



**STATE OF HAWAII**  
**OFFICE OF HAWAIIAN AFFAIRS**  
**MEETING OF THE BOARD OF TRUSTEES**

**DATE:** Thursday, November 21, 2019  
**TIME:** 9:30 am  
**PLACE:** OHA Board Room, Nā Lama Kukui  
560 N. Nimitz Hwy., Suite 200  
Honolulu, HI 96817

**AGENDA**

- I. Call to Order
- II. Distribution of the Record of the Site Visit of the Board of Trustees on September 19, 2019 to Maunakea Access Road, Pu'u Huluhulu (Pu'uhonua o Pu'uhuluhulu)
- III. Approval of Minutes
  - A. September 19, 2019
- IV. Public Testimony\*
- V. Unfinished Business
  - A. Interim CEO's 15-Minute Update on Ho'oulu Lāhui Aloha and OHA Activities
- VI. New Business
  - A. Presentation of an OHA Resolution honoring the life and contribution of Larry Kamakawiwo'ole to the Native Hawaiian community and other marginalized communities in Hawai'i.
- VII. Executive Session†
  - A. Consultation with Board Counsel Robert G. Klein, Esq. and Corporation Counsel Raina Gushiken, Esq. regarding questions and issues pertaining to the Board's duties, powers and privileges regarding the consideration of the terms of the contract to be offered to the OHA CEO. *HRS §92-5(a)(4)*.
- VI. New Business – (*Continued*)
  - B. Selection of OHA Chief Executive Officer
  - C. Committee on Resource Management
    1. Action Item RM #19-18: Approval of Reimbursement Proposal from State Street Bank for Inaccurate Accounting and Performance Reporting. †
    2. Action Item RM #19-19: Approval of investment consultant, Segal Marco Advisors, to initiate an active core fixed Income Manager search. †
    3. Action Item RM #19-20: Approval of the Non-OHA Executive Managers' Selection and Seating Process for Hi'ilei Aloha, LLC. †



STATE OF HAWAII  
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- D. Joint Meeting of the Committee on Beneficiary Advocacy and Empowerment and the Committee on Resource Management
  - 1. Action Item BAE/RM # 19-09: FB 20-21 Emergency Financial Assistance Grant Recommendation. †
- E. Deliberation and decision making on the Report of the Permitted Interaction Group to investigate complaints against a Trustee for alleged violations of the Trustee Code of conduct involving allegations that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board's decision. Pursuant to HRS § 92-2.5(b)(1)(C)

VIII. Community Concerns \*

IX. Announcements

X. Adjournment

If you require an auxiliary aid or accommodation due to a disability, please contact Raina Gushiken at telephone number 594-1772 or by email at: [rainag@oha.org](mailto:rainag@oha.org) no later than three (3) business days prior to the date of the meeting.

\*Notice: Persons wishing to provide testimony are requested to submit 13 copies of their testimony to the Chief Executive Officer at 560 N. Nimitz. Suite 200, Honolulu, HI, 96817 or fax to 594-1868, or email [BOTmeetings@oha.org](mailto:BOTmeetings@oha.org) 48 hours prior to the scheduled meeting. Persons wishing to testify orally may do so at the meeting, provided that oral testimony shall be limited to five minutes.

† Notice: The 72 Hour rule, pursuant to OHA BOT Operations Manual, Section 49, shall be waived for distribution of new committee materials.

‡ Notice: This portion of the meeting will be closed pursuant to HRS § 92-5.

Colette Y. Machado  
Trustee Colette Y. Machado  
Chairperson, Board of Trustees

11/15/19  
Date

Meeting of the Board of Trustees, November 21, 2019 Agenda Continued

Office of Hawaiian Affairs  
Board of Trustee Meeting  
November 21, 2019  
9:30 am

- II. Distribution of the Record of the Site Visit of the Board of Trustees on September 19, 2019 to Maunakea Access Road, Pu'u Huluhulu (Pu'uhonua o Pu'uhuluhulu)

\*Item will be distributed at the Board table.

Office of Hawaiian Affairs  
Board of Trustee Meeting  
November 21, 2019  
9:30 am

III. Approval of Minutes  
A. September 19, 2019



**STATE OF HAWAI'I  
OFFICE OF HAWAIIAN AFFAIRS  
Auntie Sally Kaleohano's Lū'au Hale  
799 Pi'ilani Street  
Hilo, Hawai'i, 96720**

**Minutes of the Office of Hawaiian Affairs Board of Trustees  
Thursday, September 19, 2019  
9:00 am**

**ATTENDANCE:**

TRUSTEE COLETTE MACHADO  
TRUSTEE BRENDON KALEI'ĀINA LEE  
TRUSTEE DAN AHUNA  
TRUSTEE KALEI AKAKA  
TRUSTEE W. KELI'I AKINA  
TRUSTEE CARMEN HULU LINDSEY  
TRUSTEE ROBERT LINDSEY

ROBERT G. KLEIN, BOARD COUNSEL

**EXCUSED:**

TRUSTEE LEINA'ALA AHU ISA  
TRUSTEE JOHN WAIHE'E IV

**ADMINISTRATION STAFF:**

SYLVIA HUSSEY, ICEO  
STERLING WONG, PRO  
MEHANA HIND, CE  
JASON LEES, DPM  
KAWENA CARVALHO-MATTOS, DPM  
ALICE SILBANUZ, DPM  
DAVIS PRICE, CO  
HINALEIMOANA WONG-KALU, OUTR  
JOCELYN DOANE, PP  
KEOLA LINDSEY, CA  
KAMAILE PULUOLE-MITCHELL, COC  
CELIA CONOL, COC  
SHANE PALACAT-NELSON, COC

**BOT STAFF:**

CAROL HOOMANWANUI  
KAMA HOPKINS  
NATHAN TAKEUCHI  
CLAUDINE CALPITO  
LEHUA ITOKAZU  
LŌPAKA BAPTISTE  
DAYNA PA  
MARIA CALDERON  
LEI-ANN DURANT  
BRANDON MITSUDA  
CRAYN AKINA  
KAUIKEAOLANI WAILEHUA

**GUESTS:**

SUSIE OSBORNE  
MAYOR HARRY KIM  
IOKEPA  
KALANIAKEA WILSON  
DUTCHIE KAPU SAFFERY  
SANDRA KIRKPATRICK  
HALEALOHA AYAU  
DR. NOE NOE WONG-WILSON  
IAN IMAI  
RICHARD HA  
KAHOOKAHI KANUHA  
S. KALEIKOA KAE  
ELIZABETHANNE MASAOKA  
GRACE BEZILLA  
KEHAULANI  
GEOFF SHAW  
SKIPPY IOANE  
HARRY POMER LEAU  
LOUIS HAO

**I. CALL TO ORDER**

**Chair Colette Machado** Calls the Board of Trustees meeting to order at 9:05 am. Roll call is taken; Trustees Ahuna, Akaka, Akina, Lee, Carmen Hulu was recieved from Trustee Leina‘ala Ahu Isa and Trustee John Waihe‘e IV.

We welcome you all that have come to our meeting in Hilo today. If you would like to speak, we have a sign-up sheet for public testimony and community concerns. You will have 5 minutes; I have timecards with 1 minute. If I am flashing pau please take it with aloha because depending on how many people who have signed up. We have agendized a site visit to Pu‘uhuluhulu and we want to accommodate everyone today.

We will be taking out of order today the matter from Committee of Resource Management which are two referrals RM 19-13 and RM 19-16 and we will go back to the agenda which will allow for public testimony.

I would like to read into the record that the 72 Hour rule, pursuant to OHA BOT Operations Manual, Section 49, shall be waived for the following items:

- II. Approval of Minutes
  - A. July 25, 2019
  - B. August 7, 2019 (Community Meeting)
  - C. August 8, 2019 (Site Visit)

Item II. D. August 8, 2019 will be deferred. With that said let us move to item V.B. Community on Resource Management.

**V. NEW BUSINESS**

**B. Committee on Resource Management**

- 1. Action Item RM #19-13: Approval of and authorization to amend page 1 of the Investment Policy Statement and Sections 4 (“Delegation of Authority”), Section 13 (“Procedure for Selecting and Reviewing Investment Advisors”) and Section 16 (“Adding new Asset Classes”). (2<sup>nd</sup> Reading)

**Chair Colette Machado** – I would like to call on Trustee Dan Ahuna.

**Trustee Dan Ahuna** moves to approve the amendments to the Native Hawaiian Trust Fund Investment Policy Statement as described in Exhibit A.

**Trustee Robert Lindsey** seconds the motion.

**Chair Colette Machado** – Members the motion has been moved and seconded for 2<sup>nd</sup> reading. Roll call vote please.

Trustee Dan Ahuna moves to approve the amendments to the Native Hawaiian Trust Fund Investment Policy Statement as described in Exhibit A. Trustee Robert Lindsey seconds the motion.						
TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA'ALA AHU ISA						Excused
TRUSTEE DAN AHUNA	x		X			
TRUSTEE KALEI AKAKA			X			
TRUSTEE KELI'I AKINA			X			
TRUSTEE BRENDON KALEI'ĀINA LEE			X			
TRUSTEE CARMEN HULU LINDSEY			X			
TRUSTEE ROBERT LINDSEY		x	X			
TRUSTEE JOHN WAIHE'E						Excused
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			7			2
MOTION: [ ] UNANIMOUS [ x ] PASSED [ ] DEFERRED [ ] FAILED Motion passes with seven (7) yes votes and two (2) excused.						

**2. Action Item RM #19-16: Action Regarding a Fiscal Stabilization Policy including Withdrawal Guidelines and the related Elimination of the Fiscal Reserve Withdrawal Guidelines contained within the Native Hawaiian Trust Fund Spending Policy. (2<sup>nd</sup> Reading)**

**Chair Colette Machado** – Trustee Ahuna Action Item RM 19-16.

**Trustee Dan Ahuna moves to approve:**

**1) Approve the new Fiscal Stabilization Policy, including Withdrawal Guidelines as detailed in Attachment A; and 2) Eliminate the Fiscal Reserve Withdrawal Guidelines contained within the Native Hawaiian Trust Fund Spending Policy as detailed in Attachment B.**

**Trustee Robert Lindsey seconds the motion.**

**Chair Colette Machado** - Roll call vote please.

Trustee Dan Ahuna moves to approve: 1) Approve the new Fiscal Stabilization Policy, including Withdrawal Guidelines as detailed in Attachment A; and 2) Eliminate the Fiscal Reserve Withdrawal Guidelines contained within the Native Hawaiian Trust Fund Spending Policy as detailed in Attachment B. Trustee Robert Lindsey seconds the motion.						
TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA'ALA AHU ISA						Excused
TRUSTEE DAN AHUNA	x		X			
TRUSTEE KALEI AKAKA			X			
TRUSTEE KELI'I AKINA			X			
TRUSTEE BRENDON KALEI'ĀINA LEE			X			
TRUSTEE CARMEN HULU LINDSEY			X			
TRUSTEE ROBERT LINDSEY		x	X			
TRUSTEE JOHN WAIHE'E						Excused
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			7			2
MOTION: [ ] UNANIMOUS [ x ] PASSED [ ] DEFERRED [ ] FAILED Motion passes with seven (7) yes votes and two (2) excused.						

**Chair Colette Machado** – Members we are now back on the Approval of Minutes.

## **II. APPROVAL OF MINUTES**

**Chair Colette Machado** – The Chair would like to entertain a motion. I'd like to call on Vice Chair Lee.

**A. July 25, 2019**

**Trustee Brendon Kalei'āina Lee moves to approve the draft minutes from July 25, 2019.**

**Trustee Robert Lindsey seconds the motion.**

**Chair Colette Machado** – Roll call vote.

Trustee Brendon Kalei'āina Lee moves to approve the draft minutes from July 25, 2019. Trustee Robert Lindsey seconds the motion.						
TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA'ALA AHU ISA						Excused
TRUSTEE DAN AHUNA			X			
TRUSTEE KALEI AKAKA			X			

TRUSTEE KELI'I AKINA			X			
TRUSTEE BRENDON KALEI'ĀINA LEE	x		X			
TRUSTEE CARMEN HULU LINDSEY			X			
TRUSTEE ROBERT LINDSEY		x	X			
TRUSTEE JOHN WAIHE'E						Excused
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			7			2
MOTION: [ ] UNANIMOUS [ x ] PASSED [ ] DEFERRED [ ] FAILED Motion passes with seven (7) yes votes and two (2) excused.						

**B. August 7, 2019 (Community Meeting)**

**Trustee Brendon Kalei'āina Lee moves to approve as submitted the August 7, 2019 Community Meeting minutes.**

**Trustee Dan Ahuna seconds the votes.**

**Chair Colette Machado – It has been moved and seconded roll call vote.**

Trustee Brendon Kalei'āina Lee moves to approve as submitted the August 7, 2019 Community Meeting minutes. Trustee Dan Ahuna seconds the votes.						
TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA'ALA AHU ISA						Excused
TRUSTEE DAN AHUNA		x	X			
TRUSTEE KALEI AKAKA			X			
TRUSTEE KELI'I AKINA			X			
TRUSTEE BRENDON KALEI'ĀINA LEE	x		X			
TRUSTEE CARMEN HULU LINDSEY			X			
TRUSTEE ROBERT LINDSEY			X			
TRUSTEE JOHN WAIHE'E						Excused
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			7			2
MOTION: [ ] UNANIMOUS [ x ] PASSED [ ] DEFERRED [ ] FAILED Motion passes with seven (7) yes votes and two (2) excused.						

**C. August 8, 2019 (Site Visit)**

**Trustee Brendon Kalei'āina Lee moves to approve the minutes of the August 8, 2019 Site visit as submitted.**

**Trustee Dan Ahuna seconds the motion.**

**Chair Colette Machado** – Roll call vote please.

Trustee Brendon Kalei‘āina Lee moves to approve the minutes of the August 8, 2019 Site visit as submitted. Trustee Dan Ahuna seconds the motion.						
TRUSTEE	1	2	‘AE (YES)	A‘OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA‘ALA AHU ISA						Excused
TRUSTEE DAN AHUNA		X	X			
TRUSTEE KALEI AKAKA			X			
TRUSTEE KELI‘I AKINA			X			
TRUSTEE BRENDON KALEI‘ĀINA LEE	X		X			
TRUSTEE CARMEN HULU LINDSEY			X			
TRUSTEE ROBERT LINDSEY			X			
TRUSTEE JOHN WAIHE‘E						Excused
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			7			2
MOTION: <input type="checkbox"/> UNANIMOUS <input checked="" type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED						
Motion passes with seven (7) yes votes and two (2) excused.						

#### **D. August 8, 2019**

**Item was deferred.**

#### **IV. UNFINISHED BUSINESS**

##### **A. Interim CEO’S 15-Minute Update on Ho‘oulu Lāhui Aloha and OHA Activities**

**Chair Colette Machado** – I will call on Interim CEO Sylvia Hussey.

**Sylvia Hussey** – Mahalo Chair, Administration just wanted to report a couple of things. One is we recieved a letter from President Lassner late last night regarding Maunakea. We have not had a chance to analyze the letter and we will do so and get back to the Trustees. Second we wanted to ask Community Engagement Director Mehana Hind to come and provide an update on the Puna Disaster Recovery Distribution.

**Mehana Hind** – Aloha mai kakou. Trustee in your hot topics for Hawai‘i Island there was a setion that identitified that we still had some beneficiaries who initially came in through our processing for relief aid last year but were were not able to fund because we ran out of funds already. At that time we had discussed with both Kauai and Puna that there would be a possibility at sometime that we would be able to fund them depending on developing a policy on emergency disaster relief. So it was in your packet just to keep in on our radar that we did not forget that we had people that signed up and were not able to be assisted at that time. The reason it happened so quickly before we cut it off is that were working between the our office and the Neighborhood Place of Puna to do intake and it was happening so rapidly. People were coming in so rapid that we didn’t know until we had accumulated so much people and more that we had actually run out of funds already. We did notify people as they were coming in as we were getting closer, that we were going to do the



intake process, but we were not sure if we were going to have funds left. Because it was a tiered design the way that the awards were given, we wouldn't know how much each 'Ohana would be getting until they finished the process, the actual intake process. So, we couldn't plan, like Kauai it was easier it was straight, 180 families we knew because the amount was the same. On this other one it depended on how the intake was coming in that they would get either \$2,000, \$1,500 or \$1,000. It was just more so that we keep it on our radar for both Hawaii Island and Kauai and also, we had Kauai and Hawaii Island on hold until we had finished Maui too. Maui had come into the picture right after that. April flood, May eruption and then in August the Maui fires happened. We are taking them in order then we would revisit once we had a policy regarding emergency disaster relief fund.

**Chair Colette Machado** – Thank you Mehana.

### **III. PUBLIC TESTIMONY**

**Chair Colette Machado** – We are now on the public testimony portion. I wanted to distinguish between public testimony and community concern. Public testimony is addressing items that are listed on the agenda. Community concerns allows any issue to be raised. So, the first person that has signed up under public testimony is Susie Osborne from Kua o Ka Lā Charter School regarding the Kilauea Recover which is listed as V.A.

**Susie Osborne** – Aloha mai kākou. It's nice to see everyone on Hawaii Island again. I just wanted to start by thanking you for all of your support over the years to the Charter Schools. Your support continues to be invaluable. Mahalo.

Today you are getting a presentation from Bob Agres about the Kilauea eruption. I wanted to just acknowledge what a tremendous job that Bob is doing in terms of his community outreach and process. It's very complicated because there are so many entities involved in terms of the County. Kua o Ka Lā, I just wanted to give you a quick update. Has both short and long term needs. We understood when we moved in to the Nani Mau Gardens, because connections had been there previously that all the compliance for the facility were in place. The land use compliance was in place so all the zoning for having a school bigger than 15 acres is a complicated process. So all that is in place. But there are some building code upgrade. That is the short term recovery need. The long term recovery is a need for a permanent facility. We hold great vision for that and we are working closely with the County. My big concern is the timeline. Because working with the County and other agencies are dismal to my control and our contract is up for renewal this year. We need to have all those ducks in a row in terms of the compliance. I just wanted to give you an update that we are seriously working with all the agencies at some point when our Charter contract goes in for renewal I might need to ask the building department Chair saying that everything was in process and I am not sure how that will play out. But it could mean a difference of staying open or closing for the school is that is not in place. It's really a great challenge that continues for those of us that are in ongoing recovery since the eruption. I just want to acknowledge that there are business challenges, personal challenges and a year later we see with our families is that, that's the reality for everyone. The domino effect once you pass survival have emerged so it's really deeply, the challenges continue even though the skies are blue and the eruptions have ceased on that level. I thank you for your open hearts and ears and whatever you kōkua you can provide to the Puna Community in terms of our recovery. Mahalo.

**Chair Colette Machado** – Thank you so much Susie. You have been resilient, we have been monitoring since the beginning. Hopefully something long term can get worked out. Keep up the good work, you have been an inspiration. We will not proceed to V. New Business.

**V. NEW BUSINESS****A. Informational briefing by Robert Agres on the County of Hawai'i Kīlauea Eruption Recovery Process and the work of the Puna Community Development Plan Action Committee**

**Chair Colette Machado** – I'd like to call to the podium, an informational briefing by Bob Agres on the County of Hawai'i Kīlauea Eruption Recovery Process and the work of the Puna Community Development Plan Action Committee.

**Robert Agres** – *(A handout was provided to Trustees. This handout as well as a copy of his PowerPoint presentation are attached to the minutes)* Aloha. I'm Bob Agres born and raised on Maui. I just moved to Hilo in September to join the Kīlauea Eruption Recovery team. I am pretty excited to be here on Hawai'i Island. I have been wanting to be here for a long time. I finally made it.

I just wanted to give you an update on the eruption recovery process. As you all know a lot of things happened on Hawai'i Island relative to disasters this last year. There was an eruption and the earthquakes, hurricane Lane, tropical storm Olivia and the impact were pretty substantial. Over 700 homes destroyed, 8,000 acres inundated and then over \$100 million impact to business and farms and the like. Mahalo to the Trustee and OHA in providing relief and response. You heard what Mehana was sharing with you. Over 18 nonprofit organizations got almost a million dollars to provide support to lava survivors. You can see a range of things that were provided in assistance from food, water, supplies, to hygiene kits, to meals served to getting help to get permanent housing, as well as loan applications and as well as loan support. This is the support you provided through the Neighborhood Place of Puna. Again mahalo for the grant for that. Over 100 adults and children who were impacted by the eruption were supported because of your support.

As you can see now what is happening is that immediately after the eruption there were certain types of relief and response services there were being provided but after a year from the eruption what is happening is a lot of people self resolved. They tried to figure out how to take care of each other and themselves. But it has been taking too long. So many are stepping forward and saying, maybe I didn't need help before, now I need help. So you can see the kinds of number that are increasing as of August. The County just awarded a contract to Neighborhood Place of Puna to do case management. This is going to be huge for the families that are suffering as a result of the eruption. Because what will happen is there will be case managers that can sit down with the families, identify what their needs are and then actually stay with them and help them navigate through the processes so their immediate needs are taken care of. We hope the families will step forward so that we can actually provide this kind of help and support to them.

Now that relief and response has been sort of taken care of we are now moving into recovery and long term resilience. So these are kind of large questions that are being addressed through the Kīlauea Eruption Recovery Strategic Planning process. It's about how to build longer term resiliency, how to take care of our natural and cultural resources, improve our health and social services, pushing on economic development that makes sense for communities and truly benefits our families. Try to figure out where we build and rebuild infrastructure and where we stay out of harm's way and not rebuild infrastructure. And where do we provide permanent housing that is affordable to families. When we talk about affordable housing, we are talking about putting families in situations where there is affordability of housing not just houses that are cheap. The recovery planning process, the bottom line is that this will be done by the end of the year. There are three phases to this. The first phase is identifying priority recovery goals and then identifying priority recovery objective and then the final phase is identifying specific strategies and scenarios and actions.

The starting point was the Puna Community Development Plan. That community worked over 10 years to develop that plan and started to implement it. The question to the community was, "given the eruption has anything happened that changes the goals, objective and strategies that you folks have been working on



already.” That is the kind of information that we have gathering from the community. We’ve also been identifying near term actions, so we are not waiting until a strategic plan is done. If there are viable near-term things to address immediate needs, the resources that we have now are being applied and acted on to address community needs. This is a very unique opportunity for the community because very few communities have this kind of technical support going on all at the same time. There is a recovery strategic plan going on. There is a multi-hazard mitigation plan being updated. There is a climate adaptation action plan being developed. There is redevelopment feasibility assessment going on and in addition to that Hawaii County’s general plan is being updated. This kind of is a once in a lifetime opportunity to really think about what we want to see happen on or island a push towards longer term resilience so that no matter what happens, another hurricane, another eruptions our communities will be ready and resilient to bounce forward from those things.

This is about recovery from the eruption, but it’s also about recovery in a way that builds resilience. This is about resilient recovery, it not just about bouncing back to where we were before. Because what preexisted eruption was not necessarily a good situation for our families. Here’s an example of that, Tutu Pele did not cause the disaster, Tutu Pele gave us more land, she created something beautiful. The disaster happens because there is vulnerability in terms of our families being in social economic situations that are difficult for them, or we unfortunately put ourselves in harm’s way. We need to figure out how we address those vulnerabilities so that we are better prepared next time. A good example is that 78% there, that stands for 78% of households in Puna asset limited, income restraint and employed, the working poor is what they call it. When you talk to these families, they don’t talk about themselves as being poor, they talk about themselves as being resilient. Figuring out how to thrive in that situation and so our job during resilient recovery is how do we support the families in a way that they can choose and pave their own pathways to self-sufficiency. We need to think about things like that, we need to look at the fact that 65% of the population in Puna is vulnerable, that is our keiki and kupuna.

These are the kinds of things we have to consider doing during the process. On the top is the community engagement piece and on the bottom is all the technical studies that are being done for the community so that we can put information from the community to make informed choices. Over the course of the last several months we’ve talk to over 2,000 residents over 400 youth, we’ve gone to schools, churches, employers, basically doing neighbor to neighbor talk story sessions. We took all that mana‘o from the community and we cross walked it with existing general plan draft update, all the community development plans to see what’s aligned and what’s not aligned and how does that form the strategic plan for recovery moving forward. This is important because the strategic plan will be the guide for the community to make policy decision and funding decisions. Many people have heard about the kinds of resources that have already come into the County but that will be resources that are coming into the County probably for the next 2 to 10 year, because that is how long it takes for recovery to happen. So, involvement on the part of the community to understand and participate in shaping this strategic plan is really critical and we hope that the County and all the other State and Federal partners, along with OHA can be part of this to help Hawaii Island Community.

These are some of the examples that the community are saying about the key issues that they are concerned about. Housing is a major issue. What the community is saying in terms of housing is they need choices, they need options, there needs to be a range of the types of housing, there needs to be a range of home in locations where there is transportation and access to amenities and services. So that they don’t spend a lot of money trying to get to places. Its critical as we think about housing that we think about affordability of housing not just affordable houses. Can our families actually maintain their household budget as well as keep their homes as they move forward. You can see the numbers form the surveys that were done in regard to this particular objective.

The local economy, the key thing that communities are saying is, develop a community that brings our children back so that they have work, they have a chance to do well when they come back and an economy that takes care of our families and not just corporations from outside who take our resources away. Transportation is critical especially in Puna. Mass Transit, it not just mass transit it’s how do we make sure

there's equitable access and mobility. That is a critical one that people want to take care of. Gathering spaces is important for folks. So this idea of community hubs, you can see they are really concerned about Susie and her students and restoring and re-establishing permanent facilities for Kua o Ka La especially because it's a school that not only takes care of the students, but because of its Hawaiian focus on values and culture, it also provides a space for the community to understand and be more aware of the Hawaiian culture. Historical and cultural resources are critical. See this as a driver, we need to start from this space of the land chief and then figure out what does infrastructure, housing and economic development mean from there.

The same with preserving our native ecosystems. Another high priority for folks and a range of comments people had to say about it. Physical and mental health is critical. Medical services in Puna are hard to access so that needs to be addressed. One of that's really critical is the ideal of trauma. It's been over a year since the eruption and people are still suffering. Especially the children in Puna. It's something that we need to pay attention to because it's not something that is obvious but it keeps popping up during school time. You can see people when you are talking to them, they just break down and don't understand why they are breaking down. It's a really critical thing in terms of the mental health of our families and children in the Puna area. Family economic health is critical for folks down there. The County of Hawaii got a grant from the Cities for Financial Empowerment to set up a financial empowerment center that will be set up by the end of this year in Puna. Those are the kinds of things we are doing.

We visited the schools and some of the key things they said are on the left side. They want better education and then that huge things, please help us develop an economy where there are real job opportunities that are meaningful to us that allows us to come back. They talk about trying to create opportunities that maybe never existed before. Examples, like Hui Mau where No'eau Peralto and Haley Kailiehu are taking care of the 'āina but then creating livelihood for themselves. Those are the kind of jobs that never existed before. But there are opportunities that create new career pathways for kids while taking care of the 'āina. What we have been trying to do is create this awai from education to workforce and entrepreneurship. But then tapping the kinds of things, those creative economic pathways that you want to push on.

Just to wrap it up these are the high-level goals and objectives. This is how we are framing it. The idea is that all of those goals, village and town center represents economic and housing development. Infrastructure ranges from transit, to water to wastewater, all those kinds of things, internet accessibility, health and well-being. But the natural and cultural resources are the driver, we want to take care of 'āina first and then figure out all the rest of that fits in to that. This is something that we are continuing to have conversations with the community to see how this actually realizes itself through recovery and long-term resiliency efforts. This is a network map and what is we are mapping all the range of things that the community is already doing to build resilience and to recover. We are mapping the relationships; we are mapping the assets they are bringing to the table. Then we are working with Liliuokalani Trust, Vibrant Hawaii who are also doing similar maps and we are trying to overlay those things so that we have better coordination and collaboration between efforts on the island. So that the resources that are coming in for recovery and resilience are leveraged and maximized in terms of benefits to the community.

The last thing I am going to say is, we just wanted to make you aware of speak outs that are going to happen in a couple of weeks. We are preparing for those things. October 4<sup>th</sup> will be a speak out for youth and their 'Ohana and faculty and staff of schools. So, we are really excited about that. Then the youth will bring their mana'o to the Saturday community speak out where people will get a chance to see what has been happening so far in terms of shaping goals, objectives and then these strategies and scenarios and options for them moving forward.

**Council Member Sue Leeloy** – Thank you Bob, I am a Councilmember for the district 3. I wanted to help Bob expand a little bit to this body that some of the work that the County Administration has been doing with the County Council. Yesterday the County Council passed resolution 271-91 and, in that resolution, we integrated what was known as our interim recovery strategy. Within that strategy it identified everything that

Bob shared but as policy maker on the County Council we used it as a tool to identify those synergies that Bob and the administration are talking about but also actionable items or policies that the council could then begin to develop and adopt. So, some of that collaboration related to mass transit, related to the reporting requirements, there is a term throughout that recovery strategy that we call the recovery report framework. But what that particular resolution did is create a template to create the appropriate language or what we call the vernacular, because we are getting funds from FEMA, from CBDG, from the State. But we found a real disconnect between the vernacular of what recover looks like from a grass roots county level and what it looks like from high level FEMA monies. So that interim recovery strategy lined up that vernacular so as we began to get some of those monies through FEMA, through CBDG it fits real nicely then we can really stand up and recover Puna. I stand ready to answer any questions from the Council side, Bob and his team, we are very cognizant of the Community Development Funds for Puna along with a tool coming forward in our general plan. That we can begin to start truly recovering Puna. I offer to his body is that interim recovery strategy and maybe opportunities for OHA to fill in the gaps where private sector, Government or Community cannot fill. That is where we would lean on community partners like yourself.

**Trustee Keli'i Akina** – Thank you I am Trustee Keli'i Akina that was a terrific presentation. My question would be for either Robert or Council Member, what really struck me is that this is really more than just a recovery plan. This is a plan for the future of this area Puna and the island. I really appreciate the fact that you honed in on the importance of letting the economy develop in a way that keeps our children here or gives them an economy to come back. You spoke of a very important value of being 'Āina based but you also spoke of the importance of having an economic development and jobs and so forth. What kinds of economic development can we pursue that is still 'Āina based that people will support and yet will give jobs for our children to come back. Thank you.

**Robert Agres** – So that's the multi trillion-dollar question. For the speak out what we are doing over the next couple of weeks is that we are doing some mapping exercises with folks who have very specific technical expertise, cultural expertise, who have local wisdom, local knowledge so we are mapping all that kind of stuff. As an example of the wahi pana in Puna is a tricky one because there is no inventory of that and yet the community knows there are many wahi pana that have been lost. One of the things we want to try to do is at least understand what is or what was lost. What should be kept sacred, what can be shared with our youth and residents to better understand the mo'olelo place and the like and then when something like that happens, there is an opportunity in the way that makes sense to share it with people who come to visit us. Immediately after the eruption we need our tourist back because all our businesses are closing. The same time people were saying was we don't them running around on private property, putting themselves in danger and went on and on like that. So this is the opportunity for a chance for the community to start thinking, and this is not just Puna but island wide, how we sort of rethink those kinds of economic endeavors that we had before and make it make sense for us but then still provide livelihood and economic opportunities for the community. So that goes for creative place making, that goes for visitor industry that is more about ho'okipa, that is about research so there's unbelievable things that happen as a result of the eruption. Like opportunities for research to better understand what is going on, how do we take care of, those become job opportunities and careers for our young people. We had two Kamehameha Schools interns this summer to help us with recovery, two brilliant young people, in the short time that they spent with us they just contributed immensely by doing research and producing all kinds of things, participating in meetings. At the end of it they said, we never dreamed that there could be things that we would want to come back to and actually work on at home. We just assumed that we go away to school and then we stay away because in Puna no more nothing. But now they thinking there might be something here. That is like a very big answer to your question because it is a journey for our community and our island to really think about this. That is why this is a unique opportunity that this gift Tutu Pele provided to us gives us a chance to step back and then bounce forward. To push on stuff that we never could before because there's resource like we've never seen, we cannot do the same old because it wasn't working and that's why our families actually suffered as a result of the eruption. That is the opportunity that we have now to work together and be creative and innovative. I know that is not a straight forward answer but



there are lots of people who are starting to work on it and trying to figure out what the opportunities are. Susie has some concrete answers.

**Susie Osborne** – This is a little premature, I wanted to do a whole presentation on this latter. But just as a potential example. In our vision of our long-term future with Kua o Ka La, we are embracing the concept of a resilience, we want to get past surviving and then to thriving. Not only as a school but for our community. So taking the next step of having really deep collaborations such as our collaboration that we are developing with Ku Kanaka, Social Enterprise and Ecoversity which is a new paradigm in university that is developing, continuing the development of aloha ‘āina leaders with skill sets that are ‘āina based. So, in this collaboration with a facility that we hope to secure there will be the training and the opportunity to develop new industries, culturally based tourism and social enterprises that are cultural driven.

**Chair Colette Machado** – Thank you so much Bob and Council Woman and all of you that have come. We will move on to our community concerns. So much to digest Mr. Robert Agres. So much hard work you have done and it's so enlightened see some of the words that are being chosen, resilience and all those good things in the future for our community out there in Puna. With that said members and the community we are going to proceed now into community concerns.

## **VI. COMMUNITY CONCERNS**

**Chair Colette Machado** – Our first speaker is Mayor Harry Kim. Followed by Iokepa of BTC and Kanaka Ranger. I want to thank Mayor Kim for housing us in this facility and also, I wanted to thank the Laupahoehoe Hawaiian Civic Club for providing our breakfast this morning.

**Mayor Harry Kim** - Thank you very much Madame Chair. This is the second time I am approaching you. I truly thank you for the privilege and honor you are giving me this time. I was hoping that by this morning I would finish what I wanted to give to the Governor and make you the first body to receive my finished assignment. Not on joke on this it says version 109 and it's not the last. I will finish it hopefully this week. Because that was the time frame, I thought I could finish it. Before I get on to the presentation, I know there was a lot of impatience by people, why you taking so long. But I think you understand this was a huge impact, it started in 1983 when I was in charge of Civil Defense. I was sitting there and adding up all the numbers within this small area of Puna we lost over 1,000 homes by this eruption which started in 1983, the bulk of the Kalapana destruction was in 1990 and I will never forget that day. I called an emergency meeting on April fool's day. After I set that date, I realized that April Fool's Day was the date of huge tragedy of 1946 and I thought I should have called it earlier or later. We lost only over a 1,000 homes and thousands of acres but what is important, which I know you do know better than me probably, is our lifestyle of a very special Hawaiian Community in Kalapana. That was lost, we will never get over because empty hole, and this just puts another hammer in that hole. A 1,000 homes is a lot and thousands and thousands of acres is a lot. But to me what was more important is the lifestyle that can never be recovered and a lot of that was from the Hawaiian community.

In regards to what I am going to talk about today is related to that. Our lifestyle, what is happening. I was hoping I could finish this and present it to this body, which I consider, at least for me, the most important body. As the people who have worked with me know, I said from the beginning I had a lot of assignments in my lifetime, but nothing was more important than trying to resolve this in a good way. So, with my gratitude to you for giving me this opportunity and participation in the meetings of past, I would like permission to read what I have finished. What it is, the cover is a picture of Maunakea, and it has a picture of a heart on Maunakea which I saw over 60 years ago and I thought what a beautiful and special symbol. It is a symbol of a huge heart on the slopes of Maunakea. And I ask when you have the time, if you want to see something that will I think really impact you, what you feel, but take a look at it hard and this is what I wrote back in 1960. The heart of Aloha, the all-encompassing image of the heart and the mountain of Maunakea so well

symbolizes the most precious and beautiful of place and people. For those of you that know my involvement on this particular issue on where do we go with Maunakea, you know my public statements were made well before it was an issue. That first public statement that I made was back in 1980 before the University of Hawaii when they were going to expand. I will jump forward to this brochure which I am going to finish is this week and I promise you will be given immediate copy.

The title of it is, A Way Forward. This presentation is beyond a yes or no of the TMT project. This is about asking Hawaii's people to come together and find a path to go forward in a good way. In recent years the Hokūle'a gave birth to a phenomenal Hawaiian cultural renaissance, reigniting the Hawaiians' desire to discover, grow and explore new frontiers; with this, the pride of the wisdom and courage of their elders. In recent months, Maunakea has added to this remarkable Hawaiian cultural renaissance, the Hawaiians' identity and the pride of being Hawaiian and with this the reverence and sacredness for the total environment. When respectfully integrated with a comprehensive understanding of Maunakea and Hawaiian culture, astronomy can be such a catalyst for positive and transformational changes in Hawaii. Under the leadership of dreamers, innovator, and an awakened community, this can be the leverage for not only Maunakea issues, but to understand and address wrongs of past to make us a better people and place.

On the last page, is what I wrote some time go and made many, many versions of it and this will be final. The caption of it is, My vision for Maunakea. This is what Maunakea I feel can be for the world. As glorious as that may sound, I really believe every word I wrote here. Every word that is here is something I wrote, but every word is something of ideas and feelings that I stole from other people. A lot of it is people from Hawaii. This is what Maunakea can be for the World. Maunakea to be a symbol of nations working together for the pursuit of peace and harmony, a beacon of hope and discovery for this World. This is not just about Science. It is about combining Culture and Science. It is about respect and caring. It is about a quest for knowledge that will make us a better people and a better steward of this World. It is about Hawai'i to be globally recognized as a cultural and natural treasure. Hawai'i, a place on this earth where people live together peacefully and respectfully in harmony with nature. This is about Hawai'i and the cosmopolitan people (people of the world) where diversity is respected and celebrated. This is about the recognition of a deeply painful history of intrusions on the First Nation of Hawai'i, the Hawaiian people. Which today are reflected in issues such as Maunakea. It is about the wrongs done to indigenous people of the world whose scars remain fresh. Maunakea to be an opportunity for the gift of aloha to be presented to the world to make us better. This is about the mountain bringing people together.

Below that I listed the initiatives that I thought can be addressed to make us a better people. They are:

- Cultural Treasure: Create a major cultural center to protect and preserve the historical and cultural specialness of Hawai'i and its people.
- Science: Create science programs that emphasize the inseparability of nature and culture.
- Education: Create educational programs that connect the wonders of science to the minds of children and adults.
- Management: Establish an umbrella management authority that gives strong deference to the voices of the host island and the Hawaiian community.
- Beacon of hope for the world: Be a model of how the people of the world can live together in harmony and the opportunity of Maunakea of becoming a global beacon of hope, peace and discovery.

On the bottom of it I put a quote from Auntie Pilahi Paki, which when I first read it, I thought how true it is of Hawaii. For those who have been around the world you know, just look at this room, just look at this table, just look at any meeting and see the mix people. But because of the Hawaiian grace of allowing us to be a part of this place is true. No place else in the World. I brag about my one and only granddaughter, her name is Kira Kailani G. Kim. She is 9 years old and she goes to Kamehameha. She is Scotch, Irish, English, Portuguese, Filipino, Hawaiian, Korean. I feel that is the specialist of this place we call home. Auntie Pilahi's quote, "The World will turn to Hawaii as they search for World peace because Hawaii has the key and that key is aloha." I am no fool to the controversy on this slate, as I came in, I saw special people that I think we are friends with.

Yes, we have differences on how we get there, but I think they know, I told them a thousand times, I hope I am not your enemy because truly you are not mine. I thank the protectors for bringing to light the problems that were there. And the things that I am going to suggest to you for your help will hopefully bring something positive. Because what is happening up there is something nobody wants a polarization of the people of this land. I thank you for your time.

**Chair Colette Machado** – The next speaker is Iokepa with the Beneficiary Trust Council and Kanaka Ranger, followed by Kalaniakea Wilson.

**Iokepa** – Good morning, Aloha kākou Trustees. Today I bring to you guys a concern. I know you guys; we've been in contact for a few years now. And what I always came to you guys with on behalf of the Beneficiary Trust Council wait listers, our kupuna cannot make it from 6 districts, which they do make up our Sunday meetings for the last 5 years or so. But now it's been getting increasingly hard because of the occupation that is taking place on the mountain. So today once again, this is like the 7<sup>th</sup> or 8<sup>th</sup> time within the last two year I came to you guys with the 'āina mauna legacy. The 'āina mauna legacy in the back there is a support letter from OHA, Liliuokalani Trust, Hawaii Economic Development Board, Chambers of Commerce, the Army and the Royal orders. So, all of these things are already supported back in 2009. So, Uncle Sonny Kaniho is the only applicant waitlister that got on the land. Uncle Sonny Kaniho has the only house on the land, and so the 'āina mauna legacy which was brought forth to us through Uncle Joe Tassel, Auntie Moani and those kupuna. They put this book in our hands 5 years ago. Talking about solution, actually predicting what was going to happen up on the mauna. That is actually what they were doing when they gave us the Āina Mauna Legacy.

This 'Āina Mauna Legacy is your guys' fiduciary duty as well as the Department of Hawaiian Homelands. So, a few years back we came down to Oahu many times to the Board meetings and we also gave you guys a Koa Kukia'i Pilot Program for the Humu'ula Sheep Station. It was a overview of the Aina Mauna Legacy which we, as Moku o Keawe waitlisters and homestead associations had meetings up on Maunakea with DHHL. I am pretty sure you are all aware. Aila was there and the Department with Jobie Masagatani. Within this proposal it lays out just a small fraction of what the community access of section 211 in the Hawaiian Homes Commission Act, which is the purpose of a community pastoral. So its listed in a red section it bascially states that the 2,000 acres on the left hand side which is to be used as community pastoral. To be determined for homestead and other use programs. But we want to focus in on the community aspect. Because there has only been one community pastoral ever in the 100 years, its on Molokai, we don't have that out on Moku o Keawe and on the other island which we highly do, we know its discrimination. Because you guys can't be doing these things only on certain islands or only one time deal. So these things, what Uncle Sonny Kaniho and the Beneficiary Trust Council Kupuna for over the years living on Moku o Keawe, they wanted to address these issues.

So when we put up Hale o Kuhio, you guys were aware of the things that we were doing. And we promised three things that came of off a cetified DHHL meeting. We voted on four things to be immeidately effective after that meeting.

1. Gorse removal, which you guys spent money on and you guys should be looking in to these things.
2. Accelerating Homesteads
3. Security
4. Commuity Access to pastoral and commercial use.

These four things that we already voted through a consultation of beneficiaries was neglected. Not only neglected, so when we decided to erect Hale o Kuhio it was to bring forth the data that the Univeristy and the State of Hawaii and OHA and DHHL has failed to do in a span of "x" amount of years to improve the roads, to have these datas to be safely for our homestead and the use of natives to these parcels were being neglected. So the data that we have collected, the historical Humu'ula Sheep Station was burnt down. That was burnt down by Mr. Pacheco ex-DLNR agent that runs tourism up there. But only now that we brought it to light after they burnt it down a historical site, there was no investigation on this. That was just one issue of non native. So we have this other issue of the data that we collected going up the mauna.



It's so astronomical that when we put a fee on it, we actually have income to sustain our Native Hawaiians in these ventures. I don't believe you guys have been keeping track of a lot of these things even though you guys already are committed. This is just reaffirming you guys' commitment for the betterment of the Native Hawaiians and their community and their families. We have this issue now on Maunakea that people in high places that need to speak up. So you guys, OHA, you guys have fiduciary duty to speak up for the waitlisters who have not had access to homestead use and to homesteads. So Hale o Kuhio we need to have a full investigation how did that play out because that is theft of a community. That is a community sector that we all sponsored, waitlisters on this moku to bring forth the data. We have the data of the cars, and we know that the lua is insufficient since the 80's or even before. So, the income of traffic and carbon footprint to that mauna is insufficient. So, when we start putting up this parking lots, and we start doing these other recreational, we have no accountability to these things. The State already had an obligation to do this. So now we are looking at Government Officials doing extreme measures, forcibly taking out property, more than one time, we had it down twice. These are the concerns that we need you guys to put an end to.

We need you guys to put an end to this. We need you guys to actually start inquiring an audit upon Ige and his financial disclosures with the Long family that I am creating these kind of things that OHA has to support. Not only that the Lyons' case with DHHL and William Aila the way that he conducts himself. These things are uncalled for. We need professional clarity. We do not want Trustees or these other CEOs in these Native Hawaiian positions that want to attack, steal and lie about things that we know. We have the math in my backpack. This is what we carry. We know who owns the road, but we can't be having people put up now, 4 years after the data is collected and start telling the story. Our kupuna already worked the tireless hours and over nights to have these data. That is all we humbly ask of you guys to reach out to our kupuna to see all of these illegal things that have been done to us and help us get the Āina Mauna Legacy on its track. We need graveyards for the beneficiaries. Because the list is getting longer, every day pass we lose loved ones. So, I can just humbly ask you guys to relook at your Āina Mauna Legacy documents that we gave you guys over the years and let's implement it. Because we've done the work and we just your guys' help to push forward on this. Mahalo.

**Chair Colette Machado** – Next we have Kalaniakea Wilson also representing the Beneficiary Trust Council and Kanaka Ranger. Followed by Auntie Dutchie Kapu Saffery.

**Kalaniakea Wilson** – I am Hawaiian, I'm a beneficiary and that's how you would present and honor one of our Kumu, Kupuna Auntie Pilahi Paki. To me when I see non beneficiaries talking before the Hawaiian OHA, without allowing our kupuna beneficiaries to speak that is downright disrespectful in our Hawaiian Culture. Kupuna always come first is what I learned. So hopefully next time you guys start any meeting from now on you honor King Kalakaua's composition the Hawaiian Kingdom National Anthem, Hawai'i Pono'i. Everybody rise and everybody sing, King Kalakaua's composition that was meant for the foundation of international relations with the Hawaiian Kingdom. Every time you guys don't do that it's disrespectful to Moku o Keawe, Puu o Hau where the 'Ohana is residing so please start the meetings off right with oli, with mele from our Kings and Queens and not just Christian pule because not everybody agrees with what Christianity did in our Hawaiian Community.

Today I am going to share with you guys a few concepts. Just remember this throughout my presentation. Genocide is the system of coordinated attacks. Americanization always seems to replace Hawaiian control over all Hawaiian things. That results into Government corruption today, Civil Right violations and discrimination under US Constitution. I give you guys context and History. 1843 Hawaiian Kingdom established, 1893 illegal overthrow, everything from there is illegal. So braddah like talk about trauma, let's talk about 127 years of trauma, not just last year from the eruption, cause that's what hurting everybody today. Hawaiians, kupuna continue to die on the Hawaiian Homelands list. Hawaiian teens have the highest rate of suicide today they not even living to adult. 1902 Prince Kuhio he opens the Royal Order of Kamehameha, 1905 the County of Hawaii, 1918 Hawaiian Civic Clubs, 1920-21 Hawaiian Homes Commission Act. That is

Prince Kuhio Kalanianaʻole heir of the Hawaiian Kingdom. 1959 you guys have to remember where you guys come from. Is the Constitution of the State of (conversation indiscernible), which embeds the obligation of the Hawaiian Homes Commission Act in their constitution. So, the year after that Department of Transportation, DLNR, UH, they all started mismanaging Maunakea. They all start stealing, making money and the money doesn't go to you guys. It doesn't go to the beneficiaries. Where is all this money going? \$80,000 per viewing hour times 13 telescopes. You guys come up with the numbers, its big numbers.

Hawaiians should have free tuition, housing, health care, (conversation in discernible). 1978 OHA you guys were created. You guys have an obligation to the 1959 Statehood Constitution, you guys have an obligation to the 1920 Hawaiian Homes Commission Act. Which is an Act for rehabilitation of the 1892 illegal overthrow. You know I know one thing you guys funded since 1978, Federal Recognition. You guys been funding that in the millions. And every time fail, I hope we not going to go through that again. 2014 Beneficiary Trust Council Kanaka Rangers began work on Maunakea. 2015 BTC Kanaka Ranger we went into the UH System and changed every campus, put up an ahu and an inverted flag to talk about the trauma we've been receiving for over 127 years. That you guys seem to neglect. 2017 BTC Kanaka Ranger, DHHL Homestead Association President had a meeting with DHHL on the three things; accelerated Homesteads, gorse control, pastoral lease. 2018 we put up Hale o Kuhio and started to collect the data on the road. We knew we owned the road. Because before any of this we spent 5 years going to all the homestead association meetings, learning from all the kupuna involved with the Hawaiian Commissions Act on this island. That is what we are presenting. We went to our kupuna first, see what the concerns were, tried to put it all together, package it into one nice package but we not getting support. 2019 Trustee Lei Ahu Isa signed the Beneficiary Trust Council Rehabilitation resolution and said we are going to move forward and put in a toll at Maunakea Access road. We still waiting for our meeting.

We went down there, we asked for a meeting with the Beneficiary Advocacy Committee, no one is contacting us. I don't know how many emails I sent to you guys. If you guys had a meeting with us none of the arrest would have happened on Maunakea. If we showed you guys the laws, the documents, the TMKs and the jurisdiction we wouldn't have the problem we have right now. We was proactive in our efforts. So that something like this wouldn't happen. Unfortunately, it did. And now its bringing out every Hawaiian moral, ethical, choices and decisions that we all made. That is what it all comes down to. Every kanaka is measured by their moral and ethical decision of who they are as a kanaka and who you guys are from your kupuna and also me. 2019 we went to Waimea DHHL meeting and explained to the commissioners and chair, this is the jurisdiction, we own the road, we are putting up our toll booth, thank you very much. He said DOT owns the road. I said no, we own the road. We got to educate Kai Kahele, four meetings at Hale o Kuhio about who owns the road. That is not my research, I have to give it to the Homestead Association President on this island and their research that came before me. I'm just the person you can target right now. 2019, after we explained .to the Hawaiian Homes Commission Act and the Chair that we owned the road, they crushed our house, Hale o Kuhio community hale. And all we was doing was volunteering work. All 50 percenters because we are waiting on the list and our people are dying. How come you guys no look shock or scared or some kind of urgency? How come I the only one feel the urgency when I hear about all the kupuna dying on the list. That is your guys obligation to fulfill or the timeline of how you guys were created.

Then the keiki library gets crushed. Where we like lock and secure some really expensive things. We need to move forward. We need to work together but we have to stop the lies, we have to stop the Government corruption. We got to stop all the negativity, the genocide, the Americanization, that continues today in our lands in all areas. Economic, Education, everything. So that is why I am here today. I would like you guys to, do you support the Beneficiary Trust Council and the communities of the Hawaiian Homestead Associations on this island and our work, please raise your hand. Mahalo, it's as simple as that. We kanaka face to face. But we get some serious, serious things coming down. To criminalize our kupuna, hewa kela. To do it on Hawaiian Homelands, hewa kela. To put them through the strain and stress of our kupuna leaders, cultural treasures. Come on, why don't you guys stand in front them and get arrested, please. Because our kupuna shouldn't go through that. I have no power; I have no money but I spend all my volunteer time trying



to help out my family members that bring up concerns. We need action immediately. Don't transfer the road from the beneficiary on Moku o Keawe to the Department of Transportation. Please don't support that. It's our road. And we have the plan we've been following, it's the 'Āina Mauna Legacy Plan, we have the community up there to do the work. Just allow us to do the work. Stop law enforcement from harassing us, stop Government from harassing us and attacking us. Because we need to save our people. Our people are dying and it's very serious. Mahalo.

**Chair Colette Machado** – Mahalo. Aunty Dutchie Saffery followed by Sandra Kirkpatrick 1:20:00

**Dutchie Saffery** – Mahalo. It is so not like me to ever come to speak. I am here to listen. However, I was sitting back there. Someone I looked up to happened to say to me that he was asked to speak. A voice said to me to speak here. I heard the voices I needed to hear. Everything is hidden and this is in the word. For those of you who are not sure everything hidden should be brought into the light. I am going to share this with you. I am 80 years old. I don't even know who I was until I went up to the mauna. I leave home at 4 am to be up there by 5 so I can start with the program at 6 am. I was only taught about pilgrims and everything not us. Sitting there on the mauna I learned who I was. (conversation indiscernible)

When I went up that day, I went in the tent but it was full. I sat out there on the lava and I witnessed our kupuna being carried out and getting into those vans. Blessing of us who are here today to witness all that is being brought forward. Its kapu aloha that is us as a people. That is what we are here to remember what is happening on the mauna is who we are born to be. It's in our DNA no one in the World has it. The World is watching kapu aloha. What his happening the same time, Hong Kong, China, protestors, protectors. I trust media, I used to. Protestors, Hong Kong, protectors and yet our media here continues to write Maunakea is being protestors. My trust is what you say is true, but it wasn't. They continue to call kapu aloha protestors. That is out bloodline, that doesn't mean that others that have choose to be part of our 'āina (conversation indiscernible) that is why when I listen to Mayor Kim, I feel his heart. That is why the Hokūle'a went around the World. The land of Aloha with the spirit of Aloha to the World. That kapu aloha has touched their shorelines. I am grateful you are all here today. First to hear what I heard and to hear what our young people are still fighting.

Uncle Sonny gets his land, he is in his 80s and he doesn't live long enough to enjoy it. Did anyone research how old he was when he applied. My father always said, for us never to apply to Hawaiians Homelands because we were blessed my mother's father left his land to us. He said we have property that land is for our families. My sister who tried to get her records passed on to me, they canceled the meeting I had in Hilo. For emergency they are going to call to reschedule. They don't call back. In the meantime, my sister goes back to Hana she dies. I tell you I take my niece; they tell me I have to have a 50%. I am 80 years old; I have to find a 50%. I have somebody 100% who was on the land, but she gave up her land, because all her children qualified. She was a total stranger to me, but she lived with me for 27 years, I trust her. I put her on. Why am I denying me at 80 to put a 50% on. Because I tell you right not the 25% is a recipient, and awardee, they have not changed that blood quantum. What is going to happen to their children? This is the kind of things that come before you, but we have to look at someone above that. This is what is lacking for our people. Why do I have to question? I asked this of the person. You know what I was told. That the State Legislature, passed to go down below the 1/4. And where is it now, its locked up in congressional. Is this going to repeat and repeat itself? When is someone else in the right realm, that is you folks? Truly it is in your laps to right the wrongs of our people. We are the generation to correct it for these young people. They have the facts and they speak the language. I stand here truly believing what has been hidden in the dark is the time to be brought into the light. It is on your laps no body else's, because you OHA has been formed to protect everything that has been wronged.

I look toward you to at least hearing any of us who spoke today. Take it to heart. For those who are so against the missionaries who came and changed, I am not even going to defend them. All that I say is what I am

saying to you, it is the time that everything that is hidden be brought into the light. I trust that. I trust that you hear the word, if you don't then get a bible. Mahalo. Thank you so much for allowing me to speak.

**Chair Colette Machado** – Sandra Kirkpatrick followed by Elizabeth Matsuoka.

**Sandra Kirkpatrick** – I wanted to thank the members of the OHA Office for spending their time listening to everyone's concerns. Even if you're not Hawaiian. I have congratulated Mayor Kim. I thought that was a touching well thought out caring speech about humanity. Not just Hawaiians but humanity. About people's highest aspirations. About how Hawaii can show the world, Hawai'i's gift to the world is aloha. That is one of the reasons I moved here when I retired. Because I know that aloha and it touched me. I may not have been born here. I may not have the proper blood, but I am certainly felt the aloha, I loved it. It certainly made me want to be here and continue to experience that. To me, when the Mayor talks about the internationalness that is possible here that the TMT will bring here. That all these different nations got together to work on this particular project. It is furthering the Hawaiian ability to belief or spirituality that started off a thousand years ago when they navigated the stars. The telescope is using stars to bring answers just like the old Hawaiians used to. So, to me it's a beautiful continuum. It is perfectly fitting that it should be on the mauna. I know it's not the favorable opinion here, but its mine and I think it's a lot of other people that feel that way. Hawaii is an appropriate place to have that. I know that Mayor Kim wants, that Hawaiians can see that and can continue to hold on to that aloha and continue to offer it to the world and will see the value of having that telescope here. Even though a lot of other things have been attached to the telescope that it has nothing to do with. I hope that people will be able to move forward and see the value, not just in Hawaii but worldwide. Certainly, that is my hope and I hope that you can feel the aloha in my heart. I do love this place and the people. I will be trying my best to bring that aloha out and continue to have it affect the world in such a positive way as it has. Thank you all for listening.

**Chair Colette Machado** – Elizabeth Masaoka followed by Dr. Noenoe Wong-Wilson.

**Elizabeth Masaoka** – Aloha Trustees. My main focus today is about a proposed spaceport in private land in Keaau. (*Please see attached testimony and handouts*)

**Chair Colette Machado** – Our next speaker is Dr. Noenoe Wong-Wilson followed by Halealoha Ayau.

**Dr. Noenoe Wong-Wilson** – Aloha Madame Chair and the members of the Board. I am so happy to be here. I am happy that you are in Hilo and our moku today. I am here as a Maunakea Kupuna and I am here to first mahalo all of you for the support that we have received for us taking a stand on the Mauna. I know it was probably not an easy decision to support us a few months ago when we began our stand. But we really do appreciate what we have received and hope that you will continue to do that. I also urge you as a full board to really consider your statement of support and hope that you will be willing to support the lāhui as we stand for our children, our mo'opuna to take care of our 'āina. As well as basic of our beliefs in our Hawaiian culture, in our kupuna and in our history. I urge you to come and visit us, especially today if you have the time this afternoon. So that you can experience the mauna for yourself and you can come and see the people that stand there.

Ordinary, everyday Hawaiians and non-Hawaiians who take it upon themselves to come up to the Mauna and learn what it's all about. And not listen to the rhetoric that you might see in other places or the very biased news reporting of who we are. Sometimes calling us protestors. You will come and find that we are ordinary people, many people that have never held a protest sign, never stood on the sidewalk, never even rallied in support for anyone in political office. They go about their business every day, working hard, taking care of their families and being good citizens. Something has attracted them to come to the mauna and find out what this is all about. They don't even understand what their na'au is telling them. What their na'au is asking them to do. When they come, they witness what is going on, they participate in our protocol three times a day, they talk to the young people and the old people there and they weep, for what they lost in their lives. What they

have lost in their attachment to what ‘āina means to them, what the possibilities for our future are standing on kapu aloha. So, I urge you to come. I want to acknowledge Trustee Lindsey who stood next to us and was arrested that day. And those of you who have been to the Mauna to visit us, Chair and Trustee Dan Ahuna than you very much. For those of you who have not please take this opportunity.

I want to remind you that the governor still has closed the mauna to the public and the public are native Hawaiians, hunters, cultural practitioners, and the occasional tourist who tries to go up there. That mauna has not been closed by us. We are sitting on the road only for one reason. We sit on that road to stop TMT trucks from going up and causing further desecration of the mauna. We are not there to shut the public out and we certainly have not received the access that we deserve as practitioners, as public as native Hawaiians, we are allowed one vehicle a day. While 30 to 40 vehicles with astronomy partners, all their support, contractors go up daily to work on the existing telescopes they have not been impeded with their access. All law enforcement goes up, we wave at the national guard who resides up Hale Pohaku, we wave at the sheriffs and the Attorney General's officers and our DOCARE officer who we have become very friendly with. We have lived with them for 69 days. And we love them. Even though they are guarding the cattle guard not us. What I am telling you is that this is still an issue. Our people and our hunters still have no access to the area. Their traditional practices, their ability to feed their family off the land and we have to sit and negotiate who gets to go up to bury their people to spread their ashes to do their pule, because we are only allowed one car a day. We've asked the Governor why; he says he doesn't quite know. He thought we were blocking the road. We had to tell him we weren't, and he seemed confused about that. If there is anything of the many things that can be done by the OHA board, one of them is to make sure that the mauna is open and that our people have access. Mahalo

**Chair Colette Machado - Halealoha Ayau.**

**Halealoha Ayau** – Aloha, I am a 4<sup>th</sup> generation homesteader from Ho‘olehua Molokai. My great grandfather whom I was named after was from the original homesteaders in Kalamaula. Based on that responsibility I stand here today in the following. I wanted to kako‘o the earlier testimony by Iokepa and Kalaniakea with regard to the Maunakea access road. They are absolutely correct. The assertion that the road does not belong to Department of Transportation isn't just an assertion it is a truth as a matter of law. I am here in my capacity of a beneficiary not as an employee of Hawaiian Homes.

The land is still owned by Department of Hawaiian Homelands as is acknowledged by our Chairman. The only way an entity can exercise any authority on Hawaiian Homelands is through a disposition, one that might be approved by the Hawaiian Homes Commission. So, if you are a lessee that disposition is a lease. In the case of DOT, they will require a license agreement. There is existing license agreement. It is with the Department of Transportation but that is for the easement which is the Daniel K. Inouye that goes through the Hawaiian Homelands. Just that portion. Unfortunately for the argument, this means DOT has jurisdiction on Maunakea Road. It excludes Maunakea Road. We live the Trump era; you repeat the same lie over and over again at some point people forget it's a lie and think it's true. DOT does not have operational jurisdiction over the road because they can't as a matter of law. So that is one way if there is a disposition, there is none.

The other way which the AG is opining is by the operation path 14. That was a law that was passed in 1995 by the State Legislature after a State Agencies, was engaging in the unlawful practice of taking Hawaiian Homelands without authorization from the commission and using it without compensation to the Trust. It's not an opinion, that is a result of a Fed/State Task force findings in 1983, it is also a result of the Governor's task force in 1994. So, you have State agencies often times going by the executive order of the Governor, regularly taking Hawaiian Homelands without authorization from the commission and without paying for it. Maunakea access road is Hawaiian Homestead Lands. University of Hawaii stole it from the Trust by building a road over it and never paying for it. They did it without authorization. They still haven't paid. So here you have a situation where you have the presence of Hawaiians on the road that was taken by the State of Hawaiian, by



the University of Hawaii and never paid for. Act 14 was intended to address that situation. If you read the Act it identifies and itemizes all the different lands the State took.

Does anyone know what the assessed value of those lands, the total value of the land that were taken from the Trust? Just over a billion dollars. So, you have the State of Hawaii taking Hawaiian Homelands valued at over \$1 billion and Act 14 says we are going to settle this for \$600 million. I was never good at math, but I can do that. So, the trust takes a \$400 million hit. The standard is fair market value, if they took a billion, they would have to pay billion. They say the operation of Act 14 transferred all of DHHL's ownership of those lands to State. Therefore, DOT has operation jurisdiction on Maunakea. That cannot be true also as a matter of Law. Because the Hawaiian Homes Commission Act is a federal law identifies the process you must go through to exchange land. One key requirement of that is you have conducted a consultation just Kalani and Iokepa stated.

*(conversation indiscernible)*

I have extreme respect for our commission, but we are going through what I call an identity crisis. It's not quite sure who it is and despite a lot of public testimony to explain to them that they are not like other State organization, you are treated like one, but you are not. Your origin is from Federal Law, not State Law. So, if the State of Hawaii tells you to do something that contradicts your Federal duties under the Hawaiian Homes Commission Act. You are not obligated to follow; in fact, you have the duty to challenge it. Challenge Act 14 or being consistent with the following. The Federal Trust duty to protect the Federal Trust corpus. Meaning the land inventory. So, the State takes land from you, you are not required to sell it to them if that is how we going to settle this. You get to say no, that is how you protect the trust corpus. Trust duty, you have the ability of exclusive loyalty to your beneficiaries. TMT issues are not Hawaiian Homes Issues.

We are at a critical point, law enforcement if preparing for a major action. Here is the problem with that, the Governor doesn't have authority on Hawaiian Homelands. That is why you have Act 14. If the Governor gets to proceed with this action, engage law enforcement to arrest kia'i on Hawaiian Homelands including beneficiaries, the problem with that is he would violate the authority of the Hawaiian Homes Commission. Only they can issue that order.

The Commission for some reason won't engage. So, this is my request, please, please, urge your colleagues at Hawaiian Homes Commission to avail themselves of all information regarding this case. One critical piece is the Commission Act of 1994 and passed the motion authorizing the transfer of the lands to Roads and Highways including Maunakea road. But they preface that transfer of authority of their portion of interest on the State complying with the settlement. That is 24 years ago the State never complied. The State never paid \$5 million they would say they would pay for roads and highways and they never initiated the land exchange. After 24 years, the Department is now announcing that the State is going to comply as a beneficiary I say the deal is off the table. If there is any form of noncompliance, then the commission rescinds it authorization and avails itself of all legal remedies. I am urging them, they don't realize there is a standing order by their commission, I am asking this board if they would urge their counterparts at Hawaiian Homes to comply, follow your Federal Trust Duties, recognize you are in a compromising situation because the Governor of the State of Hawaii appointed you but he is also trying to exercise control. Commission has to be separate, there is no reason the commission shouldn't be in that position. It should be in a process similar to OHA, through the election by beneficiaries, using only beneficiary money so you don't run into the Rice situation. That's the only way we separate ourselves. The last point I wanted to make is inherent conflict of interest, with the attorneys that advise the commission, are the same attorneys that advise the people are on the opposite of the table of, DOT, DLNR, State Planning. That is inherit conflict of interest, not to say these are bad people but there is a compromising's situation because they advise, the defendant of the State of Hawaii while giving the appearance of doing the same to the Commission. That is a conflict and the only way that can be cured is a law that requires independent counsel for the Hawaiian Homes Commission. So, work hard with your counter

parts to step up to the plate and the best way to obtain that clarity and courage to do that is go to the mauna. Mahalo.

**Chair Colette Machado** – Our next speaker is Ian Imai followed by Richard Ha.

**Ian Imai** – Aloha, thank you for letting me speak today. I am from Keaukaha. I support the TMT. Basically, because my daughter is one of those who want to come home. She went to college and educated herself, she got an engineering degree and she got hired by the University of Hawaii. She made her husband get a job here, but she is still stuck in Honolulu. Unfortunately, my wife died a year and 4 months ago. She thought she was coming home. Education starts at home, if we teach our children, what is Hawaii. Hawaii is supposed to be the land of aloha. We are chasing away international people what kind of message do you think we are sending out the to the rest of the world. I understand the protecting of the land and they have the right. But I am trying to get my daughter home and she is also involved in the project in Puna the airport. It's another one, because the TMT was taking so long, she jumped on that also. She truly wants to come home to try get more work here. She just wants to get more work here on the island, better paying jobs. We all don't want to be working at McDonalds for the rest of our lives. I paid for her education, she did a lot herself with grants and scholarships. Like I said education does start from home and if we teach our children (*conversation indiscernible*). It's a matter of economics she is just trying to create more jobs here. A lot of you have seen her on TV on the commercial for UH. I am here for to show the people here, we live on a Big Island and it's something special to all of us. I spent some time in the Armed forces, but I came home because there is no place like home. Thank you for the time and thanking you listening.

**Chair Colette Machado** – Richard Ha followed by Kahookahi Kanuha.

**Richard Ha** – Aloha. My name is Richard Ha I am a board member of perpetuating unique educational opportunity. PUEO is the acronym. PUEO is the only native Hawaiian entity to enter the contested case hearing supporting the TMT. We also support Mayor Kim's vision. Our president is Keahi Warfield. He is getting his Doctorate degree in Hawaiian Studies. He is all about keiki education. The other board members are Patrick Kahawaiolaa President of the Keaukaha Hawaiian Homes Community Association, Bill Brown President of the Panaewa Hawaiian Homes Community Association, Tom Osorio, Bob Lindsey, Heather Kaluna she went to Pahoa High School now she is an instructor at UH Hilo Astronomy Department. Mailani Neal who some may remember Mailani she was the one that testified in favor, she was a high school student then. Skibs Nehls everyone knows him on the Big Island for taking Honolii County Park and transformed it into an example of community service. And everyone knows Kalepa Baybayan.

I was a commercial farmer for 40 years. We produced 6 million pounds of bananas as well as 1 million pounds of hydroponic tomatoes. My focus now is on community development projects. We just formalized a native Hawaiian Chamber of Commerce to empower Native Hawaiian Businesses. Basically, the pluses exceed the minuses when you give back to the community. We want to help and enable that. I also am on the Board of HIIC nonprofit affordable housing organization as well as Keaukaha Community Assets which helps community folks deal with stuff that is really basic to a lot of people but for some people they really need help. It's a community base organization in Keaukaha.

PUEO supports cultural site center above the clouds. A place with Aloha education and sustainability is the model authority of what takes place on Maunakea. Astronomy is not the primary reason why things happen on Maunakea. We basically want to see Hawaiian families be the model authority for things happening on Maunakea. This could be a place where the Hawaiian language school could provide a pipeline of instructors to help the world learn who we once were. (*conversation indiscernible*) PUEO has noted that OHA has given funds to the anti TMT folks at Pu'uhuluhulu, we pro TMT supporters are Hawaiians too and would like to ask for support from OHA as well. We are all volunteers with limited funding to pursue our vision. We want to elevate Hawaiian values to the highest level possible.

This is a personal note. I am involved in energy issues. We need to be mindful of energy. Nothing happens without energy. Most of the US oil supply is supplied by shale wells, 60% of the oil comes from shale wells. The problem with shale wells is that 90% of what will come out of the well comes out in less than 4 years. That means every 4 years you have to drill a well to stay even. There is about 100,000 of these wells on the mainland. It is a short-lived thing. You guys saw what happened in Saudi Arabia, it basically tells you this is a scary world we live in. We are lucky we have geothermal. We have to replace oil, what do we use oil for 1/3 for electricity, 1/3 for transportation, 1/3 for airplanes. Geothermal can replace for electricity 100%, clean, renewable and the earth is the battery. It's basically a free resource that we have to us. It's going to come; things are going to start to happen pretty soon and we have to be thinking of many different things besides what we are doing right now.

The reason I am here is to ask how we can get funding on behalf of PUEO. Thank you.

**Chair Colette Machado** – Sylvia could you direct Richard on our process.

**Sylvia Hussey** – Can do. We also want to clarify that the beneficiary resolution passed by the Board supported beneficiaries' health, safety and wellness, so it's not a specific mechanism for either side, it's a support mechanism for the beneficiary piece. We just also wanted to clarify that. But I can talk story after about the granting process.

**Chair Colette Machado** – Our next speakers are as follows, Kahookahi, followed by Kalekoa Kaeo followed by Skippy.

**Kahookahi Kanuha** – Aloha mai kākou and mahalo for being here. I want to mahalo Trustee Carmen Hulu Lindsey who was with us on Maunakea she stood with the people. I want to mahalo Trustee Dan Ahuna he was there as well. Mahalo you Chair for the time you folks too to come up to the mauna. For taking the time to come and stand with the people and speak with the people and feel the people and the 'Āina. That is up there on Maunakea. I want to Mahalo OHA for the support that has been provided to Puuhonua o Pu'uhuluhulu. OHA has played a vital role in the ability to sustain ourselves during this time. I just want you guys to know we recognize that. We appreciate that, and we mahalo you for that.

With that being said, we know, I think all of know that OHA doesn't have the greatest track record with the people. Historically speaking. I am no saying that any of you are responsible for that. It's safe to assume, to say that is the case. And what we have right now is something that none of us have ever seen in our lifetime. Whether you are kupuna generation or the mo'opuna generation. This is something unique, this is something special and this is something that will be remembered I believe in our history. It is something that not going to be recognized with our people, in our own islands but something that is recognized across the world. People are looking to us as an example. So, when we talk of the quote of Aunty Pilahi Paki about the world will look at Hawaii to see the true meaning of aloha. We are not talking about sometime far away. We talking about right now. The world is watching the world is looking. Even those who may not agree with the stance that we have taken they cannot deny the way that we've taken the steps. They may not agree with the reason but the way in which we've done it they recognize and appreciate.

One of the reasons I am here is to ask OHA, humbly and respectfully to take the next step. And that doesn't mean more logistical support. To me it goes back to the same thing I asked in 2015 when I went to the OHA offices. When I went and said we are not here to ask for money. We are here just asking for a voice of support for unity. Don't be left out of this historical, monumental time in our history. I know and people may disagree, I know that TMT will not be built on Maunakea and I know they will not be built on Maunakea because of the stance of the people are taking and will continue to take and the way that we take it. I want to ask OHA to at least bring this question back up to a vote. At the very least, bring I up to a vote, allow the people to come and to share their mana'o and to allow the Trustees to have their voices heard. And in the end the position is the same, the position is the same. But we are not going to get any differences in results if we



don't try. I want to humbly ask you folks to move in that directions. To ask OHA again to take a stand, to take a position on TMT in support of it or not. I know that OHA has played a tremendous role to hold the State, the DLNR, the University accountable for the 50 plus years of mismanagement on Maunakea. The truth of the matter is I think all of us can agree, that TMT and the building of that telescope is by no means disassociated from the historical mismanagement of Maunakea. It's just not historical its current. It feeds into it continuously that mismanagement. If the building of all these small telescopes and all of policies of mismanagement, then we know that TMT is the biggest. How does that not fall into that line of thinking of mismanagement. I am asking you folks to realize that the building of TMT is not separate from the issue that OHA has already taken a stand on. It's just a continuation of that and its furthering that mismanagement. The more mismanagement that occurs and the longer it occurs the harder it is to erase and get back.

So, we've never seen anything like this. If there is a time for OHA to maybe take a step off the path it normally takes I think this is the time. I'm not saying this is a 100%, we obviously hear people here who are in support of the TMT, but this idea that this is such a polarizing issue, I don't think that is necessarily the case. I think the case is when you go around 90% of what you see is support for Maunakea. The reason why people want to say its polarizing is because they've never such strong support. We've never seen the sacrifice. We've never seen so many people at one time, leave their jobs, leave their families, leave the comforts of their homes, spend a night on Maunakea, it's not the most comfortable place to live. We are not doing it because it's fun. We not doing it because it's comfortable, we've been doing it because, we know, we believe that that is what is necessary. It has to be done. The truth of the matter is if we had not taken that stand of the past 69 days, construction vehicles would be on that mountain. Our mountain would be, just like you saw the image of the Hawaiian flag, being sawed in half, on that so-called illegal structure. If that get people riled up what is going to happen when they saw our mauna in half, when they dig and desecrate. The Hawaiian flag as much as I love it is a piece of cloth, I can't eat it, it doesn't feed me, it doesn't give me water. But our 'āina does.

So, what I believe is August, that the people have awoken, rose u and took a stand like you never seen before. I know like I said earlier, when this is all said and done, this is going to be a time that is never every forgotten. It's going to be just like 1893, its going to be just like Kahoolawe. The question is where is OHA going to be in the mo'olelo. Are we going to be in it, are we going to be out of it, and if we are in it, what role are we going to play in that mo'olelo. Are we going to be the Hawaiian institution that said, you know, sorry we no can help. Are we going to be the Hawaiian institution that changes this, the idea the framework, the actions the precedent of Governmental agencies and their relationship with kanaka and 'āina. Because I believe that if OHA takes a stand that each and every one of you who stand in support just like movement will go down in history, you'll do down in history too. You'll go down in history as someone, even if it wasn't popular, even if it wasn't the call of everybody who did something uncomfortable like the kia'i on the mauna are doing and stood with the people and stood for our 'āina. I humbly request that we take this position up for a vote, that we be allowed to relook at this situation, and I hope that we can make the right situation. To stand with the people, stand with our 'āina, protect our Maunakea. Mahalo nui.

**Chair Colette Machado** – Our next speaker is Kalekoa Kaeo followed by Skippy Iaone.

**Kalekoa Kaeo** – Our people have awakened. Our people have risen. That must be acknowledged. First, I want to mahalo Aunty Hulu who stood with us. Also, hand to my brother Dan 2, he is our good luck charm we no get arrested up there. I'd also like to thank Trustee Colette for coming up. I really appreciate, as I understand perhaps will happen soon, all the Trustees and staff will come up. To really understand what is going on the mauna you have to come to the mauna. Do not believe the hype from the so called Governor Ige who continues to lie and portray us in a way to dehumanize kanaka as if we are animals. Who need to be put into cages and brought off that mauna. As if standing for what is right, pono for the 'āina, our keiki, our mo'opuna is regressive. I will submit racism is regressive. Those days are over, we will never allow a TMT corporation or anything like that the TMT corporation, they should hear us loudly. You have to remember this is a foreign corporation, their headquarters are in California, India, China, Canada, CalTech, Japan. This has

nothing to do with Hawaii. They may have selected certain Hawaiian pawns to be part of their process. But let's speak the truth. As my brother Kahookahi said, this is a monumental time.

As I said just like when the first canoes left, and they made that choice some stayed behind, and some got in that canoe. That is the same question when I look all of you today. That is the question I put to you. Will you join the people? The lāhui has risen, and if you cannot see that or feel that then perhaps you should look at another position at representing our people. Because there is no denying what is going on in the community. I can tell you firsthand I cry everyday up that mountain of what I see and experience every day. One day I seen a young high school kid come out to ceremony followed by leaders, followed by Hawaiian motorcycle organization. I watch and participate and dance hula on that ala nui. When you see these guys with their patches, these kane, the pride they have you cannot but cry to see what is going on up there. This has been the most unifying, spiritual, cultural time that is ever existed. Since 1897. We are witnessing, we are living this moment.

I ask OHA, again I thank OHA for the support. But allowed the support for logistics. Whether you support, what OHA has done is help us to stand together, to gather together, to dance together. For the first time in history. So, no matter what they do to us, right now it doesn't matter. Its only what we do as a people that counts at this point. This notion of science and culture. We must be clear I am a big proponent of science. Because I know our culture is based upon science. Science isn't only owned by Europeans, not just by Americans or Japanese or Indians or Canadians. We have always been scientist. I invite you to our lectures at Pu'uhuluhulu University. From the opening lines of kumulipo is based upon science. So, any foolishness that somehow tells us that this is our culture did regressive about science you been had, you been fooled. That means you don't understand your own culture. Because if you truly did, there is no way you could accept, they don't own science. Science belongs to all humanity. But science can be misused. I can go down history and talk about bad science out there. Let's be knowledgeable about our own culture. This is what our people are defining for ourselves. I often say that we must also remind ourselves in this gathering kapu aloha has been the glue, the cement of our people. How shall we be victorious? By all the love that is necessary. That is how we will be victorious. Love for mauna, love for our lāhui, and more importantly love for our mo'opuna to come. This is what this is about. I never want one day for my mo'opuna to look up, and we tell our mo'opuna one time before Hawaiians used to go up there, we used to have a sacred mauna called Maunakea, maybe they can read it in Wikipedia in the future. I don't want that future.

We should recognize this watershed area. Right now, kanaka are being denied. Supposedly we have a State constitutional right, that is what they tell us, and what is OHA doing about it. This is the first time in history that our people have ever been denied access to Maunakea. What you think about that? First time in our history in these islands, our people are being denied the right to access, even under their constitutional rights. The Governor does this without a peep from the Office of Hawaiian Affairs. That is what troubles me. I encourage OHA to ask the Governor by what authority is he denying or hunters the right to access. Cultural access, religious access, where you can witness our kanaka being denied right there at the gate and you can see one astronomer drive right there. Astronomer from Japan, Canada wherever they from they can come and get their car and you watch them drive right up. Protected. So, discrimination, it is going on purposely against just kanaka right now under OHA's watch. I encourage OHA to say something about it. I also want to ask OHA to speak on our behalf of the kia'i, the protectors, kupuna, mothers, daughters, sisters, brothers, fathers and keiki who reside up there. As I said I am recent resident of this island for two months I been up Maunakea. Where our people have gathered, peaceful assembly of protest in kapu aloha and we are threatened right now with being removed by dangerous, including military tactics are being planned right now.

When the Governor's press conference he talked about these hyperbole words with attack. If you planning to use helicopters and tear gas and flash grenade, I like tell you right now, ask the Governor himself. Have they used that in their planning I would tell you. I would be happy if he said no, they not at all. I know that is not the truth. I am here to speak the truth. Are we going to wait till they do that to our people before Office of Hawaiian Affairs makes a comment. The Office of Hawaiian Affairs stands with our right in kapu aloha to



*(conversation indiscernible)* As human beings we should not be treated with threats of violence and military force upon a peaceful assembly. I ask OHA to use your voice, to demand that the Governor not employ these kinds of tactics upon our people. They are also using counterintelligence measures with the police to attempt to instigate trouble amongst our people. Why? Because they understand, in order for them to justify and legitimize using that kind of military violence on our people, they have to falsely create this image that we are like savages that need to be quelled using even, including the national guard. Office of Hawaiian Affairs again tell the Governor to refrain from using this kind of language to try to portray us in that savage like way to justify their evil deeds. Just last, it also came out the Office of Hawaiian Affairs should also approach President David Lassner and the Board of Regents of the University of Hawaii System, the biggest pushers of the TMT, who have faculty representing the TMT have spoken on behalf of the TMT. It's an institution of racism that has festered, protected and allowed to occur at the University of Hawaii. That mentality hasn't been challenged. We should never allow that sick ideology and supremacy at our institution which sits upon our lands. I encourage and applaud the Office of Hawaiian Affairs to come stand with the people, work together, unify, lokahi, get on this canoe, this canoe is ready to sail. E holo kākou.

**Chair Colette Machado** – Skippy Ioane followed by Grace Bezilla.

**Skippy Ioane** – I no can chant. But I can tell you this, Colette look my hair and look your something wrong. What I like talk about is how come for so long others, if we never have shit for 10 years you would think would be misunderstanding. But if we never have shit for 200 years something up. You know what I mean. This never just occur. Here is my point, I like you guys create a committee for find out what kanakas took the bread. Now for 200 years the kanaka no can go on the land. How come? Who they went pay off to keep us on the waiting list. To me in my opinion something wrong with that. 200 years, I don't know how many 100 but 200 sound better. For so long the kanaka get nothing. There is some corruption in kanakaville.

You know what I mean. The kanaka took the money. This the chicken shit kanakas. When Queen Liliuokalani got overthrown it started then. The haoles was paying off the titas and braddahs. And they went overthrow the Queen. They never only use haoles, they went use some kanakas. So, what I like you guys look for now. Find out who went sell us out. How many people on the waiting list? 30,000? How come nobody know? You went pay somebody not to know. How come we don't know how many kanakas die waiting. More better go Vietnam you get paid. But my point is, why this nothing is so prevalent for our community. You know what Kalekoa said is good. Smiling is nice, aloha is nice, to me sacred is your life. When you die it's not sacred for you, you need sacred when you make. Before I die, one I like my land, but I like you guys make a committee, go FBI, CIA, FUCKYOU whatever it takes go get somebody to figure out who the corrupt kanakas in power. How come Hawaiian Homes just so dumb? Are they born dumb? Or did someone pay them to be dumb? How come we get alas for so long? Alas is just a prevalent thing in our community. So, who you think off the top of your head? Do you know who took the money and went turn the other way?

I just like know who took the money to keep us standing still. Million-dollar TMT *(conversation indiscernible)* something is up over here where we staying still. Standing still is a martial art. When you get pilikia put yourself in neutral and the world going spin under you. Serious now, why we standing still. I not saying you guys lolo, or Hawaiian Homes dumb but something is occurring that is keeping us getting jack shit. You know what I mean. We keep on getting nothing. How come you guys no investigate? You guys know who selling us out? Got to have someone selling us out. Or you encourage kanakas to break the law. Current middle finger stick it in the air if you care. We getting jack shit, investigate who get the deep pockets or the corruption so deep. The corruption has to be so deep that we staying still. I can only blame the haoles. I see the Japanese and the Micronesian had to flee I see them in the line with me. They cry and ask me why; I tell them I don't know cause we getting screwed too. I implore to you guys I like know, we infested with rats. Somebody keeping us in neutral. So please give them a solid fuck you. No scared, goodbye. Find that snitch and I like know where the money. How come we no can go no place? Why we stay still so long? If it was an accident, we can blame anybody. But old Hawaiians said blame yourself first, then look for somebody else to

blame. Who keeping us in neutral? No blame banana. There is a kanaka in here keeping us standing still. I wish you guys good luck in your endeavors to keep your middle finger current and holomua. Aloha.

**Chair Colette Machado** – Grace followed by Kehaulani.

**Grace Bezilla** – Aloha kākou. My grandmother told me to come today. She is not here today, and I believe that my grandmother is each and every one of your grandmas and their grandmas and their grandma's grandmas. But I am also here today for my future mo'opuna and your mo'opuna and your mo'opuna's mo'opuna and forever more. In front of you I have something I was told to bring. It's a lokelani. It's really hard to wake up, it's really hard to get a shower, to brush your teeth, to make a meal, get your kids to school and drive. These things are so simple, have become super hard. I don't know if anyone here feels that way. But if you do and if you agree that is been hard raise your hand. So many things that can be said, and so many things to say. But today I was told to make it this way. This show a lot about my ability to function today. I honestly wouldn't have been able to do this three days ago. This is really simple but really valuable.

I would go on to say it more valuable than our houses put together. I want to you to look at this. This came from the tree in my yard. (*conversation indiscernible*) Why, because I haven't been able to focus. At least the past four years. The past three days and I took off and I freed myself from own feeling of oppression. Why this is so valuable is because I remember planting this. It was maybe 20 years ago. This had protected me and my family for this long. That lā'i came from one else. Now in order to make this I would have to have some kind of training. Someone taught me to make this. For me it was my grandma. Who my whole life, she was in a wheelchair, her whole left side she couldn't use. But she was a weaver before I was born, and she taught me. She has been gone since 2009 but that's not what is important. Someone taught it to her, and someone taught it to them. I may not know each of you but whoever you are there is something that is Hawaii to the very core about you. There is something when you look at it, it reminds you of a generation before you. Some 'ike that has been passed down to you that is of so much value to you that you cannot wait to teach your keiki. That you struggle everyday with the hope and the dream that one day you will be able to teach your keiki and hopefully your mo'opuna. Whether its fishing, hunting, wa'a, all of the 'ike Hawaii we have in each and everyone of us.

Now what is more important than that is the 'āina. We need 'āina. This 'āina, Hawaii, plus ike, knowledge that's been passed down by all of our kupuna, that have allowed us to feel and have this sense of understanding and deep knowledge, a foundation that leads to understand who you are as a kanaka. If you have the 'āina removed from that, let's say I am talking in some future that I hope never comes. Where Hawaii and Hawaiians don't have 'āina, all of this, everything that comes with this, and everything that you love that makes you Hawaii, Hawaiian it's not there. Fast forward generation what do we remember, what is Hawaii, what is a Hawaiian who are those people? Fast forward more, I don't know what Hawaiian was or who it was or where it was. This feeling is why I have a hard time to brush my teeth. This feeling of nothingness, or no Hawaii, no Hawaiians. But it's so vivid for me that it makes functioning for me so difficult. And why, because I am a product of Kula Kaiapuni. Because I went to University of Hawaii at Hilo, I have my bachelors in Hawaiian Studies. I am working on my Masters in Hawaiian Studies, Literature and Language. (*conversation indiscernible*) I told them I was under stress. The next was the first semester on my thesis. I haven't been able to finish it. If you remember that feeling that I dropped everything, that is the feeling I've been trying to not hold and trying to function in this world. Because I see so vividly.

Seeing all of these people who I have come to know as pillars try to discern which pillars are telling me truth. I see that because I see a lot of hypocrisy. My whole life is strongly based in all of these Hawaiian pillars of what is Hawaiian. In today's world I was taught to stand up for truth. It's hard to function in another level because I don't know any more. My own family doesn't know how to help me. On days when I can't make it past. Whether you are Hawaiian or not you are deeply affected by this TMT. Everyone is affected by TMT. So, if its yes, build it are we saying we are going to allow Hawaii Community to be in this State for at least for 10 years. Why don't we just stay home, why don't we just do the really easy thing, say no. Say yes, have

strength, courage, belief in what our kupuna taught us and know that ‘āina is enough. ‘Āina will always be enough. Āina has no dollar value, there is no amount of money that will compensate for the healing that can do. That Hawaii ‘āina can do for Hawaii. Our healing is in the ‘āina. It’s getting kanaka on the ‘āina. Anything that we do that is not doing that is hurting all Hawaiians. I urge you guys to please keep this, take it with you when you have time to think about difficult decisions, take a breath, think about the long run, generations from now, think about what is pono for Hawaii and Hawaiians because ‘āina can always heal us. But if we don’t have ‘āina what do we have? If we don’t have ‘āina what do, we have. Mahalo.

**Chair Colette Machado** – Kehaulani followed by Geoff Shaw.

**Kehaulani** – I am really emotional here. I think that is a common denominator here. Its pain, we live in pain that pain brought on us 500 years ago. We live as slaves. I grew up in California. I tell people they treat me like a princess. Anywhere I go other than Hawaii, I am pretty special for being Hawaiian. I come here and they want to smash us like bugs in our own Country. I am not here to make any pleas to you. As far as I am concerned it will fall on deaf ears. Your job is to perpetuate us. Not perpetuate the lie, the theft, not perpetuate the crime. My heart goes out to the sister that just spoke. Because that is what we are all feeling. Our children have to live oppressed. Our children have to grow up and say we are not going to have a future. That’s why they are killing themselves they have nothing to live for. You guys took on this role for us. Three of you taking it to heart. Skippy asked where is the money, it’s in your pockets. All of you who do not stand for Hawaiians, it’s in your pocket. All of the police that stand against us it’s in their pockets. Everyone who says I am taking a role of authority to look out for the people here and do the opposite, the money Skippy is in their pockets.

Money shouldn’t be the focus. The will of the people should be the focus. We are the people you work for us. Our focus is no more eradication. No more lie, no one believes them anyway. No more games, no more pretending to care. No more speaking in circles. These are our lives. In reality the people are the only remaining branch of Government. United States is merely a corporation. They incorporated themselves in 1871 under European Bankers. The State of Hawaii is merely a subsidiary of this corporation. Subsidiaries have no standing; we can easily shut them down. We have no government. Our monarchy was stripped. In the Hawaiian Kingdom we had a Government. In the Continent we have no government. Unless you consider the Iroquois their government and their land, or the Cherokee, or the Hopi or Navajo or Lakota, or where I was born in Northern California Ohlone Nation. That is the de jour government in the continent otherwise its merely a corporation. This is merely a corporation. The people are the only remaining branch of government. We are the government, and we are the ones with the power, we are the ones with the say. Right now, in this time history, yes, may amazing epic things have occurred in the Hawaiian Kingdom, the only difference now we have social media. So, the whole world can watch and get behind us and they have.

*(conversation indiscernible)* To echo the sentiment of the kupuna who came with the bible and said that everything will be brought into the light, I want to answer that. This time and for the last 5 years, 200 years, it’s the time we separate the sheep from the goats. Hard to tell those apart, but by their behaviors and attitudes. They will be separated; one goes one way to the good place and the other to the not so good place. The sentiment here today is what side are you going to be on. Are you going to walking with the sheep or walking with the goats? Are you going to go to the good place because of your actions or you going to go bad place because you chose the money over the people? Thank you.

**Chair Colette Machado** – Geoff Shaw followed by Harry Pomerleau.

**Geoff Shaw** – Speaking today about Pohakuloa Training Area once again. I was at a forum over a month ago and we were talking about legal issues related to the Pohakuloa Training Area and Ku Ching was there and brought up, he thinks tenants’ rights were being ignored there. As it turns out I looked at the Executive Order, mainly we were talking about the lease, and I hope you guys are keeping the States feet to the fire about the lease. Because the lawsuit was, the State lost that twice. They have to do what needs to be done. But even in



the Executive order, it says at the end of the text it says subject to valid existing rights. So, does that not include tenant rights? The rights don't get honored unless you demand those rights and that's not the way rights work. Rights are something that are inherit. They don't see it that way. For 55 years they been doing what they want. It's time for them to end. Maybe that should be the number job of the Office of Hawaiian Affairs. Is making sure that the right that have been granted are actually honored. Because those rights are being ignored. People shouldn't have to go to the court to have the rights verified. It should be the other way around. Thank you all.

**Chair Colette Machado** – Harry Pomerleau.

**Harry Pomerleau** – I've participated quite a bit in the cultural activities. Even though money isn't supposed to be your concern you are supposed to be looking out for the beneficiaries. I think it's easy because there is so much concern about the money that it would be easy to follow the money to find out the things that Skippy mentioned. If you follow it, you will find your way to the problems. I lost my house in Kapoho. I have Aunt still down there. When we got the land, we searched it all the way to where it was a Royal Deed. So, there is a lot of conflict. Realize that the money is there because it's been taken for so long it is there. For the gentleman that was looking to get his daughter back on island for the TMT. I would caution him that he is selling himself short, I know he wants his daughter back home, but he is selling himself short. Because really the people deserve so much more than what they are getting. I think that as people show their own interest whether they are pro TMT or not or even down to the Puna recovery. Follow the money, because it's not getting down to some people. My son actually goes to Kua o Ka La and we had a difficult time and they had to move out. My son is still struggling trying to get into UH so it's not all getting down. All the money you guys are distributing is not getting to the people the way it should. If you follow the money, you'll find where the money is going then you will be able to prevent the bleeding that is going on. I appreciate all your time. I encourage you guys go to the last protocol because it's a moving experience. It's wonderful to see everyone from around the World participating and giving their support.

**Chair Colette Machado** – Our last speaker is Louis Hao.

**Louis Hao** – Thank you very much for being here this morning. My name is Louis Hao, I am representing myself. The last time I came before the board I asked for your help with Hui Mālama o Na 'Ōiwi. At that time, you guys gave us a grant for \$6,000. We been in Kau for three years now. I am thanking you because we have \$300,000 from OHA. I want to thank you for that. I was a former Trustee, I served for 10 years I represented Molokai. I want to thank Colette not only for the money because two years ago Hui Mālama o Na 'Ōiwi was on the verge of being decertified as a (*conversation indiscernible*), I came to you Colette, help me, help Hui Mālama. I want to thank you now, because Hui Mālama have gone through 6 months of correctional compliance. I want to thank you for that because I asked you to hold off your dog because it would have prevented us from moving forward. I want to thank OHA for our \$300,000. We were created by congress in 1988 to be one of the health services agencies in the State of Hawaii. (*conversation indiscernible*)

You know in 1999-2000 we hired the services of Lea Hong who represented us to file a lawsuit against the State of Hawaii for Maunakea. It got us into a position up there. 19 years, I don't know what happened. I wanted to say that we've come a long way.

**Chair Colette Machado** – Louis, I wanted to mention that Sylvia Hussey is representing OHA at Papa Ola Lokahi.

**Louis Hao** – You are going to be a welcome sight. I enjoyed working with your mom. Thank you very much for giving us your support.

**Chair Colette Machado** – Louis, don't thank me personally it takes the majority of the Board, I don't want you to keep thanking me cause it doesn't take just one Trustee.

**Louis Hao** – I know, I don't know everyone here, but you the main person. You control the stakes. You can tell who to get off and who to get on.

**Chair Colette Machado** – The grant that you received was a competitive grant so you folks did very well.

**Louis Hao** – Thank you. We were competing with other agencies. Mahalo nui loa.

**Chair Colette Machado** – Hilo Community we heard over 20 speakers today. We also had the presentation from the County of Hawaii and work being done in Puna. This afternoon we have a site visit, everyone is welcome to attend with the Office of Hawaiian Affairs Trustees and staff to come to the mauna. I want to thank everyone for coming out. We were supposed to be at the NOAA museum and when I found out that is where they were going to have our meeting, I don't think we could do it. This facility was already reserved for the fair coming up. So, through the efforts of the County and our Hilo office and Kona office were able to secure the perfect place. The room and the parking were just wonderful.

## **VII. ANNOUNCEMENTS/FYI**

None

## **VII. ADJOURNMENT**

**Chair Colette Machado** – With that said the Chair would like to entertain a motion to adjourn.

**Trustee Carmen Hulu Lindsey moves to adjourn the meeting**

**Trustee Robert Lindsey seconds the motion.**

**Chair Colette Machado** – Roll call vote please.

Trustee Carmen Hulu Lindsey moves to adjourn the meeting. Trustee Robert Lindsey seconds the motion.						
TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA'ALA AHU ISA						Excused
TRUSTEE DAN AHUNA			X			
TRUSTEE KALEI AKAKA			X			
TRUSTEE KELI'I AKINA			X			
TRUSTEE BRENDON KALEI'ĀINA LEE			X			
TRUSTEE CARMEN HULU LINDSEY	X		X			
TRUSTEE ROBERT LINDSEY		X	X			
TRUSTEE JOHN WAIHE'E						Excused
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			7			2
MOTION: [ ] UNANIMOUS [ x ] PASSED [ ] DEFERRED [ ] FAILED Motion passes with seven (7) yes votes and two (2) excused.						

**Chair Colette Machado adjourns the meeting**

The meeting was adjourned at 12:27 pm.

Respectfully submitted,

---

Dayna Pa, Board Secretary

As approved by the Board of Trustees on \_\_\_\_\_.

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Colette Y. Machado, Chairperson  
Board of Trustees

**Attachment:**

1. Trustee Leina‘ala Ahu Isa - Excuse Memo
2. Trustee John Waihe‘e IV – Excuse Memo
3. Handout as well as PowerPoint presentation from Robert Agres – Recovery Goals and Objectives
4. Testimony and handouts from Elizabeth Masaoka
5. Emailed Testimony from Same King
6. Emailed Testimony from Veronica Ohara
7. Emailed Testimony from Jack and Marti Lockwood
8. Emailed Testimony from Cheryl Ernst
9. Emailed Testimony from Karen Murayama
10. Emailed Testimony from Nā Lau‘ō o Ka‘akepa



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**OFFICE OF HAWAIIAN AFFAIRS MEMORANDUM**

*Mea ho'omana'o a ke Ke'ena Kuleana Hawai'i*

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To: Chairperson Colette Y. Machado  
From: Trustee Leina'ala Ahu Isa, Ph.D.  
Date: September 16, 2019  
Re: Excused Absence

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Please be advised that I am unable to attend the Board of Trustees meeting on Thursday, September 19, 2019, at 9:00 A.M. due to my doctor's recommendation that I refrain from all activities because of a medical condition.

If you have any questions, please contact my staff.

Mahalo!

PHONE (808) 594-1888



FAX (808) 594-1868

**STATE OF HAWAII**  
**OFFICE OF HAWAIIAN AFFAIRS**  
560 N. NIMITZ HIGHWAY, SUITE 200  
HONOLULU, HAWAII 96817

## MEMORANDUM

TO: Trustee Colette Y. Machado, Chair  
Board of Trustees (BOT)

FROM: Trustee John Waihe'e, IV, Member / At-Large

 for 

DATE: September 13, 2019

SUBJECT: ATTENDANCE FOR COMMUNITY MEETING, BOT MEETING, AND  
SITE VISIT TO MAUNA A WĀKEA ON HAWAII ISLAND

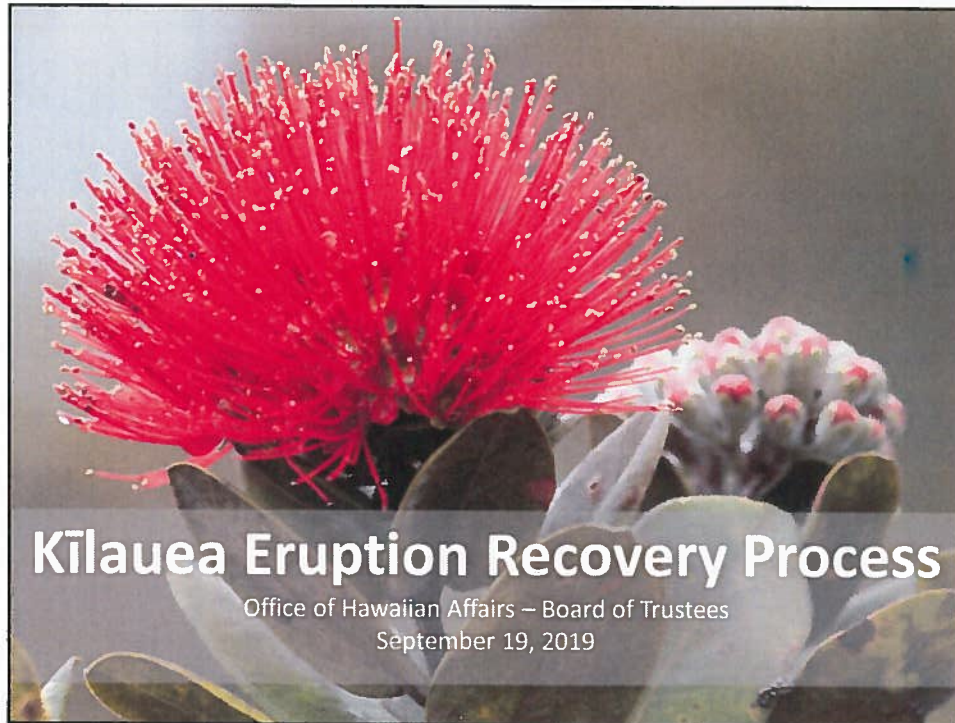
I am unable to attend the 09/18 Community Meeting, the 09/19 Board of Trustees meeting, and the 09/19 Site Visit to Mauna a Wākea on Hawai'i island due to conflicts in my schedule.

Please EXCUSE my absence and extend my apologies to the rest of the Board of Trustees.

Mahalo.

OFFICE OF  
HAWAIIAN AFFAIRS  
STATE OF HAWAII  
RECEIVED-BOT  
2019 SEP 13 PM 3:09





## Kīlauea Eruption Recovery Process

Office of Hawaiian Affairs – Board of Trustees  
September 19, 2019

1

### 2018: Year of Disasters

Hawai‘i Island was severely impacted by major natural disasters:

- Kīlauea Eruption and Earthquakes
- Hurricane Lane
- Tropical Storm Olivia



*Photo: West Hawaii Today*



*Photo: Hawai'i Tribune Herald*

2

## Eruption Impacts

INDIVIDUAL/  
FAMILY



COMMUNITY/  
CULTURAL



BUSINESS/  
ECONOMIC



3

## Relief & Response

**18 organizations** received **over \$903,000** in funding to address the multiple needs of lava survivors.

Grants strategically **increased** the **capacity** of nonprofit organizations to help disaster survivors and **leverage other funding** sources and donations.

- **1,200 requests for assistance** received through the STREAK database
- **321,000 pounds** of food, water, and supplies distributed
- **27,000 pounds** of personal hygiene kits, diapers, household items and camping gear distributed
- **62,000 meals** served
- **\$ 362,000 in supplies** distributed (e.g. gas, grocery and pharmacy gift cards)
- **88 households** placed in permanent housing
- **26 loan applications** for **over \$495,000** in loan capital processed

4

## Relief & Response

**Neighborhood Place of Puna** in partnership with the **Office of Hawaiian Affairs**, distributed **\$225,000** of emergency financial assistance to

**160 Native Hawaiian Households –  
321 Adults, 186 Children**

- Food & Clothing
- Medicine, Medical & Related Services
- Emergency Housing
- Transportation
- Care for Dependent Children & Kūpuna

5

## Relief & Response

	As of 6/26/18	As of 8/23/19
Unmet Needs		
Housing Assistance	495	13
Airfare	115	0
Medical	42	0
Counseling	63	0
Financial Assistance, Household, Clothing	251	8
Legal Counseling	-	16
Building/Home Repair	-	91
Outstanding Unmet Needs (waiting for long-term case management)	-	14
Cumulative Needs Met		
Housing Assistance	-	165
Airfare	-	45
Medical	-	18
Counseling	-	40
Financial Assistance, Household, Clothing	-	353
Legal Counseling	-	16
Building/Home Repair	-	17

6

# Recovery & Long Term Resilience

The planning process engages both community (qualitative) and data-based (quantitative) inputs and analysis in consideration of the BIG questions raised by this eruption.



HOW DO WE PROMOTE AND IMPLEMENT RESILIENCY?



HOW DO WE PRESERVE OUR NATURAL AND CULTURAL RESOURCES?



WHAT HEALTH & SOCIAL SERVICES AND FACILITIES ARE NEEDED?



WHAT ECONOMIC DEVELOPMENT STRATEGIES SHOULD BE EMPLOYED LONG TERM?

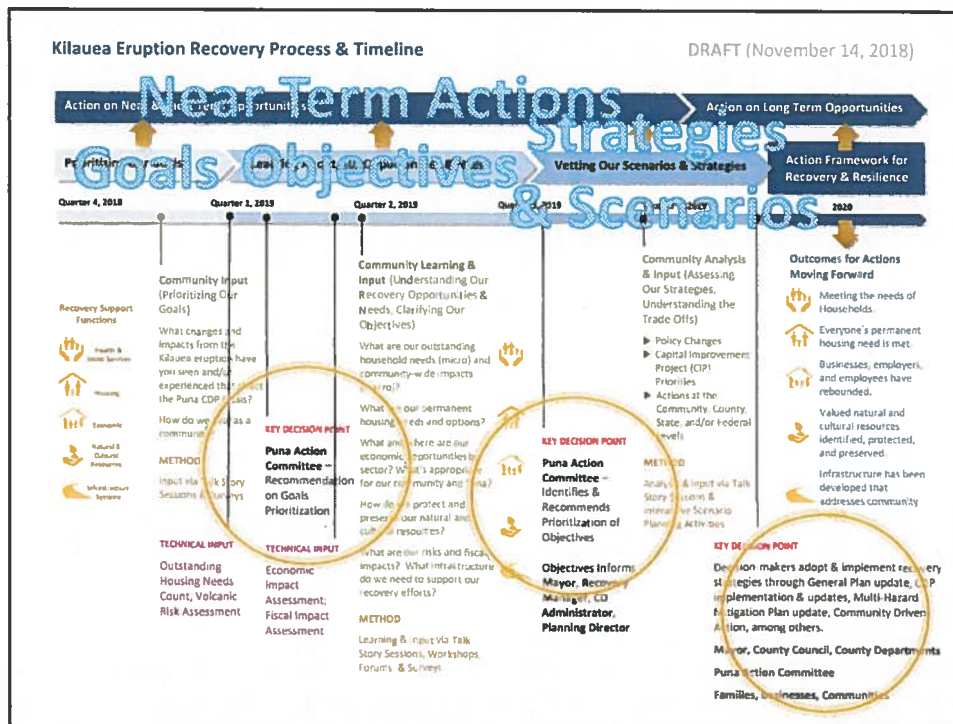


WHAT INFRASTRUCTURE SHOULD BE (RE)BUILT, AND WHERE?



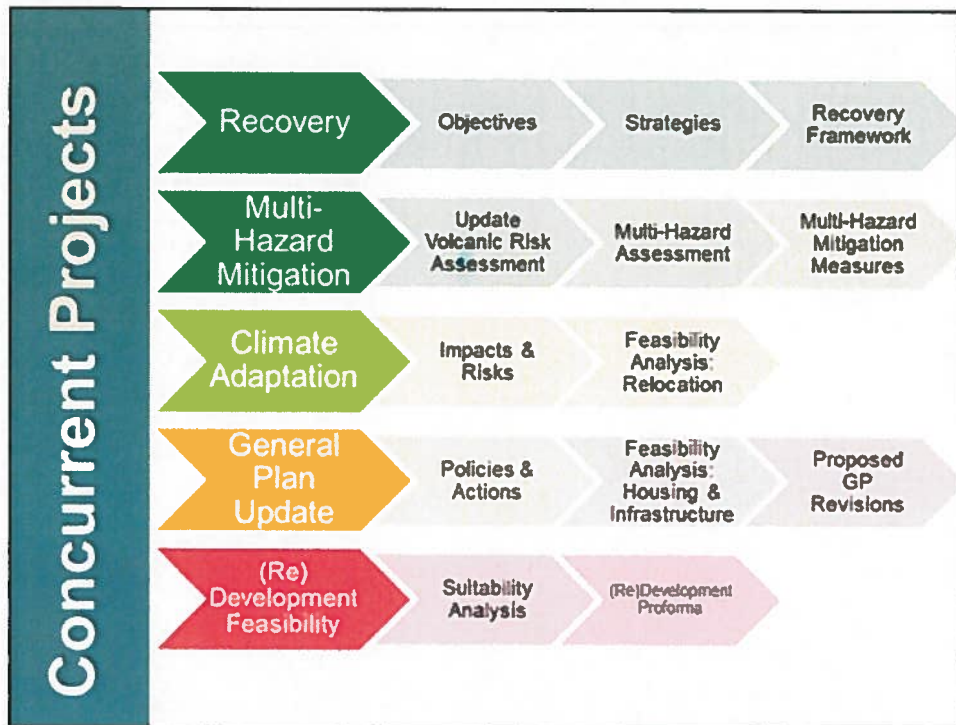
WHAT PERMANENT HOUSING NEEDS REMAIN, AND HOW SHOULD THEY BE ADDRESSED?

7



8

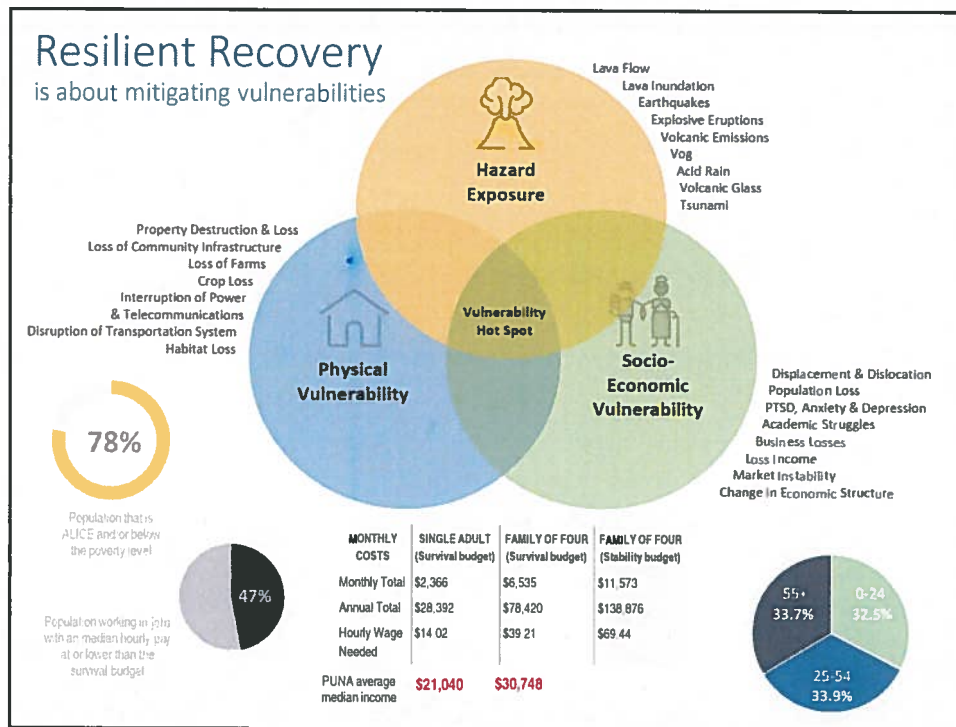




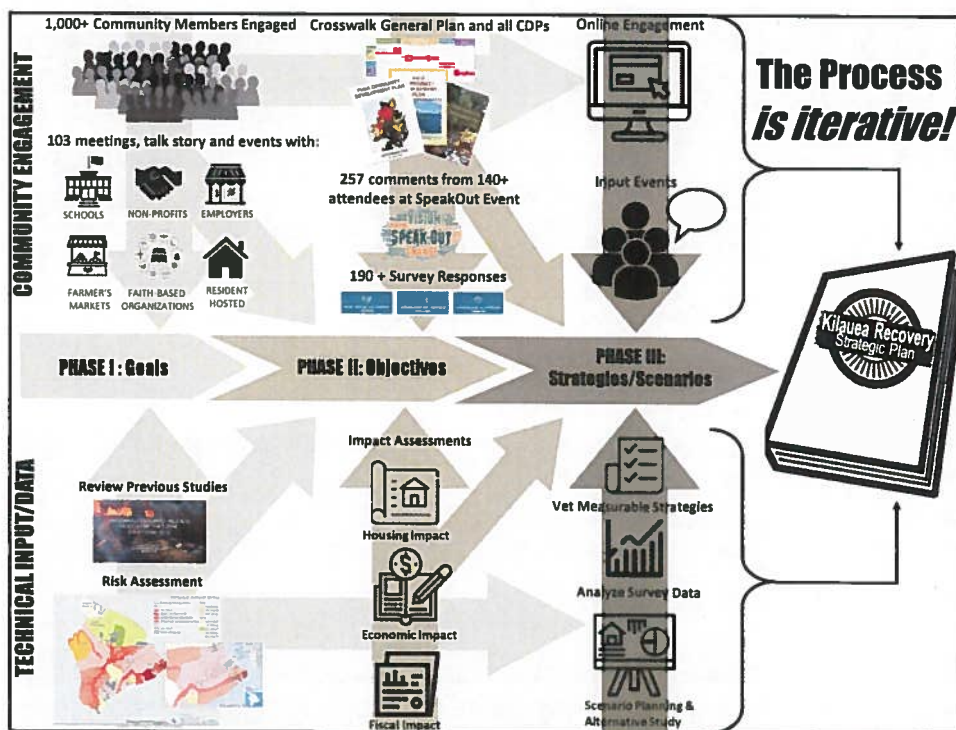
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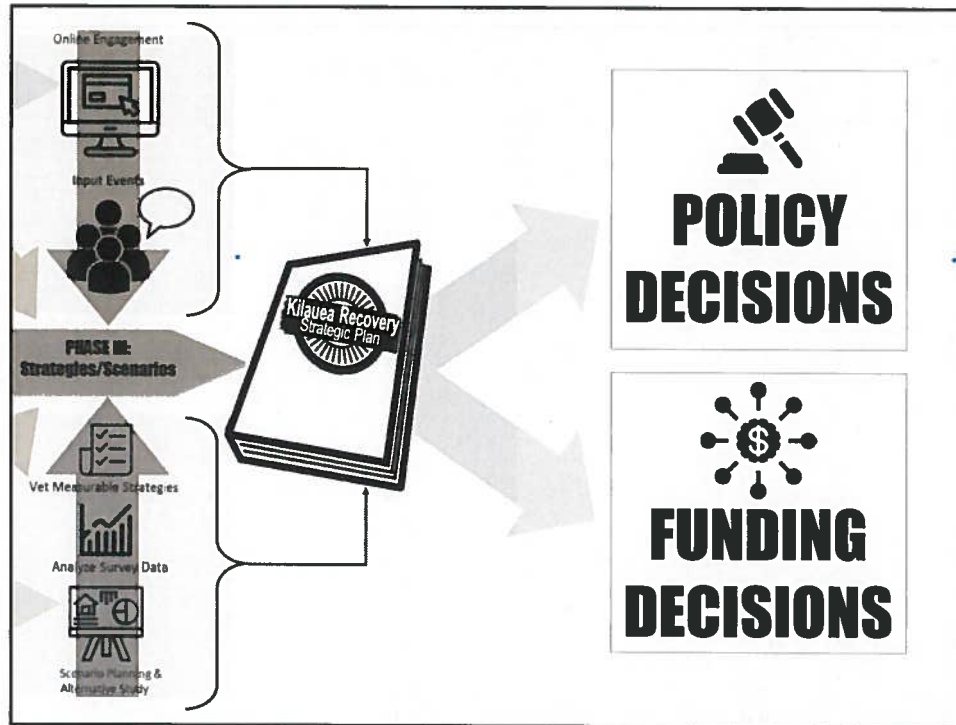
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11



12



13

## Housing Options

**INTENT**

- Rural and urban affordable housing choices
- Diversity of housing types and locations
- address the range of affordability needs

**EXAMPLES**

- Improve existing, increase new housing stock
- Increase affordability
- infrastructure support and access to services

**72% agree – 282**

- 17% neutral – 65
- 11% disagree – 42

**Village Town Centers / Residential & Economic Development**

O Ka hale e ku, o ke kanaka e noho.  
Where a house stands, there man dwells.

**Kūpuna housing is needed and important.**

It's **not government's job** to provide housing for everybody who wants housing.

I believe in the **freedom to choose** where you want to live. There should be **choices**.

Housing is **not a "one-size-fits-all"** subject.

**Agree, however, where?**

There are **more than enough housing lots** in the Puna District already.

We want the **improvements in our current areas**.

14

## Local Economy

### INTENT

- Number and diversity of income sources
- Living wage
- Jobs and entrepreneurial opportunities
- Complement the ecology, culture and evolving demographics

### EXAMPLES

- "Green" sectors
- Visitor industry that is pono
- All business and entrepreneurial development

We absolutely need to bring back tourists.

I think there is too much emphasis on the visitor industry – and the island needs a more diverse economy to be resilient.

County and State governments impede job creation with too many barriers.

Without adequate support and action of our elected officials nothing happens.

## Village Town Centers / Residential & Economic Development

O Ka hale e ku, o ke kanaka e noho.  
Where a house stands, there man dwells.

Hawai'i County needs sustainable industries that will provide good paying jobs for its residents. We need to stop the brain drain from our island.

Agriculture is the industry that keeps East Hawai'i stable.



15

## Transportation

### INTENT

- Complete roadway connectivity
- Safe, convenient, accessible, and affordable transportation system.

### EXAMPLES

- Road connectivity points for local traffic, emergency and evacuation routes
- Multi-modal transportation system
- Roadway alternatives

Public transportation is an absolute must, especially of a kind that is affordable and reliable.

All modes of transport is needed.

## Infrastructure

O ke kahua mamua, mahope ke kūkulu  
The site first, and then the building /  
Learn all you can, then practice

- 92% agree – 357
- 4% neutral – 17
- 4% disagree – 18

Connectivity is our #1 issue.

I worry about the accessibility of my house, in the event of an emergency.

Establish emergency access, yes. However we shouldn't be investing in new paved roadways in lava prone areas.



16



## Gathering Spaces

### INTENT

- New and improve existing built and natural community gathering spaces
- Restore and improve educational facilities
- Multifunctional community hubs

### EXAMPLES

- Pohoiki
- Prioritize Kua O Ka Lā facilities
- Multifunctional community and resilience hubs

All communities need a place to gather.

The hub was a great example.

This is needed, but keep the religious and spiritual areas separate from community areas.

Community hubs – schools, parks, and senior centers are important.



## Infrastructure

O ke kahua mamua, mahope ke kūkulu

*The site first, and then the building /  
Learn all you can, then practice*

- 76% agree – 293
- 16% neutral – 63
- 8% disagree – 33

Kua O Ka Lā PCS is still trying to find permanent locations.

The school is based on Hawaiian values and culture. They hosted many events to the health of the lower Puna community.

We need to get Pohoiki up and running again.

Help renovate and subsidize the spaces that already exist.

17

## Historical and Cultural Resources

### INTENT

- Historical, cultural, and scenic resources
- Shoreline public access
- Agricultural land and open space preservation

### EXAMPLES

- Increase public access sites
- Restore native habitat
- Preserve/restore significant historic and cultural sites

These things represent important cultural values and the Hawaiian practice of sharing aloha for our 'āina.

Shoreline access is important, however we should also respect the rights of individuals who own the land and maintain it.

## Natural & Cultural Resource Management

He ali'i ka 'āina, he kauā ke kanaka

*The land is the chief, man is the servant.  
Referring to man having to take care of the land in order for man to survive.*

- 89% agree – 347
- 8% neutral – 32
- 3% disagree – 13

We lost our safe places to access the ocean.

Fishermen are still waiting for boat ramp.

Gathering rights for native Hawaiians must be honored in these spaces.



18

## Native Ecosystems

### INTENT

- Restoration of native ecosystems and habitats
- Significant natural and cultural features
- Ecologically sensitive lands mauka to makai

### EXAMPLES

- Protect/preserve native forests and geological features
- action against invasive species
- Public and private collaboration projects

Protect, preserve and restore is the best thing we can do in order for our natural native ecosystem to thrive.

Lot of area was destroyed so we have to take care of what we have left.

Primary focus should be on invasives.

Provide additional and committed annual funding to prevent the further degradation of these open areas by slowly encroaching invasive plants.



## Natural & Cultural Resource Management

He ali'i ka 'āina, he kauā ke kanaka  
The land is the chief, man is the servant.  
Referring to man having to take care of the land in order for man to survive.

- 88% agree – 342
- 9% neutral – 35
- 3% disagree – 13

Yes, but need to balance w/ housing and economic growth needs.

The County shouldn't be wasting its small budget on things such as this. There are private organizations and individuals who do this.

19

## Physical and Mental Health

### INTENT

- Access to quality health services
- Options and facilities that promote physical activity and healthy lifestyle
- Keiki to kūpuna

### EXAMPLES

- Spectrum of facilities, services and programs
- Sensitive to diversity of cultures, beliefs, and needs

Most especially we need dialysis in Puna.

We need dentists.

So many people are dealing with lingering effects of the trauma and post-eruption issues that having counselors available would be helpful.

No one cares this whole place has PTSD.



## Health and Wellbeing

Loa'a ke ola i Hālau-a-ola  
Life is obtained in the house of life.  
Used when one is returned to safety, happiness, or well-being

- 89% agree – 349
- 8% neutral – 31
- 3% disagree – 12

The distance to a hospital from lower Puna is well over an hour.

We don't have enough medical facilities compared to population.

Puna Community Medical Center was created with these services in mind.

20

## Family Economic Health

### INTENT

→ Increase the percentage of residents that are economically self-sufficient

### EXAMPLES

- Community-based food systems
- Family Financial Empowerment Services
- Diversified options to meet basic needs

How can government do this? Of course all would be great if can . . .



Lot's of jobs in Hawai'i don't pay enough for people to be able to afford to live in Hawai'i.

It's a great idea to improve the economy in a sustainable, locally relevant way.

## Health and Wellbeing

Loa'a ke ola i Hālau-a-ola  
Life is obtained in the house of life  
Used when one is returned to safety, happiness, or well-being

- 87% agree – 332
- 10% neutral – 38
- 3% disagree – 13

Local food production is another wave that is a must for future social and personal health.

It is ridiculous that an area with the agricultural potential of Puna depends so much upon food from elsewhere.

We must expand community-based food systems and begin this in the schools. 'Āina based educational initiatives/careers must be supported.

21

## Recovery and Resilience | Youth



### Youth's Vision for Themselves



**Internet**  
Wireless access, WIFI  
cafes/parks



**Better Education**  
STEM, college  
preparation



**Gathering Spaces**  
Parks, restaurants



**Activities**  
Pool, skate park, gym,  
sports, hobby classes



**Job Opportunities**  
Construction, farming, technology,  
natural resources, National park

### Youth's Vision for the Community



**Reliable  
Mass  
Transit**



**Close  
proximity  
amenities**



**Increased  
safety and  
police  
presence**



**Close access to  
medical  
services**



**Community  
Celebrations**



**Affordable houses**



**Update and  
beautify town**



**Mental health  
services**



**Family  
gathering  
spaces, parks**



**Relocate homes  
outside of lava zones  
1 and 2**

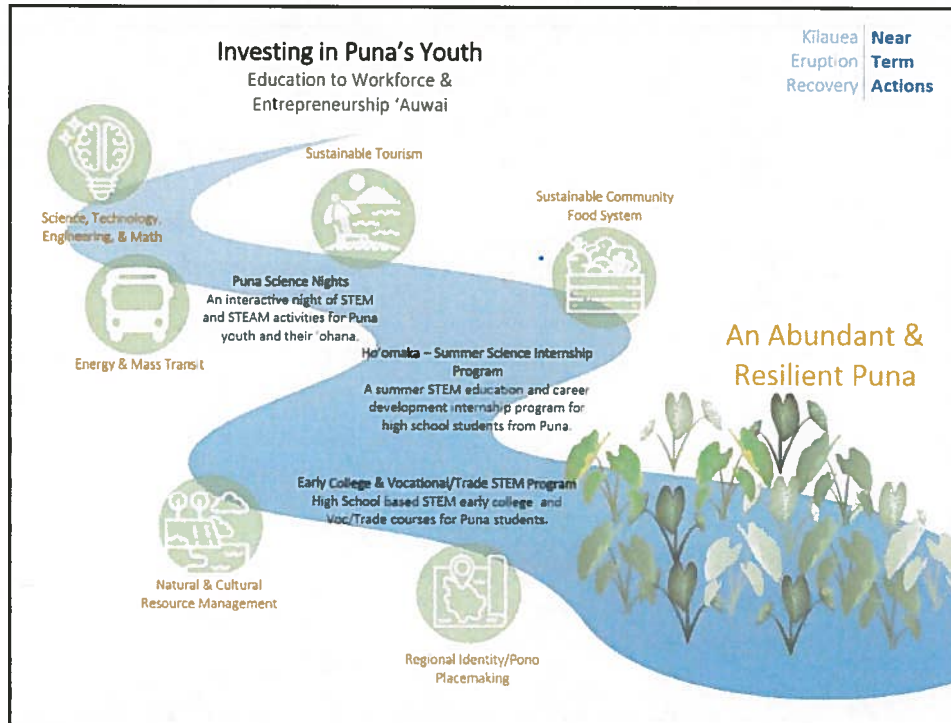


**More jobs**



**Clean the  
environment**

22

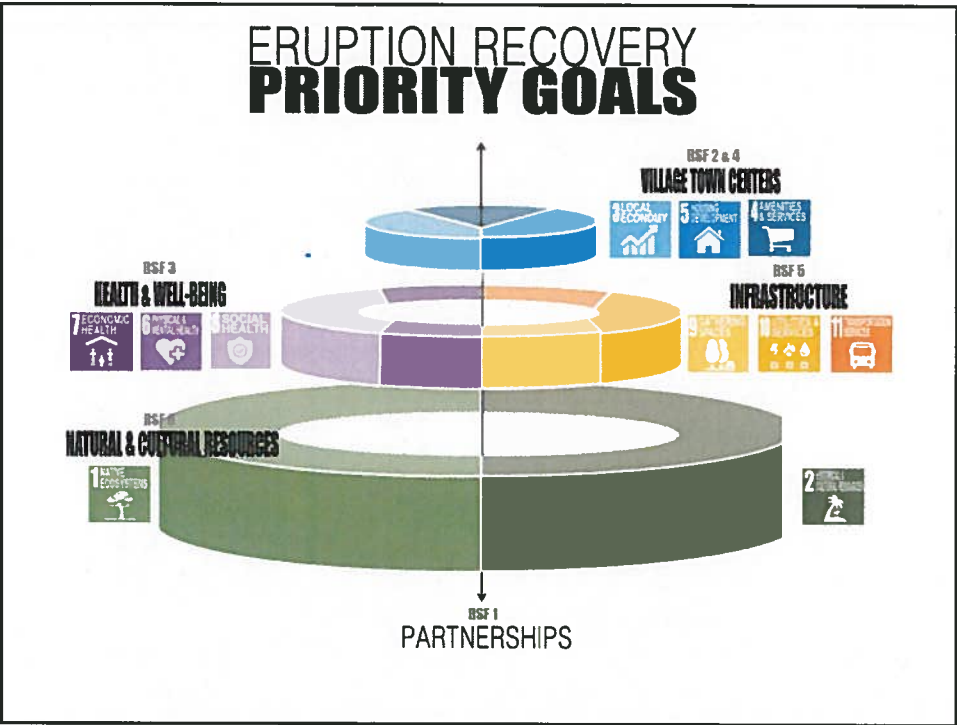


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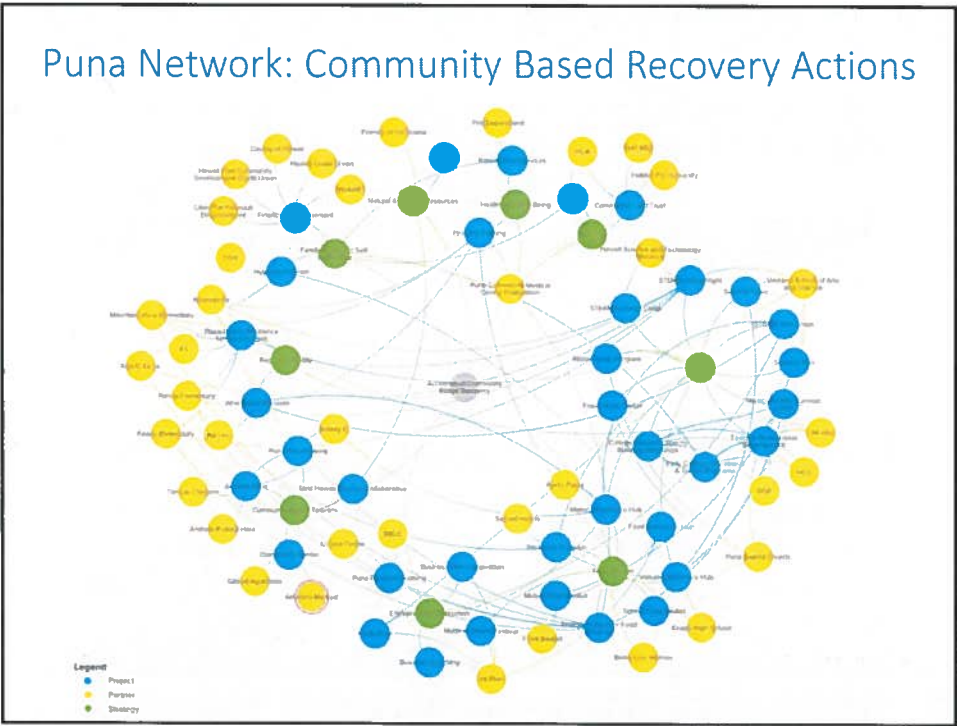


24





25



26



# SAVE the DATE!

Kīlauea Recovery  
**SpeakOut**  
event

Pāhoa High School

Oct. 4*	Oct. 5
5-8pm	9-3pm

\*youth-focused

 TALK TAKE ACTION

27



28

# RECOVERY GOALS AND OBJECTIVES

## Goal 1 | Village Town Centers / Residential & Economic Development

O Ka hale e ku, o ke kanaka e noho.

*Where a house stands, there man dwells.*

Create **Village Town Centers** that provide residents with greater access to **goods, services, educational resources, and economic opportunities** in a thoughtful and sustainable manner, including **options for marketing locally produced products**.

### Amenities and Services:

**Objective 1:** Provide access to **basic amenities and services within village and town centers**, including groceries, child care, parks, and other public facilities, that **provide jobs and economic opportunities** for local businesses, farmers, and entrepreneurs.

### Housing Options:

**Objective 2:** Increase **rural and urban affordable housing choices with a diversity of housing types and locations** that **address the range of affordability needs** of residents so that they have a safe, secure home.

### Local Economy:

**Objective 3:** Increase the **number and diversity of income sources for residents** that pay a living wage, including encouraging jobs and entrepreneurial opportunities that complement the ecology, culture and evolving demographics of the island.

## Goal 2 | Infrastructure

O ke kahua mamua, mahope ke kūkulu

*The site first, and then the building / Learn all you can, then practice.*

Develop essential infrastructure to provide **livable spaces**, including increased **connectivity of roads** to provide alternative routes for emergency situations and **managed traffic flow** and increased **Internet connectivity** to encourage employment, educational and economic opportunities for residents.

### Transportation:

**Objective 4:** Establish **complete roadway connectivity** for local traffic, emergency access, alternative routes, and evacuation and develop a **safe, convenient, accessible, and affordable transportation system**.

### Utilities

**Objective 5:** Restore, improve and expand **adequate and affordable utilities** (water, wastewater, energy, phone and internet services) where needed and infrastructure is lacking.

### Gathering Spaces:

**Objective 6:** Develop new and improve existing **built and natural community gathering spaces** that are available for cultural, educational, and recreational purposes and restore and improve educational facilities to serve as **multifunctional community hubs**.

## Goal 3 | Natural & Cultural Resource Management

He ali'i ka 'āina, he kauā ke kanaka  
*The land is the chief, man is the servant.*

**Preserve native ecosystems, maintain pono uses of natural resources, and protect increasingly threatened forests.**

### Historical & Cultural Resources

**Objective 7:** Protect and preserve historical, cultural, and scenic resources and increase shoreline public access and agricultural land and open space preservation.

### Native Ecosystems

**Objective 8:** Protect and provide increased restoration of native ecosystems and habitats, significant natural and cultural features and ecologically sensitive lands mauka to makai.

## Goal 4 | Health and Wellbeing

Loa'a ke ola i Hālau-a-ola  
*Life is obtained in the house of life. Used when one is returned to safety, happiness, or well-being.*

**Promote the development of medical facilities and services, social services and programs, and family economic self-sufficiency services and programs to increase the mental, physical, emotional, and economic health and well being of communities and residents, especially the most vulnerable in the community.**

### Physical and Mental Health

**Objective 9:** Increase resident access to quality health services, including creating a wide variety of healthcare facilities, programs and/or community-based care, such as: community health centers, rural clinics and mobile clinic services for the medically underserved population and expand options and facilities that promote physical activity and healthy lifestyle choices for all ages, keiki to kūpuna.

### Social Health & Safety:

**Objective 10:** Ensure access to quality social services that address social and economic determinants of health to support a high quality of life, decrease social problems, and extend life expectancies and increase police, fire, and emergency personnel to an appropriate ratio between population and geography.

### Family Economic Health:

**Objective 11:** Progressively increase the percentage of residents that are economically self-sufficient (measured by the State Department of Business, Economic Development, & Tourism's Self-sufficiency Income Standard, the Aloha United Way's Asset Limited, Income Constrained, Employed- ALICE, and/or other similar measures).





County of Hawaii  
**Kilauea Eruption Recovery**

# **Household Impact and Opportunity Assessment**

## Preliminary Results

*There have been 364 responses to the Household Impact and Opportunity Assessment as of  
August 23, 2019.*

# IMPACT

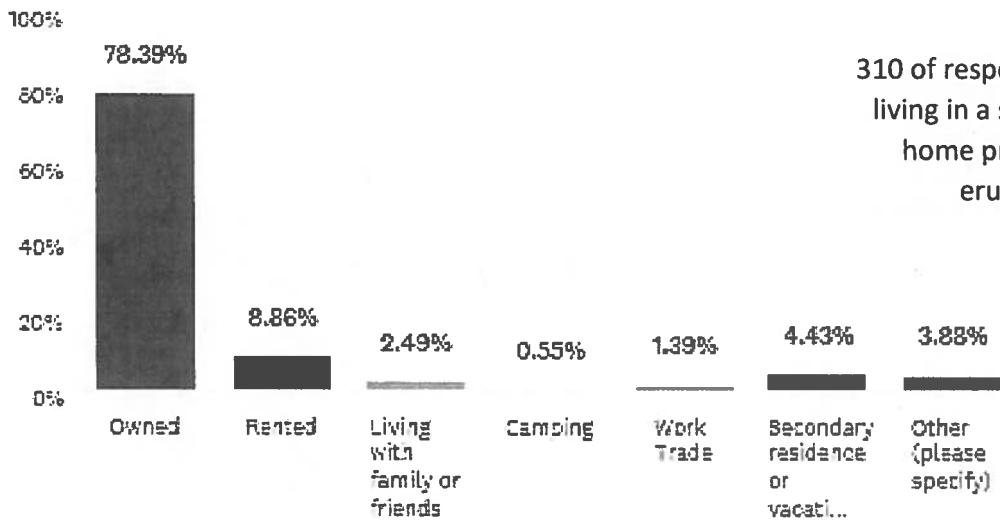
Prior to the eruption, 78% of respondents owned their home, with only 9% renting.

After the eruption, 63% of respondents own their current home and 15% are now renting. There is an increase in those living with family, work trade, staying in a vacation home/secondary residence and other.

## Puna District Average Occupancy Type

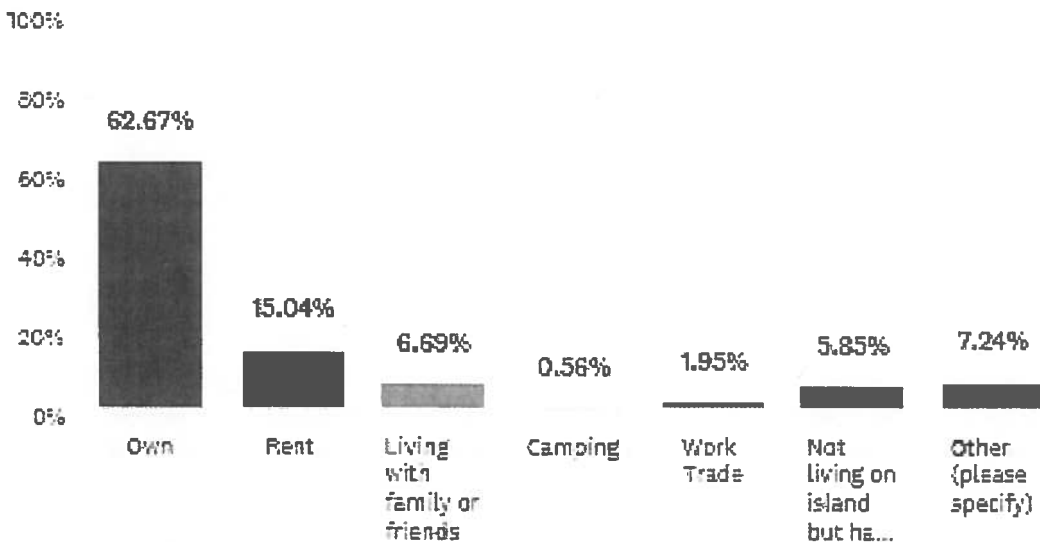


## Living Arrangement Prior to Eruption



310 of respondents were living in a single family home prior to the eruption

## Living Arrangement After to Eruption



Not only has there been a shift in the type of living arrangement for Puna families, living conditions have significantly decreased since the eruption.

**52.8%**

of respondents reported that their living conditions are worse now after the eruption.

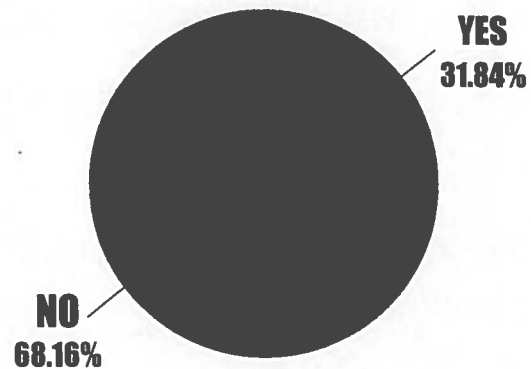
**15.3%**

of respondents reported their living conditions have improved since the eruption.

**31.8%**

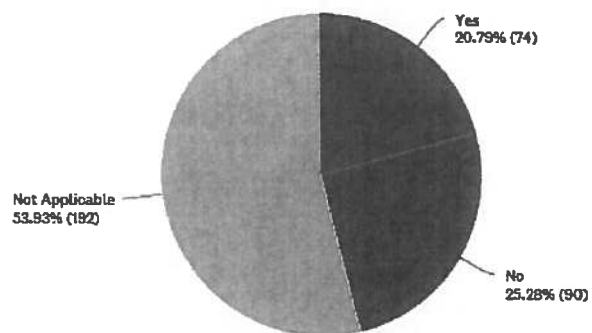
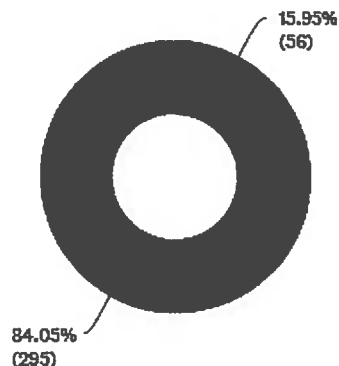
of respondents reported that their living conditions are the same.

**31.84% of respondents said they still have unmet housing needs.**



A majority of respondents reported that their current living arrangement is long term (6 months or more).

However, approximately **25%** of respondents do not have a plan to get a more permanent arrangement if they do not already have one.



■ Short term (1-6 months) ■ Long term (6 months or more)

It is important to note that many respondents indicated that they are not physically or financially capable of being in their preferred permanent housing right now, so though many have found a current solution— *it does not satisfy their vision for themselves and their family.*

Over one year post eruption, **the impact is still being felt.**

---

**82.67%**

of respondents feel stressed,  
tense, nervous, anxious and/or  
can't sleep at night.

**38.12%**

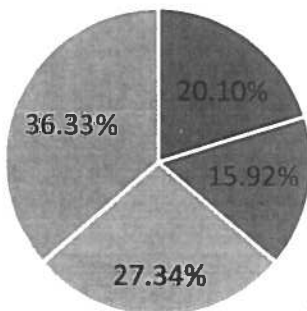
of those respondents feel  
**significantly** stressed, tense,  
nervous and/or anxious.

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**30.35% of respondents have one or more persons  
in their family that is still displaced**

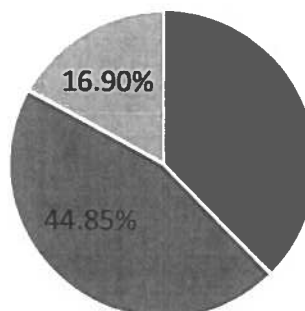
Thinking towards the future, there are varying opinions on where  
people want to live and in what kind of arrangement they want to  
live in.

**Are you seeking to return to  
your eruption impacted  
property?**



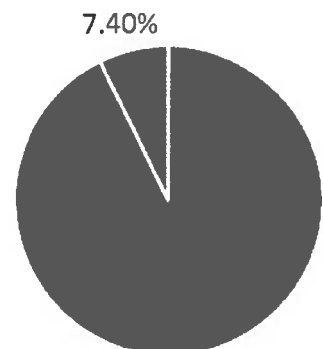
■ Have moved back/stayed ■ N/A ■ No ■ Yes

**Would you be willing to  
relocate outside of the Puna  
area if a housing opportunity  
became available?**



■ Yes ■ No ■ Maybe

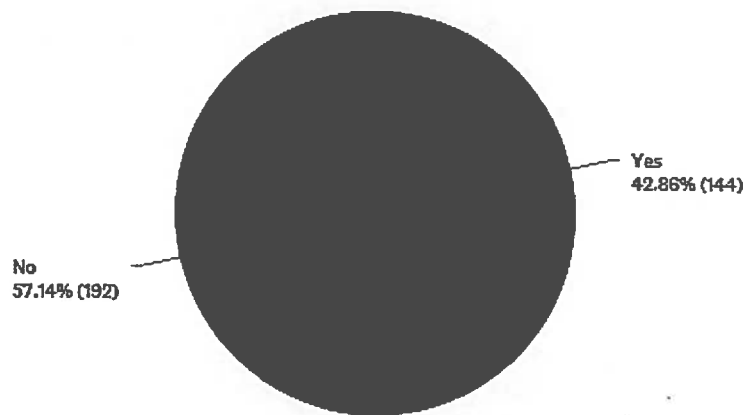
**Is your long term housing  
goal to find a rental unit or  
are you looking to own your  
residence?**



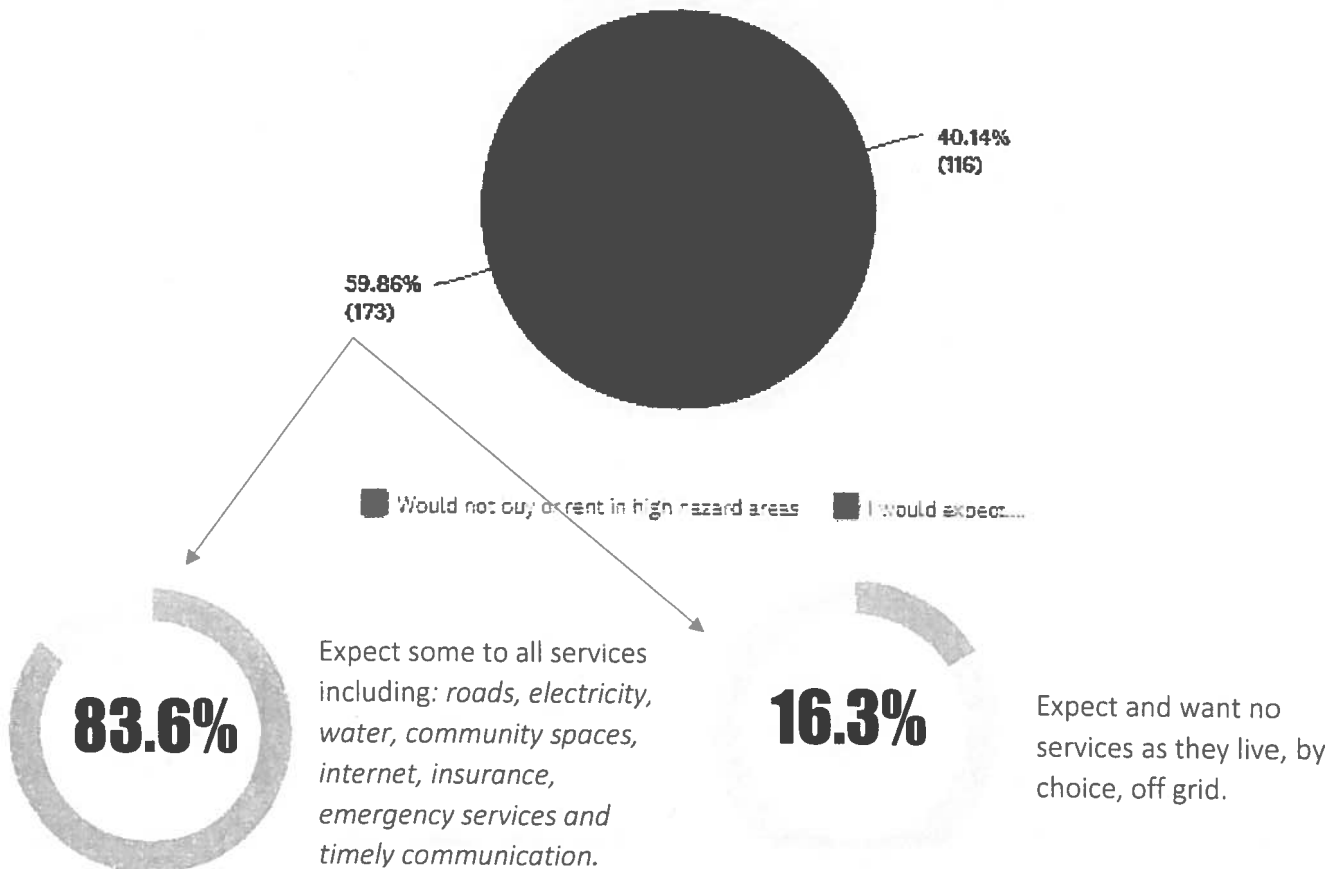
■ Own ■ Rent



**Would you buy or rent a home in high hazard areas, such as lava zone 1, flood zone, or tsunami inundation zone?**



**If yes, to what extent would you expect that county services and public utilities should extend to serve those high hazard areas?**



Handouts Elizabeth Masaoka

Office of Hawaiian Affairs Trustees Meeting  
Hilo, Hawai'i, September 19, 2019  
Mokupāpapa Discovery Center, 9am

Community Item:

**PROPOSED SPACEPORT IN EAST HAWAI'I – STRONG OPPOSITION**

*Testimony of the Kūpuna for the Mo'opuna, Pana'ewa, Hawai'i:  
Bridgit Bales, Nāmaka Rawlins, Nāko'o Warrington, Liz Masaoka*

Aloha to the Trustees of the Office of Hawaiian Affairs,

We, the Kūpuna for the Mo'opuna, a concerned group of kūpuna living on Hawaiian Homestead farm lands in Pana'ewa, Hawai'i, hereby submit this testimony to the Office of Hawaiian Affairs Trustees in **STRONG OPPOSITION** to the proposed spaceport in East Hawai'i, Alaska Aerospace Corporation's (AAC) Pacific Spaceport Complex-Hawai'i.

Attached please find a brief summary of a timeline of the proposed AAC's spaceport located on W.H. Shipman lands abutting our DHHL Pana'ewa farm lots. The timeline will show that discussions and decisions surrounding this spaceport have been ongoing since at least 2014. Unbelievably, those of us living in the impacted DHHL communities of Pana'ewa and Keaukaha were kept in the dark about this spaceport until late December 2018 when an article appeared in the Hawai'i Tribune Herald. No community meetings, no discussions, no communication whatsoever from our elected officials - from the county council on up - to inform the impacted communities and gather feedback... until January 25, 2019 when a meeting that can only be described as volatile, complete with protestors outside, was held. As the timeline will reveal, by that time, those aggressively supporting this spaceport were well into securing permits, licenses and swiftly moving ahead with the Draft Environmental Assessment.

The official position of our Keaukaha-Pana'ewa Farmers Association is one of strong opposition. The negative effects of this spaceport on our cultural, environmental, and personal health/safety well-being are of grave concern, especially in light of AAC's non-disclosure (secret!) provisions and agreements which will continue to keep us in the dark.

**We, the Kūpuna for the Mo'opuna, ask that the Office of Hawaiian Affairs stand with us in strong opposition to this spaceport.** Please help us battle this spaceport and prevent it from being built and operated in our back yard.

Mahalo nui loa,  
*Kūpuna for the Mo'opuna*

## **TIMELINE 2014-2019**

### **Alaska Aerospace Corporation's (AAC) Pacific Spaceport Complex- Hawai'i**

#### **Proposed Aerospace Facility to be Constructed and Operated at Hā'ena, Kea'au, Hawai'i Next to DHHL Pana'ewa Farm Lots**

- 1.) **2014** – per AAC Meeting Minutes, discussions regarding spaceport in East Hawai'i have begun.

<b>May 15, 2015 –</b>	AAC Meeting Minutes: Missile Defense Agency Alaska & Hawai'i; Hawai'i Alaska Joint Focus Group; site identified on Big Island on private land, "Hawaiians agree"; NASA; DOD.
<b>Nov 3, 2015 –</b>	Space News: PMRF small launch failure.
<b>Dec 18, 2015 –</b>	AAC Meeting Minutes: future Hawai'i site visit(s) authorized by AAC Board.
<b>May 12, 2016 –</b>	AAC Meeting Minutes: <b>Hawai'i discussion began "two years ago" i.e., discussions began in 2014.</b>
<b>Nov 2016 –</b>	UH Space Flight Lab Report: Private site approved by W.H. Shipman Board of Directors.

**WAS DHHL COMMISSION CONSULTED? WHAT IS DHHL'S OFFICIAL POSITION REGARDING SPACEPORT ABUTTING DHHL PANA'EWA FARM LOTS?**

- 2.) **March 2018** – Ka'ū community attends meeting in strong opposition to spaceport proposed for Ka'ū; Hawai'i State Senator Wakai and spaceport company SpinLaunch attend community mtg., apologize, "respect the wishes of the community" and will look elsewhere around the state. Hawai'i Tribune Herald.

**WHY WAS THIS KIND OF SPACEPORT MEETING NOT HELD FOR THE IMPACTED COMMUNITIES OF PANA'EWA, KEAUKAHA AND KEA'AU? WHERE WERE OUR ELECTED OFFICIALS ON THIS, ESPECIALLY COUNTY COUNCIL MEMBERS OF DISTRICTS 3 & 4? WHY WERE WE NOT AFFORDED THE OPPORTUNITY TO SAY NO TO THE PROPOSED ALASKA AEROSPACE CORPORATION'S SPACEPORT?**

- 3.) **July 2018 & September 2018** – W.H. Shipman Archaeological Monitoring Plan submitted and approved by DLNR.

- 4.) **November 9, 2018** – Advance Notice of Environmental Assessment from AAC to DLNR.
- 5.) **November 23, 2018** – Advance Notice for Environmental Assessment, MEMO to DLNR Agencies from DLNR.
- 6.) **December 28, 2018** - Hawai'i Tribune Herald article reporting proposal for spaceport in East Hawai'i **FOR THE FIRST TIME: "Alaska Company Proposes Satellite Launch Facility on Shipman Land"**.
- 7.) **2018 AAC Annual Report Year In Review** - East Hawai'i Launch Site summary page - "late 2019 launch" from East Hawai'i. **SEE ATTACHMENT A.**
- 8.) **January 18, 2019** – SB999 introduced by Senator Wakai, re: Aerospace industry to become a private corporation.
- 9.) **January 18, 2019** – KPFA informs its members of a "briefing" scheduled for January 25, 2019, to be presented by representatives of AAC, W.H. Shipman, UH Space Flight Lab and PISCES.
- 10.) **January 25, 2019** – "Briefing" held in Pana'ewa; "briefing" turned volatile as protestors outside picketed the "briefing."
- 11.) **February 6, 2019** –Public Informational Open House held for AAC's spaceport in Hilo. (note: Senator Wakai scheduled SB999 hearing at the same time as Open House in Hilo; SB999 removed from agenda and died in committee.)
- 12.) **February & March 2019** – Kūpuna for the Mo'opuna and Keaukaha-Pana'ewa Farmers Association (KPFA) develop and circulate 4 flyers in opposition to spaceport. **SEE ATTACHMENTS B-E.**
- 13.) **March 5, 2019** – Mayor Kim officially states spaceport is "just a proposal at this time." (letter from Mayor Kim available upon request)
- 14.) **March 6, 2019** – KPFA submits opposition comments to environmental assessment consultants, KFS, Nā 'Ōiwi Kāne, c 2015, NHO Owned 8(a) Co.
- 15.) **April 17, 2019** – KPFA's strong opposition to spaceport is made part of the record during William Aila's confirmation hearing as Interim DHHL Chair.
- 16.) **May 20, 2019** – DHHL Commissioners' Mtg. Waimea agenda included testimony in opposition to spaceport from Keaukaha and Pana'ewa; Chair Aila is asked what the official position of DHHL is; Aila replies, in essence, "cannot say at this time; will check with DHHL staff and look into it."



# AAC 2018 Annual Report Year in Review

Summary page  
East Hawaii Launch Site

2018 ANNUAL REPORT

## Year in Review

### Equatorial Launch Site Progress

Alaska Aerospace continued pursuit of an equatorial launch site in the Pacific region throughout the year, advancing the East Hawaii project with the University of Hawaii, Spaceflight Laboratories and making a course correction in consideration of a potential site in the Commonwealth of the Northern Mariana Islands (CNMI).



#### EAST HAWAII LAUNCH SITE

This year provided some exciting moments following the Kilauea volcano eruption that started on May 3, 2018. As several lava vents opened in the lower Puna area south-east of Hilo, residents of the Leilani Estates and adjacent Lanipuna Gardens residential areas were evacuated. Eruptions continued through the summer; however, the lava flows and volcanic activity remained a far distance from the proposed East Hawaii launch site and have not impacted progress on development of a launch site in Hawaii.

Progress on the environmental process continued, with the environmental firm KFS completing the initial phase of the environmental work in preparation for releasing the Description of Proposed Activities and Alternatives (DOPAA) in early 2019. The DOPAA provides agencies and the public with a description of need and alternative sites considered to meet the demands for small launch vehicle launches from East Hawaii. As part of this process, Alaska Aerospace provided technical support in developing the spaceport facility requirements and supporting the engineering aspects of the project. KFS is planning the first public engagement meeting in East Hawaii in early 2019.

With increasing activities of the new small launch vehicle market, the need for an equatorial launch location in the Pacific Region has intensified. We are currently working with one such company towards developing the necessary infrastructure in East Hawaii for a late 2019 launch. Recognizing that the spaceport environmental document must be aligned with the spaceport site operators license, we concurrently started development of the spaceport site licensing process with the Federal Aviation Administration (FAA) Office of Commercial Space Transportation this year. Alaska Aerospace will hold the spaceport licenses for both the Pacific Spaceport Complex - Alaska, located in Kodiak, and the Pacific Spaceport Complex - Hawaii, located in East Hawaii. Both the environmental and licensing processes are expected to take most of 2019 to complete.

#### COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS (CNMI) LAUNCH SITE

Following the determination in 2017 that the Marpi Point site on Saipan was a Formerly Used Defense Site (FUDS) that required extensive clean-up and did not have clean-up funds identified for the project, a decision was made to consider an alternative site in the CNMI. In discussions with CNMI officials, a site along the southeast side of Tinian was considered a potential site that could reduce environmental issues and provide comparable equatorial orbit capabilities as was being pursued at the Marpi Point Site.

In March, Alaska Aerospace leadership met with CNMI Governor Ralph Torres to discuss advancing the CNMI option. An initiative was started between Alaska Aerospace and the governor's office on development of a Memorandum of Agreement (MOA) intended to set forth the terms and conditions, scope of work, and responsibilities of the parties associated with collaboration towards constructing a small rocket launch facility in the CNMI. The underlying basis of the agreement was to place senior level focus on a government-to-government agreement towards pursuit of the potential launch site.

In May, Governor Torres office sent two CNMI delegates from the governor's office to visit the Pacific Spaceport Complex - Alaska (PSCA). The purpose of the visit was to familiarize CNMI officials with Alaska Aerospace capabilities, as well as to explore the potential site development process should a site be built in the CNMI by Alaska Aerospace.

Over the summer, a draft Memorandum of Agreement was reviewed by both Alaska Aerospace and CNMI officials to pursue the feasibility of developing a small rocket launch facility on Tinian with the possibility of operating the Launch Operations Control Center, Range Safety and Telemetry Systems (RSTS) and other support requirements on Saipan.

In October the eye of Super Typhoon Yutu passed over parts of Saipan and Tinian, causing extensive damage to the islands. Negotiations to finalize the MOU ended in November, as progress on the East Hawaii site continued with interest of a potential customer to use that location for equatorial launch.

Attachment A

late  
2019  
launch

# THIS IS NOT A DRILL

## NO MISSILE LAUNCH FACILITY IN OUR BACK YARD!

**We demand Alaska Aerospace's efforts to construct and operate a missile launch facility near historic Hā'ena in Kea'au, Hawai'i, cease immediately!**

### **Express opposition to launch facility and outrage that the community was kept in the dark!**

W. H. Shipman Ltd. CEO Peggy Farias..	966-9325..	email via whshipman website
Governor Ige.....	586-0034.....	email via governor ige website
Mayor Kim.....	961-8211.....	email via mayor kim website
Senator Kahele.....	586-6760.....	senkkahele@capitol.hawaii.gov
Senator Ruderman.....	586-6890.....	senruderman@capitol.hawaii.gov
Rep Nakashima.....	586-6680.....	repnakashima@Capitol.hawaii.gov
Rep Onishi.....	586-6120.....	reponishi@Capitol.hawaii.gov
Rep San Buenaventura.....	586-6530.....	repsanbuenaventura@Capitol.hawaii.gov
Rep Todd.....	586-8480.....	reptodd@Capitol.hawaii.gov
Council Member Kierkiewicz	961-8265.....	ashley.kierkiewicz@hawaiicounty.gov
Council Member Lee Loy...	961-8396.....	sue.leeloy@hawaiicounty.gov

### **Mail, fax, or email comments/questions/concerns BY MARCH 6, 2019, to KFS.**

Official minutes of Alaska Aerospace's meeting on 11/2/2017 state: " The consultant [KFS] understands the objective is to secure a Finding of No Significant Impact (FONSI) for the EA [Environmental Assessment]" and that "Alaska Aerospace will not go through the Environmental Impact Statement process."

KFS, LLC  
Attn: PSCH EA  
303 Williams Ave. Suite 116  
Huntsville, AL 35801  
Fax (256) 713-1617  
Email: [PSCH.EA.Project@kfs-llc.com](mailto:PSCH.EA.Project@kfs-llc.com)

### **Significant impacts will adversely affect the health, safety and well-being of Hawai'i's...**

#### **PEOPLE**

The missile launch site is close to Kea'au & Pana'ewa homes, farms, schools, parks and businesses.

#### **CULTURE**

The missile launch site is on W.H. Shipman Ltd. land, 1.5 miles from historic Hā'ena tied to hula traditions.

#### **ENVIRONMENT**

For decades, the Big Island has been a target for a spaceport. However, even Kona native and astronaut Ellison Onizuka "himself had told a reporter for the Hawai'i Tribune-Herald that while the spaceport 'may create some jobs,' that benefit would not be 'enough to pay for the penalties that such launchings would have on the environment.'"

*'Onipa'al Keaukaha-Pana'ewa Farmers Association & Kūpuna for the Mo'opuna*

Attachment B

# **TOWN HALL MEETING** **NOW!**

**NO MISSILE LAUNCH FACILITY IN OUR BACK YARD!**

**WE DEMAND A TOWN HALL MEETING NOW!**

**To Governor David Ige and Mayor Harry Kim; Senators Inouye, Kahele, Kanuha and Ruderman; Representatives Creagan, Lowen, Nakashima, Onishi, San Buenaventura, Tarnas and Todd; Council Members Chung, David, Eoff, Kanealii-Kleinfelder, Kierkiewicz, Lee Loy, Poindexter, Richards and Villegas ~**

We demand that you, our elected officials, organize and conduct a town hall meeting **immediately** for the residents of East Hawai'i and all other concerned citizens for the purpose of communicating information regarding Alaska Aerospace's satellite launch facility project in Kea'au, East Hawai'i. The affected surrounding communities have not been consulted at all. To the contrary, we have been kept in the dark for what appears to be years. We expect that the town hall meeting will include, but not be limited to, your:

- 1. Explaining the project.**
- 2. Providing updates and current status of the project.**
- 3. Allowing time for Questions & Answers about the project.**

We expect that all persons and/or entities responsible for and/or involved with this project will be in attendance. We also expect timely and appropriate notice of date, time and location of the town hall meeting will be given.

*'Onipa'a! Keaukaha-Pana'ewa Farmers Association & Kūpuna for the Mo'opuna 2.23.19*

*Attachment C*



# End CON-tract Now!

## NO MISSILE LAUNCH FACILITY IN OUR BACK YARD!

### **END BIASED/CONFLICT OF INTEREST ENVIRONMENTAL ASSESSMENT CONTRACT NOW!**

We demand the contractual agreement between the University of Hawai'i and consultant KFS, LLC. to conduct the Environmental Assessment (EA) for Alaska Aerospace Corporation's (AAC) launch facility in East Hawai'i **end immediately**.

Official meeting minutes of AAC reveal discussions of what appear to be predetermined bias and conflict of interest. #1. In addition, aggressive and fast tracking of an East Hawai'i launch facility between state agencies working in tandem with non-transparent legislation – e.g., apparent appropriation of \$250,000 of Hawai'i taxpayer money for EA benefitting the private out-of-state company AAC – must be questioned. #1-#5. To that, the relationship between for-profit and not-for-profit entities involved in this launch facility project must also be questioned. #1-#5. *(Dear Reader: Please research, connect the dots and decide for yourself.)*

**#1. Alaska Aerospace** <http://www.akaerospace.com>

**Meeting minutes 11.2.17:** discussion of predetermined bias “understanding” for KFS (KSF per minutes) to secure a Finding of No Significant Impact (FONSI) for EA.

**Meeting minutes 2.23.18:** conflict of interest as UH Space Flight Laboratory hired KFS to do EA for AAC with AAC the “advisor on the technical aspects” of the EA.

**#2. University of Hawaii – Hawaii Space Flight Laboratory** <https://www.hsfl.hawaii.edu/wp-content/uploads/2018/07/HSFL-Overview-2018-07-01.pdf>

**#3. 2016-2020 Hawai'i County Comprehensive Economic Development Strategy (CEDS) and Hawai'i Statewide Comprehensive Economic Development Strategy 2016-2020**  
[http://files.hawaii.gov/dbedt/op/spb/CEDS\\_2016\\_final.pdf](http://files.hawaii.gov/dbedt/op/spb/CEDS_2016_final.pdf)

**#4. KFS** <https://www.kfs-llc.com> “KFS is a Small Business Administration (SBA)-certified 8(a) Small Disadvantaged business. We are majority owned by Na ‘Oiwi Kane, a not-for-profit Native Hawaiian Organization (NHO). Our NHO 8(a) classification enables us to accept no-bid Government contracts with no dollar limit.” <https://www.kfs-llc.com/our-culture/>

**#5. Nā ‘Ōiwi Kāne** <https://www.naoiwikane.org> © 2015 KFS-LLC. An NHO Owned 8(a) Company

*‘Onipa’a! Keaukaha-Pana’ewa Farmers Association & Kūpuna for the Mo’opuna 2.24.19*

Attachment D



# HA'INA for HĀ'ENA?

*Let the story be told of Hā'ena; but what story will that be?*

**OPEN PLEA TO W. H. SHIPMAN, LTD.**

**BILL WALTER and PEGGY FARIAS:**

**JUST SAY NO TO  
MISSILE LAUNCH FACILITY IN YOUR FRONT YARD!**

Historical, environmental and conservation information about the long legacy of efforts by William and Mary Shipman – kūpuna of Bill Walter & Peggy Farias - to benefit the future generations of Hawai'i can be found at <http://www.whshipman.com/about-whs/history>.



*A Kama'aina Company Contributing  
to the Planned Growth of Hawaii*

**To Bill Walter and Peggy Farias:** This is an open plea for you to continue the proud legacy of your kūpuna William and Mary Shipman's responsible stewardship of caring for the land and people. A missile launch facility on their beloved 'āina near homes, farms, schools, parks, and businesses is inconceivable knowing their demonstrated love for the land and people; their lifelong aloha for beloved Hā'ena, Kea'au, Puna; their respect for the ala hele on their 'āina where ali'i once trod; their loving care of the endangered nēnē on the verge of extinction; their appreciation of the chants praising Puna dancing in the wind. Listen to your kūpuna:

***"NO MISSILE LAUNCH FACILITY IN OUR FRONT YARD!"***

**Bill Walter and Peggy Farias,** we ask WHY? Why do you dishonor your kūpuna? Why do you continue to keep your neighbors in the dark (site approved WHS BOD 11/16) especially regarding the project's DoD ties (UH overview 1/18)? Why do you keep saying "no decision until the EA is done" when you know the EA process has been compromised due to a lack of community input and an abundance of bias and conflict of interest?

**Bill Walter and Peggy Farias,** we call out. Answer.

**And let the story be told of Hā'ena, a place greatly loved for all time.**

*Ha'ina 'ia mai ana ka puana  
No Hā'ena kahi i aloha nui 'ia a mau loa aku  
Let the story be told  
Of Hā'ena a place greatly loved for all time*

**'Onipa'a! Keaukaha-Pana'ewa Farmers Association & Kūpuna for the Mo'opuna 2.25.19**

Attachment E

**Dayna Pa**

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**From:** Sam King < .@gmail.com>  
**Sent:** Tuesday, September 17, 2019 5:06 PM  
**To:** BOT Meetings  
**Subject:** Testimony in Support of TMT for September 18-19, 2019 meetings

Aloha OHA Board,

At your August 22, 2019 meeting I testified concerning threats made to OHA beneficiaries by other OHA beneficiaries protesting, or supporting the protests against, the Thirty Meter Telescope. You can find a copy of my remarks (as near as I could recall from my notes) here:

<https://www.imuatmt.org/safehouse-statements-oha/>.

At that time I requested a resolution from OHA condemning threats of violence and bullying from the protesters.

I would like to reiterate that request. As we saw from the Governor's recent press conference, the threats of violence are getting more brazen. Threatening posts are being made against individual police officers. Someone joked about a mass shooting at the state capitol on the Facebook Live feed of the Governor's press conference. The Kia'i are losing control on the Mauna, as we saw from the illegal structure built which was condemned by the Royal Order. Protesters are also growing more desperate, as seen by the nailing of a Hawaiian flag on that structure in such a way as to create precisely the social media explosion that was created when the police offer cut the flag to gain entry to the building. Also, the manner in which that unfortunate event was spun up by the protesters as a horrible desecration instead of an unfortunate accident speaks to this desperation as well. Hawaiian Kingdom advocates recently appeared in Mayor Kim's office wearing bullet proof vests.

The Governor's statements against bullying are not enough. The protesters and their supporters need to see news stories about OHA's condemnation of such vitriol. Without that, and because OHA has funded the protests, OHA will ultimately be complicit in the first death caused by the bullying perpetrated by the protesters.

Please speak out for your beneficiaries who support TMT. We deserve your respect and empathy as well.

Mahalo,

Sam King

**Dayna Pa**

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**From:** Veronica Ohara <[REDACTED]@gmail.com>  
**Sent:** Tuesday, September 17, 2019 6:51 PM  
**To:** BOT Meetings  
**Subject:** TMT meetings

Aloha OHA Board Members,

I would like you make a clear statement condemning the blockade of the Maunakea Access Road and the rising vitriol against TMT supporters; many of us are native Hawaiians. During these past months you appeared on the news and shown support for the blockade, the protest against the construction of TMT. It's no secret that you fund air tickets for people to fly to Hilo to join the protest. Some of you have taken an unconditional stance against the Thirty Meter Telescope. By doing so you widen the divide between the very community you should be supporting. The native Hawaiian TMT supporters, who elected you into office, are worthy of your consideration and respect.

The emotional arguments against TMT have heightened, attracting worldwide attention. OHA must realize we Hawaiians who support TMT are fully aware of what the social and economic problems of our people. We sympathize but cannot support an unlawful blockade that is clearly hurting Hawaii. What about the astronomy, physics, engineering, robotics graduate students who are on scholarships, who dream of observing with TMT on Maunakea? What about the construction workers who have patiently waited for the court cases to end? We are all local people whom you cannot ignore because we voted for you; you are in office to serve us.

The blockade has gone on for far too long and out of control; the comments on Gov. Ige's Facebook page are unacceptable, and

dangerous. It's unthinkable that the FBI investigated the recent death threat on Gov. Ige's Facebook Page; I myself read a comment that Gov. Ige should be thankful he is not "pushing up daises". The vitriol on social media is over the top, threats of violence, racist remarks, parody accounts are indicative of a downward spiral; it's as if the protesters and their supporters are on the verge of domestic terrorism.

I urge OHA to state on no uncertain terms that this blockade is no longer acceptable and therefore must end; also condemn in the strongest terms the vitriol against TMT supporters.

Mahalo,

Veronica Ohara

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Veronica



## Dayna Pa

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**From:** Jack & Marti Lockwood < >  
**Sent:** Wednesday, September 18, 2019 12:08 AM  
**To:** BOT Meetings  
**Cc:** n; Imua TMT  
**Subject:** Testimony For OHA Meetings 9/18-19 Re: TMT

Dear OHA Trustees:

I have lived on Hawaii for most of my life, have huge respect and Aloha for Mauna Kea, and have worked on the Mauna as a geologist off and on since 1971. I performed the geologic evaluations of the TMT site and surrounding area for the EIS, and know that area very well. Your going only to Pu'u Huluhulu Thursday (8,000' below the summit) will reveal nothing - other than the passions of the good people who are unfortunately protesting the TMT - a project that is good for the long-term interests of all Hawaiians. The people gathered at the pu'uhonua are a minority of Hawaiians, but the majority of Hawaiians who support the project are afraid to speak up - for fear of being declared "traitors" by the protestors....

**YOU NEED TO VISIT THE PROPOSED CONSTRUCTION SITE** - it takes less than an hour to drive up there, and you will see how the area is far below the truly sacred summit, and was chosen to minimize visual or environmental impact.

No one gets to choose their parents, and unfortunately *a'ole ke koko Hawaii*, but my heart is Hawaiian, and I want to see the past and current injustices to Hawaiians (education, judicial, land) corrected, but blocking this important science project will not help achieve any of these goals. If the TMT is blocked - how will this help righteous Hawaiian causes in any way?

**IMUA HAWAII - IMUA TMT!**

Aloha Noho'i Kakou,

Jack Lockwood

MARTI & JACK LOCKWOOD

Hilo, Hawaii 96720

## Dayna Pa

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**From:** Cheryl Ernst @yahoo.com>  
**Sent:** Wednesday, September 18, 2019 5:07 PM  
**To:** BOT Meetings  
**Subject:** Testimony For OHA Meetings 9/18-19 Re: TMT

Aloha kakou

I am on the mainland this week, thus cannot attend the Board of Regents meeting, but I want to express my support for construction of the TMT.

Although I am not native Hawaiian, I have been a practitioner of hula for three decades and have great respect for the language and culture. I believe that the Hawaiian ancestors revered learning. The presence of the adz quarry on the mouna is clear evidence that they were not averse to using the resources of the mountain in service of humans.

I believe in righting past wrongs inflicted upon the Native Hawaiian community, but I don't believe stopping TMT does that.

Thank you for listening.  
Cheryl Kekahipuuwaialoha Ernst

## Dayna Pa

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**From:** KN Murayama @hotmail.com>  
**Sent:** Thursday, September 19, 2019 10:02 AM  
**To:** BOT Meetings  
**Subject:** Testimony For OHA Meetings 9/18-19 Re: TMT

My name is Karen Murayama, and I would like to submit this testimony in support of TMT as a parent, teacher, and community member.

I was first introduced to the TMT project as a parent of two children who successfully completed their education going through the public schools in the Waiakea Complex, when my son's robotics team was asked to volunteer in sign waving for TMT.

Since that first event, as a concerned parent and community member, I followed news of various community meetings and observed the process that TMT went through to apply for and receive approval to build atop Maunakea — respectful, professional, open, responsible, caring, dedicated are some of the adjectives that I would use to describe what I saw in TMT's efforts to show their commitment to establishing a presence in our Big Island community. They have never waived from this, that they want to be considered part of our community, aware of and caring about the economic, educational and vocational needs, as well as possibilities, of our island.

As a parent and an educator, I have appreciated greatly TMT's commitment to participation in helping strengthen educational opportunities for our students — both of my children, and my students, have been able to participate in various STEM and robotics activities/projects/competitions that TMT helped to make available via generous financial support through grants, scholarships, and sponsorship of educational events. My son, who was able to travel to Japan three times as a high school robotics team member, successfully participating in Microbots competition and other Japan-based events. All of these experiences helped support my son in his learning and decisions that led to his graduating from Seattle University w/ a degree in electrical engineering, and his current job as design engineer at Kensworth Trucks based in Kirkland, WA.

Note that he had to “go away” to access these post-highschool opportunities — and I can only imagine what opportunities might be made available for other students/individuals, if TMT were able to really participate in this Big Island community they they've been so earnestly and patiently waiting to be a part of.

I share my disappointment in seeing TMT being pushed away, being made to feel that they are somehow “the enemy” here, when in fact the rightful target of distrust and defensive position of those against the project is our government, and those who in the past were in charge of decision-making re the care of our Maunakea, our aina.

This current situation re access to Maunakea has to do w/a past that TMT had no role in, and I feel that they should not be held accountable for, nor should be used as a scapegoat at this time, but rather they should be looked at and appreciated for their modeling of “the right way” of requesting and planning for anything that is done on our Maunakea.

TMT should also be appreciated for giving us the opportunity to let our Govt know that changes need to be made NOW in how decisions are made w/ the use of any/all land, AND w/decisions there must be follow-through w/ making sure things are done as agreed, and not left to get forgotten, causing a breakdown in commitment and damage to whatever is left undone/forgotten.

As an educator, I am very concerned at the potential loss of resources and support, should TMT be pushed out from our community, our island.

Thank you for this opportunity to share my concerns for and ultimate support of TMT being allowed to build on Maunakea. They have truly done everything—over and beyond—that they were asked/required to do, to apply for this project permission, and should NOT be penalized for something they truly had no part in causing.

We need to find a way to bring together our community members and all decision-making grps that affect the care of Maunakea, and there must be a true focus on what is best, and how best to take care of Maunakea while allowing it to be the shining symbol of Hawaii's amazing respectful ties to culture, science, and environment.

Thank you again for your time and consideration of my testimony.

Respectfully submitted,

Karen N. Murayama

Sent from my iPhone



Nā Lau'ō o Ka'akepa  
KAPONO  
Leila Kealoha, President/Chair

Pahoa, HI 96778

[@gmail.com](mailto:leila.kealoha@gmail.com)

[@gmail.com](mailto:leila.kealoha@gmail.com)

Board of Trustees  
Office of Hawaiian Affairs  
Colette Y. Machado, *Chairperson*  
Brendon Kalei'āina Lee, *Vice Chairperson*  
Leina'ala Ahu Isa, *At-Large*  
Dan Ahuna, *Kaua'i ame Ni'ihau*  
Kalei Akaka, *O'ahu*  
Keli'i Akina, *At-Large*  
Carmen Hulu Lindsey, *Maui*  
Robert K. Lindsey Jr., *Hawai'i Island*  
John Waihe'e IV, *At-Large*

September 19, 2019

Aloha mai e OHA Board of Trustees,

We, Nā Lau'ō o Ka'akepa and KAPONO (501c3) of Puna, Hawaii Island, are submitting testimony asking for the support of OHA for the recovery efforts of Pohoiki boat ramp and our lawai'a. The closure of this ramp due to the 2018 Kīlauea eruption has put a stop on the livelihoods and sustenance of our local fishers and economy. This ramp is responsible for 30% of our states catch which a major reflection into the loss of revenue and sustainability of the Pohoiki fishing community. It is imperative that we receive your support with the recovery efforts to open the boat ramp again as an immediate solution to address this need, in conjunction with DLNR/DOBOR (Division of Natural Resources, Division of Boating and Ocean Resources).

We are requesting that 10% of the revenues that you folks, OHA receives from Puna Geothermal Venture (PGV) that is based in our community, be used for the immediate solution to open up the Pohoiki boat ramp and KAPONO efforts. We, the community, do not see any of the money that comes from this revenue source and are requesting that these monies be placed back into our community. We, the beneficiaries of the Puna Community and the lawai'a of the area look forward to working with you to ensure that this can occur.

Also, we are not in support of any spaceport being placed near any wahi pana sacred to our people. The area in question is near Hā'ena an extremely sacred wahi pana to our hula community. This is where the first Hula occurred and is where the suns first hot red breathe touches anywhere in our pae 'āina which is why it's named so. Not to mention this area is the muliwai to millions of fresh water on a daily basis. Contamination from this project will affect the surrounding ocean and coastal resources as well. It is in the best interest of OHA to support the voices of the local community in not allowing for this project to happen. We appreciate your consideration of our requests and want to ensure that the voices of our people are heard and don't fall upon deaf ears.

Mahalo nui.  
Nā Lau'ō o Ka'akepa  
KAPONO

Office of Hawaiian Affairs  
Board of Trustee Meeting  
November 21, 2019  
9:30 am

VI. New Business

- A. Presentation of an OHA Resolution honoring the life and contribution of Larry Kamakawiwo'ole to the Native Hawaiian community and other marginalized communities in Hawai'i.



**“HONORING THE LIFE AND CONTRIBUTIONS  
OF LARRY KAMAKAWIWO‘OLE TO THE  
NATIVE HAWAIIAN COMMUNITY AND  
OTHER MARGINALIZED COMMUNITIES  
IN HAWAI‘I”**

**WHEREAS**, Lawrence “Larry” Kamakawiwo‘ole was born in May 1943 in Honolulu, O‘ahu, to William Kamakawiwo‘ole, a bus instructor and dispatcher for the Honolulu Rapid Transit Company, and Wenonah Kamakawiwo‘ole, a substitute elementary teacher; and

**WHEREAS**, Larry Kamakawiwo‘ole was raised in Pālama and ‘Ālewa, attending area public elementary schools before enrolling at Kamehameha Schools, where he graduated from high school in 1961; and

**WHEREAS**, Mr. Kamakawiwo‘ole earned an undergraduate degree from the University of Hawai‘i; master’s degrees from Pacific School of Religion in Berkeley, and the University of Hawai‘i; and a law degree from the Georgetown University Law Center; and

**WHEREAS**, Mr. Kamakawiwo‘ole had a long and distinguished professional career, serving as the first full-time director of the Ethnic Studies Program at the University of Hawai‘i at Mānoa, a deputy prosecutor for the City and County of Honolulu, and a special deputy attorney general to the Department of Commerce and Consumer Affairs; and

**WHEREAS**, Mr. Kamakawiwo‘ole played an indispensable role in the Hawaiian Renaissance, an unprecedented political movement of environmental consciousness and appreciation for native culture and language; and

**WHEREAS**, upon returning from Berkeley in the 1970s, he employed the community organizing skills he learned in graduate school to protest Kamehameha Schools Bishop Estate’s evictions of residents and farmers in Kalama Valley, a seminal land struggle that would help to launch the Hawaiian Renaissance and spark two decades of Hawaiian political activism and cultural renewal; and

**WHEREAS**, he was a founding organizer and spokesperson for Kōkua Kalama Valley and later Kōkua Hawai‘i, which sought to keep special Hawaiian communities intact and uphold basic human rights in housing for the poor and disenfranchised; and

**WHEREAS**, he and the other leaders and organizers of Kōkua Hawai‘i broadened the conversation on human rights and housing to include the planned evictions of several other communities in Hawai‘i, such as Ota Camp, Waiāhole-Waikāne, He‘eia Kea, Waimānalo, Chinatown, Hālawa Housing and “Census Tract 57” in Kalihi; and

**WHEREAS**, these leaders established a legacy of peaceful protest and civil disobedience that reshaped Hawai‘i’s laws to recognize the rights of the disenfranchised, including Native Hawaiians, immigrants, and the poor; and

**WHEREAS**, Mr. Kamakawiwo‘ole’s tireless work also helped to lay the foundation for the 1978 Constitutional Convention, the state Office of Hawaiian Affairs, and the Native Hawaiian Legal Corporation, among other institutions, that continue to uphold his vision of social justice for Native Hawaiians; and

**WHEREAS**, with the recent passing on October 9, 2019, of Mr. Lawrence “Larry” Kamakawiwo‘ole, Hawai‘i has lost a leader and community advocate who helped to shape the future of Hawai‘i and the social fabric of our islands; now, therefore,

**BE IT RESOLVED**, that the OHA Board of Trustees expresses its appreciation for the lifelong leadership and advocacy of Lawrence “Larry” Kamakawiwo‘ole, the first full-time chair of Ethnic Studies at the University of Hawai‘i, and a native son of Hawai‘i who led the formation of Kōkua Hawai‘i and who embraced and dedicated himself to protecting the poor and disenfranchised; and

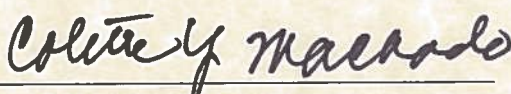


## A Resolution of the Office of Hawaiian Affairs

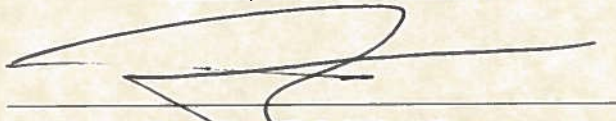
**BE IT FURTHER RESOLVED**, that the OHA Board of Trustees expresses its gratitude and sends its aloha to the late Mr. Kamakawiwo'ole's 'ohana and other leaders and community organizers of Kōkua Hawai'i and their associates for their pivotal work in nurturing mutual respect and collaboration between disenfranchised cultures and communities in Hawai'i and the Pacific; and

**BE IT FURTHER RESOLVED**, that certified copies of this Resolution be transmitted to the 'ohana of Larry Kamakawiwo'ole; the Department of Ethnic Studies, College of Social Sciences, University of Hawai'i at Mānoa; Hawai'inuiākea School of Hawaiian Knowledge and the Pelekikena of the Association of Hawaiian Civic Clubs.

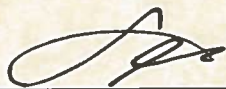
**ADOPTED** this 7th day of November 2019, island of O'ahu, State of Hawai'i, by the Board of Trustees of the Office of Hawaiian Affairs in its regular meeting assembled.



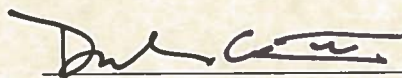
**Colette Y. Machado**  
Ke Kauhuhu, Chairperson,  
Trustee, Moloka'i and Lāna'i



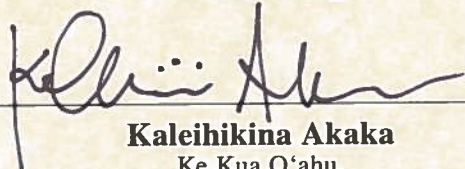
**Brendon Kalei'aina Lee**  
Ka Hope Kauhuhu, Vice Chair,  
Trustee, At-Large



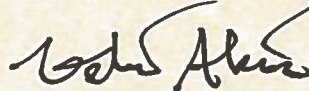
**Leina'ala Ahu Isa, Ph.D.**  
Ke Kua Pae Mokupuni,  
Trustee, At-Large



**Dan Ahuna**  
Ke Kua Kaua'i ame Ni'ihau  
Trustee, Kaua'i and Ni'ihau



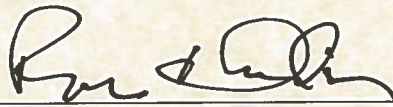
**Kaleihikina Akaka**  
Ke Kua O'ahu,  
Trustee, O'ahu



**Keli'i Akina, Ph.D.**  
Ke Kua Pae Mokupuni,  
Trustee, At-Large



**Carmen Hulu Lindsey**  
Ke Kua Maui,  
Trustee, Maui



**Robert K. Lindsey**  
Ke Kauhuhu, Chairperson,  
Trustee, Hawai'i



**John D. Waihe'e IV**  
Ke Kua Pae Mokupuni,  
Trustee, At-Large



Date:

November 7, 2019

Office of Hawaiian Affairs  
Board of Trustee Meeting  
November 21, 2019  
9:30 am

VII. Executive Session‡

- A. Consultation with Board Counsel Robert G. Klein, Esq. and Corporation Counsel Raina Gushiken, Esq. regarding questions and issues pertaining to the Board's duties, powers and privileges regarding the consideration of the terms of the contract to be offered to the OHA CEO. *HRS §92-5(a)(4)*.

\* - *Any material that is relevant to this section will be distributed at the table during Executive Session.*



Office of Hawaiian Affairs  
Board of Trustee Meeting  
November 21, 2019  
9:30 am

VI. New Business

C. Committee on Resource Management

1. Action Item RM #19-18: Approval of Reimbursement Proposal from State Street Bank for Inaccurate Accounting and Performance Reporting. †
2. Action Item RM #19-19: Approval of investment consultant, Segal Marco Advisors, to initiate an active core fixed Income Manager search. †
3. Action Item RM #19-20: Approval of the Non-OHA Executive Managers' Selection and Seating Process for Hi'ilei Aloha, LLC. †

† - *The Committee reports for AI RM 19-18, AI RM 19-19 and AI RM 19-20 will be forwarded to the Board of Trustees following its approval at the RM Committee Meeting scheduled for November 20, 2019.*

**OFFICE OF HAWAIIAN AFFAIRS  
MEETING OF THE  
COMMITTEE ON RESOURCE  
MANAGEMENT**

**COMMITTEE REPORT**

November 20, 2019

The Honorable Colette Machado,  
Chairperson Board of Trustees  
Office of Hawaiian Affairs

Madame Chair Machado,

The Committee on Resource Management, having met on November 20, 2019 and after full and free discussion, recommends approval of the following action to the Board of Trustees:

**To approve Administration's recommendation that the BOT approve the reimbursement agreement between State Street Bank and OHA and authorize the Interim Chief Executive Officer to execute the Confidential Settlement and Release Agreement attached here to as Attachment F.**

Relevant attachments are included for your information and reference. Attachment(s):

- 1) Action Item RM #19-18
- 2) RM Roll Call Vote Sheet



Respectfully submitted:



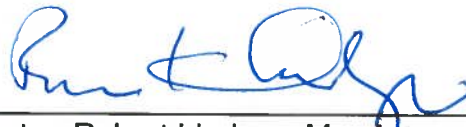
Trustee Dan Ahuna, Chair

*Excused*

Trustee Kalei Akaka, Member



Trustee Leina'ala Ahu Isa, Member



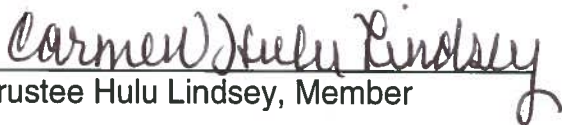
Trustee Robert Lindsey, Member



Trustee Keli'i Akina, Member



Trustee Colette Machado, Member



Trustee Hulu Lindsey, Member



Trustee John Waihe'e, IV, Member



Trustee Brendon Lee, Member

Office of Hawaiian Affairs  
560 N Nimitz Hwy. Ste. 200  
Honolulu, HI 96817

**Action Item**

**COMMITTEE ON  
RESOURCE MANAGEMENT (RM)**

**DATE:** Nov. 20, 2019  
**Motion:**  
**Vote:**

**AGENDA ITEM: III. NEW BUSINESS**

**B. Action Item RM #19-18: Approval of Reimbursement Proposal from  
State Street Bank for Inaccurate Accounting and Performance Reporting.**

**MOTION:** To approve Administration's recommendation that the BOT approve the reimbursement agreement between State Street Bank and OHA and authorize the Interim Chief Executive Officer to execute the Confidential Settlement and Release Agreement attached here to as Attachment F.

**AMENDMENT:**

**MEANS OF FINANCING:**

TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (2 kanalua's =ABSTENTION)	EXCUSED
LEI	AHU ISA			X			
KALEI	AKAKA						EXCUSED
KELI 'I	AKINA			X			
BRENDON	LEE			X			
HULU	LINDSEY			X			
ROBERT	LINDSEY			X			
COLETTE	MACHADO		2	X			
JOHN	WAIHE'E	1		X			
CHAIR DAN	AHUNA			X			
<b>TOTAL VOTE COUNT</b>				8			

**MOTION:** [ ] UNANIMOUS [X] PASSED [ ] DEFERRED [ ] FAILED

**DISCUSSION:**


# OFFICE OF HAWAIIAN AFFAIRS

## Action Item

### Committee on Resource Management

November 20, 2019

RM - # 19-18

**Action Item Issue:** Approval of Reimbursement Agreement between State Street Bank and the Office of Hawaiian Affairs for Inaccurate Accounting and Performance Reporting

**Prepared by:**



11/8/19

Raymond Matsuura, CFA

Date

Pou Kako'o Mahele Kumupa'a, Investment Manager

**Reviewed by:**



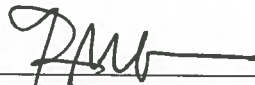
11/8/19

Gloria Li,

Date

Ka Pou Kihi Kanaloa Wai Kūikawā, Interim CFO

**Reviewed by:**



11/8/19

Raina P.B. Gushiken,

Date

Ka Paepae Puka, Senior Corporate Counsel

**Reviewed by:**



11/12/19

Lisa Watkins-Victorino, PH.D

Date

Ka Pou Nui Kūikawā, Interim COO

**Reviewed by:**



11/12/19

Sylvia M. Hussey, ED.D

Date

Ka Pouhana Kūikawā, Interim CEO

**Approved by:**



11/13/19

Trustee Dan Ahuna,

Date

Luna Ho'omalua Komike, RM Chairperson

**I. Proposed Action:**

Administration recommends the Board of Trustees (BOT) approve the reimbursement agreement between State Street Bank (State Street) and the Office of Hawaiian Affairs (OHA) for inaccurate accounting and performance reporting.

**II. Issue:**

Whether or not the BOT should approve the reimbursement agreement between State Street and OHA for incorrect accounting and performance reporting.

**III. Background:**

On February 13, 2017, OHA Investment staff executed its semi-annual rebalancing of the Native Hawaiian Trust Fund (NHTF) which involved the newly funded State Street Global Advisor (SSGA) index mutual funds that previously replaced the Goldman Sachs Asset Management (GSAM) funds. Part of the rebalancing transactions included: 1) the sale of \$4mm of the Standard & Poor's 500 Index mutual fund; 2) the sale of \$4mm of the ACWI Ex-US Index mutual fund; and 3) the purchase of \$8.1mm of the Aggregate Bond Index mutual fund. Unfortunately, the transactions for the three SSGA mutual funds were not reported to State Street from SSGA and remained unrecorded by State Street in the accounting/performance reports when the second semi-annual rebalancing was done in September 2017. The failure to record the rebalancing transactions by State Street Bank from SSGA was not recognized sooner due to lack of experience in operational procedures by the relatively new investment staff. In a memo to the Chief Financial Officer (CFO), David Laeha, dated March 1, 2018, Investment staff explained in depth the rebalancing requirements, monitoring oversight, actions taken to remedy the error and the preventative measures recommended (Attachment A). Since then, the following preventative measures have been implemented by OHA: SSGA is required to notify all impacted parties on transfer of funds, Investment Staff works with Accounting Manager on reconciling inter-fund transfers and tie-out custodian statements with investment manager monthly reports.

At the same time, State Street was notified of the reporting discrepancy and the error was escalated to Lauren Atkins, Vice President, for a resolution. A summary of the events from State Street was emailed to the CFO on April 23, 2018 (Attachment B).

Segal Marco Advisors also identified this discrepancy in the performance reports during their work as the new replacement for State Street performance reporting in late 2017.



## Action Item #19-18 State Street reimbursement agreement

OHA began running parallel reports and terminated State Street performance reporting in November of 2018.

After numerous discussions and proposals for reimbursement from May to August 2018 for this error, Lauren Atkins provided a letter to the CFO, dated September 9, 2018 outlining the summary of events and the impact (Attachment C). By this time OHA's investment consultant, Glenn Ezard, had left Segal Marco Advisors and the new consultant, John Marco, suggested that one of his colleagues, Rosa Lima, attempt further negotiations. State Street had acknowledged the realized loss from the sale of \$5mm of the \$8.1mm purchased in the Aggregate Bond Fund was a reimbursable expense. Subsequently, the remaining \$3.1mm was sold at the next rebalance in November 2018. Additional line item errors on the performance report were identified and summarized in the letter dated March 18, 2019 whereby State Street proposed a reimbursement to OHA in the amount of \$326,327. 50 (Attachment D).

When the initial State Street reporting error was discovered, OHA stopped payment on all outstanding invoices and decided not to pay until the issue was formally settled. During this period the custody and performance reporting (until terminated) expense continued to accumulate but has not exceeded the amount OHA is owed by State Street. An email from Jessica Baker, Vice President, summarized the outstanding invoices (Attachment E).

### **IV. Discussion:**

Numerous discussions have taken place between OHA and State Street over this matter. State Street acknowledged its mistakes but did not admit to any liability or wrongful conduct and has taken a narrow view of what costs should be reimbursed to OHA by State Street. A change in custodian may be warranted in the future, but is not being recommended as part of this action item at this time.

### **V. Analysis:**

State Street limited the amount of reimbursement to realized losses incurred by OHA and line item errors on the performance report.

## Action Item #19-18 State Street reimbursement agreement

	Base Net Amount	Shares	Base Unit Price 9/8/17	Base Unit Price 9/8/18	Loss
State Street Aggregate Bond Index	\$ 5,000,000	520,833.333	9.97	9.6	\$ (192,708.33)
State Street Aggregate Bond Index	\$ 3,100,000	322,916.667	9.97	9.6	\$ (119,479.17)
	\$ 8,100,000				\$ (312,187.50)
<b>Performance fee reimbursement:</b>					
Impacted Aggregates		8		625	\$ 5,000.00
Impacted Composites		4		1000	\$ 4,000.00
Board Report		1		5000	\$ 5,000.00
Refund for inaccurate AUM bill					\$ 140.00
					\$ 14,140.00
<b>Total:</b>					<b>\$ 326,327.50</b>

### VI. Recommended Action:

Administration recommends the BOT approve the reimbursement agreement between State Street Bank and OHA and authorize the Interim Chief Executive Officer to execute the Confidential Settlement and Release Agreement attached hereto as Attachment F.

### VII. Alternative Action:

Decline to approve the reimbursement agreement between State Street and OHA.

### VIII. Time Frame:

Immediate action is recommended to settle this outstanding issue from February 2017.

### IX. Attachments:

Attachment A - Summary memo to CFO from Investment Manager (3/1/18).

Attachment B - Summary memo to CFO from State Street Bank (4/23/18).

Attachment C - Updated summary memo to CFO from State Street Bank (9/9/19).

Attachment D - State Street reimbursement proposal (3/18/19).

Attachment E - State Street email summary of outstanding invoices (9/25/19).

Attachment F - Confidential settlement and release agreement.



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OFFICE OF HAWAIIAN AFFAIRS  
Interoffice Memorandum

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Date: March 1, 2018

To: David Laeha, Ka Pou Kihi Kanaloa Wai, Chief Financial Officer

From: Ray Matsuura, Pou Kāko‘o Mahele Kumupa‘a, Investment Manager

Subject: **Enhanced Liquidity Account Semi-Annual Rebalancing September Discrepancy**

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**Background:**

On September 7, 2017 OHA Staff issued letters of directions to rebalance the NHTF. This rebalancing was intended to realign the portfolio back to its strategic target and also to consolidate funds in order to reduce fees. The process consisted of two main components. The first was a consolidation of accounts, and the second was to transfer funds. OHA's passive real asset fund ("HWA5") of \$7.8M was to be consolidated into the Enhanced Liquidity Account ("ELA"). OHA's other passive US Govt Bond Index ("HWA4") of \$6M was also to be consolidated into ELA. The mutual fund trades consisted of two redemption transaction of \$8.9M, totaling \$17.8M, from two of State Street Global Advisors' ("SSGA") S&P 500 fund and Global Equity ex-US fund. A buy transaction of \$14.8M to SSGA's Aggregate bond fund. A wire of the remaining \$3M to ELA.

The wire of \$3M ultimately did show up in the accounting statement. Attached are the transaction tickets highlighting each transaction. The rebalancing was completed; however, the composite reports provided by State Street Bank did not reflect the expected changes in market value. As the market values in the composite reports are used for the rebalancing of the portfolio, OHA Staff did not recognize the discrepancy until February 2018. Coupled with this discrepancy in the composite reporting, the accounting statements issued by State Street Bank did not reflect the changes in the rebalancing of the portfolio. The only evidence of the rebalancing was the wire transfer of \$3M into ELA. This was identified by our Accounting Manager who started in January. The Analyst and Accounting Manager both worked with SSGA and State Street Bank to resolve the issue. The investment consultant had also identified the discrepancy around the same time and was working with both State Street Bank and SSGA as well, unknowingly to OHA Staff. Upon further investigation an earlier transaction between the mutual funds had occurred, on February 13, 2017 OHA Investment Staff issued letters of directions to rebalance mutual funds invested with SSGA. The transaction were two redemptions of SSGA's S&P 500 fund and Global Equity ex-US fund of \$4M totaling \$8M and a purchase of SSGA's Aggregate bond fund of \$8M. Currently, OHA

Staff and the investment consultant are now working together with SSGA and State Street Bank to have the issue resolved with the expectation of having accounting statements reissued, composite report reissued, and including new procedures ensuring that this issue would not occur again.

It is OHA Investment Staff's responsibility to monitor the performance of the NHTF and review reporting prepared by the consultant, custodian, and advisors. OHA Investment Staff failed to identify the differences in market value focusing on returns generated by funds and do not currently receive reporting by SSGA on the passive portfolio. Going forward, OHA Investment Staff will follow up after a rebalance to ensure that market values are properly reflected on the composite reports. Staff is also currently working with SSGA to receive performance and market value reporting on the passive portfolio. Accounting statements generated by the custodian will be sent over a month after the close of the previous month (ie, January statements are provided to OHA by March). The Accounting Manager had identified the \$3M wire from the statement with no previous transaction and brought the issue to the analyst who worked with both SSGA and State Street Bank to resolve, which began the investigation into the issue that ultimately resulted in identifying this discrepancy. Going forward, we will continue to work closely with the accounting team when investment statements are provided and will prioritize any issues immediately.

OHA is currently seeking an explanation on the reason for the mutual fund transactions not appearing in the accounting or composite custodian reports. The process normally begins with SSGA providing activity statements to State Street Bank who will record the transactions into its accounting system. The State Street performance team will take the performance statement sending it to OHA. As SSGA and State Street Bank are both under the State Street Corporation, staff is surprised by the lack of communication between both organizations.

On March 9, OHA met with representatives from the three parties involved with the discrepancy (State Street Bank, State Street Performance, and SSGA). Access between SSGA and State Street Bank for reporting statements did not exist between the organizations. SSGA has provided the performance team with all transactions from inception and has ensure that statements will be received sent by SSGA to both State Street Bank and Performance for reconciliation. State Street Performance will have re-issued performance statements provided to OHA and State Street Bank will provide a Net Asset Value ("NAV") reinstatement letter. OHA and Segal will be monitoring the progress of State Street's deliverables and receive updates.

**Recommendation:**

1. OHA Investment Staff will include the accounting manager in the process of the transfer between funds.
2. OHA Investment Staff will reconcile transfers of funds to custodian statements.
3. SSGA will notify all parties on the transfer of funds.
4. Accounting manager will verify the transfer within the accounting bank statement provided the custodian.

RM:dz





**April 23, 2018**

David Laeha  
Office of Hawaiian Affairs  
560 N. Nimitz Highway, Suite 200  
Honolulu, HI 96817

Dear Mr. Laeha,

This is a summary of the SSgA transactions which occurred in February 2017 and September 2017 for which State Street Bank and Trust Company ("State Street") did not receive monthly statements.

**High Level Summary:**

During the months of February 2017 and September 2017, State Street did not receive statements from SSgA for three of the Office of Hawaiian Affairs ("OHA") SSgA investments and as a result, the transactions related to a rebalance were not captured on State Street's monthly accounting reports delivered to OHA. This resulted in incorrect performance reporting for February 2017 through December 2017.

**Business Areas Impacted:**

Performance, Custody and Accounting

**Impact Analysis:**

Total Plan Impacts			
Effective Date	Old Return	Revised Return	Difference in Bps
JAN-2017	1.523664	1.524	0.000
FEB-2017	1.465369	1.458	-0.008
MAR-2017	0.942673	0.908	-0.034
APR-2017	1.007149	0.989	-0.018
MAY-2017	1.055982	1.016	-0.040
JUN-2017	0.71007	0.698	-0.012
JUL-2017	1.910977	1.852	-0.059
AUG-2017	0.63912	0.651	0.012
SEP-2017	1.505011	1.344	-0.161
OCT-2017	1.096891	0.950	-0.146
NOV-2017	1.396749	1.257	-0.140
DEC-2017	1.43268	1.363	-0.070

# STATE STREET

**Identified Resolution Solution:**

State Street's accounting group worked with SSgA to obtain electronic access to OHA's monthly statements for pricing, reinvested dividends, and transaction capture. This is designed to ensure that all transactions are captured and to guard against inconsistencies with performance reporting.

**Investigation Period Summary / Series of Events:**

- 2/13/2018 – OHA consultant Segal Marco contacts State Street Performance about HWAB SSGA mutual funds market value discrepancies. Performance redirects to Client Service because they source their information from accounting records.
- 2/13/2018 – State Street Accounting does not have manager statements. Client Service contacts SSGA client support for the manager statements. SSGA provides statements and client service sends to accounting to update the records.
- 2/21/2018 – State Street Accounting confirms the accounting records have been updated.
- 3/16/2018 – Client Service sends revised valuation letter to OHA for the accounting records and State Street Performance sends revised reports to OHA.

**Preventative/Corrective Actions:**

State Street booked the identified transactions to our accounting system to bring the shares in line for all investments. State Street's accounting group worked with State Street Performance to have the monthly performance reports rerun from February 2017 going forward and delivered this updated information to OHA. State Street's accounting group immediately reached out to SSgA to obtain electronic access to the monthly statements for the OHA funds. State Street management has reinforced the importance of pricing with statements. We have taken internal steps designed to prevent recurrence of this situation moving forward by revising the monthly statement distribution.

We apologize for any inconvenience this may have caused OHA. Please let me know if you would like any additional information.

Best Regards,



Lauren Atkins

Vice President



**September 19, 2018**

David Laeha  
Office of Hawaiian Affairs  
560 N. Nimitz Highway, Suite 200  
Honolulu, HI 96817

Dear David,

Below is State Street Bank and Company's ("State Street") response to Office of Hawaiian Affairs ("OHA") request for reimbursement related to inaccurate performance reporting for three SSgA funds in which OHA invests.

### High Level Summary

- State Street did not receive monthly transaction statements for three of OHA's SSgA investments from the initial purchase in November 2016 until February 2018. Instead, the assets on the monthly accounting records were priced using Bloomberg.
- Rebalances occurred during February 2017 and September 2017 that were not captured on State Street's monthly accounting reports.
- OHA received incorrect performance reporting for February 2017 through December 2017.

### Summary of Events

- In November 2016, OHA invested in three new SSgA registered funds: State Street Global Eq ex-US Index K, State Street Equity 500 Index K, and State Street Aggregate Bond Index K. State Street priced the assets using Bloomberg.
- On February 13, 2017 OHA traded in the three SSgA funds using State Street market values as recorded on the monthly accounting statements. The accounting market values were accurate at this time as this was the first trading activity since the initial buys.
- On September 8, 2017, OHA traded in the three SSgA funds using State Street market values as recorded on the monthly accounting statements.
- On February 13, 2018, OHA's consultant, Segal Marco, contacted State Street Performance about HWAB SSGA mutual fund's market value because the 2017 rebalance transactions were not reflected on the monthly accounting statements.
- On February 21, 2018, after receiving statements from SSGA, State Street's accounting records were updated to reflect post 9/8/17 trading values.
- On March 16, 2018, State Street sent a revised valuation letter to OHA for the accounting records and State Street Performance sent revised performance reports to OHA.
- On April 13, 2018, OHA traded \$5,000,000 out of the SSgA Aggregate Bond Index fund.
- On April 30, 2018, State Street was presented with Segal Marco's calculation and methodology capturing incidental damages claimed as a result of the incorrect performance reporting.

**Impact**

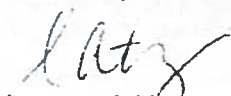
As a result of the incomplete share reconciliation there was a realized loss on the sell in the Bond fund in April 2018. That calculation is set forth below:

Security Long Name		Fund	Shares	Base Unit Price 4/12/18	Base Unit Price 9/8/17	Gain/Loss	Base Net Amount
STATE STREET AGGREGATE BOND INDEX	SELL	HWAB	520,833.333	9.60	9.97	(192,708.33)	5,000,000

State Street's calculations above are based on actual trading activity that occurred in the fund HWAB. Based on this calculation, State Street is offering to reimburse OHA in the amount of \$192,708.33.

If I can be of further assistance please feel free to reach out at 816-871-3596 or by e-mail at LJAtkins@statestreet.com.

Sincerely,



Lauren Atkins  
State Street Global Services Vice President



**March 18, 2019**

Raymond Matsuura  
Office of Hawaiian Affairs  
560 N. Nimitz Highway, Suite 200  
Honolulu, HI 96817

Dear Raymond,

We are writing to confirm State Street Bank and Company's ("State Street") response to Office of Hawaiian Affairs ("OHA") request for reimbursement related to performance reporting for three SSgA funds in which OHA invests. We previously provided a memorandum to OHA on April 23, 2018 outlining the timeline of the events surrounding the reporting and we provided a second memorandum on September 20, 2018 with a reimbursement proposal. Since that time, we have participated in multiple discussions with OHA and Segal Marco (OHA's consultant) to come to an agreement for reimbursement. Our proposal is detailed below:

### **Impact**

As a result of the incomplete share reconciliation the following has been documented:

- Realized loss on the April 2018 sell in the bond fund - \$192,708.33
- Realized loss on the November 2018 sell in the bond fund - \$119,479.17

Although we do not feel we are responsible for these losses, we would like to resolve this issue and offer a satisfactory amount given our valued relationship with OHA. Accordingly, we have reconsidered your request and would like to offer reimbursement for the above amounts, as well as the following fee credits:

- Performance fee reimbursement for 2017
  - Impacted Aggregates 8 @ 625 - \$5,000
  - Impacted Composites 4 @ 1000 - \$4,000
  - Board Report 1 @ 5000 - \$5,000
- Refund for inaccurate AUM billed in 2017 - \$140

The total proposed reimbursement to OHA is **\$326,327.50**.

This offer is not an admission of any liability or wrongful conduct by State Street. We hope that our offer is amenable and representative of our good faith effort to meet the needs of OHA. Please note that this reimbursement is contingent on OHA's payment of outstanding State Street invoices from November 2017 through the current period.



Global Services



If I can be of further assistance please feel free to reach out at 816-871-3596 or by e-mail at [LJAtkins@statestreet.com](mailto:LJAtkins@statestreet.com).

Sincerely,

A handwritten signature in dark ink, appearing to read "Lauren Atkins", written in a cursive style.

Lauren Atkins  
State Street Global Services Vice President

**Raymond Matsuura**

**From:** Baker, Jessica <[jl.baker@statestreet.com](mailto:jl.baker@statestreet.com)>  
**Sent:** Wednesday, September 25, 2019 11:22 AM  
**To:** Raymond Matsuura <[raymondm@oha.org](mailto:raymondm@oha.org)>; Raina Gushiken <[rainag@oha.org](mailto:rainag@oha.org)>  
**Cc:** Rooney, Joseph <[jcrooney@statestreet.com](mailto:jcrooney@statestreet.com)>  
**Subject:** RE: Office of Hawaiian Affairs Check In

Aloha Ray,

While we are working with our legal department on the changes to the settlement and release agreements you asked for in separating the outstanding invoices and the payment of the settlement release agreement, I wanted to follow up you in regards to the outstanding invoices listed below and when we could anticipate payment of the invoices.

Fund	Client	Invoice Number	Invoice Date	Invoice Age	Fees	OOPs	Total
HWAC	Office of Hawaiian Affairs	1608094745	10/20/2016	1069	0	691.38	\$ 691.38
HWAC	Office of Hawaiian Affairs	1711094745	1/16/2018	616	18050.57	44.12	\$ 18,094.69
HWAC	Office of Hawaiian Affairs	1712094745	3/29/2018	544	19107.15	44.31	\$ 19,151.46
HWAC	Office of Hawaiian Affairs	1801094745	6/28/2018	453	18280.61	44.36	\$ 18,324.97
HWAC	Office of Hawaiian Affairs	1802094745	7/12/2018	439	18432.49	45.44	\$ 18,477.93
HWAC	Office of Hawaiian Affairs	1803094745	7/26/2018	425	18741.97	129.13	\$ 18,871.10
HWAC	Office of Hawaiian Affairs	1804094745	8/2/2018	418	18778.58	47.12	\$ 18,825.70
HWAC	Office of Hawaiian Affairs	1805094745	8/15/2018	405	18270.01	17.62	\$ 18,287.63
HWAC	Office of Hawaiian Affairs	1806094745	10/31/2018	328	19166.02	76.69	\$ 19,242.71
HWAC	Office of Hawaiian Affairs	1807094745	11/12/2018	316	18625.78	77.74	\$ 18,703.52
HWAC	Office of Hawaiian Affairs	1808094745	12/19/2018	279	18604.17	17.42	\$ 18,621.59
HWAC	Office of Hawaiian Affairs	1809094745	12/31/2018	267	18873.58	213.53	\$ 19,087.11
HWAC	Office of Hawaiian Affairs	1810094745	1/7/2019	260	18677.64	65.79	\$ 18,743.43
HWAC	Office of Hawaiian Affairs	1811094745	1/17/2019	250	19086.58	44.64	\$ 19,131.22
HWAC	Office of Hawaiian Affairs	1812094745	7/15/2019	71	7889.96	9.62	\$ 7,899.58

**Jessica Baker, Vice President**  
 State Street Global Services | Institutional Investor Services | 801 Pennsylvania Avenue, 2nd Floor, Tower 1, Kansas City, MO 64105  
 P +1 816 871 7207 | [jl.baker@statestreet.com](mailto:jl.baker@statestreet.com)  
[www.statestreetglobalservices.com](http://www.statestreetglobalservices.com)

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## CONFIDENTIAL SETTLEMENT AND RELEASE AGREEMENT

This Confidential Settlement and Release Agreement ("Agreement") is entered into this \_\_\_\_\_ day of October 2019, by and between STATE STREET BANK AND TRUST COMPANY ("State Street") and OFFICE OF HAWAIIAN AFFAIRS ("OHA") (collectively, "the Parties").

WHEREAS, State Street and OHA are parties to a Custodian Contract dated December 31, 2010, pursuant to which State Street provides custody and accounting services to OHA, and a fee schedule dated December 31, 2010, pursuant to which State Street provides performance services to OHA;

WHEREAS, a dispute has arisen regarding performance reporting provided to OHA by State Street (the "Disagreement")

WHEREAS the Parties wish to fully and finally resolve any and all disputes between them relating to the Disagreement.

NOW, THEREFORE, the Parties agree as follows:

1. Payment. Within ten (10) business days of the payment by OHA to State Street of \$252,154.02 to satisfy outstanding custody invoices owed to State Street by OHA, State Street shall cause to be paid to OHA, by wire transfer, the sum of \$326,327.50 in full settlement of all claims or potential claims between the Parties in relation the Disagreement. State Street's obligation to pay OHA shall not take effect unless and until OHA satisfies its obligation to pay the outstanding custody invoices to State Street.
2. Release. In consideration of the foregoing, OHA on behalf of itself and its past, present, and future successors, predecessors, parents, subsidiaries, and affiliates, and the officers, directors, managers, trustees, shareholders, employees, agents, advisors, participants, beneficiaries, representatives, and attorneys of each of the foregoing (the "OHA Releasing Parties"), hereby release and forever discharge State Street, its successors, predecessors, parents, subsidiaries and affiliates, and each of the foregoing's officers, directors, managers, trustees, shareholders, employees, agents, affiliates, advisors, beneficiaries, representatives, and attorneys (the "State Street Released Parties"), from any and all claims, counterclaims, demands, damages, expenses, losses, costs, obligations, liabilities, actions, causes of action, or suits of whatever kind or nature, civil or criminal or administrative, in law or at equity or on the basis of any written or oral agreement, including any claims for contribution or indemnification arising from current or potential third party claims, which the OHA Releasing Parties now have or ever had, whether directly or in any representative capacity, relating to the Disagreement, including without limitation any claims for breach of contract, breach of fiduciary or other duty, or breach of any law, rule, or regulation relating in any way directly or indirectly to the Disagreement (collectively, the "Released Claims").
3. No Admission of Liability. This Agreement is a compromise intended to avoid any current or future disputes relating to the Disagreement between the Parties and is not an admission of any liability or

wrongful conduct by State Street, such liability or conduct being expressly denied by State Street. Further, the fact of or terms of this Agreement shall not be offered, construed, or deemed to be evidence of a presumption, concession, or admission of liability or wrongful conduct by State Street in any civil, administrative, or any other proceeding.

4. Confidentiality. The Parties agree that the terms of this Agreement are strictly confidential, and that they shall not disclose the terms to any other person or entity, except if ordered to do so by a Court of competent jurisdiction, or if disclosure is required by statute, rules, regulations, or other applicable law, or any action to enforce the Agreement. Except as provided aforesaid, the Parties agree to inform any third party that requests information about this Agreement that its terms are confidential. OHA agrees that any violation of this paragraph will cause immediate and irreparable harm and shall entitle State Street to an immediate injunction without any further showing of harm and shall also entitle State Street to whatever damages are permitted by law.

5. Choice of Law. This Agreement shall be governed by and interpreted in accordance with the laws of the Commonwealth of Massachusetts without regard to its conflict of interest provisions.

6. Sufficiency of Consideration. The Parties acknowledge that the covenants contained in this Agreement provide good and sufficient consideration for every promise, duty, release obligation, agreement and right contained in this Agreement.

7. Complete Agreement. This Agreement constitutes the entire agreement and understanding between and among the Parties regarding the matters addressed herein. No representation, promise, understanding, or agreement of any kind whatsoever regarding the matters referenced herein that is not set forth in this Agreement has been relied upon by any party or shall be valid, binding or enforceable.

8. Authority. OHA represents and warrants that he, she, or it has full power and authority to enter into this Agreement and to make the release described in Paragraph 2 on behalf of themselves and on behalf of all entities or persons described in Paragraph 2. The Parties acknowledge that this representation and warranty is a material term of this Agreement and forms the basis for the amount of the payment described in Paragraph 1.

9. Severability. If any term or provision of this Agreement is held to be invalid or unenforceable, that term or provision shall be ineffective and severable to the extent of such invalidity or unenforceability and the remaining terms and provisions shall continue in full force and effect.

IN WITNESS HEREOF, each of the Parties hereto has executed this Settlement Agreement by a duly authorized representative of such Parties

**STATE STREET BANK AND TRUST COMPANY**

---

By:

Title:

**OFFICE OF HAWAIIAN AFFAIRS**

---

By: Sylvia M. Hussey, Ed.D.

Title: Interim Chief Executive Officer

APPROVED AS TO CONTENT:

---

By: Ray Matsuura

Title: Investment Manager

APPROVED AS TO FORM:

---

By: Raina P.B. Gushiken

Title: Senior Legal Counsel



**JOINT MEETING OF THE  
COMMITTEE ON RESOURCE MANAGEMENT**

**COMMITTEE REPORT**

November 20, 2019

The Honorable Colette Machado,  
Chairperson Board of Trustees  
Office of Hawaiian Affairs

Madame Chair Machado,

The Committee on Resource Management, having met on November 20, 2019 and after full and free discussion, recommends approval of the following action to the Board of Trustees:

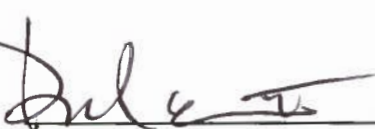
To approve Administration's recommendation that the BOT approve and authorize for investment consultant, Segal Marco Advisors, to begin a search for an active core fixed income manager.

Relevant attachments are included for your information and reference. Attachment(s):

- 1) Action Item RM #19-19
- 2) RM#19-19 Roll Call Vote Sheet

Respectfully submitted:

Respectfully submitted:




Trustee Dan Ahuna, Chair



Trustee Kalei Akaka, Member



Trustee Leina'ala Ahu Isa, Member



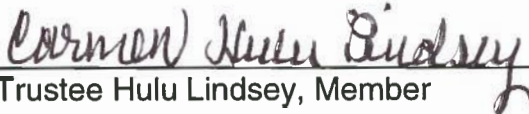
Trustee Robert Lindsey, Member



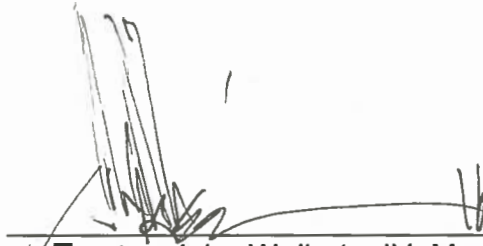
Trustee Keli'i Akina, Member



Trustee Colette Machado, Member



Trustee Hulu Lindsey, Member



Trustee John Waihe'e, IV, Member



Trustee Brendon Lee, Member

**OFFICE OF HAWAIIAN AFFAIRS**  
**Action Item**

**Committee on Resource Management**  
November 20, 2019

**RM - # 19-19**

**Action Item Issue:** Approval for investment consultant, Segal Marco Advisors, to initiate an active core fixed income manager search.

**Prepared by:**



11/7/19

Raymond Matsuura, CFA  
Pou Kako'o Mahele Kumupa'a, Investment Manager

Date

**Reviewed by:**

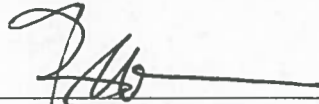


NOV 07 2019

Gloria Li,  
Ka Pou Kihi Kanaloa Wai Kūikawā, Interim CFO

Date

**Reviewed by:**



November 7, 2019

Raina P.B. Gushiken,  
Ka Paepae Puka, Senior Corporate Counsel

Date

**Reviewed by:**

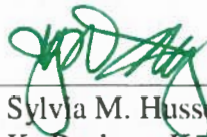


11/8/19

Lisa Watkins-Victorino, PH.D  
Ka Pou Nui Kūikawā, Interim COO

Date

**Reviewed by:**



11/12/19

Sylvia M. Hussey, ED.D  
Ka Pouhana Kūikawā, Interim CEO

Date

**Approved by:**



11/13/19

Trustee Dan Ahuna,  
Luna Ho'omalua Komike, RM Chairperson

Date

Action Item #19-19- Approval for investment consultant to initiate an active core fixed income manager search.

**I. Proposed Action:**

Administration recommends the Board of Trustees (BOT) approves Segal Marco Advisors to begin the search process for an active core fixed income manager.

**II. Issue:**

Whether or not the BOT should approve the recommendation to begin the search to hire an active core fixed income manager to replace the current State Street Global Advisors (SSGA) Aggregate Bond Index mutual fund (SSFEX) and Commonfund Western Asset Management Company (WAMCO) high yield bond fund.

**III. Background:**

Market research reveals inefficiencies in the fixed income markets which presents opportunities for active management to add value over passive investment in an index fund. Incorporating an active global bond strategy could increase potential earnings while minimizing marginal risk.

OHA's passive investment in SSFEX was made with the proceeds from the termination of Goldman Sachs Asset Management (GSAM) fund management in October 2016. The market value of the fund as of June 30, 2019, is \$27.2 mm. The fund has been primarily a source of income and liquidity within the Native Hawaiian Trust Fund (NHTF). The BOT recently approved an amendment to the Investment Policy Statement (IPS) to update the investment manager selection process (Action Item #19-13). The adoption of the current IPS allows for broader search for investment managers by the consultant.

The two active managers for the NHTF, JP Morgan and Commonfund, both have fixed income strategy mandates. JP Morgan (\$28.5 mm) has a broad global multi-sector discretionary strategy. Commonfund is limited to investment in the WAMCO short-duration high yield fund (\$5.9 mm). This allocation was from a previous hedging strategy to invest in private credit funds.

Action Item #19-19- Approval for investment consultant to initiate an active core fixed income manager search.

Total NHTF as of June 30, 2019: \$383,890,461

<u>Manager</u>	<u>Allocation</u>	<u>Pct.</u>
JP Morgan Fixed Income Funds (Consolidated)	\$28,842,656	7.5%
State Street Aggregate Index Fund	\$27,215,581	7.1%
Commonfund (WAMCO)	\$5,965,355	1.6%
Total Global Fixed Income	\$62,023,592	16.2%

#### **IV. Discussion:**

The recommendation is to add a core fixed income manager for the NHTF to achieve a higher rate of return. The current allocation to fixed income is 16.2% of the NHTF. It is expected that the new manager will replace SSFEX which is comparable to JP Morgan's current target weighting of 7.5%. Funding is also expected to come from liquidating the WAMCO fund.

Total manager fees are expected to increase marginally with this transaction. However, it is also anticipated that, on a net-of-fees basis, the active strategy will outperform the passive index fund over the longer term. As a reminder, the consultant receives no commission or fee for their manager recommendation and the BOT retains the option to not approve any of the managers presented.

#### **Analysis:**

Unlike equity index funds, market studies have shown that there are greater inefficiencies within the global bond markets with active management having greater potential to outperform the broader fixed income indices. Active fixed income managers have more flexibility for decisions regarding the direction of rates, credit quality, and sector over/under weights relative to a broad index fund. Please refer to attachment A for Segal Marco Advisors analysis/recommendation. A more technical research paper on active versus passive management from PIMCO is also provided (attachment B).

#### **V. Recommended Action:**

To approve and authorize Segal Marco Advisors to begin a search for an active core fixed income manager.



Action Item #19-19- Approval for investment consultant to initiate an active core fixed income manager search.

**VI. Alternative Action:**

- A. Decline to approve and authorize Segal Marco Advisors to begin a search for an active core fixed income manager.
- B. Approve and authorize another entity.
- C. Take no action.

**VII. Time Frame:**

Immediate action is recommended. If approved, Segal Marco Advisors will begin the manager search immediately.

**VIII. Attachments:**

Attachment A - Segal Marco Advisors active fixed income management recommendation.

Attachment B - PIMCO research report on active versus passive in fixed income market.

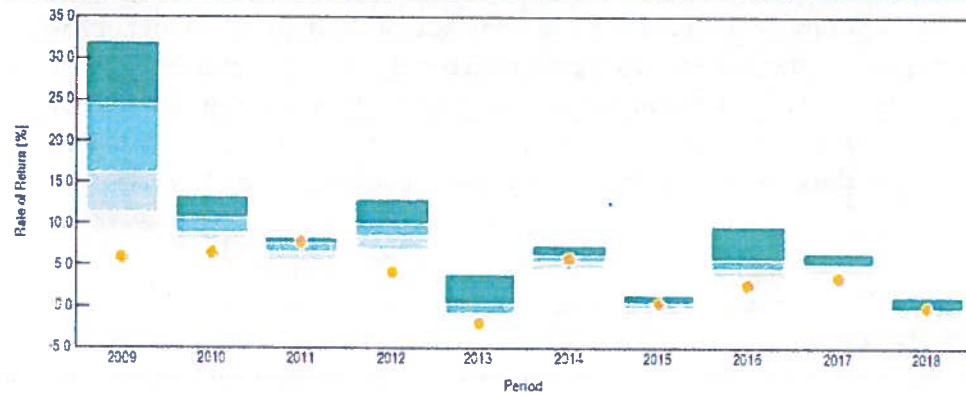
We (Segal Marco Advisors) recommend active management in the core fixed income markets. The Aggregate Index is constructed by allocating to sectors based on the total amount of borrowers rated BBB or better in the US. The result is that the index is nearly 70% government issued and government backed bonds which are currently near historically low yields. Active managers, particularly "Core Plus", have shown a strong track record of being able to outperform the index (net of fees). "Core Plus" managers invest in the same bonds represented by the core index plus they can put up to a certain percentage (often 25-35%) of bonds in sectors such as international, below investment grade (BB or lower), and unrated securities. It is important to note that the managers have the flexibility to go down to 0% in any of the given plus sectors when market conditions aren't favorable.

Please see below showing the performance of the Core Plus Fixed Income Universe vs the Aggregate Index as of 12/31/18. Each time period includes investable active manager products. While in any given calendar year can yield differing results, the long term numbers show that more than 72% or more of that universe has outperformed the index in the trailing 3, 5, 7, & 10 year annualized periods.

Due to this demonstrated ability to outperform the index over long periods of time, we recommend replacing the SSFEX and WAMCO investments with a "Core Plus" fixed income manager.



eV US Core Plus Fixed Inc-Not Return Comparison  
Ending December 31, 2018



	Return (Rank)									
5th Percentile	32.0	13.3	8.2	13.0	3.9	7.4	1.4	9.7	6.5	1.3
25th Percentile	24.5	10.8	7.7	10.1	0.4	6.2	0.5	5.8	5.2	-0.2
Median	16.1	8.3	6.7	8.6	-0.8	5.5	-0.1	4.6	4.7	-0.6
75th Percentile	11.4	7.9	5.6	6.9	-1.2	4.7	-0.8	3.7	4.2	-1.0
95th Percentile	8.7	6.6	3.0	4.9	-2.0	3.9	-2.4	2.5	3.5	-1.7
# of Portfolios	68	61	54	64	85	71	71	84	33	77
BBgBarc US Aggregate TR	5.9 (99)	6.5 (95)	7.8 (17)	4.2 (96)	-2.0 (96)	6.0 (35)	0.5 (22)	2.6 (93)	3.5 (95)	0.0 (21)

April 2017

# Bonds Are Different: Active Versus Passive Management in 12 Points

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*Opinions in the active-passive investment debate have drifted poles apart over recent years. We revisit this discussion by contrasting equity and fixed income markets in the U.S. We look at performance numbers and find that, unlike their stock counterparts, active bond mutual funds and exchange-traded funds (ETFs) have largely outperformed their passive peers after fees. We offer conjectures as to why bonds are different from stocks. This may be due to the large proportion of noneconomic bond investors, the benchmark rebalancing frequency and turnover, structural tilts in fixed income space, the wide range of financial derivatives available to active bond managers, and security-level credit research and new issue concessions. At a macro level, we believe that a purely passive market would cause severe market risk and resource misallocations. Realistically, neither passive nor active investors can fully dominate at equilibrium. Of course, passive management has its virtues. Yet there is reason to believe that, unchecked, passive management may encourage free riding, adverse selection and moral hazard.*

### POINT #1 – ACTIVE BOND FUNDS AND ETFS LARGELY OUTPERFORMED THEIR MEDIAN PASSIVE PEERS

Despite the general presumption of underperformance, more than half of the active bond mutual funds and ETFs beat their median passive peers in most categories over the past 1, 3, 5, 7 and 10 years, with 63% of them outperforming over the past 5 years. In contrast, only 43% of active equity mutual funds and ETFs outperformed their median passive peers over the past 5 years. Taking the three largest categories within fixed income for the same 5-year period, 84%, 81% and 60% of active funds and ETFs outperformed their median passive peers in intermediate-term, high yield and short-term categories, respectively. Within equity, most active funds and ETFs in each of the three largest categories – large growth, large blend and large value – underperformed (see Figure 1).

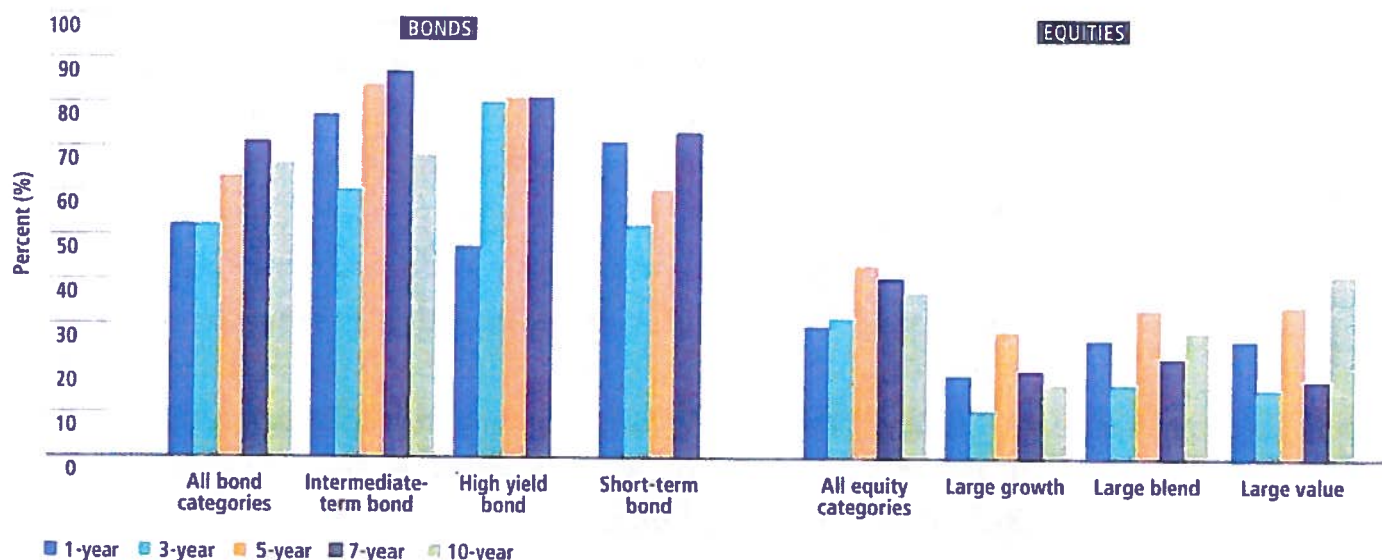
These results should come with one caveat. The fact that active bond funds and ETFs outperformed passive does not necessarily mean all active outperformed passive. Active bond managers also include non indexed investors such as central banks, commercial banks, large parts of the insurance industry and retail. Some of these investors operate under tight constraints which may affect their performance (more on this in Point #4).

### POINT #2 – ACTIVE BOND FUNDS AND ETFS LARGELY OUTPERFORMED THEIR BENCHMARKS EXCEPT WHEN THE COST OF BENCHMARK REPLICATION WAS PROHIBITIVE

Figure 2 shows the percentages of active mutual funds and ETFs that outperformed their primary prospectus benchmarks after fees for the past 1, 3, 5, 7 and 10 years; it shows the aggregated results for broad bond and equity groups and each of the three largest categories within bonds and equity.

Again, more than half of the active bond mutual funds and ETFs beat their benchmarks in most categories over the past 1, 3, 5 and 7 years, with 61% of them outperforming over the past 5 years. This stands in strong contrast with equity results, where only 35% of active funds and ETFs outperformed their benchmarks over the past 5 years. Taking the three largest categories within fixed income for the same 5-year period, 82% and 84% of active funds and ETFs in the Intermediate-Term Bond and Short-Term Bond categories outperformed their benchmarks while only 25% in the High Yield Bond category outperformed. Within equity, most active funds and ETFs in each of the three largest categories – large growth, large blend and large value – underperformed.

Figure 1: Percentage of active mutual funds and ETFs that outperformed their median passive peers after fees



Source: Morningstar Direct as of 31 December 2016. Past performance is not a guarantee or a reliable indicator of future results. The three largest categories are based on numbers of active mutual funds and ETFs with at least one year return histories. Based on Morningstar U.S. ETF and U.S. Open-End Fund categories (institutional shares only). To avoid potential survivorship bias, we included funds and ETFs that were live at the beginning of each sample period but were liquidated or merged as of 31 December 2016. For the High Yield Bond and Short-Term Bond categories, 10 year outperformance numbers are not available due to the lack of passive peer groups. Chart is provided for illustrative purposes and is not indicative of the past or future performance of any PIMCO product.

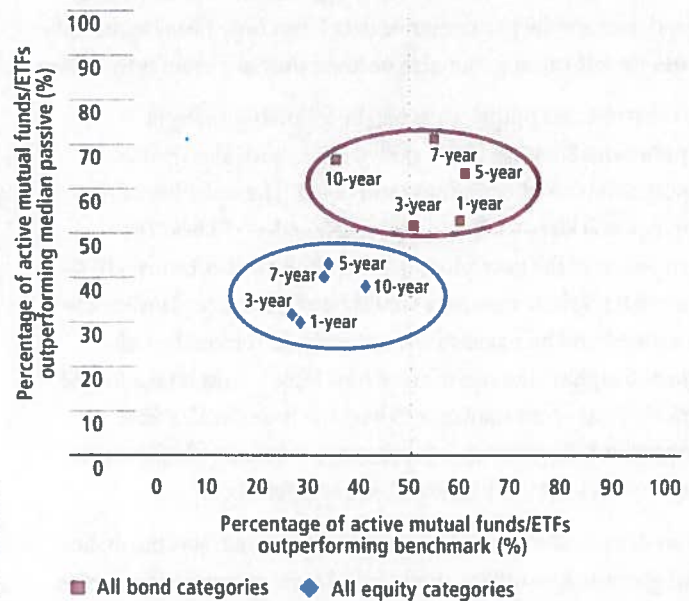


Note that active bond funds and ETFs may underperform their benchmarks but still outperform median passive peers. Consider the High Yield Bond category. Although the percentage of active funds and ETFs outperforming their benchmarks for this category appears low, 81% outperformed their median passive peers over the same 5-year period. This indicates the difficulty of replicating the performance of high yield benchmarks, possibly due to the lower liquidity of the market and the high transaction costs for all but the largest issues.

The 10-year period started with what is considered by many to be the worst global financial crisis since the 1930s. During this period, market liquidity dried up and bid-ask spreads widened, dramatically increasing trading costs for both active and passive investors. Because benchmark returns do not reflect these frictional costs, it is more challenging to beat the benchmarks, especially in the relatively illiquid and inefficient market. This may explain the underperformance of active bond funds versus their benchmarks over the 10-year period.

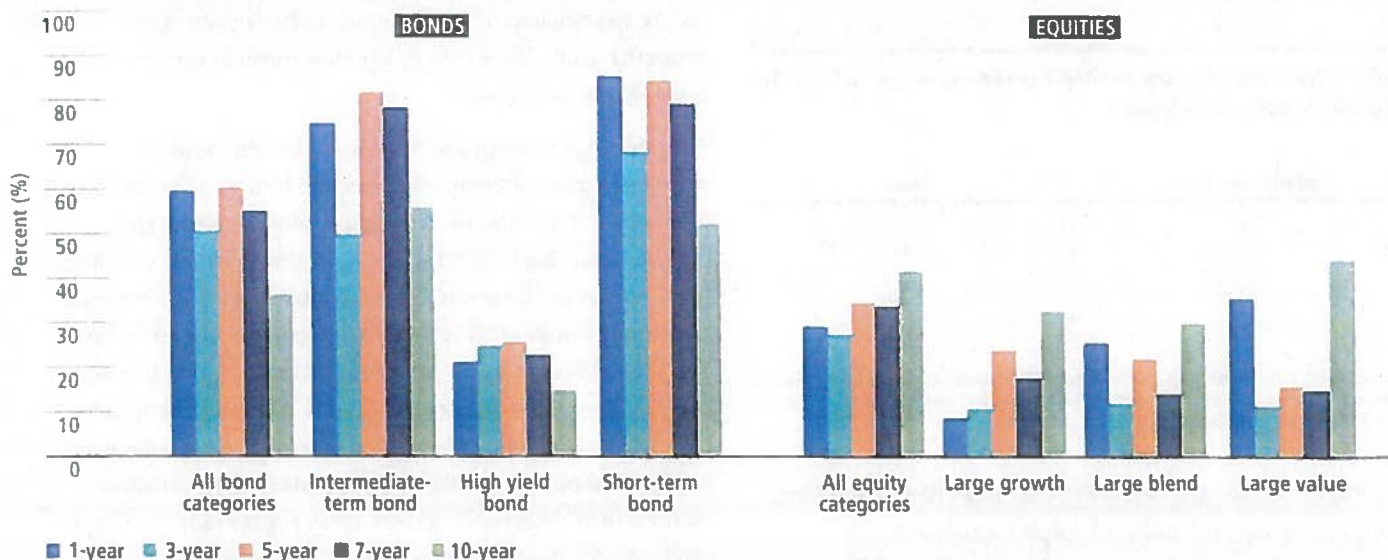
Figure 3 summarizes the two types of outperformance measures for broad bonds and equity groups. The percentages of active bond funds and ETFs outperforming their benchmarks and those outperforming their median passive peers over the past 1, 3, 5 and 7 years all exceeded 50%; more than half outperformed their median passive peers over the past 10 years. In contrast, the percentages for active equity funds and ETFs for both measures and over all time periods considered were less than 50%.

**Figure 3: Outperformance over benchmarks and outperformance over median passive peers after fees**



Source: Morningstar Direct as of 31 December 2016. Past performance is not a guarantee or a reliable indicator of future results. Based on Morningstar U.S. ETF and U.S. Open-End Fund categories (institutional shares only). To avoid potential survivorship bias, we included funds and ETFs that were live at the beginning of each sample period but were liquidated or merged as of 31 December 2016. Some categories contain funds with a wide range of benchmarks. Chart is provided for illustrative purposes and is not indicative of the past or future performance of any PIMCO product.

**Figure 2: Percentage of active mutual funds and ETFs that outperformed their primary prospectus benchmarks after fees**



Source: Morningstar Direct as of 31 December 2016. Past performance is not a guarantee or a reliable indicator of future results. The three largest categories are based on numbers of active mutual funds and ETFs with at least one-year return histories. Based on Morningstar U.S. ETF and U.S. Open-End Fund categories (institutional shares only). To avoid potential survivorship bias, we included active funds and ETFs that were live at the beginning of each sample period but were liquidated or merged as of 31 December 2016. Some categories contain funds with a wide range of benchmarks. Chart is provided for illustrative purposes and is not indicative of the past or future performance of any PIMCO product.

### POINT #3 – ACTIVE MANAGERS SHOULD BE EVALUATED OVER A LONG HORIZON

It is important for bond fund managers to show some healthy skepticism for the performance data – not only because the data could be self-serving, but also because they are inherently noisy.

To illustrate this point, consider the following thought experiment: Suppose that a skilled hypothetical portfolio manager has an information ratio of 0.5. The volatility of the active portfolio is 4.0% and that of the index is 3.3%. The correlation of the portfolio return with the index return is 0.9. Note that all these numbers would be empirically plausible for an active bond manager in the top quartile ranked by risk-adjusted alphas. The question is, how long would it take for the hypothetical active manager to beat the index with a 90% probability? The answer, it turns out, is 7 years. (We show the mathematics behind this example in Appendix 1).

What does it all mean? First, this example illustrates the reality of a low signal-to-noise ratio in bond asset management. Given the higher tracking error and lower information ratios displayed in manager performance, it is even lower for equities. Second, it shows that managers are typically evaluated over too short a time frame: Over 1 year, this hypothetical manager would have a 69% probability of outperforming and over 3 years, the probability would rise to 80%. And third, the answer is very sensitive to assumptions. Table 1 illustrates the relationship between the time it takes to outperform the index with 90% confidence and the information ratio under the volatility and correlation assumptions described above.

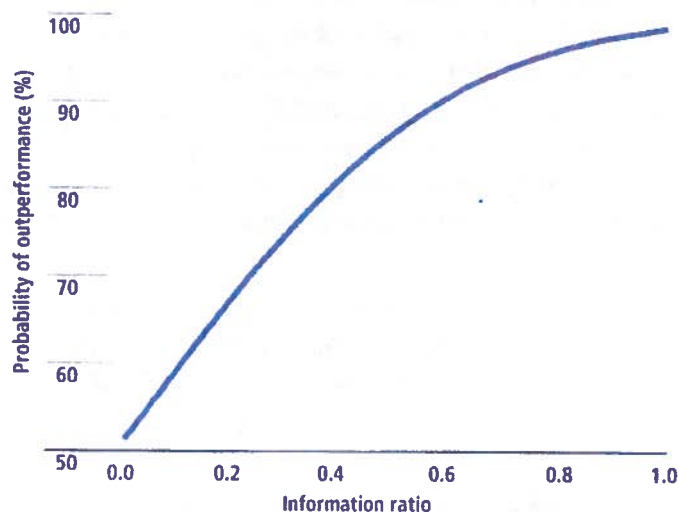
**Table 1: Number of years needed for the manager to beat the index with 90% confidence**

Information ratio	Years
0.7	3.5
0.5	7.0
0.3	20.0
0.2	48.0

Source: PIMCO. Hypothetical example for illustrative purposes only. Table is provided for illustrative purposes and is not indicative of the past or future performance of any PIMCO product.

If we fix the horizon at 5 years with the same risk assumptions, it appears that the probability of outperformance is an increasing and concave function of the information ratio, as one would expect (see Figure 4).

**Figure 4: Probability of outperformance in 5 years**



Source: PIMCO. Hypothetical example for illustrative purposes only. Chart is provided for illustrative purposes and is not indicative of the past or future performance of any PIMCO product.

### POINT #4: IT IS NOT JUST ABOUT ACTIVE VERSUS PASSIVE

The straw man in the active-passive debate stems from a short paper by William Sharpe titled “The Arithmetic of Active Management”: If passive is defined as holding the market portfolio, and active is everything not passive, then it trivially follows that active managers as a whole, like passive managers, hold the market portfolio at any time. Both groups will therefore generate the same returns before fees. To the extent that active fees are higher than passive fees, passive managers will outperform active managers, on average. Plain and simple, but maybe too much so. It is difficult not to be reminded of Einstein’s quote: “Everything should be made as simple as possible, but not simpler.”

As appealing as Sharpe’s arithmetic is, the deficits of the argument (some of them acknowledged by Sharpe himself) are obvious. To start with, the distinction between active and passive is wanting in bond space. At a minimum, one can divide the investors’ universe into three categories: passive, economic and noneconomic. This is because noneconomic investors are plentiful in fixed income (see Table 2): Central banks buy bonds to depreciate their currency and boost inflation, growth and asset prices; commercial banks and insurance companies may care more about book yield than total return for a variety of reasons, such as accounting rules, other regulations or a simple preference for predictable, low-turnover portfolios. It is worth

noting that these investors make up a meaningful portion of global bond buyers – roughly 47% of the \$102 trillion global bond market.<sup>i</sup> Similarly, because of their guidelines, both noneconomic constrained investors and passive index buyers may be forced to sell all bonds that fall below the investment grade threshold or be late to the game buying bonds whose upgrade is foreseeable because they must wait for a ratings agency imprimatur. The list goes on and on.

To the extent constraints are binding (most of them are), by construction, economic investors tend to outperform noneconomic investors, as the former buy cheap fallen angels from the latter and sell them expensive high-coupon bonds. Active managers potentially may also be compensated by passive managers for providing them with liquidity around changes in index construction. So while active and passive managers may in theory generate the same returns before fees, the further categorization of investors into three groups illustrates that economic investors may outperform passive investors which, in turn, are likely to outperform noneconomic investors before fees.

#### POINT #5 – INFORMATION IS VITAL TO TRADING AND REBALANCING

Sharpe's arithmetic implicitly assumes passive investors buy and hold and don't trade securities. In reality, most bond indexes are rebalanced monthly, requiring both active and passive investors to trade, if only because bonds mature, new bonds are issued, and index inclusion and exclusion rules create movement in and out of the index (see Pedersen (2017) for similar arguments for equity). The average turnover rate for the Bloomberg Barclays US Aggregate Bond Index for the past 3 years (as of 31 December 2016) was about 40% per year, half of which was due to new issues of securities. To the extent they do not trade pure noise, active managers seek to be better informed than passive managers. They invest in fixed income strategists, quants, credit analysts and systems to acquire and process relevant information and make better investment decisions. Because their cost of being informed is higher, active managers will typically command higher fees. They also will tend to use their knowledge to seek securities they can buy at a lower offer and sell at a higher bid than passive managers. Given that new securities make up about 20% of the bond market's capitalization every year, a strong active presence in the new bond issuance market has the potential to materially add value for fixed income investors by identifying those issues with the most attractive valuations. Additionally, active bond managers generally strive to secure sizable allocations at concession in the process of syndication of new issues. Last but not least, security-level credit research can provide a decisive advantage in the bond investment process (Worah and Mattu, 2014).

In contrast, most equity indexes are rebalanced annually or quarterly. The annual turnover rate of the S&P 500 index was about 4% for the past year. New issues are generally less than 1% of the market capitalization given that common stocks are generally perpetual securities. Therefore, the contribution of a strong presence in the new issuance market to performance for equity would be much less significant compared with that for bonds. Mauboussin et al. (2017) show a sharp fall in the number of listed stocks in the U.S. since 1996 due to rising listing costs, including higher costs for greater information disclosure. Consequently, listed companies today are bigger, older and better established than they were two decades ago. Mauboussin et al. speculate this trend has contributed to greater informational efficiency and fewer opportunities with material mispricing in the U.S. stock market.

Table 2: Bond holdings by noneconomic investors<sup>ii</sup>

Investor group	Bond holdings (\$ trillion)	Investment objective
Central banks		
– Foreign exchange	10.8	Stabilize exchange rate
– Reserves		
– Domestic holdings	4.5	Manage money supply
U.S. insurance	4.3	Book yield, predictable income, regulatory driven capital charges
U.S. banks	2.8	
European insurers	5.3	
European banks	4.7	
Asian banks and insurers	12.6	
Other banks and insurers	2.0 – 3.0	
Total	47.0 – 48.0	

Source: Company filings, European Federation, EIOPA, EBA, SNL Financial, Bloomberg and PIMCO. As of 31 December 2016.

There are other assumptions underlying Sharpe's arithmetic that, when violated in reality, may give rise to active management opportunities over passive. For example, Sharpe's work assumes investors have the same investment horizon, risk aversion and tax rate.



In summary, the higher turnover in bond indexes and lower informational efficiency of bond markets help explain why active bond funds have outperformed more often over our sample period than their equity counterparts.

#### POINT #6 – OFF-INDEX AND ACTIVE SHARE MATTER

Structural tilts, off-index or otherwise, are bond managers' staples in the battle against the index. Duration, yield curve steepeners, high yielding currencies, high yield credit spreads, agency and non agency mortgage spreads, volatility sales and liquidity premia – to name a few – are structural tilts that can be an important source of durable added value.<sup>40</sup>

To show that structural tilts are more than urban myths, we correlate excess returns of active bond funds with excess returns from specific factors, specifically duration, investment grade and high yield spreads (see Table 3). The picture that emerges is clear: Active bond funds and ETFs in the largest taxable bond category, Intermediate-Term Bond, are structurally short duration, long investment grade and long high yield exposure against the index (either directly or indirectly through factor tilts not included in the analysis). Regressing excess return against factors (see Appendix 2) also shows that exploiting credit and liquidity risk premia is a particularly important ingredient in the (not so secret) sauce. Adjusted t-statistics and R-squared show that tilts have been central to portfolios beyond a reasonable doubt (Mattu et al., 2016).

**Table 3: Summary statistics for excess fund and factor returns (January 2007-December 2016)**

	Mean (annualized)	Volatility (annualized)	Correlation			
			Mean ER	Dur	IG	HY
Mean ER	0.4%	1.9%	1.00	-0.52	0.81	0.89
Dur	0.6%	0.8%	-0.52	1.00	-0.40	-0.49
IG	0.1%	1.0%	0.81	-0.40	1.00	0.87
HY	1.0%	2.9%	0.89	-0.49	0.87	1.00

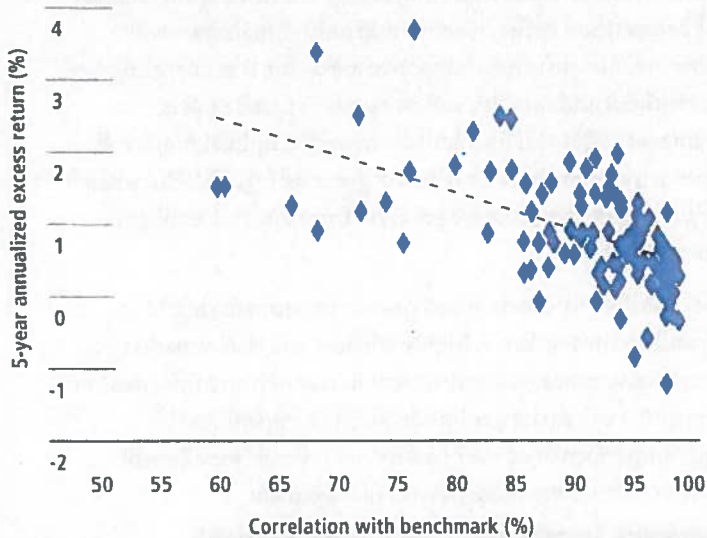
Source: Morningstar and Barclays as of 31 December 2016. Duration: Excess returns of Bloomberg Barclays US Treasury Index over cash (1M OIS), per unit of duration. Investment grade: Excess returns of Bloomberg Barclays US Corporate IG Index over duration-matched Treasuries, per unit of spread duration. High yield: Excess returns of Bloomberg Barclays US Corporate HY Index over duration-matched Treasuries, per unit of spread duration. Past performance is not a guarantee or a reliable indicator of future results. Sample consists of average monthly excess returns for active mutual funds and ETFs in "Intermediate-Term Bond" Morningstar category, with Bloomberg Barclays US Aggregate Bond Index as their primary prospectus benchmark and at least 10-year return histories. Table is provided for illustrative purposes and is not indicative of the past or future performance of any PIMCO product.

As is well known, a number of structural tilts are off-index: High yield, as just mentioned, as well as emerging market bonds and currencies, are fertile ground for outperformance opportunities yet are not part of typical bond indexes. This may be another reason active funds have generally done well in fixed income over the sample period. Of course, passive investors can add emerging market and high yield ETFs to their portfolios, but the lack of granularity and the opacity of such ETFs can be problematic, making it difficult to mix and match.

There is a wide range of financial derivatives available to the active bond managers that allow for potentially profitable expressions of investment themes: currency swap basis, futures basis, CDS-cash basis and TBA rolls are such examples. In addition, active bond managers could implement so-called smart strategies such as carry, value and momentum, which have historically displayed substantially positive Sharpe ratios (see, for example, Baz et al., 2015).

A related point is that active share may matter in bond management, meaning that the more portfolio positions differ from the index, the more potential that the fund will outperform. Because we do not have direct access to fund managers' positions, we use the correlation between portfolio returns and index returns as a proxy for the degree of "index hugging" (the higher the correlation, the lower the active share). The correlation between excess returns and portfolio-index return correlations is -0.57 for the past 5 years (see Figure 5). So it may pay to deviate. Or, to put it differently, when an active manager deviates, this may indicate the extent of potentially profitable investment ideas in the portfolio.

**Figure 5: A scatter plot of 5-year excess returns against fund-index return correlations**



Source: Morningstar and Barclays as of 31 December 2016. Past performance is not a guarantee or a reliable indicator of future results. Sample consists of active U.S. mutual funds (institutional shares only) in "Intermediate-Term Bond" Morningstar category with Bloomberg Barclays US Aggregate Bond Index as their primary prospectus benchmark. Chart is provided for illustrative purposes and is not indicative of the past or future performance of any PIMCO product.

#### **POINT #7 – STRUCTURAL TILTS ARE NOT ALWAYS BETA**

We are then left with the obvious question: Is the outperformance alpha or beta? On this point, our indecision is final. Beta, of course, refers to systematic risk factors that need to be remunerated at equilibrium, whereas alpha is defined as residual return in an asset pricing equation and is associated with investing and trading skills.

We are skeptical about this alpha-beta debate because systematic factors, as commonly understood today by both academics and practitioners, have weak theoretical underpinnings. How have some trading strategies graduated to systematic factor status? In other words, what is a systematic factor? A realistic answer may be: whatever has worked in the U.S. over the past few decades. Why is "duration" a systematic factor rather than sunspots? Because duration extension has worked over the past 30 years, as opposed to sunspots. And duration has worked because monetary policy has been accommodative and has allowed large returns from carry, roll-downs and capital gains in bond markets. In other words, betas may well be an artifact of the data sample and the ultimate exercise in data mining (Harvey et al., 2015). To come back to the "systematic duration factor," it has been tested over a period that may well be statistically insignificant because it boiled down to a single monetary experiment.

If all this were true, then systematic factor tilts are less beta and more alpha than investors are prone to think. As to the timing of those tilts, there is a strong presumption that they are alpha.

#### **POINT #8 – A PURELY PASSIVE MARKET WOULD CAUSE SEVERE MARKET RISK AND RESOURCE MISALLOCATIONS**

What would financial markets, including equities, look like in a world where asset management is purely passive? Not very compelling, it turns out, and for a reason: In a world where every asset manager is passive, the asset management mandate is to replicate the market. Therefore, all assets get absorbed without due consideration of their characteristics – cash flows, governance and broad risk/return parameters. Prices would cease to be informative the day assets got bought without being analyzed. The market would be subject to a degenerate form of Say's law, under which supply creates its own demand, yet suppliers of securities – bond and equity issuers – are better informed about these securities than are purchasers, in this case passive investors. One can easily see how the market equilibrium would become inherently expensive as passive price takers kept buying everything on supply and correlation across securities increased. This would, of course, lead to capital misallocation on a grand scale (with money chasing expensive assets), to a market crash of sorts and to a collapse in confidence.

#### **POINT #9 – NEITHER PASSIVE NOR ACTIVE INVESTORS CAN DOMINATE AT EQUILIBRIUM**

Thankfully, it is hard to see how asset management turns 100% passive. In a classic 1980 paper, Grossman and Stiglitz argue that markets cannot be informationally efficient, meaning that prices cannot perfectly reflect available information. Why can't they? Because if they do, there is no incentive for anyone to acquire and process the information, in which case there is no reason to trade and the market becomes passive. But as new information infiltrates this market, discrepancies arise and it becomes profitable to acquire information and trade the market. Clearly, investors have a stronger incentive to become active when most investors go passive, and vice versa. In a world with noneconomic investors, the math gets more complicated but the cost of on-demand liquidity almost certainly goes up, allowing more rents for economic investors. The pendulum will swing as either the passive or the active population dominates the market.



#### **POINT #10 – PASSIVE MANAGEMENT, UNCHECKED, MAY ENCOURAGE FREE RIDING, ADVERSE SELECTION AND MORAL HAZARD**

All it takes is a small proportion of active informed investors to ensure market prices are informative. These investors would be the marginal price setters while passive investors would enjoy a piggyback ride. In this context, information derived from prices is a public good. Active management, then, is a public good as well. And an absence thereof, as outlined above, can lead to undesirable outcomes.

Not only may passive management be guilty of free riding, it may also lead to adverse selection and moral hazard. To the extent that index inclusion rules favor large borrowers in bond space, passive investment, by channeling funds into indexes, results in excess demand for large borrowers' debt. This is a clear case of misdirecting capital toward those who deserve it the least, which is sometimes called the Matthew effect: "For he that hath, to him shall be given: and from him that has not shall be taken even that which he hath." Furthermore, by causing higher prices and lower spreads on the debt of relatively profligate borrowers, a flurry of moral hazards emerge: Governments borrowing at artificially low spreads postpone needed reforms, corporations that overborrow misuse the cash, and so on.

Although on the surface low-fee passive vehicles may benefit savers and pensioners, the reality is more nuanced, to put it mildly. In economic parlance, passive investment produces a host of negative externalities. These grow, likely in a non linear fashion, as the fraction invested passively rises materially. A disturbing implication, well known to economists, is that negative externalities ought to be taxed and positive externalities subsidized – all topics beyond the scope of this paper.

#### **POINT #11 – PASSIVE MANAGEMENT HAS ITS VIRTUES**

Passive managers' goal is to replicate the performance of a market index by holding the same securities or a sampling of the securities in the index. They do not need to spend resources to beat the benchmarks. As a result, they usually charge much lower fees than active managers. For many investors who want to focus on other investment decisions, such as asset allocation, and only seek index replication at the asset class level, passive investment provides a cost-effective way to access individual markets.

Active managers play an important role in the economy by helping to allocate capital efficiently. However, there will be times when they overinvest in research and information

acquisition in certain markets or market segments. Having a healthy number of passive choices in each market helps keep this in check. Because most indexes are not directly investable, the competition between active and passive managers will allow investors to screen out active managers that charge higher fees without adding value relative to their passive peers. Cremers et al. (2016) find actively managed mutual funds are more active, charge lower fees and generate higher alpha when they face more competitive pressure from low-cost explicitly indexed funds.

The optimal mix of active and passive investment should depend on the market. A highly efficient and liquid market where active managers' investment in research and information acquisition can no longer be adequately compensated by superior performance over passive, on average, may benefit from less active and more passive management.

#### **POINT #12 – THERE IS NO SUCH THING AS PASSIVE (JUST DIFFERENT SHADES OF ACTIVE)**

But you probably know that. In its strict definition, passive investment means owning the market and not trading it. Evidently, none of this is true. The market is an ever-evolving set of assets that need to be traded actively for replication purposes. This is more acute with securities that have finite lives and regularly return capital. And it is nigh impossible to replicate the market, if only because of all its private asset components.

What investors generally mean by passive is not even close to pure passive. For example, the common practice among passive managers of trading at the close of business at months' end, instead of trading evenly during the day, is in itself an active decision with sometimes heavy price consequences. Besides, the most popular example of a passive investment is an S&P 500 ETF, yet the market cap of the S&P 500 index (about \$20 trillion) is less than 10% of world wealth (\$241 trillion in 2014, according to Credit Suisse). The very choice of, say, a passive ETF is an active choice. Investors in passive equity ETFs are, sometimes unwittingly, taking a market view. And because investors often buy and sell these passive ETFs, they are actively timing the market. The asset allocation decision is the most active investment decision an investor can make, as it contributes to the majority of the portfolio return, far more than active decisions at the asset class level can do. Even at the asset class level, there are many active decisions to be made in the selection of passive management and performance benchmarks (Dialynas and Murata, 2006).

Since active management is inevitable, and given the outperformance demonstrated over our sample period, why all the fuss over active management? After all, there is no such thing as passive, just different shades of active management.

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## CONCLUSIONS

Opinions in the active-passive investment debate have drifted poles apart over recent years. We revisit this discussion by contrasting equity and bonds. We look at performance numbers and find that, unlike their stock counterparts, active bond mutual funds have largely outperformed their median passive peers over our sample period. We offer conjectures as to why bonds and stocks differ.

This may be due to:

- the large proportion of noneconomic bond investors
- benchmark rebalancing frequency and turnover
- structural tilts in fixed income space
- the wide range of financial derivatives available to active bond managers
- security-level credit research and new issue concessions

At a macro level, we believe that a purely passive market would cause severe market risk and resource misallocations. Realistically, neither passive nor active investors can fully dominate at equilibrium. Of course, passive management has its virtues. Yet there is reason to believe that, unchecked, passive management may encourage free riding, adverse selection and moral hazard.

**APPENDIX 1: SIGNAL VERSUS NOISE**

Consider a money manager whose portfolio value  $P$  follows a geometric Brownian motion:

$$\frac{dP}{P} = \mu_P dt + \sigma_P dW_P.$$

The money manager is trying to beat an index that also follows a geometric Brownian motion:

$$\frac{dI}{I} = \mu_I dt + \sigma_I dW_I.$$

$dW_P$  and  $dW_I$  have correlation  $\rho$ . The time unit is 1 year.

We can state the values of the processes at time  $t$ :

$$P_t = P_0 \exp \left[ \left( \mu_P - \frac{1}{2} \sigma_P^2 \right) t + \sigma_P \sqrt{t} Z_P \right],$$

$$I_t = I_0 \exp \left[ \left( \mu_I - \frac{1}{2} \sigma_I^2 \right) t + \sigma_I \sqrt{t} Z_I \right].$$

$Z_P$  and  $Z_I$  are two standard normal random variables with correlation  $\rho$ .

The probability that the manager beats the index at time  $t$ :

$$\begin{aligned} P \left( \frac{P_t}{P_0} > \frac{I_t}{I_0} \right) &= P \left( \left( \mu_P - \frac{1}{2} \sigma_P^2 \right) t + \sigma_P \sqrt{t} Z_P > \left( \mu_I - \frac{1}{2} \sigma_I^2 \right) t + \sigma_I \sqrt{t} Z_I \right) \\ &= P \left( \sigma_P Z_P - \sigma_I Z_I > - \left[ \left( \mu_P - \frac{1}{2} \sigma_P^2 \right) - \left( \mu_I - \frac{1}{2} \sigma_I^2 \right) \right] \sqrt{t} \right) \\ &= P \left( \frac{\sigma_P Z_P - \sigma_I Z_I}{\sqrt{\sigma_P^2 + \sigma_I^2 - 2\rho\sigma_P\sigma_I}} > - \frac{\left[ \left( \mu_P - \frac{1}{2} \sigma_P^2 \right) - \left( \mu_I - \frac{1}{2} \sigma_I^2 \right) \right] \sqrt{t}}{\sqrt{\sigma_P^2 + \sigma_I^2 - 2\rho\sigma_P\sigma_I}} \right) \\ &= \Phi \left( \frac{\left[ \left( \mu_P - \frac{1}{2} \sigma_P^2 \right) - \left( \mu_I - \frac{1}{2} \sigma_I^2 \right) \right] \sqrt{t}}{\sqrt{\sigma_P^2 + \sigma_I^2 - 2\rho\sigma_P\sigma_I}} \right) \end{aligned}$$

where  $\Phi$  is the cumulative distribution function (CDF) of a standard normal random variable. Define the information ratio as the ratio between annualized alpha and tracking error, i.e.,  $\frac{\mu_P - \mu_I}{\sqrt{\sigma_P^2 + \sigma_I^2 - 2\rho\sigma_P\sigma_I}}$ . The probability of outperformance can be estimated given assumptions on the horizon, the information ratio, and the volatility and correlation parameters.

See Ambarish and Siegel (1996) for a more detailed discussion.

**APPENDIX 2: SUMMARY OF FUND-SPECIFIC REGRESSIONS OF MONTHLY ALPHAS ON RISK FACTOR RETURNS BY ALPHA QUARTILE (JANUARY 2007–DECEMBER 2016)**

Quartiles	Average parameter estimates					Average NW t-stat				Average Adj R <sup>2</sup>
	Average annualized alpha	Constant	Dur	IG	HY	Constant	Dur	IG	HY	
1st	-0.45%	-0.06%	-0.41	0.05	0.44	-1.29	-1.11	0.46	2.67	48%
2nd	0.27%	0.01%	-0.25	0.22	0.29	0.32	-0.71	0.97	2.56	46%
3rd	0.56%	0.01%	-0.14	0.51	0.45	0.34	-0.35	1.52	3.51	57%
4th	1.19%	0.05%	-0.24	0.45	0.60	1.17	-0.53	1.05	3.18	51%

Source: Morningstar and Barclays as of 31 December 2016.

Duration: Excess returns of Bloomberg Barclays US Treasury Index over cash (1M OIS), per unit of duration.

Investment grade: Excess returns of Bloomberg Barclays US Corporate IG Index over duration-matched Treasuries, per unit of spread duration.

High yield: Excess returns of Bloomberg Barclays US Corporate HY Index over duration-matched Treasuries, per unit of spread duration.

Quartiles are based on 10-year annualized alphas. Newey-West heteroskedasticity and autocorrelation consistent t-statistics (Newey and West, 1987) are reported.

Sample consists of monthly alphas for active mutual funds and ETFs in the "Intermediate-Term Bond" Morningstar category, with Bloomberg Barclays US Aggregate Bond Index as their primary prospectus benchmarks and 10-year return histories.

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 This table first appeared in Moore (2017).  
 Gerakos et al. (2016) state that the outperformance of their actively managed institutional accounts between 2000 and 2012 is explained almost entirely by tactical factor tilts.



# PIMCO

This paper contains **hypothetical analysis**. Hypothetical and simulated examples have many inherent limitations and are generally prepared with the benefit of hindsight. There are frequently sharp differences between simulated results and the actual results. There are numerous factors related to the markets in general or the implementation of any specific investment strategy, which cannot be fully accounted for in the preparation of simulated results and all of which can adversely affect actual results. No guarantee is being made that the stated results will be achieved.

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Office of Hawaiian Affairs  
560 N Nimitz Hwy. Ste. 200  
Honolulu, HI 96817

**Action Item**

**COMMITTEE ON  
RESOURCE MANAGEMENT (RM)**

**DATE: November 20, 2019**

**Motion:**

**Vote:**

**AGENDA ITEM:**

**III. New Business**

C. Action Item RM #19-19: Approval for investment consultant, Segal Marco Advisors, to initiate an active core fixed Income Manager search.

**MOTION:**

To approve Administration's recommendation that the BOT approve and authorize for investment consultant, Segal Marco Advisors, to begin a search for an active core fixed income manager.

**AMENDMENT:**

**MEANS OF FINANCING:**

TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (2 kanalua's =ABSTENTION)	EXCUSED
LEI	AHU ISA			x			
KALEI	AKAKA						x
KELI 'I	AKINA			x			
BRENDON	LEE			x			
HULU	LINDSEY			x			
ROBERT	LINDSEY		x	x			
COLETTE	MACHADO			x			
JOHN	WAIHE'E	x		x			
CHAIR DAN	AHUNA			x			
TOTAL VOTE COUNT				8			

**MOTION: [ ] UNANIMOUS [x] PASSED [ ] DEFERRED [ ] FAILED**

**DISCUSSION:**

**JOINT MEETING OF THE  
COMMITTEE ON RESOURCE MANAGEMENT**

**COMMITTEE REPORT**

November 20, 2019

The Honorable Colette Machado,  
Chairperson Board of Trustees  
Office of Hawaiian Affairs

Madame Chair Machado,

The Committee on Resource Management, having met on November 20, 2019 and after full and free discussion, recommends approval of the following action to the Board of Trustees:

To approve Administration's recommendation that the BOT approve the Non-OHA Executive Manager's Selection and Seating Process for Hi'ilei Aloha, LLC and revised LLC Manager Position Description.

Relevant attachments are included for your information and reference. Attachment(s):

- 1) Action Item RM #19-20
- 2) RM#19-20 Roll Call Vote Sheet

Respectfully submitted:

Respectfully submitted:



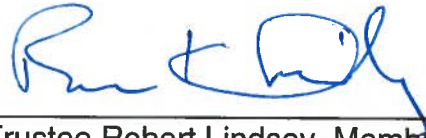
Trustee Dan Ahuna, Chair



Trustee Kalei Akaka, Member



Trustee Leina'ala Ahu Isa, Member



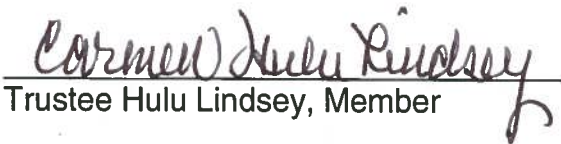
Trustee Robert Lindsey, Member



Trustee Keli'i Akina, Member



Trustee Colette Machado, Member



Trustee Hulu Lindsey, Member



Trustee John Waihe'e, IV, Member



Trustee Brendon Lee, Member



**Action Item**  
**Committee on Resource Management**  
**November 20, 2019**

**RM #19-20**

**Action Item Issue:** Approval of the Non-OHA Executive Managers' Selection and Seating Process for Hi'ilei Aloha, LLC and revised LLC Manager Position Description

**Prepared by:**

Raina P.B. Gushiken  
Ka Paepae Puka, Senior Legal Counsel

11/13/19

Date

**Reviewed by:**

Gloria Li  
Ka Pou Kihi Kanaloa-Wai Kūikawā, Interim Chief Financial Officer

11/13/19

Date

**Reviewed by:**

Lisa Watkins-Victorino, Ph.D.  
Ka Pou Nui Kūikawā, Interim Chief Operating Officer

11/13/19

Date

**Reviewed by:**

Sylvia M. Hussey, Ed.D.  
Ka Pouhana Kūikawā, Interim Chief Executive Officer

11-13-19

Date

**Reviewed by:**

Dan Ahuna  
Luna Ho'omalua Kōmike Resource Management, Chair

11/14/19

Date

**Action Item: RM #19-20**

**Approval of the Non-OHA Executive Managers' Selection and Seating Process for Hi'ilei Aloha, LLC and revised LLC Manager Position Description**

**I. Action**

Approval of the Non-OHA Employee Managers' Selection and Seating Process for Hi'ilei Aloha, LLC and revised LLC Manager Position Description.

**II. Issue**

Whether to approve or not approve the Non-OHA Executive Managers' Selection and Seating Process for Hi'ilei Aloha, LLC and revised LLC Manager Position Description.

**III. Discussion**

- A. **Background and Context.** The Office of Hawaiian Affairs ("OHA") is the sole member of two limited liability companies, Hi'ilei Aloha LLC ("Hi'ilei Aloha") and Ho'okele Pono LLC ("Ho'okele Pono"). Hi'ilei Aloha is the sole member of two limited liability companies Hi'ipaka LLC ("Hi'ipaka") and Hi'ikualono LLC ("Hi'ikualono"). Ho'okele Pono is the sole member of a single limited liability company Ho'okipaipai LLC ("Ho'okipaipai").

On May 30, 2019, via Action Item RM #19-08, the Board approved, adopted and ratified the: 1) Resolutions of the Board of Trustees Office of Hawaiian Affairs (Resolutions); 2) Articles of Termination and Plans of Dissolution (Reorganization Documents), and 3) LLC Manager Position Description as sole member of two limited liability companies, Hi'ilei Aloha LLC and Ho'okele Pono LLC. *Please see Attachments A and B for the approved Resolutions and LLC Manager Position Description, respectively.*

Also via Action Item RM #19-08, the Board amended the Operating Agreement of Hi'ilei Aloha for OHA to appoint three (3) persons who are not OHA executives to serve as managers ("Managers") of Hi'ilei Aloha, each to serve staggered terms of approximately three (3) years, two (2) years, and one (1) year. The terms shall end on the last day of the month in which each Manager takes office. Subsequently, OHA as the sole member of Hi'ilei Aloha, shall appoint each Manager to serve a new three (3) year term or the remainder of an unexpired three (3) year term.

By Action Item RM #19-08, the Board also ratified and approved the decision of the OHA executives who presently serve as Managers of Hi'ipaka to amend the Operating Agreement of Hi'ipaka to permit Hi'ilei Aloha, as sole member of Hi'ipaka, to appoint three (3) persons who are not OHA executives to serve as managers of Hi'ipaka, each to serve staggered terms of approximately three (3) years, two (2) years, and one (1) year. The terms shall end on the last day of the month in which each Manager takes office. Subsequently, Hi'ilei Aloha shall appoint each Manager to serve a new three (3) year term or the remainder of an unexpired three (3) year term.



**Action Item: RM #19-20**

**Approval of the Non-OHA Executive Managers' Selection and Seating Process for Hi'ilei Aloha, LLC and revised LLC Manager Position Description**

Attached hereto as Attachment C is a revised LLC Manager Position Description that reflects the staggering of terms for each Manager to be three (3) years, two (2) years, and one (1) year.

Where the existing LLC Managers are winding down the business affairs of and dissolving Ho'okele Pono, LLC, the work that will be left for the new non-OHA LLC Managers will primarily be to manage and oversee the sole asset of Hi'ilei Aloha which is Hi'ipaka. Hi'ipaka will also be selecting Managers to serve staggered terms of three (3) years, two (2) years, and one (1) year. For purposes of economy and efficiency, the non-OHA LLC Managers selected for Hi'ilei Aloha could also concurrently serve as LLC Managers for Hi'ipaka. After being selected, should the non-OHA LLC Managers for Hi'ilei Aloha determine that it is beneficial for and in the best interest of Hi'ipaka for them to concurrently serve as LLC Managers for Hi'ipaka, the non-OHA LLC Managers for Hi'ilei Aloha have the authority under the Second Amended and Restated Operating Agreement of Hi'ilei Aloha LLC to make that determination.

The Trustees determined that OHA would derive substantial economies and benefits from actions approved via Action Item RM #19-08 on May 30, 2019. This Action Item, RM #19-20, implements the Board's decision to permit persons who are not OHA executives to serve as managers ("Managers") of Hi'ilei Aloha and Hi'ipaka.

- B. Selection and Seating Process.** The roles and responsibilities of a Member Manager are both operational and strategic. Operational activities include bank and check signing authorities, budget approval, contract, disbursement and other approval matters, liquor license administration, audit review, etc. Strategic activities include risk mitigation plan review, annual plan, budget and strategic direction, public, private and community collaborations, etc.

Administration proposes the following selection and seating process, activities and timeline with a target to 'seat' the new non-Executive, non-OHA employee Hi'ilei Aloha Managers, **by January 31, 2020:**

Date	Action	Function
No later than Friday, 11/29/2019	Publish recruitment for three (3) Hi'ilei Aloha LLC Manager Positions, with staggered terms of 3 years, 2 years, and 1 year. Request for a resume and three letters of recommendation/reference, no later than Friday, January 3, 2019 deadline. Administration, at its discretion, may extend the deadline for applications.	OHA HR

**Action Item: RM #19-20****Approval of the Non-OHA Executive Managers' Selection and Seating Process for Hi'ilei Aloha, LLC and revised LLC Manager Position Description**

Beginning with date of publication (i.e., no later than November 29, 2019)	Share information, prospect, cultivate, encourage and invite members of the community to respond to the recruitment posting for LLC Managers.	OHA Administration, Hi'ilei Aloha and Hi'ipaka leadership
Monday, 12/23/2019	Begin reviewing, vetting and follow up of references of Applicants, assembling recommendations for the Board	OHA HR, Administration
TBD, RM Committee Meeting, January 2020 or later if needed but in no event later than March 2020	Present an Action Item, with Administration recommendations for Board review and action.	OHA Administration
No later than 30 business days after Board action	<ul style="list-style-type: none"><li>• Update operating documents (e.g., agreements, liquor license application, signature cards)</li><li>• Schedule orientation and on-boarding actions for new LLC Managers</li></ul>	Existing LLC Managers <sup>1</sup> and Counsel for the LLCs

**IV. Recommended Action**

Approve the Non-OHA Executive Managers' Selection and Seating Process for Hi'ilei Aloha, LLC and revised LLC Manager Position Description.

**V. Alternative Actions**

Take no action or defer actions/timeline.

**VI. Funding**

No funding is required as the process will be completed with existing OHA resources.

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<sup>1</sup> Existing LLC Managers currently comprised of Interim CEO, COO and CFO

**Action Item: RM #19-20**

**Approval of the Non-OHA Executive Managers' Selection and Seating Process for Hi'ilei Aloha, LLC and revised LLC Manager Position Description**

**VII. Timeframe**

This action shall be effective immediately upon approval by the Board of Trustees.

**VIII. Attachments:**

- A. Resolutions of The Board of Trustees Office of Hawaiian Affairs
- B. Hi'ilei Aloha LLC Manager Position Description as approved in May 2019
- C. Revised Hi'ilei Aloha LLC Manager Position Description as proposed in November 2019

# **ATTACHMENT "A"**

**Approved Resolutions as of May 30, 2019  
Via Action Item RM #19-08**

RESOLUTIONS  
OF  
THE BOARD OF TRUSTEES  
OFFICE OF HAWAIIAN AFFAIRS

Adopted: May 30, 2019

WHEREAS, the Office of Hawaiian Affairs ("OHA") is the sole member of two limited liability companies, Hi'ilei Aloha LLC ("Hi'ilei Aloha") and Ho'okele Pono LLC ("Ho'okele Pono"), Hi'ilei Aloha is the sole member of two limited liability companies Hi'ipaka LLC ("Hi'ipaka") and Hi'ikualono LLC ("Hi'ikualono"), and Ho'okele Pono is the sole member of a single limited liability company Ho'okipaipai LLC ("Ho'okipaipai"); and

WHEREAS, the OHA executives who presently serve as managers ("Managers") of Hi'ilei Aloha, Ho'okele Pono, Hi'ipaka, Hi'ikualono and Ho'okipaipai have offered to resign as Managers, and the Trustees of OHA desire to amend the Operating Agreements of Hi'ilei Aloha and Hi'ipaka to permit persons who are not OHA executives to serve as managers of Hi'ilei Aloha, and to ratify and approve the decision of the OHA executives who presently serve as Managers of Hi'ipaka to amend the Operating Agreement of Hi'ipaka to permit persons who are not OHA executives to serve as managers of Hi'ipaka; and

WHEREAS, the Trustees desire to establish criteria for candidates to replace OHA executives as Managers of Hi'ilei Aloha and Hi'ipaka, and to recruit replacement Managers in order that OHA executives may resign as Managers of Hi'ilei Aloha and Hi'ipaka; and

WHEREAS, the Trustees desire to dissolve Ho'okele Pono on or before October 31, 2019, following the completion of the Department of Defense Procurement Technical Assistance Center ("PTAC") grant to Ho'okipaipai on or about September 30, 2019, and to ratify and approve the decision of the OHA executives who serve as Managers of Ho'okipaipai to dissolve prior to Ho'okele Pono's dissolution; and

WHEREAS, the Trustees desire to ratify and approve the decision of the OHA executives who serve as Managers of Hi'ilei Aloha to dissolve Hi'ikualono at any time, as that entity is inactive; and

WHEREAS, the Trustees have reviewed the following documents, all of which documents relate to the transactions described above, and which documents are collectively referred to as the "Reorganization Documents":

- (a) A proposed Second Amended and Restated Operating Agreement of Hi'ilei Aloha LLC to be executed by the managers of Hi'ilei Aloha and a proposed position description ("Position Description") for Manager of Hi'ilei Aloha;
- (b) A proposed Fourth Amended and Restated Operating Agreement of Hi'ipaka LLC to be executed by the managers of Hi'ipaka;



(c) Proposed Articles of Termination and Plan of Dissolution of Ho'okele Pono LLC to be executed by the Managers of Ho'okele Pono;

(d) Proposed Articles of Termination and Plan of Dissolution of Ho'okipaipai LLC to be executed by the Managers of Ho'okipaipai; and

(e) Proposed Articles of Termination and Plan of Dissolution of Hi'ikualono LLC to be executed by the Managers of Hi'ikualono.

WHEREAS, the Trustees have determined that OHA will derive substantial economies and benefits from the foregoing reorganization, which benefits justify the approval of the required Reorganization Documents.

NOW, THEREFORE, BE IT RESOLVED that the Trustees:

1. Authorize and approve the Second Amended and Restated Operating Agreement of Hi'ilei Aloha LLC and Position Description as described above; and
2. Authorize and approve the Fourth Amended and Restated Operating Agreement of Hi'ipaka LLC as described above; and
3. Authorize and approve the proposed Articles of Termination and Plan of Dissolution of Ho'okele Pono LLC as described above; and
4. Authorize and approve the proposed Articles of Termination and Plan of Dissolution of Ho'okipaipai LLC as described above; and
5. Authorize and approve the proposed Articles of Termination and Plan of Dissolution of Hi'ikualono LLC as described above.

FURTHER, RESOLVED, that the Managers of Hi'ilei Aloha are authorized to execute the Second Amended and Restated Operating Agreement, the Managers of Hi'ipaka are authorized to execute the Fourth Amended and Restated Operating Agreement and the Managers of Ho'okele Pono, Ho'okipaipai and Hi'ikualono are hereby authorized to execute and deliver the respective Articles of Termination and Plan of Dissolution, to notify the Attorney General of the State of Hawai'i and Internal Revenue Service of their intent to dissolve and to distribute the remaining assets of Ho'okele Pono and Ho'okipaipai to OHA, and the remaining assets of Hi'ikualono to Hi'ilei Aloha, both OHA and Hi'ilei Aloha as qualifying organizations under Section 501(c)(3) of the Internal Revenue Code, with such changes to the Reorganization Documents as may be required and approved by the Managers and executing the same, such approval by the person or persons executing the same to be conclusively evidenced by his or her execution and delivery of the same.

FURTHER, RESOLVED, that the Trustees approve of the Position Description for Manager of Hi'ilei Aloha and Hi'ipaka and authorize OHA staff to commence recruitment for these positions.

FURTHER, RESOLVED, that the Trustees approve of and accept all the terms and provisions contained in the Reorganization Documents and that the Managers be and they are hereby authorized to negotiate the terms of the terminations and dissolutions with the Attorney General and the Internal Revenue Service and negotiate such additional terms and conditions as may be required, and to execute and file all of the Reorganization Documents required with such changes thereto as may be required and approved by the Managers, such approval by the Managers to be conclusively evidenced by their execution and delivery of the same.

FURTHER, RESOLVED, that the Managers be and are hereby authorized in each and every respect to observe and perform all of the covenants, provisions, terms and conditions upon the part of Hi'ilei Aloha, Hi'ipaka, Ho'okele Pono, Ho'okipaipai and Hi'ikualono to be observed and performed under the Reorganization Documents, and that the Managers be and they are hereby authorized to execute and deliver the Reorganization Documents, a certified copy of this Resolution and any other such corporate papers, certificates and documents as may be required on behalf of Hi'ilei Aloha, Hi'ipaka, Ho'okele Pono, Ho'okipaipai and Hi'ikualono, and to do all such things and take any and all such other actions as may be necessary, proper, appropriate or convenient in order to effectuate the intent of this Resolution and consummate these transactions.

FURTHER, RESOLVED, that any and all other actions heretofore taken by any Manager on behalf of OHA in connection with or relating to the transactions are and the same are hereby ratified and confirmed as the proper and binding actions of OHA.

## **SECOND AMENDED AND RESTATED OPERATING AGREEMENT**

### **of HI'ILEI ALOHA LLC (MANAGER-MANAGED)**

This Operating Agreement ("Agreement"), made and entered into as of September 26, 2007, and amended and restated as of May 30, 2019 is made by and between OFFICE OF HAWAIIAN AFFAIRS, a body corporate and instrumentality of the State of Hawai'i, whose address is 560 N. Nimitz Hwy #200, Honolulu, Hawai'i 96817 ("Member"), and HI'ILEI ALOHA LLC, a Hawai'i limited liability company, whose address is 711 Kapi'olani Boulevard, 5th Floor, Honolulu, Hawai'i 96813 (the "Company").

### **ARTICLE I FORMATION OF COMPANY**

1.01 Formation. The Company shall be, or has been, organized as a Hawai'i limited liability company, by executing and delivering Articles of Organization to the Department of Commerce and Consumer Affairs of the State of Hawaii ("DCCA") in accordance with and pursuant to Chapter 428 of the Hawaii Revised Statutes (the "Act").

1.02 Name. The name of the Company is HI'ILEI ALOHA LLC.

1.03 Principal Place of Business and Fax Number. The principal place of business of the Company is 711 Kapi'olani Boulevard, 5<sup>th</sup> Floor, Honolulu, Hawai'i 96813. The Company may locate its place(s) of business and registered office at any other place or places as the Manager(s) may deem advisable.

1.04 Registered Office and Registered Agent. The Company's initial registered office shall be at 711 Kapi'olani Boulevard, 5th Floor, Honolulu, Hawaii 96813, and its initial registered agent was Clyde W. Nāmu'o. The registered office and registered agent may be changed by the Manager(s) by filing the address of the new registered office and/or the name of the new registered agent with the DCCA pursuant to the Act.

1.05 Term. The Term of the Company shall be from the filing of the Articles of Organization with the DCCA until dissolved in accordance with either the provisions of this Operating Agreement or the Act.

### **ARTICLE II BUSINESS OF COMPANY**

2.01 Non-profit Company. The Company is intended to operate as a nonprofit limited liability company exempt from federal income tax under Sections 501(a) and 501(c)(3) of the Internal Revenue Code and to which deductible contributions may be made under Section 170(c)(2) of the Internal Revenue Code. The Company shall not engage in any activity not permitted to be carried out by a company exempt from federal income tax under Sections 501(a) and 501(c)(3) of the Internal Revenue Code to which deductible contributions may be made under Section 170(c)(2) of the Internal Revenue Code.

2.02 Purposes. The Company is formed and shall be operated exclusively to further the following exempt purposes:

- a. to study the history and culture of the Hawaiian people, including their ancestral and modern lifestyles, traditions, customs, practices, activities, values and beliefs (including, by way of example, agricultural and farming, hunting, gathering, fishing, nourishment, housing, language, music, dance, religion, economy, trade, social and governmental practices);
- b. to educate the Hawaiian people and all people on the history and culture of the Hawaiian people as described in Section 2.02.a, including, for example, through educational tours, lectures, displays, models, demonstrations, courses, pamphlets, books, employment opportunities, and scientific studies;
- c. to scientifically investigate and study, and to educate the Hawaiian people and all people as to, the plants, land and water resources, fish and marine resources, birds, animals and other wildlife, and ecosystems endemic or early introduced to the Hawaiian Islands, and their role in Hawaiian history, civilization and culture, and to preserve, protect, enhance, and encourage the propagation and protection of such endemic life in protected and appropriate natural surroundings;
- d. to preserve, protect, enhance, develop and promote Hawaiian historical, archaeological, environmental, cultural, spiritual and religious values, customs, practices, resources and sites;
- e. to educate, train, assist and prepare Hawaiians for leadership in government, business and community affairs;
- f. to receive contributions and pay them over to organizations which are described in Section 501(c)(3) and exempt from taxation under Section 501(a) of the Internal Revenue Code;
- g. such other religious, charitable, scientific, literary, educational and other purposes permitted by Section 501(c)(3) of the Internal Revenue Code as may be determined by the Member from time to time;
- h. to manage and assist the carrying out of these exempt purposes either by the Company or by related companies formed to carry out solely one or more of these exempt purposes; and
- i. to have and exercise all of the powers conferred by law on limited liability companies of Hawaii, but only to the extent permitted for a company described in Section 501(c)(3) of the Internal Revenue Code and exempt from federal income tax under Section 501(a) of the Internal Revenue Code, and to which deductible contributions may be made under Section 170(c)(2) of the Internal Revenue Code.

2.03 Nonpartisanship; Noninvolvement in Lobbying. The purposes of the Company shall be pursued without political partisanship or lobbying, and the Company shall not become

involved in, nor shall any of its funds be used for, the support of or opposition to any candidate or appointee for public office or to lobby for or against any governmental legislation, rule, or regulation.

### **ARTICLE III**

#### **NAMES, ADDRESS, FAX NUMBER AND E-MAIL ADDRESS OF MEMBER**

3.01 The name, address, and electronic mail address of the Member of the Company are as follows:

Name:	Address:
Office of Hawaiian Affairs	560 N. Nimitz Hwy #200 Honolulu, Hawai'i 96817 E-mail address: info@oha.org

### **ARTICLE IV**

#### **RIGHTS AND DUTIES OF MANAGERS**

4.01 Management. The business and affairs of the Company will be managed by three (3) managers (the "Managers"). The Managers shall have the power and authority to manage and control the business of the Company and to bind the Company, subject to the limitations in Section 4.11 below and any limitations contained in the Act. Except for situations in which the approval of the Member is required by this Operating Agreement, the Managers have full and complete authority, power and discretion to manage and control the business, affairs and properties of the Company, to make all decisions regarding those matters and to perform any and all other acts or activities customary or incidental to the management of the Company's business. The Managers may make decisions and take actions only with the consent of all Managers, unless the matter concerns a decision regarding a matter of an amount or value of less than \$50,000.00 or unless otherwise provided in this Operating Agreement (e.g., Section 4.06 below), in which event the decision and/or action of a single Manager alone will be sufficient to bind the Company, subject to the provisions of Section 4.12 below.

4.02 Managers. The Company shall have three (3) Managers. Following the resignation of the current Managers, the Member shall appoint three (3) Managers, each to serve staggered terms of approximately three (3) years, two (2) years, and one (1) year. The terms shall end on the last day of the month in which each Manager takes office. Subsequently, the Member shall appoint each Manager to serve a new three (3) year term or the remainder of an unexpired three (3) year term. The Managers shall not be OHA employees, and can only be removed for cause.

4.03 Certain Powers of Managers; Restriction on Member's Authority. Without limiting the generality of Section 4.01, and subject to the limitations contained in Section 4.11, the Managers shall have the power and authority on behalf of the Company to:

a. acquire or lease any real or personal property from any Person, whether or not such Person is directly or indirectly affiliated or connected with the Managers or any Member;



b. borrow money for the Company from banks, other lending institutions, or the Member on such terms as the Managers deem appropriate, and in connection therewith, to hypothecate, mortgage, encumber and grant security interests in the assets of the Company to secure repayment of the borrowed sums;

c. construct, operate, maintain and improve any real and personal property owned by the Company;

d. prepay, in whole or in part, refinance, amend, modify or extend any mortgages or trust deeds affecting the assets of the Company and in connection therewith to execute for and on behalf of the Company any extensions, renewals or modifications of such mortgages or trust deeds;

e. purchase liability and other insurance to protect the Company's property and business;

f. hold and own Company real and personal properties in the name of the Company;

g. invest Company funds in time deposits, short-term governmental obligations, commercial paper or other investments;

h. at the direction of the Member, sell, exchange or otherwise dispose of all or substantially all of the assets of the Company as part of a single transaction or plan as long as such disposition is not in violation of, or a cause of a default under, any other agreement to which the Company may be bound, the Act, or Section 501(c)(3) of the Internal Revenue Code;

i. execute on behalf of the Company all instruments and documents, including, without limitation, checks, drafts, notes and other negotiable instruments; mortgages or deeds of trusts; security agreements; financing statements; documents providing for the acquisition, mortgage or disposition of the Company's property; assignments and bills of sale; leases; and any other instruments or documents necessary or desirable to the business of the Company;

j. employ accountants, legal counsel, managing agents, tradespeople, contractors, subcontractors or other Persons to perform services for the Company;

k. enter into any and all other agreements on behalf of the Company, in such forms as the Managers may approve; and

l. do and perform all other acts as may be necessary or appropriate to the conduct of the Company's business.

Unless authorized to do so by this Operating Agreement or by the Managers, no attorney-in-fact, employee or other agent of the Company shall have any power or authority to bind the Company in any way, to pledge its credit or to render it liable for any purpose. No Member shall have any power or authority to bind the Company unless the Member has been authorized by the Managers to act as an agent of the Company in accordance with the preceding sentence.

4.04 Liability for Certain Acts. The Managers shall perform their respective duties as Managers in good faith, in a manner they reasonably believe to be in the best interests of the Company, and with such care as an ordinarily prudent person in a like position would use under similar circumstances. No Manager shall be liable to the Company or to any Member for any loss or damage sustained by the Company or any Member, unless the loss or damage shall have been the result of fraud, deceit, gross negligence or willful misconduct by said Manager.

4.05 Members and Managers; Limited Duty of Loyalty. The duty of loyalty of any Member or Manager of the Company is not violated by participation in the formation, management, performance of services for, employment by, or actions in support of any of the following entities:

- a. Office of Hawaiian Affairs, or
- b. any other entity (existing currently or in the future) of which Office of Hawaiian Affairs or Hi'ilei Aloha LLC is a member, which is intended to further the purposes of Office of Hawaiian Affairs as described in Chapter 10 of the Hawaii Revised Statutes.

Except as stated above, neither the Member(s) (to the limited extent of the managerial authority under Section 4.11 hereof) or Managers of the Company shall compete with the Company in the conduct of the Company's business before the dissolution of the Company, nor during any period in which such person or entity participates in the winding up of the Company's business. Neither the Company nor any Member shall have any right, by virtue of this Operating Agreement, to share or participate in such other investments or activities of the Managers or Member(s) or to the income or proceeds derived therefrom.

4.06 Bank Accounts. The Managers may from time to time open bank accounts in the name of the Company, and the Managers shall be signatories thereon. Checks and drafts of less than \$10,000.00 may be executed by any Manager, and checks and drafts of \$10,000.00 or more shall be signed by two or more Managers.

4.07 Indemnity of the Managers.

a. Subject to the limitations and conditions provided in this Section 4.07, each Person ("Indemnified Person") who was or is made a party or is threatened to be made a party to or is involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, arbitral or investigative ("Proceeding"), or any appeal in such a Proceeding or any inquiry or investigation that could lead to such a Proceeding, by reason of the fact that he, she, or a Person of whom he or she is the legal representative, is or was a Manager of the Company or is or was serving as a manager, director, officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another entity that is or was a Manager shall be indemnified by the Company against judgments, penalties (including excise and similar taxes and punitive damages), fines, settlements and reasonable costs and expenses (including, without limitation, attorneys' fees) actually incurred by such Indemnified Person in connection with such Proceeding if such Indemnified Person acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interest of the Company and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The

termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the Indemnified Person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Company or, with respect to any criminal action or proceeding, that the Indemnified Person had reasonable cause to believe that his conduct was unlawful.

b. To the extent that an Indemnified Person has been successful, on the merits or otherwise, in the defense of any action, suit or proceeding referred to in Section 4.07.a., or in defense of any claim, issue or matter therein, he will be indemnified against expenses (including attorneys' fees) actually and reasonably incurred in connection therewith.

c. Any indemnification under this Section 4.07 (unless ordered by a court) shall be made by the Company only as authorized in the specific case, upon a determination that indemnification is proper in the circumstances because he has met the applicable standard of conduct set forth therein. Such determination shall be made by the sole Member. If there is no disinterested Member, then the determination shall be made by the Company's independent legal counsel, whose fees must be paid by the Company.

d. Indemnification under this Section 4.07 shall continue as to an Indemnified Person who has ceased to serve in the capacity which initially entitled such Indemnified Person to indemnity hereunder. The rights granted pursuant to this Section 4.07 shall be deemed contract rights, and no amendment, modification or repeal of this Section 4.07 shall have the effect of limiting or denying any such rights with respect to actions taken or Proceedings arising prior to any such amendment, modification or repeal.

e. The right to indemnification conferred by this Section 4.07 shall include the right to be paid or reimbursed by the Company for the reasonable expenses incurred in advance of the final disposition of the Proceeding and without any determination as to the Indemnified Person's ultimate entitlement to indemnification; provided, however, that the payment of such expenses incurred in advance of the final disposition of a Proceeding shall be made only upon delivery to the Company of a written affirmation by such Indemnified Person of his good faith belief that he has met the standard of conduct necessary for indemnification under this Section 4.07 and a written undertaking, by or on behalf of such Indemnified Person, to repay all amounts so advanced if it shall ultimately be determined that such Indemnified Person is not entitled to be indemnified under this Section 4.07 or otherwise.

**4.08 Reimbursement to Managers.** The Company shall reimburse the Managers for all ordinary, necessary, and direct expenses incurred by the Managers on behalf of the Company in carrying out the Company's business activities.

**4.09 Execution of Documents.** Any document or instrument of any and every nature, including without limitation, any agreement, contract, deed, lease, promissory note, mortgage or deed of trust, security agreement, financing statement, pledge, assignment, bill of sale and certificate, which is intended to bind the Company or convey or encumber title to its real or personal property shall be valid and binding for all purposes only if executed by two or more of the Managers as provided in Section 4.01 above.

4.10 Delegation of Manager's Authority. Notwithstanding the provisions of this Article IV, the Managers may delegate in writing authority to one or more of the Company's employees, agents or independent contractors to write checks, sign contracts and other documents described in Section 4.09, hire and fire personnel, or take such other actions on behalf of the Company as may be necessary or useful to the management and operation of the Company, subject to such financial limits or other limitations as the Managers shall describe in such written authorization, and subject to the limitations on the Managers' authority as set forth in Section 4.11.

4.11 Limitations on Managers' Authority. Only a writing executed by 100% of the Members may:

- a. add new Members;
- b. authorize the sale or mortgage of any interest in real estate held by the Company;
- c. authorize any lease, license, or occupancy, extending more than 10 years;
- d. provide any salary, bonus, loan or other benefit, other than reimbursement of costs, to any Manager;
- e. authorize the sale, exchange or disposition of all or substantially all of the assets of the Company as part of a single transaction or plan, which may be carried out as long as such disposition is not in violation of, or a cause of a default under, any other agreement to which the Company may be bound, the Act, or Section 501(c)(3) of the Internal Revenue Code;
- f. authorize the dissolution of the Company; or
- g. amend this Operating Agreement and the Articles of Organization of the Company.

Once 100% of the Members' written authorization is received by the Company, the Managers shall have the authority to bind the company by negotiating and signing any documents necessary or useful to carry out the Member-authorized transaction. The Member's written authorization will be effective if executed by Member's Chief Executive Officer on behalf of Member.

4.12 Deadlock/Conflict. If for any reason (a) one of the Managers is disqualified from rendering a decision or taking an action on behalf of the Company as a result of a conflict of interest, and (b) the two remaining Managers are unable to agree, then the decision or action of the most senior Manager in time of service shall control in the absence of a conflict of interest or other circumstance which, under policies adopted by the Company, would disqualify said Manager from rendering the decision or taking the action, in which case the decision or action of the next most senior Manager in time of service shall control.

If for any reason all of the Managers are disqualified from rendering a decision or taking an action on behalf of the Company as a result of a conflict of interest, their designee shall, after

exercising due diligence in accordance with the procedures set forth in the Company's policy on Financial Conflicts of Interest, render the decision or take the action in question.

4.13 Resignation. Any Manager of the Company may resign at any time by giving written notice to the Member. The resignation of any Manager shall take effect upon receipt of notice thereof or at such later date specified in such notice; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. The resignation of a Manager who is also a Member shall not affect the Manager's rights as a Member and shall not constitute a withdrawal of a Member.

## **ARTICLE V**

### **MEMBERS; RIGHTS AND OBLIGATIONS OF MEMBER**

5.01 Member. The Office of Hawaiian Affairs, a body corporate and instrumentality of the State of Hawai'i and hence a Qualifying Organization within the meaning of Section 5.02 below, is the sole Member of the Company ("Initial Member").

5.02 Qualifying Organization. As used herein, the term "Qualifying Organization" shall refer to any entity which is described in Section 501(c)(3) of the Internal Revenue Code and exempt from taxation under Section 501(a) of the Internal Revenue Code, a governmental unit, or wholly-owned instrumentality of a state or political subdivision thereof.

5.03 Membership Limited to Qualifying Organizations. No entity may be or become a Member of this Company, and no direct or indirect transfer of a membership interest may be made to any entity, except a Qualifying Organization.

5.04 Admission of Additional Members. Additional members may be admitted to the Company upon the consent of the existing Member only if they are Qualifying Organizations as defined in Section 5.02. This Operating Agreement is designed exclusively for a single member limited liability company, and the existence of more than one member would require very substantial revision of this Operating Agreement, and would require the written agreement of all Members. No entity shall be deemed to have been admitted as an additional member of the Company unless that entity's signature appears on this Agreement as duly amended or restated and unless that entity's signature has been duly notarized.

5.05 Cessation of Member as Qualifying Organization. If a Member at any time shall cease to be a Qualifying Organization, then the Company will be dissolved and terminated unless and until its Members are Qualifying Organizations, and then only if State law permits the continuation or reinstatement of the Company.

5.06 Enforcement of Rights. A Member shall expeditiously and vigorously enforce all of its rights in the Company and pursue all legal and equitable remedies to protect its interests in the Company.

5.07 Limitation of Liability. Each Member's liability shall be limited to the full extent set forth in this Operating Agreement, the Act and other applicable law.



5.08 Company Debt Liability. A Member shall not be personally liable for any debts or losses of the Company beyond his, her or its respective capital contributions except as otherwise required by law.

5.09 List of Members. Upon the written request of any Member, the Managers shall provide a list showing the names, addresses and Membership Interests of all Members.

5.10 Company Books. The Managers shall maintain and preserve, during the term of the Company, the accounts, books, and other relevant Company documents. Upon reasonable written request, any Member shall have the right, at any time during ordinary business hours, to inspect and copy, at the requesting Member's expense, the writings listed in Section 8.04, and any other Company documents if and to the extent required by Hawai'i law.

## **ARTICLE VI MEETINGS OF MEMBERS**

### **6.01 Meetings of and Voting by Members.**

a. If there is more than one Member, each Member shall have a vote as shall be determined by amendment to this Operating Agreement pursuant to Section 5.04 above.

b. A meeting of the Member(s) may be called at any time by any Manager. Not less than five (5) nor more than thirty (30) days before each meeting, a Manager shall give written notice of the meeting to the sole Member, or if there is more than one Member, to each Member entitled to vote at the meeting. The notice shall state the time, place and purpose of the meeting. If any Member so requests, a Manager shall arrange for any Member to participate by telephone or any other voice communications medium, so long as the communications arrangements enable all Members to hear each other. The presence in person or by proxy or by any voice communications medium of Members holding not less than a Majority Interest shall constitute a quorum.

c. Except as otherwise specifically provided in this Operating Agreement, the affirmative vote of Members holding a Majority Interest shall be required and sufficient to approve any matter coming before the Members, including matters which under the Act (but for this Operating Agreement provision) would require unanimous consent of the Members.

d. In lieu of holding a meeting, the Members may vote or otherwise take action by written consent of the Members. Faxed signatures on consents are valid. Prompt notice of the taking of the action without a meeting by less than unanimous consent shall be given in writing to those Members who were entitled to vote but did not consent in writing.

## **ARTICLE VII CONTRIBUTIONS TO THE COMPANY**

7.01 Contribution of Cash in Exchange for Membership. Immediately after the parties have signed this Agreement, Member shall contribute cash in the amount of \$100,000 to the Company, in full compensation for its membership in the Company.

7.02 Possible Future Contributions; Member Not Obligated. The Member expects to contribute to the Company Member's real estate and related holdings located in Pūpūkea and Waimea, District of Ko'olauloa, City and County of Honolulu, State of Hawaii, and may in the future contribute other assets to the Company, all of which shall be used and operated in accordance with the Company's exempt purposes. However, the Member has no duty to make any contribution of capital or property to the Company under any circumstance or for any reason.

7.03 Additional Funding. If the Managers determine at any time that there is a need for additional funds to meet the expenses and obligations of the Company, the Managers shall give written notice (the "Cash Needs Notice") to the sole Member, or if there is more than one Member, to each Member of the amount of additional funds needed together with such information as may be necessary to evidence the need for the funds and the proposed uses thereof (the required amount of funds are referred to as the "Required Funds"). Any Member may, but is not obligated to, contribute or loan any Required Funds on terms to be agreed upon between the Member and the Company. The Managers shall not loan any funds to the Company.

## **ARTICLE VIII DISTRIBUTIONS, SALARIES, LOANS, RECORDS AND RETURNS**

8.01 Limitation upon Distributions. No distribution or return of capital contributions may be made and paid if the financial condition of the Company does not permit such action under Hawaii law (currently Hawaii Revised Statutes Section 428-406). No assets of the Company may be transferred, granted or distributed, whether directly or indirectly, to any entity other than a Qualifying Organization, except in exchange for fair market value. The Company shall not distribute any assets, other than in exchange for fair market value, to any Member which has ceased being a Qualifying Organization or governmental unit or instrumentality.

8.02 Salaries. Neither the Managers nor any Member shall be entitled to receive a salary for services rendered to the Company, unless the salary and its amount are consented to in writing by the Member.

8.03 Loans to Company. Nothing in this Operating Agreement prevents any Member from making secured or unsecured loans to the Company by agreement with the Managers.

8.04 Records. At the expense of the Company, the Managers shall maintain records and accounts of the operations and expenditures of the Company. At a minimum, the Company will keep at its principal place of business the following records:

a. A current list of the full name and last known address of each Member setting forth the amount of cash each Member has contributed, a description and statement of the agreed value of the other property or services each Member has contributed or has agreed to contribute in the future, and the date on which each became a Member;

b. A copy of the Articles of Organization of the Company and all amendments thereto, together with executed copies of any powers of attorney pursuant to which any amendment has been executed;

c. Copies of the Company's federal and state income tax returns and reports, if any, for the three (3) most recent years and of any financial statements of the Company for the three (3) most recent years; and

d. Copies of the Company's currently effective written Operating Agreement and all amendments thereto.

8.05 Returns and Other Elections. The Managers shall cause the preparation and timely filing of all tax returns required to be filed by the Company pursuant to the Internal Revenue Code and all other tax returns deemed necessary and required in each jurisdiction in which the Company does business. Copies of such returns, or pertinent information therefrom, will be furnished to the Member within a reasonable time after the end of the Company's fiscal year upon the Member's written request. All elections permitted to be made by the Company under federal or state laws will be made by the Managers in their sole discretion.

## **ARTICLE IX TRANSFERABILITY**

9.01 General. Except as may otherwise be specifically permitted in this Operating Agreement, no Member shall have the right to:

a. sell, assign, pledge, hypothecate, transfer, exchange or otherwise transfer for consideration all or any part of its membership interest; or

b. gift, bequeath or otherwise transfer for no consideration (whether or not by operation of law, except in the case of bankruptcy) all or any part of its membership interest.

## **ARTICLE X DISSOLUTION AND TERMINATION**

### 10.01 Dissolution.

The Company shall be dissolved upon the occurrence of any of the following events:

a. The occurrence of an event specified in Section 1.05; or

b. By written resolution of the Member or, if there is more than one Member, by written agreement of all Members.

### 10.02 Winding Up, Liquidation and Distribution of Assets.

a. Upon dissolution, an accounting shall be made by the Company's independent accountants of the accounts of the Company and of the Company's assets, liabilities and operations, from the date of the last previous accounting until the date of dissolution. The Managers shall promptly proceed to wind up the affairs of the Company.

b. Upon the dissolution and winding up of the Company, its assets remaining after payment of, or provision for payment of, all debts and liabilities of the Company, shall be

distributed to the Member if the Member continues to be a Qualifying Organization, and otherwise shall be distributed to one or more other Qualifying Organizations, preferably Qualifying Organizations furthering the Company's purposes, such that the assets will continue to be devoted to tax-exempt purposes.

c. Upon completion of the winding up, liquidation and distribution of the assets, the Company shall be deemed terminated.

d. The Managers shall comply with all requirements of applicable law pertaining to the winding up of the affairs of the Company and the final distribution of its assets, subject to the limitations contained in Section 10.02.b.

10.03 Articles of Termination. When all debts, liabilities and obligations of the Company have been paid and discharged or adequate provisions have been made therefor and all of the remaining property and assets of the Company have been distributed pursuant to the provisions of this Article X, Articles of Termination, as required by the Act, shall be executed and filed with the DCCA.

10.04 Effect of Filing of Articles of Termination. Upon the filing of articles of termination with the DCCA, the existence of the Company shall cease, except for the purpose of suits, other proceedings and appropriate action as provided in the Act. The Managers shall have authority to distribute any Company property discovered after dissolution, convey real estate and take such other action as may be necessary on behalf of and in the name of the Company in accordance with the provisions of this Article X.

## **ARTICLE XI MISCELLANEOUS PROVISIONS**

11.01 Merger and Conversion. The Company shall not merge with, or convert into, an entity that is not exempt from taxation under Sections 501(a) and 501(c)(3) of the Internal Revenue Code.

11.02 Notices. Any notice, demand, or communication required or permitted to be given by any provision of this Operating Agreement shall be in writing and deemed to have been sufficiently given or served for all purposes if (a) delivered personally to the party, or to an officer or partner of a party that is an Entity, (b) sent by electronic mail during normal business hours to the electronic mail address set forth in this Operating Agreement, or (c) sent by first class, registered or certified mail, return receipt requested, postage and charges prepaid, addressed to the Member's and/or Company's address, as appropriate, which is set forth in this Operating Agreement. Except as otherwise provided in this Operating Agreement, any such notice shall be deemed to be given two (2) business days after the date on which the same was deposited in the United States mail, addressed and sent as described above.

11.03 Application of Hawai'i Law. This Operating Agreement, and its interpretation, shall be governed exclusively by its terms and by the laws of the State of Hawai'i and specifically the Act.

11.04 Amendments. This Operating Agreement and the Company's Articles of Organization may not be amended except by the written consent of the sole Member, or if there is more than one Member, all of the Members. Any amendments to this Operating Agreement and the Company's Articles of Organization must be consistent with Section 501(c)(3) of the Internal Revenue Code.

11.05 Execution of Additional Instruments. Each Member may be required to execute such other and further statements of interest and holdings, designations and other instruments necessary to comply with any laws, rules or regulations.

11.06 Construction. Whenever the singular number is used in this Operating Agreement and when required by the context, the same shall include the plural and vice versa, and the masculine gender shall include the feminine and neuter genders and vice versa.

11.07 Headings. The headings in this Operating Agreement are inserted for convenience only and are in no way intended to describe, interpret, define, or limit the scope, extent or intent of this Operating Agreement or any provision hereof.

11.08 Waivers. No party's undertakings or agreements contained in this Operating Agreement shall be deemed to have been waived unless such waiver is made by an instrument in writing signed by an authorized representative of the other Member. Failure of a party to insist on strict compliance with the provisions of this Operating Agreement shall not constitute waiver of that party's right to demand later compliance with the same or other provisions of this Operating Agreement. A waiver of a breach of this Operating Agreement will not constitute a waiver of the provision itself or of any subsequent breach, or of any other provision of this Operating Agreement.

11.09 Rights and Remedies Cumulative. The rights and remedies provided by this Operating Agreement are cumulative, and the use of any one right or remedy by any party shall not preclude or waive the right to use any other remedy. Said rights and remedies are given in addition to any other legal rights the parties may have.

11.10 Severability. If any provision of this Operating Agreement or the application thereof to any Person or circumstance shall be invalid, illegal or unenforceable to any extent, the remainder of this Operating Agreement and the application thereof shall not be affected and shall be enforceable to the fullest extent permitted by law.

11.11 Heirs, Successors and Assigns. Each and all of the covenants, terms, provisions and agreements herein contained shall be binding upon and inure to the benefit of the parties hereto and, to the extent permitted by this Operating Agreement, their respective heirs, legal representatives, successors and assigns.

11.12 Creditors. None of the provisions of this Operating Agreement shall be for the benefit of or enforceable by any creditors of the Company or of the Members.

11.13 Counterparts. This Operating Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.



IN WITNESS WHEREOF, the sole Member and the Company have executed this Operating Agreement on the date first written above.

APPROVED AS TO CONTENT:

**OFFICE OF HAWAIIAN AFFAIRS**, a body  
corporate and instrumentality of the State of  
Hawai'i

\_\_\_\_\_  
Director, Land Management  
Office of Hawaiian Affairs

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Its \_\_\_\_\_  
Sole Member

APPROVED AS TO FORM:

**HI'ILEI ALOHA LLC**, a Hawaii limited  
liability company

\_\_\_\_\_  
Senior Staff Attorney  
Office of Hawaiian Affairs

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Its Manager

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Its Manager

Company

# **HI'ILEI ALOHA LLC**

## **POSITION DESCRIPTION**

**Position Title:**       **Manager of Hi'ilei Aloha LLC (Volunteer)**

**Reports To:**         **Office of Hawaiian Affairs, As Member of Hi'ilei Aloha LLC**

**Effective Date:**     \_\_\_\_\_, 2019

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### **GENERAL OVERVIEW OF POSITION DUTIES**

The Manager, who will be one of a board of three appointed managers, is expected to direct and oversee the Chief Operating Officer ("COO") of Hi'ilei Aloha LLC (the "Company"), and oversee the Company's business affairs, subject to limitations in the Company's operating agreement ("Operating Agreement") or by law. The Manager may be tasked with oversight of additional companies of which the Office of Hawaiian Affairs or the Company is a member ("Member").

Except for situations in which approval of the Member is required by the Operating Agreement, the Manager will have authority, power and discretion to oversee the business, affairs and properties of the Company, to make all decisions regarding those matters, and to perform any and all other acts or activities customary or incident to the management of the Company's business.

### **PART-TIME POSITION, TERM AND SERVICE WITHOUT REMUNERATION**

This is a part-time position in which the Manager is expected to devote approximately 3-5 hours per month. The Manager shall serve for an initial term of \_\_\_\_\_ year(s) and thereafter in accordance with the terms of the Operating Agreement.

The Manager shall serve without remuneration except the Company shall reimburse a Manager for ordinary, necessary, and reasonable direct expenses incurred by the Manager on behalf of the Company in carrying out the Company's business activities.

## **ESSENTIAL DUTIES & RESPONSIBILITIES**

1. Manager's authority: The Manager has the authority to manage and oversee the Company's COO and the Company's business. The Manager reviews the COO's recommendations and makes decisions consistent with the Operating Agreement, the Company's annual objectives, the approved budget and best practices.
2. Review of Operations: At least once a month, meets with the COO and executive staff to review overall Company operations to ensure the business is progressing in a culturally appropriate manner and in compliance with acceptable business practices. Oversees Company use and maintenance of facilities and property. Assigns projects and requests reports as needed.
3. Strategic Plan and Company Objectives: Reviews and approves Company's Long Range and annual objectives, goals, policies and programs. Ensures compliance with Operating Agreement.
4. Budgeting and Finance: Reviews and approves operating and capital budgets. Monitors Company's implementation of approved budgets. Reviews financial reports, including income statements, balance sheets, and reports, tax returns; and reports for government regulatory agencies or other compliance purposes. Oversees investment of Company funds and approves large Company expenditures.
5. Human Resources, Risk Management and Contracts: Oversees Company handling of human resources-related issues, risk management claims and liabilities and Company contractor utilization.
6. Performs other duties as assigned by the Member.

## **KNOWLEDGE, SKILL AND ABILITIES**

1. Must have good working knowledge of strategic management, financial, accounting and planning, and business systems.
2. Must be able to work well with others.
3. Must be organized and a self-starter. Must exercise independent judgment to prioritize projects and respond to situations as they arise without direct supervision.
4. Must project a professional demeanor.
5. Must have good oral and written communication skills.

## **MINIMUM QUALIFICATIONS**

### **EDUCATION, TRAINING AND/OR EXPERIENCE**

1. Must possess a bachelor's degree or equivalent work experience.
2. Experience in business administration is desirable.
3. Five years of administrative experience that involved management and oversight of professional staff and responsibility for the development, management, execution and coordination of program policies and activities. Administrative experience shall include but not limited to oversight of staff and work performance, budget planning and development, project management, understanding of contract management, risk management, human resources processes and procedures, high level strategic planning, collaboration with subordinates to develop professional development plans, and experience engaging various stakeholders of the professional, academic and Native Hawaiian communities.
4. Three years of administrative or executive level experience in non-profit organization governance and management of non-profit organizations.

### **HOW TO APPLY:**

To apply for this position, download, complete and submit this fillable application form [insert link] along with a resume and cover letter to:

OFFICE OF HAWAIIAN AFFAIRS  
560 N. Nimitz Highway, Suite 200  
Honolulu, Hawai'i 96817  
Attention: Human Resources

Or via email: [ohahr@oha.org](mailto:ohahr@oha.org)

An Equal Opportunity Employer

**FOURTH AMENDED AND RESTATED OPERATING AGREEMENT**  
**of**  
**HI'IPAKA LLC**  
**(MANAGER-MANAGED)**

This Operating Agreement ("Agreement"), made and entered into as of December 5, 2007, and amended and restated on May 30, 2019, is made by and between HI'ILEI ALOHA LLC, a Hawai'i limited liability company, whose address is 711 Kapi'olani Boulevard, 5th Floor, Honolulu, Hawai'i 96813 ("Member"), and HI'IPAKA LLC, a Hawai'i limited liability company, whose address is 711 Kapi'olani Boulevard, 5th Floor, Honolulu, Hawai'i 96813 (the "Company").

**ARTICLE I**  
**FORMATION OF COMPANY**

1.01. Formation. The Company shall be, or has been, organized as a Hawai'i limited liability company, by executing and delivering Articles of Organization to the Department of Commerce and Consumer Affairs of the State of Hawai'i ("DCCA") in accordance with and pursuant to Chapter 428 of the Hawai'i Revised Statutes (the "Act").

1.02. Name. The name of the Company is HI'IPAKA LLC.

1.03. Principal Place of Business. The initial principal place of business of the Company is 711 Kapi'olani Boulevard, 5th Floor, Honolulu, Hawai'i 96813. The Company may locate its place(s) of business and registered office at any other place or places as the Manager(s) may deem advisable.

1.04. Registered Office and Registered Agent. The Company's initial registered office shall be at 711 Kapi'olani Boulevard, 5th Floor, Honolulu, Hawai'i 96813, and its initial registered agent was Clyde W. Nāmu'o. The registered office and registered agent may be changed by the Manager(s) by filing the address of the new registered office and/or the name of the new registered agent with the DCCA pursuant to the Act.

1.05. Term. The Term of the Company shall be from the filing of the Articles of Organization with the DCCA until dissolved in accordance with either the provisions of this Operating Agreement or the Act.

**ARTICLE II**  
**BUSINESS OF COMPANY**

2.01. Non-profit Company. The Company is intended to operate as a nonprofit limited liability company exempt from federal income tax under Sections 501(a) and 501(c)(3) of the Internal Revenue Code and to which deductible contributions may be made under Section 170(c)(2) of the Internal Revenue Code. The Company shall not engage in any activity not permitted to be carried out by a company exempt from federal income tax under Sections 501(a) and 501(c)(3) of the Internal Revenue Code to which deductible contributions may be made under Section 170(c)(2) of the Internal Revenue Code.



2.02. Mission. The mission of the Company is:

**E mālama a e ho'omau i nā waiwai kānaka, mo'omeheu, a kūlohelohe o Waimea, O'ahu no kēlā hanauna, kēia hanauna ma o ka ho'ona'auao a me ka ho'okahu 'ana.**

Preserve and perpetuate the human, cultural, and natural resources of Waimea, O'ahu for generations through education and stewardship. (English translation)

2.03. Purposes. The Company has been formed and shall be operated exclusively to further the following exempt purposes:

- a. to fulfill the mission of the Company articulated in Section 2.02 above;
- b. to carry out such other religious, charitable, scientific, literary, educational and other purposes permitted by Section 501(c)(3) of the Internal Revenue Code as may be determined by the Member from time to time;
- c. to manage and assist the carrying out of these exempt purposes either by the Company or by related companies formed to carry out solely one or more of these exempt purposes; and
- d. to have and exercise all of the powers conferred by law on limited liability companies of Hawai'i, but only to the extent permitted for a company described in Section 501(c)(3) of the Internal Revenue Code and exempt from federal income tax under Section 501(a) of the Internal Revenue Code, and to which deductible contributions may be made under Section 170(c)(2) of the Internal Revenue Code.

2.04. Nonpartisanship; Noninvolvement in Lobbying. The purposes of the Company shall be pursued without political partisanship or lobbying, and the Company shall not become involved in, nor shall any of its funds be used for, the support of or opposition to any candidate or appointee for public office or to lobby for or against any governmental legislation, rule, or regulation.

### ARTICLE III NAME, ADDRESS AND FAX NUMBER OF MEMBER

3.01. The name, address and electronic mail address of the Member of the Company are as follows:

Name:

HI'ILEI ALOHA LLC

Address:

711 Kapi'olani Blvd., 5th Floor  
Honolulu, Hawai'i 96813

### ARTICLE IV RIGHTS AND DUTIES OF MANAGERS

4.01. Management. The business and affairs of the Company will be managed by three (3) managers (the "Managers"). The Managers shall have the power and authority to manage

and control the business of the Company and to bind the Company, subject to the limitations in Section 4.11 below and any limitations contained in the Act. Except for situations in which the approval of the Member is required by this Operating Agreement, the Managers have full and complete authority, power and discretion to manage and control the business, affairs and properties of the Company, to make all decisions regarding those matters and to perform any and all other acts or activities customary or incidental to the management of the Company's business. The Managers may make decisions and take actions only with the consent of all Managers, unless the matter concerns a decision regarding a matter of an amount or value of less than \$50,000.00 or unless otherwise provided in this Operating Agreement (e.g., Section 4.06 below), in which event the decision and/or action of a single Manager alone will be sufficient to bind the Company, subject to the provisions of Section 4.12 below.

4.02. Managers. The Company shall have three (3) Managers. Following the resignation of the current Managers, the Member shall appoint three (3) Managers, each to serve staggered terms of approximately three (3) years, two (2) years, and one (1) year. The terms shall end on the last day of the month in which each Manager takes office. Subsequently, the Member shall appoint each Manager to serve a new three (3) year term or the remainder of an unexpired three (3) year term. The Managers shall not be OHA employees, and can only be removed for cause.

4.03. Certain Powers of Managers; Restriction on Member's Authority. Without limiting the generality of Section 4.01, and subject to the limitations contained in Section 4.11, the Managers shall have the power and authority on behalf of the Company to:

- a. acquire or lease any real or personal property from any Person, whether or not such Person is directly or indirectly affiliated or connected with the Managers or any Member;
- b. borrow money for the Company from banks, other lending institutions, or the Member on such terms as the Managers deem appropriate, and in connection therewith, to hypothecate, mortgage, encumber and grant security interests in the assets of the Company to secure repayment of the borrowed sums;
- c. construct, operate, maintain and improve any real and personal property owned by the Company;
- d. prepay, in whole or in part, refinance, amend, modify or extend any mortgages or trust deeds affecting the assets of the Company and in connection therewith to execute for and on behalf of the Company any extensions, renewals or modifications of such mortgages or trust deeds;
- e. purchase liability and other insurance to protect the Company's property and business;
- f. hold and own Company real and personal properties in the name of the Company;

g. invest Company funds in time deposits, short-term governmental obligations, commercial paper or other investments;

h. at the direction of the Member, sell, exchange or otherwise dispose of all or substantially all of the assets of the Company as part of a single transaction or plan as long as such disposition is not in violation of, or a cause of a default under, any other agreement to which the Company may be bound, the Act, or Section 501(c)(3) of the Internal Revenue Code;

i. execute on behalf of the Company all instruments and documents, including, without limitation, checks, drafts, notes and other negotiable instruments; mortgages or deeds of trusts; security agreements; financing statements; documents providing for the acquisition, mortgage or disposition of the Company's property; assignments and bills of sale; leases; and any other instruments or documents necessary or desirable to the business of the Company;

j. employ accountants, legal counsel, managing agents, tradespeople, contractors, subcontractors or other Persons to perform services for the Company;

k. enter into any and all other agreements on behalf of the Company, in such forms as the Managers may approve; and

l. do and perform all other acts as may be necessary or appropriate to the conduct of the Company's business.

Unless authorized to do so by this Operating Agreement or by the Managers, no attorney-in-fact, employee or other agent of the Company shall have any power or authority to bind the Company in any way, to pledge its credit or to render it liable for any purpose. No Member shall have any power or authority to bind the Company unless the Member has been authorized by the Managers to act as an agent of the Company in accordance with the preceding sentence.

4.04. Liability for Certain Acts. The Managers shall perform their respective duties as Managers in good faith, in a manner they reasonably believe to be in the best interests of the Company, and with such care as an ordinarily prudent person in a like position would use under similar circumstances. No Manager shall be liable to the Company or to any Member for any loss or damage sustained by the Company or any Member, unless the loss or damage shall have been the result of fraud, deceit, gross negligence, reckless or willful misconduct or a knowing violation of law by said Manager.

4.05. Members and Managers. Limited Duty of Loyalty. The duty of loyalty of any Member or Manager of the Company is not violated by participation in the formation, management, performance of services for, employment by, or actions in support of any of the following entities:

- a) Office of Hawaiian Affairs, or
- b) Hi'ilei Aloha, LLC, or

- c) any other entity (existing currently or in the future) of which the Office of Hawaiian Affairs or Hi'ilei Aloha LLC is a member, which is intended to further the purposes of the Office of Hawaiian Affairs as described in Chapter 10 of the Hawai'i Revised Statutes.

Except as stated above, neither the Member(s) (to the limited extent of the managerial authority under Section 4.11 hereof) or Managers of the Company shall compete with the Company in the conduct of the Company's business before the dissolution of the Company, nor during any period in which such person or entity participates in the winding up of the Company's business. Neither the Company nor any Member shall have any right, by virtue of this Operating Agreement, to share or participate in such other investments or activities of the Managers or Member(s) or to the income or proceeds derived therefrom.

4.06. Bank Accounts. The Managers may from time to time open bank accounts in the name of the Company, and the Managers shall be signatories thereon. Checks and drafts of less than \$10,000.00 may be executed by any Manager, and checks and drafts of \$10,000.00 or more shall be signed by two or more Managers.

4.07. Indemnity of the Managers.

a. Subject to the limitations and conditions provided in this Section 4.07, each Person ("Indemnified Person") who was or is made a party or is threatened to be made a party to or is involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, arbitral or investigative ("Proceeding"), or any appeal in such a Proceeding or any inquiry or investigation that could lead to such a Proceeding, by reason of the fact that he, she, or a Person of whom he or she is the legal representative, is or was a Manager of the Company or is or was serving as a manager, director, officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another entity that is or was a Manager shall be indemnified by the Company against judgments, penalties (including excise and similar taxes and punitive damages), fines, settlements and reasonable costs and expenses (including, without limitation, attorneys' fees) actually incurred by such Indemnified Person in connection with such Proceeding if such Indemnified Person acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interest of the Company and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the Indemnified Person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Company or, with respect to any criminal action or proceeding, that the Indemnified Person had reasonable cause to believe that his conduct was unlawful.

b. To the extent that an Indemnified Person has been successful, on the merits or otherwise, in the defense of any action, suit or proceeding referred to in Section 4.07.a., or in defense of any claim, issue or matter therein, he will be indemnified against expenses (including attorneys' fees) actually and reasonably incurred in connection therewith.

c. Any indemnification under this Section 4.07 (unless ordered by a court) shall be made by the Company only as authorized in the specific case, upon a determination that

indemnification is proper in the circumstances because he has met the applicable standard of conduct set forth therein. Such determination shall be made by the sole Member. If there is no disinterested Member, then the determination shall be made by the Company's independent legal counsel, whose fees must be paid by the Company.

d. Indemnification under this Section 4.07 shall continue as to an Indemnified Person who has ceased to serve in the capacity which initially entitled such Indemnified Person to indemnity hereunder. The rights granted pursuant to this Section 4.07 shall be deemed contract rights, and no amendment, modification or repeal of this Section 4.07 shall have the effect of limiting or denying any such rights with respect to actions taken or Proceedings arising prior to any such amendment, modification or repeal.

e. The right to indemnification conferred by this Section 4.07 shall include the right to be paid or reimbursed by the Company for the reasonable expenses incurred in advance of the final disposition of the Proceeding and without any determination as to the Indemnified Person's ultimate entitlement to indemnification; provided, however, that the payment of such expenses incurred in advance of the final disposition of a Proceeding shall be made only upon delivery to the Company of a written affirmation by such Indemnified Person of his good faith belief that he has met the standard of conduct necessary for indemnification under this Section 4.07 and a written undertaking, by or on behalf of such Indemnified Person, to repay all amounts so advanced if it shall ultimately be determined that such Indemnified Person is not entitled to be indemnified under this Section 4.07 or otherwise.

4.08. Reimbursement to Managers. The Company shall reimburse the Managers for all ordinary, necessary, and direct expenses incurred by the Managers on behalf of the Company in carrying out the Company's business activities.

4.09. Execution of Documents. Any document or instrument of any and every nature, including without limitation, any agreement, contract, deed, lease, promissory note, mortgage or deed of trust, security agreement, financing statement, pledge, assignment, bill of sale and certificate, which is intended to bind the Company or convey or encumber title to its real or personal property shall be valid and binding for all purposes only if executed by two or more of the Managers as provided in Section 4.01 above.

4.10. Delegation of Manager's Authority. Notwithstanding the provisions of this Article IV, the Managers may delegate in writing authority to one or more of the Company's employees, agents or independent contractors to write checks, sign contracts and other documents described in Section 4.09, hire and fire personnel, or take such other actions on behalf of the Company as may be necessary or useful to the management and operation of the Company, subject to such financial limits or other limitations as the Managers shall describe in such written authorization, and subject to the limitations on the Managers' authority as set forth in Section 4.11.

4.11. Limitations on Managers' Authority. Only a writing executed by 100% of the Members may:

- a. add new Members;



- b. authorize the sale or mortgage of any interest in real estate held by the Company;
- c. authorize any lease, license, or occupancy, extending more than 10 years;
- d. provide any salary, bonus, loan or other benefit, other than reimbursement of costs, to any Manager;
- e. authorize the sale, exchange or disposition of all or substantially all of the assets of the Company as part of a single transaction or plan, which may be carried out as long as such disposition is not in violation of, or a cause of a default under, any other agreement to which the Company may be bound, the Act, or Section 501(c)(3) of the Internal Revenue Code;
- f. authorize the dissolution of the Company; or
- g. amend this Operating Agreement and the Articles of Organization of the Company.

Once 100% of the Members' written authorization is received by the Company, the Managers shall have the authority to bind the company by negotiating and signing any documents necessary or useful to carry out the Member-authorized transaction. The Member's written authorization will be effective if executed by all Managers of the Member on behalf of the Member. If one of the Managers is also a manager of the Member, that will not alter the application of this Section.

4.12. Resignation. Any Manager of the Company may resign at any time by giving written notice to the Member. The resignation of any Manager shall take effect upon receipt of notice thereof or at such later date specified in such notice; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. The resignation of a Manager who is also a Member shall not affect the Manager's rights as a Member and shall not constitute a withdrawal of a Member.

4.13. Deadlock/Conflict. If for any reason (a) one of the Managers is disqualified from rendering a decision or taking an action on behalf of the Company as a result of a conflict of interest, and (b) the two remaining Managers are unable to agree, then the decision or action of the most senior Manager in time of service shall control in the absence of a conflict of interest or other circumstance which, under policies adopted by the Company, would disqualify said Manager from rendering the decision or taking the action, in which case the decision or action of the next most senior Manager in time of service shall control.

If for any reason all of the Managers are disqualified from rendering a decision or taking an action on behalf of the Company as a result of a conflict of interest, their designee shall, after exercising due diligence in accordance with the procedures set forth in the Company's policy on Financial Conflicts of Interest, render the decision or take the action in question.

**ARTICLE V**  
**MEMBERS; RIGHTS AND OBLIGATIONS OF MEMBER**

5.01. Member. Hi'ilei Aloha LLC, a Hawai'i limited liability company, is the sole Member of the Company ("Member").

5.02. Qualifying Organization. As used herein, the term "Qualifying Organization" shall refer to any entity which is described in Section 501(c)(3) of the Internal Revenue Code and exempt from taxation under Section 501(a) of the Internal Revenue Code, a governmental unit, or wholly-owned instrumentality of a state or political subdivision thereof.

5.03. Membership Limited to Qualifying Organizations. No entity may be or become a Member of this Company, and no direct or indirect transfer of a membership interest may be made to any entity, except a Qualifying Organization.

5.04. Admission of Additional Members. Additional members may be admitted to the Company upon the consent of the existing Member only if they are Qualifying Organizations as defined in Section 5.02. This Operating Agreement is designed exclusively for a single member limited liability company, and the existence of more than one member would require very substantial revision of this Operating Agreement, and would require the written agreement of all Members. No entity shall be deemed to have been admitted as an additional member of the Company unless that entity's signature appears on this Agreement as duly amended or restated and unless that entity's signature has been duly notarized.

5.05. Cessation of Member as Qualifying Organization. If a Member at any time shall cease to be a Qualifying Organization, then the Company will be dissolved and terminated unless and until its only Member or Members are Qualifying Organizations, and then only if Hawai'i law permits the continuation or reinstatement of the Company.

5.06. Enforcement of Rights. A Member shall expeditiously and vigorously enforce all of its rights in the Company and pursue all legal and equitable remedies to protect its interests in the Company.

5.07. Limitation of Liability. Each Member's liability shall be limited to the full extent set forth in this Operating Agreement, the Act and other applicable law.

5.08. Company Debt Liability. A Member shall not be personally liable for any debts or losses of the Company except as otherwise required by law.

5.09. List of Members. Upon the written request of any Member, the Managers shall provide a list showing the names, addresses and Membership Interests of all Members.

5.10. Company Books. The Managers shall maintain and preserve, during the term of the Company, the accounts, books, and other relevant Company documents. Upon reasonable written request, any Member shall have the right, at any time during ordinary business hours, to inspect and copy, at the requesting Member's expense, the writings listed in Section 8.04, and any other Company documents if and to the extent required by Hawai'i law.

## **ARTICLE VI MEETINGS OF MEMBERS**

### **6.01. Meetings of and Voting by Members.**

a. If there is more than one Member, each Member shall have a vote as shall be determined by amendment to this Operating Agreement pursuant to Section 5.04 above.

b. A meeting of the Member(s) may be called at any time by any Manager. Not less than five (5) nor more than thirty (30) days before each meeting, a Manager shall give written notice of the meeting to the sole Member, or if there is more than one Member, to each Member entitled to vote at the meeting. The notice shall state the time, place and purpose of the meeting. If any Member so requests, a Manager shall arrange for any Member to participate by telephone or any other voice communications medium, so long as the communications arrangements enable all Members to hear each other. The presence in person or by proxy or by any voice communications medium of Members holding not less than a Majority Interest shall constitute a quorum.

c. Except as otherwise specifically provided in this Operating Agreement, the affirmative vote of Members holding a Majority Interest shall be required and sufficient to approve any matter coming before the Members, including matters which under the Act (but for this Operating Agreement provision) would require unanimous consent of the Members.

d. In lieu of holding a meeting, the Members may vote or otherwise take action by written consent of the Members. Faxed signatures on consents are valid. Prompt notice of the taking of the action without a meeting by less than unanimous consent shall be given in writing to those Members who were entitled to vote but did not consent in writing.

## **ARTICLE VII CONTRIBUTIONS TO THE COMPANY**

7.01. Contribution of Cash in Exchange for Membership. Immediately after the parties have signed this Agreement, Member shall contribute cash in the amount of \$100,000 to the Company, in full compensation for its membership in the Company.

7.02. Member Not Obligated. The Member has no duty to make any contribution of capital or property to the Company under any circumstance or for any reason.

7.03. Additional Funding. If the Managers determine at any time that there is a need for additional funds to meet the expenses and obligations of the Company, the Managers shall give written notice (the "Cash Needs Notice") to the sole Member, or if there is more than one Member, to each Member of the amount of additional funds needed together with such information as may be necessary to evidence the need for the funds and the proposed uses thereof (the required amount of funds are referred to as the "Required Funds"). Any Member may, but is not obligated to, contribute or loan any Required Funds on terms to be agreed upon between the Member and the Company. The Managers shall not loan any funds to the Company.

**ARTICLE VIII**  
**DISTRIBUTIONS, SALARIES, LOANS, RECORDS AND RETURNS**

8.01. Limitation upon Distributions. No distribution or return of capital contributions may be made and paid if the financial condition of the Company does not permit such action under Hawai'i law (currently Hawai'i Revised Statutes Section 428-406). No assets of the Company may be transferred, granted or distributed, whether directly or indirectly, to any entity other than a Qualifying Organization, except in exchange for fair market value. The Company shall not distribute any assets, other than in exchange for fair market value, to any Member which has ceased being a Qualifying Organization or governmental unit or instrumentality.

8.02. Salaries. Neither the Managers nor any Member shall be entitled to receive a salary for services rendered to the Company, unless the salary and its amount are consented to in writing by the Member.

8.03. Loans to Company. Nothing in this Operating Agreement prevents any Member from making secured or unsecured loans to the Company by agreement with the Managers.

8.04. Records. At the expense of the Company, the Managers shall maintain records and accounts of the operations and expenditures of the Company. At a minimum, the Company will keep at its principal place of business the following records:

a. A current list of the full name and last known address of each Member setting forth the amount of cash each Member has contributed, a description and statement of the agreed value of the other property or services each Member has contributed or has agreed to contribute in the future, and the date on which each became a Member;

b. A copy of the Articles of Organization of the Company and all amendments thereto, together with executed copies of any powers of attorney pursuant to which any amendment has been executed;

c. Copies of the Company's federal and state income tax returns and reports, if any, for the three (3) most recent years and of any financial statements of the Company for the three (3) most recent years; and

d. Copies of the Company's currently effective written Operating Agreement and all amendments thereto.

8.05. Returns and Other Elections. The Managers shall cause the preparation and timely filing of all tax returns required to be filed by the Company pursuant to the Internal Revenue Code and all other tax returns deemed necessary and required in each jurisdiction in which the Company does business. Copies of such returns, or pertinent information therefrom, will be furnished to the Member within a reasonable time after the end of the Company's fiscal year upon the Member's written request. All elections permitted to be made by the Company under federal or state laws will be made by the Managers in their sole discretion.

## **ARTICLE IX TRANSFERABILITY**

9.01. General. Except as may otherwise be specifically permitted in this Operating Agreement, no Member shall have the right to:

- a. sell, assign, pledge, hypothecate, transfer, exchange or otherwise transfer for consideration all or any part of its membership interest; or
- b. gift, bequeath or otherwise transfer for no consideration (whether or not by operation of law, except in the case of bankruptcy) all or any part of its membership interest.

## **ARTICLE X DISSOLUTION AND TERMINATION**

### 10.01. Dissolution.

The Company shall be dissolved upon the occurrence of any of the following events:

- a. The occurrence of an event specified in Section 1.05; or
- b. by written resolution of the Member or, if there is more than one Member, by written agreement of all Members.

### 10.02. Winding Up, Liquidation and Distribution of Assets.

a. Upon dissolution, an accounting shall be made by the Company's independent accountants of the accounts of the Company and of the Company's assets, liabilities and operations, from the date of the last previous accounting until the date of dissolution. The Managers shall promptly proceed to wind up the affairs of the Company.

b. Upon the dissolution and winding up of the Company, its assets remaining after payment of, or provision for payment of, all debts and liabilities of the Company, shall be distributed to the Member if the Member continues to be a Qualifying Organization, and otherwise shall be distributed to one or more other Qualifying Organizations, preferably Qualifying Organizations furthering the Company's purposes, such that the assets will continue to be devoted to tax-exempt purposes.

c. Upon completion of the winding up, liquidation and distribution of the assets, the Company shall be deemed terminated.

d. The Managers shall comply with all requirements of applicable law pertaining to the winding up of the affairs of the Company and the final distribution of its assets, subject to the limitations contained in Section 10.02.b hereof.

10.03. Articles of Termination. When all debts, liabilities and obligations of the Company have been paid and discharged or adequate provisions have been made therefor and all of the remaining property and assets of the Company have been distributed pursuant to the



provisions of this Article X, Articles of Termination, as required by the Act, shall be executed and filed with the DCCA.

10.04. Effect of Filing of Articles of Termination. Upon the filing of Articles of Termination with the DCCA, the existence of the Company shall cease, except for the purpose of suits, other proceedings and appropriate action as provided in the Act. The Managers shall have authority to distribute any Company property discovered after dissolution, convey real estate and take such other action as may be necessary on behalf of and in the name of the Company in accordance with the provisions of this Article X.

## **ARTICLE XI MISCELLANEOUS PROVISIONS**

11.01. Merger and Conversion. The Company shall not merge with, or convert into, an entity that is not exempt from taxation under Sections 501(a) and 501(c)(3) of the Internal Revenue Code.

11.02. Notices. Any notice, demand, or communication required or permitted to be given by any provision of this Operating Agreement shall be in writing and deemed to have been sufficiently given or served for all purposes if (a) delivered personally to the party, or to a manager, officer or partner of a party that is an entity, (b) sent by electronic mail during normal business hours to the electronic mail address set forth in this Operating Agreement, or (c) sent by first class, registered or certified mail, return receipt requested, postage and charges prepaid, addressed to the Member's and/or Company's address, as appropriate, which is set forth in this Operating Agreement. Except as otherwise provided in this Operating Agreement, any such notice shall be deemed to be given two (2) business days after the date on which the same was deposited in the United States mail, addressed and sent as described above.

11.03. Application of Hawai'i Law. This Operating Agreement, and its interpretation, shall be governed exclusively by its terms and by the laws of the State of Hawai'i and specifically the Act.

11.04. Amendments. This Operating Agreement and the Company's Articles of Organization may not be amended except by the written consent of the sole Member, or if there is more than one Member, all of the Members. Any amendments to this Operating Agreement and the Company's Articles of Organization must be consistent with Section 501(c)(3) of the Internal Revenue Code, as the same may be amended from time to time or any similar successor statute.

11.05. Execution of Additional Instruments. Each Member may be required to execute such other and further statements of interest and holdings, designations and other instruments necessary to comply with any laws, rules or regulations.

11.06. Construction. Whenever the singular number is used in this Operating Agreement and when required by the context, the same shall include the plural and vice versa, and the masculine gender shall include the feminine and neuter genders and vice versa.

11.07. Headings. The headings in this Operating Agreement are inserted for convenience only and are in no way intended to describe, interpret, define, or limit the scope, extent or intent of this Operating Agreement or any provision hereof.

11.08. Waivers. No party's undertakings or agreements contained in this Operating Agreement shall be deemed to have been waived unless such waiver is made by an instrument in writing signed by an authorized representative of the other Member. Failure of a party to insist on strict compliance with the provisions of this Operating Agreement shall not constitute waiver of that party's right to demand later compliance with the same or other provisions of this Operating Agreement. A waiver of a breach of this Operating Agreement will not constitute a waiver of the provision itself or of any subsequent breach, or of any other provision of this Operating Agreement.

11.09. Rights and Remedies Cumulative. The rights and remedies provided by this Operating Agreement are cumulative, and the use of any one right or remedy by any party shall not preclude or waive the right to use any other remedy. Said rights and remedies are given in addition to any other legal rights the parties may have.

11.10. Severability. If any provision of this Operating Agreement or the application thereof to any Person or circumstance shall be invalid, illegal or unenforceable to any extent, the remainder of this Operating Agreement and the application thereof shall not be affected and shall be enforceable to the fullest extent permitted by law.

11.11. Successors and Assigns. Each and all of the covenants, terms, provisions and agreements herein contained shall be binding upon and inure to the benefit of the parties hereto and, to the extent permitted by this Operating Agreement, their respective heirs, legal representatives, successors and assigns.

11.12. Creditors. None of the provisions of this Operating Agreement shall be for the benefit of or enforceable by any creditors of the Company or of the Members.

11.13. Counterparts. This Operating Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the sole Member and the Company have executed this Operating Agreement on the date first written above.

**HI'ILEI ALOHA LLC**, a Hawai'i limited liability company

By \_\_\_\_\_  
Its Manager

By \_\_\_\_\_  
Its Manager

Member

**HI'IPAKA LLC**, a Hawai'i limited liability company

By \_\_\_\_\_  
Its Manager

By \_\_\_\_\_  
Its Manager

Company

Nonrefundable Filing Fee \$25.00

**No personal or business checks accepted.**

Payment of the filing fee should be ONLY in the form of **CASH, CERTIFIED/CASHIER'S CHECK, BANK/POSTAL MONEY ORDER OR CREDIT CARD (VISA OR MasterCard).**

Make check or money order payable to DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS. Dishonored Check Fee \$25.00.



## ARTICLES OF TERMINATION

(Section 428-805, Hawaii Revised Statutes)

PLEASE TYPE OR PRINT LEGIBLY IN BLACK INK

The undersigned, submitting these Articles of Termination, certify as follows

1. The name of the limited liability company is:

**Ho'okele Pono LLC**

2. Please check one:

☐ The notice was published on. \_\_\_\_\_  
(Month Days Year)

In the \_\_\_\_\_; OR  
\_\_\_\_\_  
(Name of Newspaper)

- ☒ Publication was not made.

3. All debts, obligations, and liabilities of the limited liability company have been paid and discharged or adequate provision has been made therefor.
4. All the remaining property and assets of the limited liability company, if any, have been distributed among its members in accordance with their respective rights and interests.
5. There are no suits pending against the limited liability company in any court, or adequate provision has been made for the satisfaction of any judgment, order, or decree which may be entered against the limited liability company in any pending suit.
6. The limited liability company's business has been wound up.
7. The legal existence of the limited liability company is terminated effective on the date and time of filing these Articles of Termination or on a later date and time, not more than 30 days after the filing, if so stated. The effective date cannot be before the date of filing these Articles of Termination. Termination is effective (check one):

- ☒ on the date and time of filing these Articles of Termination; OR

☐ on \_\_\_\_\_, at \_\_\_\_\_ m, Hawaiian Standard Time.  
(Month Day Year)

which is not more than 30 days after these Articles of Termination is filed.

We certify, under the penalties set forth in the Hawaii Uniform Limited Liability Company Act, that we have read the above statements, we are authorized to make this change, and that the statements are true and correct.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

(Type/Print Name & Title)

(Type/Print Name & Title)

(Signature)

(Signature)

SEE INSTRUCTIONS ON REVERSE SIDE. Articles must be signed and certified by at least one manager of a manager-managed company or by at least one member of a member-managed company.



**Instructions:** Articles must be typewritten or printed in **black ink**, and must be **legible**. The articles must be signed and certified by at least one manager of a manager-managed company or by at least one member of a member-managed company. All signatures must be in **black ink**. Submit original articles together with the appropriate fee

Line 1. State the full name of the limited liability company.

Line 2. Check whether the notice of intent to terminate was published or not. **DO NOT CHECK BOTH.**

If the notice was published once a week for four successive weeks in a newspaper of general circulation in the State of Hawaii, list the four dates (month, days and year) of publication and the name of the newspaper in which the notice was published.

Line 7. Check whether the termination is to be effective on the date and time of filing these Articles of Termination or on a subsequent date and time. If a later date is selected for the effective date of termination, give the date (month, day and year) and time that the termination will be effective. The date cannot be prior to the filing of these Articles of Termination and cannot be more than thirty (30) days after the filing of these Articles of Termination.

**Filing Fees** *Filing fee (\$25.00) is not refundable. No personal or business checks accepted.* Payment of the filing fee should be **ONLY** in the form of CASH, CERTIFIED/CASHIER'S CHECK, BANK/POSTAL MONEY ORDER OR CREDIT CARD (Visa or MasterCard). Make checks payable to DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS. Dishonored Check Fee \$25.00.

For any questions call (808)586-2727. Neighbor islands may call the following numbers followed by 6-2727 and the # sign: Kauai 274-3141, Maui 984-2400, Hawaii 974-4000, Lanai and Molokai 1-800-468-4644 (toll free)

Fax (808)586-2733      Email Address: [breg@dcca.hawaii.gov](mailto:breg@dcca.hawaii.gov)

**NOTICE: THIS MATERIAL CAN BE MADE AVAILABLE FOR INDIVIDUALS WITH SPECIAL NEEDS. PLEASE CALL THE DIVISION SECRETARY, BUSINESS REGISTRATION DIVISION, DCCA, AT 586-2744, TO SUBMIT YOUR REQUEST.**

**ALL BUSINESS REGISTRATION FILINGS ARE OPEN TO PUBLIC INSPECTION. (SECTION 92F-11, HRS)**

## PLAN OF DISSOLUTION

### HO'OKELE PONO LLC A HAWAII LIMITED LIABILITY COMPANY

This Plan of Dissolution (the "Plan") is for the purpose of effecting the complete liquidation and dissolution of HO'OKELE PONO LLC, a Hawaii limited liability company (the "Company") in accordance with Hawaii Revised Statutes ("HRS") Chapter 428, Uniform Limited Liability Company Act, pursuant to the following:

1. Adoption of Plan. This Plan shall be deemed adopted by the Company upon its approval by the Managers and the Member of the Company. The Company shall be dissolved, completely liquidated, and terminated pursuant to the terms and conditions of this Plan.
2. Distribution of Assets/Payment of Liabilities. The Managers shall proceed to wind up the Company's affairs, to collect and reduce possession of its assets, and to pay or provide for payment of its liabilities. After payment of all known liabilities, the remaining assets of the Company shall be transferred to its Member, OFFICE OF HAWAIIAN AFFAIRS, a body corporate and instrumentality of the State of Hawai'i (EIN \_\_\_\_\_). The address of OFFICE OF HAWAIIAN AFFAIRS is 560 N. Nimitz Hwy. #200, Honolulu, Hawai'i 96817, Attention: \_\_\_\_\_.
3. List of Assets. The Company's assets are minimal and consist of \_\_\_\_\_ . None of the Company's assets are restricted-use.
4. No Publication of Notice to Creditors. There are no creditors of the Company. Consequently, there will not be any publication of notice to creditors of the dissolution of the Company.
5. Cessation of Business Activities. As of the date of adoption of this Plan by the Managers and the Member, the Company shall not engage in any business activities. The Managers shall continue solely for the purpose of winding up and liquidating the business and affairs of the Company as permitted by HRS Chapter 428.
6. Dissolution. Articles of Termination shall be filed with the Department of Commerce and Consumer Affairs, State of Hawai'i.
7. Authorization of Necessary Acts. The Managers shall carry out and consummate the Plan, and shall have the power to adopt all resolutions, execute all documents, and file all other forms and papers, and take all other action it deems necessary or desirable for the purpose of effecting the dissolution of the Company and the complete liquidation of its business, assets, and affairs.

[END OF PLAN OF DISSOLUTION]

Nonrefundable Filing Fee: \$25.00

**No personal or business checks accepted.**

Payment of the filing fee should be ONLY in the form of **CASH, CERTIFIED/CASHIER'S CHECK, BANK/POSTAL MONEY ORDER OR CREDIT CARD (VISA OR MasterCard).**

Make check or money order payable to DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS. Dishonored Check Fee \$25.00.

**ARTICLES OF TERMINATION**

(Section 428-805, Hawaii Revised Statutes)

PLEASE TYPE OR PRINT LEGIBLY IN BLACK INK

The undersigned, submitting these Articles of Termination, certify as follows:

1. The name of the limited liability company is:

Ho'okipa LLC

2. Please check one:

☐

The notice was published on:

(Month

Days

Year)

in the

(Name of Newspaper)

; OR

☒

Publication was not made.

3. All debts, obligations, and liabilities of the limited liability company have been paid and discharged or adequate provision has been made therefor.
4. All the remaining property and assets of the limited liability company, if any, have been distributed among its members in accordance with their respective rights and interests.
5. There are no suits pending against the limited liability company in any court, or adequate provision has been made for the satisfaction of any judgment, order, or decree which may be entered against the limited liability company in any pending suit.
6. The limited liability company's business has been wound up.
7. The legal existence of the limited liability company is terminated effective on the date and time of filing these Articles of Termination or on a later date and time, not more than 30 days after the filing, if so stated. The effective date cannot be before the date of filing these Articles of Termination. Termination is effective (check one):

☒

on the date and time of filing these Articles of Termination; OR

☐

on \_\_\_\_\_, at \_\_\_\_\_, Hawaiian Standard Time,

(Month Day Year)

which is not more than 30 days after these Articles of Termination is filed.

We certify, under the penalties set forth in the Hawaii Uniform Limited Liability Company Act, that we have read the above statements, we are authorized to make this change, and that the statements are true and correct.

Signed this \_\_\_\_\_ day of \_\_\_\_\_

(Type/Print Name &amp; Title)

(Type/Print Name &amp; Title)

(Signature)

(Signature)

SEE INSTRUCTIONS ON REVERSE SIDE. Articles must be signed and certified by at least one manager of a manager-managed company or by at least one member of a member-managed company.

**Instructions:** Articles must be typewritten or printed in **black ink**, and must be **legible**. The articles must be signed and certified by at least one manager of a manager-managed company or by at least one member of a member-managed company. All signatures must be in **black ink**. Submit original articles together with the appropriate fee

Line 1. State the full name of the limited liability company.

Line 2. Check whether the notice of intent to terminate was published or not. **DO NOT CHECK BOTH.**

If the notice was published once a week for four successive weeks in a newspaper of general circulation in the State of Hawaii, list the four dates (month, days and year) of publication and the name of the newspaper in which the notice was published.

Line 7. Check whether the termination is to be effective on the date and time of filing these Articles of Termination or on a subsequent date and time. If a later date is selected for the effective date of termination, give the date (month, day and year) and time that the termination will be effective. The date cannot be prior to the filing of these Articles of Termination and cannot be more than thirty (30) days after the filing of these Articles of Termination.

**Filing Fees:** *Filing fee (\$25.00) is not refundable. No personal or business checks accepted.* Payment of the filing fee should be **ONLY** in the form of **CASH, CERTIFIED/CASHIER'S CHECK, BANK/POSTAL MONEY ORDER OR CREDIT CARD (Visa or MasterCard)**. Make checks payable to DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS. Dishonored Check Fee \$25.00.

For any questions call (808)586-2727. Neighbor islands may call the following numbers followed by 6-2727 and the # sign: Kauai 274-3141; Maui 984-2400; Hawaii 974-4000; Lanai and Molokai 1-800-468-4644 (toll free).

Fax: (808)586-2733

Email Address: [breg@dcca.hawaii.gov](mailto:breg@dcca.hawaii.gov)

**NOTICE: THIS MATERIAL CAN BE MADE AVAILABLE FOR INDIVIDUALS WITH SPECIAL NEEDS. PLEASE CALL THE DIVISION SECRETARY, BUSINESS REGISTRATION DIVISION, DCCA, AT 586-2744, TO SUBMIT YOUR REQUEST.**

**ALL BUSINESS REGISTRATION FILINGS ARE OPEN TO PUBLIC INSPECTION. (SECTION 92F-11, HRS)**



## PLAN OF DISSOLUTION

### HO'OKIPAIPAI LLC A HAWAII LIMITED LIABILITY COMPANY

This Plan of Dissolution (the "Plan") is for the purpose of effecting the complete liquidation and dissolution of HO'OKIPAIPAI LLC, a Hawaii limited liability company (the "Company") in accordance with Hawaii Revised Statutes ("HRS") Chapter 428, Uniform Limited Liability Company Act, pursuant to the following:

1. Adoption of Plan. This Plan shall be deemed adopted by the Company upon its approval by the Managers and the Member of the Company. The Company shall be dissolved, completely liquidated, and terminated pursuant to the terms and conditions of this Plan.
2. Distribution of Assets/Payment of Liabilities. The Managers shall proceed to wind up the Company's affairs, to collect and reduce possession of its assets, and to pay or provide for payment of its liabilities. After payment of all known liabilities, the remaining assets of the Company shall be transferred to OFFICE OF HAWAIIAN AFFAIRS, a body corporate and instrumentality of the State of Hawai'i (EIN \_\_\_\_\_), the Member of its Member, HO'OKELE PONO LLC, a Hawai'i limited liability company. The address of OFFICE OF HAWAIIAN AFFAIRS is 560 N. Nimitz Hwy. #200, Honolulu, Hawai'i 96817, Attention: \_\_\_\_\_.
3. List of Assets. The Company's assets are minimal and consist of \_\_\_\_\_ . None of the Company's assets are restricted-use.
4. No Publication of Notice to Creditors. There are no creditors of the Company. Consequently, there will not be any publication of notice to creditors of the dissolution of the Company.
5. Cessation of Business Activities. As of the date of adoption of this Plan by the Managers and the Member, the Company shall not engage in any business activities. The Managers shall continue solely for the purpose of winding up and liquidating the business and affairs of the Company as permitted by HRS Chapter 428.
6. Dissolution. Articles of Termination shall be filed with the Department of Commerce and Consumer Affairs, State of Hawai'i.
7. Authorization of Necessary Acts. The Managers shall carry out and consummate the Plan, and shall have the power to adopt all resolutions, execute all documents, and file all other forms and papers, and take all other action it deems necessary or desirable for the purpose of effecting the dissolution of the Company and the complete liquidation of its business, assets, and affairs.

[END OF PLAN OF DISSOLUTION]

Nonrefundable Filing Fee: \$25.00

**No personal or business checks accepted.**

Payment of the filing fee should be ONLY in the form of **CASH, CERTIFIED/CASHIER'S CHECK, BANK/POSTAL MONEY ORDER OR CREDIT CARD (VISA OR MasterCard).**

Make check or money order payable to DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS. Dishonored Check Fee \$25.00.

**ARTICLES OF TERMINATION**

(Section 428-805, Hawaii Revised Statutes)

PLEASE TYPE OR PRINT LEGIBLY IN BLACK INK

The undersigned, submitting these Articles of Termination, certify as follows:

1. The name of the limited liability company is:

Hi'ikualono LLC

2. Please check one:

☐ The notice was published on: \_\_\_\_\_  
(Month Days Year)  
in the \_\_\_\_\_; OR  
(Name of Newspaper)

☒ Publication was not made.

3. All debts, obligations, and liabilities of the limited liability company have been paid and discharged or adequate provision has been made therefor.
4. All the remaining property and assets of the limited liability company, if any, have been distributed among its members in accordance with their respective rights and interests.
5. There are no suits pending against the limited liability company in any court, or adequate provision has been made for the satisfaction of any judgment, order, or decree which may be entered against the limited liability company in any pending suit.
6. The limited liability company's business has been wound up.
7. The legal existence of the limited liability company is terminated effective on the date and time of filing these Articles of Termination or on a later date and time, not more than 30 days after the filing, if so stated. The effective date cannot be before the date of filing these Articles of Termination. Termination is effective (check one):

☒ on the date and time of filing these Articles of Termination; OR

☐ on \_\_\_\_\_, at \_\_\_\_\_ .m., Hawaiian Standard Time,  
(Month Day Year)

which is not more than 30 days after these Articles of Termination is filed.

We certify, under the penalties set forth in the Hawaii Uniform Limited Liability Company Act, that we have read the above statements, we are authorized to make this change, and that the statements are true and correct.

Signed this \_\_\_\_\_ day of \_\_\_\_\_

(Type/Print Name &amp; Title)

(Type/Print Name &amp; Title)

(Signature)

(Signature)

SEE INSTRUCTIONS ON REVERSE SIDE. Articles must be signed and certified by at least one manager of a manager-managed company or by at least one member of a member-managed company.

**Instructions:** Articles must be typewritten or printed in **black ink**, and must be **legible**. The articles must be signed and certified by at least one manager of a manager-managed company or by at least one member of a member-managed company. All signatures must be in **black ink**. Submit original articles together with the appropriate fee

Line 1. State the full name of the limited liability company.

Line 2. Check whether the notice of intent to terminate was published or not. **DO NOT CHECK BOTH.**

If the notice was published once a week for four successive weeks in a newspaper of general circulation in the State of Hawaii, list the four dates (month, days and year) of publication and the name of the newspaper in which the notice was published.

Line 7. Check whether the termination is to be effective on the date and time of filing these Articles of Termination or on a subsequent date and time. If a later date is selected for the effective date of termination, give the date (month, day and year) and time that the termination will be effective. The date cannot be prior to the filing of these Articles of Termination and cannot be more than thirty (30) days after the filing of these Articles of Termination.

**Filing Fees:** *Filing fee (\$25.00) is not refundable. No personal or business checks accepted.* Payment of the filing fee should be ONLY in the form of **CASH, CERTIFIED/CASHIER'S CHECK, BANK/POSTAL MONEY ORDER OR CREDIT CARD (Visa or MasterCard)**. Make checks payable to DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS. Dishonored Check Fee \$25.00.

For any questions call (808)586-2727. Neighbor islands may call the following numbers followed by 6-2727 and the # sign  
Kauai 274-3141; Maui 984-2400; Hawaii 974-4000, Lanai and Molokai 1-800-468-4644 (toll free).

Fax: (808)586-2733      Email Address: [breg@dcca.hawaii.gov](mailto:breg@dcca.hawaii.gov)

**NOTICE: THIS MATERIAL CAN BE MADE AVAILABLE FOR INDIVIDUALS WITH SPECIAL NEEDS. PLEASE CALL THE DIVISION SECRETARY, BUSINESS REGISTRATION DIVISION, DCCA, AT 586-2744, TO SUBMIT YOUR REQUEST.**

**ALL BUSINESS REGISTRATION FILINGS ARE OPEN TO PUBLIC INSPECTION. (SECTION 92F-11, HRS)**

## PLAN OF DISSOLUTION

### HI'IKUALONO LLC A HAWAII LIMITED LIABILITY COMPANY

This Plan of Dissolution (the "Plan") is for the purpose of effecting the complete liquidation and dissolution of HI'IKUALONO LLC, a Hawaii limited liability company (the "Company") in accordance with Hawaii Revised Statutes ("HRS") Chapter 428, Uniform Limited Liability Company Act, pursuant to the following:

1. Adoption of Plan. This Plan shall be deemed adopted by the Company upon its approval by the Managers and the Member of the Company. The Company shall be dissolved, completely liquidated, and terminated pursuant to the terms and conditions of this Plan.
2. Distribution of Assets/Payment of Liabilities. The Managers shall proceed to wind up the Company's affairs, to collect and reduce possession of its assets, and to pay or provide for payment of its liabilities. After payment of all known liabilities, the remaining assets of the Company shall be transferred to its member, HI'ILEI ALOHA LLC, a Hawai'i limited liability company (EIN \_\_\_\_\_). The address of HI'ILEI ALOHA LLC is 711 Kapi'olani Boulevard, 5<sup>th</sup> Floor, Honolulu, Hawai'i 96813, Attention: Manager.
3. List of Assets. The Company's assets are minimal and consist of \_\_\_\_\_ . None of the Company's assets are restricted-use.
4. No Publication of Notice to Creditors. There are no creditors of the Company. Consequently, there will not be any publication of notice to creditors of the dissolution of the Company.
5. Cessation of Business Activities. As of the date of adoption of this Plan by the Managers and the Member, the Company shall not engage in any business activities. The Managers shall continue solely for the purpose of winding up and liquidating the business and affairs of the Company as permitted by HRS Chapter 428.
6. Dissolution. Articles of Termination shall be filed with the Department of Commerce and Consumer Affairs, State of Hawai'i.
7. Authorization of Necessary Acts. The Managers shall carry out and consummate the Plan, and shall have the power to adopt all resolutions, execute all documents, and file all other forms and papers, and take all other action it deems necessary or desirable for the purpose of effecting the dissolution of the Company and the complete liquidation of its business, assets, and affairs.

[END OF PLAN OF DISSOLUTION]



**ATTACHMENT "B"**  
**LLC Manager Position Description**  
**Via Action Item RM #19-08**

## **HI'ILEI ALOHA LLC**

### **POSITION DESCRIPTION**

**Position Title:** Manager of Hi'ilei Aloha LLC (Volunteer)

**Reports To:** Office of Hawaiian Affairs, As Member of Hi'ilei Aloha LLC

**Effective Date:** May 2019

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### **GENERAL OVERVIEW OF POSITION DUTIES**

The Manager, who will be one of a board of three appointed managers, is expected to direct and oversee the Chief Operating Officer ("COO") of Hi'ilei Aloha LLC (the "Company"), and oversee the Company's business affairs, subject to limitations in the Company's operating agreement ("Operating Agreement") or by law. The Manager may be tasked with oversight of additional companies of which the Office of Hawaiian Affairs or the Company is a member ("Member").

Except for situations in which approval of the Member is required by the Operating Agreement, the Manager will have authority, power and discretion to oversee the business, affairs and properties of the Company, to make all decisions regarding those matters, and to perform any and all other acts or activities customary or incident to the management of the Company's business.

### **PART-TIME POSITION, TERM AND SERVICE WITHOUT REMUNERATION**

This is a part-time position in which the Manager is expected to devote approximately 3-5 hours per month. The Manager shall serve for an initial term of three year(s) and thereafter in accordance with the terms of the Operating Agreement.

The Manager shall serve without remuneration except the Company shall reimburse a Manager for ordinary, necessary, and reasonable direct expenses incurred by the Manager on behalf of the Company in carrying out the Company's business activities.

## ESSENTIAL DUTIES & RESPONSIBILITIES

1. Manager's Authority: The Manager has the authority to manage and oversee the Company's COO and the Company's business. The Manager reviews the COO's recommendations and makes decisions consistent with the Operating Agreement, the Company's annual objectives, the approved budget and best practices.
2. Review of Operations: At least once a month, meets with the COO and executive staff to review overall Company operations to ensure the business is progressing in a culturally appropriate manner and in compliance with acceptable business practices. Oversees Company use and maintenance of facilities and property. Assigns projects and requests reports as needed.
3. Strategic Plan and Company Objectives: Reviews and approves Company's Long Range and annual objectives, goals, policies and programs. Ensures compliance with Operating Agreement.
4. Budgeting and Finance: Reviews and approves operating and capital budgets. Monitors Company's implementation of approved budgets. Reviews financial reports, including income statements, balance sheets, and reports, tax returns; and reports for government regulatory agencies or other compliance purposes. Oversees investment of Company funds and approves large Company expenditures.
5. Human Resources, Risk Management and Contracts: Oversees Company handling of human resources-related issues, risk management claims and liabilities and Company contractor utilization.
6. Performs other duties as assigned by the Member.

## KNOWLEDGE, SKILL AND ABILITIES

1. Must have good working knowledge of strategic management, financial, accounting and planning, and business systems.
2. Must be able to work well with others.
3. Must be organized and a self-starter. Must exercise independent judgment to prioritize projects and respond to situations as they arise without direct supervision.
4. Must project a professional demeanor.
5. Must have good oral and written communication skills.

## MINIMUM QUALIFICATIONS

### EDUCATION, TRAINING AND/OR EXPERIENCE

1. Must possess a bachelor's degree or equivalent work experience.
2. Experience in business administration is desirable.
3. Five years of administrative experience that involved management and oversight of professional staff and responsibility for the development, management, execution and coordination of program policies and activities. Administrative experience shall include but not limited to oversight of staff and work performance, budget planning and development, project management, understanding of contract management, risk management, human resources processes and procedures, high level strategic planning, collaboration with subordinates to develop professional development plans, and experience engaging various stakeholders of the professional, academic and Native Hawaiian communities.
4. Three years of administrative or executive level experience in non-profit organization governance and management of non-profit organizations.

### HOW TO APPLY:

To apply for this position, download, complete and submit this fillable application form [insert link] along with a resume and cover letter to:

OFFICE OF HAWAIIAN AFFAIRS  
560 N. Nimitz Highway, Suite 200  
Honolulu, Hawai'i 96817  
Attention: Human Resources

Or via email: [ohahr@oha.org](mailto:ohahr@oha.org)

An Equal Opportunity Employer

**ATTACHMENT "C"**  
**Revised LLC Manager Position Description**



**Action Item: RM #19-20**

**Approval of the Non-OHA Executive Managers' Selection and Seating Process for Hi'ilei Aloha, LLC and revised LLC Manager Position Description**

**ATTACHMENT C**

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## **HI'ILEI ALOHA LLC**

### **POSITION DESCRIPTION**

**Position Title:**      **Manager of Hi'ilei Aloha LLC (Volunteer)**

**Reports To:**        **Office of Hawaiian Affairs, As Member of Hi'ilei Aloha LLC**

**Effective Date:**    **November 2019**

---

### **GENERAL OVERVIEW OF POSITION DUTIES**

The Manager, who will be one of a board of three appointed managers, is expected to direct and oversee the Chief Operating Officer ("COO") of Hi'ilei Aloha LLC (the "Company"), and oversee the Company's business affairs, subject to limitations in the Company's operating agreement ("Operating Agreement") or by law. The Manager may be tasked with oversight of additional companies of which the Office of Hawaiian Affairs or the Company is a member ("Member").

Except for situations in which approval of the Member is required by the Operating Agreement, the Manager will have authority, power and discretion to oversee the business, affairs and properties of the Company, to make all decisions regarding those matters, and to perform any and all other acts or activities customary or incident to the management of the Company's business.

### **PART-TIME POSITION, TERM AND SERVICE WITHOUT REMUNERATION**

This is a part-time position in which the Manager is expected to devote approximately 3-5 hours per month. Each Manager appointed by the Member shall serve staggered terms of approximately three (3) years, two (2) years, and one (1) year. The terms shall end on the day of the month in which the Manager takes office. Subsequently, the Member shall appoint each Manager to serve a new three (3) year term or the remainder of the unexpired three (3) year term. in accordance with the terms of the Operating Agreement.

The Manager shall serve without remuneration except the Company shall reimburse a Manager for ordinary, necessary, and reasonable direct expenses incurred by the Manager on behalf of the Company in carrying out the Company's business activities.

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**ESSENTIAL DUTIES & RESPONSIBILITIES**

1. Manager's Authority: The Manager has the authority to manage and oversee the Company's COO and the Company's business. The Manager reviews the COO's recommendations and makes decisions consistent with the Operating Agreement, the Company's annual objectives, the approved budget and best practices.
2. Review of Operations: At least once a month, meets with the COO and executive staff to review overall Company operations to ensure the business is progressing in a culturally appropriate manner and in compliance with acceptable business practices. Oversees Company use and maintenance of facilities and property. Assigns projects and requests reports as needed.
3. Strategic Plan and Company Objectives: Reviews and approves Company's Long Range and annual objectives, goals, policies and programs. Ensures compliance with Operating Agreement.
4. Budgeting and Finance: Reviews and approves operating and capital budgets. Monitors Company's implementation of approved budgets. Reviews financial reports, including income statements, balance sheets, and reports, tax returns; and reports for government regulatory agencies or other compliance purposes. Oversees investment of Company funds and approves large Company expenditures.
5. Human Resources, Risk Management and Contracts: Oversees Company handling of human resources-related issues, risk management claims and liabilities and Company contractor utilization.
6. Performs other duties as assigned by the Member.

**KNOWLEDGE, SKILL AND ABILITIES**

1. Must have good working knowledge of strategic management, financial, accounting and planning, and business systems.
2. Must be able to work well with others.
3. Must be organized and a self-starter. Must exercise independent judgment to prioritize projects and respond to situations as they arise without direct supervision.
4. Must project a professional demeanor.
5. Must have good oral and written communication skills.

## MINIMUM QUALIFICATIONS

### EDUCATION, TRAINING AND/OR EXPERIENCE

1. Must possess a bachelor's degree or equivalent work experience.
2. Experience in business administration is desirable.
3. Five years of administrative experience that involved management and oversight of professional staff and responsibility for the development, management, execution and coordination of program policies and activities. Administrative experience shall include but not limited to oversight of staff and work performance, budget planning and development, project management, understanding of contract management, risk management, human resources processes and procedures, high level strategic planning, collaboration with subordinates to develop professional development plans, and experience engaging various stakeholders of the professional, academic and Native Hawaiian communities.
4. Three years of administrative or executive level experience in non-profit organization governance and management of non-profit organizations.

### HOW TO APPLY:

To apply for this position, download, complete and submit this fillable application form [insert link] along with a resume and cover letter to:

OFFICE OF HAWAIIAN AFFAIRS  
560 N. Nimitz Highway, Suite 200  
Honolulu, Hawai'i 96817  
Attention: Human Resources

Or via email: [ohahr@oha.org](mailto:ohahr@oha.org)

An Equal Opportunity Employer

Office of Hawaiian Affairs  
560 N Nimitz Hwy. Ste. 200  
Honolulu, HI 96817

**Action Item**

**COMMITTEE ON  
RESOURCE MANAGEMENT (RM)**

**DATE: November 20, 2019**

**Motion:**

**Vote:**

**AGENDA ITEM:**

III. New Business

D. Action Item RM #19-20: Approval of the Non-OHA Executive Manager's Selection and Seating Process for Hi'ilei Aloha, LLC.

**MOTION:**

To approve Administration's recommendation that the BOT the Non-OHA Executive Manager's Selection and Seating Process for Hi'ilei Aloha, LLC Manager and Position Description.

**AMENDMENT:**

**MEANS OF FINANCING:**

TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (2 kanalua's =ABSTENTION)	EXCUSED
LEI	AHU ISA			x			
KALEI	AKAKA						x
KELI 'I	AKINA			x			
BRENDON	LEE			x			
HULU	LINDSEY			x			
ROBERT	LINDSEY		x	x			
COLETTE	MACHADO			x			
JOHN	WAIHE'E	x		x			
CHAIR DAN	AHUNA			x			
TOTAL VOTE COUNT				8			

**MOTION: [ ] UNANIMOUS [x] PASSED [ ] DEFERRED [ ] FAILED**

**DISCUSSION:**

Office of Hawaiian Affairs  
Board of Trustee Meeting  
November 21, 2019  
9:30 am

VI. New Business

D. Joint Meeting of the Committee on Beneficiary  
Advocacy and Empowerment and the Committee on  
Resource Management

1. Action Item BAE/RM # 19-09: FB 20-21  
Emergency Financial Assistance Grant  
Recommendation. †

† - *The Committee report for AI BAE/RM 19-09 will be forwarded to the Board of Trustees following its approval at the Joint BAE/RM Committee Meeting scheduled for November 20, 2019.*



**OFFICE OF HAWAIIAN AFFAIRS  
JOINT MEETING OF THE  
COMMITTEE ON BENEFICIARY ADVOCACY  
AND EMPOWERMENT  
AND COMMITTEE ON RESOURCE  
MANAGEMENT**

**COMMITTEE REPORT**

November 20, 2019

The Honorable Colette Machado,  
Chairperson Board of Trustees  
Office of Hawaiian Affairs

Madame Chair Machado,

The Committee on Beneficiary Advocacy and Empowerment and Committee on Resource Management, having met on November 20, 2019 and after full and free discussion, recommends approval of the following action to the Board of Trustees:

**To approve and authorize the disbursement \$830,000 from the Fiscal Year 2020 Core Operating Budget (Object Code 56530) and \$830,000 from the Fiscal Year 2021 Core Operating Budget (Object Code 56530) to fund the Emergency Financial Assistance grant to CNHA.**

Relevant attachments are included for your information and reference. Attachment(s):

- 1) BAE-RM Roll Call Vote Sheet
- 2) Action Item BAE-RM #19-09

Respectfully submitted:



Trustee Dan Ahuna, Chair



Trustee Kalei Akaka, Member



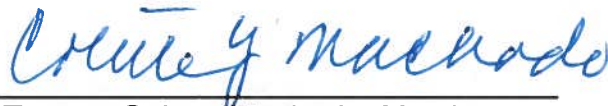
Trustee Leina'ala Ahu Isa, Member



Trustee Robert Lindsey, Member



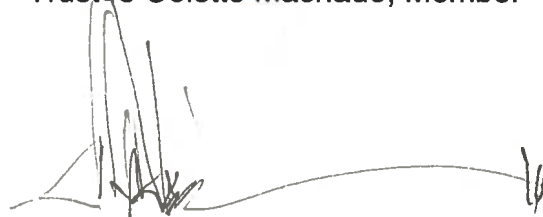
Trustee Keli'i Akina, Member



Trustee Colette Machado, Member



Trustee Hulu Lindsey, Member



Trustee John Waihe'e, IV, Member



Trustee Brendon Lee, Member

Office of Hawaiian Affairs  
560 N Nimitz Hwy. Ste. 200  
Honolulu, HI 96817

**Action Item**

**COMMITTEE ON BENEFICIARY  
ADVOCACY AND EMPOWERMENT (BAE)  
AND COMMITTEE ON  
RESOURCE MANAGEMENT (RM)**

**DATE: Nov. 20, 2019**  
**Motion:**  
**Vote:**

**ACTION ITEM: III. NEW BUSINESS**

**B. Action Item BAE-RM #19-09: FB 20-21 Emergency Financial  
Assistance Grant Recommendation**

**MOTION:** To approve and authorize the disbursement \$830,000 from the Fiscal Year 2020 Core Operating Budget (Object Code 56530) and \$830,000 from the Fiscal Year 2021 Core Operating Budget (Object Code 56530) to fund the Emergency Financial Assistance grant to CNHA.

**AMENDMENT:**

**MEANS OF FINANCING:**

TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (2 kanalua's =ABSTENTION)	EXCUSED
LEI	AHU ISA			X			
KALEI	AKAKA						EXCUSED
KELI 'I	AKINA			X			
BRENDON	LEE			X			
HULU	LINDSEY			X			
ROBERT	LINDSEY		2	X			
COLETTE	MACHADO			X			
JOHN	WAIHE'E						
CHAIR DAN	AHUNA	1		X			
TOTAL VOTE COUNT				8			

**MOTION: [ ] UNANIMOUS [X] PASSED [ ] DEFERRED [ ] FAILED**

**DISCUSSION:**



**OFFICE OF HAWAIIAN AFFAIRS**  
**Action Item**

**Joint Committee on Resource Management  
and Beneficiary Advocacy and Empowerment**  
**November 20, 2019**

**BAE/RM #19-09**

**Action Item Issue: FB 20-21 Emergency Financial Assistance Grant Recommendation**

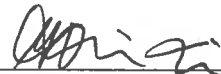
**Prepared by:**

  
Maile Lu'uwai  
Grants Manager, Ka Pou Kāko'o Kaiāulu

11/8/2019

Date


**Reviewed by:**

  
Gloria Li  
Ka Pou Kihi Kanaloa Wai Kūikawā, Interim Chief Financial Officer

11/8/19

Date


**Reviewed by:**

  
Lisa Watkins-Victorino  
Ka Pou Nui Kūikawā, Interim Chief Operating Officer

11/8/19

Date

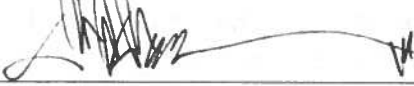
**Reviewed by:**

  
Sylvia Hussey, Ed.D.  
Ka Pouhana Kūikawā, Interim Chief Executive Officer

11/8/19

Date


**Reviewed by:**

  
John Waihee IV  
Luna Ho'omalua Kōmike BAE, BAE Chairperson

11-12-19

Date

**Reviewed by:**

  
Dan Ahuna  
Luna Ho'omalua Kōmike RM, RM Chairperson

11/12/2019

Date

**I. Action Item:**

To approve and authorize the disbursement of \$830,000 from the Fiscal Year 2020 Core Operating Budget (Object Code 56530) and \$830,000 from the Fiscal Year 2021 Core Operating Budget (Object Code 56530) to fund the Emergency Financial Assistance grant to the Council for Native Hawaiian Advancement (CNHA).

**II. Issue:**

Whether the Joint Committee on Resource Management and Beneficiary Advocacy and Empowerment (Joint Committee) should approve and authorize the disbursement of \$830,000 from the Fiscal Year 2020 Core Operating Budget (Object Code 56530) and \$830,000 from the Fiscal Year 2021 Core Operating Budget (Object Code 56530) to fund the Emergency Financial Assistance grant to CNHA.

**III. Discussion:**

The State of Hawai'i General Fund appropriation for FB 20-21 for OHA's social service program is \$830,000 per year and is directed, with OHA's 1:1 match, to "provide for social services, including referral services and case management, to at-risk Office of Hawaiian Affairs beneficiaries to immediately address unexpected crises; provided further that program activities shall be designed with an overall objective to provide financial assistance to improve stability during emergency situations". H.B. 172 H.D. 1 S.D. 2 C.D. 1 HB 172, Part III Program Provisions, Section 5.

On June 18, 2019, the Resources Management Committee recommended and on June 20, 2019, the Board of Trustees approved RM #19-09 - OHA's Biennium Budget for the Fiscal Periods 2019-2020 (FY20) and 2020-2021 (FY21), which authorized funding of \$830,000 for FY 2020 and \$830,000 for FY 2021 for OHA's social services program.

On September 13, 2019, the Grants Program issued Solicitation No. 20-10 Emergency Financial Assistance. The solicitation was issued to select a qualified non-profit organization to administer a statewide program for Native Hawaiian individuals and families for emergency financial assistance following an emergent crisis, financial literacy education, and multiservice referrals for employment, education, healthcare, housing and social services.

The Emergency Financial Assistance grant timeline is provided below:

**FB 20-21 Emergency Financial Assistance Grant Timeline**

Activity	Timeline
Public notice of availability of solicitation & application	September 13, 2019
Solicitation orientations	September 23 & 25, 2019
Online application submittal deadline	October 11, 2019
Application eligibility, evaluation, selection and recommendation	October - November 2019
Approval by the BOT and notice of award	November 21, 2019
Grant contract & procurement process	November – December 2019
Anticipated Contract Start Date	January 1, 2020

A total of two (2) applications were received and were eligible for review. The applications were evaluated and scored by three reviewers. Each reviewer individually scored applications in accordance with the evaluation categories in the solicitation. The overall evaluation categories were: Background & Capacity, Experience, Project/Service Delivery, Evaluation and Financial. Combined average scores for each applicant were added to a matrix. Reviewers met to review the matrix and to discuss and finalize their scores.

CNHA received the highest cumulative score and is recommended for funding. A recommendation summary for CNHA, including a list of the board members and executive staff, is provided on **Attachment A –Recommendation Summary**.

This action seeks Joint Committee consideration and approval to award the Emergency Financial Assistance grant to CNHA.

**IV. Funding Source**

Funding for this recommendation was authorized on June 20, 2019, via BOT approval of RM #19-09 - OHA's Biennium Budget for the Fiscal Periods 2019-2020 (FY20) and 2020-2021 (FY21), which authorized funding of \$830,000 for FY 2020 and \$830,000 for FY 2021 for OHA's social services program.

**V. Recommended Action:**

To approve and authorize the disbursement \$830,000 from the Fiscal Year 2020 Core Operating Budget (Object Code 56530) and \$830,000 from the Fiscal Year 2021 Core Operating Budget (Object Code 56530) to fund the Emergency Financial Assistance grant to CNHA.



**VI. Alternatives to Recommended Action**

- A. Approve and authorize all funding.
- B. Approve and authorize partial funding.
- C. Do not approve funding.

**VII. Timeframe**

Immediate action is recommended to effect notification of awards and commencement of grantee contracting.

**VIII. Attachments**

- A. Recommendation Summary
- B. FB 20-21 Emergency Financial Assistance Grant Process

## ATTACHMENT A. RECOMMENDATION SUMMARY

### Council for Native Hawaiian Advancement

#### ORGANIZATION MISSION

To enhance the cultural, economic, political and community development of Native Hawaiians. We envision a socially and economically sustainable Hawaiian community empowered through self-governance.

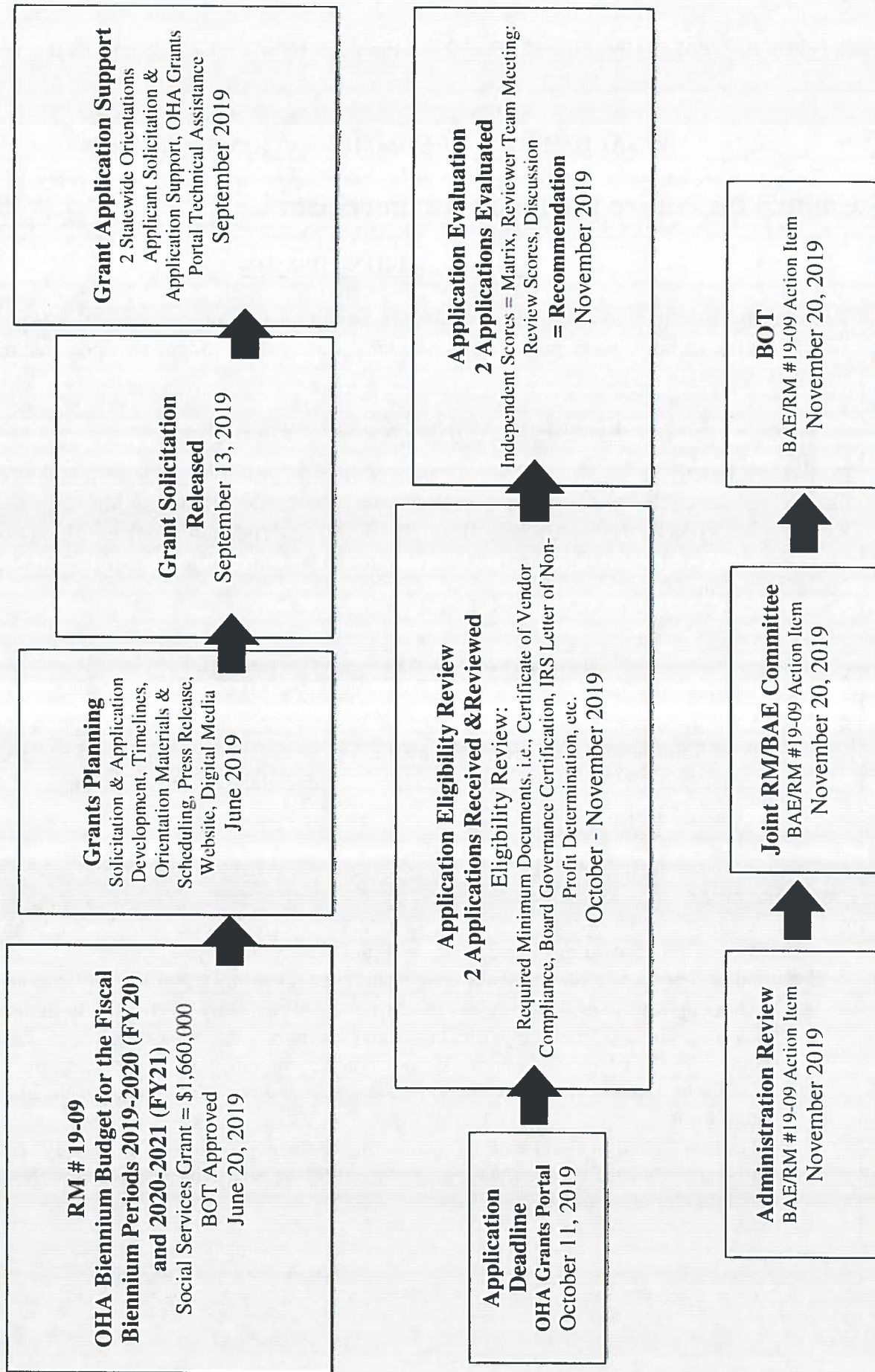
#### BOARD MEMBERS & EXECUTIVE TEAM

**Board of Directors:** Hanalei Aipoalani, Chair, Blossom Feitera, Vice Chair, Lance Holden, Lahela Williams, Liberta Albao, Iwalani McBrayer, Moses Haia, Charisse Ala, Namaka Rawlins, Scotty Reis-Moniz, Andrew Ahpo, Kevin Chang **Executive Team:** Kuhio Lewis, Chief Executive Officer, Daniel Sharp, Chief Financial Officer Kanoe Tjorvatjoglou Cup Choy, Chief Operating Officer

#### REASONS FOR RECOMMENDATION

- CNHA will partner with two subcontractors to support the grant: Hawaiian Community Assets and Solutions Pacific. Incorporating the background and experience of CNHA and its subcontractors, CNHA ranked higher than the second applicant in the following categories:
  - Background & Capacity; and
  - Project & Service Delivery.
- With its subcontractors, CNHA's coverage for services extends throughout statewide island communities.
- CNHA commitments of support from collaborative partners from across the state will increase and enhance outreach and services to the beneficiary community.
- External reviewers provided the following comments regarding CNHA's application:
  - "[The] application provides a clear description of its capacity to effectively implement its EFA program in partnership with Hawaiian Community Assets and Solutions Pacific as required by the grant solicitation. Applicant and community partners demonstrate capacity to implement program services statewide and in each County per the grant solicitation."
  - "[The] organization along with its community partners provide comprehensive coverage across the whole of Hawai'i, including more rural areas heavily populated by Native Hawaiian families and communities."

ATTACHMENT B. FB 20-21 EMERGENCY FINANCIAL ASSISTANCE GRANT PROCESS




Office of Hawaiian Affairs  
Board of Trustee Meeting  
November 21, 2019  
9:30 am

VI. New Business

- E. Deliberation and decision making on the Report of the Permitted Interaction Group to investigate complaints against a Trustee for alleged violations of the Trustee Code of conduct involving allegations that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board's decision. *Pursuant to HRS § 92-2.5(b)(1)(C)* †

† - *Please insert into the meeting folder the report by the PIG to investigate complaints against a Trustee for alleged violations of the Trustee Code of conduct involving allegations that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board's decision that was distributed at the November 7, 2019*

The Permitted Interaction Group met on September 27, 2019. After reviewing the complaint against Trustee Akina the PIG finds that Trustee Akina made misleading and untrue statements with regard to the CLA audit. Given that the BOT has no recourse for disciplinary action against a Trustee at this time the PIG considers this matter closed.



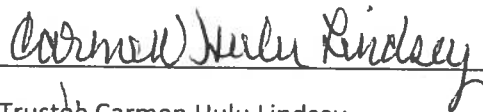
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Trustee Brendon Kalei'ian Lee

11/06/19

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Date



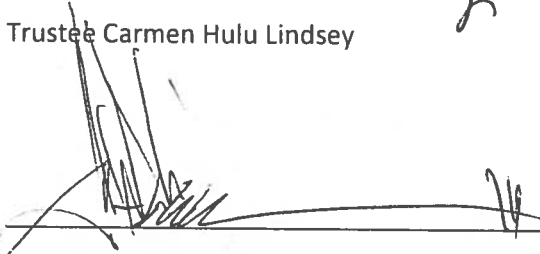
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Trustee Carmen Hulu Lindsey

11/06/19

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Date



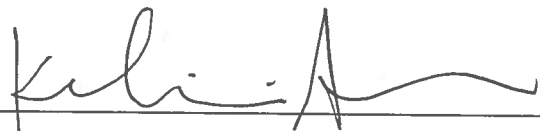
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Trustee John Waihe'e IV

11/06/19

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Date



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Trustee Kalei Akaka

11/06/19

---

Date

Office of Hawaiian Affairs  
560 N. Nimitz Hwy, Suite 200  
Honolulu, HI 96817  
Roll Call Vote Sheet

**BOARD OF TRUSTEES MEETING**

**DATE: June 20, 2019**

**AGENDA ITEM:**

**V. New Business**

- C. Action Item BOT #19-09: Approval of the formation of a Permitted Interaction Group to investigate complaints against a Trustee for alleged violations of the Trustee Code of Conduct involving allegations that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board's decisions. Pursuant to HRS § 92-2.5(b)(1)(A).**

**Move to approve the formation of a Permitted Interaction Group (PIG) to investigate complaints against a Trustee for alleged violations of the Trustee Code of Conduct involving allegations that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board's decisions.**

**Permitted Interaction Group Scope /Purview:**

**The scope/purview of the PIG is to:**

- 1. Investigate complaints against an OHA Trustee for alleged violations of the Trustee Code of Conduct contained in the complaints, such as allegations involving that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board's decisions;**
- 2. Interview individuals involved in the complaints, consult with others (i.e. Board Counsel, etc.), and perform tasks as necessary to further and complete its investigation; and**
- 3. Present to the Board a report with its findings and recommendations.**

**Permitted Interaction Group Membership:**

**The membership of the PIG is as follows:**

- 1. Trustee Brendon Kalei'aina Lee;**
- 2. Trustee Carmen Hulu Lindsey;**
- 3. Trustee John Waihe'e IV; and**
- 4. Trustee Kalei Akaka**

**Trustee Lee will serve as the Chair of the PIG and Trustee Hulu Lindsey will serve as its Vice Chair.**

**Permitted Interaction Group Term/Duration:**

**The term of the PIG expires at the completion of the scope/assigned tasks or at the discretion of the Chair of the Board of Trustees, subject to later adjustment.**

**As amended.**

**AMENDMENT:**

**MEANS OF FINANCING:**

	1	2	'AE (YES)	A'OLE (NO)	KANALUA/ ABSTAIN	EXCUSED/ ABSENT
TRUSTEE LEINA'ALA AHU ISA			X			
TRUSTEE DAN AHUNA		x	X			



TRUSTEE KALEI	AKAKA			X			
TRUSTEE KELI'I	AKINA					X	(1 <sup>st</sup> voted no then advised by Counsel to abstain)
TRUSTEE BRENDON KALEI'ĀINA	LEE	x		X			
TRUSTEE CARMEN HULU	LINDSEY			X			
TRUSTEE ROBERT	LINDSEY					X	
TRUSTEE JOHN	WAIHEE			X			
TRUSTEE COLETTE	MACHADO			X			
TOTAL VOTE COUNT				7		2 abstention	

MOTION: [   ] UNANIMOUS [ x ] PASSED [   ] DEFERRED [   ] FAILED

DISCUSSION:

**OFFICE OF HAWAIIAN AFFAIRS**  
Action Item

**BOARD OF TRUSTEES**  
June 6, 2019

**BOT #19-09**

**Action Item Title: Approval of the formation of a Permitted Interaction Group to investigate complaints against a Trustee for alleged violations of the Trustee Code of Conduct involving allegations that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board's decisions.**

Prepared By: Carol A. Ho'omanawanui 06/05/2019  
Carol Ho'omanawanui  
Ke 'Aho Kele, Chief of Staff Date

Reviewed By: Robert G. Klein 06/05/2019  
FOR Robert G. Klein  
Pōhaku Kihī Nui, Board Counsel Date

Reviewed By: Colette Y. Machado 06/05/2019  
Colette Y. Machado  
Ke Kauhuhu, Board of Trustees Chair Date

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## **I. ACTION ITEM**

Approve the formation of a Permitted Interaction Group (PIG) to investigate complaints against a Trustee for alleged violations of the Trustee Code of Conduct involving allegations that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board's decisions.

## **II. ISSUE**

Whether or not the OHA Board of Trustees should approve the formation of a Permitted Interaction Group, consistent with Hawai'i Revised Statutes §92-2.5(b)(1)(A), to investigate complaints against a Trustee for alleged violations of the Trustee Code of Conduct involving allegations that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board's decisions.

## **III. DISCUSSION**

### **A. Timeline of Complaints**

A complaint against an OHA Trustee was transmitted to the Board of Trustees (BOT) Chair on April 17, 2019 alleging violations of policies covered under the Trustee Code of Conduct when public statements and comments were made by the OHA Trustee:

1. Duty of Care and Loyalty to OHA, Section 1030 of the OHA BOT Executive Policy Manual (February 2012); and
2. Duty of Loyalty and Duty of Obedience and Support for Board Decisions, Subpart 1A, Section A, Subsection 5 of the OHA BOT Code of Conduct and Sanctions for Violations of the Code of Conduct.

This complaint was distributed to the Trustees via a confidential memo from the Board Counsel dated April 30, 2019.

Another complaint against the same OHA Trustee identified in the first complaint was transmitted to the BOT Chair on May 8, 2019. This complaint alleged violations of policies covered under the Trustee Code of Conduct, similar to the first complaint, when public statements were made by the OHA Trustee:

1. Duties of Care, Obedience, and Loyalty as defined in the OHA BOT Executive Policy Manual (February 2012) and Subpart 1A, Section A of the OHA BOT Code of Conduct and Sanctions for Violations of the Code of Conduct.

The second complaint was distributed to the Trustees via a confidential memo from the Board Counsel dated May 14, 2019.

## **B. Applicable Law in Hawai'i Revised Statutes, Permitted Interaction Group**

In accordance with HRS §92-2.5(b)(1)(A), this action item seeks the approval of the Board to create a Permitted Interaction Group to investigate complaints against a Trustee for alleged violations of the Trustee Code of Conduct involving allegations that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board's decisions.

Hawai'i Revised Statutes (HRS), Chapter 92, Public Agency Meetings and Records, §92-2.5(b)(1) allows for two or more board members (Permitted Interaction Group), but less than the number of members which would constitute a quorum of the board, to investigate a matter relating to official business of the board:

- (b) Two or more members of a board, but less than the number of members which would constitute a quorum for the board, may be assigned to:
  - (1) Investigate a matter relating to the official business of their board; provided that:
    - (A) The scope of the investigation and the scope of each member's authority are defined at a meeting of the board;
    - (B) All resulting findings and recommendations are presented to the board at a meeting of the board; and
    - (C) Deliberation and decisionmaking on the matter investigated, if any, occurs only at a duly noticed meeting of the board held subsequent to the meeting at which the findings and recommendations of the investigation were presented to the board.

## **C. Proposed Permitted Interaction Group (PIG)**

The scope/purview, memberships, and term/duration of the Permitted Interaction Group are defined below.

### Permitted Interaction Group Scope /Purview:

The scope/purview of the PIG is to:

1. Investigate complaints against an OHA Trustee for alleged violations of the Trustee Code of Conduct contained in the complaints, such as allegations involving that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board's decisions;
2. Interview individuals involved in the complaints, consult with others (i.e. Board Counsel, etc.), and perform tasks as necessary to further and complete its investigation; and
3. Present to the Board a report with its findings and recommendations.

### Permitted Interaction Group Membership:

The membership of the PIG is as follows:

1. Trustee Brendon Kalei'āina Lee;
2. Trustee Carmen Hulu Lindsey; and
3. Trustee John Waihe'e IV

Trustee Lee will serve as the Chair of the PIG and Trustee Hulu Lindsey will serve as its Vice Chair.

Permitted Interaction Group Term/Duration:

The term of the PIG expires at the completion of the scope/assigned tasks or at the discretion of the Chair of the Board of Trustees, subject to later adjustment.

**IV. TIMEFRAME**

Immediate action is recommended.

**V. FUNDING SOURCE**

No additional funding is needed to form a new Permitted Interaction Group to investigate complaints against a Trustee for alleged violations of the Trustee Code of Conduct involving allegations that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board's decisions.

**VI. ALTERNATIVES**

- A. Approve the formation of a Permitted Interaction Group (PIG) to investigate complaints against a Trustee for alleged violations of the Trustee Code of Conduct involving allegations that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board's decisions.
- B. Do not approve the formation of a Permitted Interaction Group (PIG) to investigate complaints against a Trustee for alleged violations of the Trustee Code of Conduct involving allegations that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board's decisions.
- C. Take no action

**VII. RECOMMENDATION**

Approve the formation of a Permitted Interaction Group (PIG) to investigate complaints against a Trustee for alleged violations of the Trustee Code of Conduct involving allegations that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board's decisions.

The scope/purview of the PIG is to:

1. Investigate complaints against an OHA Trustee for alleged violations of the Trustee Code of Conduct contained in the complaints, such as allegations involving that the Trustee breached the duty of care and loyalty to OHA and the duty to obey and support the Board's decisions;
2. Interview individuals involved in the complaints, consult with others (i.e. Board Counsel, etc.), and perform tasks as necessary to further and complete its investigation; and
3. Present to the Board a report with its findings and recommendations.

The membership of the PIG is as follows:

1. Trustee Brendon Kalei'āina Lee;
2. Trustee Carmen Hulu Lindsey; and
3. Trustee John Waihe'e IV

Trustee Lee will serve as the Chair of the PIG and Trustee Hulu Lindsey will serve as its Vice Chair.

The term of the PIG expires at the completion of the scope/assigned tasks or at the discretion of the Chair of the Board of Trustees, subject to later adjustment.

#### **VIII. ATTACHMENT**

None