NO	_____
Good standing confirmed:	YES	<u>x</u>	NO	_____

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, "Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing. Item No. 4 that states "Repair, maintenance and renovation of existing structures on leased state lands."

REMARKS:

On July 29, 2013, the Maui District Land Office received a request from Hawaiian Cement for consent to three Power Purchase Agreements between Hawaiian Cement and Haleakala Solar Inc. (HSI) that involve the installation of 450 Photovoltaic solar panels (Canadian Solar 250 Watt Modules) upon buildings situated on lands leased to Hawaiian Cement under General Lease No. S-5284-A. A total of 368 panels will be mounted on the roof of a large warehouse and 82 panels on the roof of the business office as depicted in the photo labeled Exhibit B. Up to 100 kilowatts of electricity will be produced by each photovoltaic electric generating system.

Three systems are anticipated utilizing three separate Power Purchase Agreements (PPAs) for a total of 300 kilowatts. It is anticipated that all energy produced by the systems will be utilized by Hawaiian Cement. However, if the systems produce surplus energy for distribution on the grid, it will be credited to Hawaiian Cement's account in accordance with net metering arrangements to be made with Maui Electric Company, Ltd. (MECO). The net-metering arrangement with MECO will enable Hawaiian Cement to maintain full operational capacity at all times.

Staff views the PPAs as subleases because HSI will continue to own the solar equipment during the term of PPAs, and has the obligation to operate and maintain the equipment on the premises for the 21-year life of the PPAs. HSI will charge Hawaiian Cement \$0.24 per kilowatt hour produced by the photovoltaic systems, compared to approximately \$0.38 per kilowatt hour that Hawaiian Cement currently pays MECO. Hawaiian Cement currently pays between \$3,100 and \$4,100 per month for electricity, and expects to realize a substantial savings by entering into the PPAs.

Although there are monetary incentives to both Hawaiian Cement and HSI in entering into the PPAs, staff is recommending that the

State not capture a portion of Hawaiian Cement's savings on electrical bills or otherwise collect sandwich profits under the sublease at this time. Hawaiian Cement is responding to the State's "Green Initiative" to be more energy self-sufficient while reducing current energy consumption costs. However, staff is including a recommendation below that Hawaiian Cement provide Land Division with copies of its invoices from MECO and HSI on a monthly basis so that staff can monitor the cost-savings and revenues resulting from the PPAs, and that the Board reserve the right to re-evaluate the sublease rent participation issue in the future should conditions warrant it.

Hawaiian Cement is compliant with all lease terms and conditions and has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

It is anticipated that the proposed improvements will have no significant impact, whether immediate or cumulative, to the natural, environmental and/or cultural resources in the area. As such, staff believes that the proposed use would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

RECOMMENDATION

That the Board:

- A. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
- B. Consent to the sublease under General Lease No. S-5284-A between Hawaiian Cement, as Sublessor, and Haleakala Solar Inc., as Sublessee, subject to any applicable conditions cited above which are by this reference incorporated herein and further subject to the following terms and conditions:
 1. The Lessee shall submit construction plans of the proposed improvements to the Land Division for the Chairperson's approval prior to constructing any improvements on the demised premises;
 2. Issuance of a letter of Authorization from the Chairperson to Hawaiian Cement for the proposed improvements;
 3. Once the photovoltaic system (or any phase of it) is

operational, Hawaiian Cement shall provide copies of all invoices from Maui Electric Company, Ltd. and Haleakala Solar Inc. relating to electrical consumption to the Maui District Land Office within 30 days of Hawaiian Cement's receipt thereof;

4. The Board reserves the right to re-evaluate the sublease rent participation issue in the future and require an additional rent payment under the lease should conditions warrant it;
5. Review and approval by the Department of the Attorney General; and
6. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Daniel Ornellas
District Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson





STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

August 23, 2013

EXEMPTION NOTIFICATION

regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title: Hawaiian Cement Sublease to Haleakala Solar, Inc.

Project / Reference No.: 13MD-134

Project Location: Pulehunui, Maui TMK: (2) 3-8-008:031

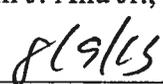
Project Description: Alternative energy production via 450 photovoltaic panels that produce can up to 300 kw of electricity to be installed upon existing by buildings located on government lands encumbered by General Lease S-5284-A to Hawaiian cement.

Chap. 343 Trigger(s): Use of State Land

Exemption Class No. and Description: In accordance with the Division of Land Management's Environmental Impact Statement Exemption List, approved by the Environmental Council and dated April 28, 1986, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states " Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing."

Recommendation: It is anticipated this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.


William J. Aila Jr., Chairperson



Date

Source: Title # 545
 On 01-30-1965

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Hawaiian Cement PV Design Puunene Location

Warehouse - 368 Canadian Solar 250 W Modules
Office - 82 Canadian Solar 250 W Modules



EXHIBIT "B"