Notice of Meeting
UNIVERSITY OF HAWAI’I
BOARD OF REGENTS COMMITTEE ON PLANNING AND FACILITIES
Members: Regents Nahale-a (Chair), Paloma (Vice-Chair), Higaki, Lee, and Mawae

Date:    Thursday, January 19, 2023
Time:    9:15 a.m.
Place:   University of Hawai’i at West Oahu
         Campus Center, Room C208
         91-1001 Farrington Highway
         Kapolei, Hawai’i 96707

See the Board of Regents website to access the live broadcast of the meeting and related updates: www.hawaii.edu/bor

AGENDA
I. Call Meeting to Order
II. Approval of Minutes of the November 3, 2022 Meeting
III. Public Comment Period for Agenda Items:

Individuals who are unable to provide testimony at this time will be allowed an opportunity to testify when specific agenda items are called.

All written testimony on agenda items received after posting of this agenda and up to 24 hours in advance of the meeting will be distributed to the board. Late testimony on agenda items will be distributed to the board within 24 hours of receipt. Written testimony may be submitted via the board’s website through the testimony link provided on the Meeting Agendas, Minutes and Materials page. Testimony may also be submitted via email at bor.testimony@hawaii.edu, U.S. mail at 2444 Dole Street, Bachman 209, Honolulu, HI 96822, or facsimile at (808) 956-5156.

Those wishing to provide oral testimony virtually may register here. Given the constraints with the format of hybrid meetings, individuals wishing to orally testify virtually must register no later than 7:45 a.m. on the day of the meeting in order to be accommodated. Registration for in-person oral testimony on agenda items will also be provided at the meeting location 15 minutes prior to the meeting. It is highly recommended that written testimony be submitted in addition to registering to provide oral testimony. Oral testimony will be limited to three (3) minutes per testifier.

Although remote oral testimony is being permitted, this is a regular meeting and not a remote meeting by interactive conference technology under Section 92-3.7,
Hawai‘i Revised Statutes. Therefore, the meeting will continue notwithstanding loss of audiovisual communication with remote testifiers or loss of the public broadcast of the meeting.

All written testimony submitted are public documents. Therefore, any testimony that is submitted orally or in writing, electronically or in person, for use in the public meeting process is public information and will be posted on the board’s website.

IV. Agenda Items

A. Recommend Board Approval to Convey to the State of Hawai‘i Department of Transportation (HDOT) via Quitclaim Deed for an Approximate 5 – 7 Acre Parcel of Land Owned by University of Hawai‘i Adjacent to the University of Hawai‘i – West O‘ahu Campus (Tax Map Key Nos. (1) 9-1-016: 179, 183, and 220 (portions)) Pursuant to a Conveyance Agreement for the Construction, Operation, Maintenance and Repair of HDOT’s Farrington Highway Widening Project

B. Recommend Board Approval of Letters of Intent and a Long-Term Agreement for the Use of a Portion of the University of Hawai‘i at Hilo Campus Property (Tax Map Key No. (3) 2-4-001:122) to Develop and Operate a Photovoltaic Energy System Under a Power Purchase Agreement Between Hawaiian Electric Companies (HECO) Stage 3 Request for Proposals for Hawai‘i Island for the Supply of Qualified Renewable Energy Under HECO’s Renewable Dispatchable Generation Power Purchase Agreement

V. Adjournment
I. CALL TO ORDER

Chair Nahale-a called the meeting to order at 11:19 a.m. on Thursday, November 3, 2022, at the University of Hawai‘i at Mānoa, Information Technology Building, 1st Floor Conference Room 105A/B, 2520 Correa Road, Honolulu, Hawai‘i 96822, with regents participating from various locations.

Committee members in attendance: Chair Alapaki Nahale-a; Vice-Chair Robert Westerman; Regent Wayne Higaki; Regent Gabriel Lee; and Regent Diane Paloma.

Others in attendance: Board Chair Randy Moore; Regent Eugene Bal; Regent William Haning; Regent Laurie Tochiki; and Regent Ernest Wilson (ex officio committee members); President David Lassner; Vice President (VP) for Administration Jan Gouveia; VP for Community Colleges Erika Lacro; VP for Legal Affairs/University General Counsel Carrie Okinaga; VP for Research and Innovation Vassilis Syrmos; VP for Information Technology/Chief Information Officer Garret Yoshihi; VP for Budget and Finance/Chief Financial Officer Kalbert Young; VP for Advancement/UH Foundation (UHF) Chief Executive Officer Tim Dolan; UH Hilo (UHH) Chancellor Bonnie Irwin; UH West O‘ahu (UHWO) Chancellor Maenette Benham; Executive Administrator and Secretary of the Board of Regents (Board Secretary) Kendra Oishi; and others as noted.

II. APPROVAL OF MINUTES OF THE AUGUST 18, 2022, AND SEPTEMBER 1, 2022, MEETINGS

Chair Nahale-a inquired if there were any corrections to the minutes of the August 18, 2022, and September 1, 2022, committee meetings which had been distributed. Hearing none, the minutes for both meetings were approved.

III. PUBLIC COMMENT PERIOD

Board Secretary Oishi announced that the Board Office received written comments from the U.S. Geological Survey (USGS) and several individuals in support of a long-term use and occupancy agreement between the University of Hawai‘i and the U.S. Department of the Interior, USGS for a Hawaiian Volcano Observatory and Pacific Island Ecosystem Research Center facility in Hilo, and that no individuals signed up to provide oral testimony.

Written testimony may be viewed at the of the Board of Regents website:
IV. AGENDA ITEMS

A. Recommend Board Approval:

1. **Fiscal Year (FY) 2024-2029 6-Year Capital Improvement Project (CIP) Plan**

2. **Fiscal Biennium (FB) 2023-2025 CIP Budget Request for Submittal to the Governor and Legislature**

   VP Gouveia provided historical information about the evolution of the 6-year CIP plan stating that the first of these plans was created in 2016 as part of an effort to establish a better organized, coordinated, strategic, and comprehensive CIP program at the university. She summarized the strategy and vision of the original 6-year plan, highlighting the creation of the Renew, Improve, Modernize (RIM) Program, and presented a breakdown of general obligation bond appropriations provided for CIP projects over the past six fiscal years. A short video about the university's CIP accomplishments was shown.

   A synopsis of the FY 2024 – 2029 6-year CIP plan, which includes a total of $1.85 billion in CIP funding, was provided. VP Gouveia stated that, while the new plan builds upon the concepts contained within the original 6-year plan, greater emphasis is being placed on improving and modernizing existing facilities through data-driven decisions that will allow the university to maximize the use of its institutional space. She spoke about the new plan’s strategy to address the university’s deferred maintenance (DM) backlog, which currently stands at $863 million systemwide and continues to be of concern; reviewed some of the challenges and factors that affect the university’s ability to tackle this issue; and discussed the impacts that adequate, consistent, and reliable funding would have on reducing this backlog, presenting three ten-year CIP funding scenarios along with their anticipated outcomes.

   VP Gouveia also went over the FB 2023 – 2025 CIP budget request which would be submitted to the Governor and Legislature for consideration upon approval by the board, stating that the budget request was being presented within the context of the university’s new 6-year CIP plan. She noted that a total of $509.5 million in CIP funding was being requested for the FB and included $352.5 million in RIM project funding; reviewed the FY 2024 and FY 2025 appropriation requests for the University of Hawai‘i at Mānoa (UHM), UHH, UHWO, and the community colleges, as well as projected budget requests for future fiscal years; and discussed some of the major campus projects for each of the units including an assessment and feasibility study of Hamilton Library at UHM, projects related to photovoltaic and energy efficiency initiatives, facilities projects including heating, ventilation, and air conditioning system upgrades or replacement, and various athletics-related projects.

   Referencing the database used by the administration to track facility improvements, Regent Wilson inquired about the costs versus benefits of utilizing this new system. VP Gouveia replied that information on all of the university’s physical plant inventory, which
includes over 300 buildings at UHM, is maintained in a database call AiM. She explained that the use of AiM, in conjunction with information from a third-party database of facilities-related metrics known as Sightlines, allows the university to do predictive modeling with respect to capital renewal projects which increases efficiency and leads to improved capital project strategic planning. In terms of cost-savings, she estimated that this saves the university millions of dollars annually.

Stating that there were no additional funds requested for the Hamilton Library project beyond the $6.5 million request for an assessment, Regent Moore questioned whether additional monies for this project would be sought in future years. VP Gouveia stated that the administration will have a better idea of the true costs of this project upon completion of the assessment. Once this information is obtained, an analysis can be conducted to determine the source of funding for this project which may involve the restructuring of funding for other CIP projects at UHM.

Noting that funds were being requested for three new buildings at UHWO in future years, Regent Moore asked if the construction of these facilities was contingent upon enrollment at the campus. VP Gouveia replied in the affirmative.

Regent Moore left at 12:06 p.m.

Regent Lee asked if student housing was included in the 6-year CIP plan and questioned whether their facilities were included in the AiM and Sightline databases. VP Gouveia replied in the affirmative but noted that CIP funding requests for student housing facilities are not included in the CIP budget request because they are intended to be fiscally self-sustaining. As such, student housing will develop a separate strategic plan for facilities under its jurisdiction although these projects are reflected in the DM data. She also noted that the administration is working with student housing operations to develop short- and long-term plans for its facilities.

Noting VP Gouveia’s response to Regent Lee’s question, Regent Haning asked if faculty housing faced a similar situation. VP Gouveia replied that, similar to student housing facilities, faculty housing facilities are intended to be self-sustaining. While it was her belief that faculty housing projects were not included in the DM data, she stated that she would confirm if her understanding was correct.

Regents commended the efforts of VP Gouveia and her team in developing the 6-year CIP plan particularly with respect to its focus on recapitalization efforts.

Chair Nahale-a emphasized that approval of the 6-year CIP plan and FB 2023-2025 CIP budget request does not indicate board approval of any of the projects contained therein. He stated that the major projects would need to be brought before the board for approval prior to their commencement.

Regent Westerman moved to recommend board approval of the FY 2024-2029 6-Year CIP Plan and the FB 2023-2025 CIP Budget Request, seconded by Regent Higaki, and the motion carried, with all members present voting in the affirmative.

B. FY 2022-2023 First Quarter CIP Status Report as of September 30, 2022
VP Gouveia reported on the status of CIPs through the first quarter of FY 2022-2023 stating that ongoing projects are moving forward as anticipated with no major changes or issues to report. She noted that the Saunders Hall and Mānoa Master Plan projects have been completed and will be closed out. She also drew attention to a $14.6 million project involving the expansion of seating and other improvements at the Clarence T.C. Ching Complex, which is scheduled to be substantially completed in July 2023, as well as a project involving the relocation of the track and installation of a soccer pitch on the practice field, the contract for which is slated to be awarded in January 2023. It was mentioned that the start date for construction to relocate the track may be delayed until the completion of the Ching Complex project to allow for the use of at least one practice field during this time. Additionally, the university has received approval from the National Institutes of Health to proceed with a scaled-down version of the Ho‘ola Early Phase Clinical Research Center with construction expected to be completed in May 2024.

C. **Recommend Board Approval of a Sublease between the University of Hawai‘i and UHF related to the Atherton Student Housing and Innovation Center**

VP Young provided background information on the Atherton Student Housing and Innovation Center (Atherton Project) which focuses on the development of innovation space and student housing units and is being undertaken through a public-private partnership between UHF and the Hunt Development Group. He also reviewed a 40-year sublease agreement which the university entered into with the project owner, UHF RISE Student Housing LLC (UHF RISE), which included plans for UHM’s Pacific Asian Center for Entrepreneurship (PACE) to utilize a portion of the leased space for an innovation center while allowing the remainder of the space to be sublet to other entities in order to generate rental revenue to offset the university’s facility rent and utility costs. As plans for the Atherton Project have progressed, UHF has proposed relocating their administrative offices to the space contained within the agreement entered into between the university and UHF RISE and is seeking to sublease the entire space from the university for the terms contained within the original sublease agreement.

VP Dolan stated that UHF’s move to the Atherton Project is completely consistent with its desire to be closer to the UHM campus and thematically aligns with its support of PACE.

Regent Wilson asked if this action completely removes the university from its involvement in the Atherton Project. VP Young stated that the sublease between the university and UHF RISE remains in existence and that this action is akin to inserting another party into the agreement via a sub sublease arrangement. Jesse Souki, Associate General Counsel (AGC), concurred with VP Young but noted that all of the university’s responsibilities associated with the original sublease agreement are being passed on to UHF through this action. President Lassner added that an important aspect of this sub-sublease is the formalization of PACE’s existence in the facility without cost to the university.

Regent Bal left at 12:29 p.m.
Regent Haning questioned whether parking would be available for UHF employees at the Atherton facility. VP Dolan replied that there will be limited parking at the facility for UHF employees.

Regent Paloma asked whether the rental rate of $250,000 per year was locked in for the entire 40-year term of the sublease. VP Young replied that UHF will be granted the same terms that were given to the university in the original sublease agreement with UHF RISE, which included payment of $250,000 in rent per annum for a term of 40 years. AGC Souki added that an escalator clause tied to the consumer price index is included in the sublease agreement.

Regent Higaki moved to recommend board approval of a sublease between the University of Hawai‘i and UHF related to the Atherton Student Housing and Innovation Center, seconded by Regent Lee, and the motion carried, with all members present voting in the affirmative.

D. Recommend Board Approval of a Long-Term Use and Occupancy Agreement between the University of Hawai‘i and the U.S. Department of the Interior, U.S. Geological Survey (USGS) for a Hawaiian Volcano Observatory (HVO) and Pacific Island Ecosystem Research Center (PIERC) facility in Hilo

VP Young stated that the administration was seeking approval of a long-term use and occupancy agreement between the university and the USGS of the United States Department of the Interior for a 6.81-acre parcel of land at UHH upon which would be constructed HVO and PIERC facilities. He spoke about the major terms of the agreement and noted several benefits that will be realized by the university through this agreement including reductions in overall costs, as well as the strengthening of academic and research partnerships with UHH.

David Phillips, Deputy Scientist-in-Charge for the USGS HVO, and Bob Reid, Acting Director of PIERC, discussed the mission and work of their respective agencies noting the close working relationship each has with UHH. They also talked about the need for, and proposed uses of, this parcel, and reviewed some of the benefits that will be afforded to the university, HVO, and PIERC through this agreement.

Chancellor Irwin stated that the approval of the long-term use and occupancy agreement will serve to strengthen UHH’s relationships with HVO and PIERC and provided insights into the academic and scientific value of these partnerships for the university.

Regent Wilson asked about anticipated construction and occupancy dates. Mr. Phillips replied that, once the land is acquired, the goal will be for groundbreaking to occur in early 2023 with completion of construction as well as facility occupancy expected to occur in 2025.

Regent Higaki moved to recommend board approval of a long-term use and occupancy agreement between the university and the United States Department of the
Interior, USGS, for a HVO and PIERC facility in Hilo, seconded by Regent Lee, and the motion carried, with all members present voting in the affirmative.

Regent Paloma left at 12:51 p.m.

E. University Land-Related Strategic Initiatives and Partnerships Program FY 2022-2023 First Quarter Update

Michael Shibata, Director of the Office of Strategic Development and Partnership, provided an update on the status of several university land-related strategic initiatives through the first quarter of FY 2022-2023, highlighting the following:

- **UHWO - University District Lands Project:** Efforts to pursue development opportunities are ongoing. The university continues to coordinate with the State Department of Transportation on its Farrington Highway widening improvement project. Options are also being explored to make approximately three and a half acres of land available for mixed-use housing development. $250,000 was also awarded for a transit-oriented development feasibility study for these lands.

- **Atherton Project:** Project construction is ongoing with a target completion of Summer 2023.

- **NOAA Graduate Student Housing Project:** A third amendment to the pre-closing agreement with Greystar Development Services, LLC (Greystar) was executed in August. Greystar continues to work on finalizing the construction drawings and building permit applications for submittal to the City and County of Honolulu’s (City) Department of Planning and Permitting. Construction pricing is also being updated.

- **Kaimuki/Leahi Parcels Project:** An invitation to submit development proposals for the vacant Leahi parcel between Leahi Hospital and Diamond Head Theatre was issued. Proposals are due to be returned by December 7, 2022, with recommendations for final disposition of the parcel scheduled to be made in January 2023.

- **University Press Parcel Project:** No major updates.

- **Honolulu Authority for Rapid Transportation (HART) Projects:** HART representatives presented an update on the rail project to the board in October. The university continues to coordinate with HART on several aspects of the rail project that will impact university-owned lands. In anticipation of the first segment of the rail system being brought online, the university, HART, and the City’s Department of Transportation Services have formed a twelve-member rail management committee to further coordinate on the operational aspects of the project.

V. ADJOURNMENT

There being no further business, Chair Nahale-a adjourned the meeting at 12:55 p.m.

Respectfully Submitted,
Kendra Oishi  
Executive Administrator and Secretary  
of the Board of Regents
January 12, 2023

TO: Randolph G. Moore  
Chairperson, Board of Regents

A'apaki Nahale-a  
Chair, Committee on Planning and Facilities  
Board of Regents

VIA: David Lassner  
President

Kalbert K. Young  
Vice President for Budget and Finance/Chief Financial Officer

FROM: Maenette Benham  
Chancellor  
University of Hawai‘i at West O'ahu

SUBJECT: Request for Board of Regents Approval to Convey to the State of Hawai‘i Department of Transportation (HDOT) Via Quitclaim Deed for an Approximate 5-7 Acre Parcel of Land Owned by University of Hawai‘i Adjacent to the University of Hawai‘i – West O‘ahu Campus (Tax Map Key Nos. (1) 9-1-016: 179, 183, and 220 (portions)) Pursuant to a Conveyance Agreement For the Construction, Operation, Maintenance and Repair of HDOT’s Farrington Highway Widening Project

SPECIFIC ACTIONS REQUESTED:

We request the following as further discussed herein:

1. **Committee on Planning and Facilities:** Recommend to the Board of Regents the approval to convey to the State of Hawai‘i Department of Transportation (“HDOT”) via Quitclaim Deed for a 5-7 acre parcel of land owned by the University of Hawai‘i (“University”) adjacent to the University of Hawai‘i – West O‘ahu campus (“UHWO”) (Tax Map Key Nos. (1) 9-1-016: 179, 183, and 220 (portions))
("Acquisition Property") pursuant to a Conveyance Agreement ("Agreement") for the Construction, Operation, Maintenance and Repair HDOT’s Farrington Highway Widening Project ("Project"). The material terms of the Agreement and the Quitclaim Deed are set forth in the attached Major Term Sheet.

2. **Board of Regents**: If the Committee on Planning and Facilities approves the above recommendation, approval of the conveyance of the Acquisition Property to HDOT via Quitclaim Deed pursuant to the Agreement for purposes of HDOT’s Project (collectively the "Conveyance"), consistent with the terms described in the attached Major Term Sheet.

**RECOMMENDED EFFECTIVE DATE:**

Upon approval of the Board of Regents.

**ADDITIONAL COST:**

The Conveyance is not anticipated to increase costs to the University. HDOT is to use the Acquisition Property to construct and operate the Project and provide the University with improved Farrington Highway frontage that abuts the University’s UHWO lands. HDOT will be responsible, at HDOT’s cost, for constructing, operating, maintaining and repairing all improvements and utilities comprising the Project.

**BACKGROUND:**

By Deed dated November 8, 2002, the State of Hawai‘i, by its Board of Land and Natural Resources ("BLNR"), conveyed approximately 500 acres of land at Honouliuli, 'Ewa, O'ahu ("UHWO Lands") for the relocation and expansion of the UHWO campus. The current Long-Range Development Plan (2006) ("LRDP") includes plans for an initial 1,520-student campus and an ultimate 7,600-student campus on approximately 214 acres. The remaining 287 acres would be developed as a residential mixed-use community, including a campus-supporting University Village. Phase 1 of the UHWO campus was completed in 2012 and today’s enrollment is approximately 3,000 students. The LRDP for the campus identifies a future student population of approximately 7,600.

In 2014, a Land Use Plan ("Land Use Plan") studied the new long-term enrollment target of 20,000 students and determined that approximately 306 acres should be set aside for the UHWO campus to respond to the anticipated growth in the region. The remaining 168 acres would be available for the "University District" development to support the UHWO campus ("University District Lands"). With the proximity and convenience of two rail transit stations, the University District is planned to be a model for sustainable transit-oriented development. In 2018, a UHWO Campus Land Plan that updates the campus zones and roadway network while maintaining the acreage proportions, was presented to this Planning and Facilities Committee.
Members of the University Administration have met with HDOT officials to review the construction plans for this Project and have determined that conveyance of the Property sought by HDOT will not have a negative impact on the future development of the UHWO campus site or the University District Lands. Completion of the Project will not only afford improved access to the UHWO campus, particularly to and from Farrington Highway, but it will help to further facilitate the development of the University District lands by providing additional access openings and intersection improvements to the UHWO campus and University District Lands. In accordance with Chapter 343, Hawai‘i Revised Statutes, HDOT completed an environmental assessment for the Project and determined it appropriate to issue a Finding Of No Significant Impact ("FONSI"), which was published Environmental Notice, dated September 23, 2020, as statutorily required. According to HDOT, no legal challenges were filed with respect to its issuance of the FONSI.

HDOT is in the process of finalizing its Project plans and the location, area, dimensions and boundaries of the Acquisition Property which is currently approximately 5.13 acres. Approval is sought for the Conveyance which involves the conveyance to HDOT of the Acquisition Property, which is expected to be an approximate 5-7 acre parcel of the UHWO Lands. Under the Agreement, the Conveyance would be implemented via a Quitclaim Deed and the University would issue construction right of entry agreements to HDOT and each of HDOT’s general contractors under which Project construction can begin. The forms of the HDOT and HDOT contractor construction right of entry agreements are to be included with the Agreement.

The HDOT has agreed to provide the following benefits in connection with the Project.

1. **Highway Improvements.** HDOT will widen the Farrington Highway travel way to a three-lane, undivided road, with a new roadbed, drainage infrastructure, curbs, gutters, sidewalks, bridges, culverts, bike lanes, traffic calming infrastructure, and utility relocations, (collectively the “Highway Improvements”). HDOT’s estimated cost to construct and install the Highway Improvements along the UHWO Lands, including the UHWO campus and University District Lands, is about $8,000,000.00.

2. **Access Openings.** HDOT will improve the University’s existing access to and intersection with Farrington Highway and grant two additional access openings onto Farrington Highway from what are planned to be University District Lands, including constructing intersection improvements, crosswalks, drainage improvements, gutters, curbs, traffic signals, and electrical, communication and other utility service conduits (collectively the “Access Improvements”). HDOT’s estimated cost to construct and install the Access Improvements for the University’s existing access and the additional two access openings is about $500,000.00.
The estimated cost to HDOT and the value to the University provided by the Highway Improvements and the Access Improvements as part of the Project exceeds the appraised values of the Acquisition Property that the HDOT is seeking from the University. It is not clear whether or to what extent the University would be able to obtain HDOT approval on the Access Improvements if the University required HDOT to pay monies to the University for the value of the Acquisition Property instead of HDOT providing the Highway Improvements and the Access Improvements.

**APPLICABLE REGENTS POLICY:**

The six decision-making considerations enumerated under Board of Regents Policy 10.201.III.A are addressed in turn as follows.

1. *Promote and support the mission and goals of the university in education, research, service, and economic development.*

   The Project is being undertaken by HDOT to improve conditions along Farrington Highway for motorists, bicyclists, and pedestrians. Once the Project is completed, it is expected to provide a safe, efficient, accessible, and sustainable highway system for the faculty, staff, and students at the UHWO campus.

2. *Advance principles and practices of sound environmental stewardship and sustainability.*

   Pursuant to the Hawai‘i 2050 Sustainability Plan, the Project is designed to accommodate various modes of transportation (i.e., vehicle, mass transit, bike, and pedestrian) along a safe and efficient roadway system. Public infrastructure improvements such as this are key to building a strong economy, thereby enabling citizens, businesses, and communities to function properly. The inclined cross-section of the roadway is designed to facilitate drainage to strategic basins located along the alignment, thereby reducing potential run-off impacts to the environment. Strategic construction phasing was also incorporated to achieve a minimal earthwork balance, therefore reducing the need to import off-site earth material.

3. *Ensure that alternative actions are considered, investigated and analyzed.*

   The Project is being undertaken by HDOT to improve conditions along Farrington Highway. The University and HDOT have agreed that the University may review HDOT’s plans for the Project and HDOT is to address any concerns noted by the University. The Project has been redesigned from four-lanes to three-lanes due to cost considerations. HDOT attempted to secure additional State CIP funding for the Project in last year’s Legislative session but the request was not included
in the final State Budget. The University had requested other improvements from HDOT but HDOT contended that it lacked funding to commit to providing such other improvements. Another alternative that HDOT could take in acquiring the Property for the Project is through eminent domain proceedings. If, however, the University insisted HDOT use its eminent domain powers to acquire the Acquisition Property, HDOT would not be required to improve the University’s existing access to Farrington Highway or provide the University with two additional access openings, with the Access Improvements.

4. Be fairly priced in the context of applicable fair market values and other relevant factors.

Using a recent 2021 appraisal performed for UHWO lands for other purposes, Administration has concluded that the estimated cost to HDOT of the Highway Improvements and the Access Openings exceeds the appraised values of the Acquisition Property that the HDOT is seeking from the University. In addition, with this substantial investment in needed infrastructure and access, the potential for revenue-generating development at UHWO improves considerably, thus increasing the value of the remaining UHWO lands.

5. Generate revenue from real property not critical to long range plans for the university to support the university’s core mission.

The Project will not result in direct revenue to the University. The Highway Improvements and Access Openings that HDOT is providing as part of the Project will increase the potential for revenue-generating development at UHWO, thus increasing the value of the remaining UHWO lands.

6. Be consistent with and support long range plans that have been approved by the Board of Regents.

The Project supports the continued development of the UHWO campus and adjacent University District Lands which is consistent with the UHWO LRDP and Land Use Plan.
ACTION REQUESTED:

We respectfully request that the Committee on Planning and Facilities recommend that the Board of Regents approve, and that the Board of Regents approve the Conveyance of the Acquisition Property to HDOT via Quitclaim Deed pursuant to the Agreement for purposes of the Project, consistent with the terms contained in the attached Major Term Sheet. Once approved, the President and the Vice President for Budget and Finance/Chief Financial Officer will finalize and execute the Agreement and the Quitclaim Deed, with terms consistent with the attached Major Term Sheet and take such action and execute such other documents as they determine necessary to implement this transaction.

c: Interim Executive Administrator and Secretary to the Board Jamie Go

Attachment: Major Term Sheet
MAJOR TERM SHEET

CONVEYANCE AGREEMENT
AND QUITCLAIM DEED

BETWEEN

UNIVERSITY OF HAWAI'I
(for the benefit of the University of Hawai'i – West O'ahu)

AND

STATE OF HAWAI'I
(by its Department of Transportation)

Tax Map Key Nos. (1) 9-1-016: 179, 183, and 220 (portions)
UHWO Campus and University District
Lands
Kapolei, O'ahu, Hawai'i

A. Conveyance Agreement

1. Parties.
   a. University of Hawai'i ("University") for the benefit of the University of Hawai'i – West O'ahu ("UHWO").
   b. State of Hawai'i, by its Department of Transportation ("HDOT").

2. Acquisition Property. A 5-7 acre parcel of land owned by the University adjacent to the UHWO campus (Tax Map Key Nos. (1) 9-1-016: 179, 183, and 220 (portions)) ("Acquisition Property"), with HDOT to finalize the location, area, dimensions and boundaries, and as more particularly described and shown on the maps attached hereto as Exhibit A and incorporated herein by reference.

3. Conveyance of Acquisition Property. The University is agreeing to convey the Acquisition Property to HDOT via a Quitclaim Deed without requiring HDOT to pay any monies but to provide the Highway Improvements and the Access Improvements (as defined herein).

4. Subdivision of Acquisition Property. The Acquisition Property must be subdivided out of or from the 500-acre parcel of land ("UHWO Lands") owned by the University and which was obtained from the State of Hawai'i, by its Board of Land and Natural Resources ("BLNR") by Deed dated November 8, 2002 ("BLNR Deed") of which about 306 acres has been designated for the UHWO campus ("UHWO Campus Lands") and the remaining portion of about 168 acres designated for development to support the UHWO campus ("University District Lands"). Subdivision of the Acquisition Property requires approval by the City
and County of Honolulu ("City") and the Land Court of the State of Hawai‘i ("Land Court").

a. **City approval.** HDOT, at its cost, will be responsible for obtaining City approval of the subdivision creating the Acquisition Property as a separate recognized lot or parcel of land, including preparing and submitting the appropriate documentation.

b. **Land Court approval.** In order to complete the conveyance of the Acquisition Property to HDOT, the first step with the Land Court is to obtain approval for the subdivision of the Acquisition Property from the UHWO Lands. Once the subdivision petition is approved, the Quitclaim Deed can then be recorded with the Land Court. The University will be responsible for obtaining Land Court approval of the subdivision, with HDOT providing support and necessary documentation. The University is to obtain Land Court approval for the subdivision within five (5) years of the effective date of the Conveyance Agreement.

5. **Highway Improvements and Access Openings.**

a. **Highway Improvements.** HDOT will widen the Farrington Highway travel way to a three-lane, undivided road, with a new roadbed, drainage infrastructure, curbs, gutters, sidewalks, bridges, culverts, bike lanes, traffic calming infrastructure, and utility relocations, (collectively the "Highway Improvements"). HDOT’s estimated cost to construct and install the Highway Improvements along the UHWO Lands, including the UHWO campus and University District Lands, is about $8,000,000.00.

b. **Access Openings.** HDOT will improve the University’s existing access to and intersection with Farrington Highway and grant two additional access openings onto Farrington Highway from what are planned to be University District Lands, including constructing intersection improvements, crosswalks, drainage improvements, gutters, curbs, traffic signals, and electrical, communication and other utility service conduits (collectively the "Access Improvements"). HDOT’s estimated cost to construct and install the Access Improvements for the University’s existing access and the additional two access openings is about $500,000.00

6. **Grant of Entry.** The University is granting HDOT and its consultants, contractors and other representatives ("HDOT Representatives") permission to enter the Acquisition Property and the temporary use property ("Temporary Use Property" and together with the Use Area are collectively the "Use Area") in order to construct the Farrington Highway Widening, Kapolei Golf Course Road to Old Fort Weaver Road project as shown on the map attached hereto as Exhibit B and incorporated herein by reference (collectively, the "Project").

7. **Construction Right of Entry Agreements.** The University will issue to HDOT a construction right of entry agreement ("HDOT CROE") containing the terms and conditions governing HDOT’s entry into and use of the Use Area to construct the Project. The University will issue to the HDOT general contractors ("HDOT Contractors") separate construction right of entry agreements ("HDOT
Contractor CROE”) containing terms and conditions governing the HDOT Contractors’ entry into and use of the Use Area to construct the Project. The forms of the HDOT CROE and the HDOT Contractor CROE will be included as exhibits to the Agreement.

8. **University right to inspect.** The University is reserving the right to enter the Use Area for purposes of inspection, observing HDOT’s and the HDOT Contractors’ performance of their obligations, and making any repairs that may be necessary to prevent damage to UH facilities or property, particularly in emergencies.

9. **HDOT Limitations and UH Limitations.** HDOT’s ability and capability to perform its obligations under the Conveyance Agreement are subject to and limited by the HDOT Limitations. The University’s ability and capability to perform its obligations under the Conveyance Agreement are subject to and limited by the UH Limitations. These limitations are the same for HDOT and the University and include both not being able to indemnify or defend the other against claims and actions and their ability to perform subject to obtaining sufficient authorized funding.

10. **BLNR Restrictive Covenants.** The Deed, by which BLNR conveyed the UHWO Lands to the University, contained certain restrictive covenants (collectively the “BLNR Restrictive Covenants”). The University agreed to cooperate with HDOT in securing such BLNR approval to release, waive and/or modify certain BLNR Restrictive Covenants with respect to the Acquisition Property (completely) and the Temporary Use Property (temporarily to the extent and for the duration that HDOT is in possession thereof), those certain covenants contained in the BLNR Deed. Specifically HDOT and the University are to work together to obtain BLNR approval to: (a) waive and release the BLNR Restrictive Covenant that requires the UHWO Lands to be used for or generate revenue for the benefit of UHWO (as determined by the University’s Board of Regents); and (b) modify the BLNR Restrictive Covenant that requires the University to use the UHWO Lands in combination or consolidation with all abutting UHWO Lands and in accordance with the appropriate City zoning and subdivision ordinances.

11. **Disputes.** If a dispute between HDOT and the University cannot be mutually resolved between the staffs of each, the dispute may be referred to the HDOT Director and the University President for resolution. If the two are unable to resolve the dispute, it can be referred to the Governor of Hawai’i for final decision.

B. **Quitclaim Deed**

1. **Parties.**

a. **Grantor:** University of Hawai’i (“University”) for the benefit of the University of Hawai’i – West O’ahu (“UHWO”).

b. **Grantee:** State of Hawai’i, by its Department of Transportation (“HDOT”).
2. **Acquisition Property.** A 5-7 acre parcel of land owned by the University adjacent to the UHWO campus (Tax Map Key Nos. (1) 9-1-016: 179, 183, and 220 (portions)) (“Acquisition Property”), with HDOT to finalize the location, area, dimensions and boundaries, and as more particularly described and shown on the maps attached hereto as Exhibit A and incorporated herein by reference.

3. **Type of Conveyance.** Quitclaim Deed from the University to the HDOT.

4. **Condition of the Acquisition Property.** HDOT is to accept the condition and state of repair of the Acquisition Property in an “as is” and “where is” condition without any representation, warranty or guarantee of any kind by or from the University.

5. **HDOT Covenants.** HDOT is to accept the Acquisition Property subject to certain covenants, such as a use restriction (it can only be used for highway purposes), keeping the Acquisition Property in good condition and repair, prohibiting any unlawful discrimination, preventing adverse impacts, and preserving continued access to the UHWO Lands, including the UHWO campus lands and the University District Lands.

6. **Reserved Rights.** The University’s conveyance of the Acquisition Property to HDOT is to be subject to certain rights the University is reserving over the Acquisition Property, such as the University’s right to grant easements and similar property interests to 3rd parties (“UH Grants”). HDOT would not have the opportunity to approve or disapprove the UH Grants and would be required to consent to and record the UH Grants (if requested by the University).

7. **Disclosures.** In conveying the Acquisition Property to HDOT, the University (in some cases as required by the State of Hawai‘i Land Use Commission) makes several disclosures in the Quitclaim Deed, including the disclosure of the potential impacts to HDOT’s intended use of the Property and the following: (a) nearby quarry operations; (b) agricultural activities; (c) the Honouliuli Wastewater Treatment Plant; (d) aircraft and other airport-related activities; and (e) other uses.

Attachments: Exhibit A

Exhibit B
The areas shown on this map are intended to provide an approximate right-of-way limit and area. These areas may be revised upon final design and completion of right-of-way map.
January 12, 2023

TO: Randolph G. Moore  
Chairperson, Board of Regents

Alapaki Na'ale-a  
Chair, Committee on Planning and Facilities  
Board of Regents

VIA: David Lassner  
President

Kalbert K. Young  
Vice President for Budget and Finance/Chief Financial Officer

FROM: Bonnie Irwin  
Chancellor  
University of Hawai‘i at Hilo

SUBJECT: Approval of Letters of Intent and a Long-Term Agreement for the Use of a Portion of the University of Hawai‘i at Hilo campus property (Tax Map Key No. (3) 2-4-001: 122) to develop and operate a photovoltaic energy system under a power purchase agreement between Hawaiian Electric Companies Stage 3 Request for Proposals for Hawai‘i Island for the Supply of Qualified Renewable Energy Under HECO’s Renewable Dispatchable Generation Power Purchase Agreement

SPECIFIC ACTIONS REQUESTED:

We request the following as further discussed herein:

1. **Committee on Planning and Facilities:** Recommend to the Board of Regents the approval of Letters of Intent ("LOI") with prospective photovoltaic energy system ("PV") developers ("Developers"), for the long-term use of certain lands within the University of Hawai‘i at Hilo ("UHH") campus property ("UHH Property") to construct, operate, maintain and repair a PV System, consistent with the terms contained in the attached Major Term Sheet, and authorization for the President and/or the Vice President for Budget and Finance/Chief Financial Officer to execute the LOIs with qualified
Developers and such other documents and take any further action as they deem necessary to effectuate the LOIs, including finalizing and executing a long-term agreement (such as a lease, use and occupancy agreement, easement or similar use agreement) ("Long-Term Agreement") with the Developer selected ("Awardee") by Hawaiian Electric Companies ("HECO") to deliver a supply of qualified renewable energy to HECO’s system under a HECO power purchase agreement ("PPA") from the UHH Property.

2. **Board of Regents:** If the Committee on Planning and Facilities approves the above recommendation, approval of the LOIs and authorization for the President and/or the Vice President for Budget and Finance/Chief Financial Officer to execute the LOIs, the Long-Term Agreement and such other documents and take any further action as they deem necessary to effectuate the LOIs, including finalizing and executing the Long-Term Agreement with the Awardee to deliver a supply of qualified renewable energy (solar generated power) to HECO’s system under the PPA.

**RECOMMENDED EFFECTIVE DATE:**

Upon approval of the Board of Regents.

**ADDITIONAL COST:**

The LOIs and the Long-Term Agreement are not anticipated to increase costs to the University of Hawai‘i ("University"). The Awardee will be responsible for all costs relating to the construction, operation, maintenance and repair of the PV System, including any improvements and utility service and connections.

**BACKGROUND:**

1. **HECO Stage 3 Hawai‘i Island Request for Proposals:**

   In November 21, 2022, HECO issued its Stage 3 Hawai‘i RFP, seeking proposals to acquire up to 325 gigawatt hours annually of solar energy, and up to 65 megawatts of capacity to meet potential energy reserve margin needs for the Hawai‘i Island electrical system. The Stage 3 Hawai‘i RFP was approved by the State of Hawai‘i Public Utilities Commission by Order issued on October 17, 2022.

   Under the Stage 3 Hawai‘i RFP, the Developer is to be responsible for determining the PV System's location on Hawai‘i Island ("Project Site"). The Developer is also responsible for working directly with landowners to secure "site control" of the Project Site prior to submitting any proposal to HECO. "Site control" under the Stage 3 Hawai‘i RFP requires that the Developer provide to HECO documentation confirming that the Developer: (1) owns the Project Site; (2) has obtained a leasehold interest for at least twenty (20) years in the Project Site (equal to the minimum 20-year term of the PPA);
or (3) has secured an executed option agreement to purchase or lease the Project Site for at least twenty (20) years, which option agreement need not be exclusive to the Developer and may be contingent upon selection of the Developer as the Awardee. For government- or publicly-owned lands, the Developer must provide a credible and viable plan, including evidence of any steps taken to date, to secure all necessary approvals from the government agency or authorities.

On or around December 1, 2022, the University issued an invitation to submit LOIs via the Hawai‘i eProcurement System seeking Developers interested in submitting LOIs and entering into the Long-Term Agreement to use the UHH Property as the Project Site. Each Developer was required to certify that it had demonstrated experience and skill in designing, developing, operating, and maintaining electricity generation projects, particularly renewable energy and photovoltaic and solar energy systems, as well as the financial resources and strength to complete and operate such projects.

In order to submit its proposal to HECO in response to HECO’s Stage 3 Hawai‘i RFP, each Developer will need an executed LOI for the Property in order to demonstrate the requisite “site control” and steps taken to secure necessary approvals for government-owned land. The deadline to submit proposals to HECO pursuant to HECO’s Stage 3 Hawai‘i RFP, including an executed LOI, is February 23, 2023.

Thereafter, HECO will evaluate all proposals and may select one (1) single Developer as the Awardee of the PPA to install and operate the PV System on the UHH Property. Note that the University has no involvement whatsoever in the HECO Stage 3 Hawai‘i RFP or its evaluation of proposals submitted in response thereto. The University’s only role is as landowner of the UHH Property, which may be utilized if HECO, in its sole discretion, selects one (1) of the Developers as the Awardee for the PPA covering the UHH Property.

HECO’s evaluation and selection process is based upon price and non-price factors, including impacts to customers and communities. HECO may also choose not to select any Developer for the UHH Property. Upon selection of the Awardee, HECO and the Awardee will execute a PPA under which the solar generated energy will be delivered to HECO’s system on Hawai‘i Island. If HECO selects one (1) of the Developers as the Awardee for the PPA covering the UHH Property, then at or around this time, the Awardee will also work with the University to finalize the Long-Term Agreement for use of the UHH Property to construct, operate, maintain and repair the PV System for at least a 20-year term.

As set forth above, the LOI with each Developer will be consistent with the terms and conditions contained in the attached Major Term Sheet. Of note, the LOI terminates if the Developer fails to: (1) submit a proposal in response to HECO’s Stage 3 Hawai‘i RFP by the February 23, 2023 deadline; or (2) be selected as the Awardee, among other things. The LOI commits the University to enter into the Long-Term Agreement with the Developer if HECO selects the Developer as the Awardee, upon the terms and conditions consistent with those set forth in the LOI.
2. University Process:

The University acquired ownership of the UHH Property in 2000, when the Governor of Hawai‘i set aside the UHH Property to the University by issuing Governor's Executive Order ("EO") No. 3814 on April 11, 2000 covering approximately 323.470 net acres. EO 3814 was later amended by EO 3891 dated January 9, 2002, that withdrew approximately 30.00 acres from EO 3814. The University's position is that lands set aside to the University by Governor's executive orders are owned in fee simple by the University.

EO 3814 specifies that the lands set aside are to be used “for the University of Hawai‘i and its allied purposes.” The Chair of the Board of Land and Natural Resources ("BLNR") was apprised by a letter from the University dated August 16, 2022, that the University planned to allow the UHH Property to be used as the Project Site and considered this proposed use consistent with the purposes specified in EO 3814, as amended.

The UHH Property was previously envisioned as part of the UH Hilo Mauka Lands ("Mauka Lands") Master Plan that was completed in 2005 which proposed the relocation of the Hawai‘i Community College ("HawCC") Manono Campus and a new University Park project. After considering Board of Regents concerns in 2018, the University prepared an analysis that compared having HawCC remain at the existing Manono Campus with two relocation options: Mauka Lands and University Village lands. The University determined that having the HawCC campus remain at the existing Manono site was the best option due to lower development costs and the ability to phase improvements to respond to campus development needs and growth requirements. UHH is not currently using the UHH Property in a manner that advances its mission or generates revenue to support its mission. UHH is in the process of providing approximately 6 acres of land via a long-term use and occupancy agreement to the U.S. Department of the Interior, U.S. Geological Survey for a Hawaiian Volcano Observatory and Pacific Island Ecosystem Research Center.

Should the Developer be selected by HECO as the Awardee for the UHH Property as the Project Site, it would help the Hawai‘i Island community become less dependent on fossil fuel generated power. While the PV System on UHH Property will not furnish solar generated power directly to the UHH campus, it will aid the University in achieving its sustainability goals, including a net-zero energy state by 2035. In addition, the Long-Term Agreement is expected to generate rental revenue to the University to support its higher education mission. The Awardee will be required to establish an education program affording faculty and students from both UHH and HawCC the opportunity to study alternative energy and PV projects like the PV System, including having the Awardee participate in and/or provide classes, seminars, briefings, tours, internships, research activities, and similar educational opportunities.
APPLICABLE REGENTS POLICY:

The six decision-making considerations enumerated under Board of Regents Policy 10.201.III.A are addressed in turn as follows.

1. Promote and support the mission and goals of the university in education, research, service, and economic development.

   UHH offers programs that take advantage of the unique physical and social characteristics of Hawai‘i Island, attracting and serving students who are qualified for baccalaureate entry and seek opportunities for highly engaging and experiential learning. Under the Long-Term Agreement, the Awardee will be required to establish an education program affording faculty and students from both UHH and HawCC the opportunity to study alternative energy and PV projects like the PV System, including having the Awardee participate in and/or provide classes, seminars, briefings, tours, internships, research activities, and similar educational opportunities.

2. Advance principles and practices of sound environmental stewardship and sustainability.

   The PV System is expected to help the Hawai‘i Island community become less dependent on fossil fuel generated power by creating a new renewable energy generation project. The construction and operation of the PV System on UHH Property will aid the University in achieving its sustainability goals and net-zero energy mandate by 2035. Renewable energy generated upon University property (such as the solar generated power to be produced by the PV System constructed by the Awardee upon the UHH Property) may be counted toward the University’s net-zero goal as described in Hawai‘i Revised Statutes (HRS) section 304A-119.

3. Ensure that alternative actions are considered, investigated and analyzed.

   As noted above, the UHH Property was previously envisioned as part of the UH Hilo Mauka Lands Master Plan that was completed in 2005 which proposed the relocation of the HawCC Manono Campus and a new University Park project. After considering Board of Regents concerns in 2018, the University prepared an analysis that compared having the HawCC campus remain at the existing Manono site with two relocation options: Mauka Lands and University Village lands. The University determined that having the HawCC campus remain at the existing Manono site was the best option due to lower development costs and the ability to phase improvements to respond to campus development needs and growth requirements.

4. Be fairly priced in the context of applicable fair market values and other relevant factors.

   The rent amounts proposed to be paid to the University under a Long-Term Agreement that have been provided up to this point by Developers compare very favorably to other rents on agricultural lands in the region.
5. Generate revenue from real property not critical to long range plans for the university to support the university’s core mission.

Should the Developer be selected by HECO as the Awardee for the UHH Property as the Project Site, the Developer would enter into a Long-Term Agreement with the University upon terms and conditions consistent with the LOI. The Long-Term Agreement is expected to generate rental revenue to the University to support its higher education mission. Submitted rent amounts payable to the University that were received from four prospective Developers range from $255,000 to $762,000 per year.

6. Be consistent with and support long range plans that have been approved by the Board of Regents.

As noted above, the Property was previously envisioned as part of the UH Hilo Mauka Lands Master Plan that was completed in 2005 which proposed the relocation of the HawCC Campus and a new University Park project. UHH is not currently using the UHH Property in a manner that advances its mission or generates revenue to support its mission. The construction and operation of the PV System on UHH Property will aid the University in achieving its sustainability goals and its net-zero energy mandate by 2035. Renewable energy generated upon University property (such as the solar generated power to be produced by the PV System constructed by the Awardee upon the UHH Property) may be counted toward the University’s net-zero goal as described in HRS section 304A-119. Allowing the PV System to be constructed upon the UHH Property would also be consistent with the UH System’s Strategic Directions 2015 – 2021.

**ACTION REQUESTED:**

We respectfully request that the Committee on Planning and Facilities recommend that the Board of Regents approve, and that the Board of Regents approve and accept LOIs from prospective Developers, consistent with the terms and conditions contained in the attached Major Term Sheet, and authorize the President and/or the Vice President for Budget and Finance/Chief Financial Officer to execute the LOIs, the Long-Term Agreement and such other documents and take any further action as they deem necessary to effectuate the LOIs, including eventually finalizing and executing the Long-Term Agreement with the Awardee to deliver a supply of qualified renewable energy (solar generated power) to HECO’s system under the PPA.

c: Interim Executive Administrator and Secretary to the Board Jamie Go

Attachment: Major Term Sheet
MAJOR TERM SHEET

SUMMARY OF LETTER OF INTENT – TERMS AND CONDITIONS

For Long-Term Use Agreement – UH Hilo Mauka Lands

1. **HECO RFP.** Hawaiian Electric Companies, including the Hawaii Electric Co., Inc. (collectively “HECO”) Request for Proposals (“RFP”), seeking proposals to acquire up to 325 gigawatt hours annually of solar energy, and up to 65 megawatts of capacity to meet potential energy reserve margin needs for the Hawai‘i Island electrical system. The HECO RFP was approved by the State of Hawai‘i Public Utilities Commission on October 17, 2022.

2. **HECO PPA Award.** Under the HECO RFP, HECO plans to award a renewable dispatchable generation power purchase agreement (“RDG PPA”) to one of the photovoltaic energy generating (“PV”) project developers (“Offerors”) seeking to use portions of the UH Hilo Mauka lands.

3. **Multiple Offerors.** The University of Hawai‘i (“University”) has received inquiries from as many as four (4) potential Offerors interested in including portions of the UH Hilo Mauka lands in the PV project proposals they plan to submit to HECO in response to the HECO RFP.

4. **HECO “Site Control” Requirement.** Under the HECO RFP, each Offeror must secure “site control” for the PV project site by obtaining one of the following: (a) fee ownership; (b) a long-term lease; or (c) an option agreement to purchase or lease the project site.

5. **Multiple LOIs.** The University, with Board of Regents approval, plans to enter into LOIs with multiple Offerors containing template provisions and terms proposed by the Offerors (location, area, and configuration of the project site, minimum rent, percentage rent, University benefits, etc.) that are acceptable to the University.

6. **One Long-Term Agreement.** Each LOI commits the University to enter into a long-term minimum 20-year agreement, such as a lease, use and occupancy agreement, easement, or other long-term arrangement (“Agreement”) but only if HECO awards the RDG PPA to the Offeror for the UH Hilo Mauka lands.

7. **LOI Parties.** University and each Offeror who proposes LOI terms acceptable to the University.
8. **Premises.** Portion of UH Hilo Mauka lands (up to about 277 acres) identified as suitable for a PV project, with location, size, and configuration to be proposed by the Offeror, subject to University approval.

9. **Purpose.** Develop and operate a PV project to generate electricity pursuant to HECO RDG PPA.

10. **Condition of Premises.** As is, with no warranties or representations.

11. **Term.** 20 years, with two 5-year options to extend.

12. **Rent.** Minimum Rent or Percentage Rent, whichever is greater, payable in annual installments and subject to University audit. The amount and percentages of Minimum Rent and Percentage Rent will be proposed by Offeror, subject to University approval.

13. **In-Kind Use Fee.** Option of providing non-monetary benefits to the University, such as infrastructure improvements, educational programs, demonstration PV projects, and employment and internship opportunities in lieu of or in addition to rent.

14. **Entry Preconditions.** Before entering, using, or taking possession of any portion of the Premises for constructing and installing the PV project, Offeror must satisfy certain pre-entry conditions, including implementing adverse impact mitigation measures, preparing access and traffic management plans, and obtaining all proper government approvals.

15. **Security Deposit.** Minimum Rent for Year 1.

16. **Risk Mitigation.** Offeror required to indemnify, defend, and hold harmless the University against all claims or actions seeking recovery for injuries, losses, or damages sustained as a result of Offeror’s acts or omissions. Offeror required to provide the following insurance coverage naming University as an additional insured and requiring waivers of subrogation rights from all insurers: commercial general liability, commercial automobile liability, all risk property, pollution liability, builder’s risk, and workers compensation/employer’s liability, all with standard or statutory minimum limits.

17. **Improvements.** The University’s prior written consent is required for placement of and construction plans for all improvements, facilities, structures and utility infrastructure (collectively the “Improvements”). Upon termination of the Agreement, the University has the option to require Offeror, at Offeror’s sole cost, to: (a) transfer title to the Improvements to the University; or (b) remove the Improvements and restore the Premises.
18. **Assignment and Transfer Restrictions.** The University’s prior written consent is required before Offeror transfers any interest under the Agreement to a third party. Offeror may obtain the University’s consent by entering into a separate assignment agreement with its assignee and the University, substantially in a form to be approved by the University, under which the University consents to the assignment subject to certain conditions and representations/warranties from Offeror and its assignee.

19. **Negotiation Period.** Upon notification by the Offeror to the University that the Offeror has been selected for the RDG PPA, the University and the Offeror will have sixty (60) days to finalize the terms of the Agreement and execute it.

20. **LOI Termination.** Each LOI may be terminated upon: (1) mutual written agreement; (2) failure of the Offeror to submit a timely and complete response to the HECO RFP; (3) failure of the Offeror to be selected for the RDG PPA; (4) the cancellation or withdrawal of the HECO RFP; (5) the withdrawal of the Offeror from the HECO RFP at any time during the HECO RFP process; or (6) the final execution of the Agreement between the University and the Offeror.
UH-Hilo Mauka Lands

Letters of Intent/Option Agreements Relating to HECO RFP for the Supply of Qualified Renewable Energy

January 19, 2023
HECO RFP FOR SUPPLY OF QUALIFIED RENEWABLE ENERGY

HECO Hawai‘i Island Stage 3 Request for Proposals (RFP) seeks proposals from photovoltaic developers to acquire up to 325 gigawatt hours (GWh) annually of energy, and up to 65 Megawatts (MW) of capacity to HECO’s grid.
Parcel Info
TMK (3) 2-4-001: 122

Land Use Conditions
State Land Use: Agricultural
County Zoning: Agriculture, A-1a
County LUPAG: University Use and Urban Expansion
Land Study Bureau: Primarily E with small portions of C and D

Current Uses
Generally fallow/vacant land with unimproved roadways and utilities.
UH CRITICAL MILESTONES & TIMELINE

- **November 21, 2022**: RFP Issuance by HECO
- **January 19, 2023**: Obtain Board approval for UH to enter into LOIs with PV Developers
- **February 23, 2023**: RFP Proposal Deadline (including executed LOI)
- **August 31, 2023**: HECO RFP Award
- **October 31, 2023**: Executed Long-Term Agreement with PV Provider and UH

**Note**: The Dark Blue boxes are Actions in which UH is involved.
LETTER OF INTENT - KEY TERMS

• Guaranteed Annual Base Rate Schedule
• Payments calculated and paid annually
• 20-year Initial Term with two Option terms to Extend
• Developer responsible for all infrastructure, installation, operation and maintenance costs associated with PPA
• Condition of premises is “as is” with no warranties or representations
• Upon award by HECO, the successful PPA Provider will have 60 days to execute long-term agreement with UH
• Unsuccessful PPA Providers = LOI with UH is null and void