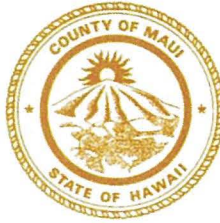


MICHAEL P. VICTORINO
Mayor

LORI TSUHAKO
Director

LINDA R. MUNSELL
Deputy Director



RECEIVED
2020 OCT 13 AM 10:21
OFFICE OF THE MAYOR

DEPARTMENT OF HOUSING
& HUMAN CONCERNS
COUNTY OF MAUI
2200 MAIN STREET, SUITE 546
WAILUKU, MAUI, HAWAII 96793
PHONE: (808) 270-7805

October 12, 2020

Honorable Michael P. Victorino
Mayor, County of Maui
200 South High Street
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL

Michael P. Victorino 10/13/20
Mayor Date

For Transmittal to:

Honorable Riki Hokama, Chair
Healthy Families and Communities Committee
Maui County Council
200 South High Street
Wailuku, Hawaii 96793

Dear Chair Hokama:

SUBJECT: LA'AKEA VILLAGE (PAIA) (HFC-74)

In response to your letter dated October 12, 2020, attached is a copy of the lease for County Property between the County of Maui and the La'a Kea Foundation as requested.

Thank you for the opportunity to provide this information. Should you have any questions, please feel free to contact me at Ext. 7805.

Sincerely,

A handwritten signature in blue ink, appearing to read "Lori Tshako".

LORI TSUHAKO, LSW, ACSW
Director of Housing and Human Concerns

Attachment

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LAND COURT SYSTEM

REGULAR SYSTEM

Return by Mail (X) Pickup () To:
Department of Finance
County of Maui
200 South High Street
Wailuku, Maui, HI 96793

Affects TMK: (2)2-5-005:030

Pages

LEASE

THIS INDENTURE OF LEASE made this NOV 30 2005 day of
 , 20 , by and between the COUNTY OF MAUI, a
political subdivision of the State of Hawaii, whose address is 200
South High Street, Wailuku, Maui, Hawaii 96793, hereinafter
referred to as the "Lessor", and THE LA'A KEA FOUNDATION, a Hawaii
non-profit corporation, whose mailing address is P. O. Box 791276,
Paia, Hawaii 96779, hereinafter referred to as the "Lessee";

W I T N E S S E T H :

THAT the Lessor, for and in consideration of the rent to
be paid and of the terms, covenants and conditions contained
herein, and contained in that certain unrecorded Grant Agreement
dated November 30, 2005, attached hereto as Exhibit "B" and
made a part hereof, and further in consideration of the Standard
Reservations, Covenants, Terms and Conditions set forth in Exhibit
"C" attached hereto and made a part hereof, all on the part of the

Lessee to be kept, observed and performed, does hereby demise and lease unto the Lessee, and the Lessee does hereby lease and hire from the Lessor, that certain parcel of land known as Lot A of the Paia Store Subdivision, L.U.C.A. File No. 2.2217, more particularly identified as Tax Map Key No. (2) 2-5-005:030, consisting of approximately 12.203 acres, located at Paia, Maui, Hawaii, and more particularly described in Exhibit "A", attached hereto and made a part hereof (hereinafter called the "Premises"), together with right of access to the Premises.

TO HAVE AND TO HOLD the Premises unto the Lessee for the term of FIFTY-FIVE (55) YEARS, commencing on the 30th day of November 2005, unless sooner terminated as hereinafter provided, the Lessor reserving and the Lessee yielding and paying to the Lessor a rental of ONE AND NO/100 DOLLAR (\$1.00) per annum, payable in advance of the lease term upon the execution hereof, to the County of Maui, Department of Finance, at Lessor's address designated herein or as otherwise designated in writing by Lessor to Lessee.

A) Use of Premises. That the Lessee shall use or allow the Premises hereby demised to be used solely for the purpose of developing a farm village for developmentally disabled adults. The use of the Premises by parties other than the Lessee shall be at the discretion and prior written approval of the Lessor, through its Director of Housing and Human Concerns.

B) Special Conditions, Terms, Covenants:

On November 29, 20 10 (5 years after the date of this Lease), Lessee shall submit a written progress/compliance report to the Maui County Grants Review Committee, through the Lessor's Department of Housing and Human Concerns. Said report shall describe and detail Lessee's activities, use and progress of its programs and project with respect to the Premises.

C) Definitions. As used herein, unless clearly repugnant to the context:

1. "Lessee" shall mean and include the Lessee named herein, its heirs, devisees, personal representatives, successors or any permitted assigns, according to the context thereof.

2. "Lessor" shall mean and include the County of Maui, its officers, agents and assigns. Unless otherwise indicated, wherever the prior written consent or approval of the "Lessor" is required in this lease, such consent or approval shall include, but is not limited to, the consent or approval of the Mayor, the Director of Finance, and the Director of Housing and Human Concerns.

3. "Premises" shall be deemed to include the land hereby demised and all buildings and improvements now or hereinafter constructed and installed thereon.

D) Gender. The use of any gender shall include all genders, and if there be more than one (1) lessee, then all words used in the singular shall extend to and include the plural.

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

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: 

KALBERT K. YOUNG
Its Director of Finance

LESSEE:

THE LA'A KEA FOUNDATION

By: 

DONNA P. LING
(Print Name)

Its: Vice President

By: _____


(Print Name)

Its: _____

APPROVAL RECOMMENDED: 

ALICE L. LEE
Director of Housing and
Human Concerns
County of Maui

APPROVED AS TO FORM
AND LEGALITY:


EDWARD S. KUSHI, JR.
Deputy Corporation Counsel
County of Maui

S:\ALL\ESK\HC\Agreements\La'aKealease.wpd

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this 19th day of April, 2005, before me personally appeared Donna P. Ting, 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.

Norma Circle

Notary Public, State of Hawaii

NORMA CIRCLE

Print Name

My commission expires: 3/13/08

LS

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this _____ day of _____, 200____, 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

Print Name

My commission expires: _____

STATE OF HAWAII)
 : SS.
COUNTY OF MAUI)

NOV 30 2005

On this _____ day of _____, 200____, before me personally appeared **ALAN M. ARAKAWA**, to me personally known, who, being by me duly sworn, did say that he 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.

Linda K. Tamashiro

Notary Public, State of Hawaii
LINDA K. TAMASHIRO
Print Name
My commission expires: 10/19/06

STATE OF HAWAII)
 : SS.
COUNTY OF MAUI)

On this 19th day of October, 2005, before me personally appeared **KALBERT K. YOUNG**, 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 **KALBERT K. YOUNG** 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.

Kalbert K. Young

Notary Public, State of Hawaii
Kalbert K. Young
Print Name
My commission expires: January 10, 2007

EXHIBIT "A"

**LOT A
PAIA STORE VILLAGE SUBDIVISION**

All of that certain parcel of land, being a portion of the land deeded by the Board of Education to the Trustees of the Oahu College dated: January 30, 1860 in Liber 12, Pages 400 to 403 situated at Hamakuaapoko, Makawao, Island and County of Maui, State of Hawaii.

Beginning at a 1/2-inch pipe at the southeasterly corner of this lot, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUUNENE 2" being 786.50 feet North and 9,417.34 feet East and running by azimuths measured clockwise from True South:

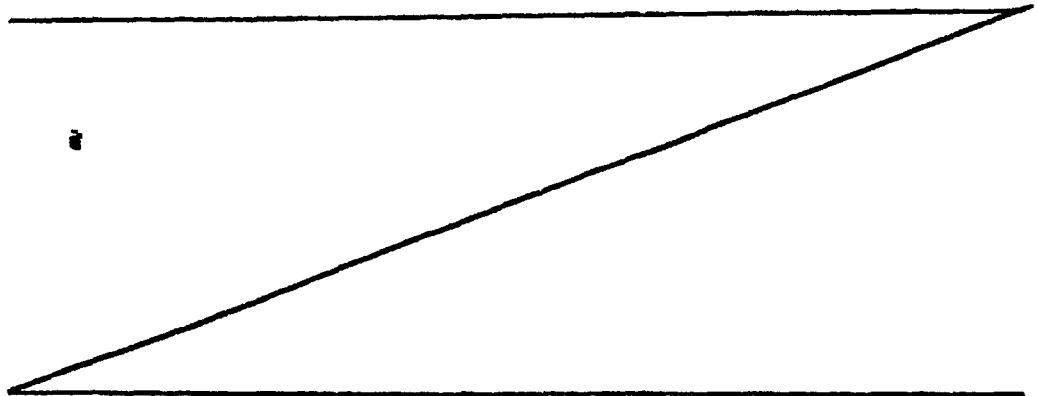
1. 105° 47' 123.79 feet along the northeasterly side of Baldwin Avenue (Road widening Lot D of the Paia Store Village Subdivision) to a 1/2-inch pipe;
2. Thence along same on a curve to the right with a radius of 1,904.00 feet, the chord azimuth and distance being: 109° 14' 229.16 feet to a 1/2-inch pipe;
3. Thence along same on a curve to the right with a radius of 422.00 feet the chord azimuth and distance being: 120° 45' 118.43 feet to a 1/2-inch pipe;
4. 128° 49' 116.12 feet along same to a 1/2-inch pipe;
5. Thence along same on a curve to the right with a radius of 1,492.00 feet, the chord azimuth and distance being: 130° 14' 30" 74.21 feet to a 1/2-inch pipe;

EXHIBIT "A" (continued)

6. 224° 15' 110.10 feet along Lot 2 of the Upper Paia Water System Tank Site Subdivision, being also the remainder of the land deeded by the Board of Education to the Trustees of the Oahu College dated: January 30, 1860 in Liber 12, Pages 400 to 403 to a 1/2-inch pipe;
7. 134° 15' 152.00 feet along same to a 1/2-inch pipe;
8. 44° 15' 109.21 feet along same to a 1/2-inch pipe;
9. Thence along the northeasterly side of Baldwin Avenue (Road widening Lot C of the Paia Stone Village Subdivision) on a curve to the right with a radius of 1,492.00 feet, the chord azimuth and distance being: 136° 03' 12" 28.47 feet to a 1/2-inch pipe;
10. 138° 36' 319.63 feet along same to a 1/2-inch pipe;
11. 225° 15' 436.40 feet along the remainder of the land deeded by the Board of Education to the Trustees of the Oahu College dated: January 30, 1860 in Liber 12, Pages 400 to 403 to a 1/2-inch pipe;
12. 302° 29' 230.49 feet along same to a 1/2-inch pipe;
13. 296° 36' 253.08 feet along same to a 1/2-inch pipe;
14. 314° 50' 102.36 feet along same to a 1/2-inch pipe;
15. 318° 54' 191.89 feet along same to a 1/2-inch pipe;
16. 324° 13' 71.91 feet along same to a 1/2-inch pipe;

EXHIBIT "A" (continued)

| | | | |
|-----|----------|--------|---|
| 17. | 344° 34' | 59.07 | feet along same to a 1/2-inch pipe; |
| 18. | 356° 45' | 79.90 | feet along same to a 1/2-inch pipe; |
| 19. | 332° 24' | 31.72 | feet along same to a 1/2-inch pipe; |
| 20. | 292° 28' | 32.09 | feet along same to a 1/2-inch pipe; |
| 21. | 268° 36' | 39.15 | feet along same to a 1/2-inch pipe; |
| 22. | 255° 03' | 51.48 | feet along same to a 1/2-inch pipe; |
| 23. | 278° 24' | 54.66 | feet along same to a 1/2-inch pipe; |
| 24. | 43° 44' | 204.93 | feet along same to a 1/2-inch pipe; |
| 25. | 43° 42' | 57.77 | feet along same to a 1/2-inch pipe; |
| 26. | 35° 28' | 119.38 | feet along same to the point of beginning and containing an area of 12.203 Acres. |



This document was received from the U.S. Forest Service

Legibility of writing, typing, or printing UNSATISFACTORY
in this Document when received.

RECORDED MEMO

EXHIBIT "A" (continued)

SUBJECT TO THE FOLLOWING:

1. **Reservation in favor of the State of Hawaii of all mineral and metallic mines.**
2. **Grant of EASEMENT to Maui Electric Company, Limited and GTE Hawaiian Telephone Company, Incorporated dated November 29, 1984 recorded in the Bureau of Conveyances of the State of Hawaii in Liber 18395 at Page 756.**
3. **AGREEMENT dated July 31, 1980, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 14938 Page 716, by and between the County of Maui, through its Department of Water Supply and Doris Todd Memorial Christian School, "Applicant".**
4. **SUBDIVISION AGREEMENT (LARGE LOTS) dated May 10, 1995, recorded in the Bureau of Conveyances of the State of Hawaii in Document No. 95-089574, by and between A&B-Hawaii, Inc. and the County of Maui.**
5. **SUBDIVISION AGREEMENT (AGRICULTURAL USE) dated May 10, 1995, recorded in the Bureau of Conveyances of the State of Hawaii in Document No. 95-092473, by and between A&B-Hawaii, Inc. and the County of Maui, through its Department of Public Works and Waste Management.**
6. **Claims arising out of right customarily and traditionally exercised for subsistence, cultural, religious, access or gathering purposes as provided for in the Hawaii Constitution or the Hawaii Revised Statutes.**

GRANT AGREEMENT FOR A LEASE OF COUNTY REAL PROPERTY

THIS AGREEMENT, made this _____ day of NOV 30 2005, 200__,
by and between **THE LA'A KEA FOUNDATION**, a Hawaii nonprofit
corporation, whose mailing address is P. O. Box 791276, Paia,
Hawaii 96779, hereinafter called the "Grantee", and 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 called "County"
or "Grantor".

W I T N E S S E T H :

WHEREAS, the Grantee has applied to the Council of the County
of Maui, through the Department of Housing and Human Concerns, and
received the recommendation of the Grants Review Committee for a
grant of a lease of that certain real property situated at Paia,
Maui, Hawaii, known as Lot A of the Paia Store Subdivision,
L.U.C.A. File No. 2.2217, more particularly identified as Tax Map
Key No.: (2)2-5-005:030, consisting of approximately 12.203 acres,
as more particularly described in Exhibit "A" attached hereto and
made a part hereof (hereinafter called the "Premises"), together
with the right of access to the Premises, for a period of fifty-
five (55) years, all as provided for and described in that certain
lease agreement to be entered into by and between the parties
hereto, hereinafter called the "Lease", which Lease will allow the
Grantee the use the Premises for the purpose of developing a farm
village for developmentally disabled adults; and

WHEREAS, the amount of rent to be charged Grantee for the Premises will be ONE AND NO/100 DOLLARS (\$ 1.00) per year; and

WHEREAS, the fair market rental value of the property as determined by the Director of Finance is SEVENTY-FIVE THOUSAND EIGHT HUNDRED AND NO /100 DOLLARS (\$ 75,800.00) per annum;

NOW, THEREFORE, IT IS HEREBY AGREED by and between the parties hereto, as follows:

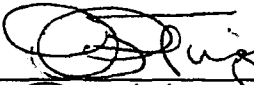
1) Grantor herein grants to Grantee a lease of the Premises, the terms, conditions and provisions of which being set forth in the Lease aforementioned.

2) In consideration thereof, Grantee herein agrees to said terms, conditions and provisions contained in the aforesaid Lease, agrees to the General Conditions contained in Exhibit "B" attached hereto and made a part hereof, agrees to make the annual reports on forms specified by the Grantor, and shall abide by the representations contained in the Grant Application on file with the Department of Housing and Human Concerns and incorporated herein by reference.

IN WITNESS WHEREOF, the parties have executed these presents
the day and year first above written.

GRANTEE:

THE LA'A KEA FOUNDATION

By 
(Signature)
DONNA P. LING
(Print name above)
Its V. President
(Title)

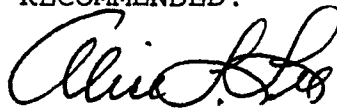
By _____
(Signature)

(Print name above)
Its _____
(Title)

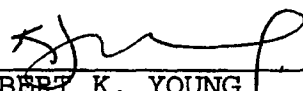
GRANTOR:

COUNTY OF MAUI:

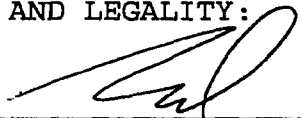
APPROVAL RECOMMENDED:


ALICE L. LEE
Director of Housing
and Human Concerns

By 
ALAN M. ARAKAWA
Its Mayor

By 
KALBERT K. YOUNG
Its Director of Finance

APPROVED AS TO FORM
AND LEGALITY:


EDWARD S. KUSHI, JR.
Deputy Corporation Counsel
County of Maui

D:\ALLEN\CE\MC\Agreement at La'a\agreement.docx

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this 19th day of April, 2005, before me personally appeared Donna P. Ting, 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.

Norma Circle LS
Notary Public, State of Hawaii
NORMA CIRCLE
Print Name
My commission expires: 3/13/08

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this _____ day of _____, 200____, 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

Print Name
My commission expires: _____

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this _____ day of NOV 30 2005, 20____, before me appeared **ALAN M. ARAKAWA**, to me personally known, who being by me duly sworn did say that he 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 in 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.

LINDA K. TAMASHIRO



Notary Public, State of Hawaii

My commission expires: 10/19/06

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this 19th day of October, 2005, before me appeared **KALBERT K. YOUNG**, 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 in behalf of said County of Maui pursuant to Article 8, Chapter 4 of the Charter of the County of Maui; and the said **KALBERT K. YOUNG** 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



My commission expires: JANUARY 19, 2007

EXHIBIT "A"

**LOT A
PAIA STORE VILLAGE SUBDIVISION**

All of that certain parcel of land, being a portion of the land deeded by the Board of Education to the Trustees of the Oahu College dated: January 30, 1860 in Liber 12, Pages 400 to 403 situated at Mamakuaope, Makawao, Island and County of Maui, State of Hawaii.

Beginning at a 1/2-inch pipe at the southeasterly corner of this lot, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUUHEWE 2" being 786.80 feet North and 9,417.34 feet East and running by azimuths measured clockwise from True South:

1. 105° 47' 133.79 feet along the northeasterly side of Baldwin Avenue (road widening Lot B of the Paia Store Village Subdivision) to a 1/2-inch pipe;
2. Thence along same on a curve to the right with a radius of 1,904.00 feet, the chord azimuth and distance being: 109° 14' 229.16 feet to a 1/2-inch pipe;
3. Thence along same on a curve to the right with a radius of 422.00 feet the chord azimuth and distance being: 120° 43' 116.43 feet to a 1/2-inch pipe;
4. 128° 49' 116.12 feet along same to a 1/2-inch pipe;
5. Thence along same on a curve to the right with a radius of 1,492.00 feet, the chord azimuth and distance being: 136° 14' 34" 74.21 feet to a 1/2-inch pipe;

LOANED TO CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS
 IN THIS DOCUMENT WHEN RECEIVED

- Page 2 of 4

EXHIBIT "A" (continued)

| | | | |
|-----|----------|--------|---|
| 17. | 344° 34' | 59.07 | feet along same to a 1/2-inch pipe; |
| 18. | 356° 45' | 79.90 | feet along same to a 1/2-inch pipe; |
| 19. | 332° 24' | 31.72 | feet along same to a 1/2-inch pipe; |
| 20. | 292° 28' | 32.09 | feet along same to a 1/2-inch pipe; |
| 21. | 268° 56' | 39.13 | feet along same to a 1/2-inch pipe; |
| 22. | 255° 03' | 51.48 | feet along same to a 1/2-inch pipe; |
| 23. | 278° 24' | 34.66 | feet along same to a 1/2-inch pipe; |
| 24. | 45° 44' | 204.93 | feet along same to a 1/2-inch pipe; |
| 25. | 43° 42' | 57.77 | feet along same to a 1/2-inch pipe; |
| 26. | 35° 28' | 119.38 | feet along same to the point of beginning and containing an Area of 12.203 Acres. |

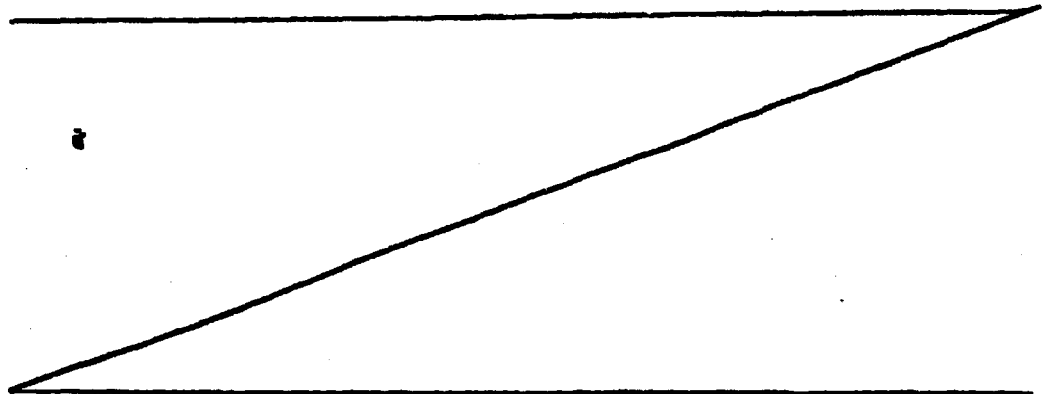


EXHIBIT "A" (continued)

SUBJECT TO THE FOLLOWING:

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
2. Grant of EASEMENT to Maui Electric Company, Limited and GTE Hawaiian Telephone Company, Incorporated dated November 29, 1984 recorded in the Bureau of Conveyances of the State of Hawaii in Liber 18395 at Page 736.
3. AGREEMENT dated July 31, 1980, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 14958 Page 716, by and between the County of Maui, through its Department of Water Supply and Doris Todd Memorial Christian School, "Applicant".
4. SUBDIVISION AGREEMENT (LARGE LOTS) dated May 10, 1995, recorded in the Bureau of Conveyances of the State of Hawaii in Document No. 95-089574, by and between A&B-Hawaii, Inc. and the County of Maui.
5. SUBDIVISION AGREEMENT (AGRICULTURAL USE) dated May 10, 1995, recorded in the Bureau of Conveyances of the State of Hawaii in Document No. 95-092673, by and between A&B-Hawaii, Inc. and the County of Maui, through its Department of Public Works and Waste Management.
6. Claims arising out of right customarily and traditionally exercised for subsistence, cultural, religious, access or gathering purposes as provided for in the Hawaii Constitution or the Hawaii Revised Statutes.

RECEIVED - MEMO

Legality of signing, typing, or printing UNSATISFACTORY
in this Document when received.

GENERAL CONDITIONS FOR GRANT OF LEASE
TO OCCUPY COUNTY REAL PROPERTY

In consideration of a grant of lease to occupy County real property, the Grantee shall:

1. Not discriminate either in the hiring of staff, use of volunteers, or delivery of client services on the basis of sex, sexual orientation, national origin, age, race, color, religion or handicap;
2. Comply with all provisions of the rules and regulations relating to Chapter 3.36 of the Maui County Code, as amended;
3. Provide written reports on forms specified by the Grantor to provide adequate monitoring of Grantee's use of the licensed premises, to the Department of Housing and Human Concerns, as required by Chapter 3.36 of the Maui County Code, as amended.
4. Implement a system of accounting in conformance with generally accepted accounting practices in order to insure the effective administration of the grant. Such accounts shall be kept separate from other financial management accounts of the Grantee;
5. The County has a right to audit Grantee to determine compliance with the terms of the grant agreement. Grantee will cooperate fully and assist the County in such audit.
6. Comply with all terms and conditions as specified in the lease document.
7. In the event the Grantee fails to adhere to any of the conditions listed here, the County may terminate the lease.

EXHIBIT "B"

EXHIBIT "C"
STANDARD RESERVATIONS, COVENANTS, TERMS AND CONDITIONS

In consideration of the foregoing grant of a lease/license to the Lessee/Licensee, the Lessee/Licensee herein agrees to the following reservations, covenants, terms and conditions. In the event any of the following conflict with any reservation, covenant, term or condition contained in the BODY of the lease/license, the reservation, covenant, term or condition contained in said BODY shall prevail. All references to the lease, the lessee or the lessor shall include and be deemed to refer to the license, the licensee or the licensor, where applicable.

A) **RESERVATIONS.** Lessee understands and agrees that the foregoing lease is subject to Lessor's reservation of the following:

1. Minerals and Waters.

A. All minerals as hereinafter defined, in, on or under the Premises and the right, on Lessor's 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, diaspore, 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 the Lessor's permitted activities on the Premises and not for sale to others.

B. All surface and ground waters 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.

2. Prehistoric and Historic Remains. All prehistoric and historic remains found on the Premises.

3. Ownership of Fixed Improvements. Lessor shall retain ownership of all improvements of whatever kind or nature, located on the land prior to or on the commencement date of this lease, excluding those improvements constructed during the term of this lease, provided that at the end of the lease term, any such improvements shall be the property of the Lessor.

B) **COVENANTS, TERMS AND CONDITIONS.** Lessee herein covenants and agrees with Lessor as follows:

1. Payment of Rent. That the Lessee shall pay said rent to the Lessor at the times, in the manner and form aforesaid in legal tender of the United States of America.

2. Taxes, Assessments, Etc. That the Lessee shall pay or cause to be paid, when due, the amount of all taxes, rates, assessments and other outgoings of every description as to which said Premises or any part thereof, or any improvements thereon, or the Lessor or Lessee in respect thereof, are now or may be assessed or become liable by authority of law during the term of this lease; 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.

3. Utility Services. That the Lessee shall pay when due all charges, duties and rates of every description, including water, sewer, gas, refuse collection or any other charges, as to which said Premises, or any part thereof, or any improvements thereon or the Lessor or Lessee in respect thereof may during said term become liable, whether assessed to or payable by the Lessor or Lessee.

4. Covenant Against Discrimination. That the use and enjoyment of the Premises shall not be in support of any policy which discriminates against anyone based upon sex, sexual orientation, national origin, age, race, color, religion or disability.

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

6. Waste and Unlawful, Improper or Offensive Use of Premises. That the Lessee shall not commit, suffer or permit to be committed any waste, nuisance, strip or unlawful, improper or offensive use of the Premises, or any part thereof, nor, without the prior written consent of the Lessor, cut down, remove or destroy, or suffer to be cut down, removed or destroyed, any trees now growing on the Premises.

7. Compliance with Laws. That the Lessee shall comply with all of the requirements of all municipal, state, and federal authorities and observe all municipal, state and federal laws pertaining to the said Premises, now in force or which may hereinafter be in force. However, this lease is excluded from the Residential Landlord-Tenant code, pursuant to Hawaii Revised Statutes §521-7(1).

8. Inspection of Premises. That the Lessee will permit the Lessor and its agents, at all reasonable times during the said term, to enter the Premises and examine the state of repair and condition thereof.

9. Liens. That the Lessee will not commit or suffer any act to neglect whereby the Premises or any improvement thereon or the estate of the Lessee in the same shall become subject to any attachment, lien, charge or encumbrance whatsoever, except as hereinafter provided, and shall indemnify and hold harmless the

Lessor from and against all attachments, liens, charges and encumbrances and all expenses resulting therefrom.

10. Indemnity. That the Lessee will defend, indemnify and hold the Lessor harmless from and against any claim or demand for loss, liability or damage, including claims for property damage, personal injury or death, arising out of any accident on the Premises and sidewalks and roadways adjacent thereto or occasioned by any act or nuisance made or suffered on the Premises, or by any fire thereon, or growing out of or caused by any failure on the part of the Lessee to maintain the Premises in a safe condition, or by any act or omission of the Lessee, and from and against all action, suits, damages and claims by whomsoever brought or made by reason of the non-observance or non-performance of any of the terms, covenants and conditions herein or the rules, regulations, ordinances and laws of the federal, state, municipal or county governments.

11. Costs of Litigation. That in case the Lessor shall, without any fault on its part, be made a party to any litigation commenced by or against the Lessee (other than condemnation proceedings), the Lessee agrees and covenants to pay all costs and expenses incurred by or imposed on the Lessor; furthermore, the Lessee shall and will pay all costs and expenses which may be incurred by or paid by the Lessor in enforcing the covenants and agreements of this lease, in recovering possession of the Premises or in the collection of delinquent rental, taxes and any and all other charges.

12. Liability Insurance. That the Lessee shall procure, at its own cost and expense, and maintain during the entire period of this lease, a policy or policies of comprehensive liability insurance issued by a company authorized to do business in the State of Hawaii, in an amount of at least ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00), insuring the Lessor and Lessee against all claims for personal injury and/or death, and in an amount of at least ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000.00) for property damage, or in amounts and for types of coverage as otherwise designated in writing by Lessor to Lessee; that the policy or policies shall cover the entire Premises, including all buildings, improvements and grounds and all roadways or sidewalks on or adjacent to the Premises in the control or use of the Lessee. The Lessee shall furnish the Lessor, through its Director of Finance, a copy of the insurance policy or policies verifying the existence of such insurance, and if the scheduled expiration date of an existing policy is sooner than the specified termination date of this lease, the Lessee shall, upon renewal of the policy, furnish the Lessor with a copy of the renewed insurance policy. The policy shall contain or be accompanied by an assurance by the insurer to notify the Lessor of any intention to cancel the policy prior to actual cancellation. The procuring of this policy shall not release or relieve the Lessee of its responsibility under this lease as set forth herein or limit the amount of its liability under this lease. Any notice to cancel such insurance policy or policies shall be transmitted by certified mail by the insurer to

the Lessor, through its Director of Finance, sixty (60) calendar days prior to the proposed date of cancellation.

13. Fire Insurance. That the Lessee will, at its own expense, at all times during the term of this lease, keep insured all buildings and improvements erected on the land hereby demised in the joint names of Lessor, Lessee and Mortgagee, if any, as their interest may appear, against loss or damage by fire including perils specified in the extended coverage endorsement and in an amount equal to the replacement value of said buildings and improvements, and will pay the premiums thereon at the time and place the same are payable; that the policy or policies of insurance shall be issued by a company authorized to do business in the State of Hawaii, and be made payable in case of loss to the Lessor, Lessee and Mortgagee, if any, as their interests may appear, and shall be deposited with the Lessor, through its Director of Finance; and that 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 the Lessee for rebuilding, repairing, or otherwise reinstalling the same buildings and improvements in a good and substantial manner according to the plans and specifications approved in writing by the Lessor, through its Director of Housing and Human Concerns.

If the scheduled expiration date of an existing policy is sooner than the specified termination date of this lease, the Lessee shall, upon renewal of the policy, furnish the Lessor with a copy of the renewed insurance policy. The policy shall expressly state that such policy shall not be cancelled unless the insurer has first given Lessor, through its Director of Finance, sixty (60) calendar days written prior notice of its proposed cancellation.

14. Repair and Maintenance. Lessee will at its own expense and at all times during the term of this Lease, well and 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. At the discretion of the Lessor, such repair and maintenance may include, but not be limited to, private and/or common area restroom facilities, and ground maintenance.

15. Breach. That time is of the essence of this agreement and if the Lessee shall fail to pay such rent or any part thereof at the times and in the manner aforesaid within thirty (30) days after delivery by the Lessor of a written notice of such breach or default, or if the Lessee shall become bankrupt, or shall abandon the said Premises, or if this lease and said Premises shall be attached or otherwise be taken by operation of law, or if any assignments be made of the Lessee's property for the benefit of creditors, or shall fail to observe and perform any of the covenants, terms and conditions herein contained and on its part to be observed and performed, and such failure shall continue for a period of more than thirty (30) days after delivery by the Lessor of a written notice of such breach or default, by personal service, registered mail or certified mail to the Lessee at its last known address and to each mortgagee or holder of record having a security

interest in the Premises, the Lessor may at once re-enter the Premises or any part thereof, and upon or without such entry, at its option, terminate this lease without prejudice to any other remedy or right of action for arrears of rent or for any preceding or other breach of contract; and in the event of such termination, all buildings and improvements thereon shall remain and become the property of the Lessor; furthermore, Lessor shall retain all rent paid in advance as damages.

16. Funding of Improvements. The Lessee shall be solely responsible for the funding of its improvements, maintenance, and operation of the Premises and shall hold the Lessor harmless from any and all claims whatsoever arising in connection with said activities.

17. Condemnation. If at any time, during the term of this lease, any portion of the Premises should be condemned, or required for public purposes by the State of Hawaii or the United States, the rental shall be reduced in proportion to the value of the portion of the Premises condemned. The Lessee shall be entitled to receive from the condemning authority:

A. The value of growing crops, if any, which Lessee is not permitted to harvest; and

B. The proportionate value of the Lessee's permanent improvements so taken in the proportion that it bears to the unexpired term of the Lease; provided, that the Lessee may, in the alternative, remove and relocate its improvements to the remainder of the lands occupied by the Lessee. The Lessee shall not by reason of the condemnation be entitled to any claim against the Lessor for condemnation or indemnity for its leasehold interest and all compensation payable or to be paid for or on account of the leasehold interest and all compensation payable or to be paid for or on account of the leasehold interest by reason of the condemnation shall be payable to and be the sole property of the Lessor. The foregoing rights of the Lessee shall not be exclusive of any other to which Lessee may be entitled by law. Where the portion taken renders the remainder unsuitable for the use or uses for which the land was demised, the 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 the Lessor.

18. Right to Enter. The Lessor and the agents or representatives thereof shall have the right to enter and cross any portion of said demised land for the purpose of performing any public or official duties; provided, however, in the exercise of such rights, the Lessor shall not interfere unreasonably with the Lessee or Lessee's use and enjoyment of the Premises.

19. Acceptance of Rent Not a Waiver. That the acceptance of rent by the Lessor shall not be deemed a waiver of any breach by the Lessee of any term, covenant or condition of this lease, nor of the Lessor's right to re-entry for breach of covenant, nor of the Lessor's right to declare and enforce a forfeiture for any such breach, and the failure of the Lessor to

insist upon strict performance of any such term, covenant or condition, or to exercise any option herein conferred, in any one or more instances, shall not be construed as a waiver or relinquishment of any such term, covenant, condition or option.

20. Extension of Time. That notwithstanding any provision contained herein to the contrary, wherever applicable, the Lessor may for good cause shown, allow additional time beyond the time or times specified herein to the Lessee, in which to comply, observe and perform any of the terms, conditions and covenants contained herein; provided, however, that this provision shall not be construed to permit any extension of the initial term of this lease.

21. Justification of Sureties. Such bonds as may be required herein shall be supported by the obligation of a corporate surety organized for the purpose of being a surety and qualified to do business as such in the State of Hawaii, or by not less than two personal sureties, corporate or individual, for which justification shall be filed as provided in section 78-20, Hawaii Revised Statutes; provided, however, the Lessee may furnish a bond in like amount, conditioned as aforesaid, executed by it alone as obligor, if, in lieu of any surety or sureties, it shall also furnish and at all times thereafter keep and maintain on deposit with the Lessor security in certified checks, certificates of deposit (payable on demand or after such period as the Lessor may stipulate), bonds, stocks or other negotiable securities properly endorsed, or execute and deliver to said Lessor a deed or deeds of trust of real property, all of such character as shall be satisfactory to said Lessor and valued in the aggregate at not less than the principal amount of said bond. It is agreed that the value at which any securities may be accepted and at any time thereafter held by the Lessor under the foregoing provision shall be determined by the Lessor, and the Lessee may, with the approval of the Lessor, exchange other securities or money for any of the deposited securities or money and shall be at least equal in value to those withdrawn. It is further agreed that substitution of sureties or the substitution of a deposit of security for the obligation of a surety or sureties may be made by the Lessee, but only upon the written consent of the Lessor and that until such consent be granted, which shall be discretionary with the Lessor, no surety shall be released or relieved from any obligation hereunder.

22. Quiet Enjoyment. The Lessor hereby covenants and agrees with the Lessee that upon payment of said rent at the times and in the manner aforesaid and the observance and performance of the covenants, terms and conditions hereof on the part of the Lessee to be observed and performed, the Lessee shall and may have, hold, possess and enjoy the Premises for the term hereby demised, without hinderance or interruption by the Lessor or any other person or persons lawfully claiming by, through or under it.

23. Surrender. That the Lessee shall, at the end of said term or other sooner termination of this lease, peaceably deliver unto the Lessor possession of the Premises, together with all improvements existing or constructed thereon unless provided

otherwise. Furthermore, upon the expiration, termination and/or revocation of this lease, should the Lessee fail to remove any and all of Lessee's personal property from the Premises, the Lessor may remove any and all such personal property from the Premises and place said property in storage at the cost and expense of Lessee, and the Lessee does hereby agree to pay all costs and expenses for removal and storage of such personal property.

24. Non-Warranty. The Lessor does not warrant the Premises, any or all existing improvements on the Premises, or the condition of said improvements to be satisfactory or fit for any specific or particular purpose, the same being herein leased in its existing "as is" condition.

25. Improvements. That the Lessee shall not at any time during the term of this lease construct, place, maintain, alter or install on the Premises any improvements of any kind or description whatsoever, except with the prior review and written approval of the Lessor, through its Directors of Housing and Human Concerns, Parks and Recreation, or Economic Development, where applicable, and upon such conditions as the Lessor may impose. The Lessee shall be solely responsible for the funding of any and all approved improvements to the Premises together with any bonds and/or sureties as determined and required by Lessor, and further, shall defend, indemnify and hold Lessor harmless from and against any and all claims whatsoever arising in connection with the construction, placement, maintenance, alteration and/or installation of such improvements.

26. Assignability, Etc. Unless the prior written consent of Lessor is obtained, Lessee shall not transfer, assign, sublet or permit any other person or entity to occupy or use the Premises or any portion thereof, or transfer or assign this lease or any interest therein, either voluntarily or by operation of law, and any such transfer or assignment so made shall be null and void.

27. Definitions. As used herein, unless clearly repugnant to the context:

A. "Lessee" shall mean and include the Lessee named herein, its heirs, devisees, personal representatives, successors or any permitted assigns, according to the context thereof.

B. "Lessor" shall mean and include the County of Maui, its officers, agents and assigns. Unless otherwise indicated, wherever the prior written consent or approval of the "Lessor" is required in this lease, such consent or approval shall include, but is not limited to, the consent or approval of the Mayor, the Director of Finance, and, where applicable, the Directors of Housing and Human Concerns, Parks and Recreation, or Economic Development.

C. "Premises" shall be deemed to include the land hereby demised and all buildings and improvements now or hereinafter constructed and installed thereon.

D. "Waste" shall be deemed to include, but not limited to:

1. Permitting the Premises or any portion thereof to become unduly eroded and/or failure to take proper precautions or make reasonable effort to prevent or correct same;

2. Permitting any material increase in weeds in uncultivated portions thereof; and

3. Failure to employ all of the usable portions of the Premises.

28. Gender. The use of any gender shall include all genders, and if there be more than one (1) lessee, then all words used in the singular shall extend to and include the plural.

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

(revised 12/04)

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END OF EXHIBIT "C"