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STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

March 30, 2015 11:00 AM

Doc No(s) A-55670868A thru A-55670868E



/s/ NICKI ANN THOMPSON
REGISTRAR

1 1/1 JMV
B-32606566

LAND COURT

REGULAR SYSTEM

Return By Mail Pick-Up To:

CARLSMITH BALL LLP
ASB Tower, Suite 2100
1001 Bishop Street
Honolulu, Hawaii 96813

Attention: Steven S.C. Lim/ien
Telephone: (808) 523-2583

TITLE OF DOCUMENT:

DECLARATION OF CONDITIONS IMPOSED BY THE STATE LAND USE COMMISSION

PARTIES TO DOCUMENT:

SUCCESSOR PETITIONER: HO'OHANA SOLAR 1, LLC, a Delaware limited liability company

LANDOWNERS OF THE PETITION AREA: ROBINSON KUNIA LAND LLC, a Hawaii limited liability company; CANPARTNERS IV ROYAL KUNIA PROPERTY LLC, a Delaware limited liability company; HRT REALTY, LLC, a Maryland limited liability company; 300 CORPORATION, a Maryland corporation; HONOLULU LIMITED, a Maryland corporation; and RKES, LLC, a Hawaii limited liability company,

TAX MAP KEY(S): (1) 9-4-002: 001, 052, 070, 071, 078, 079

(This document consists of 25 pages.)

**DECLARATION OF CONDITIONS IMPOSED
BY THE STATE LAND USE COMMISSION**

KNOWN ALL MEN BY THESE PRESENTS:

HO‘OHANA SOLAR 1, LLC, a Delaware limited liability company, ("**Successor Petitioner**" or "**Ho‘ohana**") is the Successor Petitioner in Docket No. A92-683 before the State of Hawai‘i Land Use Commission ("**Commission**") to that portion of the Petition Area identified by Tax Map Key ("**TMK**") No. 9-4-002: 052 ("**Parcel 52**") and consisting of approximately 161.023 acres. Successor Petitioner hereby submits this Declaration of Conditions Imposed by the State Land Use Commission ("**Declaration of Conditions**") for recordation pursuant to the requirements of Section 15-15-92, Hawai‘i Administrative Rules.

WHEREAS, the Petition Area consists of approximately 503.886 acres of land at Waikele and Ho‘ae‘ae, ‘Ewa, O‘ahu, City and County of Honolulu, identified by TMK Nos. 9-4-002: 001, 052, 070, 071, 078, and 079. The Petition Area is more fully described in that certain Declaration of Conditions and Consent, filed on April 14, 1994 in Bureau of Conveyance of the State of Hawai‘i ("**Bureau**") as Regular System Document No. 94-065022, as amended by that certain Amendment to Declaration of Conditions and Consent filed on April 13, 1999 in the Bureau as Regular System Document No. 99-056493. The Petition Area was reclassified from the State Land Use Agricultural District to the State Land use Urban District by Findings of Fact, Conclusions of Law, and Decision and Order dated December 9, 1993 ("**1993 Order**"), as amended by Commission Orders dated October 1, 1996 ("**1996 Order**") and October 7, 2013 ("**2013 Order**") (collectively, the "**Halekua Orders**"); and

WHEREAS, the original Petitioner under the 1993 Order and 1996 Order was Halekua Development Corporation ("**Halekua**"); and

WHEREAS, Halekua lost control of the Petition Area such that the current ownership of the Petition area is as follows:

Robinson Kunia Land LLC, a Hawaii limited liability company ("**RKL**"),
TMK No. 9-4-002: 052 (161.023 acres);

Canpartners IV Royal Kunia Property LLC, a Delaware limited liability
company ("**Canpartners**"), TMK Nos. 9-4-002: 071 (161.335 acres) and 079
(por.) (0.025 acres);

HRT Realty, LLC, a Maryland limited liability company, TMK Nos. 9-4-002:
001 (por.) (as to an undivided 48.78% of 123.712 acres as Tenants in Common),
070 (13.304 acres), and 078 (36.660 acres);

300 Corporation, a Maryland corporation, TMK No. 9-4-002: 001 (por.) (as to
an undivided 25.63% of 123.712 acres as Tenants in Common);

Honolulu Limited, a Maryland corporation, TMK No. 9-4-002: 001 (por.) (as to
an undivided 25.59% of 123.712 acres as Tenants in Common); and

RKES, LLC, a Hawaii limited liability company, TMK Nos. 9-4-002: 071 (por.)
(0.025 acres) and 079 (12.0 acres).

RKL; Canpartners; HRT Realty, LLC, 300 Corporation; Honolulu Limited, and RKES, LLC are collectively referred to herein as the "**Landowners of the Petition Area**".

WHEREAS, on August 11, 2014, Successor Petitioner filed with the Commission a Motion for Order Amending the Findings of Fact, Conclusions of Law, and Decision and Order dated October 1, 1996, as amended ("**Motion to Amend**"), to: (1) recognize Ho'ohana as the Successor Petitioner to Parcel 52 with standing to seek and obtain the relief requested in the Motion to Amend; (2) issue an order modifying the Halekua Orders to expressly authorize the use of Parcel 52 for solar farm development for an operational use period of approximately 35 years (not including decommissioning); and (3) delete Condition No. 21, requiring the Commission's prior approval to change the ownership interest in the Petition Area, or in the

alternative, to approve the proposed lease of Parcel 52 to Ho‘ohana pursuant to the requirements of Condition No. 21; and

WHEREAS, the Commission granted the Motion to Amend and issued that certain Order Granting Motion for Order Amending Findings of Fact, Conclusions of Law and Decision and Order dated October 1, 1996, which such Order was filed by the Commission on January 28, 2015 ("**2015 Order**"). The Order granted Successor Petitioner's Motion to Amend, subject to eleven (11) conditions, which are set forth on pages 53 through 55 of the 2015 Order; and

WHEREAS, pursuant to Section 205-4(g) of the Hawai‘i Administrative Rules, such conditions are required to be recorded in the Bureau so as to be imposed upon the Petition Area as covenants running with the land, and such conditions shall be binding upon the Successor Petitioner, the landowners of the Petition Area, and each and every subsequent owner, lessee, sub-lessee, transferee, grantee, assignee, or developer of the Petition Area; and

WHEREAS, pursuant to Section 205-4(g), Hawai‘i Revised Statutes, and Section 15-15-92, Hawai‘i Administrative Rules, Successor Petitioner filed a Notice of Imposition of Conditions Imposed by the Land Use Commission with the Bureau on February 4, 2015 as Regular System Document No. A-55130741; and

WHEREAS, Successor Petitioner circulated the Declaration of Conditions to the Landowners of the Petition Area for review and comment and did not receive any objections thereto.

NOW, THEREFORE, Successor Petitioner hereby states and declares that the 2015 Order amending the Halekua Orders to authorize the use of Parcel 52 of the Petition Area for solar farm development to include all related utility and other infrastructure for a period of approximately 35 years (not including decommissioning), is made subject to those eleven (11)

conditions which are more fully set forth on pages 53 through 55 of the 2015 Order, and recited and attached hereto and incorporated herein by reference as **Exhibit A**.

The conditions imposed by the 2015 Order shall be in addition to the conditions imposed under the Halekua Orders, which are hereby reaffirmed and shall continue in full force and effect.

Upon recordation at the Bureau, this Declaration of Conditions supersedes and automatically revokes the Notice of Imposition of Conditions by the Land Use Commission that was recorded with the Bureau on February 4, 2015 as Regular System Document No. A-55130741.

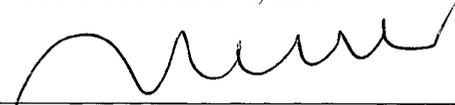
The parties hereto agree that this instrument may be executed in counterparts, each of which shall be deemed an original, and said counterparts together constitute one and the same instrument, binding all of the parties hereto, notwithstanding all of the parties are not signatory to the original or same counterparts. For all purposes, including without limitation, recordation, filing and delivery of this instrument, duplicate unexecuted and unacknowledged pages of the counterparts may be discarded and the remaining pages assembled as one document.

[Signatures to follow on the next page.]

IN WITNESS WHEREOF, the parties have executed these presents on the 17th of March, 2015.

Declaration of Conditions Imposed by the
Land Use Commission

HO'OHANA SOLAR 1, LLC

By 

Name: Moon Hwan Cha

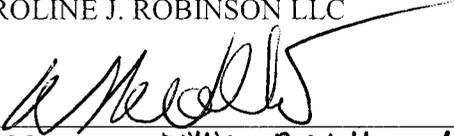
Title: President

Successor Petitioner

CONSENT TO Declaration of Conditions
Imposed by the Land Use Commission /

ROBINSON KUNIA LAND LLC
By its Managers

CAROLINE J. ROBINSON LLC

By 
Its Manager William R. Walter

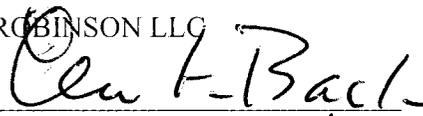

WILLIAM W. PATY

By 
Its Manager Patricia Kehau Wall


ALLAN ZAWTOCKI

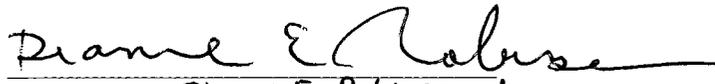

WILLIAM RHETT TABER

J. L. P. ROBINSON LLC

By 
Its Manager Clinton Basler

Trustees under the Will and of the
Estate of Mark Alexander Robinson, deceased,
and under Deed of Trust of Mark Alexander
Robinson and Mary Kapuhaulani Hart
Robinson, dated July 30, 1953

By 
Its Manager John Morgan

By 
Its Manager Dianne E. Robinson

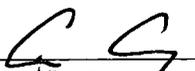
CONSENT TO Declaration of Conditions
Imposed by the Land Use Commission ⁴

300 CORPORATION

By AS
Name: ALVIN AWAYA
Its: PRESIDENT

CONSENT TO Declaration of Conditions
Imposed by the Land Use Commission

HONOLULU LIMITED

By 
Name: ALVIN AWAYA
Its: VICE PRESIDENT

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Orange

On March 17, 2015 before me, Gina Knickerbocker, Notary Public
(insert name and title of the officer)

personally appeared Meen Hwan Cha,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

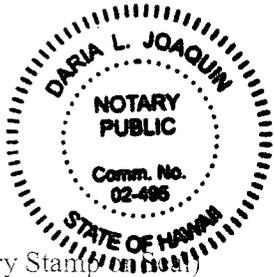
WITNESS my hand and official seal.



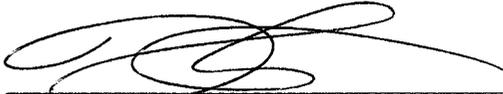
Signature *Gina Knickerbocker* (Seal)

STATE OF HAWAII)
) ss.
COUNTY OF HAWAII)

On this 16th day of March, 2015, before me personally appeared William R Walter, personally known/proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

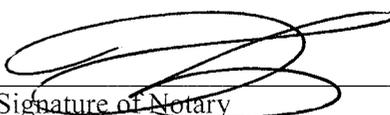
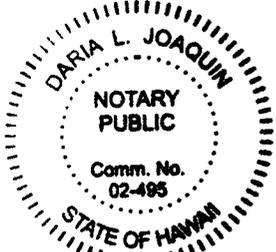


(Notary Stamp)


Name: DARIA L JOAQUIN

Notary Public, State of Hawaii

My commission expires: 10/13/2018

NOTARY CERTIFICATION STATEMENT	
Document Identification or Description:	CONSENT TO Declaration of Conditions Imposed by the Land Use Commission
Document Date:	<u>undated at signing</u>
No. of Pages:	<u>23</u>
Jurisdiction (in which notarial act is performed):	
 Signature of Notary	<u>03/16/15</u> Date of Notarization and Certification Statement
<u>DARIA L JOAQUIN</u> Printed Name of Notary	 (Notary Stamp or Seal)

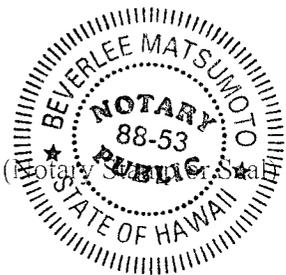
STATE OF HAWAII)
) ss.
CITY AND COUNTY OF HONOLULU)

On this 18th day of March, 2015, before me personally appeared PATRICIA KEIHAU WALL, personally known/proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Beverlee Matsumoto
Name: Beverlee Matsumoto

Notary Public, State of Hawaii

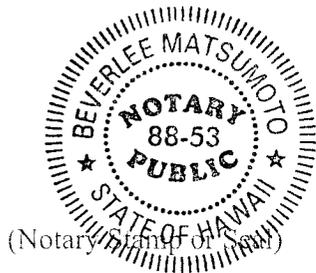
My commission expires: January 24, 2016



NOTARY CERTIFICATION STATEMENT	
Document Identification or Description:	<u>CONSENT TO Declaration of Conditions Imposed by the Land Use Commission</u>
Document Date:	<u>Undated at signing</u>
No. of Pages:	<u>23</u>
Jurisdiction (in which notarial act is performed):	<u>1st</u>
<u>Beverlee Matsumoto</u> Signature of Notary	<u>3/18/15</u> Date of Notarization and Certification Statement
Beverlee Matsumoto Printed Name of Notary	 (Notary Stamp or Seal)

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

On this 20th day of March, 2015, before me personally appeared Clinton Basler, personally known/proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.



Beverlee Matsumoto
Name: Beverlee Matsumoto

Notary Public, State of Hawaii

My commission expires: January 24, 2016

NOTARY CERTIFICATION STATEMENT

Document Identification or Description: CONSENT TO Declaration of Conditions Imposed by the Land Use Commission

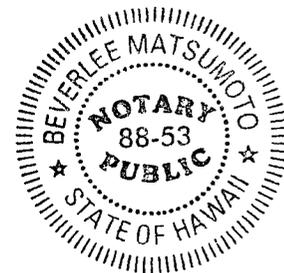
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No. of Pages: 23

Jurisdiction (in which notarial act is performed): 1st

Beverlee Matsumoto 3/20/15
Signature of Notary Date of Notarization and Certification Statement

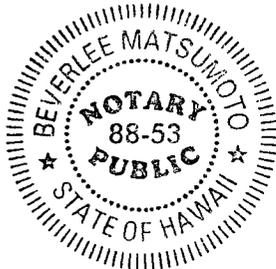
Beverlee Matsumoto
Printed Name of Notary



(Notary Stamp or Seal)

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

On this 20th day of March, 2015, before me personally appeared John Morgan, personally known/proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.



(Notary Stamp or Seal)

Beverlee Matsumoto
Name: Beverlee Matsumoto

Notary Public, State of Hawaii

My commission expires: January 24, 2016

NOTARY CERTIFICATION STATEMENT

Document Identification or Description: CONSENT TO Declaration of Conditions Imposed by the Land Use Commission

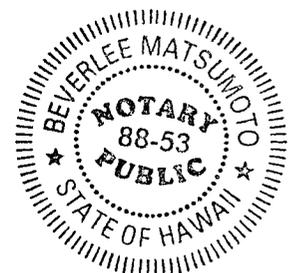
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No. of Pages: 23

Jurisdiction (in which notarial act is performed): 1st

Beverlee Matsumoto 3/20/15
Signature of Notary Date of Notarization and Certification Statement

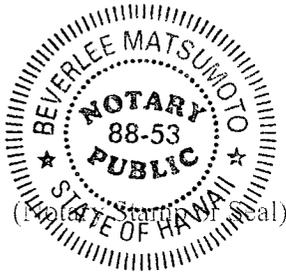
Beverlee Matsumoto
Printed Name of Notary



(Notary Stamp or Seal)

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

On this 21st day of March, 2015, before me personally appeared **Dianne E. Robinson**, personally known/proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.



Beverlee Matsumoto
Name: **Beverlee Matsumoto**

Notary Public, State of Hawaii

My commission expires: **January 24, 2016**

NOTARY CERTIFICATION STATEMENT

Document Identification or Description: CONSENT TO Declaration of Conditions Imposed by the Land Use Commission

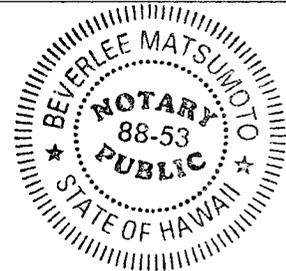
Document Date: *undated at signing*

No. of Pages: *23*

Jurisdiction (in which notarial act is performed): *1st*

Beverlee Matsumoto *3/21/15*
Signature of Notary Date of Notarization and
Certification Statement

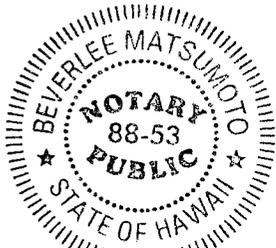
Beverlee Matsumoto
Printed Name of Notary



(Notary Stamp or Seal)

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

On this 18th day of March, 2015, before me personally appeared William W. Paty, personally known/proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.



(Notary Stamp or Seal)

Beverlee Matsumoto
Name: Beverlee Matsumoto

Notary Public, State of Hawaii

My commission expires: January 24, 2016

NOTARY CERTIFICATION STATEMENT

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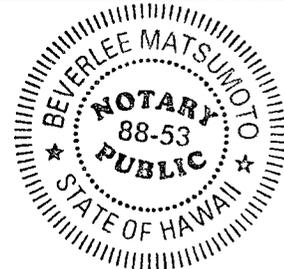
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No. of Pages: 23

Jurisdiction (in which notarial act is performed): 1st

Beverlee Matsumoto 3/18/15
Signature of Notary Date of Notarization and Certification Statement

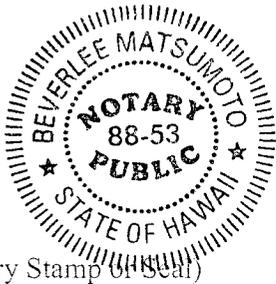
Beverlee Matsumoto
Printed Name of Notary



(Notary Stamp or Seal)

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

On this 18th day of March, 2015, before me personally appeared Allan Zawtocki, personally known/proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.



(Notary Stamp or Seal)

Beverlee Matsumoto
Name: Beverlee Matsumoto

Notary Public, State of Hawaii

My commission expires: January 24, 2016

NOTARY CERTIFICATION STATEMENT

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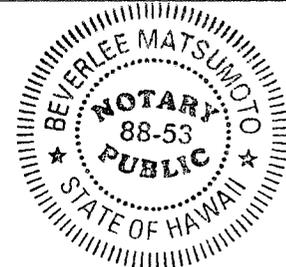
Document Date: Updated at signing

No. of Pages: 23

Jurisdiction (in which notarial act is performed): 1st

Beverlee Matsumoto 3/18/15
Signature of Notary Date of Notarization and Certification Statement

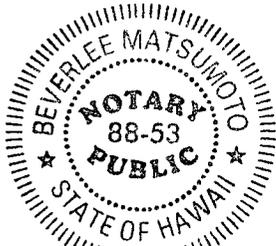
Beverlee Matsumoto
Printed Name of Notary



(Notary Stamp or Seal)

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

On this 18th day of March, 2015, before me personally appeared William R. Kheif Tabar, personally known/proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.



(Notary Stamp or Seal)

Beverlee Matsumoto
Name: Beverlee Matsumoto

Notary Public, State of Hawaii

My commission expires: January 24, 2016

NOTARY CERTIFICATION STATEMENT

Document Identification or Description: CONSENT TO Declaration of Conditions Imposed by the Land Use Commission

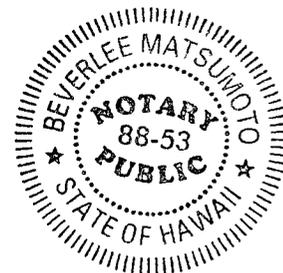
Document Date: Undated at signing

No. of Pages: 23

Jurisdiction (in which notarial act is performed): 1st

Beverlee Matsumoto 3/18/15
Signature of Notary Date of Notarization and Certification Statement

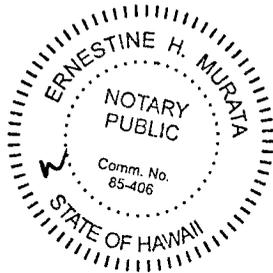
Beverlee Matsumoto
Printed Name of Notary



(Notary Stamp or Seal)

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

On this 18th day of ~~January~~ ^{March}, 2015, before me personally appeared ALVIN AWAYA, personally known/proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.



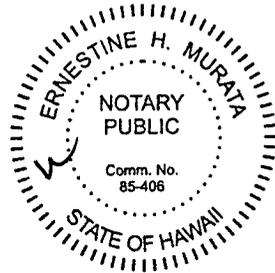
(Notary Stamp or Seal)

Ernestine H. Murata
Name: ERNESTINE H. MURATA
Notary Public, State of Hawaii
My commission expires: OCT 14 2017

NOTARY CERTIFICATION STATEMENT	
Document Identification or Description:	<u>CONSENT TO Declaration of Conditions Imposed by the Land Use Commission .</u>
Document Date:	<u>Not Dated</u>
No. of Pages:	<u>20</u>
Jurisdiction (in which notarial act is performed):	<u>First</u>
<u>Ernestine H. Murata</u> Signature of Notary	<u>MAR 18 2015</u> Date of Notarization and Certification Statement
<u>ERNESTINE H. MURATA</u> Printed Name of Notary	 (Notary Stamp or Seal)

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

On this 18th day of March, 2015, before me personally appeared ALVIN AWAYA, personally known/proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.



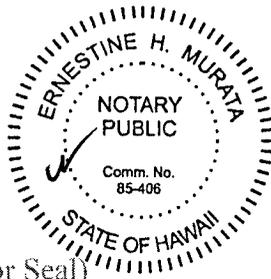
Ernestine H Murata
Name: ERNESTINE H. MURATA
Notary Public, State of Hawaii
My commission expires: OCT 14 2017

(Notary Stamp or Seal)

NOTARY CERTIFICATION STATEMENT	
Document Identification or Description:	<u>CONSENT TO Declaration of Conditions Imposed by the Land Use Commission</u>
Document Date:	<u>Not Dated</u>
No. of Pages:	<u>20</u>
Jurisdiction (in which notarial act is performed):	<u>First</u>
<u>Ernestine H Murata</u> Signature of Notary	<u>MAR 18 2015</u> Date of Notarization and Certification Statement
<u>ERNESTINE H. MURATA</u> Printed Name of Notary	 (Notary Stamp or Seal)

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

On this 18th day of March, 2015, before me personally appeared ALVIN AWAYA, personally known/proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.



(Notary Stamp or Seal)

Ernestine H Murata
Name: ERNESTINE H. MURATA
Notary Public, State of Hawaii
My commission expires: OCT 14 2017

NOTARY CERTIFICATION STATEMENT	
Document Identification or Description:	<u>CONSENT TO Declaration of Conditions Imposed by the Land Use Commission</u>
Document Date:	<u>Not Dated</u>
No. of Pages:	<u>20</u>
Jurisdiction (in which notarial act is performed):	<u>First</u>
<u>Ernestine H Murata</u> Signature of Notary	<u>MAR 18 2015</u> Date of Notarization and Certification Statement
<u>ERNESTINE H. MURATA</u> Printed Name of Notary	 (Notary Stamp or Seal)

052 ("Parcel 52"), and shown approximately on Exhibit "A", attached hereto and incorporated herein by reference, may be used as a utility-scale solar farm, including all related utility and other infrastructure, for an operational period, excluding decommissioning, not to exceed 35 years from the date of this Order.

Based upon the findings of fact and conclusions of law stated herein, it is hereby determined that the use of Parcel 52 for a solar farm will not significantly affect or impair the preservation or maintenance of natural systems and habitats or the valued cultural, historical, agricultural, and natural resources of the area.

IT IS FURTHER ORDERED that the following conditions shall apply:

A. **New Conditions Imposed on the Petition Area.** The following Conditions A1 through and including A3 shall replace Condition No. 19 of the Halekua Orders. Condition A4 shall replace Condition No. 21 of the Halekua Orders:

1. **Royal Kunia Agricultural Park Offsite Infrastructure.** Within six (6) months of the date of the Commission's Order, the landowner(s) within the Petition Area shall finalize an amendment to the Memorandum of Understanding (dated 1993 and subsequent amendments in 2007, 2009 and 2012) 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.
2. **Revised Master Plan.** Within twelve (12) months of the date of the Commission's Order, the 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.
3. **Status Report.** By March 31, 2015, all landowners within the Petition Area shall submit to the Commission a status report on the development of their respective parcels of land.
4. **Notice to Commission.** Condition No. 21 of the Halekua Orders is hereby deleted and replaced with new Condition No. 21, which shall read as follows:

"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

leases of the individual lots or condominium units in a residential development, or leases in an industrial development."

B. New Conditions Imposed Solely on the Solar Farm to be Developed on Parcel 52.

The following conditions B1 through and including B7 shall be applicable only to the solar farm on Parcel 52, and shall be applicable only upon development of the solar farm use on Parcel 52:

1. Royal Kunia Agricultural Park Non-Potable Water Connection. By December 31, 2016, Ho'ohana shall, at no cost to the State and concurrent with construction of the solar farm, design and provide an offsite, 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. 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 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.
3. Archaeological and Historic Resources. No ground altering activities shall occur prior to obtaining approval of the Archaeological Inventory Survey from the State Historic Preservation Division.
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.
5. Development Schedule. The proposed solar farm shall be substantially completed within two (2) years from the approval date of this Decision and Order.
6. Compliance with Representations. Ho'ohana shall develop the solar farm in substantial compliance with its representations reflected in the Decision and Order. Failure to develop 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.

7. Decommissioning of the Solar Farm. The solar farm shall be decommissioned following its operational timeframe. The decommissioning activities shall include, but not be limited to, the removal of the foundational piers as is commercially feasible, and the complete removal of all modules and associated components. All metal components shall be recycled to the extent commercially feasible, and Ho‘ohana shall minimize disposal of any solar farm components in any landfill in the State of Hawai‘i. Any future use of Parcel 52 following the decommissioning of the solar farm shall be subject to the environmental review process promulgated under HRS Chapter 343, as applicable, and shall require the filing of a motion to amend the Decision and Order with the Commission. Such motion to amend shall include a revised master development plan for Royal Kunia Phase II, Increment 3 and shall further include but not be limited to a revised Traffic Impact Analysis Report, Engineering Report, Socio-Economic Analysis Report, Environmental Report, and Archaeological Inventory Survey Report.

IT IS FURTHER ORDERED that, except as expressly noted above with respect to the amendment of Condition Nos. 19 and 21, the above New Conditions Imposed on the Petition Area shall be in addition to the Conditions imposed under the Halekua Orders. The Conditions imposed under the Halekua Orders are hereby reaffirmed and shall continue in full force and effect as they pertain to the Petition Area and Parcel 52.⁴

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⁴ Nothing contained herein shall be construed in any way to amend, rescind, or otherwise disturb the following: (1) the agreement between OP and the HRT Entities as expressed in the December 29, 2003 Stipulation by and between OP and the HRT Entities, which was filed with the Commission on December 30, 2003; and (2) the rights of the HRT Entities as expressed in the Commission's February 23, 2004 *Order Granting the Office of Planning's Amended Motion to Exempt HRT, Ltd.'s Property from the Order to Show Cause Granted on February 26, 2003, Pursuant to the Stipulation filed on December 30, 2003.*