

Resolution

No. 25-122

AUTHORIZING THE ACCEPTANCE OF A DONATION OF A PARCEL AT 644 LĀNA'I AVENUE AND A PARCEL AT SEVENTH STREET, LĀNA'I CITY, LĀNA'I, HAWAI'I, IDENTIFIED FOR REAL PROPERTY TAX PURPOSES AS TAX MAP KEYS (2) 4-9-011:018 AND (2) 4-9-011:019, RESPECTIVELY, FROM FIRST HAWAIIAN BANK, UNDER SECTION 3.44.015(D), MAUI COUNTY CODE

WHEREAS, First Hawaiian Bank owns and seeks to donate to Maui County two real property parcels identified for real property tax purposes as Tax Map Keys (2) 4-9-011:018 and (2) 4-9-011:019, situated at Lāna'i City, Lāna'i, Hawai'i; and

WHEREAS, the parcels consist of 14,379 and 10,510 square feet, respectively, and are described in Exhibit "1" at page 10; and

WHEREAS, under Section 3.44.015(D), Maui County Code, the County Council may accept gifts or donations of real property, or any interest in real property, by the adoption of a resolution approved by a majority of its members; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That it authorizes the acceptance of a donation of a parcel at 644 Lāna'i Avenue and a parcel at Seventh Street, Lāna'i City, Lāna'i, Hawai'i, identified for real property tax purposes as Tax Map Keys (2) 4-9-011:018 and (2) 4-9-011:019, respectively, from First Hawaiian Bank, under Section 3.44.015(D), Maui County Code;
2. That it authorizes the Mayor to execute all necessary documents in connection with the acceptance of the donation; and

3. That certified copies of this Resolution be transmitted to the Mayor; Director of Finance; Director of Public Works; and Robert S. Harrison, CEO and President, First Hawaiian Bank.

APPROVED AS TO FORM
AND LEGALITY:



MIMI DESJARDINS
First Deputy Corporation Counsel
County of Maui

LF2024-1617
2025-05-13 Reso Lanai FHB Donation

INTRODUCED BY:

A handwritten signature in cursive script, appearing to read "John P. Lee", is written above a horizontal line.

Upon the request of the Mayor.

25/16
75/16
L-80 STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED

JUN 13, 2000 08:01 AM

Doc No(s) 2631346

on Cert(s) 468,683

Issuance of Cert(s) 556,492

/s/ CARL T. WATANABE
ASSISTANT REGISTRAR

CONVEYANCE TAX: \$450.00

REGULAR SYSTEM

04 AFTER RECORDATION, RETURN BY MAIL ()

PICK-UP ():

TOTAL PAGES: 10

TITLE GUARANTY ESCROW SERVICES, INC.
41 East Lipoa Street, Suite 29
Kilauea, Maui, HI 96753

TG: 400592B
TGES: A0-203-0149
TERI FERREIRA

4c

Tax Map Key: 4-9-11-18 and 19

LIMITED WARRANTY DEED
WITH COVENANTS

THIS INDENTURE, made this 14 day of APRIL, 2000, by and between LANAI COMPANY, INC., a Hawaii corporation, whose place of business and post office address is c/o 100 Kahelu Avenue, 2nd Floor, Mililani, Hawaii 96789, hereinafter called the "Grantor", and FIRST HAWAIIAN BANK, a Hawaii corporation, whose mailing address is P. O. Box 3200, Honolulu, Hawaii 96847, hereinafter called the "Grantee",

WITNESSETH:

That the Grantor, in consideration of TEN DOLLARS (\$10.00) and other valuable consideration to it paid by the Grantee, receipt whereof is hereby acknowledged by the Grantor, and of the terms, covenants, agreements and restrictions hereinafter set

J:DEEDS (2/15/00) (rev. 2/29/00)
Lots 416-B-6 and 416-B-7

forth and on the part of the Grantee to be faithfully observed and performed does hereby grant and convey unto the Grantee, and its successors and assigns, forever, the property described in Exhibit A attached hereto and made a part hereof ("Property");

EXCLUDING from the conveyance, however, all existing rights of the Grantor to the following rights insofar as they relate to land outside of the Property:

The perpetual right and easements to build, construct, install, maintain, operate, repair and/or replace pole and wire lines or underground lines for power and communications; underground water pipe lines, including fire hydrants and valves; underground concrete and/or corrugated iron structures for purposes of drainage and irrigation; and underground sewer lines; upon, along, over, across, through and/or under various lots and/or any portion or portions thereof; and

The right to plant, cultivate and harvest pineapple within such portions of said lots as shall not now or hereafter be required for or used for paved roads or paved parking aprons; as reserved in sundry instruments noted on Transfer Certificate of Title No. 11,875 to which reference is hereby made; and

A perpetual right and easement to install, construct, lay, maintain, repair, remove and/or replace an underground water pipe line or pipe lines along, across, through, and under Lots 482-B, 553-B, 303-B, 549, 551-C and 561-A, together with the right of access from time to time for the purpose aforesaid; provided, however, and this reservation is on the condition that, if said easements are not used for the aforesaid purpose at any time for a period of two (2) consecutive years, then the same shall cease and terminate, as reserved in Deeds dated December 1, 1961; December 1, 1961, January 30, 1962; July 27, 1962; April 20, 1964 and April 20, 1964, filed as Documents Nos. 282714, 282715, 286951, 293717, 329739 and 329740, respectively;

All of which may have been set forth in other instruments as appurtenant rights but which are being excepted and reserved from this conveyance by the Grantor.

TO HAVE AND TO HOLD the same, together with all improvements thereon, all rights, privileges, and easements held or enjoyed in connection therewith, all rents, issues and profits therefrom, or appurtenances thereto, and all of the right, title and interest of Grantor therein and thereto, unto the Grantee, its successors

and assigns, forever; subject however to the matters described in Exhibit A and also to the terms, reservations, covenants, agreements, conditions and restrictions contained in this Indenture.

AND Grantor does hereby covenant and agree with the Grantee, its successors and assigns, that the Property hereby conveyed is free and clear from all encumbrances made or suffered by Grantor, except as provided in this Indenture or as shown in Exhibit A, and that it will forever WARRANT AND DEFEND the same unto the Grantee and its successors and assigns, forever, against the lawful claims and demands of all persons claiming by, through or under Grantor, except as aforesaid.

Grantee's Covenants

AND ALSO, in consideration of the foregoing, the Grantee, for the Grantee, the Grantee's heirs, personal representatives, successors and assigns, does hereby covenant and agree as follows:

A. Building Restrictions. The exterior of any Improvements, additions and alterations on the Property shall be in conformance with the Lanai City Community Design Guidelines prepared by The Maui County Planning Department dated April 1997.

B. Maintenance of Property.

1. Nuisances. Nothing shall be done or permitted to be done or maintained, or failed to be done, on the Property which may be or become an annoyance or nuisance to other owners of lots in Lanai City.

2. Maintenance of Property and Landscaping. No weeds, underbrush or other unsightly growth shall be permitted to grow or remain uncut or unmowed upon the Property, and no refuse pile, trash, inoperable vehicles or unsightly objects shall be allowed to be placed or remain anywhere thereon if visible from neighboring property. Grantee shall be responsible for the maintenance of all areas located between the boundary line of the Property and the pavement of the street or streets adjacent to the Property, including any public rights-of-way. Grantee shall maintain the hedges, plants, lawns and shrubs on the Property, if any, in a neat and trim condition at all times.

3. Maintenance of Improvements. Grantee shall maintain any structure on the Property and all other improvements, including, without limitation, fences, screen enclosures and driveways, in good appearance and safe condition,

and the repair of any damage, deterioration or evidence of wear and tear on the exterior of any structure shall be made promptly.

4. Maintenance and Repair by Grantor. In the event Grantee shall fail or refuse to maintain his Property, or other improvements situate on said Property in full compliance with this Deed, the Grantor shall have the right but not the obligation to take remedial action to correct any such deficiencies. Such right shall include the right of reasonable access to the Property, and any such entry by Grantor, its employees or its duly authorized agents shall not be deemed to be a trespass. The expense of any such repairs or maintenance effected by Grantor shall be chargeable to and paid by Grantee to Grantor within thirty (30) days after submission of a bill therefor. If any such bill is not paid when due, an interest charge of one and one-half percent (1-1/2%) per month on the unpaid balance shall be added to the bill and shall accrue thereon from the due date until paid. Nothing shall obligate Grantor to take any remedial action.

C. "As-Is" Condition. Grantee understands and acknowledges that Grantee is acquiring the Property and any improvements in "AS-IS" condition, with all faults whatsoever, known and unknown, and that Grantor makes no express or implied representations or warranties (except for the title warranties herein contained) concerning the Property. Without limiting the generality of the foregoing, Grantee does hereby covenant that it is acquiring the Property hereby conveyed subject to any matters shown on Grantor's Land Court certificate of title for the Property, any documents disclosed to Grantee during its due diligence investigation preceding the acquisition of the Property (including, but not limited to, any title reports), the final subdivision map of the Property, any encroachments, any possible roll back or retroactive real property taxes, the printed general exceptions appearing in Grantee's title insurance policy pertaining to this conveyance, any matters which a correct boundary and improvement survey or archaeological survey would disclose, and any matters shown on Exhibit A attached hereto. Without limiting the generality of the foregoing, Grantor makes no warranties concerning habitability, merchantability or fitness for a particular purpose. Without limiting the generality of the foregoing, Grantee assumes all risk with respect to soils conditions, environmental conditions, drainage conditions, the availability of utilities, all matters that would be shown in an ALTA survey, encroachments, zoning, land use regulations, archaeological and historic sites, rights of native tenants and surrounding uses.

D. Indemnification. Grantee assumes all risks relating to the Property and shall indemnify and defend Grantor from any and all claims and liability, by whomsoever asserted relating to the condition of the Property. Without limiting the generality of the foregoing, Grantor makes no representation or warranty concerning whether the Property is contaminated by Hazardous Materials (hereinafter defined), or whether Hazardous Materials have been used or disposed of on the Property in violation of Hazardous Materials Laws. Grantee assumes all risks relating to the presence of Hazardous Materials on, under or around the Property and shall indemnify and defend Grantor from any and all claims by whomsoever asserted arising out of the use or presence of any Hazardous Materials on, under or around the Property. As used in this Indenture, the term "Hazardous Materials Laws" means and includes all federal, state or local laws, ordinances or regulations, now or hereafter in effect, relating to environmental conditions, industrial hygiene or Hazardous Materials on, within, under or about the Property, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., the Hazardous Materials Transportation Act, 49 U.S.C. Section 1251, et seq., the Clean Air Act, 42 U.S.C. Section 7401, et seq., the Toxic Substances Control Act, 15 U.S.C. Sections 2601 through 2629, the Safe Drinking Water Act, 42 U.S.C. Section 300f through 300j, Chapters 342J and L of the Hawaii Revised Statutes, and any similar state or local laws or ordinances and the regulations now or hereafter adopted, published and/or promulgated pursuant thereto. As used in this Indenture, the term "Hazardous Materials" means and includes any and all radio-active materials, asbestos, petroleum products or byproducts, organic compounds known as polychlorinated biphenyls, chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, toxic substances, and any and all other substances or materials defined as or included in the definition of "hazardous substances", "hazardous wastes", "hazardous materials" or "toxic substances" under, or for the purposes of the Hazardous Materials Laws.

Grantee expressly waives any other remedy it may have against Grantor whether at law or equity with respect to Hazardous Materials on the Property.

E. Remedies. The violation or breach of any of the covenants, conditions, agreements or restrictions contained herein shall give the Grantor the right to prosecute a proceeding at law or in equity against the Grantee to prevent or enjoin the Grantee from violating or breaching any of the covenants, conditions, agreements or restrictions, or to cause said

violation or breach to be remedied, or to recover damages or other remedies available for such violation or breach. The Grantor shall be entitled to recover fees, costs and expenses as may have been incurred by the Grantor for attorneys (including, without limitation, allocated costs of in-house counsel) in enforcing its rights hereunder.

F. Covenants Running with the Land; Duration. Except as otherwise expressly provided herein, each and all of the Grantor's reservations and the Grantee's covenants, agreements, conditions and restrictions contained herein or in the Agreement to Purchase between Grantor and Grantee, are perpetual and intended to run with the land in favor of the Grantor, its successors and assigns, and are expressly binding upon the Property, and each portion thereof, and each successive owner of the Property and each person having any right, title or interest in the Property or any portion thereof, unless and until the Grantor shall relinquish and permanently waive any of its rights, but only with respect to the specific rights waived, as evidenced by the filing of a written notice of such waiver in the Office of the Assistant Registrar of the Land Court of the State of Hawaii.

The terms "Grantor" and "Grantee", as and when used herein, or any pronouns used in place thereof, shall mean and include the masculine, feminine or neuter, the singular or plural number, individuals, partnerships, trustees or corporations and their and each of their respective heirs, personal representatives, successors, successors in trust and assigns, according to the context thereof. All covenants and obligations undertaken by two or more persons shall be deemed to be joint and several unless a contrary intention is clearly expressed elsewhere herein.

The parties hereto agree that this instrument may be executed in counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one and the same agreement, binding all of the parties hereto, notwithstanding all of the parties are not signatory to the original or the 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.

The parties hereto also agree that whenever an approval or consent is required of a party hereto, said approval or consent shall not be unreasonably withheld.

IN WITNESS WHEREOF, the parties hereto have executed this Indenture as of the day and year first above written.

LANAI COMPANY, INC.

FIRST HAWAIIAN BANK

By [Signature]
Name: P. J. BIRMINGHAM
Its: CHAIRMAN

By [Signature]
Name: SENIOR VICE PRESIDENT
Its: JAMES M. WAYMAN

By [Signature]
Name: Thomas J. Sears
Its: Vice President, Lanai

By _____
Name: _____
Its: _____

Grantor

Grantee

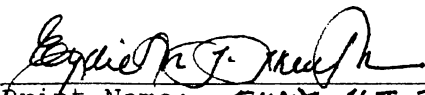
APPROVED
Contents: <u>UK</u>
Form: STANDARD

STATE OF HAWAII

COUNTY OF MAUI

)
) SS.
)

On this 23rd day of March, 2000, before me appeared PATRICK J. BIRMINGHAM and THOMAS C. SELBY, to me personally known, who being by me duly sworn, did say that they are the CHAIRMAN and VICE PRESIDENT - FINANCE, respectively, of LANAI COMPANY, INC., a Hawaii corporation; that said instrument was signed in behalf of said corporation by authority of its Board of Directors; and said officers acknowledged said instrument to be free act and deed of said corporation.


Print Name: EDDIE M. T. TRENTLER
Notary Public, State of Hawaii

My commission expires: 12/19/02

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

On this 14th day of APRIL, 2000, before me appeared JAMES M. WAYMAN and — [Signature] —, to me personally known, who being by me duly sworn, did say that they are the SENIOR VICE PRESIDENT and — [Signature] —, respectively, of FIRST HAWAIIAN BANK, a Hawaii corporation; that said instrument was signed in behalf of said corporation by authority of its Board of Directors; and said officers acknowledged said instrument to be free act and deed of said corporation.

[Signature]
Print Name: KAREN A. UNABIA
Notary Public, State of Hawaii

My commission expires: 6-3-2001

EXHIBIT A

FIRST:

106 131146
That certain parcel of land situate on the Island of Lanai, County of Maui, State of Hawaii, being Lot 416-B-6, area 14,379 square feet, as shown on Map 127, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 862 (amended), being a portion of the lands described in Transfer Certificate of Title No. 468,683 issued to Lanai Company, Inc.

SECOND:

That certain parcel of land situate on the Island of Lanai, County of Maui, State of Hawaii, being Lot 416-B-7, area 10,510 square feet, as shown on Map 127, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 862 (amended), being a portion of the lands described in Transfer Certificate of Title No. 468,683 issued to Lanai Company, Inc.

SUBJECT, HOWEVER, to the following:

1. Lanai City Redevelopment Project Section 201E-210, HRS, Agreement dated ---, acknowledged May 28, 1996 and June 12, 1996, between Lanai Company, Inc. and the County of Maui, recorded in the Bureau of Conveyances as Document No. 96-087826.
2. Amended Lanai City Redevelopment Project Section 201E-210, HRS, Agreement dated December 11, 1997, between Lanai Company, Inc. and the County of Maui, recorded in the Bureau of Conveyances as Document No. 97-178677.
3. Private Water System Agreement dated December 20, 1996, filed as Document No. 2369864.
4. -As to Lot 416-B-7:- Designation of Easement 136 as shown on Map 127, as set forth by Land Court Order No. 131146, filed April 27, 1998.
5. Said Easement 136 is subject to non-exclusive easements for sanitary sewer purposes in favor of Lots 416-B-4 and 416-B-5 of said Map 127 as set forth in Deeds dated December 23, 1999 and September 9, 1998 and filed as Document Nos. 2600375 and 2493519, respectively.

END OF EXHIBIT A