

Committee on Resource Management

Trustee John Waihe'e IV, *At-Large* - Chair

Trustee Luana Alapa, *Moloka'i / Lāna'i* - Vice Chair

Members

Trustee Dan Ahuna, *Kaua'i / Ni'ihau*

Trustee Kaleihikina Akaka, *O'ahu*

Trustee Keli'i Akina, *At-Large*

Trustee Brickwood Galuteria, *At-Large*

Trustee Carmen Hulu Lindsey, *Maui*

Trustee J. Keoni Souza, *At-Large*

Trustee Mililani Trask, *Hawai'i Island*



**STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS**

**MEETING OF THE
COMMITTEE ON RESOURCE MANAGEMENT (RM)**

DATE: Wednesday March 8, 2023

TIME: 1:30 p.m.

PLACE: Virtual Meeting

560 N. Nimitz Hwy., Honolulu, HI 96817

viewable at <https://www.oha.org/livestream> OR

Listen by phone: (213) 338-8477, Webinar ID: 879 9696 8172

This virtual meeting can be viewed and observed via livestream on OHA's website at www.oha.org/livestream or listened to by phone at: (213) 338-8477, Webinar ID: 879 9696 8172. A physical meeting location, open to members of the public who would like to provide oral testimony or view the virtual meeting, will be available at 560 N. Nimitz Hwy., Suite 200, Honolulu HI 96817. All members of the public that wish to access the physical meeting location must pass a wellness check and provide proof of full vaccination or a negative COVID-19 test taken within 72 hours of entry.

AGENDA

I. Call to Order

II. Approval of Minutes

A. February 22, 2023

III. Unfinished Business - None

IV. New Business

A. Action Item RM #23-04: Final Report of OHA's Governance Planning Operating Budget (2014), including the Role of Na'i Aupuni and Financial Accounting by Akamai Foundation (Fiscal Sponsor)

B. Action Item RM #23-05: Final Report of May 2019 Board Actions re: Limited Liability Companies

C. Presentation by Administration: OHA Responses to the DRAFT State Auditor Report Distributed on Thursday, February 16, 2023

D. Presentation by Administration: Fiscal Year 2023-2024 (FY24) and 2024-2025 (FY25) Biennium Budget Process and Timeline

V. Announcements

VI. Adjournment

If you need an auxiliary aid/support or other accommodation due to a disability, please contact Everett Ohta at telephone number 594-1988 or by email to everetto@oha.org as soon as possible. Requests made as early as possible will allow adequate time to fulfill your request. Upon request, this notice is available in alternate formats such as large print, Braille, or electronic copy.

Meeting materials for this meeting will be available for the public to view 48 hours prior to this meeting at OHA's main office located at 560 N. Nimitz Hwy., Suite 200, Honolulu, HI 96817. Meeting materials will also be available to view at OHA's neighbor island offices and will be posted to OHA's website at: www.oha.org/rm.



**STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS**

In the event that the livestream or the audiovisual connection is interrupted and cannot be restored, the meeting may continue as an audio-only meeting through the phone and Webinar ID listed at the beginning of this agenda. Meeting recordings are available upon request to BOTmeetings@oha.org until the written meeting minutes are posted to OHA's website.

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

Public Testimony will be called for each agenda item and must be limited to those matters listed on the meeting agenda. Hawai'i Revised Statutes, Chapter 92, Public Agency Meetings and Records, prohibits Board members from discussing or taking action on matters not listed on the meeting agenda.

Testimony can be provided to the OHA Board of Trustees either as: (1) **written testimony emailed** at least 24 hours prior to the scheduled meeting, (2) **written testimony mailed** and received at least two business days prior to the scheduled meeting, or (3) live, **oral testimony online** or **at the physical meeting location** during the virtual meeting.

- (1) Persons wishing to provide **written testimony** on items listed on the agenda should submit testimony via **email** to BOTmeetings@oha.org at least **24 hours prior** to the scheduled meeting or via **postal mail** to Office of Hawaiian Affairs, Attn: Meeting Testimony, 560 N. Nimitz Hwy., Suite 200, Honolulu, HI 96817 **to be received at least two business days prior** to the scheduled meeting. Any testimony received after these deadlines will be 'late' testimony and will be distributed to the Board members after the scheduled meeting.
- (2) Persons wishing to provide **oral testimony online** during the virtual meeting must first register at:

https://us06web.zoom.us/webinar/register/WN_XhyF-qMsTjGKSZm9_V-Aew

You need to register if you would like to **orally testify online**. Once you have completed your registration, a confirmation email will be sent to you with a link to join the virtual meeting, along with further instructions on how to provide **oral testimony online** during the virtual meeting.

To provide **oral testimony online**, you will need:

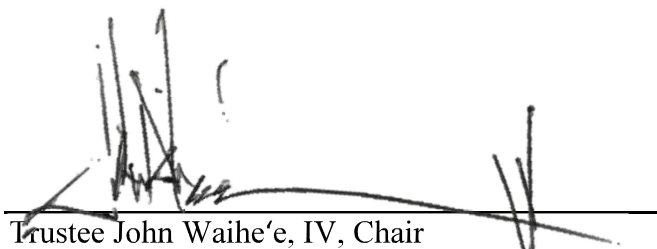
- (a) a computer or mobile device to connect to the virtual meeting;
- (b) internet access; and
- (c) a microphone to provide oral testimony.

Once your **oral testimony online** is completed, you will be asked to disconnect from the meeting. If you do not sign off on your own, support staff will remove you from the Zoom meeting. You can continue to view the remainder of the meeting on the livestream or by telephone, as provided at the beginning of this agenda.

- (3) Persons wishing to provide **oral testimony at the physical meeting location** can sign up the day-of the meeting at the Nā Lama Kukui OHA lobby.

Oral testimony online or **at the physical meeting location** will be limited to five (5) minutes.

Oral testimony by telephone/landline **will not** be accepted at this time.



Trustee John Waihe'e, IV, Chair
Committee on Resource Management

03/02/2023

Date

March 8, 2023 - Continued

Committee on Resource ManagementTrustee John Waihe'e IV, *At-Large* - ChairTrustee Luana Alapa, *Moloka'i / Lāna'i* - Vice Chair**Members**Trustee Dan Ahuna, *Kaua'i / Ni'ihau*Trustee Kaleihikina Akaka, *O'ahu*Trustee Keli'i Akina, *At-Large*Trustee Brickwood Galuteria, *At-Large*Trustee Carmen Hulu Lindsey, *Maui*Trustee J. Keoni Souza, *At-Large*Trustee Mililani Trask, *Hawai'i Island*

**STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS**

**MEETING OF THE
COMMITTEE ON RESOURCE MANAGEMENT (RM)**

DATE: Wednesday March 8, 2023**TIME:** 1:30 p.m.**PLACE:** Virtual Meeting

560 N. Nimitz Hwy., Honolulu, HI 96817

viewable at <https://www.oha.org/livestream> OR

Listen by phone: (213) 338-8477, Webinar ID: 879 9696 8172

This virtual meeting can be viewed and observed via livestream on OHA's website at www.oha.org/livestream or listened to by phone at: (213) 338-8477, Webinar ID: 879 9696 8172. A physical meeting location, open to members of the public who would like to provide oral testimony or view the virtual meeting, will be available at 560 N. Nimitz Hwy., Suite 200, Honolulu HI 96817. All members of the public that wish to access the physical meeting location must pass a wellness check and provide proof of full vaccination or a negative COVID-19 test taken within 72 hours of entry.

AGENDA

I. Call to Order**II. Approval of Minutes****A. February 22, 2023****III. Unfinished Business - None****IV. New Business**

- A. Action Item RM #23-04: Final Report of OHA's Governance Planning Operating Budget (2014), including the Role of Na'i Aupuni and Financial Accounting by Akamai Foundation (Fiscal Sponsor)
- B. Action Item RM #23-05: Final Report of May 2019 Board Actions re: Limited Liability Companies
- C. Presentation by Administration: OHA Responses to the DRAFT State Auditor Report Distributed on Thursday, February 16, 2023
- D. Presentation by Administration: Fiscal Year 2023-2024 (FY24) and 2024-2025 (FY25) Biennium Budget Process and Timeline

V. Announcements**VI. Adjournment**

If you need an auxiliary aid/support or other accommodation due to a disability, please contact Everett Ohta at telephone number 594-1988 or by email to everetto@oha.org as soon as possible. Requests made as early as possible will allow adequate time to fulfill your request. Upon request, this notice is available in alternate formats such as large print, Braille, or electronic copy.

Meeting materials for this meeting will be available for the public to view 48 hours prior to this meeting at OHA's main office located at 560 N. Nimitz Hwy., Suite 200, Honolulu, HI 96817. Meeting materials will also be available to view at OHA's neighbor island offices and will be posted to OHA's website at: www.oha.org/rm.

**STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
560 N. NIMITZ HIGHWAY, SUITE 200
(VIRTUAL MEETING - VIA ZOOM WEBINAR)
COMMITTEE ON RESOURCE MANAGEMENT
MINUTES**

February 22, 2023 1:30 p.m.

ATTENDANCE:

Chairperson John Waihe'e, IV
Vice-Chairperson Luana Alapa
Trustee Dan Ahuna
Trustee Kaleihikina Akaka
Trustee Keli'i Akina
Trustee Brickwood Galuteria
Trustee C. Hulu Lindsey
Trustee J. Keoni Souza
Trustee Mililani Trask

Evalani Canto
Kanani Iaea
Kauikeaolani Wailehua
Lei-Ann Durant
Melissa Wennihan

ADMINISTRATION STAFF:

Sylvia Hussey, CEO / Ka Pouhana / Administrator
Casey Brown, COO / Ka Pou Nui
Daniel Santos III, IT
Everett Ohta, Interim General Counsel
Kevin Chak, IT
Nietzsche Ozawa, Interim Senior Legal Counsel
Ramona Hinck, CFO
Ryan Lee, Treasury Director

BOT STAFF:

Amber Kalua
Crayn Akina

I. CALL TO ORDER

Chair Waihe'e calls the Committee on Resource Management meeting for Wednesday, February 22, 2023 to order at **1:30 p.m.**

Chair Waihe'e notes for the record that **PRESENT** are:

MEMBERS			AT CALL TO ORDER (1:30 p.m.)	TIME ARRIVED
CHAIR	JOHN	WAIHE'E, IV	PRESENT	
VICE-CHAIR	LUANA	ALAPA	PRESENT	
TRUSTEE	DAN	AHUNA	PRESENT	
TRUSTEE	KALEIHIKINA	AKAKA	PRESENT	
TRUSTEE	KELI'I	AKINA	PRESENT	
TRUSTEE	BRICKWOOD	GALUTERIA	PRESENT	
TRUSTEE	CARMEN HULU	LINDSEY	PRESENT	
TRUSTEE	J. KEONI	SOUZA	PRESENT	
TRUSTEE	MILILANI	TRASK	PRESENT	

At the Call to Order, **NINE (9) Trustees are PRESENT**, thereby constituting a quorum.

RM Staffer Akina: We received one (1) *Written Testimony* by email, **at least** 24-hours prior to the meeting deadline from Janice English, Principal of Waimea Middle School – Kamuela, Hawai'i Island – in SUPPORT of Action Item RM #23-03: FB 2022-2023 Hawaiian-Focused Public Charter School Grants – Part II that was forwarded via email yesterday at 2:16 p.m. to RM members and key-OHA-staff, related to this committee.

We have received three (3) *Written Testimony* submissions *less than* the 24-hours prior to the meeting deadline; all in SUPPORT of Action Item RM #23-03:

- First is from both W. Mapuana Waipa a me Patrick Kahawaiola'a;
- Second from Meahilahila Kelling; and
- Third from Taffi Wise

These three will be distributed after this RM meeting.

We have five (5) signed up for *Oral Testimony* for RM #23-03;

1. Chadley Schimmelfennig;
2. Kalehua Krug;
3. Katie Benioni;
4. Ku'uleianuhe Awo-Chun;and
5. Louisa Lee

We can take the oral testifiers at tha juncture Chair Waihe'e.

II. APPROVAL OF MINUTES

A. January 25, 2023

Trustee Ahuna moves to approve the minutes of January 25, 2023.

Trustee Akaka seconds the motion.

Chair Waihe'e asks if there is any discussion.

RM Staffer Wennihan states for the record that there is no one signed-up to testify on Item II. A. neither in-person, nor virtually.

Chair Waihe'e calls for a **ROLL CALL VOTE**.

MOTION							1:35 p.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
DAN	AHUNA	1		X			
KALEIHIKINA	AKAKA		2	X			
KELI'I	AKINA			X			
VICE-CHAIR LUANA	ALAPA			X			
BRICKWOOD	GALUTERIA			X			
CARMEN HULU	LINDSEY			X			
J. KEONI	SOUZA			X			
MILILANI	TRASK			X			
CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				9	0	0	0

VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

Chair Waihe'e notes for the record that all members present vote 'AE (YES) and the **MOTION PASSES**.

III. UNFINISHED BUSINESS

None

IV. NEW BUSINESS

A. Action Item RM #23-03: FB 2022-2023 Hawaiian-Focused Public Charter School Grants – Part II

Chair Waihe'e asks RM Staffer Akina to call on those who are signed-up to testify on this agenda item.

RM Staffer Akina: Yes, we have five signed-up for *Oral Testimony* for RM #23-03; Chadley Schimmelfennig, Kalehua Krug, Katie Benioni, Ku'uleianuhe Awo-Chun, and Louisa Lee and currently we just have two in queue; Katie Benioni & Louisa Lee.

RM Staffer Akina calls on Katie Benioni.

Katie Benioni: Aloha Trustees. Mahalo for the opportunity to speak with you. My name is Katie Benioni, I'm with Kanu o ka 'Āina Learning Ohana or KALO. I'm also speaking on behalf of Nā Lei Na'auao, speaking to agenda Item RM #23-03. I'm testifying in SUPPORT of the item. We just want to express our sincere mahalo to all of you for your support over the years to our 17 Hawaiian-Focused Charter Schools (HFCS).

This year many of our schools will celebrate 23 years of educating students here in Hawai'i. In the 2 plus decades that we've been in this effort, the State has failed to provide facilities funding to these public-school students in our Nā Lei Na'auao schools that are through the pae 'āina. So, your support is a true testament to your commitment and belief in Hawaiian education, and also, your belief in our families - who are choosing this as a path for their keiki.

So, Mahalo Nui Loa, and I also wanted to extend an invitation to all of you to our Ku'i Ka Lono Conference, which will be on Kaua'i, March 9th and 10th. It's our twentieth anniversary of that conference for our students, and I know Sylvia has the information on that, and I believe she along with Trustee Lindsey are also going to be in attendance. So, we just wanted to invite all of you to see what our keiki are doing, and again *mahalo* you for all of your support. Thank you.

Chair Waihe'e: Thank you, Katie.

RM Staffer Akina calls on Louisa Lee.

Louisa Lee: Aloha, my name is Louisa Lee, I'm here from Ka 'Umeke Kā'eo Hawaiian Language Immersion Public Charter school in Keaukaha. Mahalo Nui first, for allowing us to participate in proceedings. Ka 'Umeke Kā'eo currently serves about 270 students from Pre-K (3) up until Grade 12, and we have long been the recipients of OHA's generous support that has allowed us to provide for rigorous culture-based education, including Hula, Paheona, dual credit high school and college courses in 'Ōlelo Hawai'i with Windward Community College and to work closely with our Loko i'a and 'Āina-based community partners right here in Keaukaha.

Unfortunately, due to facility challenges, we have been prohibited from serving more students. We currently have a waitlist in six grade levels. We are especially seeing challenges with haumana who are moving from other islands to the Big Island, and there are not immersion language options in East Hawai'i. So, these keiki, who have been in immersion schools since Papa Mālaa'o, or even Pūnana Leo or preschool are now having to transition into English language programs because there are not enough Hawaiian immersion options.

OHA's continued support will enable us to continue to contribute to developing haumana, with strong cultural identities and community service and hopefully contribute to a thriving lāhui. So, please continue support of our programs via financial grants, including facilities funding. Mahalo.

Chair Waihe'e: Thank you, Louisa.

RM Staffer Akina calls on Ku'uleianuhe Awo-Chun.

Ku'uleianuhe Awo-Chun: Aloha mai kakou, my name is Ku'uleianuhe Awo-Chun. I am currently the Assistant Director at Mālama Honua Public Charter School in Waimānalo, and I've always been at other Charter Schools for the last twenty years or so. I just wanted to testify in SUPPORT, and also give a *mahalo* to OHA for having on the agenda, funding for facilities for Hawaiian-Focused Charter Schools (HFCS). I've been in meetings for several weeks now with HFCS po'o, where facilities, funding and legislative packages are regarding topics.

It has been a topic of conversation for a long time, and in some ways a continued area of struggle, and so I just wanted to say that this item on your agenda will be a huge support for us. It will lift a huge weight off of so many of our leaders and ultimately our keiki, because with an ability to have resourcing for facilities we can then spend for our people - allocations on what they are for, which is for the pupils and their curriculum; their in-class needs. So, I just wanted to say *mahalo* for having this on the agenda, and we support these efforts. Aloha.

Chair Waihe'e: Thank you, Ku'uleianuhe.

Chair Waihe'e asks if there are any other testifiers for this agenda item.

RM Staffer Akina confirms that only three testifiers were on-line at this time.

Chair Waihe'e recognizes Trustee Ahuna.

Trustee Ahuna: I just wanted to comment a little on RM #23-03. I wanted to thank all the people who spoke before me, about charter schools. I just wanted to say something about equity and funding charter schools; the gap has been so wide since day one. This money that they're going to get is very, very, very important for our charter schools and the schools in our Hawaiian communities. So, I just want to thank OHA, especially for having this money set aside for our charter schools. It is very, very important. Charter schools are leading the way now in education and I think it's very important that we continue to support.

Secondly, because of my position with charter schools. I'm going to have to RECUSE and not vote on today's action. However, I just want to say, thank you to OHA for all of this, and thank you to all the people who spoke up for charter schools. Thank you. Mahalo.

Chair Waihe'e recognizes Ka Pouhana Hussey.

Pouhana Hussey: Mahalo, Chair Waihe'e. I just wanted to address and share with the Trustees regarding the 3 motions, and particularly for Trustee Ahuna. The motions are bifurcated so that you can go ahead and vote, and then recuse yourself on motion 2.

But you're able to vote on all other motions, and we realized that situation, so Administration intentionally broke out the motions so that you're able to participate fully.

Trustee Ahuna: Thank you very much.

Chair Waihe'e recognizes Trustee Lindsey.

regarding: Action Item RM #23-03
FB 2022-2023 Hawaiian-Focused Public Charter School Grants – Part II

RM #23-03: MOTION #1

Trustee Lindsey moves to approve and authorize the:

- A. Disbursement of \$2,250,000 from the Fiscal Biennium (FB) 2022-2023 Core Operating Budget (Object Code 56540) to fund the FB 2022-2023 Hawaiian-Focused Public Charter Schools (HFPCS) grant to Kanu o ka 'Āina Learning 'Ohana (KALO), for the benefit of 15 HFPCS;**
- B. Disbursement of \$450,000 from the Fiscal Biennium (FB) 2022-2023 Core Operating Budget (Object Code 56540) to fund the administrative fee for KALO to distribute the funds for 16 HFPCS; and**
- C. Execute a new contract with KALO to affect the authorized actions of this Action Item.**

Trustee Akaka seconds the motion.

Chair Waihe'e recognizes Trustee Akina.

Trustee Akina: Thank you, just a quick question. This is great, but I'm looking at motion 1, disbursement of \$2,250,000, just trying to line up the numbers with the Action Item, that's 16 schools, at a \$150,000, which is 2,400,000. *How did these two figures match?*

Pouhana Hussey: Trustee, if you will go to page 7 of the Action Item, Tables 1 and 2 will help you see, it is 17 Hawaiian-Focused Charter Schools that we're funding. However, because one of the charter schools we directly contract with - so that leaves us 16, and because of the action, so motion 1 and 2; 15, and the one equals the 16 charter schools and the funding. The administrative fee is for all 16 schools, and then motion 3 takes care of Kanu o ka 'Āina, the school itself in a separate contract directly with OHA administration, so that they don't administer their own contract.

Trustee Akina: Very good, I see that. Thank you very much.

Pouhana Hussey: Sure.

Chair Waihe'e asks if there are any further questions.

There are no further questions, nor are there comments.

Chair Waihe'e calls for a **ROLL CALL VOTE**.

MOTION #1							Motion: 1:45 p.m. Vote: 1:48 p.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
DAN	AHUNA			X			
KALEIHIKINA	AKAKA		2	X			
KELI'I	AKINA			X			
VICE-CHAIR LUANA	ALAPA			X			
BRICKWOOD	GALUTERIA			X			
CARMEN HULU	LINDSEY	1		X			
J. KEONI	SOUZA			X			
MILILANI	TRASK			X			
CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				9	0	0	0

VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

Chair Waihe'e notes for the record that all members present vote 'AE (YES) and the **MOTION PASSES**.

regarding: Action Item RM #23-03
FB 2022-2023 Hawaiian-Focused Public Charter School Grants – Part II

RM #23-03: MOTION #2

Trustee Lindsey moves to approve and authorize the:

- A. Disbursement of \$150,000 from the Fiscal Biennium (FB) 2022-2023 Core Operating Budget (Object Code 56540) to fund the FB 2022-2023 Hawaiian-Focused Public Charter Schools (HFPCS) grant to Kanu o ka 'Āina Learning 'Ohana (KALO), for the benefit of Kanuikapono Public Charter School, Anahola, Kaua'i; and
- B. Execute a new contract with KALO to affect the authorized actions of this Action Item.

Trustee Akaka seconds the motion.

Chair Waihe'e asks if there are any further questions.

There are no further questions, nor are there comments.

Chair Waihe'e calls for a **ROLL CALL VOTE**.

MOTION #2							Motion: 1:49 p.m. Vote: 1:50 p.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
DAN	AHUNA					RECUSED	
KALEIHIKINA	AKAKA		2	X			
KELI'I	AKINA			X			
VICE-CHAIR LUANA	ALAPA			X			
BRICKWOOD	GALUTERIA			X			
CARMEN HULU	LINDSEY	1		X			
J. KEONI	SOUZA			X			
MILILANI	TRASK			X			
CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				8	0	1	0

VOTE: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED

Chair Waihe'e notes for the record that eight (8) members present vote 'AE (YES) and one (1) member is RECUSED and the **MOTION PASSES**.

regarding: Action Item RM #23-03
FB 2022-2023 Hawaiian-Focused Public Charter School Grants – Part II

RM #23-03: MOTION #3

Trustee Lindsey moves to approve and authorize the:

- A. Disbursement of \$150,000 from the Fiscal Biennium (FB) 2022-2023 Core Operating Budget (Object Code 56540) to fund the FB 2022-2023 Hawaiian-Focused Public Charter Schools (HFPCS) grant to Kanu o ka 'Āina New Century Public Charter School (KANU); and
- B. Execute a new contract with KANU to affect the authorized actions of this Action Item.

Trustee Akaka seconds the motion.

Chair Waihe'e asks if there are any further questions.

There are no further questions, nor are there comments.

Chair Waihe'e calls for a **ROLL CALL VOTE**.

MOTION #3							Motion: 1:51 p.m. Vote: 1:52 p.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
DAN	AHUNA			X			
KALEIHIKINA	AKAKA		2	X			
KELI'I	AKINA			X			
VICE-CHAIR LUANA	ALAPA			X			
BRICKWOOD	GALUTERIA			X			
CARMEN HULU	LINDSEY	1		X			
J. KEONI	SOUZA			X			
MILILANI	TRASK			X			
CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				9	0	0	0

VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

Chair Waihe'e notes for the record that all members present vote 'AE (YES) and the **MOTION PASSES**.

RM Staffer Akina states that a testifier logged-on during the votes and would like to offer the opportunity for him to speak at this time.

RM Staffer Akina recognizes Kalehua Krug.

Kalehua Krug: Aloha mai, kala mai. Good to see you all. Mahalo for the opportunity. I just wanted to make sure that we do put a good supportive word out for the money that is appropriated on the agenda. I just wanted to make sure that, as we do speak on behalf of the needs of the charter schools that each of the schools takes on a responsibility, and I think you guys know, right now through legislation, that there are movements out there to lessen the funding for our schools.

So, when we do show up in this way to request funds from other agencies, please know it is a dire need, and it's a dire need for the type of programming. It's a dire need for the facilities that we do exist upon, but I just wanted to make sure that I am testifying in SUPPORT of that funding, because it is a necessity for all of us. Mahalo for the time. Aloha.

Chair Waihe'e: Thank you, Kalehua.

IV. NEW BUSINESS

**B. Presentation by Administration: OHA Responses to the DRAFT 2021
Performance Audit Report
by the State of Hawai'i Office of the Auditor**

Chair Waihe'e: Members, I have been asked to indulge the deference of Item IV. B. by Administration, so I will do so.

IV. NEW BUSINESS

**C. Presentation by Administration: Native Hawaiian Trust Fund, Service Providers
& Primary Investment Manager, Roles and
Responsibilities**

Chair Waihe'e turns it over to Ka Pouhana Sylvia Hussey.

Pouhana Hussey: Thank you Chair Waihe'e. I will ask Ryan Lee, our Treasury Director to turn his camera on. You have the slides in your folder.

Chair Waihe'e asked Administration to provide an overview of the current service providers in the Native Hawaiian Trust Fund, as well as their roles and responsibilities. So, this is the *as is* condition, and that we also know there is a Request For Proposal (RFP) effort going on for the Board's advisor for this.

So, all Administration is doing is presenting to you the *as is* condition. Then, as the Board gets their advisor, your advisor and your decisions will then be reflected in policy. Then Administration will go ahead and execute on those authorized transactions, policies, or things like that.

Pouhana Hussey: So that's the context. We're going to go ahead and have Ryan present.



Treasury Director Lee: Aloha Trustees. For today's workshop I'll be going over the roles and responsibilities of the Service Providers to the Native Hawaiian Trust Fund. Now the Service Providers' roles and responsibilities are governed, as Sylvia mentioned, in the existing Investment Policy Statement; IPS for short.

It's attached in Appendix four of the handout, and for reference you may want to look at Sections 3, 4, and 13; that covers the rules and responsibilities.

The image shows a table of contents for a presentation titled "NHTF Service Providers Overview Roles and Responsibilities". The table lists sections and their corresponding page numbers. The sections are: Section 1: Introduction and Scope (1), Section 2: Investment Objectives (2), Section 3: Investment Policy (3), Section 4: Investment Strategy (4), Section 5: Asset Allocation (5), Section 6: Investment Constraints (6), Section 7: Investment Process (7), Section 8: Investment Performance (8), Section 9: Investment Risk (9), Section 10: Investment Monitoring (10), Section 11: Investment Reporting (11), Section 12: Investment Review (12), Section 13: Investment Review (13), Section 14: Investment Review (14), Section 15: Investment Review (15), Section 16: Investment Review (16), Section 17: Investment Review (17), Section 18: Investment Review (18), Section 19: Investment Review (19), Section 20: Investment Review (20), Section 21: Investment Review (21), Section 22: Investment Review (22), Section 23: Investment Review (23), Section 24: Investment Review (24), Section 25: Investment Review (25), Section 26: Investment Review (26), Section 27: Investment Review (27), Section 28: Investment Review (28), Section 29: Investment Review (29), Section 30: Investment Review (30), Section 31: Investment Review (31), Section 32: Investment Review (32), Section 33: Investment Review (33), Section 34: Investment Review (34), Section 35: Investment Review (35), Section 36: Investment Review (36), Section 37: Investment Review (37), Section 38: Investment Review (38), Section 39: Investment Review (39), Section 40: Investment Review (40), Section 41: Investment Review (41), Section 42: Investment Review (42), Section 43: Investment Review (43), Section 44: Investment Review (44), Section 45: Investment Review (45), Section 46: Investment Review (46), Section 47: Investment Review (47), Section 48: Investment Review (48), Section 49: Investment Review (49), Section 50: Investment Review (50), Section 51: Investment Review (51), Section 52: Investment Review (52), Section 53: Investment Review (53), Section 54: Investment Review (54), Section 55: Investment Review (55), Section 56: Investment Review (56), Section 57: Investment Review (57), Section 58: Investment Review (58), Section 59: Investment Review (59), Section 60: Investment Review (60), Section 61: Investment Review (61), Section 62: Investment Review (62), Section 63: Investment Review (63), Section 64: Investment Review (64), Section 65: Investment Review (65), Section 66: Investment Review (66), Section 67: Investment Review (67), Section 68: Investment Review (68), Section 69: Investment Review (69), Section 70: Investment Review (70), Section 71: Investment Review (71), Section 72: Investment Review (72), Section 73: Investment Review (73), Section 74: Investment Review (74), Section 75: Investment Review (75), Section 76: Investment Review (76), Section 77: Investment Review (77), Section 78: Investment Review (78), Section 79: Investment Review (79), Section 80: Investment Review (80), Section 81: Investment Review (81), Section 82: Investment Review (82), Section 83: Investment Review (83), Section 84: Investment Review (84), Section 85: Investment Review (85), Section 86: Investment Review (86), Section 87: Investment Review (87), Section 88: Investment Review (88), Section 89: Investment Review (89), Section 90: Investment Review (90), Section 91: Investment Review (91), Section 92: Investment Review (92), Section 93: Investment Review (93), Section 94: Investment Review (94), Section 95: Investment Review (95), Section 96: Investment Review (96), Section 97: Investment Review (97), Section 98: Investment Review (98), Section 99: Investment Review (99), Section 100: Investment Review (100).

Treasury Director Lee: Now, before we cover Service Providers, I thought it would be helpful to review the current Native Hawaiian Trust Fund endowment structure for financial assets.

At a high level, as shown by the green boxes here it starts with the Board of Trustees, setting policies, with further responsibilities flowing down through the CEO, CFO, and OHA Staff.

The yellow boxes reference operations, the external service providers for the operations of the Native Hawaiian Trust Fund.

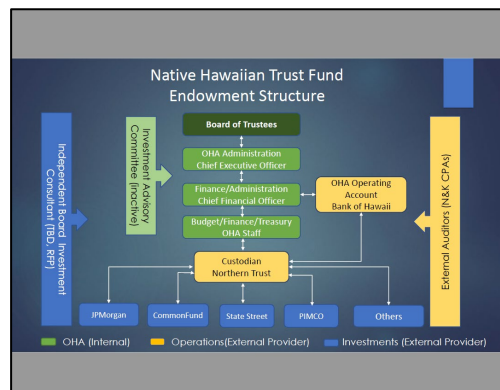
So, you have the custodian, which is Northern Trust, you have the operating account, which is Bank of Hawai'i, and external auditors.

The Blue Boxes reference the external investment managers that have been approved by the Board of Trustees. So basically, these are managers and advisors hired to implement the Native Hawaiian Trust Fund Investment strategy.

Are there any questions or comments here before I move on?

There are zero questions and zero comments.

I'll spend more time on each of the color boxes to provide you more key points.



Chair Waihe'e recognizes Trustee Akina.

Trustee Akina: Thank you. Since you're calling for questions, I'll just throw this out quickly and feel free to pass it by if you'll answer it later. We see several external providers, JP Morgan, Commonfund, State Street, and so forth. *What was the thinking behind that originally, in setting so many up and choosing these in particular?*

Treasury Director Lee: This occurred early on during the formation of the Investment Policy Statement; the implementation. I think the goal was to have Manager discretion. You want to delegate some of the investment responsibilities to these advisors, whether it's JP Morgan, Goldman or Commonfund. At the same time, you wanted Manager diversification as well, across the portfolio.

Trustee Akina: *Do we routinely revise and update the array of service providers based upon their performance?*

Treasury Director Lee: Yes. I would say over the last ten years, there have been changes made to the lineup.

Trustee Akina: Okay, Thank you.

Treasury Director Lee: Okay.

Chair Waihe'e recognizes Trustee Akaka.

Trustee Akaka: *Ryan, is it recommended that we keep this 'as is', where we have this many?*

Treasury Director Lee: I believe it's pending Trustees' selection of the Board Consultant to assist with reviewing the current investment program. It could be *as is*, or there could be other changes that are to be determined.

Trustee Akaka: *Would you say that it's effective, within the last couple years as it is?*

Treasury Director Lee: Like any policy, you always want to review and update best practices. There's always room to improve.

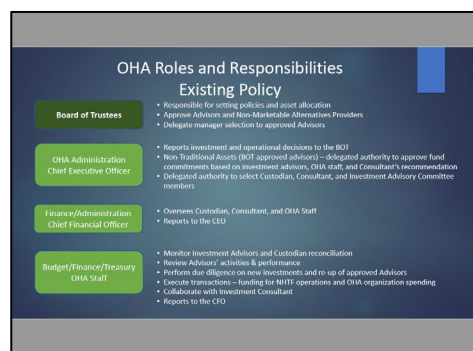
Trustee Akaka: Thank you.

Treasury Director Lee: This slide covers the existing responsibilities, by staff, from the Board of Trustees (BOT), down to Administration.

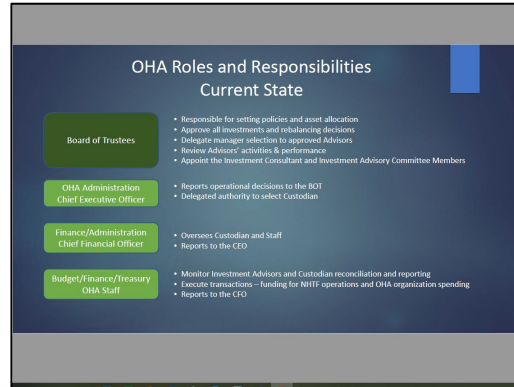
Just a reminder, the BOT is responsible for setting policies, asset allocation, and approving advisors and non-marketable advisors. So, once these advisors are selected, there's delegation to these managers to go out and hire managers and they have discretion to make the investments, select securities, for example.

Now there are certain functions that are delegated to the CEO, such as approving the Custodian, Investment Consultant, Advisory Board members, as well as approving investment funds by BOT-approved advisors. And again, this is the current existing policy that I'm referring to.

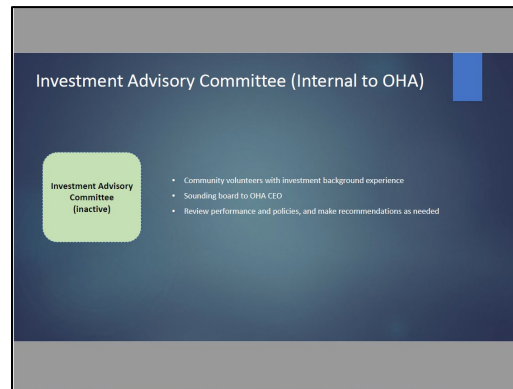
The management of the Native Hawaiian Trust Fund falls under the CFO, which has staff working with the external providers, as you see here, in terms of the management, as well as the operations of the Trust Fund.



Treasury Director Lee: Now this slide represents the current state as there's a transitioning of the responsibilities. The main difference here is the Investment function has been moved up to the Trustees' level with OHA Administration just focusing on day-to-day management of the investment operations; executing of decisions made by the Board, as an example.



Treasury Director Lee: Now, there is an Investment Advisory Committee that's noted in the Investment Policy Statement; it's internal to OHA, it's currently inactive. These are community volunteers with investment background, and they act as a sound board to OHA staff and the CEO. They don't make any decisions, it's mainly to provide advice and recommendations.



Treasury Director Lee: Now this is where we get into the Operations, the external providers. Starting with the Operating Account, Bank of Hawai'i; this is your main checking account for OHA operations. This is where deposits go for PLT revenues, general funds and where we withdraw for spending, from the Native Hawaiian Trust Fund.

The heart of the operations for the Native Hawaiian Trust Fund lies with the custodian. All activities that occur within the investments, the custodian's main function is to track these activities, from accounting, monthly reconciliation of the activity, cash management, and transaction processing.

This is a global portfolio, the investments are denominated in yen or euro and you eventually need to convert that money back to the U.S. Dollar, and the custodian helps with that.

Performance measurement - this is a new responsibility that we added, effective this year, and on a go-forward basis performance would be reported directly from Northern Trust. The Northern Trust relationship is a newer relationship. They were hired in the beginning of this Fiscal Year after the internal review of the operations of the Trust. So, we were able to improve services as well as reducing cost with the new custodian that we have.

Treasury Director Lee: The previous custodian was State Street. You may be familiar with that, but just a reminder that this is a new relationship that we added in the beginning of the year.

We have our external auditors, their role typically on an annual basis is to provide an independent assessment on OHA financials. As it relates to the Trust Fund, usually verifying that the market values are fairly represented as it is stated, within our own financials that we report.

Any questions or comments before I move on to the next page?

There are zero questions and zero comments.



Chair Waihe'e recognizes Trustee Souza.

Trustee Souza: One question. So, State Street was previously our custodian, but they are also one of our money managers. *Is that correct?*

Treasury Director Lee: Correct. State Street has a custody business and also an Asset Management business. So, they're totally separate providers that we engage with. So, changing custodians doesn't mean that we would change the investment side of it.

Trustee Souza: Right, but if the custodian's job is for a performance measurement. I'm guessing that's what State Street was, they provided that service as well.

Treasury Director Lee: There is history with that. The beginning of the relationship, *performance measurement* was under State Street Custody Bank, but over the last five years it was with the previous consultant, Segal Marco.

The goal with changing custodians was to bring back that *performance reporting*, back to the custodian. *Because the way to get more timely reporting done on performance, is with the performance part of custody, right?* Because everything is generated, the performance report is generated off the accounting numbers, so it's best to have them together for efficiency.

Trustee Souza: Right. Thank you.

Chair Waihe'e recognizes Trustee Alapa.

Trustee Alapa: Thank you, Ryan. I wanted to know how long we have been working with Northern Trust.

Treasury Director Lee: We officially transitioned last July, but the process, in terms of review and engaging a custodian occurred over the 12 months previous. So, it's a new relationship that's been in place about 7 months now.

Trustee Alapa: *And who selected them?*

Treasury Director Lee: Internal review with myself, the CFO, and the external consultants that reviewed the RFPs.

Trustee Alapa: Okay, thank you.

Chair Waihe'e recognizes Trustee Trask.

Trustee Trask: Months ago, we had a presentation of one of the executives of the retirement system for the State. We anticipated that we were going to be taking a look at the breath and the scope of our investment policy.

A Board decision was made at that time, whether voted on or not, that we were going to schedule a training by an independent advisor for this Board, that has not occurred.

At that time, I and other Board members indicated that we did not want to have the portfolio management remain under the Administration, hence we were looking for a Board training, Board action, to bring this matter back to the direct oversight of the Board.

We are not doing that now, there was an RFP posted, I didn't see the action.

The reason why we had made that decision was we wanted to have an independent person in the room doing a training so that we could follow up. In an effort to facilitate that, some of us met with the person who was actually in the position with the State ERS. But that person, and no other, to my knowledge, was ever interviewed for the position.

Trustee Trask: What we're doing here, Trustees, is we're going back, looking at the old model, which does not bring the authority back to the Board. So, I have no problem concluding the meeting. But I would like to have scheduled now for the Board to look at what our obligation is to have an independent trainer with the background in the State, who follows up on the ERS.

The reason why Administration brought in a Board member from the ERS, was because they were a good prototype model and that has not proceeded. I'm not sure why, but here we are taking a look at the old format and I'm wondering when we are going to have the independent training.

When is this Board going to bring back oversight of the portfolio to the Board, so that we can make corrective measures, decide what they are, and proceed?

So, given what we have to do in terms of public notice, etc., we have to proceed with this. This is not where this Board is supposed to be colleagues and I just want to put that up, because I'm inclined to not proceed with any kind of a vote on anything until we have the training. I would like to recommend that that be done properly. I don't understand why that can't be scheduled in the next couple of weeks, because this is significant for us, but we were supposed to have a training and then we were supposed to proceed, and that did not occur.

Chair Waihe'e recognizes Ka Pouhana Hussey.

Pouhana Hussey: Trustees, this *as is* condition of the various pieces of the Native Hawaiian Trust Fund is being brought to you based on Chair Waihe'e's request of Administration to explain what the current situation is. Administration that currently is here from the CEO, CFO, everyone down the line arrived with these decisions already made.

So, all we are doing is presenting what is the current situation. We are supporting the Board through the process for RFP 2023, which the Board is seeking an advisor to include training and advisement. So, our *to do* was to bring this to you, Trustees, and these are the decisions that were made previous, to all of us arriving. So, we are here to continue to support and clarify the various roles, the decisions that were made, and then be ready to support the Board in their movement forward in the RFP process, as well as when that advisor is selected. The decisions that the Board will make at that time.

So, Chair Waihe'e, I just wanted to clarify that for Trustee Trask. That this was based on a request by you to bring this to the Board.

Chair Waihe'e: Yeah, thank you. This is just currently what's there, so we understand what's here now and how things are and what we want to change, based on what we think. To make sure we know everything and understand everything that's there now.

Trustee Trask: I understand what we're doing here. *What I do not understand is why the decision that was made that we get an independent trainer in here to prepare us for this very review?*

Chair Waihe'e recognizes Trustee Ahuna.

Trustee Ahuna: Thank you. *Will any J.P. Morgan Workshops be offered for us to go visit or Goldman Sachs, because I know we did Commonfund?* I was just wondering, because there's a lot of information that they provide for workshops. But I just wanted to know if we can do something other than the Commonfund one.

Pouhana Hussey: In the past, the managers would contact the Administration, and then we'd work with the RM Chair as well as the Board Chair to make the trainings available.

As you pointed out, Trustee Ahuna, J.P. Morgan, as well as Commonfund, have been one of the more active managers that have reached out; made the Office of Hawaiian Affairs aware of the various opportunities; and then we in turn let the Board know. The Board then decides on what trainings and opportunities are taken.

At this point. Commonfund has been the only consistent one through. That doesn't mean that others aren't, but I also want to share that Chair Waihe'e has also asked Administration to ensure that the current managers have time on the Board agendas to be able to have the Board ask any questions. So, Administration will be making those arrangements to bring to each RM Committee - time - for the individual managers to spend with the Board. This is in parallel with the RFP process, and until the Board selects their advisor, and then can make those decisions.

So, that's the sort of short, long answer of *Yes, they are*, but they haven't made those opportunities broadly known to us. We can follow up again now that things are opening-up, a little more.

Trustee Ahuna: Just one more quick question, I remember going to a J.P. Morgan training and they educated us on what an Active Manager is and what a Manager-of-Managers is. They explained everything about what we have, to give you a view of our whole portfolio, and how spread, and how balanced we are. I just wanted to make sure that if there is anything offered from J.P. Morgan or Goldman Sachs - that we be informed. Thank you.

Chair Waihe'e recognizes Trustee Lindsey.

Trustee Lindsey: Mr. Chair, I just wanted to share that in my 10 years here at OHA, I was in the RM Chair position, as well as a Trustee Ahuna; and J.P. Morgan is extremely limited in invitations, and only invited the RM Chair and the person that was in charge from the Administration, like Ray, in the past.

They do not open the invitations, let's say to the whole Board like Commonfund does. That's unfortunate, but it's a very, small conference, and usually in New York. So, that being said, I also want to add that there is an RFP out for our advisor and the period of it being out around the world is March 2nd, and then that should be the end of the RFP.

Pouhana Hussey: Chair Waihe'e, I also want to share with the Trustees that while the RFP is going through its process, and while the Board is making their selection of their advisor, Administration is just in maintenance mode. So, whatever transactions are there, whatever commitments, Capital Calls that are made for the selections; we're just in maintenance mode, as well.

Any policy changes still need to be made and go through the Board. So, just if you're wondering what the Administration is doing, all we're doing is maintaining the current policy, and as soon as the advisor is selected and the Board *holos* with the policy work, then we're there to be able to support and then execute those decisions by the Board.

Chair Waihe'e: Thank you.

Trustee Trask: *Could I ask if we have any kind of an estimated timeframe, as to when that's going to happen, Sylvia?*

Pouhana Hussey: Yes, Trustee. The proposals are due on Friday, March 3rd; so next week, Friday. The committee should start to evaluate from that following week, and they have a 2-week evaluation period timeframe. It need not take two weeks; it depends how many responses are received.

Then, if there are presentations that the Evaluation Committee would want to see, then that could be scheduled as early as March 13th. Once those decisions are made by the Evaluation Committee, then they can be giving best and final offers March 17th. Then we would like to start contracting as soon as the award notice starting on Monday, April 3rd.

So, within the next month, if all of the processes are done, the Evaluation Committee has their work, we could be contracting and on the ground by April 3rd. That's the layout of the timeline in the RFP.

Trustee Trask: *Can you name the Evaluation Committee members?*

Pouhana Hussey: Sure, the Evaluation Committee members: Chaired by Board Chair Hulu Lindsey, Board Vice Chair Trask, you are an evaluation committee member, RM Chair Waihe'e is an evaluation committee member, and the Board's Financial Advisor, Sam Chung is a fourth evaluation committee member.

Trustee Trask: I'm requesting that the Board right now please on the next agenda, for this committee, - a vote - that oversight of the portfolio investment and all decision making be removed to the Board, because we are the ones that have the obligation to do it.

What is happening at this meeting, once again, it is under the Administration. I don't have a problem, but weeks and months have elapsed, and I'm not inclined to take any further recommendations or be tolerant over it. We're looking at policies here, and we have not had the training.

We send out notices all over the world, but I think it was clear that we were looking for a trainer and advisor that was here in Hawai'i. Here in Hawai'i, so that when we meet, we could have that person present without having to fly them in with. We're looking for somebody that should have been brought on prior to us, looking at the old way of doing things.

I'm very concerned about it, Trustees and Administration. I want this matter of oversight back before the Board and then perhaps the Board can move to set its training. But I'm not inclined to continue this kind of delay and look at the old way of doing things.

Chair Waihe'e recognizes Trustee Souza.

Trustee Souza: Thank you, Chair. Personally, I appreciate this presentation by Administration, because it does reflect our current financial situation, and I believe that's what the RFP is out, so we can get advice and educated on what the current situations are, so we can make a better-informed decision. Of course, I think the goal is to bring it back to the Board because it is ultimately our responsibility, like Trustee Trask said.

Trustee Souza: I have a question, Sam Chung is our financial advisor; maybe the last time we were advised was prior to me, becoming a Board member. *What is his role and current responsibility?* Because I understand we're going for an RFP to have a consultant. So, I just ask, *what is Sam Chung's role, and what will his role be, at least in the future once we obtain a consultant for the Board?*

Trustee Lindsey: No, I don't think Sam will have anything to do with the advisor, but he does qualify as an evaluator in selecting the advisor to the Board.

Trustee Souza: Oh, I see, so he's just appointed as part of the review committee.

Trustee Lindsey: Yes. He's really our Financial Advisor for Real Estate.

Trustee Souza: I see, got it. Thank you, Chair.

Treasury Director Lee: *Okay, should I continue with the presentation?*

Chair Waihe'e: Yes, thank you.

Treasury Director Lee: The current slide here represents the current Investment Manager Advisors engaged within the investment portfolio. Each manager has a role in the portfolio, so I'll go through the Department Managers to get a sense of how it fits in the portfolio and the roles that they play.

Starting off with State Street, they're role in the portfolio is to manage Traditional Assets, so we're talking about public stocks and bonds that are traded in exchanges. You think about mutual funds and so forth, with State Street there's no Asset Allocation discretion, or Manager Selection discretion. What State Street does is provides a passive index replication, investing in indices that represent the policy benchmark that S&P and the IPS. This is a direct allocation, that's approved by the Board of Trustees and it's managed according to policy targets in the IPS.

With Commonfund on the other hand, it's an Active Manager. It matches both the Traditional Assets as well as Alternative Assets; alternative assets meaning, investments and private equity investments, venture buyouts. They select the managers to invest in those categories, so they do not have asset allocation discretion, asset allocation; meaning that they overweight equities and underweight bonds as an active decision against policy.

Their primary function is to select a manager, based on the strategy that they're engaged with across various type of managers that can manage. As I mentioned, they have investments in buyout venture and natural resources, and it requires OHA to re-up or approve the investments to maintain an allocation. Meaning that if we do not make consistent commitments to private investments the allocation eventually will come down. So Commonfund has no discretion in re-upping new investments, that responsibility lies within OHA.

Chair Waihe'e recognizes Trustee Akaka.

Trustee Akaka: Our understanding, after attending the Commonfund Forum, in the meeting that we had with them is that we're about a few years lapsed, where we made a commitment to Commonfund. So, they're awaiting that from us.

Treasury Director Lee: That's correct, and I think I discussed in the past. The last commitment, we did have a commitment the previous year, but prior to that, the last commitment was made about 5 years ago. So, what's happening with the allocation to *private* is that we're getting a lot more distributions - and the exposure has been coming down. So, what that can do is eventually impact your returns over the longer term, if that continues. Meaning that if you have the allocation to *privates*, which is one of your high returning asset classes, and you underweight that over time your performance is going to suffer.

Trustee Akaka: That's something that needs to be adjusted immediately, is our understanding.

Treasury Director Lee: That should be addressed, correct.

Chair Waihe'e recognizes Trustee Ahuna.

Trustee Ahuna: Quick question, for my understanding. So, when we're talking about Active Management, we're talking about managers who are actively involved in investments. So, when we vote on the policy, we have to be more broad right, because they're completely making decisions.

Now, if we do not set the policy, then they would have to wait for us in order to make decisions.

So, what is the difference between active management and just a manager-to-manager funds, or what is the difference between active management and just regular management?

Treasury Director Lee: Sure, maybe the way to explain is that there are 2 types of Managers currently in the portfolio.

One is the Manager-of-Managers, so you hire someone like Commonfund and Commonfund goes out and selects the investment managers, let's say ten of them for a specific strategy. Commonfund is responsible for monitoring those investments. If something goes wrong with the manager, they have the discretion to either terminate them; making changes to that.

So that's a manager decision, but typically managers that they hire make these active decisions, meaning that they're actively selecting investments that are referencing a certain benchmark. Meaning that if you have a policy like S&P 500, there are 500 stocks - they select maybe 100 stocks - you make an active decision against that benchmark. Your goal is to outperform that benchmark, so there's a risk of underperforming as well.

Treasury Director Lee: The second part of the actual management of the portfolio with the Native Hawaiian Trust Fund, is making direct allocations to the Manager, like State Street, or PIMCO, in which they're not the selecting managers, they're clearly selecting securities.

As I mentioned with State Street, they're passive, they're replicating the benchmark; the 500 stocks in S&P, they're buying 500 stocks, they want to mirror the performance.

Whereas a manager like PIMCO, which is actively selecting credit investments to generate a return. So that's the difference between the two.

Trustee Akaka: So, what I'm seeing here with the Goldman Sachs and Commonfund, it looks like both need the commitment, and is it that same timeline - *where it's been a few years or more since we they've received that last commitment from OHA?*

Treasury Director Lee: We made one commitment last year, and then we paused as Sylvia mentioned about reviewing the investment program, just maintaining at this point, but that's correct. Typically with a program like this, you probably need to make at least 20 to 25 million of new commitments each year to keep up with a specific target, and it's a moving target because the market values are moving all the time, so that has to be managed. So, we've been getting a lot more, as you mentioned, distributions than capital calls.

Trustee Akaka: Thank you.

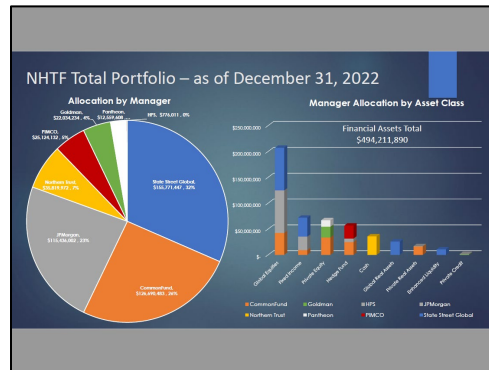
Treasury Director Lee: Okay, the next manager is J.P. Morgan. It's your closest thing to an outsourced CIO program, using traditional assets. They have the ability to make asset allocation decisions to add value, as well as select managers within their J. P. Morgan Manager of Mutual Funds suite; to implement the strategies. That is a Manager-of-Managers strategy.

I touched upon PIMCO, it's an Active Management. This is a direct allocation that was approved by the BOT, and this is not a Manager-of-Manager Advisor. They did directly buy, individual securities within the portfolio, so the responsibility for monitoring lies with OHA.

Goldman Sachs - it is very similar to Commonfund. They're role in the portfolio is Alternative Assets, mostly private investments. There's no Asset Allocation. Once funds are committed, they have the delegation to go and select those managers. Again, it requires to approve, and re-up a fund investment.

Investment Managers/Advisors (Current)				
Primary Advisors	Portfolio Role	Asset Allocation Discretion	Manager Selection Discretion	Responsibilities
STATE STREET	Traditional Assets	No	No	<ul style="list-style-type: none"> Reserve index replication investing in public equities, real assets, and fixed income investments. Provides low-cost implementation to gain investment policy exposure Direct allocation approved by BOT, subject to BOT strategy targets
commonfund	Traditional and Alternative Assets	No	Yes	<ul style="list-style-type: none"> Active management of public and private investments equities and fixed income via manager-of-managers funds/fund-of-funds structure Private investments - Real Estate, Venture, & Natural Resources Absolute Return Strategies Public (fixed) manager and fixed income Requires OHA to approve/re-up fund investments
J.P.Morgan Asset Management	Traditional Assets	Yes	Yes	<ul style="list-style-type: none"> Active investing in public equities, absolute return, and fixed-income investments Active Asset Allocation within established guidelines implemented via manager mutual funds only
PIMCO	Alternative Assets	No	No	<ul style="list-style-type: none"> Active management of public and private credit investments Direct allocation approved by BOT (not a manager-of-manager advisor) Directly select credit investments
Goldman Sachs	Asset Allocation	No	Yes	<ul style="list-style-type: none"> Active management of private investments via manager of managers/fund of funds Select managers for underlying funds Requires OHA to approve/re-up fund investments

Treasury Director Lee: So, the following page - *you wonder how does the portfolio come together with all these different managers, and asset classes?*



This is a snapshot of the Native Hawaiian Trust portfolio as of December 31, 2022. It was approximately 494 million dollars, and the pie chart on the left represents the Manager allocation.

You can see the top three managers are State Street Global, Commonfund, and J.P. Morgan.

Next is Northern Trust, as mentioned, the custodian that is also responsible for the cash management of the Trust Funds.

Treasury Director Lee: The bar chart on the right - *how does it come together in terms of understanding what asset classes they are investing in, doing a look through of each manager, and asset classes they invest in?*

This is a way to highlight where each manager falls within an asset class.

For example, the first bar, Global Equities, you can see there are three manager allocations within that group, State Street, Commonfund and J.P. Morgan. Another example would be as mentioned Commonfund, there's a lot of return investments, that's the orange bar. So, you can see that the orange bar goes across many of the asset classes, which Commonfund has responsibility to manage.

So, this is how you put it all together, look at what the exposures are, to make sure that they're in compliance with policy targets, and this is how the ongoing monitoring process is done.

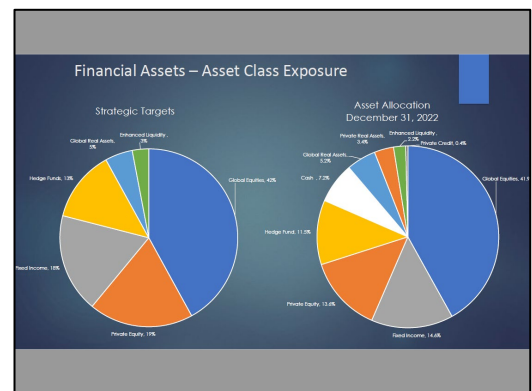
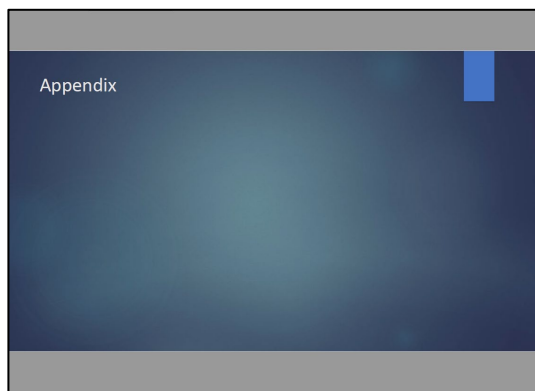
Treasury Director Lee: Again, as mentioned, there's an RFP that's out there for a consultant, so I won't spend too much time on this. The last page is just summarizing the service providers on this page.



Summary of Service Providers		
Operations	Role	Responsibilities
Northern Trust Company	Custodian	• Custody and accounting of all NHTF investments • Performance Measurement (as of January 2023)
Bank of Hawaii	Operating Account	OHA Operating Account
N & S CPAs	External Auditor	Independent Audit Opinion on OHA Financial Statements
Investments	Role	Responsibilities
State Street Global Advisors	Traditional	Passive index replication, low-cost
CommonFund	Traditional and Non-Marketable	Manager selection in private, public, and absolute return strategies
JPMorgan	Traditional	Balanced portfolio mandate (active public equities and fixed income)
PIMCO	Non-Marketable	Active management of public and private credit investments
Goldman Sachs	Non-Marketable	Manager selection of private equities and co-investments
Consultant	Role	Responsibilities
TBD via RFP	Independent Board Investment Consultant	General: Advise OHA Board regarding long-term investment and spending goals; Specific: Refer to RFP Scope of Services section.

Treasury Director Lee: There's sections in the Appendix that I thought would be worth highlighting. This is a snapshot of the strategic targets; the IPS. This is in the policy, and the pie chart on the right represents the current exposures to these asset classes. When we talk about *privately*, for example, we have a 19% allocation, right now we're underweight.

So, if you combine Private Equity with the Private Well Assets, that's about 17%, we're underweight by 2% to private equity, and that's going to come down, as we discussed. If no commitments are made, we get more distributions and that pie just shrinks.



Treasury Director Lee: That's all I have if you have any questions or comments, I'm happy to answer them.

Chair Waihe'e asks if there are any questions or comments.

There are no questions, nor comments.

Chair Waihe'e: Thank you Ryan, that was a very good presentation.

RM Staffer Akina states for the record, that there are no testifiers signed up for Agenda Item IV. C. that just completed.

V. ANNOUNCEMENTS

Chair Waihe'e announces that there is a BOT meeting tomorrow; Thursday, February 23, 2023 at 10:00 a.m.

RM Staffer Akina announces that the RM Meeting originally scheduled for Wednesday, March 1, 2023 will be cancelled.

VI. ADJOURNMENT

Trustee Lindsey moves to adjourn the RM meeting.

Trustee Akaka seconds the motion.

Chair Waihe'e asks if there is any discussion.

There is zero discussion.

Chair Waihe'e calls for a **ROLL CALL VOTE**.

							2:38 p.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
DAN	AHUNA			X			
KALEIHIKINA	AKAKA		2	X			
KELI'I	AKINA			X			
VICE-CHAIR LUANA	ALAPA			X			
BRICKWOOD	GALUTERIA			X			
CARMEN HULU	LINDSEY	1		X			
J. KEONI	SOUZA			X			
MILILANI	TRASK			X			
CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				9	0	0	0

VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

Chair Waihe'e adjourns the RM meeting at 2:38 p.m.

ATTACHMENTS:

Written Testimony -

1. Janice English
2. Mapuana Waipa a me Patrick Kahawaiola'a
3. Meahilahila Kelling
4. Taffi Wise

Respectfully submitted,

Melissa Wennihan
Trustee Aide
Committee on Resource Management

As approved by the Committee on Resource Management (RM) on March 8, 2023.

Trustee John Waihe'e, IV
Chair
Committee on Resource Management

ATTACHMENT 1

Sent: Tuesday, February 21, 2023 2:16 PM
To: BOT Email List; BOTSTAFF Email List
Cc: CEOTEAM Email List
Subject: 2/22 RM Meeting - Written Testimony

Written Testimony (email below) received for tomorrow's 2/22/2023 RM Meeting and now duly-distributed.

This testimony was received at least 24-hours prior to tomorrow's RM meeting at 1:30 p.m. and thus considered 'on time'.

Mahalo,
RM Staff

From: Janice English
Sent: Tuesday, February 21, 2023 11:50 AM
To: BOT Meetings botmeetings@oha.org
Subject: Action Item RM #23-03: FB 2022-2023 Hawaiian-Focused Public Charter School Grants – Part II

Aloha-

Waimea Middle Public Conversion Charter School on the Big Island of Hawaii is in support of Action Item RM #23-03: FB 2022-2023 Hawaiian-Focused Public Charter School Grants – Part II. Charter Schools are seeking additional three (3) million dollars in facilities funding.

--

Janice English
Principal, Waimea Middle School
67-1229 Mamalahoa Hwy
Kamuela, HI 96743

CONFIDENTIAL: This email may contain confidential and privileged material for the sole use of the intended recipient(s). Any review, use, distribution, or disclosure by others is strictly prohibited. If you are not the intended recipient (or authorized to receive for the recipient), please contact the sender by reply email and delete all copies of this message. Any confidentiality or privilege is not waived or lost if this email has been sent to you by mistake.

ATTACHMENT 2

From: BOT Meetings
Sent: Wednesday, February 22, 2023 4:18 PM
To: BOT Email List; BOTSTAFF Email List
Cc: CEOTEAM Email List
Subject: 2/22 RM Meeting - LATE Written Testimony

LATE Written Testimony (attachment) received for today's 2/22/2023 RM Meeting and now duly-distributed.

This testimony was received less than the 24-hours prior to today's RM meeting at 1:30 p.m. deadline and thus deemed 'late'.

Mahalo,
RM Staff

From: Mapuana Waipa
Sent: Tuesday, February 21, 2023 4:06 PM
To: BOT Meetings <botmeetings@oha.org>
Cc: Patrick Kahawaiolaa; Mapuana Waipa; Berts; Taffi
Subject: RM #23-03: FB 2022-2023 Hawaiian Focused Public Charter School Grants – Part II

Aloha,
Please find attached our letter of support for the above listed agenda item.
If there are questions, please feel free to contact me.
Me ka mahalo nui,
Na Mapuana

W. Mapuana Waipa

I hole 'ia no ka i'e i ke kau o ka la.
The time to cut designs in a tapa beater is when the sun is high.
Do your work when you can do your best. (Pukui 1164)

Ke Ana La'ahana PCS
PCS Director
Website: kalpcs.com

ATTACHMENT 3

From: BOT Meetings
Sent: Wednesday, February 22, 2023 4:21 PM
To: BOT Email List; BOTSTAFF Email List
Cc: CEOTEAM Email List
Subject: 2/22 RM Meeting - LATE Written Testimony

LATE Written Testimony (attachment) received for today's 2/22/2023 RM Meeting and now duly-distributed.

This testimony was received less than the 24-hours prior to today's RM meeting at 1:30 p.m. deadline and thus deemed 'late'.

Mahalo,
RM Staff

From: Meahilahila Kelling
Sent: Tuesday, February 21, 2023 4:48 PM
To: BOT Meetings <botmeetings@oha.org>
Subject: Testimony- RD Committee Meeting

Aloha mai,
Please accept my written testimony for tomorrow's Committee of Resource Management (RM) meeting.

Agenda Item IV. A- Action Item RM #23-03: FB 2022-2023 Hawaiian-Focused Public Charter School Grants – Part II.

Mahalo nui,
Meahilahila Kelling

Ke Kula 'o Samuel M Kamakau, LPCS
Director
46-500 Kuneki Street
Kaneohe, HI 96744

ATTACHMENT 4

From: BOT Meetings
Sent: Wednesday, February 22, 2023 4:24 PM
To: BOT Email List; BOTSTAFF Email List
Cc: CEOTEAM Email List
Subject: 2/22 RM Meeting - LATE Written Testimony

LATE Written Testimony (attachment) received for today's 2/22/2023 RM Meeting and now duly-distributed.

This testimony was received less than the 24-hours prior to today's RM meeting at 1:30 p.m. deadline and thus deemed 'late'.

Mahalo,
RM Staff

From: Taffi Wise
Sent: Tuesday, February 21, 2023 3:36 PM
To: BOT Meetings <botmeetings@oha.org>
Subject: OHA RM Committee Testimony - February 22, 2023 1:30pm

Aloha,
Please find my testimony attached for the RM Committee meeting tomorrow. E kalamai for my tardiness, I am traveling on the continent and will not be able to attend.

Mahalo nui,
Taf



Taffi Wise
Executive Director, Kanu o ka 'Ōha Learning 'Ōhana



| Fax: 808-887-0030



| <https://www.kalo.org/>



64-1043 Hiiaka St., Kamuela, HI 96743

Committee on Resource ManagementTrustee John Waihe'e IV, *At-Large - Chair*Trustee Luana Alapa, *Moloka'i / Lāna'i - Vice Chair****Members***Trustee Dan Ahuna, *Kaua'i / Ni'ihau*Trustee Kaleihikina Akaka, *O'ahu*Trustee Keli'i Akina, *At-Large*Trustee Brickwood Galuteria, *At-Large*Trustee Carmen Hulu Lindsey, *Maui*Trustee J. Keoni Souza, *At-Large*Trustee Mililani Trask, *Hawai'i Island*

**STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS**

**MEETING OF THE
COMMITTEE ON RESOURCE MANAGEMENT (RM)**

DATE: Wednesday March 8, 2023**TIME:** 1:30 p.m.**PLACE:** Virtual Meeting

560 N. Nimitz Hwy., Honolulu, HI 96817

viewable at <https://www.oha.org/livestream> OR

Listen by phone: (213) 338-8477, Webinar ID: 879 9696 8172

This virtual meeting can be viewed and observed via livestream on OHA's website at www.oha.org/livestream or listened to by phone at: (213) 338-8477, Webinar ID: 879 9696 8172. A physical meeting location, open to members of the public who would like to provide oral testimony or view the virtual meeting, will be available at 560 N. Nimitz Hwy., Suite 200, Honolulu HI 96817. All members of the public that wish to access the physical meeting location must pass a wellness check and provide proof of full vaccination or a negative COVID-19 test taken within 72 hours of entry.

AGENDA

I. Call to Order**II. Approval of Minutes**

A. February 22, 2023

III. Unfinished Business - None**IV. New Business**

A. Action Item RM #23-04: Final Report of OHA's Governance Planning Operating Budget (2014), including the Role of Na'i Aupuni and Financial Accounting by Akamai Foundation (Fiscal Sponsor) *72 hr waiver will be announced*

B. Action Item RM #23-05: Final Report of May 2019 Board Actions re: Limited Liability Companies

C. Presentation by Administration: OHA Responses to the DRAFT State Auditor Report Distributed on Thursday, February 16, 2023

D. Presentation by Administration: Fiscal Year 2023-2024 (FY24) and 2024-2025 (FY25) Biennium Budget Process and Timeline

V. Announcements**VI. Adjournment**

If you need an auxiliary aid/support or other accommodation due to a disability, please contact Everett Ohta at telephone number 594-1988 or by email to everetto@oha.org as soon as possible. Requests made as early as possible will allow adequate time to fulfill your request. Upon request, this notice is available in alternate formats such as large print, Braille, or electronic copy.

Meeting materials for this meeting will be available for the public to view 48 hours prior to this meeting at OHA's main office located at 560 N. Nimitz Hwy., Suite 200, Honolulu, HI 96817. Meeting materials will also be available to view at OHA's neighbor island offices and will be posted to OHA's website at: www.oha.org/rm.



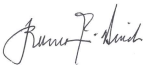
ACTION ITEM


COMMITTEE ON RESOURCE MANAGEMENT

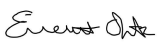
March 22, 2023


RM #23-04

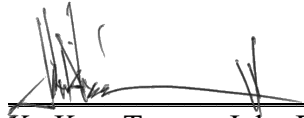
Action Item Issue: Final Report of OHA's Governance Planning Operating Budget (2014), including the Role of Na'i Aupuni and Financial Accounting by Akamai Foundation (Fiscal Sponsor)

Co-Prepared by:  3/6/2023
Date
Ramona G. Hinck
Pou Kāko'o Ho'opono Kūikawā, Interim Controller &
Ka Pou Kihi Kanaloa Wai, Chief Financial Officer

Reviewed by:  3/6/2023
Date
Casey K. Brown
Ka Pou Nui, Chief Operating Officer

Reviewed by:  3/6/2023
Date
Everett Ohta
Ka Paepae Puka Kūikawā, Interim General Counsel

Co-Prepared by:  3/6/2023
Date
Sylvia M. Hussey, Ed.D.
Ka Pouhana, Chief Executive Officer

Reviewed by:  3/6/2023
Date
Ke Kua, Trustee John D. Waihee, IV
Luna Ho'omalua o ke Kōmike Resource Management
Chair of the Committee on Resource Management

Action Item RM #23-04: Final Report of OHA’s Governance Planning Operating Budget (2014), including the Role of Na’i Aupuni and Financial Accounting by Akamai Foundation (Fiscal Sponsor)

I. PROPOSED ACTIONS

Acknowledge and approve the following actions to close the Grant Agreement, dated April 27, 2015, between The Akamai Foundation (“AF”) and the Office of Hawaiian Affairs (“OHA”) for the use and benefit of Na’i Aupuni, at Attachment A:

- A. Accept the check amount of \$82,509.86 from the AF for unexpended grant funds, and deposited by the OHA in February 2017;
- B. Accept the check amount of \$57,441.30 from the AF for unexpended grant funds, and deposited by the OHA in June 2022; and
- C. Accept the final physical box of files and records for Na’i Aupuni, from AF, including correspondence dated June 22, 2022, at Attachment F.

II. ISSUE¹

Whether or not the Committee on Resource Management approves and recommends approval to the Board of Trustees (“Board”, “BOT” or “Trustees”), Administration’s recommendations to approve actions to close the Grant Agreement, dated April 27, 2015, between The Akamai Foundation (“AF”) and the Office of Hawaiian Affairs for the use and benefit of Na’i Aupuni², at Attachment A (“Na’i Aupuni Grant”).

Because the OHA has had a change in Trustees, the Administrator and Administration organization, since the initiating action item in 2014, this action item will provide background and context for the Board, the organization, beneficiaries and the general public, herein organized in three major discussion sections:

Section III - Discussion – Overview & Board Actions, Inception 2014

Section IV - Discussion – Administration Implementation Actions, Post 2014

Section V - Discussion – Administration Closing Actions, Post 2016

INTENTIONALLY LEFT BLANK

¹ This action item only addresses the “Consortium” line item in Image 2 on the next page, a future action item will be brought forward, pending Administration’s further analyses of budget, activities, and deliverables related to the Native Hawaiian Roll Commission and its authorized budget of \$407,331.

² Refer to Image 2 describing Na’i Aupuni as an independent entity with autonomous decision-making authority.

Action Item RM #23-04: Final Report of OHA’s Governance Planning Operating Budget (2014), including the Role of Na’i Aupuni and Financial Accounting by Akamai Foundation (Fiscal Sponsor)

III. DISCUSSION – OVERVIEW & BOARD ACTIONS, INCEPTION 2014

A. **Initial Board Action – March 2014.** Via Action Item ARM/BAE #14-02, March 6, 2014, as detailed in Image 1 below, the Board approved four actions:

Image 1. – Excerpt from Minutes of the Joint Meeting of the Committee on Asset and Resource Management and the Committee on Beneficiary Advocacy and Empowerment, March 6, 2014

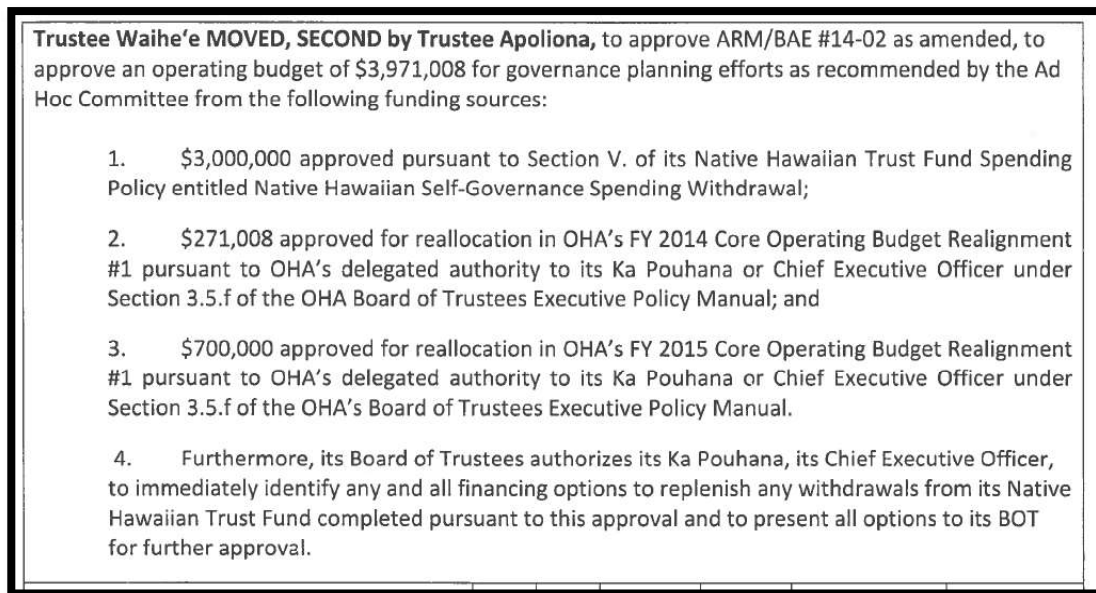
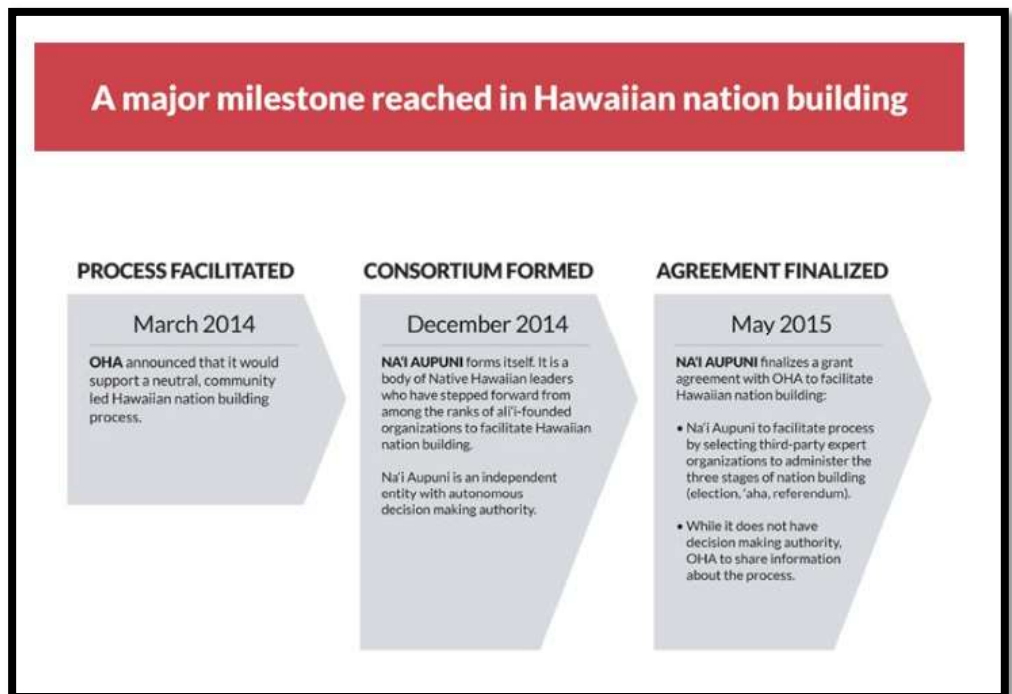


Image 2. – Major Milestone Reached in Hawaiian Nation Building

B. **Na’i Aupuni³.** Image 2 at right provides an overview of the major milestone reached in Hawaiian nation building, and the identity of Na’i Aupuni (“NA”) as an independent entity with autonomous decision-making authority.



³ <https://www.oha.org/nationbuilding>, retrieved, March 5, 2023

Action Item RM #23-04: Final Report of OHA's Governance Planning Operating Budget (2014), including the Role of Na'i Aupuni and Financial Accounting by Akamai Foundation (Fiscal Sponsor)

C. Subsequent Board Action – October 2014. Via Action Item ARM #14-07, OHA's Governance Planning Operating Budget Realignment #1, October 15, 2014, ratified on October 16, 2014:

Image 3. Table 1 from Action Item ARM #14-07

Whether or not the Board of Trustees should approve OHA's Governance Planning Operating Budget Realignment #1 as summarized in Table 1.

Table 1 – Governance Planning Operating Budget and Realignment #1 Comparison

Governance Planning	Approved Budget	Proposed Realignment #1	Adjustments
Advocacy			
Apportionment & Election	\$ 276,750	\$ 0	-276,750
Governance 'Aha	1,324,625	0	-1,324,625
Referendum	137,250	0	-137,250
*Cost Contingencies	132,463	0	-132,463
OHA Governance Program	379,920	307,524	-72,396
Community Engagement	1,720,000	657,606	-1,062,394
Consortium	0	2,598,547	2,598,547
Native Hawaiian Roll Commission	0	407,331	407,331
TOTALS:	\$ 3,971,008	\$ 3,971,008	0

INTENTIONALLY LEFT BLANK

Action Item RM #23-04: Final Report of OHA’s Governance Planning Operating Budget (2014), including the Role of Na’i Aupuni and Financial Accounting by Akamai Foundation (Fiscal Sponsor)

IV. DISCUSSION – ADMINISTRATION IMPLEMENTATION ACTIONS, POST 2014

A. **3rd Party Agreements, April and May 2015.** Based on Image 2 above, the following provides an overview of activities, 3rd party agreements, including fiscal sponsor, specifically for the line labeled “Consortium” with a Board approved realignment #1 budget of \$2,598,547.

Table 1. – Overview of Activities

No.	Action	Source/Support	Amount
1.	Authorize “Consortium” labeled budget line item part of total \$3,971,008 budget for governance planning.	ARM #14-07: OHA’s Governance Planning Operating Budget Realignment #1, October 15, 2014	\$2,598,547
2.	Execute Grant Agreement (“GA”) between the Akamai Foundation and the Office of Hawaiian Affairs for the Use and Benefit of Na’i Aupuni, April 27, 2015	Attachment A	\$2,598,000
3.	Execute Fiscal Sponsorship Agreement Between Akamai Foundation and Na’i Aupuni, April 27, 2015	Attachment B	\$2,598,000 5% of Project Grant Funds = Sponsorship Fee
4.	Letter Agreement Between Office of Hawaiian Affairs, Na’i Aupuni, and Akamai Foundation, May 8, 2015	Attachment C	\$250,000 to AF within five (5) business days of GA execution

Table 2. – Letter Agreement, Schedule of Disbursements, Attachment C, Section 3

No.	Action	Amount	Cumulative
1.	Initial Payment	\$250,000.00	\$250,000.00
2.	Apportionment and Election Contract, plus the Independent Election Monitoring Contract	\$276,250.00	\$526,250.00
3.	First tranche of funding for any attorneys fees, any other	\$159,137.33	\$685,387.33

Action Item RM #23-04: Final Report of OHA’s Governance Planning Operating Budget (2014), including the Role of Na‘i Aupuni and Financial Accounting by Akamai Foundation (Fiscal Sponsor)

No.	Action	Amount	Cumulative
	consultants or if any budget category needs additional funding		
4.	Governance ‘Aha Contract	\$1,457,088	\$2,142,475.33
5.	Second tranche of funding for any attorneys fees, any other consultants or if any budget category needs additional funding	\$159,137.33	\$2,301,612.66
6.	Referendum Contract and Independent Referendum Monitoring Contract	\$137,250.00	\$2,438,862.66
7.	Third tranche of funding for any attorneys fees, any other consultants or if any budget category needs additional funding	\$159,137.33	\$2,597,999.99

B. Legal Challenges, December 2015. The U.S. Supreme Court on December 2nd granted an injunction blocking the Na‘i Aupuni Hawaiian self-governance election while the 9th U.S. Circuit Court of Appeals considered the lawsuit challenging it (Akina⁴ v. State of Hawaii). Facing a potential court battle that could go on for years, Na‘i Aupuni leadership announced December 15, 2015, that it will cancel the Native Hawaiian election and proceed to a four-week convention in February 2016. All 196 Hawaiians who ran as candidates will be [were] offered seats as delegates to the convention, or ‘aha.⁵

C. ‘Aha, February 2016. A Native Hawaiian governance convention was held in February of 2016 with over 120 participants from throughout the state and even those who live on the continent and abroad. The participants ranged in age from 21 to 90 and included a broad spectrum of political ideologies and preferences for governance models from the restoration of an independent kingdom to an entity that could seek federal recognition from the United States. This diverse group worked together and found the common ground necessary to draft and adopt the Constitution with a vote of 88 in favor, 30 against, and 1 abstention.⁶ Access to the resultant document can be found via the link below and at Attachment D:

https://static1.squarespace.com/static/56e277cec6fc08b48983f93f/t/56fe0c04a3360c914f4ebe79/1459489798764/20160315_Cxn_wNames_ForDigitalDistribution.pdf

⁴ Refers to Keli‘i Akina, president/CEO of Grassroot Institute of Hawaii who was first elected to the OHA Board of Trustees in 2016.

⁵<https://www.staradvertiser.com/2015/12/15/breaking-news/nai-aupuni-cancels-native-hawaiian-election/>, retrieved March 5, 2023.

⁶ <http://www.hawaiiannation.com/aha-2016>, retrieved March 5, 2023.

V. DISCUSSION – ADMINISTRATION CLOSING ACTIONS, POST 2016

- A. **Dissolution Activities.** While a Native Hawaiian Constitution was drafted and voted upon by participants at the February 2016 ‘aha (Attachment D), a ratification vote by the people whom it intended to govern was not held, and in April 2016, dissolution actions of Na’i Aupuni and related financial sponsorship activities provided by Akamai Foundation (the identified fiscal sponsor) were initiated with the awareness of the OHA, including the need to have a final accounting of the Na’i Aupuni Grant.
- B. **Accounting Activities, July 2016.** On July 14, 2016, OHA received a letter detailing the unspent grant funds awarded to AF as the fiscal sponsor for the Na’i Aupuni Grant (Attachment E). Based on the financial statements provided as of May 31, 2016, the following is a summary of the supporting documentation for the return of the amount of \$82,509.86:

Table 3. – July 2016 Return of Grant Funds Reconciliation, Attachment E, page 2

Action	Amount
1. Total per Letter Agreement, Attachment C, Section 3	\$2,597,999.99
2. Apr ’15 – May 16 Actual Expenses	(\$2,452,490.13)
Unexpended Grant Funds	\$145,509.86
July 2016 Check	(\$82,509.86) ⁷
3. Held for contingent legal liabilities during the five-year statutory liability period	\$63,000.00

- C. **Accounting Activities, June 2022.** On June 22, 2022, OHA received a letter detailing the remaining unspent grant funds awarded to AF as the fiscal sponsor for the Na’i Aupuni Grant (Attachment F) retained for the contingent legal liabilities during the five-year statutory liability period.

Table 4. – June 2022 Return of Grant Funds Reconciliation, Attachment F

Action	Amount
1. Held for contingent legal liabilities during the five-year statutory liability period	\$63,000.00
Less: Legal Fees	(\$5,478.70)

⁷ Supported by OHA Treasury Deposit Receipt dated 02/24/17 in the amount of \$82,509.86 from The AKAMAI Foundation.

Action Item RM #23-04: Final Report of OHA’s Governance Planning Operating Budget (2014), including the Role of Na’i Aupuni and Financial Accounting by Akamai Foundation (Fiscal Sponsor)

Action	Amount
Less: Bank Fees	(\$80.00)
2. June 2022 Check	\$57,441.30⁸

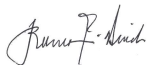
VI. RECOMMENDED ACTIONS

Acknowledge and approve the following actions to close the Grant Agreement, dated April 27, 2015, between The Akamai Foundation (“AF”) and the Office of Hawaiian Affairs (“OHA”) for the use and benefit of Na’i Aupuni, at Attachment A:

- A. Accept the check amount of \$82,509.86 from the AF for unexpended grant funds, and deposited by the OHA in February 2017;
- B. Accept the check amount of \$57,441.30 from the AF for unexpended grant funds, and deposited by the OHA in June 2022; and
- C. Accept the final physical box of files and records for Na’i Aupuni, from AF, including correspondence dated June 22, 2022, at Attachment F.

VII. CHIEF FINANCIAL OFFICER CERTIFICATION

The following is the certification by the Chief Financial Officer that the OHA’s financial records document the receipt of the following amounts from the Akamai Foundation: A) \$82,509.86 in February 2017; and B) \$57,441.30 in June 2022.



Ramona G. Hinck, Chief Financial Officer
Date: 03/06/2023

VIII. ALTERNATE ACTIONS

- A. Amend the recommended action.
- B. Do not approve the recommended action.

⁸ Supported by OHA Treasury Deposit Receipt dated 06/24/22 in the amount of \$57,441.30 from The AKAMAI Foundation.

Action Item RM #23-04: Final Report of OHA’s Governance Planning Operating Budget (2014), including the Role of Na’i Aupuni and Financial Accounting by Akamai Foundation (Fiscal Sponsor)

IX. REFERENCE DOCUMENTS

Reference documents are listed below for supporting context of this action item:

- A. Minutes from the Joint Meeting of the Committee on Asset and Resource Management and the Committee on Beneficiary Advocacy and Empowerment, Action Item ARM/BAE #14-02: Approval of Funds for OHA’s Governance Planning Operating Budget, March 6, 2014.
- B. Action Item ARM #14-07: OHA’s Governance Planning Operating Budget Realignment #1, October 15, 2014.
- C. Confidential Interoffice Memorandum from Kamana’opono Crabbe, PhD., Ka Pouhana, Chief Executive Officer to Chairman Robert Lindsey and Trustees, April 15, 2016.

X. ATTACHMENTS

- A. Grant Agreement Between the Akamai Foundation and the Office of Hawaiian Affairs for the Use and Benefit of Na’i Aupuni, April 27, 2015.
- B. Fiscal Sponsorship Agreement Between Akamai Foundation and Na’i Aupuni, April 27, 2015.
- C. Letter Agreement Between Office of Hawaiian Affairs, Na’i Aupuni, and Akamai Foundation, May 8, 2015.
- D. Constitution of the Native Hawaiian Nation.
- E. Letter from the AKAMAI Foundation re: Return of Unspent Grant Funds, July 14, 2016.
- F. Letter from the AKAMA Foundation re: Return of Unspent Grant Funds, June 22, 2022. *Note the letter references “In late July of 2022...”, based on the actual invoice attached, the reference should be July of 2016, a typo.*

GRANT AGREEMENT
BETWEEN
THE AKAMAI FOUNDATION AND THE OFFICE OF HAWAIIAN AFFAIRS
FOR THE USE AND BENEFIT OF
NA'I AUPUNI

THIS Grant Agreement is made as of the 27th day of April, 2015, by and between the AKAMAI FOUNDATION (the "AF" or "GRANTEE") and the OFFICE OF HAWAIIAN AFFAIRS ("OHA" or "GRANTOR") for the use and benefit of NA'I AUPUNI ("NA"). AF is a 501 (c) (3) non-profit organization that exists under the laws of the State of Hawai'i whose principal place of business and mailing address is 1136 Union Mall, Suite 206, Honolulu, Hawai'i, 96813. OHA is a body corporate, existing under the Constitution of the State of Hawai'i, whose principal place of business and mailing address is 560 N. Nimitz Highway, Suite 200, Honolulu, Hawai'i 96817 and its Chief Executive Officer is Kamana'opono M. Crabbe, Ph.D. NA'I AUPUNI is a Hawai'i non-profit organization, whose principal place of business and mailing address is 745 Fort Street, Suite 800, Honolulu, Hawai'i, 96813.

W I T N E S S E T H:

WHEREAS, one of the purposes for which OHA has been established is to better the conditions of Hawaiians as defined in Section 10-2, Hawai'i Revised Statutes ("HRS"); and

WHEREAS, OHA was established to better the conditions of Native Hawaiians and Hawaiians as defined in HRS sections 10-2, 10-4(4), 10-4(6) and 10-4(8), and other applicable law(s), as amended; and

WHEREAS, OHA Board of Trustees Executive Policy 1.3.1 delegates authority to the OHA Chief Executive Officer to negotiate, approve, award and execute contracts, agreements, grants, warrants and other binding legal documents and instruments on behalf of OHA; and

WHEREAS, the expenditure of the Funds as proposed in this Agreement is intended for the betterment of conditions of Hawaiians as set forth in section 10-3(1) and (2), HRS, and is consistent with the purpose for which this grant has been authorized; and

WHEREAS, by Action Item dated March 6, 2014, OHA authorized and approved the use of the certain funds from income and proceeds from the public land trust pursuant to article XII, section 6 of the Hawai'i Constitution under its control to enable Hawaiians to participate in a process through which a structure for a governing entity may be determined by the collective will of the Hawaiian people through a process that is independent of OHA and any apparatus of the State of Hawai'i ("Funds"); and

WHEREAS, AF has committed to direct the use of the Funds pursuant to the Fiscal Sponsorship Agreement to allow Hawaiians to pursue self-determination; and

WHEREAS, OHA has committed to allow the use of its grant by AF for the benefit of NA under the terms and conditions set forth below to allow Hawaiians to pursue self-determination; and

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. **Scope of Services.** AF will direct the use of the grant to NA so it may facilitate an election of delegates, election and referendum monitoring, a governance 'Aha, and a referendum to ratify any recommendation of the delegates arising out of the 'Aha ("Scope of Services"). The scope of services represents the internal affairs of the Hawaiian community and thus will not exclude those Hawaiians who have enrolled and have been verified by the Native Hawaiian Roll Commission.

2. **Funds.** OHA will periodically transfer to AF a total of TWO MILLION FIVE HUNDRED NINETY-EIGHT THOUSAND and NO/DOLLARS (\$2,598,000.00), inclusive of all taxes and fees, in tranches defined in a separate Letter Agreement, which is incorporated by reference herein, with AF for NA to perform the Scope of Services.

3. **Na'i Aupuni's Autonomy.** As set forth in the separate Fiscal Sponsorship Agreement, OHA hereby agrees that neither OHA nor AF will directly or indirectly control or affect the decisions of NA in the performance of the Scope of Services, and OHA agrees that NA has no obligation to consult with OHA or AF on its decisions regarding the performance of the Scope of Services. NA hereby agrees that the decisions of NA and its directors, paid consultants, vendors, election monitors, contractors, and attorneys regarding the performance of the Scope of Services will not be directly or indirectly controlled or affected by OHA.

4. **Na'i Aupuni Commitment Not to Affect the Delegates' Political Decisions.** NA hereby agrees:

(a) that the decisions of NA and its directors, paid consultants, attorneys and vendors regarding the performance of the Scope of Services will not directly or indirectly control or purposefully affect the political decisions of the delegates at the 'Aha; and

(b) NA and its directors, paid consultants, attorneys, and all of its vendors are barred from serving as Aha delegates. NA also commits that its performance of the Scope of Services will not interfere with the right to self-determination such that the 'Aha delegates may freely determine their political status.

5. **Project Time Table.** NA commits to completing the Scope of Services within 15 months following the date this Agreement is executed, including the election of delegates projected to occur at about November 2015.

6. **Replacement of NA members.** As noted above, NA is comprised of five to six directors. In the event any director before the completion of the Scope of Services terminates his or her affiliation with NA, the remaining members may vote to replace that member as long as the replacement director commits in writing to OHA and NA to comply with the terms of this Agreement.

7. **Fiscal Sponsor.** The terms of AF's agreement with NA is addressed in a separate Fiscal Sponsorship Agreement which is incorporated herein by reference and has been prepared in accordance with federal and state laws.

8. **Non-Confidential Agreement.** This Agreement is not confidential and may be disclosed to the public.

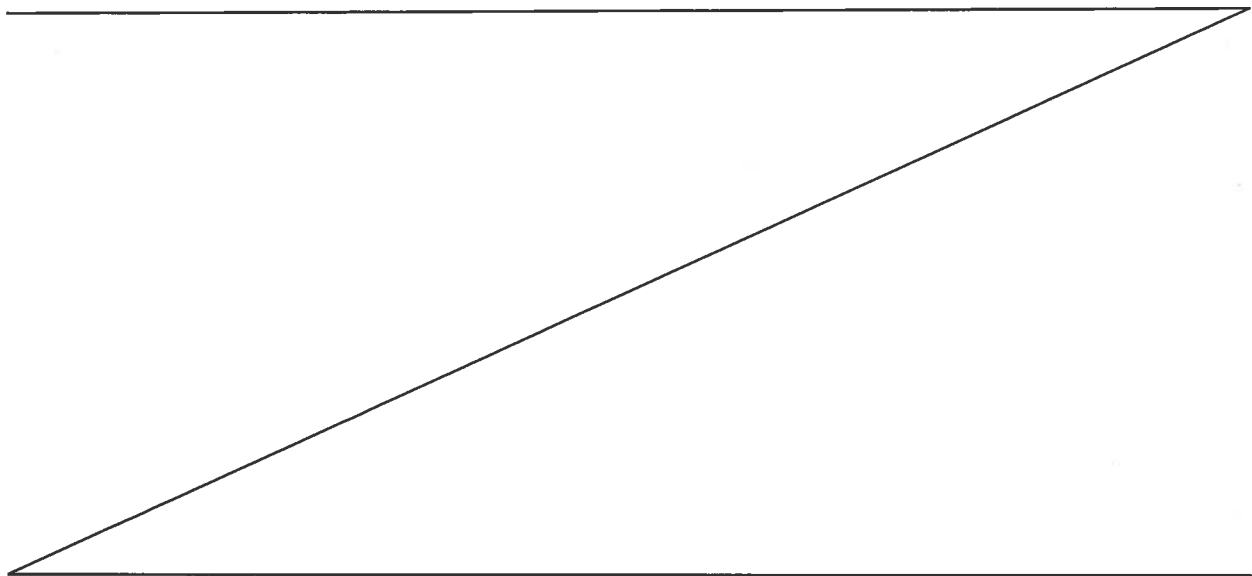
9. **Insurance.** Prior to commencing the scope of services pursuant to this Agreement AF and NA shall provide evidence that each has in full force and effect a commercial general liability (CGL) and if necessary commercial umbrella insurance with a limit of not less than \$1,000,000.00 per occurrence and \$2,000,000.00 general aggregate. The policy shall be an "Occurrence" form of policy.

10. **Alternative Dispute Resolution.** Any and all claims, controversies, or disputes arising out of or relating to this Agreement, or the breach thereof, shall be fully and finally resolved by arbitration in accordance with the Rules, Procedures, and Protocols for Arbitration of Disputes of Dispute Prevention & Resolution, Inc., then in effect. In the event arbitration is invoked, the parties agree that one arbitrator shall be appointed to hear and resolve the case. The parties further agree that the award of the arbitrator is binding upon the parties and that judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction. Notwithstanding anything set forth in this Section, nothing herein shall prevent any Party from resorting to a court of competent jurisdiction for injunctive relief only in those instances where a Party has breached or is threatening to breach a covenant of this Agreement.

11. **Amendment.** This Agreement may be amended only by a written instrument signed by the Parties.

12. **Severability.** The invalidity or unenforceability of any provisions of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect.

13. **Applicable Law.** This Agreement shall be governed, construed, and enforced in accordance with the laws of the State of Hawai'i.



IN WITNESS WHEREOF, the parties executed this AGREEMENT as of the date first written above.

OFFICE OF HAWAIIAN AFFAIRS

Date: 5/4/15

By Kamano M. Crabbe
KAMANA 'OPONO M. CRABBE, PH.D.
Its Chief Executive Officer

"OHA"

NA'I AUPUNI

Date: APR 27 2015

By James Kuhio Asam
JAMES KUHIO ASAM
Its PRESIDENT AND DIRECTOR

Date: APR 27 2015

By Pauline Nakoalani Namuo
PAULINE NAKOOLANI NAMUO
Its VICE PRESIDENT AND DIRECTOR

Date: APR 27 2015

By Naomi Kealooha Ballesteros
NAOMI KEALOHA BALLESTEROS
Its SECRETARY/TREASURER AND
DIRECTOR

Date: APR 27 2015

By Geraldine Abbey Miyamoto
GERALDINE ABBEY MIYAMOTO
Its DIRECTOR


Date: APR 27 2015

By Selena Lehua Schuelke
SELENA LEHUA SCHUELKE
Its DIRECTOR

"NA"

AKAMAI FOUNDATION

Date: 4-27-15


By 
LOUIS F. PEREZ III
Its Chairman and Secretary

Date: 4-28-15

By 
JOHNNY CHANKHAMANY
Its President and Director


"AF"

APPROVED AS TO CONTENT

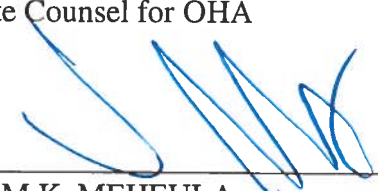

KAWIKA RILEY
OHA Chief Advocate

Date: 4/29/15

APPROVED AS TO FORM:


ERNEST M. KIMOTO
Corporate Counsel for OHA

Date: 4-29-15


WILLIAM K. MEHEULA
Counsel for NA

Date: 4/29/15

**FISCAL SPONSORSHIP AGREEMENT
BETWEEN
AKAMAI FOUNDATION AND NA'I AUPUNI**

This Fiscal Sponsorship Agreement (Agreement) is made by and between The AKAMAI Foundation (Sponsor) and Na'i Aupuni (Client).

Sponsor is a non-profit Internal Revenue Code (IRC) Section 501(c)(3) organization incorporated in the State of Hawai'i and headquartered at 1136 Union Plaza, Suite 206, Honolulu, Hawaii 96813. Sponsor's mission and work is community development.

Client is an organization whose mission is to provide assistance in the non-political aspects of an election of Native Hawaiian delegates, 'Aha and ratification vote for the purpose of Native Hawaiian self-determination.

RECITALS

A. Client desires Sponsor to act, for the duration of this Agreement, as the fiscal sponsor of restricted funds from the Office of Hawaiian Affairs (OHA) for the Project pursuant to the grant agreement with OHA dated April 27th, 2015 that is incorporated herein by reference, and Client projects that grant funds will be used pursuant to the budget, a true copy of which is attached hereto as Exhibit 1.

B. Sponsor agrees to act, for the duration of this Agreement, as the fiscal sponsor of the restricted funds it receives for the Project.

C. Sponsor and Client each represent and warrant to the other that they have the power and authority to execute and perform this Agreement.

D. Sponsor and Client each agree that they shall act in good faith to give effect to the intent of this Agreement and to take such other action as may be necessary or convenient to consummate the purpose and subject matter of this Agreement.

NOW, THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS:

1. Duration of Agreement. The duration of this Agreement shall be from April 27, 2015 to and including the earlier of THIRTY (30) days after any ratification vote or December 31, 2016.

2. Duties of Sponsor. Sponsor agrees to:

- a. Provide Client with copies of all written materials received by Sponsor from OHA related to restricted funds received under this Agreement.
- b. Deposit restricted funds it receives under this Agreement into a designated interest-bearing account with a federally insured financial institution with dual signatures required for disbursement by Sponsor.

- c. In a timely manner consistent with the Letter of Agreement, disburse restricted funds received under this Agreement to Client upon receipt of appropriate written request from Client for Project purposes.
- d. Provide necessary and timely custodial, accounting, reporting, and record-keeping services for restricted funds it receives pursuant to this Agreement to both Na‘i Aupuni and OHA.
- e. Report restricted funds it receives under this Agreement as income of Sponsor on Sponsor’s financial statements and tax returns.
- f. Perform these duties and services for Client’s Project for the following amount: FIVE PERCENT (5%) of the \$2.598 million from OHA that is used by Client for the Project purposes which shall be automatically earned by Sponsor upon use by Client of any Project grant funds.
- g. Perform services by the Sponsor’s Chairman/Treasurer without involvement of other employees of Sponsor or its officers and directors so that other employees of Sponsor or its officers and directors may freely participate in the election of delegates, ‘Aha and/or ratification vote. To the extent that any of the above listed employees of Sponsor is qualified to participate in the election of delegates, ‘Aha and/or ratification vote by virtue their Hawaiian or Native Hawaiian descent, the same hereby knowingly, voluntarily and intelligently waive such qualification and promise to abstain from participation as a delegate.
- h. In the event Client requests disbursements that are substantially different than as set forth in the budget, Sponsor shall exercise its sole discretion to determine if said requests comply with the Project purposes and are reasonably justified to satisfy Project purposes and if not Client agrees that Sponsor is not required to comply with said requests.

3. Duties of Client. Client agrees to:

- a. Fully adhere to and comply with all applicable laws and regulations in management, implementation, and operation of the Project.
- b. Fully adhere to and comply with all contractual agreements or obligations entered into regarding restricted funds for the Project, and make Sponsor immediately aware of any such contractual agreements or obligations.
- c. Identify to Sponsor any individual(s) authorized to and responsible for requesting disbursements of restricted funds for the Project, and use and adhere to Sponsor’s disbursement request forms, methods, and procedures.
- d. Not spend or otherwise obligate Sponsor to pay for any amount exceeding the balance in the restricted fund for the Project, nor authorize or permit anyone to do so.

- e. Conduct timely reporting regarding the Project as required by Sponsor and/or OHA, and Client shall be responsible for delivery of any reports to OHA.
- f. Prepare and submit timely to Sponsor any and all reports, documentation, or other information regarding the Project as required by Sponsor.
- g. Prepare and submit written acknowledgments timely to OHA as requested by Sponsor.
- h. Not refer to or use Sponsor's name in any written materials, proposals, or solicitations regarding the Project without the express prior written approval of Sponsor.
- i. Keep confidential any information or material proprietary to Sponsor or designated by Sponsor as Confidential Information that Client may receive, have access to, develop, or contribute to the production of or in connection with this Agreement.

4. Performance of Charitable Purposes. All restricted funds received by Sponsor under this Agreement shall be devoted to the purposes of the Project, within the tax exempt purposes of Sponsor. Sponsor shall not, and shall not permit Client or Project, to use restricted funds received under this Agreement to attempt to influence legislation; to participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office; to induce or encourage violations of law or public policy; to cause any private inurement or improper private benefit to occur; nor to take any other action inconsistent with IRC Section 501(c)(3).

Client shall not, and shall not permit Project to use restricted funds received under this Agreement to attempt to influence legislation; to participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office; to induce or encourage violations of law or public policy; to cause any private inurement or improper private benefit to occur; nor to take any other action inconsistent with Sponsor's status as a non-profit IRC Section 501(c)(3) organization.

The restricted fund may not be a donor-advised fund within the meaning of IRC Section 4966(d)(2) as presently interpreted under federal tax authorities.

5. Termination. In consultation with OHA, this Agreement shall terminate if and when Sponsor and OHA determine that the objectives of the Project can no longer be reasonably accomplished upon thirty days written notice to the AF by OHA and NA.

6. Unclaimed Funds. The manner of disposition of any restricted funds received under this Agreement that are not used for Project purposes shall be returned to OHA.

7. Limitations. This Agreement states the terms of Sponsor's fiscal sponsorship of Client's Project only, and does not express or imply Sponsor's endorsement of any decisions, actions, or conduct of Client or any other activity undertaken by Client. Client is an independent organization whose decisions, actions, conduct and activities or those of its representatives do not necessarily represent the decisions, actions, conduct or positions of Sponsor or Sponsor's directors and staff.

8. Indemnification. Sponsor shall defend, indemnify and hold harmless Client, its directors, officers, employees and agents, from and against any and all liability, loss, expenses, attorneys' fees

or claim for injury or damages asserted by any third party, arising out of acts or omissions of Sponsor in the performance of this Agreement but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of Sponsor, its directors, officers, employees or agents.

Client shall defend, indemnify and hold harmless Sponsor, its directors, officers, employees and agents, from and against any and all liability, loss, expenses, attorneys' fees or claim for injury or damages asserted by any third party, arising out of acts or omissions of Client in the performance of this Agreement but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of Client, its directors, officers, employees or agents. In addition, Client waives any and all claims arising out of the exercise or failure to exercise discretion set forth in section 2(h) of this Agreement.

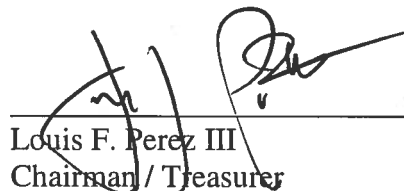
8. Miscellaneous. Each provision of this Agreement shall be separately enforceable, and the invalidity of one provision shall not affect the validity or enforceability of any other provision. This Agreement shall be interpreted and construed in accordance with the laws of the State of Hawai'i. The failure of Sponsor to exercise any of its rights under this Agreement shall not be deemed a waiver of such rights.

9. Entire Agreement. This Agreement constitutes the only agreement, and supersedes all prior agreements and understandings, both written and oral, between the parties with respect to the subject matter hereof. This Agreement may not be amended or modified, except in writing signed by both parties to this Agreement.

10. Effective upon Signing. This Agreement is effective upon the signing of both parties by their authorized representatives.

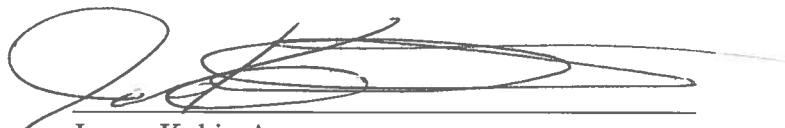
FISCAL SPONSOR

Date: 4-27-15


 Louis F. Perez III
 Chairman / Treasurer

CLIENT

Date: 04-27-2015


 James Kuhio Asam

Enclosure: Attachment "A" PRESIDENT AND DIRECTOR NA'I AUPUNI PROJECTED BUDGET

Attachment "A"
President & Director NA'I AUPUNI PROJECTED BUDGET

3/9/2015

Category	
Apportionment & Election Contract	\$256,500
<i>This includes</i>	
Base Estimate	\$171,000
Estimate for Sub-Contractor with Expertise in Native Hawaiian Affairs	\$34,200
Estimate for Expenses related to Community Consultation	\$17,100
Estimate for Additional Needs, Election Website, Unforeseen Circumstances	\$34,200
Total	\$256,500
 Governance `Aha Contract	 \$1,457,088
Assumes 62 working days, 40 delegates, 5 facilitators, 10 staff	
Includes convention site and meals, stipend, and travel costs	
Includes 10 percent scaling	
 Referendum Contract	 \$117,000
<i>This includes</i>	
Base Estimate	\$78,000
Estimate for Sub-Contractor with Expertise in Native Hawaiian Affairs	\$15,600
Estimate for Expenses related to Community Consultation	\$7,800
Estimate for Additional Needs, Election Website, Unforeseen Circumstances	\$15,600
Total	\$117,000
 Independent Election Monitoring Contract	 \$20,250
<i>This includes</i>	
Base Estimate	\$3,000
Estimate of Expenses related to Travel	\$17,250
Total	\$20,250
 Independent Referendum Monitoring Contract	 \$20,250
<i>This includes</i>	
Base Estimate	\$3,000
Estimate of Expenses related to Travel	\$17,250
Total	\$20,250
 Any attorneys fees, any other consultants, or if any category above needs additional funding	 \$726,912
 TOTAL BUDGET (as set forth by OHA 1/12/15)	 \$2,598,000

**Letter Agreement
Between
Office of Hawaiian Affairs, Na'i Aupuni, and Akamai Foundation**

The terms of this Letter Agreement shall be binding on the signatories to this Letter Agreement, on the signatories to the Grant Agreement, and on the signatories to the Fiscal Sponsorship Agreement, namely: the Office of Hawaiian Affairs (OHA), Na'i Aupuni (NA), and the Akamai Foundation (AF) (collectively "parties").

OHA's Board of Trustees has authorized the use of trust funds of up to \$2,598,547 by their approval of OHA Action Item No. ARM #14-07 on October 16, 2014.

The undersigned mutually agree to the method and timing of the disbursement of the approved grant funds by OHA to the Akamai Foundation, aka Sponsor, for the benefit of Na'i Aupuni, aka Client.

1. No funds will be disbursed unless such disbursements are consistent with the Grant Agreement and the Fiscal Sponsorship Agreement executed by the parties.

2. Upon execution of the Grant Agreement, **TWO HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS** (\$250,000)("initial payment") shall be provided to AF, the Sponsor, within five (5) business days.

3. All subsequent payments have been authorized by OHA's Chief Executive Officer and funding shall be made available upon the request of the AF, the Sponsor, based upon the following Schedule of Disbursements:

- A. Item number 2. above (\$250,000).
- B. Per Na'i Aupuni's Projected Budget (3/9/2015) for Apportionment and Election Contract, plus the Independent Election Monitoring Contract (\$276,250), plus first tranche of funding for any attorneys fees, any other consultants or if any budget category needs additional funding (\$159,137.33).
- C. Per Na'i Aupuni's Projected Budget for the Governance 'Aha Contract (\$1,457,088), plus second tranche of funding for any attorneys fees, any other consultants or if any budget category needs additional funding (\$159,137.33).
- D. Per Na'i Aupuni's Projected Budget for the Referendum Contract and Independent Referendum Monitoring Contract (\$137,250), plus third tranche of funding for any attorneys fees, any other consultants or if any

budget category needs additional funding (\$159,137.33).

At any point in time, OHA's Chief Executive Officer has the right to object to a requested disbursement on the grounds that such disbursement is inconsistent with the Grant Agreement and/or the Fiscal Sponsorship Agreement.

3. It is mutually agreed that the terms of this Letter Agreement are hereby incorporated into the Grant Agreement by reference.

4. Should any of the terms of this Letter Agreement conflict with the Grant Agreement or the Fiscal Sponsorship Agreement, the terms of the Grant Agreement and the Fiscal Sponsorship Agreement will prevail.

5. The terms of this Letter Agreement may not be changed except by mutual agreement and by a writing signed by the parties.

6. Each party signing this Letter Agreement represents to each other that they are authorized by their respective organizations to execute this agreement and to be bound by the terms thereof.

OFFICE OF HAWAIIAN AFFAIRS

Date: 5/8/15

By Kamana'opono Crabbe
Kamana'opono Crabbe, Ph.D.
Its Chief Executive Officer

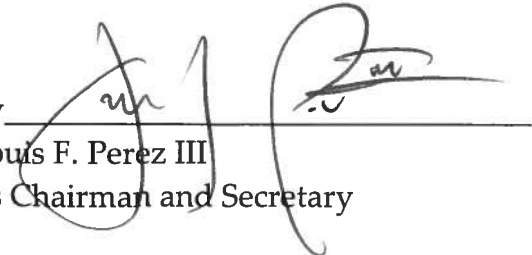
NA'I AUPUNI

Date: 05-07-2015

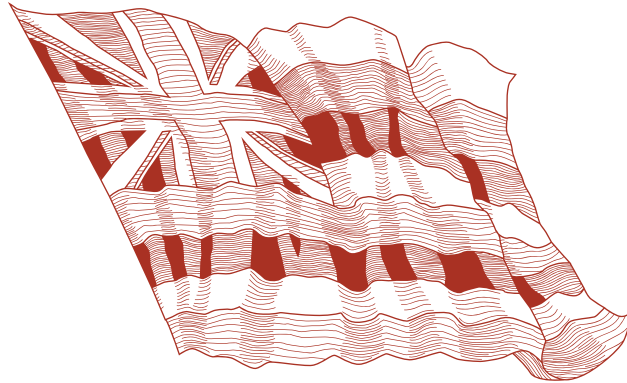
By James Kuhio Asam
James Kuhio Asam
Its President and Director

AKAMAI FOUNDATION

Date: 5/8/15

By 
Louis F. Perez III
Its Chairman and Secretary

CONSTITUTION OF THE NATIVE HAWAIIAN NATION



PREAMBLE

We, the indigenous peoples of Hawai‘i, descendants of our ancestral lands from time immemorial, share a common National identity, culture, language, traditions, history, and ancestry. We are a people who Aloha Akua, Aloha ‘Āina, and Aloha each other. We mālama all generations, from keiki to kūpuna, including those who have passed on and those yet to come. We mālama our ‘Āina and affirm our ancestral rights and Kuleana to all lands, waters, and resources of our islands and surrounding seas. We are united in our desire to cultivate the full expression of our traditions, customs, innovations, and beliefs of our living culture, while fostering the revitalization of ‘Ōlelo Hawai‘i, for we are a Nation that seeks Pono.

Honoring all those who have steadfastly upheld the Self-determination of our people against adversity and injustice, we join together to affirm a government of, by, and for Native Hawaiian people to perpetuate a Pono government and promote the well-being of our people and the ‘Āina that sustains us. We reaffirm the National Sovereignty of the Nation. We reserve all rights to Sovereignty and Self-determination, including the pursuit of independence. Our highest aspirations are set upon the promise of our unity and this Constitution.



CHAPTER I: OF THE NATION

ARTICLE 1 - TERRITORY AND LAND

- ① The territory of the Native Hawaiian Nation is all lands, water, property, airspace, surface and subsurface rights, and other natural resources, belonging to, controlled by, and designated for conveyance to and for the Native Hawaiian Nation.
- ② The Native Hawaiian people have never relinquished their claims to their National lands. To the maximum extent possible, the Government shall pursue the repatriation and return of the National lands, together with all rights, resources, and appurtenances associated with or appertaining to those lands, or other just compensation for lands lost.

ARTICLE 2 - CITIZENSHIP

- ① A citizen of the Native Hawaiian Nation is any descendant of the aboriginal and indigenous people who, prior to 1778, occupied and exercised sovereignty in the Hawaiian Islands and is enrolled in the Nation.
- ② Citizenship in the Native Hawaiian Nation shall not affect one's citizenship in the United States.
- ③ All citizens that have attained the age of eighteen years are eligible to vote.

ARTICLE 3 - NATIONAL AND OFFICIAL LANGUAGES

- ① 'Ōlelo Hawai'i is the National language.
- ② 'Ōlelo Hawai'i and English shall be official languages.
- ③ The Government shall respect the right of its citizenry to understand the actions and decisions of its Government, and endeavor to communicate effectively with the citizenry while supporting the National language.

CHAPTER II - DECLARATION OF RIGHTS

ARTICLE 4 - NATIONAL RIGHT TO SELF-DETERMINATION

The Nation has the right to self-determination, including but not limited to, the right to determine the political status of the Nation and freely pursue economic, social, cultural, and other endeavors.

ARTICLE 5 - COLLECTIVE RIGHTS

- ① The Native Hawaiian people shall have the right to honor our ancestors; maintain, protect, and repatriate iwi kūpuna, funerary, and cultural objects; protect sacred places; and protect the knowledge and wisdom from traditional and customary sources.
- ② The rights of Native Hawaiian tenants in the 'Āina (land, water, air, ancestor) and ahupua'a, shall not be abridged.
- ③ The Native Hawaiian people have the right to maintain, control, protect, and develop their intellectual property over cultural heritage, traditional knowledge, and traditional cultural expressions.

ARTICLE 6 - RIGHTS OF THE INDIVIDUAL

- ① No person shall be deprived of life, liberty, or property without due process of law.
- ② All people shall be guaranteed equal protection of the law.
- ③ The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated and no warrants shall issue except upon probable cause, supported by oath and affirmation, and particularly describing the place to be searched and the persons or things to be seized.
- ④ No person shall be twice put in jeopardy for the same offense, nor be compelled to be a witness in a criminal case against himself or herself.

- ⑤ In all criminal prosecutions, the accused shall have the right to a speedy and public trial, by an impartial jury of not less than 12 jurors of his or her peers; to be informed of the nature and cause of the charges against him or her; to be confronted with the witnesses against him or her; to have a compulsory process for obtaining witnesses in his or her favor; to have assistance of counsel for defense at his or her own expense.
- ⑥ Every person is presumed innocent until proven guilty by law.
- ⑦ Bail shall be set by the judicial authorities and shall be available to all defendants, except where the granting of bail would constitute a danger to the community. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.
- ⑧ The writ of habeas corpus (of the body) shall be granted without delay and free of cost. The privilege of the writ of habeas corpus shall not be suspended.
- ⑨ There shall be no imprisonment for debt, except in cases of fraud.
- ⑩ No ex post facto law, nor any law impairing the obligation of contracts, shall be imposed.
- ⑪ Every citizen shall have the right to bear arms.
- ⑫ Citizens have a right to traditional medicines and to maintain their health practices, including the conservation of their vital medicinal and cultural plants, animals, and minerals.
- ⑬ Every child citizen has the right to parental care, or to family or appropriate alternative care when removed from the family environment; to basic nutrition, shelter, basic health care services, and social services; and, to be protected from maltreatment, neglect, abuse, or degradation.
- ⑭ All persons have the right to be free from exposure from harmful substances used in warfare, nuclear power plants, and waste materials.

ARTICLE 7 - CUSTOMARY RIGHTS

- ① The Native Hawaiian people reserve all rights and responsibilities customarily and traditionally exercised for subsistence, cultural, medicinal, and religious purposes.
- ② The Native Hawaiian people have the right to manifest, practice, develop, and teach their spiritual and religious traditions, customs, and ceremonies.
- ③ Ola i ka wai, water is life; and the Native Hawaiian people shall exercise traditional and customary stewardship of water. The Nation shall protect, control, and regulate the use of water resources under its jurisdiction for the benefit of its people.

ARTICLE 8 - GOVERNMENT PROHIBITIONS

The Government shall not:

- ① Pass any law that abridges a citizen's right to make end of life decisions, be treated with dignity, and a humane death;
- ② Take private property for public use without just compensation;
- ③ Make any law respecting the establishment of religion or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press, or the right of the people to peaceably assemble; or
- ④ Make any law with the intent to suppress traditional Native Hawaiian religion or beliefs.

ARTICLE 9 - RESERVATION OF RIGHTS & PRIVILEGES

- ① All rights, privileges, and powers not articulated in or pursuant to this Constitution shall be reserved in common to the citizens.

- ② The Nation has the inherent power to establish the requirements for citizenship in the Nation. The Nation reserves the right to modify or change citizenship requirements solely through a constitutional amendment.
- ③ Any benefits accorded to the citizenry, by virtue of their status as citizens of the United States, shall not be diminished or impaired by the provisions of this Constitution or the laws of the Nation.
- ④ The rights of beneficiaries of private and other trusts, programs, or services shall not be diminished or impaired by the provisions of this Constitution or the laws of the Nation.
- ⑤ The rights of beneficiaries of the Hawaiian Homes Commission Act, 1920, as amended, shall not be diminished or impaired by the provisions of this Constitution or the laws of the Nation. The kuleana toward these beneficiaries is affirmed.

CHAPTER III - PURPOSE AND PRINCIPLES OF GOVERNMENT

ARTICLE 10 - KULEANA

- ① The kuleana (right; responsibility; jurisdiction) of Government is to ‘Āina (land; water; air; ancestor); citizens; and Ke Ao Hawai‘i (All things Hawaiian).
- ② The Government shall provide for the prudent stewardship of the ‘Āina as the source of life and well-being, as expressed through the values reflected in the ‘Ōlelo No‘eau: He ali‘i ka ‘Āina, he kauā ke kanaka.
- ③ The Government shall provide for the prudent stewardship of water resources, as expressed through the values reflected in the ‘Ōlelo No‘eau: Ola i ka wai.
- ④ The primary purpose of Government is to meet the needs and priorities of its citizens, protect their rights, and care for the ‘Āina.

- ⑤ The Government shall ensure the liberty of the citizens and groups of citizens to mālama kuleana and pursue happiness.
- ⑥ The National Government shall empower kuleana-based governance, and support home-rule and local governance.
- ⑦ The Government shall provide support to the citizens for housing, healthcare, food, and education.
- ⑧ The Government shall prioritize Hawaiian culture, history, language, traditions, customs, knowledge, and ancestral wisdom.
- ⑨ The Government shall pursue the repatriation and return of the National lands, together with all rights, resources, and appurtenances associated with or appertaining to those lands, or other just compensation for lands lost.
- ⑩ The Government shall ensure reasonable traditional and customary access to water on National lands.
- ⑪ The Government shall manage the Nation's assets in a fiscally responsible manner, balancing the needs of today with the needs of future generations.
- ⑫ The Government shall enact laws, create policies, and act in such a way that is resonant with and honors the traditions, customs, usage, and practices of the Nation.
- ⑬ The Government shall protect and seek repatriation of iwi kūpuna, cultural objects, sacred places, and knowledge and wisdom from traditional and customary sources.
- ⑭ The Government shall seek repatriation of iwi kūpuna and cultural objects.
- ⑮ The National Government shall advocate for Native Hawaiian rights, services, trusts, and programs with other sovereigns, institutions, and organizations.

- ①6 The Government shall focus on restorative justice principles that follow on the traditions of pu‘uhonua, mālama, and ho‘oponopono.
- ①7 The Government recognizes the rights of traditional and customary units of Native Hawaiian society, especially that of ‘ohana.
- ①8 The Government shall provide for a certification process to enable a group of citizens to assert their collective kuleana in service of the Nation.
- ①9 Consistent with the first right articulated by Mō‘ī Kamehameha in the Kānāwai Māmalahoe, the Government shall promote the safety and security of all citizens and the Nation.

Kānāwai Māmalahoe - The Law of the Splintered Paddle:

E nā kānaka,
To my people,

E mālama ‘oukou i ke akua
honor the divine

A e mālama ho‘i ke kanaka nui a me kanaka iki;
And respect all people, great and humble

E hele ka ‘elemakule, ka luahine, a me ke kama a moe i ke ala
Let the elderly and the child lay down by the roadside

‘A‘ohe mea nāna e ho‘opilikia.
And let no one cause them harm.

ARTICLE 11 - SEAT OF GOVERNMENT

The Seat of Government shall be located in the Hawaiian Islands.

ARTICLE 12 - RULE OF LAW

The Government shall be bound by the Constitution, laws of the Nation, the customs of the Native Hawaiian people, and the rule of law.

ARTICLE 13 - FOREIGN RELATIONS

- ① The President shall have the power to conduct negotiations and enter into treaties, compacts, and other agreements with other sovereigns, political sub-divisions of such sovereigns, or other organizations and entities for the benefit of the Nation.
- ② Treaties and compacts shall be subject to a two-thirds ratification by the Legislative Authority.

ARTICLE 14 - SOVEREIGN IMMUNITY

The Nation and its Government possess sovereign immunity, which can only be waived in accordance with the law.

ARTICLE 15 - APPOINTMENTS

- ① Judicial Authority appointments by the President are subject to confirmation by simple majority of the Legislative Authority.
- ② The President may appoint members of the Legislative Authority in the event of a vacancy; except that where more than two (2) years remain in the term, an election shall be held to fill the vacant seat.

ARTICLE 16 - OATH OF OFFICE

- ① Every public official, before entering upon the kuleana of their respective office, shall take and subscribe to the following oath in either 'Ōlelo Hawai'i or English language:

I do solemnly swear that I will faithfully support and defend the Constitution of the Nation, and conscientiously and impartially discharge my duties as _____ to the best of my abilities.

- ② No person shall be compelled to take an oath or make an affirmation that is contrary to their religion or belief.

ARTICLE 17 - REMOVAL FROM OFFICE

- ① Impeachment proceedings and removal of judicial appointments may be initiated by the President subject to a trial conducted by the Legislative Authority and two-thirds majority vote of the body.
- ② The Legislative Authority may, following a trial to determine cause, impeach the President through two-thirds majority vote of the body.

ARTICLE 18 - OFFICE LIMITATION

Public officials may not hold any other position within any branch of the Government, or within any other government, while holding an elected office.

ARTICLE 19 - JUDICIAL AUTONOMY

The Legislative Authority may not diminish the Judicial budget, without the consent of the Judicial Authority, except where proportionate government-wide reductions are in effect.

ARTICLE 20 - SPECIAL SESSION

The President may call a special session of the Legislative Authority.

ARTICLE 21 - MOKU COUNCIL

- ① Within four (4) years of ratification of the Constitution, there shall be established within the Office of the President, a Moku Council with no less than nine (9) members.

- ② The Moku Council shall advise the President on the needs of its respective districts, the delivery of relevant services to its districts, and on other decision-making that would benefit from the Moku Council's place-based expertise.
- ③ The President shall appoint one (1) representative from each district, until such time as the Moku Council shall recommend a statutory process of determining council membership.
- ④ The Moku Council shall elect, from among its members, a representative to serve in the Executive Cabinet.

ARTICLE 22 - LOCAL GOVERNMENT

- ① The Legislative Authority may create political subdivisions within the Nation and provide for the government thereof.
- ② Each political subdivision shall have and exercise such powers as conferred under general laws.
- ③ Each political subdivision shall have the power to frame and adopt a charter for its own self-government within such limits and under such procedures as may be provided by general law.

ARTICLE 23 - ELECTIONS

- ① The Vice President shall establish an Office of Citizenship and Elections whose responsibilities shall include, but not be limited to, the following: (1) Enroll, manage, and maintain the list of citizens of the Hawaiian Nation; and (2) establish procedures for voting that include residency, age, disqualification, and recall requirements.
- ② The Office will establish and execute a process to enroll, create, and maintain a list of Nation citizens.
- ③ The Office will administer elections for the Legislative Authority and President and Vice-President, including procedures to demonstrate residency.

- ④ All citizens who have attained the age of eighteen (18) shall be allowed to vote for the seats associated with their permanent residency, where citizens may provide only one permanent residency. Kaho‘olawe residency may be established by demonstrating at least four (4) consecutive years of stewardship to the island.
- ⑤ Citizens shall be automatically registered to vote upon reaching the age of eighteen (18), unless disqualified by law.
- ⑥ The Legislative Authority shall enact campaign finance laws on the financing of political candidates seeking public office. These laws shall include, but are not limited to: (1) ceiling limits on public funding by political entities; (2) public disclosure of contributions; (3) contribution limits; (4) corporate donation prohibitions; and (5) expenditure limits.

ARTICLE 24 - RECALL OF ELECTED OFFICIALS

All elected officials are subject to recall for cause, which may be initiated by signature of twenty-five (25) percent of the votes cast in the last election for that office. Any recall is subject to the majority vote of eligible votes cast for the respective office.

ARTICLE 25 - STATUTORY INITIATIVE AND REFERENDUM

- ① The Legislature may vote by two-thirds of the body to send questions directly to the citizenry through a ballot referendum.
- ② The citizenry may, by petition signed by at least ten (10) percent of the number of voters in the last Executive election, place a statutory amendment on the ballot for direct vote.

ARTICLE 26 - LAW ENACTMENT

Bills passed by the Legislative Authority are subject to the veto of the President. In the case of a veto, the Legislative Authority may override the veto with two-thirds vote of the body.

CHAPTER IV - LEGISLATIVE AUTHORITY KULEANA

ARTICLE 27 - LEGISLATIVE POWER

- ① The legislative power shall be vested in the Legislative Authority, which shall be unicameral and consist of Representatives.
- ② The Legislative Authority shall have the power to pass legislation with regard to any matter.

ARTICLE 28 - LEGISLATIVE QUALIFICATIONS

- ① Any person who is a citizen and has reached the age of eighteen (18) may be elected.
- ② Representatives shall be citizens, eighteen (18) years of age, and reside in the district at the time of election and for the duration of their time in office.

ARTICLE 29 - TERM OF OFFICE FOR REPRESENTATIVES

Representatives shall be elected for four years; no Representative shall serve more than a total of twelve (12) years.

ARTICLE 30 - LEGISLATIVE ELECTIONS

Representatives shall be elected by voters who have established residency in the respective district.

ARTICLE 31 - REPRESENTATIVES COUNT

- ① The initial Legislative Authority shall be comprised of forty-three (43) land-based and population-based Representatives to be elected at-large from the legislative districts.
- ② Following the first election, the individual districts shall create sub-districts for their district seats and stagger the terms of office.

- ③ Reapportionment may be done through constitutional amendment or convention.
- ④ Each Legislative district shall have the following number of Representatives based on the population of each district:

Hawai'i - 2;	O'ahu - 6;
Maui - 1;	Kaua'i 1;
Molokai - 1;	Ni'ihau - 1;
Lāna'i - 1;	Kahiki – 8.
Kaho'olawe - 1;	

- ⑤ Each legislative district shall also have the following number of Representatives based on the land for each district:

Hawai'i - 4;	O'ahu - 4;
Maui - 4;	Kaua'i - 4;
Molokai - 2;	Ni'ihau – 1;
Lāna'i - 1;	Kahiki - 0.
Kaho'olawe - 1;	

ARTICLE 32 - REPRESENTATIVE PRIVILEGE

Members of the Legislative Authority shall be privileged from suit for any speech or debate spoken during assembly or in execution of their duties.

ARTICLE 33 - LEGISLATIVE CALENDAR

The Legislative Authority shall establish a calendar in coordination with cultural protocols, which shall convene on January 17 of each year.

CHAPTER V - EXECUTIVE AUTHORITY KULEANA

ARTICLE 34 - EXECUTIVE POWER

- ① The executive power shall be vested in the President, who shall execute the laws of the Nation.
- ② The President may: issue executive orders; prepare the National budget; receive resources, assets, or gifts on behalf of the Nation; recommend legislation; grant reprieves and pardons, except in cases of impeachment; and contract to effectuate the law.
- ③ The President shall have the authority to appoint all executive officials of the Nation, except elected officials or as otherwise provided by law.
- ④ The President shall pursue the acquisition of lands for the Nation to meet the needs and aspirations of the citizenry.
- ⑤ The President may establish Executive Departments that meet the needs of the Nation, with the priority to deliver services addressing disparate needs in the community.

ARTICLE 35 - EXECUTIVE ELECTIONS

The President and Vice-President shall be elected in an election.

ARTICLE 36 - QUALIFICATIONS OF EXECUTIVES

No person shall be eligible to hold the office of the President and Vice-President unless they have attained the age of thirty (30) years and have resided in the Hawaiian Islands for not less than ten (10) years immediately preceding the election.

ARTICLE 37 - RESPONSIBILITY OF THE VICE-PRESIDENT

There shall be a Vice-President to serve in the Executive Cabinet who shall have the kuleana for the unique needs of the Kahiki citizenry and other responsibilities as assigned by the President.

ARTICLE 38 - TERM OF OFFICE FOR EXECUTIVES

The President and Vice-President shall be elected for a term of four years.

ARTICLE 39 - LINE OF SUCCESSION

In the event of vacancy, impeachment, death, resignation, or the absence of the President from the Nation, the Vice President will assume office of the President followed by other officials as prescribed by law.

ARTICLE 40 - CONTINUITY OF GOVERNANCE

The President will maintain the immediate past President as a counselor to ensure continuity of governance.

ARTICLE 41 - THE EXECUTIVE CABINET

- ① The President shall convene an Executive Cabinet comprised of the Vice-President, one (1) representative from the [Cultural, Spiritual Hui], one (1) representative from the [Hui of the Royal Organizations], one (1) representative from the Moku Council, and the Heads of Executive Departments.
- ② Heads of Executive Departments shall be nominated by the President, then presented to the Legislative Authority for confirmation or rejection by a simple majority.

ARTICLE 42 - THE [CULTURAL, SPIRITUAL HUI]

There shall be a [Cultural, Spiritual Hui], which shall elect within ninety (90) days of the election of a new President, by its own internal processes, a representative to serve in the Executive Cabinet.

ARTICLE 43 - THE [HUI OF ROYAL ORGANIZATIONS]

There shall be a [Hui of the Royal Organizations], which shall elect within ninety (90) days of the election of a new President, by its own internal processes, a representative to serve in the Executive Cabinet.

CHAPTER VI - JUDICIAL AUTHORITY KULEANA

ARTICLE 44 - JUDICIAL POWER

The judicial power shall be vested in the Judicial Authority.

ARTICLE 45 - JUDICIAL AUTHORITY QUALIFICATIONS

The President shall establish qualifications with the consent of the Legislative Authority for Justices and Judges.

ARTICLE 46 - JUDICIAL AUTHORITY PRIMARY FOCUS

The primary focus of the Judicial Authority shall be restorative justice.

ARTICLE 47 - JUDICIAL AUTHORITY STRUCTURE

- ① The Chief Justice is the head of the Judicial Authority and presides over the courts. The Chief Justice may establish courts, tribunals, offices, and forums of general or exclusive jurisdiction as prescribed by law, and may account for customary practices of the Native Hawaiian people.

- ② The scope of judicial power shall encompass all cases, in law and equity, arising under this Constitution, the laws of the Nation, treaties, compacts, and agreements made, or which shall be made, under the Nation's authority.

ARTICLE 48 - TERM OF OFFICE FOR JUSTICES AND JUDGES

- ① The Judicial Authority shall consist of:
 - a) Not less than three (3) Justices with life-time appointments; and
 - b) Judges serving a term of no less than ten (10) years.
- ② The Chief Justice is elected by an absolute majority of Justices.

CHAPTER VII - AMENDMENTS AND CONSTITUTIONAL CONVENTION

ARTICLE 49 - AMENDMENTS

- ① Proposed amendments to this Constitution may be initiated by any of the following methods:
 - a) A resolution of the Legislative Authority adopted by two-thirds affirmative votes;
 - b) A valid petition submitted to the Legislative Authority signed by not less than fifteen (15) percent of the registered voters of the Nation in the last executive election; or
 - c) A constitutional convention.
- ② The Legislative Authority shall establish the format and rules for adopting amendments.

ARTICLE 50 - CONSTITUTIONAL CONVENTION

- ① A Constitutional Convention shall be held within four (4) years of the establishment of the Moku Council and appear as a ballot question for citizenry at least every ten (10) years after the Government's formation. The citizenry may, through a constitutional initiative, call for such a convention earlier.
- ② The Legislative Authority shall establish the format and rules for convention participation with elected delegates from each legislative district.

CHAPTER VIII - RATIFICATION

ARTICLE 51 - RATIFICATION

The present Constitution is subject to a ratification vote.

- ① A ratification election shall be held for the purpose of ratifying this Constitution.
- ② The Constitution shall become effective upon approval by a majority vote of individuals who are eligible to be citizens, have attained the age of eighteen (18), and cast a ballot in the ratification election.

Adopted as submitted to the 'Aha 2016 by a Roll Call Vote
on February 26, 2016 with one (1) abstention, thirty (30) opposed and
the eighty-eight (88) individuals, whose names are listed below, in favor.

John Aeto	Theodora Furtado	Jocelyn Macadangdang-Doane
Hanalei Aipoalani	Brickwood Galuteria	Joel Malailua
Catelin Aiwohi	Lawrence Gora	Joshua Lanakila Mangauil
Edward Akana	Dean Guzman	Davianna Pomaikai McGregor
Rowena Akana	Tanya Harrison	Patricia Morgan-Dupuis
Jacob Bryan Aki	Pualani Hockenhull	Sarah Nakihei
Zuri Aki	Claire Hughes	Clyde Namuo
Alvin Akina Jr.	Bronson Kaahui	Charles Naumu
Noa Emmett Aluli	Matthew Kaaihue	Kristen Oleyte
Annelle Amaral	Roscoe Kahumoku	Christophor Oliveira
Naalehu Anthony	Linitria Maraia Cosier Kaio	Shane Palacat-Nelsen
Alani Apio	Blake Kalana	Kahiolani Papalimu
Chad Awai	Amy Kalili	Anthony Melvin Makana Paris
Donald Aweau	Dreanalee Kalili	Davis Price
Danielle Ululani Beirne	Frances Kaluhiwa	Andrew Purdy
Teresa Bright	Adrian Kamalii	Keani Rawlins-Fernandez
Darleen Butts	Laakea Kamauoha	Randy Rivera
Fredrico Cachola Jr.	Lilikala Kameeleihiwa	Sari Sanchez
Jennifer Cadiente	Katie Kamelamela	Benjamin Shafer
Olu Campbell	Michelle Kauhane	Israel Silva
Dante Carpenter	Manuel Kiaha	Rebecca Justine Iolani Soon
Keala Carter	Lei Kihoi	Soulee Lester Kealohaonalani Stroud
Sandra Castell	Glen Kila	Diana Suganuma
Harry Cornwell Jr.	Colin Kippen Jr.	Yvette Terui
R. Aopohakuku Craig-Rodenhurst	Keoni Kuoha	Hollace Anne Teuber
Mahealani Cypher	Bruce Lambert	Candace Wall
Jade Danner	Rosalie Lenchanko	Diane Welhaven
Kaipo Dye	Kuhio Lewis	Karyle Yamane
June Francis	Kealiilalanikulani Lopez	Wesley Yoon
	Robert Luuwai	

The AKAMAI Foundation

July 14, 2016

Mr. Kawika Riley
Office of Hawaiian Affairs
560 N. Nimitz Hwy., Suite 200
Honolulu, HI 96817

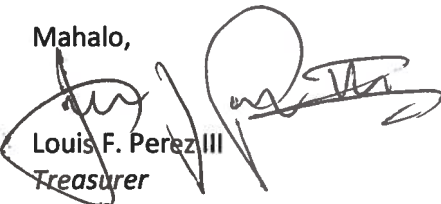
RE: Return of Grant Funds

Aloha Kawika,

This purpose of this letter is to return unspent grant funds awarded to the AKAMAI Foundation as part of the grant agreement by and between OHA and the AKAMAI Foundation in April 2015. Please find enclosed with this letter a check for \$82,509.86 and a set of financial statements detailing the financial position of Project Na'i Aupuni as of May 31, 2016.

If you have any questions, please contact me at l.perez@akamaifoundation.org or 808.258.4685 at any time.

Mahalo,



Louis F. Perez III
Treasurer

Encl: Check #1629
AKAMAI Foundation – Project Na'i Aupuni Financial Statements

Cc: Johnny Chankhamany, President, The AKAMAI Foundation

The AKAMAI Foundation - Project Na'i Aupuni
FYTD P&L Budget vs. Actual
 April 2015 through May 2016

	Initial Budget 4/1/15	Budget Adjustments	Revised Budget 12/15/15	Apr '15 - May 16 Actual Expenses	\$ Over Budget
Income					
Grant Income	2,597,999.99	0.00	2,597,999.99	2,597,999.99	0.00
Total Income	2,597,999.99	0.00	2,597,999.99	2,597,999.99	0.00
Expense					
Bank Fees	0.00	951.00	951.00	951.00	0.00
Legal Fees	105,000.00	99,211.24	204,211.24 ¹	144,211.24	-60,000.00
Public Relations	100,000.00	979,053.10	1,079,053.10 ²	1,079,053.10	0.00
Apportionment / Elections	500,000.00	-276,568.49	223,431.51 ³	223,431.51	0.00
Aha	1,500,000.00	-708,875.09	791,124.91 ⁴	791,124.91	0.00
Referendum	140,000.00	-140,000.00	0.00	0.00	0.00
Monitor	25,000.00	0.00	25,000.00	25,000.00	0.00
Insurance	30,000.00	29,198.63	59,198.63 ⁵	59,198.63	0.00
Other Costs	74,285.71	-61,551.21	12,734.50 ⁶	12,734.50	0.00
Total Direct Expense	2,474,285.71	-78,580.82	2,395,704.89	2,335,704.89	-60,000.00
Indirect Cost	123,714.28	-3,929.04	119,785.24	116,785.24	-3,000.00
Total Expense	2,597,999.99	-82,509.86	2,515,490.13	2,452,490.13	-63,000.00
Unexpended Grant Funds	0.00	82,509.86	82,509.86⁷	145,509.86	63,000.00

Notes:

¹ Legal Fees includes \$128,811.24 to Sullivan Meheula Lee (over 50% discount), \$25,000 to McCorriston Miller Mukai MacKinnon for D&O policy deductibles, \$400 to C. K. J. Amsterdam for settlement of lawsuit. The remaining \$60,000 budget comprised of two \$25,000 D&O policy deductibles and \$10,000 for reimbursement of out-of-pocket travel expenses for Bill Meheula if the Na'i Aupuni suit goes before the U.S. Supreme Court again.

² Public Relations expenditures includes \$500,000 of media purchases (TV, radio, etc.) for voter awareness and get-out-the-vote messaging, and \$579,000 for messaging and public relations services.

³ Apportionment and Elections expenditures consist of \$20,000 for Native Hawaiian Roll Commission database information, and \$203,000 for election management services.

⁴ Aha expenditures are comprised of \$20,000 of speakers fees; \$206,000 for Aha facilitation & mediation services; \$220,000 for venue rental including meals, audio/visual equipment, internet, and security; \$30,000 for assistance with on-site Aha administration & logistics; and \$315,000 for per diem to Aha participants.

⁵ Insurance expenditures includes D&O liability coverage to mitigate legal exposure of Na'i Aupuni Directors during the five-year statutory period of fiduciary contingent liability facing non-profit directors after a non-profits dissolution in the State of Hawaii.

⁶ Other Costs consist of materials & supplies used to facilitate the Aha and the participants meet & greet dinner prior to start of the Aha.

⁷ Unexpended Grant Funds totalling \$82,509.86 will be returned to OHA, leaving \$63,000 on hold for contingent legal liabilities during the five-year statutory liability period. Should no legal expenses arise during this period, all \$63,000 will be returned to OHA.

FACE OF THIS DOCUMENT HAS A COLORED BACKGROUND ON WHITE PAPER

First Hawaiian Bank
Honolulu, HI 96813-3501
59-101/1213

1629

7/12/2016

\$ **82,509.86

Nine and 86/100*****DOLLARS



[Handwritten signature]

SECURITY FEATURES INCLUDED. DETAILS ON BACK.

1213010151 470027624

ject Na'i Aupuni

1629

Return of Grant Funds

7/12/2016

82,509.86

nt Funds

82,509.86

The AKAMAI Foundation

June 22, 2022

Ms. Hulu Lindsey, Chairperson of the Board of Directors
Ms. Sylvia Hussey, Chief Executive Officer
Office of Hawaiian Affairs
560 N. Nimitz Hwy., Suite 200
Honolulu, HI 96817

RE: AKAMAI Foundation – Closeout of Na'i Aupuni Grant – Return of Remaining Funds

Aloha Ms. Lindsey and Ms. Hussey,

This letter is to return all remaining funds (via accompanying Cashiers Check #100008513 0) and close out the OHA grant to the AKAMAI Foundation as Fiscal Sponsor on behalf of Na'i Aupuni for the 2016 'Aha (funded by OHA via Action Item No. ARM14-07).

Per our letter to Mr. Kawika Riley, OHA Chief Advocate, dated July 14, 2016, the AKAMAI Foundation was to hold \$63,000.00 as a contingent liability reserve until April 21, 2022. A copy of this letter is attached.

In late July of 2022, we received from McCorriston Miller Mukai MacKinnon LLP, Invoice #205573 for \$5,478.70 for legal services rendered in connection with closure and settlement of *C. Kauai Jochanan Amsterdam v. Na'i Aupuni FD, et al*; Civil No.15-00447 JMS-BMK. A copy of this invoice is attached.

During 2018, \$80.00 of bank fees was incurred. The checking account was subsequently placed in a deactivated/suspended status to eliminate any additional bank fees.

63,000.00 Contingency Reserve
- 5,478.70 Legal Fees
- 80.00 Bank Fees
57,441.30 Funds returned via Cashiers Check #100008513 0 (attached)

Thank you for allowing us to serve.

If you have any questions, or require any additional information, please call or email me at any time.

Mahalo,



Louis F. Perez III
Treasurer

Encl: Return of OHA fund transmittal letter date July 14, 2016
McCorriston Miller Mukai MacKinnon LLP, Invoice #205573

Cc: Johnny Chankhamany, President, The AKAMAI Foundation

NOTICE TO CUSTOMER

In the event this Cashier's Check is lost, misplaced, or stolen, please call the branch where it was purchased for instructions on submitting a claim.

CASHIER'S CHECK

100008513 0

DATE: June 21, 2022

\$57,441.30

NON NEGOTIABLE

TO THE ORDER OF OFFICE OF HAWAIIAN AFFAIRS

LOUIS F PEREZ III
REMITTER

CUSTOMER COPY

AKAMAI Foundation – Closeout of Na'i Aupuni Grant - Return of remaining funds

REMITTER:
LOUIS F PEREZ III
COMMENT:

CASHIER'S CHECK

100008513 0

59-101/1213

DATE: June 21, 2022

PAY

Fifty-Seven Thousand Four Hundred Forty-One and 30/100ths Dollars

\$57,441.30

TO THE ORDER OF OFFICE OF HAWAIIAN AFFAIRS

**First Hawaiian Bank.**

P.O. Box 3200 Honolulu, HI 96801-3200

Two Signatures Required for \$100,000 and Over

Authorized Signature

Authorized Signature

⑈ 1000085130⑈ ⑆ 121301015⑆ 1181424⑈

The AKAMAI Foundation

July 14, 2016

Mr. Kawika Riley
Office of Hawaiian Affairs
560 N. Nimitz Hwy., Suite 200
Honolulu, HI 96817


RE: Return of Grant Funds

Aloha Kawika,

This purpose of this letter is to return unspent grant funds awarded to the AKAMAI Foundation as part of the grant agreement by and between OHA and the AKAMAI Foundation in April 2015. Please find enclosed with this letter a check for \$82,509.86 and a set of financial statements detailing the financial position of Project Na'i Aupuni as of May 31, 2016.

If you have any questions, please contact me at l.perez@akamaifoundation.org or 808.258.4685 at any time.

Mahalo,



Louis F. Perez III
Treasurer

Encl: Check #1629
AKAMAI Foundation – Project Na'i Aupuni Financial Statements

Cc: Johnny Chankhamany, President, The AKAMAI Foundation

The AKAMAI Foundation
Project Na'i Aupuni
 1136 Union Mall, Suite 206
 Honolulu, HI 96813

First Hawaiian Bank
 Honolulu, HI 96813-3501
 59-101/1213

1629

7/12/2016

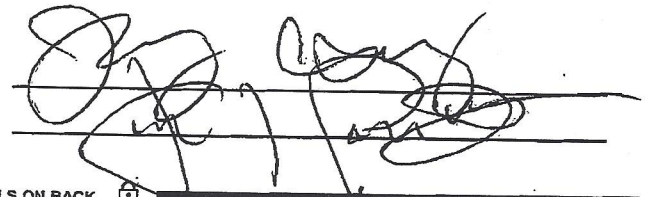
PAY TO THE
 ORDER OF

Office of Hawaiian Affairs

\$ **82,509.86

Eighty-Two Thousand Five Hundred Nine and 86/100*****DOLLARS

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



Return of Grant Funds



SECURITY FEATURES INCLUDED. DETAILS ON BACK.



⑈001629⑈ ⑆121301015⑆ 47⑈027624⑈

The AKAMAI Foundation • Project Na'i Aupuni
 Office of Hawaiian Affairs

1629

Return of Grant Funds

7/12/2016

82,509.86

FHB Checking - Na'i A Return of Grant Funds

82,509.86

The AKAMAI Foundation • Project Na'i Aupuni
 Office of Hawaiian Affairs

1629

Return of Grant Funds

7/12/2016

82,509.86

FHB Checking - Na'i A Return of Grant Funds

82,509.86

AKAMAI Foundation - Project Na'i Aupuni
FYTD P&L Budget vs. Actual
 April 2015 through May 2016

	Initial Budget 4/1/15	Budget Adjustments	Revised Budget 12/15/15	Apr '15 - May 16 Actual Expenses	\$ Over Budget
Income					
Grant Income	2,597,999.99	0.00	2,597,999.99	2,597,999.99	0.00
Total Income	<u>2,597,999.99</u>	<u>0.00</u>	<u>2,597,999.99</u>	<u>2,597,999.99</u>	<u>0.00</u>
Expense					
Bank Fees	0.00	951.00	951.00	951.00	0.00
Legal Fees	105,000.00	99,211.24	204,211.24 ¹	144,211.24	-60,000.00
Public Relations	100,000.00	979,053.10	1,079,053.10 ²	1,079,053.10	0.00
Apportionment / Elections	500,000.00	-276,568.49	223,431.51 ³	223,431.51	0.00
Aha	1,500,000.00	-708,875.09	791,124.91 ⁴	791,124.91	0.00
Referendum	140,000.00	-140,000.00	0.00	0.00	0.00
Monitor	25,000.00	0.00	25,000.00	25,000.00	0.00
Insurance	30,000.00	29,198.63	59,198.63 ⁵	59,198.63	0.00
Other Costs	74,285.71	-61,551.21	12,734.50 ⁶	12,734.50	0.00
Total Direct Expense	<u>2,474,285.71</u>	<u>-78,580.82</u>	<u>2,395,704.89</u>	<u>2,335,704.89</u>	<u>-60,000.00</u>
Indirect Cost	123,714.28	-3,929.04	119,785.24	116,785.24	-3,000.00
Total Expense	<u>2,597,999.99</u>	<u>-82,509.86</u>	<u>2,515,490.13</u>	<u>2,452,490.13</u>	<u>-63,000.00</u>
Unexpended Grant Funds	<u>0.00</u>	<u>82,509.86</u>	<u>82,509.86</u> ⁷	<u>145,509.86</u>	<u>63,000.00</u>

Notes:

- ¹ Legal Fees includes \$128,811.24 to Sullivan Meheula Lee (over 50% discount), \$25,000 to McCorriston Miller Mukai MacKinnon for D&O policy deductibles, \$400 to C. K. J. Amsterdam for settlement of lawsuit. The remaining \$60,000 budget comprised of two \$25,000 D&O policy deductibles and \$10,000 for reimbursement of out-of-pocket travel expenses for Bill Meheula if the Na'i Aupuni suit goes before the U.S. Supreme Court again.
- ² Public Relations expenditures includes \$500,000 of media purchases (TV, radio, etc.) for voter awareness and get-out-the-vote messaging, and \$579,000 for messaging and public relations services.
- ³ Apportionment and Elections expenditures consist of \$20,000 for Native Hawaiian Roll Commission database information, and \$203,000 for election management services.
- ⁴ Aha expenditures are comprised of \$20,000 of speakers fees; \$206,000 for Aha facilitation & mediation services; \$220,000 for venue rental including meals, audio/visual equipment, internet, and security; \$30,000 for assistance with on-site Aha administration & logistics; and \$315,000 for per diem to Aha participants.
- ⁵ Insurance expenditures includes D&O liability coverage to mitigate legal exposure of Na'i Aupuni Directors during the five-year statutory period of fiduciary contingent liability facing non-profit directors after a non-profits dissolution in the State of Hawaii.
- ⁶ Other Costs consist of materials & supplies used to facilitate the Aha and the participants meet & greet dinner prior to start of the Aha.
- ⁷ Unexpended Grant Funds totalling \$82,509.86 will be returned to OHA, leaving \$63,000 on hold for contingent legal liabilities during the five-year statutory liability period. Should no legal expenses arise during this period, all \$63,000 will be returned to OHA.

AKAMAI Foundation - Project Na'i Aupu
Balance Sheet
As of May 31, 2016

ASSETS

FHB Checking - Na'i Aunpuni	145,509.86	1
TOTAL ASSETS	145,509.86	

LIABILITIES & EQUITY

Total Equity	145,509.86
TOTAL LIABILITIES & EQUITY	145,509.86

Notes:

- ¹ Cash on books equal to remaining budget \$145,509.86 of which \$82,509.86 will be returned to OHA and \$63,000 to be held for five years to cover contingent legal liabilities.

MCCORRISTON MILLER MUKAI MACKINNON LLP
ATTORNEYS AT LAW

June 16, 2016

J. Kuhio Asam, M.D.
President
Na'i Aupuni
745 Fort Street, Suite 800
Honolulu, Hawai'i 96813

Re: C. Kauai Jochanan Amsterdam v. Na'i Aupuni FD, et al.;
Civil No. 15-00447 JMS-BMK


Dear Dr. Asam:

Enclosed please find Invoice No. 205573, dated July 15, 2016, in the amount of \$5,478.70, which includes fees and costs rendered in June 2016 in the amount of \$240.87, and a previous balance due in the amount of \$5,237.83. York Pro has informed us that Na'i Aupuni has a \$25,000. Therefore, please remit your payment of the **\$5,478.70** directly to our office.

If you should have any questions, please feel free to contact me.

Very truly yours,

MCCORRISTON MILLER MUKAI MACKINNON LLP


David J. Minkin

Enclosure

cc: Aisling A. Jumper, York Pro, Inc.
343152.1

P.O. BOX 2800
HONOLULU, HAWAII 96803-2800
FIVE WATERFRONT PLAZA, 4TH FLOOR
500 ALA MOANA BOULEVARD
HONOLULU, HAWAII 96813

McCORRISTON MILLER MUKAI MACKINNON LLP
ATTORNEYS AT LAW

PHONE (808) 529-7300
FACSIMILE: (808) 524-8293
E-MAIL: INFO@MALAW.COM
FED TAX I.D. NO. 99-0080339

Client-Case: 25044 - 62639
Date: 07/15/16
Invoice: 205573
Attorney: MINKIN, DAVID J.

Current Fees and Tax	\$235.60
Current Costs	\$5.27
CURRENT INVOICE DUE	\$240.87
Previous Due	\$5,237.83
TOTAL BALANCE DUE	\$5,478.70

YORK PRO, INC.
AISLING A. JUMPER
ONE WHITEHALL, 14TH FLR
NEW YORK, NY 10004

Payment Due Upon Receipt

NAI AUPUNI
RE: C. KAUI JOCHANAN AMSTERDAM (Deductible \$25,000)

FOR PROFESSIONAL SERVICES RENDERED through June 30, 2016

Date	Initials	Professional Services	Hours	Amount	
06/02/2016	TJA	COMMUNICATION WITH PLAINTIFF REGARDING SETTLEMENT EXECUTION	0.20	0.00	No Charge
06/13/2016	DJM	ATTENTION TO SETTLEMENT ISSUES WITH PLAINTIFF	0.50	125.00	
06/27/2016	DJM	ATTENTION TO STATUS WITH PLAINTIFF AS TO SETTLEMENT	0.20	0.00	No Charge
06/29/2016	DJM	REVIEW PLAINTIFF'S REQUEST FOR EXTENSION OF TIME; ATTENTION TO STATUS UPDATE WITH COUNSEL	0.40	100.00	
TOTAL Hours and Fees:			1.30	\$225.00	

Initials	Attorney	Hours	Rate	Amount
TJA	ANDRADE (ASSOCIATE), TROY J.	0.20	\$0.00	0.00
DJM	MINKIN, DAVID J.	0.20	\$0.00	0.00
DJM	MINKIN, DAVID J.	0.90	\$250.00	225.00
TOTAL Current Fees:				\$225.00
State Tax:				\$10.60
TOTAL Fees and Tax:				\$235.60

To insure proper credit, please note case or invoice number on your check
TERMS: PAYABLE UPON RECEIPT

NAI AUPUNI
7/15/2016

Client: 25044
Matter: 62639

<u>Date</u>	<u>Costs Advanced</u>	<u>Amount</u>
06/14/2016	POSTAGE - 06.16.16 - 06/16/2016 - - Paid to: PURCHASE POWER	1.57
06/15/2016	COPY CHARGE -	3.20
06/15/2016	COLOR COPY CHARGE -	0.50
	Total Current Costs:	<u>\$5.27</u>

CURRENT INVOICE DUE:	\$240.87
Previous Due:	<u>\$5,237.83</u>
TOTAL BALANCE DUE:	<u><u>\$5,478.70</u></u>

To insure proper credit, please note case or invoice number on your check
TERMS: PAYABLE UPON RECEIPT

The AKAMAI Foundation
Project Na'i Aupuni
 1136 Union Mall, Suite 206
 Honolulu, HI 96813

First Hawaiian Bank
 Honolulu, HI 96813-3501
 59-101/1213

1630

8/4/2016

PAY TO THE
 ORDER OF **McCorriston, Miller, Mukai, MacKinnon LLP**

\$ **5,478.70

Five Thousand Four Hundred Seventy-Eight and 70/100*****DOLLARS

McCorriston, Miller, Mukai, MacKinnon LLP
 500 Ala Moana Blvd.
 Five Waterfront, 4th Floor
 Honolulu, HI 96813

RUB RED IMAGE
 REVEALS WITH HEAT

Invoice 205573

SECURITY FEATURES INCLUDED. DETAILS ON BACK.

⑈001630⑈ ⑆121301015⑆ 470027624⑈

The AKAMAI Foundation • Project Na'i Aupuni
 McCorriston, Miller, Mukai, MacKinnon LLP
 Invoice 205573

1630

8/4/2016

5,478.70

FHB Checking - Na'i A Invoice 205573

5,478.70

The AKAMAI Foundation • Project Na'i Aupuni
 McCorriston, Miller, Mukai, MacKinnon LLP
 Invoice 205573

1630

8/4/2016

5,478.70

FHB Checking - Na'i A Invoice 205573

5,478.70

Committee on Resource Management

Trustee John Waihe'e IV, *At-Large* - Chair

Trustee Luana Alapa, *Moloka'i / Lāna'i* - Vice Chair

Members

Trustee Dan Ahuna, *Kaua'i / Ni'ihau*

Trustee Kaleihikina Akaka, *O'ahu*

Trustee Keli'i Akina, *At-Large*

Trustee Brickwood Galuteria, *At-Large*

Trustee Carmen Hulu Lindsey, *Maui*

Trustee J. Keoni Souza, *At-Large*

Trustee Mililani Trask, *Hawai'i Island*



**STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS**

**MEETING OF THE
COMMITTEE ON RESOURCE MANAGEMENT (RM)**

DATE: Wednesday March 8, 2023

TIME: 1:30 p.m.

PLACE: Virtual Meeting

560 N. Nimitz Hwy., Honolulu, HI 96817

viewable at <https://www.oha.org/livestream> OR

Listen by phone: (213) 338-8477, Webinar ID: 879 9696 8172

This virtual meeting can be viewed and observed via livestream on OHA's website at www.oha.org/livestream or listened to by phone at: (213) 338-8477, Webinar ID: 879 9696 8172. A physical meeting location, open to members of the public who would like to provide oral testimony or view the virtual meeting, will be available at 560 N. Nimitz Hwy., Suite 200, Honolulu HI 96817. All members of the public that wish to access the physical meeting location must pass a wellness check and provide proof of full vaccination or a negative COVID-19 test taken within 72 hours of entry.

AGENDA

I. Call to Order

II. Approval of Minutes

A. February 22, 2023

III. Unfinished Business - None

IV. New Business

A. Action Item RM #23-04: Final Report of OHA's Governance Planning Operating Budget (2014), including the Role of Na'i Aupuni and Financial Accounting by Akamai Foundation (Fiscal Sponsor)

B. Action Item RM #23-05: Final Report of May 2019 Board Actions re: Limited Liability Companies

C. Presentation by Administration: OHA Responses to the DRAFT State Auditor Report Distributed on Thursday, February 16, 2023

D. Presentation by Administration: Fiscal Year 2023-2024 (FY24) and 2024-2025 (FY25) Biennium Budget Process and Timeline

V. Announcements

VI. Adjournment

If you need an auxiliary aid/support or other accommodation due to a disability, please contact Everett Ohta at telephone number 594-1988 or by email to everetto@oha.org as soon as possible. Requests made as early as possible will allow adequate time to fulfill your request. Upon request, this notice is available in alternate formats such as large print, Braille, or electronic copy.

Meeting materials for this meeting will be available for the public to view 48 hours prior to this meeting at OHA's main office located at 560 N. Nimitz Hwy., Suite 200, Honolulu, HI 96817. Meeting materials will also be available to view at OHA's neighbor island offices and will be posted to OHA's website at: www.oha.org/rm.



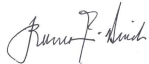
ACTION ITEM

COMMITTEE ON RESOURCE MANAGEMENT

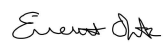
March 22, 2023


RM #23-05

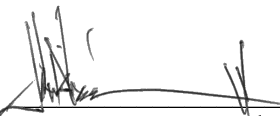
Action Item Issue: Final Report of May 2019 Board Actions re: Limited Liability Companies

Co-Prepared
& Reviewed by:  _____ 3/3/2023
Date
Ramona G. Hinck
Pou Kāko‘o Ho‘opono Kūikawā, Interim Controller &
Ka Pou Kihi Kanaloa Wai, Chief Financial Officer

Reviewed by:  _____ 3/3/2023
Date
Casey K. Brown
Ka Pou Nui, Chief Operating Officer

Reviewed by:  _____ 3/3/2023
Date
Everett Ohta
Ka Paepae Puka Kūikawā, Interim General
Counsel

Co-Prepared &
Reviewed by:  _____ 3/3/2023
Date
Sylvia M. Hussey, Ed.D.
Ka Pouhana, Chief Executive Officer

Reviewed by:  _____ 3/3/2023
Date
Ke Kua, Trustee John D. Waihee, IV
Luna Ho‘omalū o ke Kōmike Resource Management
Chair of the Committee on Resource Management

Action Item RM #23-05: Final Report of May 2019 Board Actions re: Limited Liability Companies

I. PROPOSED ACTION

Approve the cancellation of the following purchase orders to complete the May 2019 Board approved reorganization of limited liability companies at Attachment A:

<u>Description</u>	<u>Appropriation</u> <u>320</u>	<u>Appropriation</u> <u>930</u>	<u>Total</u>
Cancellation of Purchase Order 210006 - Hi'ilei Aloha, LLC	\$ 134,000		\$ 134,000
Cancellation of Purchase Order 210007- Ho'okipaipai, LLC	\$ 61,000		\$ 61,000
Cancellation of Purchase Order 180396 - Hi'ipaka, LLC		\$ 41,200	\$ 41,200
Cancellation of Purchase Order 2020_PO_068 - Hi'ilei Aloha, LLC	\$ 11,986.92	\$ 84,009	\$ 95,995.92
Cancellation of Purchase Order 210044 - Ho'okipaipai, LLC	\$ 2,033		\$ 2,033
Total	\$ 209,019.92	\$ 125,209	\$ 334,228.92

II. ISSUE

Whether or not the Board of Trustees (“Board”, “BOT” or “Trustees”) approves Administration’s recommendations to cancel purchase orders to complete the May 2019 Board approved reorganization of limited liabilities companies (LLCs) as outlined at Attachment A.

III. DISCUSSION – BOARD ACTION

A. **Overview.** The Office of Hawaiian Affairs (“OHA”) is the sole member of two limited liability companies (“LLCs”), 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”).

Refer to Figure 1 on the next page for LLC structure as of May 2019, date of Board action.

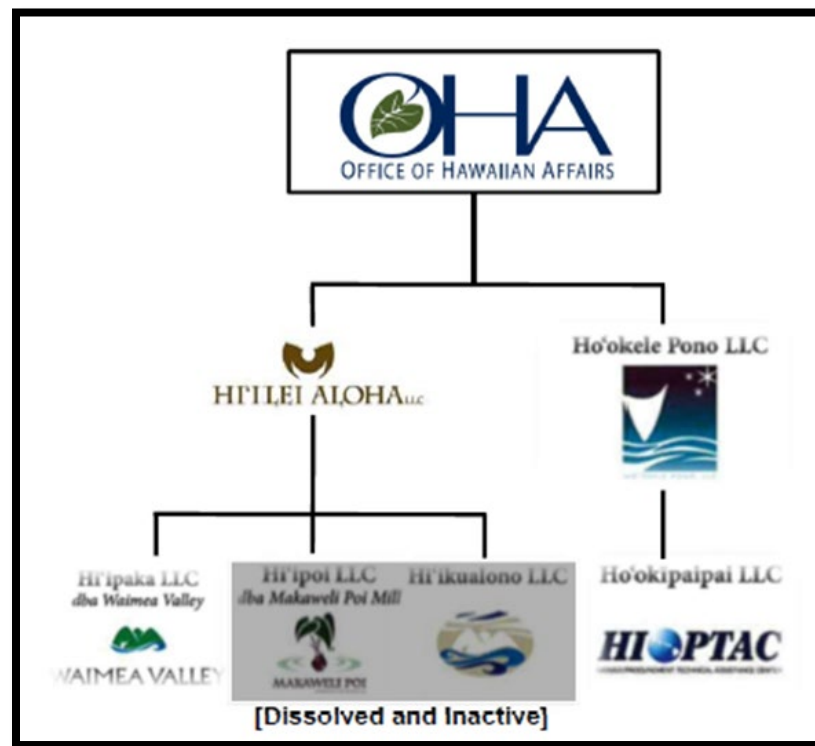


Figure 1. LLC Structure as of 5/2019

B. **Board Actions.** The Trustees of OHA desired to:¹

1. **Amend the Operating Agreement** of Hi'ilei Aloha to permit persons who are not OHA executives to serve as managers ("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 ("**LLC Action A**");
2. **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 ("**LLC Action B**"); and
3. **Dissolve Hi'ikualono** at any time, as that entity is inactive ("**LLC Action C**").

INTENTIONALLY LEFT BLANK

¹ Note: Articles of Termination for Hi'ipoi LLC dba Makaweli Poi Mill filed on August 21, 2017, <https://hbe.chawaii.gov/documents/business.html?fileNumber=58669C5>, retrieved September 26, 2020

Action Item RM #23-05: Final Report of May 2019 Board Actions re: Limited Liability Companies

C. **Board Action.** Action Item RM #19-08 Approval of Resolutions of the Board of Trustees Office of Hawaiian Affairs, Reorganization Documents, and LLC Manager Position Description as sole member of two limited liability companies, Hi'ilei Aloha LLC and Ho'okele Pono LLC, May 29, 2019, was approved by the Committee on Resource Management and subsequently ratified by the Board on May 30, 2019 and contained **(Attachment A)**:

1. "Resolutions of The Board of Trustees Office of Hawaiian Affairs" ("Resolutions"); and
2. "Reorganization Documents", including:
 - a. A proposed Second Amended and Restated Operating Agreement of Hi'ilei Aloha LLC to be executed by the managers 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;
 - e. Proposed Articles of Termination and Plan of Dissolution of Hi'ikualono LLC to be executed by the Managers of Hi'ikualono; and
 - f. Hi'ilei Aloha LLC Manager Position Description.

OHA LLC Update

- OHA is re-organizing its LLCs
- OHA is dissolving all but 2 of its associated LLCs
- OHA will retain Hi'ilei Aloha LLC, of which OHA is the sole member. Hi'ilei Aloha will continue to be the sole member of Hi'ipaka LLC, dba Waimea Valley
- Non-OHA executives will serve as managers for the two remaining LLCs.

The Board determined that OHA would derive substantial economies and benefits from the foregoing reorganization, which benefits justified the approval of the required Resolutions and Reorganization Documents. Figure 2 is a summarized list of the organizational and managerial outcomes of the May 2019 Board actions.

Figure 2. OHA LLC Update

Action Item RM #23-05: Final Report of May 2019 Board Actions re: Limited Liability Companies

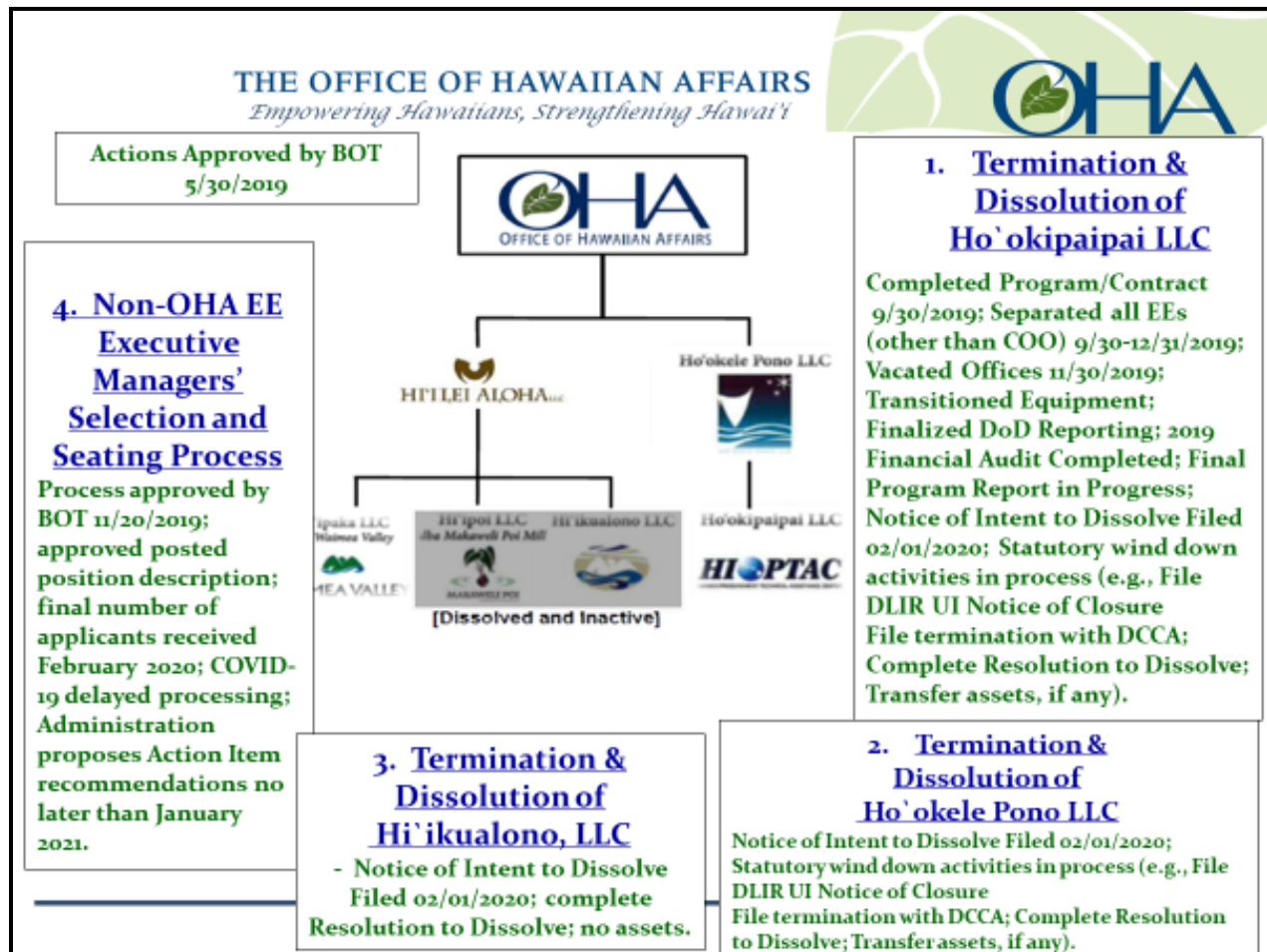


Figure 3. Overview of Key Activities re: LLC Reorganization

IV. DISCUSSION – ADMINISTRATION IMPLEMENTATION

The following sections provide activities detailing Administration implementation activities of LLC Actions A, B and C to date.

A. LLC Action A Overview. Via Action Item RM #19-08 (May 29, 2019), the Board amended the Operating Agreement of Hi'ilei Aloha² 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, appointed each Manager to serve a new three (3) year term or the remainder of an unexpired three (3) year term.

1. Roles and Responsibilities. The roles and responsibilities of a LLC Member Manager are both operational and strategic. Operational activities include bank and check signing authorities, budget approval, financial statement review, contract, disbursement and other approval matters, liquor license administration, audit review, performance

² Hi'ilei Aloha and Hi'ipaka operate on a calendar year basis – 1/1 to 12/31

Action Item RM #23-05: Final Report of May 2019 Board Actions re: Limited Liability Companies

evaluation of executives, etc. Strategic activities include risk mitigation plan review, annual plan, budget and strategic direction, public, private and community collaborations, etc.

2. ***Selection and Seating Process.*** Via Action Item RM #19-20, on November 20, 2019, the Board approved the Non-OHA Employee Managers' Selection and Seating Process for Hi'ilei Aloha, LLC with a revised LLC Manager position description. While the existing LLC Managers were 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 selected 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.
3. ***Recruitment Timeline.*** Via Action Item RM #19-20, the Board also approved the 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.
4. ***Extended Recruitment Timeline & COVID-19 Impacts.*** Because insufficient applications were received by the initial December 2019 deadline, the recruitment time period was extended into 2020 and the requisite minimum three applicants was not received until February 2020. At about the same time the applications and related materials were reviewed by then LLC Managers, the impacts of COVID-19, plus the operational transition to telework of the entire organization in March 2020 occurred and paused the entire non-OHA LLC Manager recruitment process.
5. ***Reactivation of Non-OHA LLC Manager Recruitment, Seating and Selection.*** About a year later, on February 16, 2021, via Action Item RM #21-01, Approval of Non-OHA Limited Liability Company Managers for Hi'ilei Aloha LLC, the Committee on Resource Management approved, (and subsequently ratified by the Board), the following non-OHA employees as volunteer, uncompensated Managers for Hi'ilei Aloha LLC, effective April 1, 2021, with the noted staggered terms of service:
 - a. Roberts "Bob" Leinau for a service period of three (3) years;
 - b. Greg C. Pietsch³ for a service period of two (2) years; and
 - c. Leilani Kūpahu-Marino Kaho'āno⁴ for a service period of one (1) year.

³ A future Committee on Resource Management (CRM) action item is scheduled for late March 2023 or early April 2023 to recommend reappointment of Greg C. Pietsch.

⁴ Via Action Item RM #22-03: Reappointment of Leilani Kūpahu-Marino Kaho'āno as Non-OHA LLC Manager for Hi'ilei Aloha LLC for a 3-Year Term (2023, 2024, 2025), March 8, 2022, the CRM approved, the reappointment for a three year term; the action was subsequently ratified by the Board.

Action Item RM #23-05: Final Report of May 2019 Board Actions re: Limited Liability Companies

- 6. History of LLC Managers.** Table 1 below details the history of OHA LLC Managers from the point of the May 2019 Board action to present. LLC Community Managers meet monthly to address Hi'ipaka operational and Hi'ilei Aloha member holding activities.

Period	CEO	COO	CFO
1/1/2019 to 1/9/2019	Kamana`opono Crabbe	Sylvia Hussey	David Lacha
1/10/2019 to 6/30/2019	Kamana`opono Crabbe	Sylvia Hussey	Sylvia Hussey (Interim)
7/1/2019 to 11/30/2019	Sylvia Hussey (Interim)	Lisa Watkins-Victorino (Interim)	Gloria Li (Interim)
12/1/2019 to 3/31/2020	Sylvia Hussey	Lisa Watkins-Victorino (Interim)	Gloria Li (Interim)
The following individuals were listed for signature on the 2019 performance evaluation document for the Hi'ipaka LLC Executive Director: Sylvia Hussey, Lisa Watkins-Victorino and Gloria Li.			
4/1/2020 to 6/30/2020	Sylvia Hussey	Lisa Watkins-Victorino (Interim)	Sylvia Hussey (Interim)
7/1/2020 to 10/15/2020	Sylvia Hussey	Sterling Wong (Interim)	Sylvia Hussey (Interim)
10/16/2020 to 10/26/2020	Sylvia Hussey	Sterling Wong (Interim)	Ramona Hinck
10/27/2020 to 11/1/2020	Sylvia Hussey	Sylvia Hussey (Interim)	Ramona Hinck
11/2/2020 to 12/31/2020	Sylvia Hussey	Casey Brown	Ramona Hinck
The following individuals were listed for signature on the 2020 performance evaluation document for the Hi'ipaka LLC Executive Director: Sylvia Hussey, Lisa Watkins-Victorino, Gloria Li, Sterling Wong, Ramona Hinck and Casey Brown.			
1/1/2021 to 3/31/2021	Sylvia Hussey	Casey Brown	Ramona Hinck

Action Item RM #23-05: Final Report of May 2019 Board Actions re: Limited Liability Companies

Period	Non-OHA Community LLC Manager	Non-OHA Community LLC Manager	Non-OHA Community LLC Manager
4/1/2021 to present	Roberts Leinau, initial term 3 years	Greg Pietsch, initial term 2 years	Leilani Kahoano, initial term 1 year
The above listed individuals were listed for signature on the 2021 and 2022 performance evaluation documents for the Hi'ipaka LLC Executive Director, including both OHA LLC Managers (for the first three months of 2021 only), and non-OHA Community LLC Managers (for the remaining nine months of 2021 and all 12 months of 2022).			

Table 1. History of LLC Managers

7. Completion of LLC Action A. LLC Action A is complete with the operational seating, selection and operationalization of non-OHA Community LLC Managers as of March 31, 2021.

B. LLC Action B Overview. Also via Action Item #19-08, the Board approved the dissolution of 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 ("LLC Action B"). **As Ho'okele Pono has no operations, there are no wind down activities.** The following are Ho'okipaipai reference documents maintained as part of the Administration implementation activities:

- 1. Audit Report.** Ho'okipaipai 2019, unqualified audit report;
- 2. Form 990⁵.** Ho'okipaipai 2019 Form 990;
- 3. Implementation Wind Down Activities.** Statutory wind down activities completed by former Hi'ilei Aloha Chief Operating Officer (e.g., File DLIR UI Notice of Closure; File termination with DCCA; Complete Resolution to Dissolve; Transfer assets, if any);
- 4. Completion of LLC Action B.** LLC Action B is considered complete as all wind down activities for Ho'okipaipai are done.

INTENTIONALLY LEFT BLANK

⁵ Internal Revenue Service: Form 990: Return of Organization Exempt From Income Tax

C. LLC Action C Overview. Via Action Item RM #19-08, the Board approved the dissolution of Hi`ikualono at any time, as that entity is inactive. The Notice of Intent to Dissolve (NOID) for Hi`ikualono was sent to the Attorney General's ("AG") office on February 1, 2020, along with the notices of intent for Ho`okele Pono and Ho`okipaipai. AG's office responded to the Notice of Intent to Dissolve on February 1, 2020 and there was no objection to Hi`ikualono LLC (disregarded entity under Hi`ilei Aloha LLC). No further AG's communication regarding the termination filing for Hi`ikualono.

1. Completion of LLC Action C. LLC Action C is considered complete as the NOID for Hi`ikualona was filed.

D. Budgetary Impacts. Resources to winddown LLC activities were approved through the OHA biennium budgetary processes, including Trustee approval, and subsequently operationalized via purchase orders and cost reimbursements. Therefore, this final report action item is to close all related purchase orders for LLC reorganization activities.

V. DISCUSSION – OVERVIEW OF HI`ILEI ALOHA AND HI`IPAKA – SURVIVING ENTITIES' ACTIVITIES

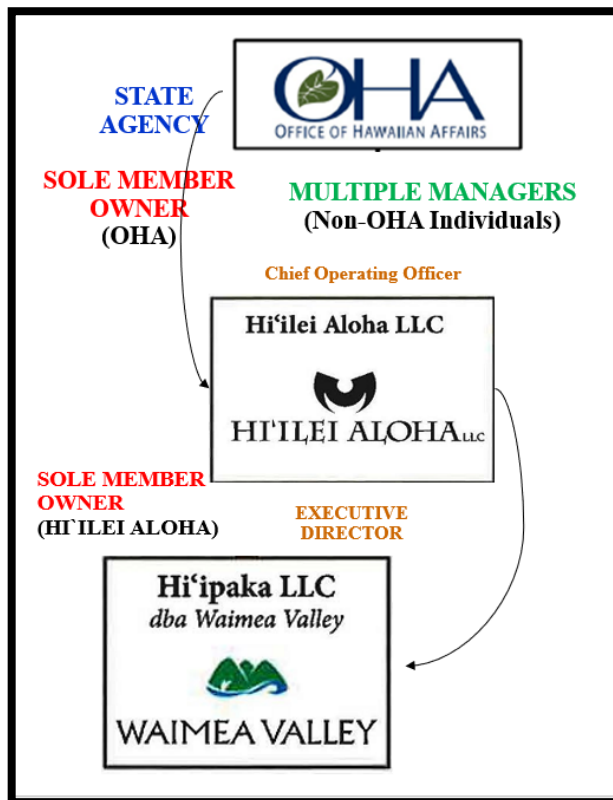


Figure 4. Hi`ilei Aloha LLC and Hi`ipaka – Surviving Entities

While the wind down and dissolution activities were completed by the existing OHA LLC Managers, the following summarizes the current state of operations for Hi`ilei Aloha and Hi`ipaka to which both OHA LLC and new non-OHA LLC Managers operated both strategically and operationally over time, refer to Table 1 above.

A. Hi`ipaka dba Waimea Valley. Under the direction of Executive Director Richard Pezzulo, prior to the impacts of COVID-19 shutdowns, the operations were profitable and employed approximately 70 employees. Continuing Governor and O`ahu Mayoral proclamations created intermittent shutdowns requiring the business operations to: lay off/furlough employees; apply for and receive the Small Business Administration Payroll Protection Program (PPP) loan; draw on cash reserves; contract snack bar and catering operations to a 3rd party; apply for and receive grants; and devise and launch new marketing plans with focus on kamaaina, corporate and military markets.

Calendar year 2020 and 2021 planned a three phase approach; utilized income generated from the revised strategy combined with a \$694,000 PPP loan and \$3,000,000 in financial reserves; and focused on kama`aina and local military; included tourist as when return projected; reduced all non-essential expenses; focused on core activities with reduced staffing; applied for federal grants, and updated 2020, 2021, 2022 and 2023 plans with focus on core activities. Operationally, the

Action Item RM #23-05: Final Report of May 2019 Board Actions re: Limited Liability Companies

new non-OHA LLC Managers addressed the continuing impacts of COVID-19 on the operations of Waimea Valley on a long term basis.

Each calendar year audit of Hi'ilei Aloha, including Hi'ipaka, is included in the OHA's financial statement and audit as component business units.

B. Hi'ilei Aloha. The remaining employee (Chief Operating Officer-COO) is: 1) Completed the dissolution and termination activities of Hi'ikualono, Ho'okipaipai and Ho'okele Pono; and 2) Complete the federal Youth Build (YB) Program after receiving a federal program officer recommendation to extend by six months to 6/30/2021.

1. **Youth Build Program.** YouthBuild (YB) is a national program that was started in East Harlem, New York City, in 1978. It quickly expanded to other cities, and today is part of the U.S. Department of Labor's workforce development initiative. It is a highly successful program that provides a positive environment for at-risk youth to earn a GED, learn job skills, and gain confidence to seek their life goals. There are more than 200 YouthBuild programs across the U.S. In 2017, Hi'ilei Aloha LLC (nonprofit) applied for and received a YouthBuild grant for the Waimānalo community. At YouthBuild Waimānalo, youth earn a GED, learn construction skills, help to build affordable housing, and learn about possible future paths such as apprenticeships, full-time employment, or going to a community college.⁶

The original date for Year 2 was for the year ended 12/31/2019; and Year 3 was from 1/1/2020 to 6/30/2020 which included tracking, case management and job placement. There was still work to do with students as they tried to find and retain employment or enter apprenticeship programs (or go to school or join the military).

The revised date to end program Year 2 was 6/30/2020 (hence the salary/program costs); and the revised operating period for Year 3 is: 7/1/2020 to 6/30/2021. Therefore YB operating and programmatic purposes were needed for the COO to continue through 6/30/2021 (which is consistent with OHA fiscal year end 6/30/2021).

2. **Audit Report.** Hi'ilei Aloha 2019 unqualified audit report.
3. **Form 990.** Hi'ilei Aloha 2019 Form 990.
4. **Records.** In moving from its former office location at 711 Kapiolani Blvd. in Honolulu to Waimea Valley on the North Shore, a trailer was purchased to enable access for programmatic operations and winddown activities.
5. **Strategic and Operating Decisions for New non-OHA LLC Managers.** New non-OHA LLC Managers determined: 1) Who will be the operating LLC Managers for Hi'ipaka (it could be the same managers or not); 2) The (continuing) purpose and function of Hi'ilei Aloha LLC (e.g., new revenue sources, new services, how to fund existing position--COO); and 3) Operationalizing the decisions re: the purpose and function of Hi'ilei Aloha LLC.

⁶ Retrieved September 27, 2020, <http://www.youthbuildnalo.org/>

Action Item RM #23-05: Final Report of May 2019 Board Actions re: Limited Liability Companies

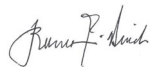
VI. RECOMMENDED ACTION

Approve the cancellation of the following purchase orders to complete the May 2019 Board approved reorganization of limited liability companies at Attachment A:

<u>Description</u>	<u>Appropriation</u> <u>320</u>	<u>Appropriation</u> <u>930</u>	<u>Total</u>
Cancellation of Purchase Order 210006 - Hi'ilei Aloha, LLC	\$ 134,000		\$ 134,000
Cancellation of Purchase Order 210007- Ho'okipaipai, LLC	\$ 61,000		\$ 61,000
Cancellation of Purchase Order 180396 - Hi'ipaka, LLC		\$ 41,200	\$ 41,200
Cancellation of Purchase Order 2020_PO_068 - Hi'ilei Aloha, LLC	\$ 11,986.92	\$ 84,009	\$ 95,995.92
Cancellation of Purchase Order 210044 - Ho'okipaipai, LLC	\$ 2,033		\$ 2,033
Total	\$ 209,019.92	\$ 125,209	\$ 334,228.92

IV. CHIEF FINANCIAL OFFICER CERTIFICATION

The following is the certification by the Chief Financial Officer that the purchase order actions proposed are appropriate financial actions to complete the May 2019 Board approved reorganization of limited liability companies at Attachment A.



Ramona G Hinck

Chief Financial Officer

Date: 03/03/2023

VII. ALTERNATE ACTIONS

- A.** Amend the recommended action.
- B.** Do not approve the recommended action.

Action Item RM #23-05: Final Report of May 2019 Board Actions re: Limited Liability Companies

VIII. REFERENCE DOCUMENTS

Reference documents are listed below for supporting context of this action item.

1. Action Item RM #19-08 Approval of Resolutions of the Board of Trustees Office of Hawaiian Affairs, Reorganization Documents, and Hi'ilei Aloha LLC Manager Position Description as sole member of two limited liability companies, Hi'ilei Aloha LLC and Ho'okele Pono LLC, May 29, 2019.
2. Action Item RM #19-20 Approval of the Non-OHA Employee Managers' Selection and Seating Process for Hi'ilei Aloha, LLC and revised LLC Manager Position Description, November 20, 2019.
3. Memorandum dated October 4, 2020 re: Update re: Implementation of Limited Liability Corporation Actions Authorized by the Board of Trustees in May 2019; and Attachments A to L listed below:
 - A. Action Item RM #19-08 Approval of Resolutions of the Board of Trustees Office of Hawaiian Affairs, Reorganization Documents, and Hi'ilei Aloha LLC Manager Position Description as sole member of two limited liability companies, Hi'ilei Aloha LLC and Ho'okele Pono LLC;
 - B. Action Item RM #19-20 Approval of the Non-OHA Employee Managers' Selection and Seating Process for Hi'ilei Aloha, LLC and revised LLC Manager Position Description (November 20, 2019);
 - C. LLC Manager Position Description;
 - D. Waimea Valley 2020 and 2021 Work Plans and Budgets;
 - E. Hi'ipaka 2019 Audit Report;
 - F. Hi'ilei Aloha 2019 Audit Report;
 - G. Ho'okipaipai 2019 Audit Report;
 - H. Hi'ilei Aloha 2019 Form 990;
 - I. Ho'okipaipai 2019 Form 990; and
 - J. Hi'ilei Aloha Trailer Pics in Waimea Valley.
4. Action Item RM #21-01, Approval of Non-OHA Limited Liability Company Managers for Hi'ilei Aloha LLC, February 16, 2021
5. Action Item RM #22-03: Reappointment of Leilani Kūpahu-Marino Kaho'āno as Non-OHA LLC Manager for Hi'ilei Aloha LLC for a 3-Year Term (2023, 2024, 2025), March 8, 2022

IX. ATTACHMENT

- A. Committee on Resource Management Report, Action Item RM #19-08 Approval of Resolutions of the Board of Trustees Office of Hawaiian Affairs, Reorganization Documents, and Hi'ilei Aloha LLC Manager Position Description as sole member of two limited liability companies, Hi'ilei Aloha LLC and Ho'okele Pono LLC, May 29, 2019, ratified by the Board on May 30, 2019 (104 pages)

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

May 29, 2019

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

Madame Chair Machado,

Your Joint Committees on Resource Management, having met on May 29, 2019 and after full and free discussion, recommends approval of the following action to the Board of Trustees:

To approve, adopt, and ratify the Resolutions of the Board of Trustees Office of Hawaiian Affairs, Reorganization Documents, and Hi`ilei Aloha LLC Manager Position Description as sole member of two limited liability companies, Hi`ilei Aloha LLC and Ho`okele Pono LLC, with the following amendment to both Hi`ilei's and Hi`ipaka's operating agreements in article 4 section 4.03a to now read:

“acquire or lease any real or personal property from any Person, pursuant to the conflict of interest policy”.

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

- 1) Action Item RM #19-08
- 2) RM #19-08 Roll Call Sheet

Respectfully submitted:



Trustee, Chair Dan Ahuna

NOT PRESENT FOR VOTE

Trustee John Waihe'e, IV, Chair



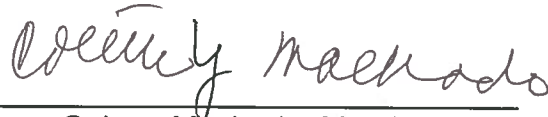
Trustee Leina'ala Ahu Isa, Member



Trustee Robert Lindsey, Member

ABSTAINED

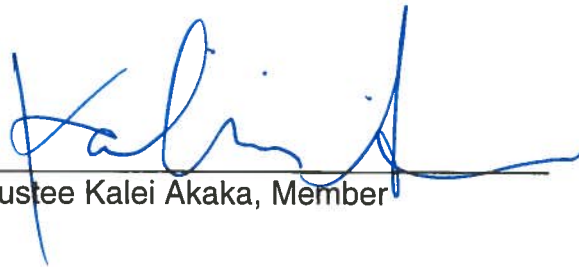
Trustee Carmen Hulu Lindsey, Member



Trustee Colette Machado, Member



Trustee Brendon Lee, Member



Trustee Kalei Akaka, Member

ABSTAINED

Trustee Keli'i Akina, Member



**STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS**

RESOURCE MANAGEMENT COMMITTEE
Dan Ahuna, Chairperson
Robert K. Lindsey, Jr., Vice Chairperson
Leina'ala Ahu Isa, At-Large
Kalei Akaka, O'ahu
Keli'i Akina, At-Large
Brendon Kalei'aina Lee, At-Large
Carmen Hulu Lindsey, Maui
Colette Y. Machado, Moloka'i/Lāna'i
John Waihe'e IV, At-Large

MEETING OF THE COMMITTEE ON RESOURCE MANAGEMENT

DATE: Wednesday May 29, 2019
TIME: 11:00 am
PLACE: OHA Board Room, Nā Lama Kukui
560 N. Nimitz Hwy., Suite 200
Honolulu, HI 96817

AGENDA

- I. Call to Order
- II. Public Testimony*
- III. Executive Session†
 - A. Consultation with OHA attorneys William Yuen, Esq., Judy Tanaka, Esq., and Board Counsel Robert G. Klein, Esq., re: questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities regarding OHA's role as a member of Hi'ilei Aloha LLC and Ho'okele Pono LLC and Action Item RM #19-08: Approval of Resolutions of the Board of Trustees Office of Hawaiian Affairs, Reorganization Documents, and LLC Manager Position Description relating to Hi'ilei Aloha LLC and Ho'okele Pono LLC. *Pursuant to HRS §92-5(a)(4).*
- IV. New Business
 - A. Action Item RM #19-08 : Approval of Resolutions of the Board of Trustees Office of Hawaiian Affairs, Reorganization Documents, and LLC Manager Position Description relating to Hi'ilei Aloha LLC and Ho'okele Pono LLC.
 - B. Workshop: FY 2020-2021 Biennium Budget
- V. 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 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 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.

Dan Ahuna

Trustee Dan Ahuna
Chairperson, Committee on Resource Management

05/23/19

Date



Action Item
Committee on Resource Management
May 29, 2019

RM #19-08

Meeting: May 29, 2019

Action Item Issue: Approval of Resolutions of the Board of Trustees Office of Hawaiian Affairs, Reorganization Documents, and Hi'ilei Aloha LLC Manager Position Description as sole member of two limited liability companies, Hi'ilei Aloha LLC and Ho'okele Pono LLC

Prepared by:

A handwritten signature in black ink, appearing to read 'Raina', written over a horizontal line.

Raina P.B. Gushiken

Ka Paepae Puka, Interim Senior Legal Counsel

5/24/2019

Date

Reviewed by:

A handwritten signature in black ink, appearing to read 'Kamana'opono Crabbe', written over a horizontal line.

Kamana'opono M. Crabbe, Ph.D.

Ka Pouhana, Chief Executive Officer

5/23/19

Date

Reviewed by:

A handwritten signature in green ink, appearing to read 'Sylvia M. Hussey', written over a horizontal line.

Sylvia M. Hussey, Ed.D.

Ka Pou Nui, Chief Operating Officer

5/24/2019

Date

Reviewed by:

A handwritten signature in black ink, appearing to read 'Dan Ahuna', written over a horizontal line.

Dan Ahuna

Luna Ho'omalua Kōmike Resource Management, Chair

05/24/19

Date

I. Action

To approve, adopt, and ratify the Resolutions of the Board of Trustees Office of Hawaiian Affairs, Reorganization Documents, and Hi'ilei Aloha LLC Manager Position Description as sole member of two limited liability companies, Hi'ilei Aloha LLC and Ho'okele Pono LLC.

II. Issue

Whether to approve, adopt, and ratify the Resolutions of the Board of Trustees Office of Hawaiian Affairs, Reorganization Documents, and Hi'ilei Aloha LLC Manager Position Description as sole member of two limited liability companies, Hi'ilei Aloha LLC and Ho'okele Pono LLC.

III. Discussion

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").

The Trustees of OHA desire to amend the Operating Agreement of Hi'ilei Aloha to permit persons who are not OHA executives to serve as managers ("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.

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.

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.

To memorialize and carry out the aforementioned intent and desire of the Trustees, the following document entitled, "Resolutions of The Board of Trustees Office of Hawaiian Affairs" ("Resolutions") is appended hereto as **Attachment A**.

To further memorialize and carry out the aforementioned intent and desire of the Trustees, the following documents, all of which documents relate to the transactions described above, and which documents are collectively referred to as the "Reorganization Documents" are attached hereto as **Attachment B**:

- (a) A proposed Second Amended and Restated Operating Agreement of Hi'ilei Aloha LLC to be executed by the managers of Hi'ilei Aloha;
- (b) Hi'ilei Aloha LLC Manager Position Description;
- (c) A proposed Fourth Amended and Restated Operating Agreement of Hi'ipaka LLC to be executed by the managers of Hi'ipaka;
- (d) Proposed Articles of Termination and Plan of Dissolution of Ho'okele Pono LLC to be executed by the Managers of Ho'okele Pono;
- (e) Proposed Articles of Termination and Plan of Dissolution of Ho'okipaipai LLC to be executed by the Managers of Ho'okipaipai;
- (f) Proposed Articles of Termination and Plan of Dissolution of Hi'ikualono LLC to be executed by the Managers of Hi'ikualono; and

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

IV. Recommended Action

To approve, adopt, and ratify the Resolutions of the Board of Trustees Office of Hawaiian Affairs, Reorganization Documents, and LLC Manager Position Description as sole member of two limited liability companies, Hi'ilei Aloha LLC and Ho'okele Pono LLC.

V. Alternative Actions

Take no action.

VI. Funding

No funding is required.

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. Reorganization Documents

- (1) A proposed Second Amended and Restated Operating Agreement of Hi'ilei Aloha LLC to be executed by the managers of Hi'ilei Aloha;
- (2) Hi'ilei Aloha LLC Manager Position Description;
- (3) A proposed Fourth Amended and Restated Operating Agreement of Hi'ipaka LLC to be executed by the managers of Hi'ipaka;
- (4) Proposed Articles of Termination and Plan of Dissolution of Ho'okele Pono LLC to be executed by the Managers of Ho'okele Pono;
- (5) Proposed Articles of Termination and Plan of Dissolution of Ho'okipaipai LLC to be executed by the Managers of Ho'okipaipai;
- (6) Proposed Articles of Termination and Plan of Dissolution of Hi'ikualono LLC to be executed by the Managers of Hi'ikualono.

ATTACHMENT "A"

Resolutions of the Office of Hawaiian Affairs Board of Trustees

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.

ATTACHMENT "B"

Reorganization Documents

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, 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, 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

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

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, arbitrative 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

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.

Nonrefundable Filing Fee: \$25.00

STATE OF HAWAII
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

Business Registration Division

335 Merchant Street

Mailing Address: P.O. Box 40, Honolulu, Hawaii 96810

Phone No. (808)586-2727

No personal or business checks
accepted. See instructions.

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`okipaipai 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 _____, _____, 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

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 & 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

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, 5th 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 "A"

Resolutions of the Office of Hawaiian Affairs Board of Trustees

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.

ATTACHMENT "B"

Reorganization Documents

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, 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, 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

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

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

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]

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 42B-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`okipaipai 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

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'ikualonó 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

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, 5th 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]

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

Action Item Vote

COMMITTEE ON RESOURCE MANAGEMENT

DATE: May 29, 2019
Time of Motion: 12:54pm

AGENDA ITEM: New Business
A. RM # 19-08

Motion:

To approve, adopt , and ratify the Resolutions of the Board of Trustees Office of Hawaiian Affairs, Reorganization Documents, and Hi`ilei Aloha LLC Manager Position Description as sole member of two limited liability companies, Hi`ilei Aloha LLC and Ho`okele Pono LLC, with the following amendment to both Hi`ilei's and Hi`ipaka's operating agreements in article 4 section 4.03a to now read:

“acquire or lease any real or personal property from any Person, pursuant to the conflict of interest policy”.

AMENDMENT:

MEANS OF FINANCING:

TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEI	AHU ISA			X			
KALEI	AKAKA			X			
KELI'I	AKINA					X	
BRENDON KALEIAINA	LEE			X			
HULU	LINDSEY					X	
ROBERT	LINDSEY, JR.			X			
COLETTE	MACHADO			X			
Co-CHAIR JOHN	WAIHEE						Out
Co-CHAIR DAN	AHUNA			X			
TOTAL VOTE COUNT				6		2	1

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

DISCUSSION:

Committee on Resource ManagementTrustee John Waihe'e IV, *At-Large - Chair*Trustee Luana Alapa, *Moloka'i / Lāna'i - Vice Chair****Members***Trustee Dan Ahuna, *Kaua'i / Ni'ihau*Trustee Kaleihikina Akaka, *O'ahu*Trustee Keli'i Akina, *At-Large*Trustee Brickwood Galuteria, *At-Large*Trustee Carmen Hulu Lindsey, *Maui*Trustee J. Keoni Souza, *At-Large*Trustee Mililani Trask, *Hawai'i Island*

**STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS**

**MEETING OF THE
COMMITTEE ON RESOURCE MANAGEMENT (RM)**

DATE: Wednesday March 8, 2023**TIME:** 1:30 p.m.**PLACE:** Virtual Meeting

560 N. Nimitz Hwy., Honolulu, HI 96817

viewable at <https://www.oha.org/livestream> OR

Listen by phone: (213) 338-8477, Webinar ID: 879 9696 8172

This virtual meeting can be viewed and observed via livestream on OHA's website at www.oha.org/livestream or listened to by phone at: (213) 338-8477, Webinar ID: 879 9696 8172. A physical meeting location, open to members of the public who would like to provide oral testimony or view the virtual meeting, will be available at 560 N. Nimitz Hwy., Suite 200, Honolulu HI 96817. All members of the public that wish to access the physical meeting location must pass a wellness check and provide proof of full vaccination or a negative COVID-19 test taken within 72 hours of entry.

AGENDA

I. Call to Order**II. Approval of Minutes**

A. February 22, 2023

III. Unfinished Business - None**IV. New Business**

A. Action Item RM #23-04: Final Report of OHA's Governance Planning Operating Budget (2014), including the Role of Na'i Aupuni and Financial Accounting by Akamai Foundation (Fiscal Sponsor)

B. Action Item RM #23-05: Final Report of May 2019 Board Actions re: Limited Liability Companies

C. Presentation by Administration: OHA Responses to the DRAFT State Auditor Report Distributed on Thursday, February 16, 2023

D. Presentation by Administration: Fiscal Year 2023-2024 (FY24) and 2024-2025 (FY25) Biennium Budget Process and Timeline

V. Announcements**VI. Adjournment**

If you need an auxiliary aid/support or other accommodation due to a disability, please contact Everett Ohta at telephone number 594-1988 or by email to everetto@oha.org as soon as possible. Requests made as early as possible will allow adequate time to fulfill your request. Upon request, this notice is available in alternate formats such as large print, Braille, or electronic copy.

Meeting materials for this meeting will be available for the public to view 48 hours prior to this meeting at OHA's main office located at 560 N. Nimitz Hwy., Suite 200, Honolulu, HI 96817. Meeting materials will also be available to view at OHA's neighbor island offices and will be posted to OHA's website at: www.oha.org/rm.



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

March 6, 2023

Mr. Leslie H. Kondo, State Auditor
Office of the Auditor
State of Hawaii
Kekuanao'a Building
465 S. King Street, Room 500
Honolulu, Hawaii 96813-2917

VIA E-MAIL: lao.auditors@hawaii.gov

Re: DRAFT Report of the Audit of the Office of Hawaiian Affairs
Transmitted on February 16, 2023

Dear Mr. Kondo,

The Office of Hawaiian Affairs' ("OHA") Trustees and the Chief Executive Officer ("CEO") are pleased to respond to the DRAFT Report of the Audit of the Office of Hawaiian Affairs electronically transmitted on February 16, 2023. Because the OHA has had a change in Trustees since the initiation of the audit on July 21, 2021, we provide background and context for the Board of Trustees ("BOT"), the organization, beneficiaries and the general public, herein, prior to addressing the DRAFT report itself. We also would like to highlight a few operational initiatives that OHA has implemented following the audit period and the completion of your office's audit fieldwork mid-2022.

As noted in the State Auditor's ("SA") initial correspondence dated July 21, 2021 ("Initiation Letter"), the Office of the Auditor initiated the performance audit of the OHA pursuant to Section 10-14.55, Hawai'i Revised Statutes, which requires the auditor to conduct an audit of OHA at least once every four years, the last audit of OHA was performed in 2017. The Initiation Letter further detailed the intent to submit audit findings and recommendations in a report to the legislature no later than twenty days prior to the convening of the next regular legislative session (presumably 2022).

Background and Context

Figure 1 on the next page, summarizes the status of OHA audits and reviews conducted by the State Auditor (“SA”) every four and five years, respectively. Financial audit status information is included to comprehensively track audits and reviews of the OHA. Figure 1 is also attached as Attachment A to aid in readability of the table.

	1. Performance Audit 2013 State Auditor	2. Performance Audit 2017 State Auditor		3. Funds Review 2016 State Auditor	4. Performance Audit 2021 State Auditor	5. Funds Review 2021 State Auditor	6. Financial Audit 6/30/2021 N&K CPAs	7. Financial Audit 6/30/2022 N&K CPAs
State Auditor Report No.	13-07 (September 2013)	18-03 (Feb 2018)	18-08 June 2018)	16-10 (December 2016)	23-XX (March 2023)	22-02 (Feb 2022)	N/A	N/A
Primary Focus	Land planning and grant monitoring	Non-Competitive grants (Kulia Initiatives and CEO Sponsorship, Fiscal Reserves, Trustee Allowance	Policies and actions re: Competitive Grants	Special Funds, Revolving Funds, Trust Funds, Trust Accounts	Objectives (CY2019-2021): 1) Legacy Land Stewardship Contracts and Stewards; 2) Process to select potential commercial property acquisitions; and 3) Development of commercial properties, including planning of development	Special Funds, Revolving Funds, Trust Funds, Trust Accounts	17 years of “clean” or “unqualified” opinions from auditors (6/30/2004): Grant Thornton, LLP, PKF Pacific Hawaii LLP, KMH LLP and N&K, CPA’s Inc.	Projected to be 18 years of “clean” or “unqualified” opinions from auditors (6/30/2004): Grant Thornton, LLP, PKF Pacific Hawaii LLP, KMH LLP and N&K, CPA’s Inc.
Follow Up Report No.	18-08 (June 2018)	22-04 (March 2022)	21-10 (Aug 2021)	N/A	N/A	N/A	N/A	N/A
Status to Date	Published	Published	Published	Published	In Progress	Published	Approved via AI RM #22-04, March 22, 2022 Committee on Resource Management meeting including NHRLF Single Audit	Scheduled for the March 22, 2023, Committee on Resource Management, including NHRLF Single Audit

Figure 1: Summary of Audits and Reviews

With the aforementioned background and context, the OHA’s response to the DRAFT Report of the Audit of the Office of Hawaiian Affairs is organized in the following four sections:

- Section I - Timeline of Major Activities Related to the 2021 Performance Audit of the OHA;
- Section II – Draft Report Corrections and Clarifications;
- Section III – OHA Actions Post CY 2019-CY 2021 Audit Scope Period; and
- Section IV – OHA’s Responses to Recommendations in the DRAFT Report.

I. Timeline of Major Activities Related to the 2021 Performance Audit of the OHA

The following table describes dates and activities as experienced by the OHA:

Table 1: Timeline of Major Activities

Row	Date	Description
A	July 21, 2021	Initiation. Letter from the State Auditor initiating the performance audit pursuant to HRS §10-14.55, with the intention to submit audit findings and recommendations in a report to the legislature no later than twenty days period to the convening of the next regular legislative session.
Planning Phase – Approximately 5 months		
B	July 21, 2021 to December 22, 2021	Activities between the State Auditor’s assigned team members and OHA Administration during this time included: initial and follow up document requests and production; interviews with Administration staff; ¹ interviews with Trustees as coordinated directly with the SA and individual Trustees, site visits, information briefings ²
C	December 22, 2021	Letter from the State Auditor indicating completion of the planning phase, and development of the following audit objectives, as a result of interviews, site visits and review of provided documents, relating to OHA’s Resource Management – Land Division: <ul style="list-style-type: none"> 1. Describe OHA’s oversight and management of legacy land stewardship contracts and stewards (CY³2019-CY2021); 2. Describe OHA’s process to identify and select potential commercial property acquisitions (CY2019-CY2021); 3. Describe OHA’s development of commercial properties, including planning of development (CY2019-CY2021); and 4. Make recommendations as appropriate.
Fieldwork Phase – Approximately 6 months		

¹ CEO (Sylvia Hussey), COO (Casey Brown), CFO (Ramona Hinck), former Land Director (Kalani Fronda), Integrated Assets Manager (Lori Walker)

² Information briefings re: ceded lands inventory work by former Research staff member Zach Smith, and public land trust presentation by Everett Ohta, Corporate Counsel on August 16, 2021.

³ CY=Calendar Year

Row	Date	Description
D	January 2022 to April 2022	Continuation of SA and OHA fieldwork activities (e.g., document requests, interviews, document production, additional activities).
E	May 9, 2022 ⁴	Correspondence from OHA to SA Office re: 2021 Performance Audit (July 2021 – December 2021 Planning; January 2022 to present Fieldwork) document production.
F	May 13, 2022	Correspondence from SA Office to OHA re: 2021 Performance Audit (July 2021 – December 2021 Planning; January 2022 to present Fieldwork) response to May 9, 2022 letter.
G	May 30, 2022	Correspondence from OHA to SA Office re: 2021 Performance Audit of the Office of Hawaiian Affairs Correspondence, Dated May 13, 2022, including clarifications re: status of document production, including physical space at NLK, document existence, contextual documents and file naming conventions; fieldwork phase – due diligence, including confidential and confidential, attorney-client privileged documents discussed by the OHA Board in executive session; fieldwork phase – plans for development; and OHA administration multiple engagement.
H	June 2022	Interviews of OHA Administration staff
No contact from or interaction with SA and OHA from June 2022 to January 2023 – Approximately 7 months		
I	January 9, 2023	Letter from State Auditor’s Office notifying OHA of their intention to use the attached <i>Investment Memorandum: Iwilei Commercial Property Investment</i> to support the SA description of OHA’s acquisition of the N. Nimitz Highway and Iwilei Business Center properties (collectively Iwilei Properties), and asked OHA to confirm confidentiality status.
J	January 11, 2023	Response letter from OHA to SA Office, acknowledging the Investment Memorandum as attached is no longer considered confidential at this point.
K	January 30, 2023	Letter from the State Auditor’s office notifying OHA of the draft report undergoing their quality control review, and the expectation to provide “the draft report to you before the end

⁴ Note: The first ten days of the month of May 2022, both Plante Moran and SA engagement teams were and planned to be on site, respectively, at Na Lama Kukui at the same time.

Row	Date	Description
		of next week” ⁵ . The letter also requested an exit conference between February 15, 2023 and February 21, 2023 with comments from OHA on the draft, no later than February 23, 2023. ⁶
L	February 22, 2023	Confirmed via e-mail and at the Board Chair’s direction for Administration to meet with the State Auditor for the exit conference.
M	March 3, 2023	Administration held exit conference with the State Auditor at Nā Lama Kukui.

INTENTIONALLY LEFT BLANK

⁵ Note: The end of “next week” from the January 30, 2023 letter is no later than Friday, February 10, 2023, however, as noted, the report was emailed on Thursday, February 16, 2023, a week later.

⁶ Post correspondence with the SA and Chair and considering the rescheduled February 16th Board meeting, the exit conference with the SA and Board was tentatively set for Thursday, February 23, 2023 at 10:00 a.m. but deferred by the Board Chair.

II. Draft Report Corrections and Clarifications (Attachment B)

- A. **Organization of Attachment B.** Attachment B aggregates identified corrections and/or clarifications raised based on the review of the DRAFT report since its electronic issuance on February 16, 2023. The spreadsheet at Attachment B is organized with the following headers and was discussed in the Exit Conference on Friday, March 3, 2023:

1. Item	Line number for tracking purposes
2. Report Page #	Page number of the DRAFT Report for reference
3. Paragraph, Section, Area	Specific area of the DRAFT Report identified
4. DRAFT Report Statement, Label, Comment	AS IS statement, label or comment in the DRAFT Report
5. Correction or Clarification	Classification of the OHA Comment/Response
6. OHA Comment/Response	OHA's comment, response to the identified item needing correction and/or clarification

- B. **Detailed Items at Attachment B.** Attachment B, includes the following correction or clarification classification details:

- Page 4, paragraph 3, 1st sentence, correction:** "The Kaka'ako Makai acquisition....".
Kaka'ako Makai was not acquired, replace "acquisition" with "conveyance".
- Page 7, paragraph 2, 1st sentence, correction:** The IPS was originally adopted in May 2003, and last amended in August 2021; therefore, please insert, "...originally adopted in May 2003, and was last amended in...", so the sentence correctly reads, "OHA's Native Hawaiian Trust Fund Investment Policy Statement, adopted in May 2003, and last amended in August 2021,"
- Page 8, paragraph 2, 2nd sentence, clarification:** Please insert the following footnote: The Land Director that was part of the engagement, separated from the organization in July 2022.
- Page 8, last paragraph, correction:** There are several means (vs. no means as stated in the draft) by which the Trustees track the implementation of strategies, tactics and operational activities aligned with the strategic plan, these means include: 1) Implementation of Policy 3040 Planning, Programming, Budgeting System (PPBS), including Financial Planning; 2) Implementation of Policy 3045 Budget Management Policy, including Budget Management, Budget Evaluation, Biennium Budget Realignment and Adjustments and Multi-Year, Carryover; 3) Quarterly reports to the Trustees

by Administration, including financial statements, budget variances, grants active and closed, open purchase orders and contracts, recommendations and implementation and individual trustee protocol allowance. Bridging strategic actions and operational transactions are two additional newly developed key mechanisms for the Board to ensure the plan is being implemented and also whether strategies are working as intended: A) OHAs tactics and B) OHAs Strategic Report. The Strategic Report is designed to track and share both tactical progress (quarterly) and strategic progress (annually) and is intended to be a part of the FB 24-25 planning and budgeting activities.

5. **Page 9, Exhibit 1-OHA Organization Chart, corrections:** The recommended reference change to “July 2021” is because the Board of Trustees approved the OHA Biennium Budget for the Fiscal Biennium Periods 2021-2022 (FY 22) and 2022-2023 (FY 23) via Action Item RM #21-08A, June 30, 2021, which approved the FY22 (begins on 7/1/2021), FY23 budget reflecting the reorganized organization as illustrated in the organizations charts provided to the SA. Organization charts are labeled August 2021 to illustrate those were the organization charts as of the transmission date, if the SA office prefers to use “August 2021” vs. “July 2021” in the report, OHA can support that. Also, instead of counting the number of directors, OHA recommends that the section be restated as follows, knowing that the CEO, COO, CFO, General Counsel and HR Director comprise the Executive Leadership Team (ELT)--

Administration

An administrator---the chief executive officer (CEO) of the OHA---is appointed by the board and leads the OHA’s administration. The CEO is assisted by a chief operating officer (COO), chief financial officer (CFO), general counsel and human resources director. Administration’s management team include directors and managers of Advocacy, Communications, Community Engagement, Research, Land, Strategy Management, Technology Services and Operations functions.

6. **Page 9, Exhibit 1-OHA Organization Chart, clarification:** Commercial Property Program box is identified as “Scheduled for Outsourcing”. Please add footnote: “OHA plans to retain its commercial property asset management functions but outsource the support it requires for planning and development.”
7. **Page 11, paragraph 1, 3rd sentence, correction:** "A year later, OHA transferred title to the 1.875-acre property to Hi'ipaka LLC, a subsidiary of OHA, which now manages all activities in Waimea Valley." Hi'ipaka LLC is a subsidiary of Hi'ilei Aloha LLC, not OHA; please correct "OHA" with "Hiilei Page 13, last paragraph, clarification: Aloha LLC".
8. **Page 13, last paragraph, clarification:** "Additionally, OHA has the 5-acre Kūkaniloko site,"; on February 21, 2020, via Executive Order 4624, the Governor set aside 5.000 acres at the lands at Wahiawa, Oahu for the public purpose of preserving and maintaining the historic Kūkaniloko Birthstones Site.

9. **Page 15, side bar, Paragraph 2 under Prior Audits, correction:** "...as we conducted our 2022 audit.."; from the July 2021 Initiation Letter, last audit was 2017, replace "2022" with "2021".
10. **Page 17, Audit Objectives section, clarification:** While the order of the audit objectives is different from the July 21, 2021 Initiation Letter, please insert "(CY2019-CY2021)" at the end of audit objective 1, 2 and 3 for consistency.
11. **Page 20, last paragraph, last sentence and Page 59, last paragraph, correction:** "...and even deny OHA access to its own property." (20); "We report below that the steward denied OHA and our audit team access to the property,...." (59). OHA has not been denied access to its properties. The community recommended that no visitors should be allowed onto the most sacred area of the Wahiawa property, the actual birthstones. This is a culturally relevant practice and OHA agreed with the recommendation that no visitation by any group should occur at that time.
12. **Page 22, first paragraph, 2nd line, correction:** "..we reported that OHA had significantly expanded its real estate portfolio, acquiring about 30 acres in Kaka'ako Makai..."; OHA did not acquire the 30 acres in Kaka'ako Makai, replace "acquiring about" with "with the conveyed"
13. **Page 23, first line, clarification:** "In response to the report, the then-board Chairperson said...."; Please clarify who the "then-board Chairperson" is referencing. If the reference is to: a) former Board Chairperson, Colette Machado, please respectfully footnote, "then-board Chairperson" with "Died in May 2022"; or b) former Trustee Oswald Stender, then reference with "Died in February 2022". If the reference is to any Board Chairperson that is still alive, no edits recommended.
14. **Pages 26 and 27, sub-heading and references throughout, correction:** References to missing or blank policy pages for the Investment Policy; as noted in Note 2 above, the IPS was originally adopted in May 2003, and last amended in August 2021; therefore, please insert, "...originally adopted in May 2003, and was last amended in...", so the sentence correctly reads, "OHA's Native Hawaiian Trust Fund Investment Policy Statement, adopted in May 2003, and last amended in August 2021,", and provided to the State Auditor.
15. **Page 31, section header, "OHA administration..." and last paragraph, correction:** Insert "non-binding" in the: 1) section header: so it now reads, "OHA administration makes two non-binding offers..."; 2) after "\$40 million", so it now reads "...made a \$40 million non-binding offer..."; and 3) before "...offer to \$47 million" so it now reads, "...increased its non-binding offer to \$47 million..."
16. **Page 31, second paragraph, 4th sentence, correction:** "OHA finally did provide us with those executive session minutes--many of which were heavily redacted..."; The report fails to provide further context that Executive Session minutes were redacted of attorney-client privileged communications, which OHA has consistently limited its redactions to, but to which the Auditor's office continues to litigate.

17. Page 51, fourth paragraph, 1st sentence and 2nd sentence, clarification:

"The Chairperson identified two lots on Ala Moana Boulevard ...", "OHA is eyeing another four parcels for potential residential development...."; OHA never intended to put residential development on all of its makai parcels and only identified three lots - Lot I, E and F/G for residential development. OHA never intended to put residential development on all of its makai parcels and only identified three lots - Lot I, E and F/G for residential development.

18. Page 56, fourth paragraph, correction: "Throughout the three-year period of our audit (2019 through 2021), OHA's stewardship arrangement with the Waialua [Hawaiian] Civic Club was an oral, undocumented agreement."; The arrangement with Waialua Hawaiian Civic Club (WHCC) was not "throughout" the audit window period (2019-2021). WHCC's arrangement for the Courthouse existed under Hi'ipaka's sublease until Hi'ipaka terminated 03/2020; Courthouse closed during the pandemic until WHCC resumed operating from there in 2021.

19. Page 57, third paragraph, line 1, correction: "OHA's willingness to allow the steward..."; WHCC's arrangement for the Courthouse existed under Hi'ipaka's sublease until Hi'ipaka terminated 03/2020; Courthouse closed during the pandemic until WHCC resumed operating from there in 2021.

20. Page 62, Exhibit 6, correction: Waialua Courthouse (Waialua Civic Club of Hawai'i), Gap Period (Duration), Jan 2019 - Dec 2021 (36 mos);

21. The "gap period" for WHCC Certificates of Insurance (COI), incorrectly illustrated at Exhibit 6, is between Jan 2019 – Dec 2021, a total of 36 months. Hi'ipaka subleased the Waialua Courthouse between Jan 2019 – Mar 2020, therefore, WHCC was not required to have a COI with OHA for those 15 months. Thereafter, WHCC did not return to the courthouse until 2021, a verbal agreement resulted in a 12 month gap for the calendar year 2021. A correction footnote to explain the sublease arrangement and WHCC compliance with OHA COI requirements, and correctly identifying the "gap period" for the calendar year 2021 of 12 months vs. 36 months.

22. Page 62, Exhibit 6, correction: Pahua Heiau (Digital Moku), Gap Period (Duration), Jan 2019-Apr 2020 (16 mos), Jan 2021-Dec 2021 (7 mos) - 23 mos; Upon receipt of the DRAFT report and the Exhibit 6 representation of the "gap period" for Pahua Heiau, Certificates of Insurance (COI) were subsequently located and provided to the State Auditor on March 6, 2023 and included as Attachment B1 herein; therefore, there should be no "gap period" for this property and steward.

23. Pages 61, 62, last sentence of last paragraph, page 61, Exhibit 6, and last sentence of first paragraph, page 62, correction: "...the missing certificates of insurance were for a cumulative period of 77 months - almost 6.5 years."

Based on the corrections noted at Items 20 and 21 above, including related corrections to Exhibit 6, the elimination of 23 months for Digital Moku and 36 months for WHCC, would recompute the references to "77 months" to be "18 months" as identified in Exhibit 6 with Kukaniloko (Hawaiian Civic Club of Wahiawa).

24. **Page 63, fourth paragraph, first sentence, correction:** “Similarly, the steward constructed a rock wall...”; The donated boulders have not been moved since the approved and documented donation, and the steward did not construct a rock wall.
25. **Page 64, second paragraph, last sentence, correction:** "The problem appears to stem partly from lax or negligent enforcement of stewardship agreement terms and partly from the program's standard operating procedures, which do not assign responsibility with sufficient clarity for timely initiating and renewing of the agreements..."; The Legacy Lands Program (LLP) Standard Operating Procedures (SOP) Section 8.7 identifies the Team Members involved in Contract and Budget Tracking to include the LLP Specialists and LLP Manager. Subsection 8.7.3.2. further details the process for tracking Active Contracts and POs through the team Contract and Budget Tracking excel spreadsheet and the Active Contracts and POs tab therein: "All LLP Specialists should check this tab at least monthly to make sure all contract and PO[s] do not expire prematurely."
26. **Page 67, second paragraph, clarification:** The report indicated, "We are unfamiliar with this special committee and its work..." Trustee Akina provided the following for clarification, the special committee was a Permitted Interaction Group (PIG) formed in 2021. Trustee Akina refers you to OHA's Board of Trustees Meeting on January 28, 2021 at the following link: Board of Trustees (BOT) Meetings - The Office of Hawaiian Affairs (OHA). Please see the meeting agenda and meeting folder (012821-BOT-Electronic-Folder.pdf (oha.org)) which includes "Action Item BOT #21-01: Approve the Formation of a Permitted Interaction Group to Investigate the Development of Land and Commercial Property Policies and Strategies relating to the development of OHA's Nā Kukui and Kaka'ako Makai properties." The Permitted Interaction Group (PIG) was formed to investigate the activation of Kaka'ako Makai Site E, 919 Ala Moana Blvd. The PIG members included Trustee Hulu Lindsey, Trustee Isa, Trustee Waihee IV, and Trustee Akaka. One of the PIG's conclusions was that Lot E is the second of two lots identified for activation. The PIG's conclusion was to "pursue an activation strategy requiring minimum investment and relying on existing permitted uses for Kaka'ako Site E, 919 Ala Moana Blvd."

III. OHA Actions Post CY 2019-CY 2021 Audit Scope Period

A. **Board of Trustees.** The Board of Trustees, through a series of land and commercial property (“LCP”) permitted interaction groups, subsequent reports and operational budgetary actions, moved the work of Ka‘kaako Makai, intentionally and incrementally, and the following action item references are provided:

1. **LCP #1 – Formation, Action Item BOT #21-01⁷:** Approve the Formation of a Permitted Interaction Group to Investigate the Development of Land and Commercial Property Policies and Strategies relating to the Development of OHA’s Nā Lama Kukui and Kaka‘ako Makai Properties, January 28, 2021;
2. **LCP #1 – Report, Action Item BOT #21-03:** Accept the Report of the Land and Commercial Property Permitted Interaction Group, April 15, 2021;
3. **LCP #2 – Formation, Action Item BOT #21-05:** Approve the Formation of a Permitted Interaction Group to Investigate: and Recommend a Short List of Eligible Entities for Selection of a Development Consultant; Land and Commercial Property Policies; and the Development and Implementation of a Request for Proposal for a Community Planner, April 15, 2021;
4. **LCP #2 – Report, Action Item BOT #21-07:** Accept the Report of the Permitted Interaction Group re: to Investigate and Recommend a Short List of Eligible Entities for Selection of a Development Consultant; Land and Commercial Property Policies; and the Development and Implementation of a Request for Proposal for a Community Planner, June 24, 2021;
5. **LCP #3 – Formation, Action Item BOT #21-14:** Approve the Formation of a Permitted Interaction Group to Investigate the Initial Steps in the First Phase of Work for the Development of Kaka‘ako Makai, October 26, 2021;
6. **LCP #3 – Report, Action Item BOT #21-15⁸:** Accept and Implement the Report of the Permitted Interaction Group re: to Investigate the Initial Steps in the First Phase of Work for the Development of Kaka‘ako Makai, November 4, 2021;
7. **LCP #4 – Formation, Action Item BOT #22-01:** Approve the Formation of a Permitted Interaction Group to Investigate the Activation of Kaka‘ako Makai Site A, January 13, 2022;

⁷ The scope of the work included the following: (1) Development, alignment, and updates related to land and commercial property policies and strategies relating to the development of OHA’s Nā Lama Kukui and Kaka‘ako Makai; (2) Implications of other fiscal policies’ impact on land and commercial properties (e.g., investment, spending) relating to the development of OHA’s Nā Lama Kukui and Kaka‘ako Makai properties.

⁸ The report recommended that policy work efforts be delegated to the Administration.

8. **LCP #4 – Report, Action Item BOT #22-02:** Accept and Implement the Report of the Permitted Interaction Group to Investigate the Activation of Kaka’ako Makai Site A, 1101 Ala Moana Blvd, February 10, 2022;
9. **LCP #5 – Formation, Action Item BOT#22-04:** Approve the Formation of a Permitted Interaction Group re: to investigate Activation of Kaka’ako Makai Site E, March 10, 2022;
10. **LCP #5 – Report, Action Item BOT #22-14:** Accept and Implement the Report of the Permitted Interaction Group to Investigate the Activation of Kaka’ako Makai Site E, 919 Ala Moana Blvd, August 18, 2022;
11. **LCP #6 – Formation Action Item BOT#22-16:** Approve the formation of a Permitted Interaction Group re: to investigate a Master Plan of Kaka’ako Makai, September 15, 2022; and
12. **LCP #6 – Report Action Item BOT#22-18:** Accept and Implement the Report of the Permitted Interaction Group to Investigate a Master Plan of Kaka’ako Makai, October 27, 2022.

B. **Administration.** The OHA calls to the SA’s attention, the following activities, that occurred post the audit scope period:

1. **Page 12, paragraph 3, last sentence:**

From the DRAFT Report: "Management of these commercial properties is under contract with private companies - CBRE, Inc., and Colliers International..."

OHA’s Comment to the DRAFT Report: Currently, management of both these commercial properties is under contract with Colliers International.

2. **Page 18, Finding 2**

From the DRAFT Report: “Since receiving Kaka'ako Makai OHA is no closer to actually developing the property....”

OHA’s Comment to the DRAFT Report: Since agreeing to receive these lands in lieu of cash in 2012, OHA's Trustees have been focused on ensuring the Hakuone lands are developed to its fullest potential. The difference between full potential and as-is potential is significant. So much so that it could be argued that it’s a mistake to not spend the time fighting for the rights to unlock the full potential of Hakuone. Moreover, OHA has performed its greatest amount of due diligence in 2022 and also explored master plan scenarios in late 2022. The results will give Trustees a clearer path forward to further their planning and begin to execute development. OHA is absolutely closer to development than it was 10 years ago.

3. Pages 26-28:

From the DRAFT Report: Executive Policy Manual out of date and policies tracked via spreadsheet.

OHA's Comment to the DRAFT Report: Updated EPM with consolidation of previously adopted policies of the BOT was published January 2023.

4. Page 52, paragraph 2, 1st sentence:

From the DRAFT Report: "Despite the effort and expense, OHA has yet to adopt a conceptual master plan that would allow it to begin"...

OHA's Comment to the DRAFT Report: As noted on page 48, the State Auditor uses data relevant information data subsequent to the audit period, e.g., a November 30, 2022, Civil Beat article to emphasize OHA's spend on development (Footnote 7). OHA completed a draft master plan at the end of 2022.

INTENTIONALLY LEFT BLANK

III. OHA's Responses to Recommendations in the DRAFT Report

A. State Auditor Recommendations - OHA's Board of Trustees should:

1. Develop and adopt policies that align with OHA's strategic plan to guide OHA's decisions relating to real property that include:
 - a. Goals and objectives of OHA's ownership or control of real estate, generally.
 - b. Goals and objectives of each type or classification of real estate defined by OHA (i.e., for legacy lands, corporate real estate, programmatic lands, and investment properties).
 - c. The allocation of each type or classification of real estate (i.e., legacy lands, corporate real estate, programmatic lands, and investment properties) in relation to OHA's overall real estate portfolio.
 - d. Criteria relating to acquisition for each type or classification of real property, which should include, for example, location (e.g., local, national, international) and other restrictions (e.g., no golf courses).
 - e. Criteria relating to use of each type or classification of real property.
 - f. Criteria relating to the return on investment, as applicable, for each type or classification of real property.
 - g. Criteria relating to disposition of each type or classification of real property.
 - h. Criteria relating to development of each type or classification of real property (for those types or classifications of real property whose OHA's goals and objectives include development).
 - i. Criteria relating to the funding of real property acquisitions.
2. Develop and continually update OHA's strategic plan to include an account of OHA's program and administrative structure as required by Section 10-6(a)(1), HRS.
3. Develop and adopt a conceptual master plan for OHA's Kaka'ako Makai lands.
4. Develop and adopt long-range and short-range plans for OHA's 500 N. Nimitz Highway property.
5. Develop and adopt long-range and short-range plans for OHA's Iwilei Business Center apartments.

B. OHA Responses to Board of Trustees' Recommendations from the DRAFT Audit Report

With the 2019 Board Governance and 2021 Policy Frameworks established, policy recommendations, including those in the DRAFT report by the SA, are a part of the Board's continuing implementation work, and scheduled to be specifically addressed in the coming calendar year, see below for further context.

1. Board Governance Framework

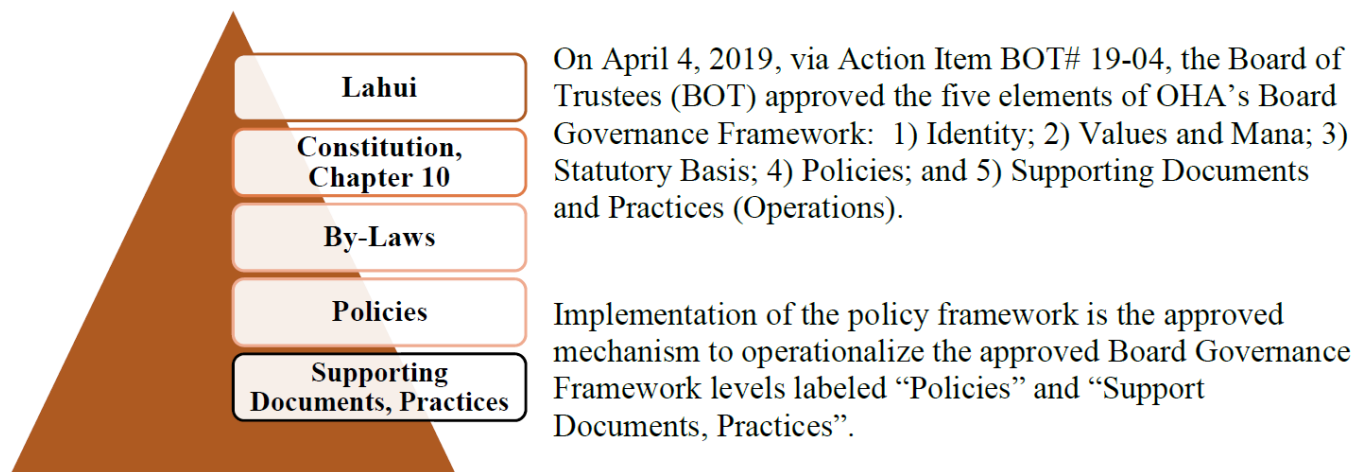


Figure 2: Executive Policy

2. OHA Policy Framework

On December 9, 2021 (1st reading), then December 29, 2021 (2nd reading), via Action Item BOT #21-18, *Approve and Implement the OHA Policy Framework*, the Board: A) Approved the OHA Policy Framework, based on the approved Board Governance Framework, with the following components: 1) L-Lāhui Level policies; 2) T-Trustee Level policies; 3) C-CEO Level policies; 4) Inventory of Policies; 5) Business Processes (listed within each policy); 6) Standard Operating Procedures for each business process; and 7) Systems, documentation, desktop procedures, manuals as depicted at Attachment A⁹; and Approved the policy guidelines as contained in the newly drafted Policy of Policies at Attachment B¹⁰.

INTENTIONALLY LEFT BLANK

⁹ Attachment A referenced in the Action Item is Attachment C of this letter.

¹⁰ Attachment B referenced in the Action Item is Attachment D of this letter.

C. State Auditor Recommendations - OHA's Administration should:

1. Develop documented procedures to implement board approved policies relating to real property.
2. Prohibit stewards from using lands owned or controlled by OHA without a valid agreement.
3. Require all agreements with stewards using lands owned or controlled by OHA to be in writing, with all terms and conditions contained in the agreement.
4. Require stewards to comply with all terms and conditions of agreements.
5. Review and assess stewards' use of the land and compliance with the agreement at the end of each term.
6. Develop criteria to determine whether to enter into an agreement, including renewing or extending an agreement, with the steward relating to property owned or controlled by OHA.
7. Develop written procedures that assign and describe the responsibilities of OHA managers and staff relating to the oversight of the stewards and management of the agreements with those stewards for use of those lands owned or controlled by OHA. The purpose of the procedures should be to, among other things, monitor stewards' compliance with the terms and conditions of the agreements, including the use of the property, as well as to ensure stewards do not use lands owned or controlled by OHA without a valid agreement.
8. Develop written procedures to address non-compliance with the terms and conditions of agreements.
9. Develop written procedures or other internal controls that allow and require regular review by a supervisor or other management personnel of assigned staff's oversight of the stewards and management of the agreements to ensure that assigned staff are performing their responsibilities as management intended.
10. Develop written procedures to ensure that copies of Board of Trustees' policies and other OHA procedures maintained by trustees, administration, and other staff are current, up-to-date, and complete (i.e., all approved amendments and other revisions compiled in one document).

INTENTIONALLY LEFT BLANK

D. OHA Responses to Administration Recommendations from the DRAFT Audit Report

1. Executive Policy Manual

The Executive Policy Manual (“EPM”), as depicted at right, was aggregated and published by the Board of Trustees. Policy changes, subsequent to the last EPM publication of February 2012, were tracked via action items by Corporate Counsel (“CC”). CC has since incorporated all EPM impacted policy changes into one new EPM document published at the end of January 2023, with Administration distributing it to the Board shortly thereafter.

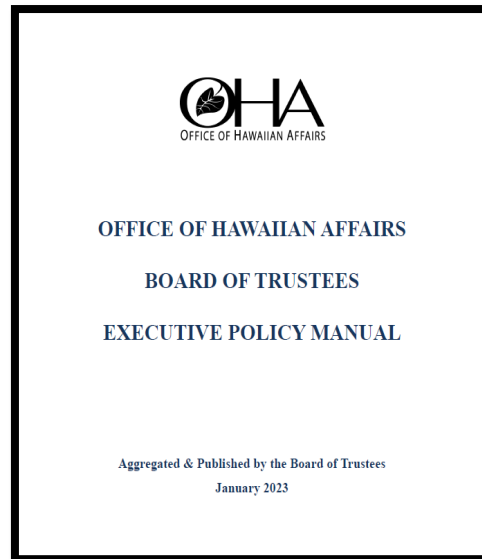


Figure 3: Executive Policy Manual

As the Board Policy Framework was approved in December 2021, and the issuance of the aggregated and updated EPM, continuing policy work include mapping, cross-walking and migrating policies and/or policy language from the EPM to the approved Policy Framework, eventually sunsetting the EPM document itself, creating and populating a new electronic policy framework location, accessible to internal and external stakeholders.

2. OHA Responses to Administration Recommendations in the DRAFT Report

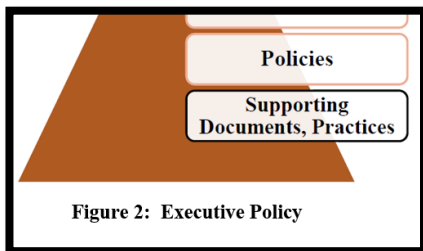


Figure 2: Executive Policy

year.

- b. **Business Processes, Procedures.** As noted earlier in Figure 2, provided as Attachment C, Policy Framework and illustrated at right in Figure 4, are a part of the Administration’s continuing implementation work, and scheduled to complement the related policy work.

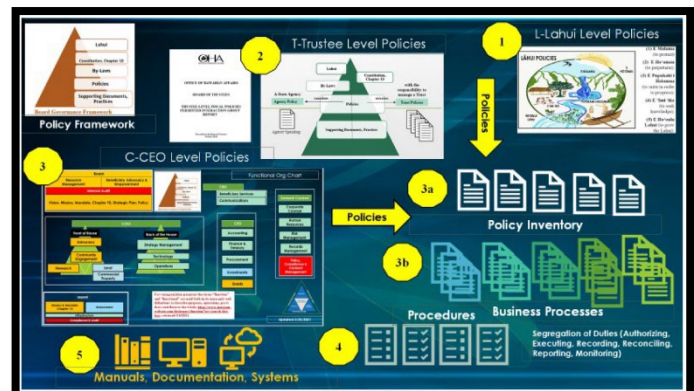


Figure 4: Policy Framework Depiction #2

Mr. Leslie Kondo

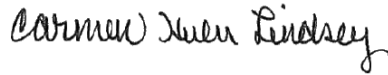
DRAFT Report of the Audit of the Office of Hawaiian Affairs Transmitted on February 16, 2023

March 6, 2023

Page 18

If there are any questions or desire to discuss these matters further, please do not hesitate to contact Dr. Hussey via e-mail at sylviah@oha.org or telephone at 808-594-1973.

O māua me ka ha'aha'a,



Carmen Hulu Lindsey
Chair, Board of Trustees



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

Attachments

A – Figure 1 – Summary of Audits and Reviews

B – Table of Corrections-Clarifications

B1 – Digital Moku COIs

C – Policy Framework

D – Policy Guidelines, Policy of Policies

cc: Board of Trustees, Office of Hawaiian Affairs

	1. Performance Audit 2013 State Auditor	2. Performance Audit 2017 State Auditor		3. Funds Review 2016 State Auditor	4. Performance Audit 2021 State Auditor	5. Funds Review 2021 State Auditor	6. Financial Audit 6/30/2021 N&K CPAs	7. Financial Audit 6/30/2022 N&K CPAs
State Auditor Report No.	13-07 (September 2013)	18-03 (Feb 2018)	18-08 June 2018)	16-10 (December 2016)	TBD 23-XX (February 2023)	22-02 (Feb 2022)	N/A	N/A
Primary Focus	Land planning and grant monitoring	Non-Competitive grants (Kulia Initiatives and CEO Sponsorship, Fiscal Reserves, Trustee Allowance	Policies and actions re: Competitive Grants	Special Funds, Revolving Funds, Trust Funds, Trust Accounts	Objectives (CY2019-2021): 1) Legacy Land Stewardship Contracts and Stewards; 2) Process to select potential commercial property acquisitions; and 3) Development of commercial properties, including planning of development	Special Funds, Revolving Funds, Trust Funds, Trust Accounts	17 years of “clean” or “unqualified” opinions from auditors (6/30/2004): Grant Thorton, LLP, PKF Pacific Hawaii LLP, KMH LLP and N&K, CPA’s Inc.	18 years of “clean” or “unqualified” opinions from auditors (6/30/2004): Grant Thorton, LLP, PKF Pacific Hawaii LLP, KMH LLP and N&K, CPA’s Inc.
Follow Up Report No.	18-08 (June 2018)	22-04 (March 2022)	21-10 (Aug 2021)	N/A	N/A	N/A	N/A	N/A
Status to Date	Published	Published	Published	Published	In Progress	Published	Approved via AI RM #22-04, March 22, 2022 Committee on Resource Management	Preliminarily Scheduled for the March 22, 2023, Committee on Resource

Attachment B

DRAFT Report of the Audit of the Office of Hawaiian Affairs Received Electronically on February 16, 2023

Identified Corrections and/or Clarifications

Item	Report Page #	Paragraph, Section, Area	DRAFT Report Statement, Label, Comment	Correction or Clarification	OHA Comment/Response
1	4	Paragraph 3, 1st sentence	"The Kaka'ako Makai acquisition...."	Correction	Kaka'ako Makai was not acquired, replace "acquisition" with "conveyance".
2	7	Paragraph 2, 1st sentence	"OHA's Native Hawaiian Investment Policy Statement, adopted in August 2021..."	Correction	The IPS was originally adopted in May 2003, and last amended in August 2021; therefore, please insert, "...originally adopted in May 2003, and was last amended in ...", so the sentence correctly reads, "OHA's Native Hawaiian Trust Fund Investment Policy Statement, adopted in May 2003, and last amended in August 2021,"
3	8	Paragraph 2, 2nd sentence	"....but the Director of the Land Division (Land Director)...."	Clarification	Please insert the following footnote: The Land Director that was part of the engagement, separated from the organization in July 2022.
4	8	Last Paragraph	"...the trustees have no means to ensure that the administration's implementation of the broad..."	Correction	There are several means (vs. no means as stated in the draft) by which the Trustees track the implementation of strategies, tactics and operational activities aligned with the strategic plan, these means include: 1) Implementation of Policy 3040 Planning, Programming, Budgeting System (PPBS), including Financial Planning; 2) Implementation of Policy 3045 Budget Management Policy, including Budget Management, Budget Evaluation, Biennium Budget Realignment and Adjustments and Multi-Year, Carryover; 3) Quarterly reports to the Trustees by Administration, including financial statements, budget variances, grants active and closed, open purchase orders and contracts, recommendations and implementation and individual trustee protocol allowance. Bridging strategic actions and operational transactions are two additional newly developed key mechanisms for the Board to ensure the plan is being implemented and also whether strategies are working as intended: A) OHAs tactics and B) OHAs Strategic Report. The Strategic Report is designed to track and share both tactical progress (quarterly) and strategic progress (annually) and is intended to be a part of the FB 24-25 planning and budgeting activities.
5	9	Exhibit 1: Office of Hawaiian Affairs Organization Chart	"As of January 2021"; "An administrator--the chief executive officer (CEO) of OHA--is appointed by the board and leads OHA's administration. The CEO is assisted by a chief operating officer (COO), a chief financial officer (CFO), a chief advocate and the directors of six divisions: (1) Land; (2) Research; (3) Communications; (4) Community Engagement; (5) Strategy Management; and (6) Human Resources."	Correction	The recommended reference change to "July 2021" is because the Board of Trustees approved the OHA Biennium Budget for the Fiscal Biennium Periods 2021-2022 (FY 22) and 2022-2023 (FY 23) via Action Item RM #21-08A, June 30, 2021, which approved the FY22 (begins on 7/1/2021), FY23 budget reflecting the reorganized organization as illustrated in the organizations charts provided to the SA. Organization charts are labeled August 2021 to illustrate those were the organization charts as of the transmission date, if the SA office prefers to use "August 2021" vs. "July 2021" in the report, OHA can support that. Also, instead of counting the number of directors, OHA recommends that the section be restated as follows, knowing that the CEO, COO, CFO, General Counsel and HR Director comprise the Executive Leadership Team (ELT)-- <i>Administration</i> <i>An administrator---the chief executive officer (CEO) of the OHA---is appointed by the board and leads the OHA's administration. The CEO is assisted by a chief operating officer (COO), chief financial officer (CFO), general counsel and human resources director. Administration's management team include directors and managers of Advocacy, Communications, Community Engagement, Research, Land, Strategy Management, Technology Services and Operations functions.</i>
6	9	Exhibit 1: Office of Hawaiian Affairs Organization Chart	Commercial Property Program box is identified as "Scheduled for Outsourcing"	Clarification	Please add footnote: "OHA plans to retain its commercial property asset management functions but outsource the support it requires for planning and development."
7	11	Paragraph 1, 3rd Sentence	"A year later, OHA transferred title to the 1.875-acre property to Hi'ipaka LLC, a subsidiary of OHA, which now manages all activities in Waimea Valley."	Correction	Hi'ipaka LLC is a subsidiary of Hi'ilei Aloha LLC, not OHA; please correct "OHA" with "Hiilei Aloha LLC".
8	13	Last Paragraph	"Additionally, OHA has the 5-acre Kukaniloko site,"	Clarification	On February 21, 2020, via Executive Order 4624, the Governor set aside 5,000 acres at the lands at Wahiawa, Oahu for the public purpose of preserving and maintaining the historic Kūkaniloko Birthstones Site.
9	15	Side bar, Paragraph 2 under Prior Audis	"...as we conducted our 2022 audit"	Correction	From the July 2021 Initiation Letter, last audit was 2017, replace "2022" with "2021".
10	17	Audit Objectives		Clarification	From the July 2021 Initiation Letter, insert "(CY2019-CY2021)" at the end of audit objective 1, 2 and 3 for consistency.
11	20, 59	Last paragraph, last sentence; also p.59, last paragraph	"...and even deny OHA access to its own property." (20); "We report below that the steward denied OHA and our audit team access to the property,....." (59)	Correction	OHA has not been denied access to its properties. The community recommended that no visitors should be allowed onto the most sacred area of the Wahiawa property, the actual birthstones. This is a culturally relevant practice and OHA agreed with the recommendation that no visitation by any group should occur at that time.
12	22	First paragraph, 2nd line	".we reported that OHA had significantly expanded its real estate portfolio, acquiring about 30 acres in Kaka'ako Makai..."	Correction	OHA did not acquire the 30 acres in Kaka'ako Makai, replace "acquiring about" with "with the conveyed"
13	23	First line	"In response to the report, the then-board Chairperson said...."	Clarification	Please clarify who the "then-board Chairperson" is referencing. If the reference is to: a) former Board Chairperson, Colette Machado, please respectfully footnote, "then-board Chairperson" with "Died in May 2022"; or b) former Trustee Oswald Stender, then reference with "Died in February 2022". If the reference is to any Board Chairperson that is still alive, no edits recommended.
14	26, 27	subheading and multiple references	Investment Policy found to be missing	Correction	As noted in Note 2 above, the IPS was originally adopted in May 2003, and last amended in August 2021; therefore, please insert, "...originally adopted in May 2003, and was last amended in ...", so the sentence correctly reads, "OHA's Native Hawaiian Trust Fund Investment Policy Statement, adopted in May 2003, and last amended in August 2021,", and provided to the State Auditor.
15	31	last par.	no indication of "non-binding" descriptor	Correction	Insert "non-binding" in the: 1) section header: so it now reads, "OHA administration makes two non-binding offers..."; 2) after "\$40 million", so it now reads "...made a \$40 million non-binding offer...."; and 3) before "...offer to \$47 million" so it now reads, "...increased its non-binding offer to \$47 million..."

Attachment B
DRAFT Report of the Audit of the Office of Hawaiian Affairs Received Electronically on February 16, 2023
Identified Corrections and/or Clarifications

Item	Report Page #	Paragraph, Section, Area	DRAFT Report Statement, Label, Comment	Correction or Clarification	OHA Comment/Response
16	31	Paragraph 2, 4th sentence	"OHA finally did provide us with those executive session minutes--many of which were heavily redacted..."	Correction	The report fails to provide further context that Executive Session minutes were redacted of attorney-client privileged communications, which OHA has consistently limited its redactions to, but to which the Auditor's office continues to litigate
17	51	Paragraph 4, 1st sentence and 2nd sentence	"The Chairperson identified two lots on Ala Moana Boulevard ...", "OHA is eyeing another four parcels for potential residential development...."	Clarification	OHA never intended to put residential development on all of it's makai parcels and ultimately identified three lots - Lot I, E and F/G for residential development as part of its 2023 legislative actions.
18	56	Paragraph 4	"Throughout the three-year period of our audit (2019 through 2021), OHA's stewardship arrangement with the Waialua [Hawaiian] Civic Club was an oral, undocumented agreement."	Correction	The arrangement with Waialua Hawaiian Civic Club (WHCC) was not "throughout" the audit window period (2019-2021). WHCC's arrangement for the Courthouse existed under Hi'ipaka's sublease until Hi'ipaka terminated 03/2020; Courthouse closed during the pandemic until WHCC resumed operating from there in 2021.
19	57	Paragraph 3, 1st sentence	"OHA's willingness to allow the steward..."	Correction	WHCC's arrangement for the Courthouse existed under Hi'ipaka's sublease until Hi'ipaka terminated 03/2020; Courthouse closed during the pandemic until WHCC resumed operating from there in 2021.
20	62	Exhibit 6	Waialua Courthouse (Waialua Cive Club of Hawai'i), Gap Period (Duration), Jan 2019 - Dec 2021 (36 mos)	Correction	The "gap period" for WHCC Certificates of Insurance (COI), incorrectly illustrated at Exhibit 6, is between Jan 2019 – Dec 2021, a total of 36 months. Hi'ipaka subleased the Waialua Courthouse between Jan 2019 – Mar 2020, therefore, WHCC was not required to have a COI with OHA for those 15 months. Thereafter, WHCC did not return to the courthouse until 2021, a verbal agreement resulted in a 12 month gap for the calendar year 2021. A correction foonote to explain the sublease arrangement and WHCC compliance with OHA COI requirements, and correctly identifying the “gap period” for the calendar year 2021 of 12 months vs. 36 months.
21	62	Exhibit 6	Pahua Heiau (Digital Moku), Gap Period (Duration), Jan 2019-Apr 2020 (16 mos), Jan 2021-Dec 2021 (7 mos) - 23 mos	Correction	Upon receipt of the DRAFT report and the Exhibit 6 representation of the "gap period" for Pahua Heiau, Certificates of Insurance (COI) were subsequently located and provided to the State Auditor on March 6, 2023 and included as Attachment B1 herein; therefore, there should be no “gap period” for this property and steward.
22	61, 62	last sentence of last paragraph, page 61; Exhibit 6; and last sentence of first paragraph, page 62	"...the missing certificates of insurance were for a cumulative period of 77 months - almost 6.5 years."	Correction	Based on the corrections noted at Items 20 and 21 above, including related corrections to Exhibit 6, the elimination of 23 months for Digital Moku and 24 months for WHCC, would recompute the references from "77 months" to be "30 months".
23	63	Paragraph 4, 1st sentence	"Similarly, the steward constructed a rock wall...."	Correction	The donated boulders have not been moved since the approved and documented donation, and the steward did not construct a rock wall.
24	65	Paragraph 2, last sentence	"The problem appears to stem partly from lax or negligent enforcement of stewardship agreement terms and partly from the program's standard operating procedures, which do not assign responsibility with sufficient clarity for timely initiating and renewing of the agreements..."	Correction	The Legacy Lands Program (LLP) Standard Operating Procedures (SOP) Section 8.7 identifies the Team Members involved in Contract and Budget Tracking to include the LLP Specialists and LLP Manager. Subsection 8.7.3.2. further details the process for tracking Active Contracts and POs through the team Contract and Budget Tracking excel spreadsheet and the Active Contracts and POs tab therein: "All LLP Specialists should check this tab at least monthly to make sure all contract and PO[s] do not expire prematurely."
25	67	Paragraph 2	"We are unfamiliar with this special committee and its work,..."	Clarification	Trustee Akina provided the following for clarification, the special committee was a Permitted Interaction Group (PIG) formed in 2021. Trustee Akina refers you to OHA’s Board of Trustees Meeting on January 28, 2021 at the following link: Board of Trustees (BOT) Meetings - The Office of Hawaiian Affairs (OHA). Please see the meeting agenda and meeting folder (012821-BOT-Electronic-Folder.pdf (oha.org)) which includes “Action Item BOT #21-01: Approve the Formation of a Permitted Interaction Group to Investigate the Development of Land and Commercial Property Policies and Strategies relating to the development of OHA’s Nā Kukui and Kaka’ako Makai properties.” The Permitted Interaction Group (PIG) was formed to investigate the activation of Kaka’ako Makai Site E, 919 Ala Moana Blvd. The PIG members included Trustee Hulu Lindsey, Trustee Isa, Trustee Waihee IV, and Trustee Akaka. One of the PIG’s conclusions was that Lot E is the second of two lots identified for activation. The PIG’s conclusion was to “pursue an activation strategy requiring minimum investment and relying on existing permitted uses for Kaka’ako Site E, 919 Ala Moana Blvd.”



CERTIFICATE OF LIABILITY INSURANCE

 DATE (MM/DD/YYYY)
 05/31/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER JHC Services, Inc dba John H. Connors Insurance 500 Ala Moana Blvd 2-303 Honolulu, HI 96813	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2">CONTACT NAME: Clare Pili</td> </tr> <tr> <td>PHONE (A/C, No, Ext): 808-534-7333</td> <td>FAX (A/C, No): 808-521-5995</td> </tr> <tr> <td colspan="2">E-MAIL ADDRESS: cpili@connorshawaii.com</td> </tr> <tr> <td colspan="2" style="text-align: center;">INSURER(S) AFFORDING COVERAGE</td> </tr> <tr> <td>INSURER A: Mount Vernon Fire Insurance Co</td> <td>NAIC # 26522</td> </tr> <tr> <td colspan="2">INSURER B:</td> </tr> <tr> <td colspan="2">INSURER C:</td> </tr> <tr> <td colspan="2">INSURER D:</td> </tr> <tr> <td colspan="2">INSURER E:</td> </tr> <tr> <td colspan="2">INSURER F:</td> </tr> </table>	CONTACT NAME: Clare Pili		PHONE (A/C, No, Ext): 808-534-7333	FAX (A/C, No): 808-521-5995	E-MAIL ADDRESS: cpili@connorshawaii.com		INSURER(S) AFFORDING COVERAGE		INSURER A: Mount Vernon Fire Insurance Co	NAIC # 26522	INSURER B:		INSURER C:		INSURER D:		INSURER E:		INSURER F:	
CONTACT NAME: Clare Pili																					
PHONE (A/C, No, Ext): 808-534-7333	FAX (A/C, No): 808-521-5995																				
E-MAIL ADDRESS: cpili@connorshawaii.com																					
INSURER(S) AFFORDING COVERAGE																					
INSURER A: Mount Vernon Fire Insurance Co	NAIC # 26522																				
INSURER B:																					
INSURER C:																					
INSURER D:																					
INSURER E:																					
INSURER F:																					
INSURED Ann Marie Kirk dba Digital Moku 7104 Pili Place Honolulu HI 96825																					

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOG OTHER:			CL 2731171	5/29/18	5/29/19	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ Excluded GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ Excluded \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
				<small>* This insurance contract is issued by an insurer which is not licensed by the State of Hawaii and is not subject to its regulation or examination. If the insurer is found insolvent, claims under this contract are not covered by any guaranty fund of the State of Hawaii.</small>			

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Pahua Heiau

OHA's employees and trustees, representatives and agents are named as an additional insured to the extent set forth in the policy provisions. The General Liability policy is primary and any insurance afforded by the additional insured shall be deemed excess and non-contributory.

CERTIFICATE HOLDER

CANCELLATION

Office of Hawaiian Affairs 560 North Nimitz Hwy Honolulu HI 96817	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE President
-------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

© 1988-2015 ACORD CORPORATION. All rights reserved.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

06/06/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER JHC Services, Inc dba John H. Connors Insurance 500 Ala Moana Blvd 2-303 Honolulu, HI 96813	CONTACT NAME: Clare Saffery PHONE (A/C, No, Ext): 808-534-7333 FAX (A/C, No): 808-521-5995 E-MAIL ADDRESS: csaffery@connorshawaii.com <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: left;">INSURER(S) AFFORDING COVERAGE</th> <th style="text-align: left;">NAIC #</th> </tr> <tr> <td>INSURER A: Mount Vernon Fire Insurance Co</td> <td>26522</td> </tr> <tr> <td>INSURER B:</td> <td></td> </tr> <tr> <td>INSURER C:</td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Mount Vernon Fire Insurance Co	26522	INSURER B:		INSURER C:		INSURER D:		INSURER E:		INSURER F:	
INSURER(S) AFFORDING COVERAGE	NAIC #														
INSURER A: Mount Vernon Fire Insurance Co	26522														
INSURER B:															
INSURER C:															
INSURER D:															
INSURER E:															
INSURER F:															
INSURED Ann Marie Kirk dba Digital Moku 7104 Pilaa Place Honolulu HI 96825															

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> CLAIMS-MADE </div> <div> <input checked="" type="checkbox"/> OCCUR </div> </div> GEN'L AGGREGATE LIMIT APPLIES PER: <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> POLICY </div> <div> <input type="checkbox"/> PRO-JECT </div> <div> <input type="checkbox"/> LOC </div> </div> OTHER:			CL2731171A	5/29/19	5/29/20	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ Excluded GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ Excluded \$
	AUTOMOBILE LIABILITY <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY </div> <div> <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY </div> </div>						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED \$ RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y/N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below			N/A			PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
	<small>* This insurance contract is issued by an insurer which is not licensed by the State of Hawaii and is not subject to its regulation or examination. If the insurer is found insolvent, claims under this contract are not covered by any guaranty fund of the State of Hawaii.*</small>						

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Pahua Heiau

OHA's employees and trustees, representatives and agents are named as an additional insured to the extent set forth in the policy provisions. The General Liability policy is primary and any insurance afforded by the additional insured shall be deemed excess and non-contributory.

CERTIFICATE HOLDER**CANCELLATION**

Office of Hawaiian Affairs
 560 North Nimitz Hwy
 Honolulu HI 96817

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



CERTIFICATE OF LIABILITY INSURANCE

 DATE (MM/DD/YYYY)
 06/03/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER JHC Services, Inc dba John H. Connors Insurance 500 Ala Moana Blvd 2-303 Honolulu, HI 96813	CONTACT NAME: Clare Saffery PHONE (A/C, No, Ext): 808-534-7333 FAX (A/C, No): 808-521-5995 E-MAIL ADDRESS: csaffery@connorshawaii.com <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: left;">INSURER(S) AFFORDING COVERAGE</th> <th style="text-align: left;">NAIC #</th> </tr> <tr> <td>INSURER A: Mount Vernon Fire Insurance Co</td> <td>26522</td> </tr> <tr> <td>INSURER B:</td> <td></td> </tr> <tr> <td>INSURER C:</td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Mount Vernon Fire Insurance Co	26522	INSURER B:		INSURER C:		INSURER D:		INSURER E:		INSURER F:	
INSURER(S) AFFORDING COVERAGE	NAIC #														
INSURER A: Mount Vernon Fire Insurance Co	26522														
INSURER B:															
INSURER C:															
INSURER D:															
INSURER E:															
INSURER F:															
INSURED Ann Marie Kirk dba Digital Moku 7104 Pilaa Place Honolulu HI 96825															

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS																								
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR </div> <div> GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER: </div> </div>			CL2731171B	5/29/20	5/29/21	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>EACH OCCURRENCE</td><td>\$ 1,000,000</td></tr> <tr><td>DAMAGE TO RENTED PREMISES (Ea occurrence)</td><td>\$ 100,000</td></tr> <tr><td>MED EXP (Any one person)</td><td>\$ 5,000</td></tr> <tr><td>PERSONAL & ADV INJURY</td><td>\$ Excluded</td></tr> <tr><td>GENERAL AGGREGATE</td><td>\$ 2,000,000</td></tr> <tr><td>PRODUCTS - COMP/OP AGG</td><td>\$ Excluded</td></tr> <tr><td></td><td>\$</td></tr> <tr><td>COMBINED SINGLE LIMIT (Ea accident)</td><td>\$</td></tr> <tr><td>BODILY INJURY (Per person)</td><td>\$</td></tr> <tr><td>BODILY INJURY (Per accident)</td><td>\$</td></tr> <tr><td>PROPERTY DAMAGE (Per accident)</td><td>\$</td></tr> <tr><td></td><td>\$</td></tr> </table>	EACH OCCURRENCE	\$ 1,000,000	DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 100,000	MED EXP (Any one person)	\$ 5,000	PERSONAL & ADV INJURY	\$ Excluded	GENERAL AGGREGATE	\$ 2,000,000	PRODUCTS - COMP/OP AGG	\$ Excluded		\$	COMBINED SINGLE LIMIT (Ea accident)	\$	BODILY INJURY (Per person)	\$	BODILY INJURY (Per accident)	\$	PROPERTY DAMAGE (Per accident)	\$		\$
EACH OCCURRENCE	\$ 1,000,000																														
DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 100,000																														
MED EXP (Any one person)	\$ 5,000																														
PERSONAL & ADV INJURY	\$ Excluded																														
GENERAL AGGREGATE	\$ 2,000,000																														
PRODUCTS - COMP/OP AGG	\$ Excluded																														
	\$																														
COMBINED SINGLE LIMIT (Ea accident)	\$																														
BODILY INJURY (Per person)	\$																														
BODILY INJURY (Per accident)	\$																														
PROPERTY DAMAGE (Per accident)	\$																														
	\$																														
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td></td><td>\$</td></tr> <tr><td></td><td>\$</td></tr> <tr><td></td><td>\$</td></tr> <tr><td></td><td>\$</td></tr> <tr><td></td><td>\$</td></tr> </table>		\$		\$		\$		\$		\$														
	\$																														
	\$																														
	\$																														
	\$																														
	\$																														
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>EACH OCCURRENCE</td><td>\$</td></tr> <tr><td>AGGREGATE</td><td>\$</td></tr> <tr><td></td><td>\$</td></tr> </table>	EACH OCCURRENCE	\$	AGGREGATE	\$		\$																		
EACH OCCURRENCE	\$																														
AGGREGATE	\$																														
	\$																														
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td>PER STATUTE</td> <td>OTH-ER</td> <td></td> </tr> <tr><td>E.L. EACH ACCIDENT</td><td>\$</td><td></td></tr> <tr><td>E.L. DISEASE - EA EMPLOYEE</td><td>\$</td><td></td></tr> <tr><td>E.L. DISEASE - POLICY LIMIT</td><td>\$</td><td></td></tr> </table>	PER STATUTE	OTH-ER		E.L. EACH ACCIDENT	\$		E.L. DISEASE - EA EMPLOYEE	\$		E.L. DISEASE - POLICY LIMIT	\$													
PER STATUTE	OTH-ER																														
E.L. EACH ACCIDENT	\$																														
E.L. DISEASE - EA EMPLOYEE	\$																														
E.L. DISEASE - POLICY LIMIT	\$																														
							* This insurance contract is issued by an insurer which is not licensed by the State of Hawaii and is not subject to its regulation or examination. If the insurer is found insolvent, claims under this contract are not covered by any guaranty fund of the State of Hawaii.																								

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Pahua Heiau

OHA's employees and trustees, representatives and agents are named as an additional insured to the extent set forth in the policy provisions. The General Liability policy is primary and any insurance afforded by the additional insured shall be deemed excess and non-contributory.

CERTIFICATE HOLDER Office of Hawaiian Affairs 560 North Nimitz Hwy Honolulu HI 96817	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

© 1988-2015 ACORD CORPORATION. All rights reserved.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
05/26/2021

Attachment B1

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).


PRODUCER JHC Services, Inc dba John H. Connors Insurance 500 Ala Moana Blvd 2-303 Honolulu, HI 96813		CONTACT NAME: Clare Saffery PHONE (A/C, No. Ext): 808-534-7333 FAX (A/C, No): 808-521-5995 E-MAIL ADDRESS: csaffery@connorshawaii.com	
		INSURER(S) AFFORDING COVERAGE INSURER A: Mount Vernon Fire Insurance Co INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	
INSURED Ann Marie Kirk dba Digital Moku 7104 Pilaa Place Honolulu HI 96825		NAIC # 26522	

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

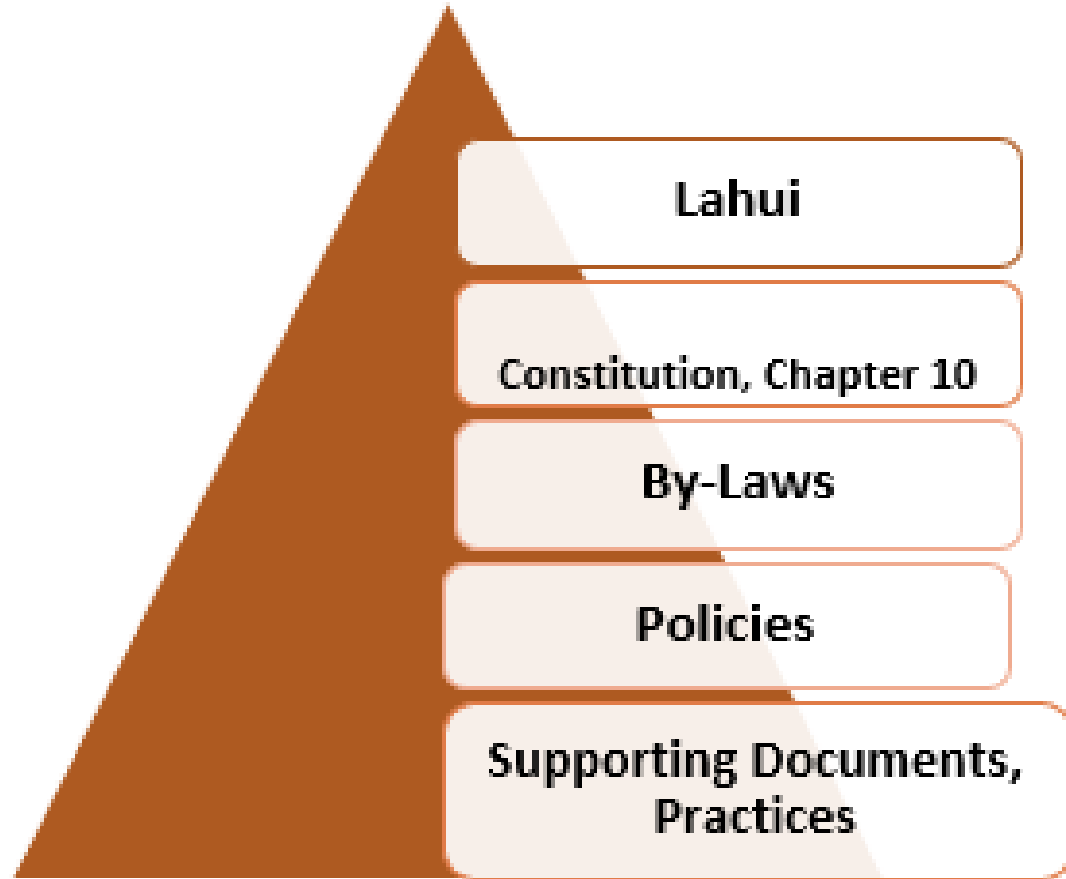
INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			CL 2731171C	5/29/21	5/29/22	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ Excluded GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ Excluded
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY			CL 2731171C	5/29/21	5/29/22	COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Aggregate \$ 2,000,000
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y / N If yes, describe under DESCRIPTION OF OPERATIONS below		N / A				PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
	<small>* This insurance contract is issued by an insurer which is not licensed by the State of Hawaii and is not subject to its regulation or examination. If the insurer is found insolvent, claims under this contract are not covered by any guaranty fund of the State of Hawaii.</small>						

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Pahua Heiau
 OHA's employees and trustees, representatives and agents are named as an additional insured to the extent set forth in the policy provisions. The General Liability policy is primary and any insurance afforded by the additional insured shall be deemed excess and non-contributory.

CERTIFICATE HOLDER Office of Hawaiian Affairs 560 North Nimitz Hwy Honolulu HI 96817	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

B1-4

Attachment C – Policy Framework

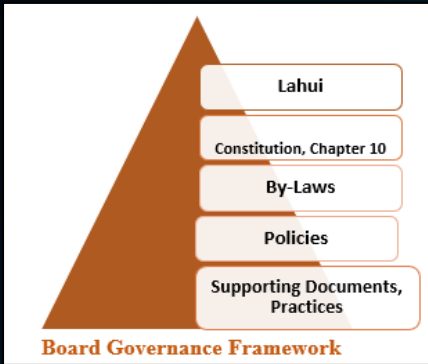


Board Governance Framework

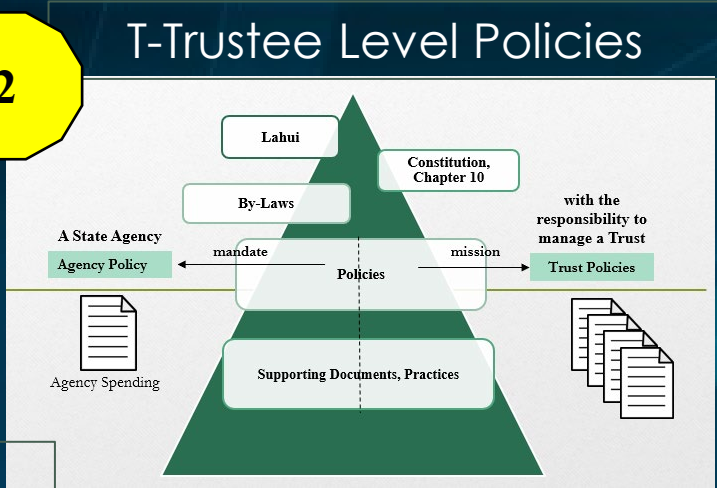
OHA Policy Framework

- 1) L-Lāhui Level policies
- 2) T-Trustee Level policies
- 3) C-CEO Level policies
- 4) Inventory of Policies
- 5) Business Processes
- 6) Standard Operating Procedures
- 7) Systems, Documentation

Attachment C – Policy Framework

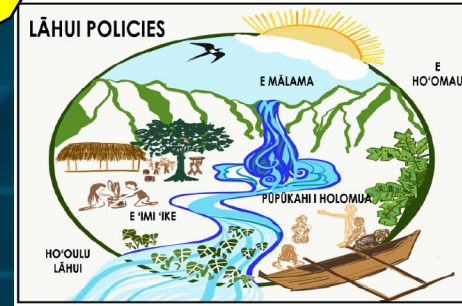


2



1

L-Lahui Level Policies

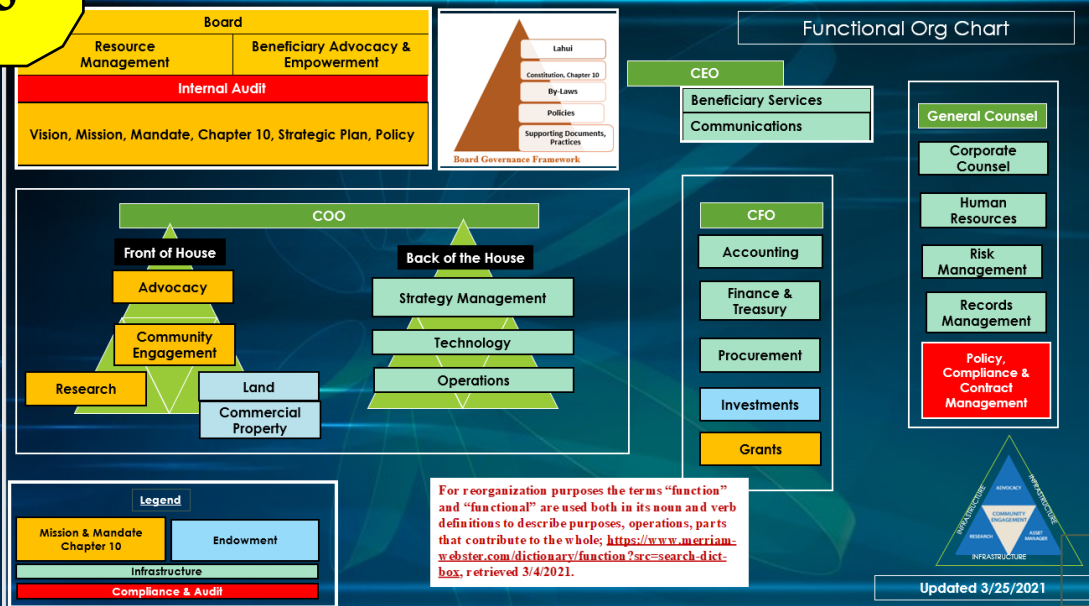


- (1) E Mālama (to protect)
- (2) E Ho'omau (to perpetuate);
- (3) E Pūpukahi i Holomua (to unite in order to progress);
- (4) E 'Imi 'ike (to seek knowledge);
- (5) E Ho'oulu Lahui (to grow the Lahui).



C-CEO Level Policies

3



3a



Policy Inventory

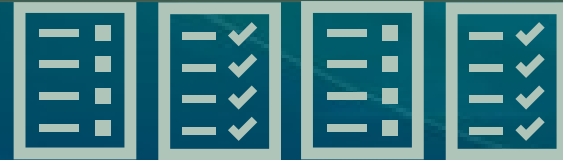
3b



Business Processes

Standard Operating Procedures

4



Segregation of Duties (Authorizing, Executing, Recording, Reconciling, Reporting, Monitoring)

5



Systems, Documentation

Depiction #2

Policy Guidelines, Policy of Policies

Subject: Provides overarching policy guidelines, definitions and accountabilities to aid in the implementation of the policy framework as a mechanism to operationalize the approved Board Governance Framework.

Effective Date: Upon 2nd reading of the Policy by the Board of Trustees

Scope: Organization

Date Reviewed/Revised: 2nd reading date of the Policy by the Board of Trustees

Responsible Organizational Unit: Board of Trustees

Next Scheduled Review Date: No later than two (2) years from the effective date, unless circumstances warranted otherwise (e.g., Chapter 10 change).

Policy Administrator or Owner: Board Chair

I. POLICY AND GENERAL STATEMENT

It is the policy of the Office of Hawaiian Affairs (OHA) to operationalize the Board Governance Framework consisting of the following five elements: 1) Identity; 2) Values and Mana; 3) Statutory Basis; 4) Policies; and 5) Supporting Documents and Practices (Operations) in a policy-based manner.

Elements of the OHA Policy Framework, based on the approved Board Governance Framework, including the following components: 1) L-Lāhui Level policies; 2) T-Trustee Level policies; 3) C-CEO Level policies; 4) Inventory of Policies; 5) Business Processes (listed within each policy); 6) Standard Operating Procedures for each business process; and 7) Systems, documentation, desktop procedures and manuals.

II. POLICY GUIDELINES

The purpose of this policy is to provide overarching policy guidelines, definitions and accountabilities to aid in policy development and implementation such that policies: 1) Retain Trustee authority unless specifically delegated; 2) Align to the Board Governance Framework in support of the OHA's mission; 3) Cascade to consistent accountability levels (e.g., Board, Administration); 4) Achieve accountability by identifying the responsible parties; 5) Detail implementation and administration; 6) Connect to related business processes and procedures; and 7) Communicate clear and concise information by leveraging technology.

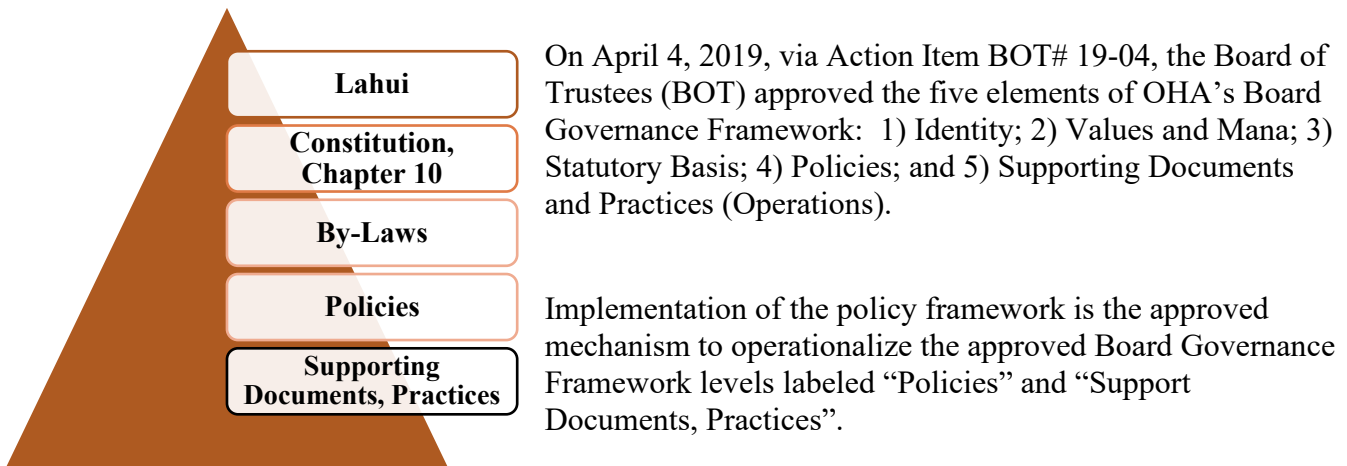
II. DEFINITIONS

- A. Lāhui:** A term or descriptor that should not be conceived of as having multiple meanings, but rather as having a meaning that encompasses and includes concepts that require multiple words in English; and have different meanings such as “nation” and “race.” In using the word “lāhui,” we did not mean “the nation” or “the race” or “the people.” Rather, when used, the word “lāhui,” means the inclusive broad concept of “lāhui,” which includes the English expressed concepts of “nation,” “race,” and “people.”
- B. Governance:** Establishment of policies, and continuous monitoring of their proper implementation, by the members of the governing body of an organization. It includes the mechanisms required to balance the powers of the members (with the associated accountability), and their primary duty of enhancing the prosperity and viability of the organization.
- C. Policy:** Prudence or wisdom in the management of affairs; management or procedure based primarily on material interest; a definite course or method of action selected from among alternatives and in light of given conditions to guide and determine present and future decisions; a high-level overall plan embracing the general goals and acceptable procedures especially of a governmental body.¹
- D. L-Lāhui Level Policy:** L-Lāhui level policies articulate the Hawaiian cultural foundation of the organization as a basis for the *kaumaha* (heavy weight, sadness) or significant *kuleana* (responsibility) to normalize Hawaiian language, protect and exercise native rights regarding ‘āina, water, wahi pana and iwi kupuna, strengthen ‘ohana and kaiāulu, perpetuate Hawaiian culture, knowledge and practices and engage in global, international indigenous contexts.
- E. T-Trustees Level Policy:** T-Trustee level policies would articulate broad, systemic, strategic, overarching policies that are attributed to OHA’s Trustee role as a result of the Constitution and Chapter 10 purposes and duties (e.g., fiduciary, care, obedience, code of ethics); and focus on statutory and strategic perspectives.
- F. C-Level Policy:** C-CEO level policies guide and direct operations such as facilities, health, safety, compensation, recruitment, procurement, contracting, technology, data retention, asset protection, risk management.
- G. Policy Initiator:** The Board Chair or if delegated, the Administrator, who identifies an organization level issue and assigns the development of a policy proposal.
- H. Policy Administrator or Owner:** The Policy Administrator (or Owner) is the Board Chair or if delegated, the Administrator, whose jurisdiction covers the subject matter of the policy.
- I. Process:** A series of actions that produce something or that lead to a particular result.

¹ <https://www.merriam-webster.com/dictionary/policy>, retrieved October 31, 2021

- J. Procedure:** A guideline or series of interrelated steps in a process: taken to help implement the policy; should identify and link to the specific policy(ies) and process(es); is written in a consistent format that is easy to follow and accessible by those who need to follow the procedures; and should be reviewed and updated as necessary to ensure agreement with the most revision of the policy. Procedures related to technical systems (e.g., Oracle Fusion, business travel) should be developed and implemented at the time of the system implementation.
- K. Practice:** The action(s) of actors in the policy system that: complete or carry out implementation activities or performance of the procedure (i.e., practice); should be compliant with the written procedure(s); and understands that non-compliance (i.e. misalignment of procedure and practice) introduces risk (e.g., reputation, internal control, legal) to the organization and undermines the integrity of policy(ies), process(es), and procedure(s).
- L. Stakeholder:** Internal (e.g., employees, administration, board staff, Board of Trustees) and/or external (e.g., beneficiaries, contractors) community members, who are affected by the policy developed and implemented.

III. MO‘OKŪ‘AUHAU – Board Governance Framework



IV. SCOPE AND DELEGATION OF AUTHORITY

- A. Hawaii Revised Statutes, Chapter 10 [§10-1]** Declaration of purpose. (a) The people of the State of Hawai‘i and the United States of America as set forth and approved in the Admission Act, established a public trust which includes among other responsibilities, betterment of conditions for Native Hawaiians. The people of the State of Hawai‘i reaffirmed their solemn trust obligation and responsibility to native Hawaiians and furthermore declared in the state constitution that there be an office of Hawaiian affairs to address the needs of the aboriginal class of people of Hawaii. (b) It shall be the duty and responsibility of all state departments and instrumentalities of

state government providing services and programs which affect native Hawaiians and Hawaiians to actively work toward the goals of this chapter and to cooperate with and assist wherever possible the office of Hawaiian affairs.

- B. Hawaii Revised Statutes, [§10-3]** Hawai‘i Revised Statutes (HRS) Chapter 10 provides that OHA is meant to address the needs of the Native Hawaiian people, including: (1) The betterment of conditions of native Hawaiians; (2) The betterment of conditions of Hawaiians; (3) Serving as the principal public agency responsible for the performance, development, and coordination of programs and activities relating to native Hawaiians and Hawaiians; except that the Hawaiian Homes Commission Act, 1920, as amended, shall be administered by the Hawaiian Homes Commission; (4) Assessing the policies and practices of other agencies impacting on native Hawaiians and Hawaiians, and conducting advocacy efforts for native Hawaiians and Hawaiians; (5) Applying for, receiving, and disbursing, grants and donations from all sources for native Hawaiian and Hawaiian programs and services; and (6) Serving as a receptacle for reparations.²
- C. Retention of Authority:** The Board of Trustees retains all powers, duties and responsibilities as outlined in Chapter 10, subject to specific delegation(s) of authority, documented in policy.
- D. Delegation of Authority:** The Board of Trustees may delegate policy development, implementation, monitoring and evaluation activities to Administrator, who may then further delegate to operational functions, units and systems. Both policy/authority delegations—BOT to Administrator and subsequently to Operations---shall be documented in policy and communicated and updated in accordance with the specific policy.

IV. RELATED POLICIES

- A. TBD - Policy B-2021-002: Retention and Delegation of Authority – Trustees*
- B. TBD - Policy C-2021-001: Retention and Delegation of Authority – Administration*

V. CONTACTS

The Policy Administrator or Owner is:

Organizational Unit	Position
Board of Trustees	Board Chair

² HRS §10-3; see also HRS §10-1.

VI. POLICY FRAMEWORK

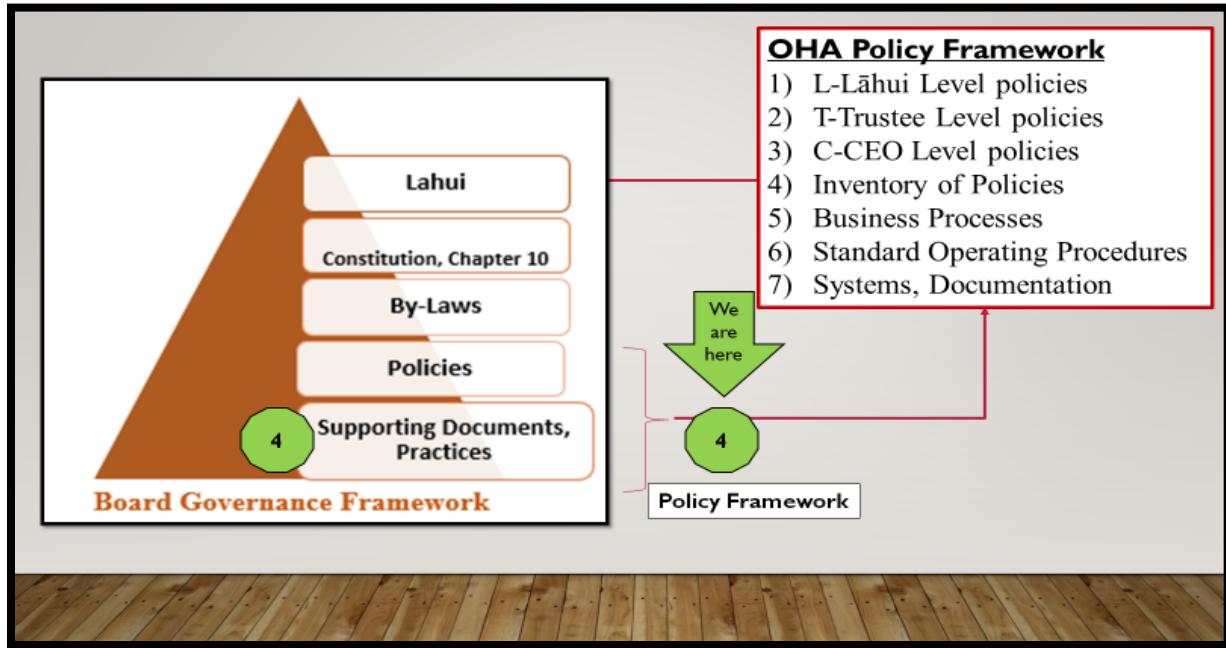


Figure 1: OHA Policy Framework Elements (Depiction 1)

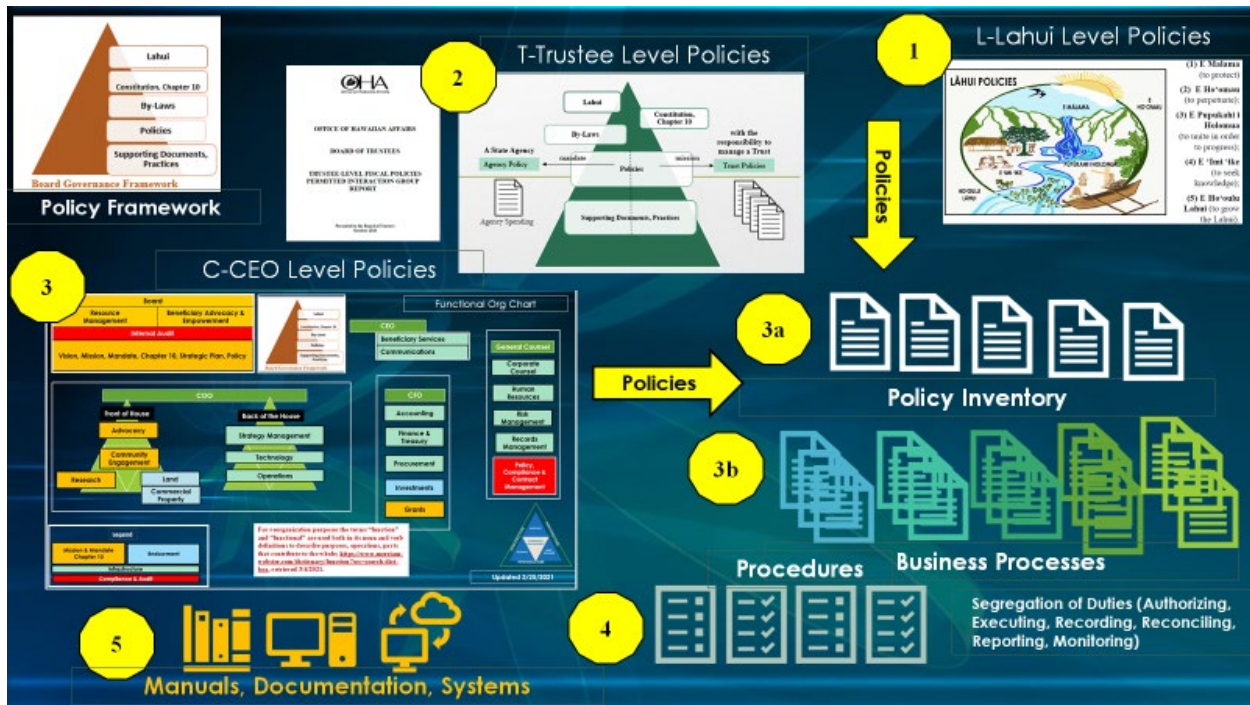


Figure 2: OHA Policy Framework Elements (Depiction 2)

Committee on Resource ManagementTrustee John Waihe'e IV, *At-Large - Chair*Trustee Luana Alapa, *Moloka'i / Lāna'i - Vice Chair****Members***Trustee Dan Ahuna, *Kaua'i / Ni'ihau*Trustee Kaleihikina Akaka, *O'ahu*Trustee Keli'i Akina, *At-Large*Trustee Brickwood Galuteria, *At-Large*Trustee Carmen Hulu Lindsey, *Maui*Trustee J. Keoni Souza, *At-Large*Trustee Mililani Trask, *Hawai'i Island*

**STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS**

**MEETING OF THE
COMMITTEE ON RESOURCE MANAGEMENT (RM)**

DATE: Wednesday March 8, 2023**TIME:** 1:30 p.m.**PLACE:** Virtual Meeting

560 N. Nimitz Hwy., Honolulu, HI 96817

viewable at <https://www.oha.org/livestream> OR

Listen by phone: (213) 338-8477, Webinar ID: 879 9696 8172

This virtual meeting can be viewed and observed via livestream on OHA's website at www.oha.org/livestream or listened to by phone at: (213) 338-8477, Webinar ID: 879 9696 8172. A physical meeting location, open to members of the public who would like to provide oral testimony or view the virtual meeting, will be available at 560 N. Nimitz Hwy., Suite 200, Honolulu HI 96817. All members of the public that wish to access the physical meeting location must pass a wellness check and provide proof of full vaccination or a negative COVID-19 test taken within 72 hours of entry.

AGENDA

I. Call to Order**II. Approval of Minutes**

A. February 22, 2023

III. Unfinished Business - None**IV. New Business**

A. Action Item RM #23-04: Final Report of OHA's Governance Planning Operating Budget (2014), including the Role of Na'i Aupuni and Financial Accounting by Akamai Foundation (Fiscal Sponsor)

B. Action Item RM #23-05: Final Report of May 2019 Board Actions re: Limited Liability Companies

C. Presentation by Administration: OHA Responses to the DRAFT State Auditor Report Distributed on Thursday, February 16, 2023

D. Presentation by Administration: Fiscal Year 2023-2024 (FY24) and 2024-2025 (FY25) Biennium Budget Process and Timeline *No material provided for this section*

V. Announcements**VI. Adjournment**

If you need an auxiliary aid/support or other accommodation due to a disability, please contact Everett Ohta at telephone number 594-1988 or by email to everetto@oha.org as soon as possible. Requests made as early as possible will allow adequate time to fulfill your request. Upon request, this notice is available in alternate formats such as large print, Braille, or electronic copy.

Meeting materials for this meeting will be available for the public to view 48 hours prior to this meeting at OHA's main office located at 560 N. Nimitz Hwy., Suite 200, Honolulu, HI 96817. Meeting materials will also be available to view at OHA's neighbor island offices and will be posted to OHA's website at: www.oha.org/rm.