

Council Chair  
Mike White

Vice-Chair  
Robert Carroll

Presiding Officer Pro Tempore  
Stacy Crivello

Councilmembers  
Alika Atay  
Elle Cochran  
Don S. Guzman  
Riki Hokama  
Kelly T. King  
Yuki Lei K. Sugimura



**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.MauiCounty.us](http://www.MauiCounty.us)

March 12, 2018

Mr. Mark Walker, Director  
Department of Finance  
County of Maui  
Wailuku, Hawaii 96793

Dear Mr. Walker:

**SUBJECT: AUTHORIZING ACCEPTANCE OF APPROXIMATELY  
2.25 ACRES IN KAUPU, HANA, MAUI, HAWAII, AND  
THE GRANT OF A LEASE TO KAUPU COMMUNITY  
ASSOCIATION, INC. (PEA-66)**

The Policy, Economic Development, and Agriculture Committee is in receipt of County Communication 18-98, from you, transmitting a proposed resolution to authorize the acceptance of an Executive Order transferring management of approximately 2.25 acres at Kaupo, Hana, Maui, Hawaii, for community center purposes, and a proposed resolution to authorize the grant of a lease of County real property to Kaupo Community Association. A copy of the communication is attached for your ease of reference.

May I please request the following:

1. The Department of Commerce and Consumer Affairs website indicates the entity "Kaupo Community Association" has dissolved, but the entity "Kaupo Community Association, Inc." is active. (See attached printout for ease of reference.) Should the proposed resolution authorizing the grant of a lease and attachments thereto be revised to refer to "Kaupo Community Association, Inc." as the lessee?
2. The proposed Lease attached as Exhibit "1" to the proposed resolution authorizing a grant of a lease contemplates use of the premises as an emergency shelter (page 3, paragraph B). The

additional terms and conditions of the Lease attached as Exhibit "B" thereto prohibit residential use of the premises, even on a temporary basis (see page 2, paragraph 3). Please confirm whether emergency shelter use would include the need to allow the premises to be used as a temporary residence. If so, should the prohibition against temporary residential use be removed from Exhibit "B"?

3. Paragraph 11 of Exhibit "B" to the proposed Lease provides that "Lessee shall make no alterations to any structure on the Premises or construct any building or make any other improvements on the Premises without the prior written approval of the Director and the BLNR." However, the proposed Lease states that the premises includes two structures, a classroom building and a teacher's cottage, "which Lessee intends to restore to their historic character." (See page 3 of proposed Lease.) Will the Lessee be required to separately obtain the approval of the Director of Parks and Recreation and the Board of Land and Natural Resources in order to proceed with restoration work on the two structures, despite the stated purpose of the Lease? Should paragraph 11 of Exhibit "B" to the proposed Lease be revised?
4. The first proposed resolution is titled "AUTHORIZING ACCEPTANCE OF AN EXECUTIVE ORDER TRANSFERRING MANAGEMENT OF APPROXIMATELY 2.25 ACRES AT KAUPU, HANA, MAUI, HAWAII FOR COMMUNITY CENTER PURPOSES."
  - a. Please confirm whether the Council is being asked to authorize acceptance of the Executive Order or the property. If the latter, please revise the title of the proposed resolution accordingly.
  - b. Please revise the first BE IT RESOLVED paragraph to include reference to the attached Executive Order. Depending on your response to 4(a) above, please consider the following: "That pursuant to Section 3.44.015(C), Maui County Code, the Council hereby authorizes the acceptance of real property identified as tax map key (2) 1-7-002:015, consisting of approximately 2.25 acres in Kaupo, Hana, Maui, Hawaii, pursuant to Executive Order 4544, attached hereto and incorporated herein by reference as Exhibit "1"; and".

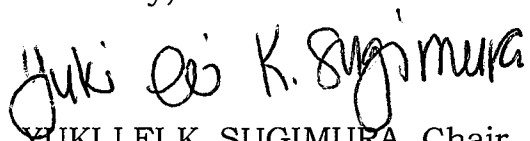
Mr. Mark Walker  
March 12, 2018  
Page 3

- c. Please revise the third BE IT RESOLVED paragraph to replace "the DLNR" with "Suzanne Case, Chairperson, Board of Land and Natural Resources". Please also replace the comma after the Director of Finance with a semi-colon.
5. In the proposed resolution to authorize the grant of a lease, please revise the first BE IT RESOLVED paragraph to include a reference to the attached proposed Lease. Please consider the following: "That pursuant to Section 3.36.090, Maui County Code, the grant of a Lease in the form attached hereto and incorporated herein by reference as Exhibit "1" is hereby authorized; and".

Because I intend to schedule this matter on March 20, 2018, I would appreciate receiving your response by **Monday, March 19, 2018**. To ensure efficient processing, please include the relevant Committee item number in the subject line of your response.

Should you have any questions, please contact me or the Committee staff (Shelly Espeleta at ext. 7134, Carla Nakata at ext. 7659, or Clarita Balala at ext. 7668).

Sincerely,



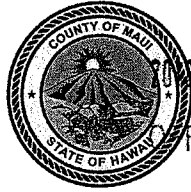
YUKI LEI K. SUGIMURA, Chair  
Policy, Economic Development, and  
Agriculture Committee

pea:ltr:066afn01:cmn

Attachments

cc: Mayor Alan M. Arakawa  
Jerrie L. Sheppard, Deputy Corporation Counsel

ALAN M. ARAKAWA  
Mayor



RECEIVED

FEB 27 AM 11:01

OFFICE OF THE MAYOR

MARK R. WALKER  
Director

MARCI M. SATO  
Deputy Director

COUNTY OF MAUI  
**DEPARTMENT OF FINANCE**  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793

February 27, 2018

OFFICE OF THE  
COUNTY CLERK

2018 FEB 28 AM 9:54

RECEIVED

Honorable Alan Arakawa  
Mayor, County of Maui  
200 South High Street  
Wailuku, Hawaii 96793

For Transmittal to:

Honorable Michael White, Chair  
And Members of the Maui County Council  
200 South High Street  
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL

*Alan Arakawa* 2/28/18  
Mayor Date

Dear Chair White:

**SUBJECT: AUTHORIZING ACCEPTANCE OF AN EXECUTIVE ORDER  
TRANSFERRING MANAGEMENT OF APPROXIMATELY 2.25 ACRES  
AT KAUPU, HANA, MAUI, HAWAII FOR COMMUNITY CENTER  
PURPOSES AND AUTHORIZING A GRANT OF A LEASE OF COUNTY  
REAL PROPERTY TO KAUPU COMMUNITY ASSOCIATION**

Transmitted herewith please find two resolutions for the acceptance of Executive Order 4544 and for authorizing a grant of a Lease to Kaupo Community Association.

Thank you for your attention in this matter. Should you have any question, please feel free to contact me at Ext.7474

Sincerely,

A handwritten signature in black ink, appearing to read "Mark R. Walker".

MARK R. WALKER  
Director of Finance

Cc: Butch Ka'ala Buenconsejo, Park & Recreation Director

Enclosures

COUNTY COMMUNICATION NO. 18-98

# Resolution

No. \_\_\_\_\_

AUTHORIZING ACCEPTANCE OF AN EXECUTIVE ORDER  
TRANSFERRING MANAGEMENT OF APPROXIMATELY 2.25 ACRES AT  
KAUPO, HANA, MAUI, HAWAII  
FOR COMMUNITY CENTER PURPOSES

WHEREAS, the State of Hawaii, Department of Land and Natural Resources (DLNR), is the fee owner of real property identified as tax map key number (2) 1-7-002:015, consisting of approximately 2.25 acres, located in Kaupo, Hana, Maui, Hawaii ("Property"); and

WHEREAS, the Governor of the State of Hawaii has issued Executive Order No. 4544, pursuant to Hawaii Revised Statutes Section 171-11, authorizing the County of Maui to control and manage the Property for public purposes, including for use as a Community Center and ancillary purposes, a copy of which is attached hereto as Exhibit "1"; and

WHEREAS, the Council, by Resolution No. 17-21, attached hereto as Exhibit "2", resolved to support the efforts of the Kaupo Community Association to revitalize the old Kaupo School house and teacher's cottage located on the Property for the purpose of creating a space for the community and a safety shelter; and

WHEREAS, Section 3.44.015(C), Maui County Code, authorizes the Council of the County of Maui to accept any interest in real property on behalf of the County by passage of a resolution; and

WHEREAS, the Council finds that the transfer of the Property to the County via Executive Order is in the public interest; now, therefore,

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

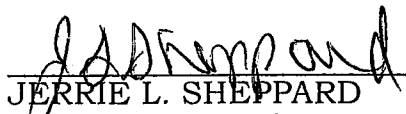
1. That pursuant to Section 3.44.015(C), Maui County Code, the Council hereby accepts the approves acquisition of the Property; and

**Resolution No. \_\_\_\_\_**

2. That it does hereby authorize the Mayor of the County of Maui, or the Mayor's duly authorized representative, to execute all necessary documents in connection with the acquisition of the Property; and

3. That certified copies of this Resolution be transmitted to the Mayor; the DLNR; the Director of Finance, and the Director of Parks and Recreation.

APPROVED AS TO FORM  
AND LEGALITY:

  
\_\_\_\_\_  
JERRIE L. SHEPPARD  
Deputy Corporation Counsel  
County of Maui  
2017-0279  
2018-02-26 Reso accept exec ord



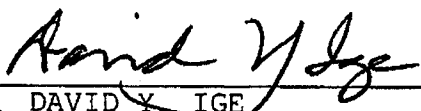
an area of 2.25 acres, more particularly described in Exhibit "A" and delineated on Exhibit "B," both of which are attached hereto and made parts hereof, said exhibits being respectively, a survey description and survey map prepared by the Survey Division, Department of Accounting and General Services, State of Hawaii, both being designated C.S.F. No. 25,637 and dated November 9, 2017.

SUBJECT, HOWEVER, to the condition that upon cancellation of this executive order or in the event of non-use or abandonment of the premises or any portion thereof for a continuous period of one (1) year, or for any reason whatsoever, the County of Maui shall, within a reasonable time, restore the premises to a condition satisfactory and acceptable to the Department of Land and Natural Resources, State of Hawaii.


SUBJECT, FURTHER, to disapproval by the Legislature by two-thirds vote of either the Senate or the House of Representatives or by majority vote of both, in any regular or special session next following the date of this Executive Order.

This executive order does not authorize the recipient of the set aside to sell or exchange or otherwise relinquish the State of Hawaii's title to the subject public land.

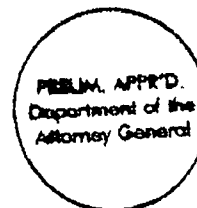
IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Hawaii to be affixed. Done at the Capitol at Honolulu this 26<sup>th</sup> day of January, 2018.

  
\_\_\_\_\_  
DAVID Y. IGE  
mm Governor of the State of Hawaii

APPROVED AS TO FORM:

  
\_\_\_\_\_  
AMANDA J. WESTON  
Deputy Attorney General

Dated: January 10, 2018





STATE OF HAWAII

Office of the Lieutenant Governor

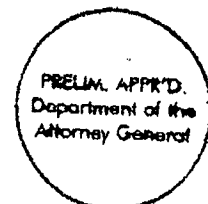
THIS IS TO CERTIFY That the within is a true copy of  
Executive Order No. 4544 setting aside land for public  
purposes, the original of which is on file in this office.

IN TESTIMONY WHEREOF, the Lieutenant  
Governor of the State of Hawaii, has  
hereunto subscribed his name and caused  
the Great Seal of the State to be affixed.



SHAN S. TSUTSUI  
Lieutenant Governor of the State of Hawaii

DONE in Honolulu, this 29th day of  
January, A.D. 2018





STATE OF HAWAII  
SURVEY DIVISION  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
HONOLULU

C.S.F. No. 25,637

November 9, 2017

FORMER KAUPU SCHOOL SITE

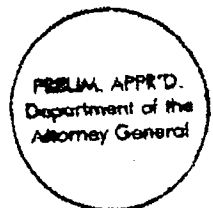
Kumunui, Kaupo, Hana, Maui, Hawaii

Comprised of the following:

- A. School Grant 20, Apana 5.
- B. Portion of Royal Patent 7259, Land Commission Award 2937, Part 9 to William Harbottle conveyed to the Territory of Hawaii by Casimira A. Drummond by deed dated February 11, 1929 and recorded in Liber 992, Page 220 (Land Office Deed 3514).

Beginning at the southwest corner of this parcel of land, at the southeast corner of Grant 2134, Apana 2 to Loheau Ma and on the north side of Piilani Highway, the coordinates of said point of beginning referred to Government Survey Triangulation Station "MOKUIA 2" being 2162.96 feet South and 9472.85 feet West, thence running by azimuths measured clockwise from True South:-

- 1. 154° 36' 262.60 feet along Grant 2134, Apana 2 to Loheau Ma;
- 2. 242° 05' 393.60 feet along Grant 2135 to Kawaakoa and R.P. 7259, L.C.Aw. 2937, Part 9 to William Harbottle;



C.S.F. No. 25.637

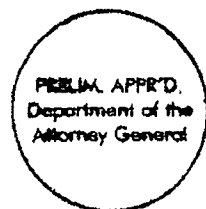
November 9, 2017

3. 341° 34' 254.60 feet along Old Government Road;
4. 28° 23' 9.90 feet along Old Government Road;
5. 61° 09' 355.10 feet along the north side of Piilani Highway to the point of beginning and containing an AREA OF 2.25 ACRES.

SURVEY DIVISION  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
STATE OF HAWAII

By: *Gerald Z. Yonashiro*  
Gerald Z. Yonashiro  
Land Surveyor rk

Compiled from map and desc.  
furn. by Ailana Surveying &  
Geomatics LLC. Said map and  
desc. have been examined and  
checked as to form and mathematical  
correctness but not on the ground  
by the Survey Division.



DRUMMOND TRACT  
File Plan 240

2937, Part 9 to Wm. Harbottle  
Lot 1  
KAUPO RANCH SUBDIVISION

TRUE NORTH  
SCALE: 1 in. = 60 ft.

R.P. 7259, L.O. AW.

Lot 10 (Government Roadway)  
Old Government Road

Deed: Calmira A. Drummond to the Territory of Hawaii  
dated February 11, 1929 and recorded in  
Liber 882, Page 220 (Land Office Deed 3514)

28°23'  
8.90

393.60

355.10

School Grant 20, Apana 5

2.25 ACRES

Grant 2135 to Kawakoa

2427.05'

HIGHWAY  
PIILANI

REC'D. APP'D.  
Department of the  
Attorney General

6109'

KAUPO RANCH SUBDIVISION

154°36'

262.60

Lot 7

Lot 9

Grant 2134, Apana 2 to Loheau Ma

2162.96 S  
9472.85 W  
"MOKUA 2" Δ

REDUCED NOT TO SCALE

FORMER KAUPO SCHOOL SITE  
Kumunui, Kaupo, Hana, Maui, Hawaii

Job No-231(17)  
C. BK.

Scale: 1 inch = 60 feet

EXHIBIT "B"

TMK: 1-7-02: 15

SURVEY DIVISION  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
STATE OF HAWAII

C.S.F. NO. 25,537

GZY November 9, 2017

# Resolution

No. 17-21

URGING THE GOVERNOR TO SET ASIDE LAND  
LOCATED AT KUMUNUI, KAUPU, HANA, MAUI,  
TMK (2) 1-7-002:015, FOR PUBLIC PURPOSES

WHEREAS, the Kaupo Community Association was formed in 1997 to promote the needs and welfare of the community, and has made it a priority to restore and revitalize the old Kaupo School property located at Kumunui, Kaupo, Hana, Maui; and

WHEREAS, the Association's intent is to stabilize and subsequently restore two structures, the classroom building and teacher's cottage, on the 2.214 acre property to correct historical standards, and utilize them to benefit the community; and

WHEREAS, a restoration project committee was formed and has worked diligently to research, develop plans and secure funding for the restoration, including \$975,000 in State grant-in aid funds that will cover the carpentry work of the building; and

WHEREAS, the Kaupo Community Association has gained legal access and a short-term stewardship agreement with the Hawaii State Department of Land and Natural Resources with the intent for a 55-year general lease for community development purposes; and

WHEREAS, the Department of Land and Natural Resources has indicated to the Kaupo Community Association that due to staffing shortages, a long-term lease will likely be delayed; and

WHEREAS, the Kaupo Community Association cannot move forward with any improvements without a formal agreement and may lapse their State funding without formal access to the property; and

WHEREAS, the Kaupo Community Association has sought the assistance of the County of Maui to take control and manage the property from the State through an Executive Order and subsequently grant a lease to the Kaupo Community Association; and

**EXHIBIT " 2 "**

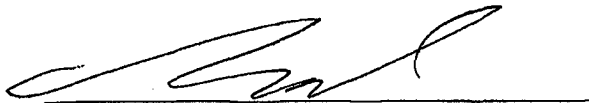
**Resolution No. 17-21**

WHEREAS, when completed, the facility will provide a great benefit to community as a safe gathering place with shelter, dependable electricity, communications, 30,000 gallons of potable water, and other necessities; now, therefore,

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

1. That it hereby urges the Governor to set aside lands, through Executive Order, located at Kumunui, Kaupo, Hana, Maui, TMK (2) 1-7-002:015, to be controlled and managed by the County of Maui; and
2. That it supports the efforts of the Kaupo Community Association to revitalize the old Kaupo School house and teacher's cottage for the purpose of creating a space for the community and as a safety shelter; and
3. That it further urges the Mayor of the County of Maui, once the Executive Order is issued, to lease the lands to the Kaupo Community Association to allow for restoration work and future maintenance; and
4. That certified copies of this resolution be transmitted to the Kaupo Community Association; Suzanne Case, Chair of the Board of Land and Natural Resources; the Honorable Alan M. Arakawa, Mayor, County of Maui; and the Honorable David Y. Ige, Governor, State of Hawaii.

APPROVED AS TO FORM AND LEGALITY



Department of the Corporation Counsel  
County of Maui

# COUNCIL OF THE COUNTY OF MAUI

WAILUKU, HAWAII 96793

## CERTIFICATION OF ADOPTION

It is HEREBY CERTIFIED that RESOLUTION NO. 17-21 was adopted by the Council of the County of Maui, State of Hawaii, on the 10th day of March, 2017, by the following vote:

MEMBERS	Michael B. WHITE Chair	Robert CARROLL Vice-Chair	Alika ATAY	Eleanora COCHRAN	S. Stacy CRIVELLO	Donald S. GUZMAN	G. Riki HOKAMA	Kelly T. KING	Yuki Lei K. SUGIMURA
ROLL CALL	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye

  
COUNTY CLERK

# Resolution

No. \_\_\_\_\_

## AUTHORIZING A GRANT OF A LEASE OF COUNTY REAL PROPERTY TO KAUPU COMMUNITY ASSOCIATION

WHEREAS, the Kaupo Community Association, a Hawaii non-profit corporation, desires to obtain a lease of certain County real property identified as Tax Map Key Number (2) 1-7-002:015, consisting of approximately 2.25 acres, located in Kaupo, Hana, Maui, Hawaii, ("Property"); and

WHEREAS, the State of Hawaii is the owner of the Property, and has, through Executive Order No. 4544, assigned management and control of the Property to the County of Maui; and

WHEREAS, a proposed Lease of County Real Property, is attached hereto and by reference made a part hereof as Exhibit "1";

WHEREAS, the fair market rental value of the property as determined by the Director of Finance is THIRTY ONE THOUSAND FORTY-ONE DOLLARS (\$31,041.00) per annum, as evidenced by the Department of Finance, Real Property Tax Division memorandum dated February 23, 2018, attached hereto and by reference made a part hereof as Exhibit "2"; and



**Resolution No. \_\_\_\_\_**

WHEREAS, in accordance with Section 3.40.040, Maui County Code, the term of any contract to lease property of the County shall not exceed five years, provided that the Council of the County of Maui may approve a lease of property for a term exceeding five years, when such longer period is deemed necessary and in the public interest; and

WHEREAS, in accordance with Section 3.40.200, Maui County Code, a lease of real property at a charge below fair market value shall be considered a grant of public property and shall be submitted to the Council as an application for a grant pursuant to Chapter 3.36, Maui County Code; and

WHEREAS, the Kaupo Community Association desires a lease term of fifty-five years and intends to restore and revitalize the Property and use the Property to benefit the community, including use as a community resource center and as an emergency shelter, and other activities promoting services for the community; and

WHEREAS, the Department of Parks and Recreation requests that the Council of the County of Maui consider a lease rent in the amount of ONE DOLLAR (\$1.00) per year and has incorporated this amount into the proposed Lease of County Real Property; and

WHEREAS, pursuant to Maui County Code Section 3.36.090, the Council of the County of Maui may authorize the grant of a lease of


**Resolution No. \_\_\_\_\_**

County real property at less than fair market value by resolution; now,  
therefore,

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

1. That pursuant to Section 3.36.090, Maui County Code the grant of the Lease is hereby authorized; and
2. That the Mayor and the Director of Finance or their authorized representatives may execute the Lease Agreement; and
3. That certified copies of this resolution be transmitted to the Mayor, the Director of Finance, the Director of Parks and Recreation, and Kaupo Community Association.

APPROVED AS TO FORM  
AND LEGALITY:

  
JERRIE L. SHEPPARD  
Deputy Corporation Counsel  
County of Maui

LF 2017-0279

2018-02-26 Resolution for lease

LAND COURT SYSTEM

REGULAR SYSTEM

Return by Mail (X) Pickup ( )

To: DEPARTMENT OF FINANCE  
County Of Maui  
200 South High Street  
Wailuku, Maui, Hawaii 96793  
Total No. of Pages:

Affects TMK: (2) 1-7-002:015

Total No. of Pages: \_\_\_\_\_

KAUPO COMMUNITY ASSOCIATION  
LEASE OF COUNTY REAL PROPERTY

THIS LEASE, made this \_\_\_\_\_ day of \_\_\_\_\_, 2018,  
by and between the COUNTY OF MAUI, a political subdivision of the  
State of Hawaii, whose principal place of business and mailing  
address is 200 South High Street, Wailuku, Maui, Hawaii 96793,  
hereinafter referred to as "Lessor", and KAUPU COMMUNITY  
ASSOCIATION, a Hawaii nonprofit corporation, whose mailing address  
is P. O. 787, Kula, Maui, Hawaii 96790, hereinafter referred to as  
the "Lessee", and collectively referred to as the "Parties";

EXHIBIT " 1 "

W I T N E S S E T H :

WHEREAS, the State of Hawaii is the owner of that certain parcel of land, consisting of approximately 2.25 acres, commonly referred to as the old Kaupo School property, and hereinafter referred to as "the Property";

WHEREAS, the State of Hawaii through Executive Order No.4544, Exhibit "A", attached hereto and incorporated herein, has assigned control and management of the Property to the County of Maui for public purposes, including for use as a Community Center and ancillary purposes; and

WHEREAS, Lessee was formed in 1997 to promote the needs and welfare of the community, and intends to restore and revitalize the Property to correct historical standards and use the Property to benefit the community; and

WHEREAS, the County of Maui supports Lessee and hopes to assist Lessee by issuing this Lease so that Lessee may revitalize and restore the Property, conduct its activities on the site, and provide a community resource center for use by the public, and an emergency shelter when necessary; NOW, THEREFORE,

Lessor, for and in consideration of Lessee's covenants and agreements set forth herein, does hereby agree to grant a lease to Lessee and Lessee hereby accepts said lease on the terms and conditions set forth below:

A. Premises. The Premises shall comprise the area commonly known as the old Kaupo School property, situate at Kumunui, Kaupo, Maui, and identified as Tax Map Key No. (2) 1-7-002:015, set aside by Governor's Executive Order No. 4544, consisting of an area of

approximately 2.25 acres, more particularly described and shown on the exhibits to Exhibit "A", the Executive Order, attached hereto and incorporated herein, which includes two structures, a classroom building and teacher's cottage, which Lessee intends to restore to their historic character, hereinafter referred to as the "Premises."

B. Use of Premises. Lessee shall use the Premises solely for the purpose of a community resource center, an emergency shelter, and such other activities promoting services for the community. The use of the Premises for any other purpose shall require the prior written approval of Lessor, through its Director of the Department of Parks and Recreation ("Director") and the State of Hawaii, Board of Land and Natural Resources ("BLNR").

C. Term. This Lease shall commence upon execution and expire fifty-five (55) years from the date of execution, unless sooner terminated as provided herein. Lessor may terminate this Lease with sixty (60) days advance written notice, with or without cause.

D. Cancellation. The Lease shall be subject to immediate cancellation in the event of disapproval of Executive Order 4544, by the Hawaii State Legislature pursuant to Section 171-11, Hawaii Revised Statutes.

E. Rent. Lessor reserving and the Lessee yielding and paying to the Lessor the nominal rental amount of ONE DOLLAR (\$1.00) per annum, payable to the County of Maui, Department of Finance, at Lessor's address designated herein or as otherwise designated in writing by Lessor, in advance, within ninety (90)

days of execution of this lease, the receipt and sufficiency of which is hereby acknowledged.

I. Additional Covenants, Terms and Conditions. Additional covenants, terms and conditions of this Lease are set forth in Exhibit "B" attached hereto and by reference made a part hereof.

J. Grant requirements. This lease is provided at less than fair market rental value, and is therefore a grant of real property. Within three (3) weeks after the end of each fiscal year, Lessee shall transmit to the Department of Parks and Recreation a report, using Exhibit "C", provided herewith, containing the following information for the previous fiscal year:

1. Program status summary;
2. Program data summary;
3. Summary of participant characteristics;
4. Changes in real property tax assessment for the real property;
5. Earnings from the grant of real property; and
6. Narrative report.

K. BLNR requirements.

1. Upon receiving approval from the Board of Land and Natural Resources, the Lessee shall provide approved building permits for the existing structures. If no building permits were obtained at the time of construction, after the fact permits must be obtained. All structures must be permitted and built to Maui County code.

IN WITNESS WHEREOF, the Parties hereto have caused these presents to be executed on the date set forth above.

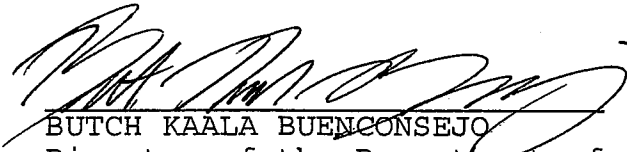
LESSOR:

COUNTY OF MAUI


By \_\_\_\_\_  
ALAN M. ARAKAWA  
Its Mayor

By \_\_\_\_\_  
MARK R. WALKER  
Its Director of Finance

APPROVAL RECOMMENDED:

  
BUTCH KAALA BUENCONSEJO  
Director of the Department of  
Parks and Recreation

APPROVED AS TO FORM  
AND LEGALITY:

  
JERRIE L. SHEPPARD  
Deputy Corporation Counsel  
County of Maui  
LF 2018-0279  
2018-02-26 Lease

APPROVED BY THE BOARD OF LAND  
AND NATURAL RESOURCES AT ITS  
MEETING HELD ON: \_\_\_\_\_

APPROVED:

\_\_\_\_\_  
SUZANNE CASE  
Chairperson  
Board of Land and Natural Resources

Date \_\_\_\_\_

LESSEE:

KAUPO COMMUNITY ASSOCIATION

By \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

Its \_\_\_\_\_  
(Title)

By \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

Its \_\_\_\_\_  
(Title)

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STATE OF HAWAII        )  
                              )  SS.  
COUNTY OF MAUI        )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_, to me personally known, 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.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public, State of Hawaii

[Stamp or Seal]

\_\_\_\_\_  
Print Name  
My commission expires: \_\_\_\_\_

NOTARY PUBLIC CERTIFICATION	
Doc. Date: _____	# Pages: _____
Notary Name: _____	Judicial Circuit: _____
Doc. Description: _____	
_____	
_____	
_____	
[Stamp or Seal]	
Notary Signature: _____	
Date: _____	

STATE OF HAWAII        )  
                              )  SS.  
COUNTY OF MAUI        )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_, to me personally known, 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.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public, State of Hawaii

[Stamp or Seal]

\_\_\_\_\_  
Print Name \_\_\_\_\_  
My commission expires: \_\_\_\_\_

NOTARY PUBLIC CERTIFICATION	
Doc. Date: _____	# Pages: _____
Notary Name: _____	Judicial Circuit: _____
Doc. Description: _____ _____ _____ _____	
[Stamp or Seal]	
Notary Signature: _____	
Date: _____	

STATE OF HAWAII        )  
                              )  
COUNTY OF MAUI        )       SS.

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared **ALAN M. ARAKAWA**, to me personally known, who, being by me duly sworn, did say that she is the Mayor of the County of Maui, a political subdivision of the State of Hawaii, and that the seal affixed to the foregoing instrument is the lawful seal of the said County of Maui, and that the said instrument was signed and sealed on behalf of said County of Maui by authority of its Charter; and the said **ALAN M. ARAKAWA** acknowledged the said instrument to be the free act and deed of said County of Maui.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public, State of Hawaii

[Stamp or Seal]

\_\_\_\_\_  
Print Name  
My commission expires: \_\_\_\_\_

NOTARY PUBLIC CERTIFICATION	
Doc. Date: _____	# Pages: _____
Notary Name: _____	Judicial Circuit: _____
Doc. Description: _____	
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_____	
_____	
Notary Signature: _____	
Date: _____	

[Stamp or Seal]

STATE OF HAWAII        )  
                              )  
COUNTY OF MAUI        )       SS.

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared **MARK R. WALKER**, to me personally known, who, being by me duly sworn, did say that he is the Director of Finance of the County of Maui, a political subdivision of the State of Hawaii, and that the seal affixed to the foregoing instrument is the lawful seal of the said County of Maui, and that the said instrument was signed and sealed on behalf of said County of Maui by authority of its Charter; and the said **MARK R. WALKER** acknowledged the said instrument to be the free act and deed of said County of Maui.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public, State of Hawaii

[Stamp or Seal]

\_\_\_\_\_  
Print Name \_\_\_\_\_  
My commission expires: \_\_\_\_\_

NOTARY PUBLIC CERTIFICATION	
Doc. Date: _____	# Pages: _____
Notary Name: _____	Judicial Circuit: _____
Doc. Description: _____ _____ _____ _____	
[Stamp or Seal]	
Notary Signature: _____	
Date: _____	

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LAND COURT SYSTEM ) REGULAR SYSTEM  
Return by Mail ( ) Pickup ( ) To:

Total Number of Pages:  
Tax Map Key No. (2) 1-7-002:015

FROM: STATE OF HAWAII  
BOARD OF LAND AND NATURAL RESOURCES

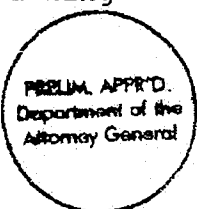
TO: COUNTY OF MAUI  
200 S. High Street  
Kalana O Maui Bldg. 9<sup>th</sup> Floor  
Wailuku, Hawaii 96793

EXECUTIVE ORDER NO. **4544**

SETTING ASIDE LAND FOR PUBLIC PURPOSES

BY THIS EXECUTIVE ORDER, I, the undersigned, Governor of the State of Hawaii, by virtue of the authority in me vested by Section 171-11, Hawaii Revised Statutes, as amended, and every other authority me hereunto enabling, do hereby order that the public land and improvements hereinafter described be, and the same is, hereby set aside for the following public purposes:

FOR COMMUNITY CENTER AND ANCILLARY PURPOSES, to be under the control and management of the County of Maui, being that parcel of land situate at Kumunui, Kaupo, Hana, Maui, Hawaii, and identified as "Former Kaupo School Site," containing



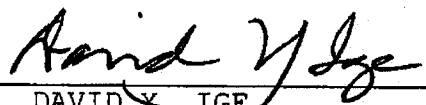
an area of 2.25 acres, more particularly described in Exhibit "A" and delineated on Exhibit "B," both of which are attached hereto and made parts hereof, said exhibits being respectively, a survey description and survey map prepared by the Survey Division, Department of Accounting and General Services, State of Hawaii, both being designated C.S.F. No. 25,637 and dated November 9, 2017.

SUBJECT, HOWEVER, to the condition that upon cancellation of this executive order or in the event of non-use or abandonment of the premises or any portion thereof for a continuous period of one (1) year, or for any reason whatsoever, the County of Maui shall, within a reasonable time, restore the premises to a condition satisfactory and acceptable to the Department of Land and Natural Resources, State of Hawaii.


SUBJECT, FURTHER, to disapproval by the Legislature by two-thirds vote of either the Senate or the House of Representatives or by majority vote of both, in any regular or special session next following the date of this Executive Order.

This executive order does not authorize the recipient of the set aside to sell or exchange or otherwise relinquish the State of Hawaii's title to the subject public land.

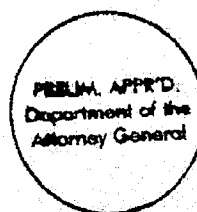
IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Hawaii to be affixed.  
Done at the Capitol at Honolulu this 26<sup>th</sup> day of January, 2018.

  
\_\_\_\_\_  
DAVID Y. IGE  
mm Governor of the State of Hawaii

APPROVED AS TO FORM:

  
\_\_\_\_\_  
AMANDA J. WESTON  
Deputy Attorney General

Dated: January 10, 2018



STATE OF HAWAII

Office of the Lieutenant Governor

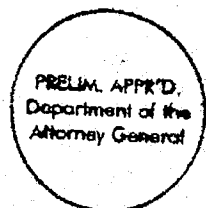
THIS IS TO CERTIFY that the within is a true copy of  
Executive Order No. 4544 setting aside land for public  
purposes, the original of which is on file in this office.

IN TESTIMONY WHEREOF, the Lieutenant  
Governor of the State of Hawaii, has  
hereunto subscribed his name and caused  
the Great Seal of the State to be affixed.



SHAN S. TSUTSUI  
Lieutenant Governor of the State of Hawaii

DONE in Honolulu, this 29th day of  
January, A.D. 2018





STATE OF HAWAII  
SURVEY DIVISION  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
HONOLULU

C.S.F. No. 25,637

November 9, 2017

FORMER KAUPU SCHOOL SITE

Kumunui, Kaupo, Hana, Maui, Hawaii

Comprised of the following:

- A. School Grant 20, Apana 5.
- B. Portion of Royal Patent 7259, Land Commission Award 2937, Part 9 to William Harbottle conveyed to the Territory of Hawaii by Casimira A. Drummond by deed dated February 11, 1929 and recorded in Liber 992, Page 220 (Land Office Deed 3514).

Beginning at the southwest corner of this parcel of land, at the southeast corner of Grant 2134, Apana 2 to Loheau Ma and on the north side of Piilani Highway, the coordinates of said point of beginning referred to Government Survey Triangulation Station "MOKUIA 2" being 2162.96 feet South and 9472.85 feet West, thence running by azimuths measured clockwise from True South:-

- 1. 154° 36' 262.60 feet along Grant 2134, Apana 2 to Loheau Ma;
- 2. 242° 05' 393.60 feet along Grant 2135 to Kawaakoa and R.P. 7259, L.C.Aw. 2937, Part 9 to William Harbottle;

PRELIM. APP'D.  
Department of the  
Attorney General



C.S.F. No. 25.637

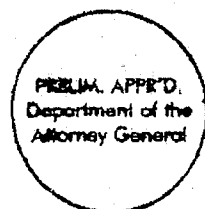
November 9, 2017

3. 341° 34' 254.60 feet along Old Government Road;
4. 28° 23' 9.90 feet along Old Government Road;
5. 61° 09' 355.10 feet along the north side of Piilani Highway to  
the point of beginning and containing an  
AREA OF 2.25 ACRES.

SURVEY DIVISION  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
STATE OF HAWAII

By: *Gerald Z. Yonashiro*  
Gerald Z. Yonashiro  
Land Surveyor rk

Compiled from map and desc.  
furn. by Ailana Surveying &  
Geomatics LLC. Said map and  
desc. have been examined and  
checked as to form and mathematical  
correctness but not on the ground  
by the Survey Division.



**DRUMMOND TRACT**  
File Plan 240

2937, Part 9 to Wm. Harbottle  
Lot 1  
KAUPO RANCH SUBDIVISION

TRUE NORTH  
SCALE: 1 in. = 60 ft.

R.P. 7259, L.C. AW.

KAUPO Lot 10 (Government Roadway)  
Old Government Road

Deed: Coahmika A. Drummond to the Territory of Hawaii  
dated February 11, 1929 and recorded in  
Liber 892, Page 220 (Land Office Deed 3514)

28°23'  
9.90

School Grant 20, Apana 5

**2.25 ACRES**

HIGHWAY

PIILANI

FIELD APP'D.  
Department of the  
Attorney General

KAUPO RANCH SUBDIVISION

Lot 7

Lot 9

Grant 2134, Apana 2 to Lohéau Ma

2162.96 S  
9472.85 W  
"MOKUA 2" Δ

REDUCED NOT TO SCALE

**FORMER KAUPO SCHOOL SITE**  
Kumunui, Kaupo, Hana, Maui, Hawaii

Job No-281(17)  
C. BK.

Scale: 1 inch = 60 feet

**EXHIBIT "B"**

TMK: 1-7-02: 15

SURVEY DIVISION  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
**STATE OF HAWAII**

C.S.F. NO. 25,537

62Y November 9, 2017

## EXHIBIT "B"

### RESERVATIONS, COVENANTS, TERMS AND CONDITIONS

RESERVING UNTO THE STATE OF HAWAII THE FOLLOWING:

1. Minerals and Waters.

A. All minerals as hereinafter defined, in, on or under the Premises and the right, on its own behalf or through persons authorized by it, to prospect for, mine and remove such minerals and to occupy and use so much of the surface of the ground as may be required for all purposes reasonably extending to the mining and removal of such materials by any means whatsoever including strip mining. "Minerals" as used herein, shall mean any or all oil, gas, coal, phosphate, sodium, sulphur, iron, titanium, gold, silver bauxite, bauxitic clay, dispoire, boehmite, laterite, gibbsite, alumina, all ores of aluminum and without limitation thereon all other mineral substances and ore deposits, whether solid, gaseous or liquid, including all geothermal resources, in, on, or under the land, fast or submerged; provided that "minerals" shall not include sand, gravel, rock or other material suitable for use and used in general construction in furtherance of Lessee's permitted activities on the Premises and not for sale to others.

B. All surface and ground water appurtenant to the demised land and the right on its own behalf or through persons authorized by it, to capture, divert or impound the same and to occupy and use so much of the Premises as may be required in the exercise of this right reserved; provided, however, that as a condition precedent to the exercise by the State of Hawaii of the rights reserved in this paragraph, just compensation shall be paid to Lessee for any of Lessee's improvements taken.

2. Prehistoric and Historic Remains. All prehistoric and historic remains found on the Premises, this Lease shall be subject to the rights of native tenants and to regulatory rights and ownership rights (if any) of the State of Hawaii established pursuant to state law including chapter 6E, Hawaii Revised Status, over prehistoric or historic remains found in, on, or under the land.

LESSEE HEREIN COVENANTS AND AGREES WITH LESSOR AS FOLLOW:

1. Taxes, Assessments, Etc. Lessee shall pay or cause to be paid, prior to delinquency, any taxes and assessments, of every description, as to said Premises, or any part thereof, including any improvements thereon; provided, however, that with respect to any assessment made under any betterment or improvement law which may be payable in installments, Lessee shall be required to pay only such installments, together with interest, as shall become due and payable during said term. Without limiting the generality of the foregoing, Lessees shall also be responsible for the payment of any Hawaii general excise tax (or successor tax) imposed upon the payment of all sums by Lessee under this Lease. Lessee shall remain current in

payment of all taxes, rents, or other obligations to the United States, the State of Hawaii, or any of its political subdivisions, including the County of Maui.

2. Utility Services. Lessee shall pay, prior to delinquency, all charges for water, sewer, gas, electricity, telephone and other services or utilities used by Lessee on the Premises during the term of the Lease unless otherwise expressly agreed in writing by Lessor.

3. No Residential Use. Lessee, its agents, employees and invitees, shall not use the Premises as temporary or permanent residence. Lessee shall not permit or allow any person to live on the Premises.

4. Indemnification. To the extent permitted by law, Lessee shall indemnify, release, and hold Lessor and the State of Hawaii harmless against and from any and all suits, claims, damages, judgments, costs and expense, including reasonable attorney's fees, arising from the Lessee's use of the Premises or arise from the construction of Lessee's improvements, from the failure of Lessee to observe and perform any of the covenants, obligations, rules, regulations, provisions, terms and conditions of this Lease, or from any act or negligence or omission to act of Lessee, its agents, contractors, servants, employees, concessionaires or licensees in or about the demised Premises or in any connection with this Lease. In case any action or proceeding be brought against Lessor, the State of Hawaii, or both (in addition to Lessee) by reason of any such claim, even though such claim be based on alleged fault of Lessor, the State of Hawaii, or both, Lessee agrees to pay the reasonable costs and expenses thereof, secured against Lessee by reason of such action or proceeding. The obligations of Lessee under this section shall survive the expiration or earlier termination of the Lease without limitation.

5. Costs of Litigation. In case Lessor and/or the State of Hawaii, without any fault on their respective parts, is made a party to any litigation commenced by or against Lessee (other than condemnation proceedings), Lessee shall pay all costs and expenses, including attorney's fees, incurred by or imposed on Lessor. Lessee shall pay all costs and expenses, including attorney's fees, which may be incurred by or paid by Lessor and/or the State of Hawaii in enforcing the covenants, obligations, rules, regulations, provisions, terms and conditions of this Lease, in recovering possession of the Premises, or in the collection of delinquent rental, taxes, and any and all other charges. The obligations of Lessee under this section shall survive the expiration or earlier termination of the Lease without limitation.

6. Assumption of Risk and Liability. Lessee, as a material part of the consideration to Lessor for this Lease, does hereby assume all risk of bodily injury, wrongful death and/or property damage, business interruption or economic loss occasioned by any accident,

fire, or nuisance made or suffered on the Premises, and hereby waives any and all claims against the Lessor and the State of Hawaii. All inventory, property, vehicles, approved improvements and equipment of Lessee shall be kept, placed or stored at the sole risk of Lessee, and Lessor shall not be responsible or liable for any damage thereto or loss or theft thereof, including subrogation claims by Lessee's insurance carriers.

7. "As Is" Condition. Lessor has not made and shall not make, any representation or warranty, implied or otherwise, with respect to the condition of the premises, including but not limited to (a) any express or implied warranty of merchantability or fitness for any particular purpose or (b) any dangerous or defective conditions existing upon the premises, whether or not such conditions are known to Lessor or reasonably discoverable by Lessee. Lessee accepts the Premises in a completely "as is" condition, with full assumption of the risks, and consequences of such conditions.

8. Mortgage. Lessee may mortgage or create a security interest in the demised premises or any portion thereof with the prior written approval of the Director and the BLNR, provided that, in the case of default the leasehold interest may be foreclosed only by judicial action pursuant to Chapter 667, Hawaii Revised Statutes, and the leasehold interest shall be transferred to the purchaser by assignment of lease for the remainder of the lease term only.

9. Liens. Lessee shall not commit or suffer any act of neglect whereby the Premises, or any part thereof, or the estate of Lessee in the same, shall become subject to any attachment, judgment, lien, charge, or encumbrance (hereinafter collectively called "Lien"), whatsoever. In the event that any Lien shall attach to or encumber the Premises, or if an application for a Lien is filed in any court of competent jurisdiction, Lessee shall bond against or discharge the same within ten (10) days after written request by Lessor. Lessee shall indemnify and hold harmless the Lessor and the State of Hawaii from and against all attachments, liens, charges and encumbrances and all expenses resulting therefrom, including attorney's fees.

10. Rules and Regulations. Lessor excepts and reserves the right, from time to time, to adopt reasonable rules and regulations pertaining to Lessee's use of the Premises, which rules and regulations shall be binding upon Lessee upon notice thereof to Lessee. For enforcement of such rules and regulations, if any, Lessor shall have all remedies in this Agreement and any other remedies allowed by law.

11. Alterations and Improvements. Lessee shall make no alterations to any structure on the Premises or construct any building or make any other improvements on the Premises without the prior written approval of the Director and the BLNR. Alterations or improvements on the Premises approved by the Director and the BLNR,

made by and paid for by Lessee, with the exception of fixtures which cannot be removed without damage to the Premises, shall, unless otherwise provided by written agreement between the Parties, be the property of Lessee.

12. Fixed Improvements. Lessee shall not at any time during the term construct, place, maintain or install on the premises any building, structure or improvement of any kind or description except with the prior written approval of Lessor and upon those conditions the Lessor may impose, including any adjustment of rent, unless otherwise provided in this Lease. All improvements of whatever kind or nature located on the Premises prior to, or on the commencement date of this Lease shall be, and at all times remain, the property of the Lessor.

13. Repair and Maintenance. Lessee shall at its own expense at all times during the term of this Lease, substantially repair and maintain, and keep all improvements now or hereafter built or made on the Premises in good and safe repair, order, and condition, reasonable wear and tear excepted.

14. Sanitation. Lessee shall keep the Premises and improvements in a strictly clean, sanitary and orderly condition.

15. Waste and Unlawful, Improper or Offensive Use of Premises. Lessee shall not commit, suffer, or permit to be committed any waste or nuisance, or unlawful, improper or offensive use of the Premises, or any part thereof, nor, without the prior written consent of the Director, cut down, remove or destroy, or suffer to be cut down, removed or destroyed, any trees growing on the Premises at the commencement of the this Lease, as well as any trees that are growing on the Premises during the duration of the this Lease.

Lessee shall not allow the Premises to become unduly eroded or subject to any material increase in weeds or litter, and Lessee shall make reasonable efforts to prevent or correct same.

16. Hazardous Materials. Lessee shall at all times, at its own cost and expense, comply with all federal, state and local laws, ordinances, regulations and standards relating to the use, analysis, production storage, sale, disposal or transportation of any hazardous materials, including oil or petroleum products or their derivatives, solvents, PCB's, explosive substances, asbestos, radioactive materials or waste, and any other toxic, ignitable, reactive, corrosive, contaminating or polluting materials which are now or in the future subject to any governmental regulation (hereinafter collectively referred to as "hazardous substances"). Prior to commencing use of the Premises for any activity involving the storage, use, or distribution of (a) any hazardous substance, or (b) products or materials which (i) include any hazardous substance as a component and (ii) which, if an accident occurred, might result in the release or discharge of any hazardous substance, Lessee shall give written

notice of such proposed use to Lessor. Such notice shall set forth (a) the proposed use and the hazardous substance involved, (b) a hazardous substance management plan describing the actions taken or proposed to be taken by Lessee to assure Lessee's compliance with the requirements of this Lease, and (c) evidence of insurance or other financial resources available to Lessee sufficient to assure Lessee's ability to comply with its obligations. Upon the expiration or earlier termination or revocation of this Lease, Lessee shall (a) cause all hazardous substances previously owned, stored, or used by Lessee to be removed from the Premises and disposed of in accordance with applicable provisions of law; (b) remove any storage tanks or containers installed or used by Lessee to store any hazardous substances and repair any damage caused by such removal; (c) cause any soil or other portion of the Premises which has become contaminated by any hazardous substances stored or used by Lessee to be decontaminated, detoxified or otherwise cleaned up in accordance with the requirements of cognizant governmental authorities; and (d) surrender possession of the Premises to Lessor free of the presence or effects of any hazardous substances generated or used by Lessee in, on, or about the Premises during the term of this Lease. Lessee shall indemnify and hold harmless Lessor and the State of Hawaii from and against any and all claims relating to hazardous materials arising from this Lease. The obligations of Lessee under this section shall survive the expiration or earlier termination of the Lease without limitation.

17. Rights of Way and Easements. Lessor reserves the right, subject to the approval of the BLNR, to issue rights of way and easements for lines, transmission facilities and appurtenances for utilities, electricity, gas, telephone, pipes, water, sewers, drainage, flowage, and any other purposes, whatsoever, without limitation, including the right to enter to construct, reconstruct, operate and maintain such facilities; provided that all such reserved rights shall be reasonably exercised so as to cause the least practicable interference with Lessee's operations; provided further, that, in any such event, any improvements made by Lessee which were damaged as a result of such entry shall be restored to a condition as near as practicable prior to such entry. Lessor further reserves the right to authorize public access over, across, under and through the Premises.

18. Access to Information. Lessee shall provide Lessor and the BLNR with access to Lessee's books, records, assets, facilities, and all other information relative to the use of the Premises, as deemed necessary in the judgment of Lessor and, if applicable, the BLNR.

19. Liability Insurance, Required Coverage. Lessee shall obtain, pay for, and keep in force throughout the period of this Lease comprehensive liability insurance issued by an insurance company (the "Carrier") authorized to do business in the State of Hawaii (an "Admitted Carrier"), or by a company not authorized to do business

in the State of Hawaii (a "Non-Admitted Carrier") only through a general insurance agent or broker licensed in the State of Hawaii. The Carrier shall be rated no less than "A-" as established by "AM Best" or "Standard and Poor" ratings.

The insurance policy, as evidenced by issuance of a "Policy Endorsement", shall name Lessor, the State of Hawaii, and their respective officers, employees and agents as "Additional Named Insured", and shall include a duty to defend Lessor, State of Hawaii, and their respective officers, employees and agents against any loss, liability, claims, and demands for injury or damage, including but limited to, claims for property damage, personal injury, or wrongful death, arising out of, or in connection with Lessee's actions and/or use of Premises.

Unless otherwise agreed to through the joint decision and discretion of the Director of the Department of Finance and the Director, the insurance policy shall contain the following minimum requirements:

- 1) No less than a Combined Single Limit ("CSL") of liability coverage of \$1,000,000;
- 2) No erosion of limit by payment of defense costs; and
- 3) Minimum annual aggregate limit of \$2,000,000.

Prior to or upon the execution of this Agreement, Lessee shall furnish the Lessor with a copy of the insurance policy certificate together with the required endorsements verifying such insurance coverage. If the scheduled expiration date of a current insurance policy is sooner than the specified termination date of this Lease, the Lessee shall, upon renewal of the insurance policy, provide the County with a copy of the renewed insurance policy certificate together with the required endorsements.

Unless waived by Lessor and the State of Hawaii, the insurance policy shall expressly state that the coverage provided under such policy shall not be cancelled or terminated, unless the Carrier has first given Lessor and the State of Hawaii thirty (30) calendar days prior written notice of the intended cancellation or termination.

If at any time, and from time to time, a higher limit or other requirements shall be deemed appropriate, customary, or necessary, in the reasonable discretion of the Director, the BLNR, or both, Lessee shall obtain and maintain such coverage.

20. Property Insurance. Lessee shall, unless otherwise agreed to through the joint decision and discretion of the Director of the Department of Finance and the Director, procure and, during the entire term of this Lease, keep in force and effect special form property insurance covering all of Lessee's leasehold improvements,



trade fixtures, inventory, equipment and personal property from time to time in, on or upon the Premises, in an amount not less than the full replacement cost thereof without deduction for depreciation, providing protection against all risks of loss not otherwise excluded for the Premises, together with insurance against sprinkler damage, vandalism, and malicious mischief, including demolition and debris removal and extended coverage, hurricane/wind coverage, and with inflation guard endorsement, if available in any insurance company qualified to do business in the State of Hawaii and shall, from time to time, deposit promptly with Lessor the policy and premium receipts therefor or a current certificate that such insurance is in full force and effect and shall not be cancelled without written notice to Lessor sixty (60) days prior to the effective date of such cancellation. All such policies shall be made payable to Lessor and Lessee as their interests may appear (it being understood and agreed that Lessor's interest shall be limited to permanent fixtures and other installations which are not removable by Lessee upon the termination of this Lease), and shall provide for a deductible of not more than \$5,000.00. All policy proceeds shall be used for the repair or replacement of the property damaged or destroyed unless this Lease shall cease and terminate in accordance with the provisions of this Lease.

21. Fire Insurance. Lessee shall, unless otherwise agreed to through the joint decision and discretion of the Director of the Department of Finance and the Director, procure, at its own cost and expense, and maintain during the period of this Lease, a policy or policies of fire insurance, on all buildings and improvements on the Premises, against loss or damage by fire in an amount equal to one hundred percent (100%) of the replacement value of the Premises as established by the insurance appraiser and as approved by the Director of Finance, and shall pay premiums thereon at the time and place the same are payable. The policy or policies of insurance shall be made payable in the case of loss to the County of Maui, as its interest may appear, and shall be deposited with the County. Any proceeds derived therefrom in the event of total or partial loss shall be immediately available to, and as soon as reasonably possible be used by Lessee for rebuilding, repairing, or otherwise reinstating the same buildings in a good and substantial manner according to the plans and specifications approved in writing by the County; provided, however that with the approval of the County, Lessee may surrender this Lease and Lessee shall then receive that portion of said proceeds which constitute the proportionate value of permanent improvements made by Lessee, if any, in relation to the unexpired term of this Lease and useful life of the improvements at the time of the loss, if any, with the County retaining the remaining proceeds of said proceeds.

22. Condemnation. If at any time during the term of this Lease any portion of the leased Premises should be condemned or required for public purposes by the State of Hawaii or the United States, Lessee shall be entitled to receive from the condemning authority the proportionate value of Lessee's permanent improvements so taken in

the proportion that it bears to the unexpired term of this Lease; provided that Lessee may, in the alternative, remove and relocate Lessee's improvements to the remainder of the Premises occupied by Lessee. Lessee shall not by reason of the condemnation be entitled to any claim against Lessor for condemnation or indemnity for its interest in this Lease and all compensation payable or to be paid for or on account of this Lease by reason of the condemnation, except as aforesaid as to Lessee's improvements, shall be payable to and be the sole property of Lessor. Where the portion taken renders the remainder unsuitable for the use or uses for which the land was leased, Lessee shall have the option to surrender this Lease and be discharged and relieved from any further liability therefor; provided that Lessee may remove the permanent improvements constructed, erected and placed by it within such reasonable period as may be allowed by Lessor. The foregoing right of Lessor shall not be exclusive of any other to which Lessor may be entitled by law.

23. Lessor's Lien. Lessor shall have a lien on all the buildings and improvements placed on the Premises by Lessee, on all property kept or used on the Premises, whether the same is exempt from execution or not, and on the premises, whether the same is exempt from execution or not, and on the rents of all improvements and buildings situated on the Premises for all costs, attorney's fees, rent reserved, taxes, and assessments paid by Lessor on behalf of Lessee and for the payment of all money as provided in this Lease to be paid by Lessee, and such lien shall continue until the amounts are paid.

24. Assignment. Lessee may not assign the Lease for the remainder of the Lease term.

25. Sublease. Lessee may not sublease the demised premises.

26. Lessee's Right to Terminate. If Lessee is not in default of the terms of this Lease to be observed and performed, Lessee may terminate this Lease by giving Lessor at least sixty (60) days prior written notice of such termination.

27. Surrender of Premises. At the expiration, revocation, cancellation or termination of this Lease, Lessee shall peaceably surrender the Premises, together with all improvements existing or constructed thereon, unless provided otherwise. On or before the last day of the term or the sooner termination thereof, Lessee, if not then in default, shall remove all trade fixtures, operating equipment and other personal property of Lessee from the Premises and repair any damage occasioned by any such removal. Property not so removed shall be deemed abandoned by Lessee.

28. Termination. If Lessee becomes bankrupt, dissolves, becomes inactive, or abandons the leased Premises for a period of four (4) consecutive months, or if this Lease and the leased Premises shall be attached or otherwise taken by operation of law, or if any assignment be made of Lessee's property for the benefit of creditors,

or shall fail to observe and perform any of the covenants, obligations, rules, regulations, provisions, terms and conditions, and such failure shall continue for a period of more than thirty (30) days after delivery by Lessor of a written notice of such breach or default, by personal service, registered mail or certified mail to Lessee at Lessee's last known address, all rights granted hereunder to Lessee shall cease and this Lease shall terminate without prejudice to any other remedy or right of action for arrears of rent or damages or for any preceding or other breach or contract; and in the event of such termination, all buildings and improvements there on shall remain and become the property of Lessor, subject to any valid mortgages against the property.

29. Covenant Against Discrimination. The use and enjoyment of the Premises shall not be in support of any policy which discriminates against anyone based upon race, sex, sexual orientation, age, religion, color, ancestry, national origin, disability, marital status, arrest and court record, assignment of income for child support obligations and National Guard participation.

30. ADA Compliance. Lessor makes no representations or warranties, express or implied, as to the Premises or any existing improvements thereon, regarding compliance with the Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. §§12101-12213 (2000). Lessee shall be responsible for complying with the ADA and Lessee shall defend, indemnify and hold harmless Lessor and the State of Hawaii against any and all claims regarding non-compliance with any requirement of the ADA. All costs relating to any required improvements or modifications to the Premises, and any existing improvements thereon, shall be borne by Lessee. Notwithstanding any other provision of this Lease to the contrary, any improvements to the Premises constructed by Lessee shall be in compliance with the ADA.

31. Compliance with Laws. Lessee shall comply with all federal, state, and county laws pertaining to the Premises and activities conducted on the Premises, now in force or which may hereinafter be in force.

32. Interpretation Under Hawaii Law. This Lease is made and entered into in the State of Hawaii, and shall in all respects be interpreted, enforced, and governed under the laws of the State of Hawaii.

33. Gender. The use of any gender shall include all genders, and if there be more than one Lessee or Lessor, then all words used in the singular shall extend to and include the plural.

34. Paragraph Headings. The paragraph headings throughout this lease are for the convenience of Lessor and Lessee and are not intended to construe the intent or meaning of any of the provisions thereof.

35. Time of the Essence. Time is of the essence of this Lease and all of the terms, provisions, covenants, and conditions hereof.

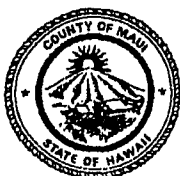
36. Notices. All notices or demands that are required or may be given under this Lease by one party to another party, or that are required by law, shall be in writing and shall be deemed to have been validly given or served in the following manner: (a) by delivery to the intended addressee; or (b) by depositing the notice with a reputable private courier service for next business day delivery to the intended recipient at its address set forth on the first page of this Lease or at such other address as a party shall have designated for such purpose by notice to the other party or parties; or (c) by depositing the notice with the United States Postal Service for delivery, postage prepaid, registered or certified mail, return receipt requested, to the intended recipient at its address set forth on the first page of this Lease or at such other address as a party shall have designated for such purpose by notice to the other party or parties.

A notice shall be deemed received upon personal delivery to the designated address or three days after being deposited with a private courier service or with the United States Postal Service as described, supra. Rejection of or refusal to accept a notice or the inability to give notice because a notice of a change in address was not given as required by this Paragraph shall be deemed to be receipt of the notice sent when tendered as provided by this Paragraph.

If a party has designated an agent for service of process, notice to the agent shall conclusively be deemed service on the party. A party shall have the right from time to time to change its address for receipt of notice and to specify any other address within the United States of America by giving written notice of the change in address to the other party or parties at least fifteen (15) days in advance. A notice of change of address is effective under this Lease only when actually received.

37. Assistance of Legal Counsel. The Parties represent and certify to each other that they have been advised to seek the advice of legal counsel and have done so. The Parties have carefully read and fully understand all of the provisions of this Lease, and have thoroughly discussed all aspects of this Lease with their respective counsel. The parties are voluntarily entering into this Lease and no party or its agents, representatives, or attorneys have made any representations concerning the terms or effects of this Lease other than those contained herein.

**END OF EXHIBIT "B"**



## DEPARTMENT OF PARKS AND RECREATION

700 Hali'a Nakoa Street, Unit 2, Wailuku, Hawaii 96793

### ANNUAL REAL PROPERTY GRANT REPORT

Report Period: Fiscal Year July 1, \_\_\_\_\_ - June 30, \_\_\_\_\_

ORGANIZATION: \_\_\_\_\_

Tax Map Key Number(s): \_\_\_\_\_

**Department of Parks and Recreation's Mission:** The purpose of the Department of Parks and Recreation is to provide safe, satisfying and cost-effective recreational opportunities for the residents of and visitors to Maui County.

### INSTRUCTION

Provide a narrative response to each question below for each quarter and fiscal year.

#### **I. Program Data/Status Summary**

- a. List each program goal/benchmark for the leased/licensed site and how it contributes towards the Parks Department's mission (noted above).
- b. What objectives/action steps were completed this fiscal year for each goal?
- c. What measurable outcomes were achieved this fiscal year?
- d. Were your organization's programs/activities open to the public? If so, how were they promoted to residents and visitors?
- e. Give actual number of people attended at activities, programs and events on property for each quarter of the fiscal year.
- f. What objectives/actions steps will be accomplished during the next fiscal year?

#### **II. Narrative Report**

- a. What program challenges occurred this fiscal year and how were they addressed and/or resolved?
- b. Describe any staff changes in your organization.
- c. Were there any fundraising activities on leased/licensed property? If so, please indicate how many, type of activity, primary beneficiary of the fundraising, and how your organization participated and benefited from the activity.
- d. Describe improvements on the property, its condition, and your risk evaluation program. How often are site inspections done and by who?
- e. Disclosure of any organizational conflict of interest and criminal violations.
- f. Were audits done this fiscal year? When is the next audit planned for your organization?

**Please submit the following information with this report:**

- a. Board of Directors' Minutes.
- b. Updated list of Board of Directors
- c. Financial status report including but not limited to the total revenue generated on the property leased/licensed.
- d. Update Tenant Contact Information Form.
- e. Current Liability Insurance Certificate naming the County of Maui as additional insured.

Report Prepared by: \_\_\_\_\_

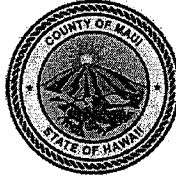
Print Name/Title

Signature

Date

**EXHIBIT "C"**

ALAN M. ARAKAWA  
Mayor



MARK R. WALKER  
Director

MARCI SATO  
Deputy Director

SCOTT K. TERUYA  
Administrator

GERY MADRIAGA  
Assistant Administrator

COUNTY OF MAUI  
DEPARTMENT OF FINANCE  
**REAL PROPERTY ASSESSMENT DIVISION**

70 E. KAAHUMANU AVENUE, SUITE A-16, KAHULUI, MAUI, HAWAII 96732-2196  
Assessment: (808) 270-7297 | Fax: (808) 270-7884  
www.mauipropertytax.com

February 23, 2018

MEMO TO: Guy Hironaka  
Department of Finance

VIA: Gery Madriaga, RPA Assistant Administrator

FROM: Joshua R. Poouahi

SUBJECT: Tax Map Key: 1-7-002-015-0000, Estimate of Fair Market Rental Value

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This letter is in response to your request dated February 20, 2018 to obtain the fair market rental value of the property located at TMK: 1-7-002-015-0000.

The assessed value of the property as of January 1<sup>st</sup>, 2017 is as follows:

<u>TMK</u>	<u>2017 Assessed Value</u>
1-7-002-015	\$344,900

Assuming the prevailing market rate per annum of 9%, the estimated fair market rental values per annum of the property would be:

<u>TMK</u>	<u>FMRV</u>
1-7-002-015	\$31,041

The value of the aforementioned property was established using standardized mass appraisal techniques by the Real Property Tax Division, for real property tax purposes only.

This estimate of fair market rental values is prepared solely for the use of the County of Maui Finance Department and is not to be used for lending or any other purposes. No on-site inspections of the parcel was conducted for the purpose of the estimate.

cc: Office file

**EXHIBIT " 2 "**

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NAME	RECORD TYPE	FILE NO.	STATUS
KAUPO COMMUNITY ASSOCIATION*	Entity	107996 D2	Inv. Dissolved
KAUPO COMMUNITY ASSOCIATION, INC.	Entity	241718 D2	Active

2 items found, displaying 1 to 2.

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