

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

October 10, 2025

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

PSF No.: 03HD-244

Hawaii

Amendment of Lease Agreement, LOPP-HA-230, of Private Property with Kahua Ranch Limited on Behalf of the Department of Accounting and General Services, Office of Enterprise Technology Services (formerly known as Information and Communications Services Division) for Radio Facilities Purposes, Waiaka and Kahualiilii, North Kohala, Hawaii, Tax Map Key: (3) 5-9-002:002 (Portion).

The purpose of the amendment is to extend the one automatic extension of a lease agreement between the Board of Land and Natural Resources on behalf of the Department of Accounting and General Services, Office of Enterprise Technology Services, as lessee, and Kahua Ranch Limited, lessor, from five (5) years to 20 years, to increase the rent payable under the lease from \$1 per year to \$40,000 per year effective November 26, 2023, with a 5% increase every 5<sup>th</sup> anniversary thereafter through the extended term, and to remove a requirement under Article II, Section 2.6 of the original lease agreement to allow Hawaii Electric Light Company access to the facility.

APPLICANT:

Department of Accounting and General Services (DAGS), Office of Enterprise Technology Services (ETS), formerly known as Information and Communications Services Division (ICSD).

LANDOWNER:

Kahua Ranch Limited (KRL), a Hawaii corporation.

LEGAL REFERENCE:

Section 171-30, Hawaii Revised Statutes (HRS), as amended.

LOCATION

Portion of Waiaka and Kahualiilii, situated at North Kohala, Hawaii identified by Tax Map Key: (3) 5-9-002:002 (Portion). See **Exhibit 1** attached.

AREA:

0.152 acre.

ZONING:

State Land Use District: Agriculture  
County of Hawaii CZO: A-20A (agriculture-20-acre)

CHARACTER OF USE:

The right to construct, install, maintain, use, operate and repair within the premises a government radio facility comprised of a one-story building and a radio transmission tower not to exceed seventy (70) feet in height, together with all the necessary and requisite fixtures, appurtenances and facilities, including guy wires, anchors and fences.

TERM OF LEASE:

Currently ten (10) years commencing on November 26, 2013, with one automatic extension of five (5) years. The parties propose to amend the extension from 5 years to 20 years.

ANNUAL RENT:

Currently \$1.00 per year. The parties propose to increase the rent payable from \$1 per year to \$40,000 per year effective November 26, 2023, with a 5% increase every 5<sup>th</sup> anniversary thereafter.

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

The Final Environmental Assessment for the subject project was published in the Office of Environmental Quality Control's on January 23, 2004, with a finding of no significant impact (FONSI) dated January 12, 2004. See **Exhibit 2** attached.

DCCA VERIFICATION:

Kahua Ranch Limited:  
Place of business registration confirmed: YES  
Registered business name confirmed: YES  
Applicant in good standing confirmed: YES

BACKGROUND:

The current lease agreement (Lease), LOPP-HA-230 (**Exhibit 3**), was approved by the Board at its meeting on December 12, 2003, item D-18. At its meeting on April 12, 2013, under item D-5, the Board amended its prior action by authorizing the preparation of a Land Court Petition designating easements covering the radio station facility, electric and telephone service, drainage and driveway and microwave signal clearances. The Lease was executed on November 26, 2013, with an initial term of ten (10) years and one automatic extension of five (5) years at a base rent of \$1.00 per annum for the 15-year term.

DAGS, in cooperation with the U.S. Coast Guard, expanded the statewide emergency response government radio communication system. The expanded system links up geographic areas without emergency response radio transmission capabilities. DAGS entered into an agreement with the Federal Aeronautics Administration (FAA) for the shared use and maintenance of the FAA access roads.

The communications facility at the site is managed by ETS, which is administratively attached to DAGS. The site provides critical communications connectivity for agencies whose mission involves public safety, emergency and disaster response, and law enforcement.

#### REMARKS:

The requested amendment involves a renegotiated rent of \$40,000 retroactive for the current five (5) year automatic extension commencing on November 26, 2023, with a 5% increase every 5th anniversary for twenty (20) years.

ETS, being the party responsible for paying the rent, negotiated the rent amount with KRL. Both parties wish to continue to work together in support of public safety. The negotiated rent amount is comparable to the rents of other ETS' radio sites. ETS believes that the negotiated rent amount is fair and reflects the fair market value for the use of private land and continued secure access to it.

ETS is agreeable with the negotiated rent for the current extension in exchange for extending the term of the lease to ensure that the communication facility can continue to operate and service the needs of various federal, state, and county agencies. Funding for the rent has been included in ETS' operating budget request for FY2025. The rent will also be a part of ETS' operating budget for all future years of the lease agreement.

Pursuant to HRS §171-17, Land Division procured an appraisal of the site. The appraisal estimated the annual fair market value of the site to be \$45,000. Assuming a 20-year lease structure, the appraisal also concluded that annual escalations of 3% would be appropriate for the initial 10-year term, with a rent redetermination for the final 10-year period.

Appurtenant to the site are non-exclusive easements for utilities, drainage/driveway, and

microwave signal clearance. The contributory value of these easements is already reflected in the estimated fair market rental for the radio site. Therefore, no additional rent or payment is required for these easements.

KRL wants to receive fair market value for the site in lieu of the \$1.00 annually. KRL is willing to receive \$40,000 annually, with a 5% increase every 5th anniversary, which is lower than the appraised value of \$45,000 with annual escalations of 3% for the first 10-year term. Staff recommends amending Article II, Section 2.1 and Article III, Section 3.1 of the Lease. Suggested revised language to the Lease is underscored and italicized as shown:

**Section 2.1. Term.** The term of this Lease shall commence on the date first above written (the “Commencement Date”) and continue for a term of ten (10) years with one automatic extension of ~~five (5)~~ twenty (20) years, subject to the termination as provided below.

**Section 3.1. Base Rent.** Starting from the Commencement Date, Lessee agrees to pay to Lessor a rent of \$1.00 per annum, in advance on or before the Commencement Date (with any partial month to be pro-rated) during the initial term of this Lease, without demand or offset. Starting from November 26, 2023, Lessee agrees to pay to the Lessor a rent of \$40,000 per annum, with a 5% increase every 5 years.

KRL is also agreeable to the removal of a requirement under Article II, Section 2.6 of the Lease to allow Hawaii Electric Light Company (HELCO) access to the facility. The requested amendment is to remove the last paragraph of Article II, Section 2.6 which states:

*“Note: Use of the Facility by the Hawaii Electric Light Company (HELCO) shall be by way of a separate agreement, subject to the requirements of and continuing approval of Kahua Ranch Limited”.*

For the Lease, KRL requested that ETS provide space in the facility for HELCO. Under the proposed amendment, ETS made the request to remove the above referenced requirement as they currently do not have the means of collecting rent from HELCO for their portion of the lease, and ETS would like to terminate HELCO’s use of the facility.

**RECOMMENDATION:** That the Board:

Authorize the extension and amendment of lease agreement LOPP-HA-230 subject to the terms and conditions cited above and further subject further to the following:

- A. The most current amendment of lease of private property form, as may be amended from time to time;
- B. Review and approval by the Department of the Attorney General; and

- C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interest of the State.

Respectfully Submitted,

*Steven Domingo Jr*

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Steven Domingo  
Supervising Land Agent

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APPROVED FOR SUBMITTAL:



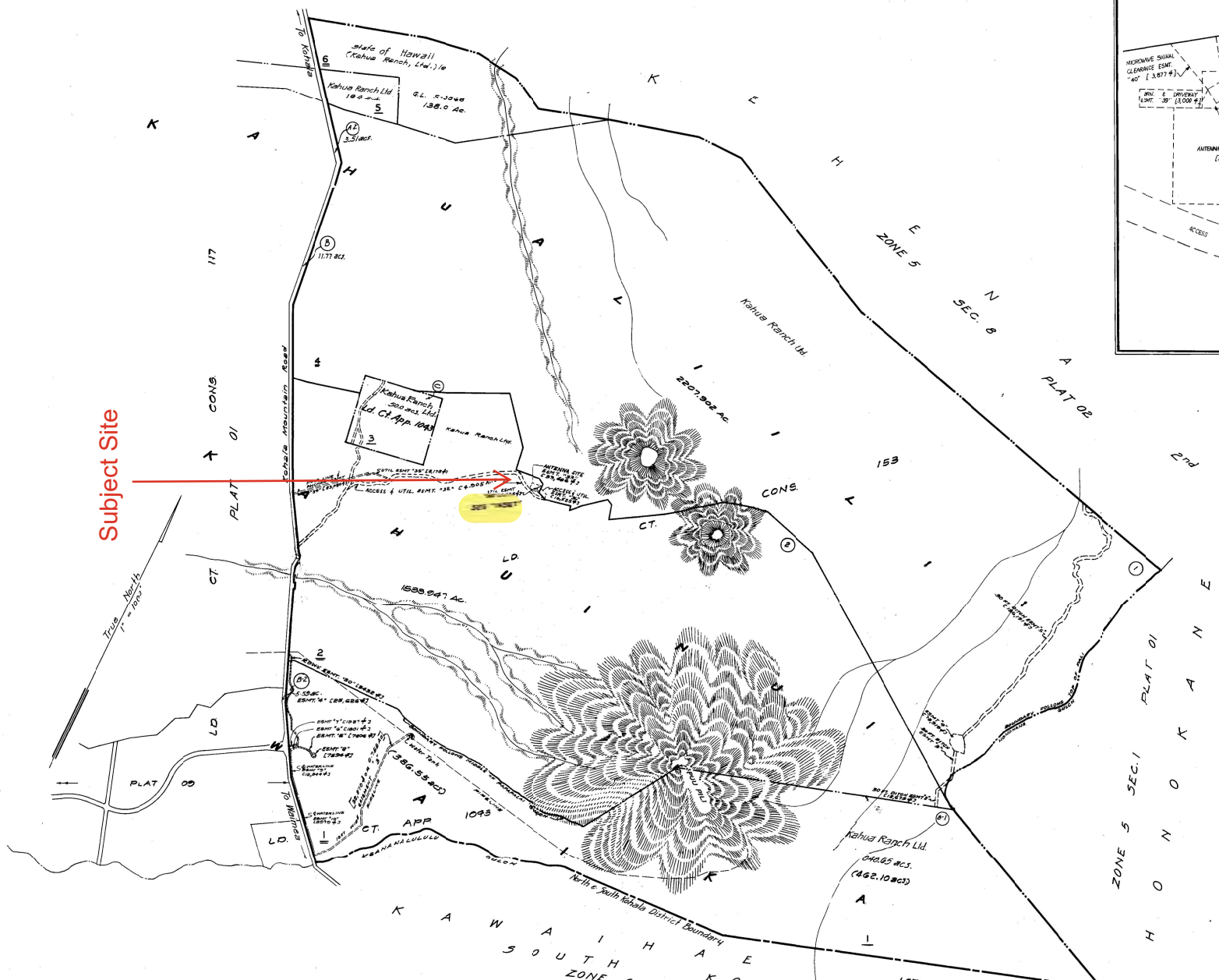
\_\_\_\_\_  
Dawn N. S. Chang, Chairperson

# EXHIBIT 1

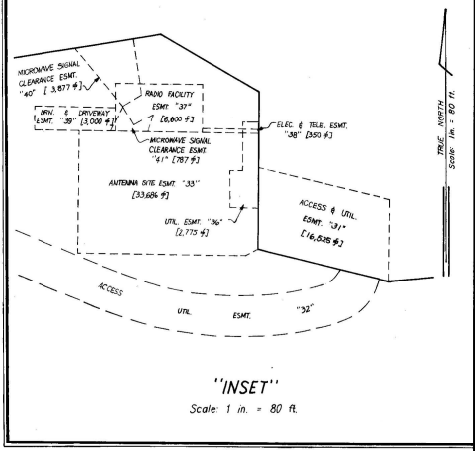
REV 20 1981  
 JUL 13 1981  
 JUL 06 1984  
 JUL 23 1986

Dwg. No. 2-492  
 Source: Tax Maps Bureau  
 By: H.N. Aug. 1985

Kahua Ranch  
 POR. OF WAIAKA & KANUALILII NORTH KOHALA HAWAII.



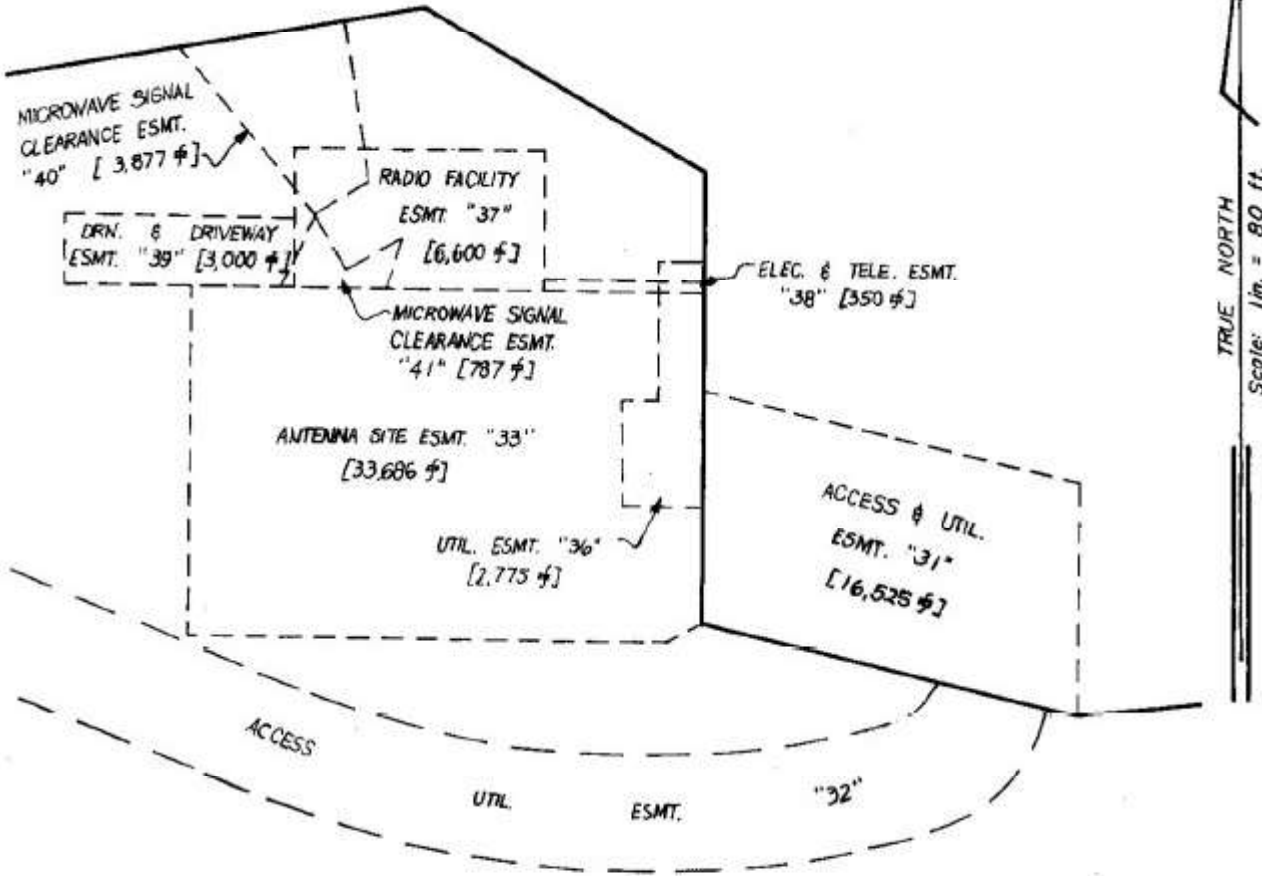
Subject Site



ADVANCE SHEET  
 SUBJECT TO CHANGE

| THIRD DIVISION          |      |      |
|-------------------------|------|------|
| ZONE                    | SEC. | PLAT |
| 5                       | 9    | 02   |
| CONTAINING 6 PARCELS    |      |      |
| SCALE: 1 in. = 1000 ft. |      |      |

PRINTED



"INSET"

Scale: 1 in. = 80 ft.

# EXHIBIT 2

LINDA LINGLE  
GOVERNOR



RUSS K. SAITO  
COMPTROLLER

KATHERINE H. THOMASON  
DEPUTY COMPTROLLER

STATE OF HAWAII

DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

P.O. BOX 119, HONOLULU, HAWAII 96810

(P)1008.4

RECEIVED

'04 JAN 13 P3:08

JAN 12 2004

MEMORANDUM

TO: Ms. Genevieve Salmonson, Director  
Office of Environmental Quality Control (OEQC)  
Department of Health

FROM: Russ K. Saito  
State Comptroller *Russ K Saito*

SUBJECT: Finding of No Significant Impact (FONSI) for Anuenue (formerly Rainbow)  
Radio Facilities and Towers, Statewide, Kahua Ranch Site,  
North Kohala District, Hawaii, TMK: 5-9-002:002

The Department of Accounting and General Services has reviewed the comments received during the 30-day public comment period which began on April 8, 2003. The agency has determined that this project will not have significant environmental effects and has issued a FONSI. Please publish this notice in the January 23, 2004, OEQC Environmental Notice.

If you have any questions, please call me at 586-0400, or have your staff call Mr. Allen Yamanoha of the Public Works Division at 586-0488.

# EXHIBIT 3

**LEASE AGREEMENT**

LOPP-HA-230

THIS LEASE AGREEMENT made on November 26, 2013 by and between KAHUA RANCH LIMITED, a Hawaii corporation, whose address is P.O. Box 837, Kamuela, Hawaii 96743, hereinafter called "Lessor," and the STATE OF HAWAII, by its Board of Land and Natural Resources, whose address is 1151 Punchbowl Street, Honolulu, Hawaii 96813, on behalf of the Department of Accounting and General Services, Information and Communication Services Division, hereinafter called "Lessee," pursuant to Section 171-30, Hawaii Revised Statutes.

**WITNESSETH:**

**WHEREAS**, Lessor owns that certain parcel of land containing 1,533.947 acres of land situated in the District of North Kohala, on the Island of Hawaii, State of Hawaii, being TMK (3) 5-9-002: 002, hereinafter called the Property, as shown on the attached map and description labeled Exhibit A and made a part hereof; and

**WHEREAS**, Lessee desires to use a portion of the Property in an area known as Kahuinui for the purpose of constructing, operating and maintaining a radio communications facility for public safety and public service; and

**WHEREAS**, Lessor and Lessee desire to memorialize their understandings and agreements relative to Lessee's use and occupancy of the Property;

**NOW, THEREFORE**, in consideration of the covenants and agreements hereinafter contained, the parties do hereby agree as follows:

**ARTICLE I. LEASE RIGHTS**

**Section 1.1. Lease Rights.** The Lessor in consideration of the rent and covenants hereinafter reserved and contained and on the part of the Lessee to be paid, observed and performed, does hereby grant unto the Lessee (a) a Lease to use that certain 0.152-acre (approximate) portion of the Property, located within the area known as Kahuinui, island of Hawaii, TMK (3) 5-9-002: portion of 002 (the "Leased Area"), as shown in Exhibit A, for the purpose of constructing, operating and maintaining a radio communication facility ("Facility") for public safety and public service as shown in Exhibit B attached hereto and made a part hereof; (b) power, communication, and electrical grounding easements; (c) shared use of the access roadways; (d) permission to trim back nearby trees and vegetation when necessary to enable the clear passage of microwave signals; and (e) if access to the Facility is not already available via public roads, a nonexclusive easement for access to the Facility in such location as from time to time designated by Lessor. Lessor makes no representations or warranties regarding the Leased Area, except as expressly provided in this Lease.

Lessor reserves access to and use of the land around the Facility, and also, floor space for one rack within the Facility and the placement of its antennas as shown on the Facility tower

plan in support of Lessor's communication system, provided that Lessor's communication system does not interfere with Lessee's communication system.

## **ARTICLE II. TERM**

**Section 2.1. Term.** The term of this Lease shall commence on the date first above written (the "Commencement Date") and continue for a term of ten (10) years with one automatic extension of five (5) years, subject to termination as provided below.

**Section 2.2. Lessee's Additional Right to Cancel Lease.** Subject to the conditions set forth in this Lease regarding termination and surrender, Lessee shall have the right to cancel this Lease at any time under the following conditions:

- a. Should Lessee's public funding or allotment by the Director of the Department of Budget and Finance be substantially cut; or
- b. The program and/or the Department of Accounting and General Services is abolished, terminated, reorganized or substantially downsized;

Provided, however, that Lessee provides Lessor with appropriate evidence of either a or b above and gives Lessor a minimum of ninety (90) days prior written notice to cancel.

**Section 2.3. Termination and Removal.** Termination or cancellation shall not be a waiver of rights, which may have accrued or may thereafter accrue under the Lease based upon or pertaining to the period prior to and including the effective date of such termination. At termination or cancellation, Lessee shall, upon request of Lessor and at Lessee's expense, promptly remove all or any portion of the Facility as requested by Lessor and restore the Leased Area to its original condition.

**Section 2.4. Holdover.** In the event Lessee continues to use or occupy the Leased Area after the expiration, termination or cancellation of this Lease with the consent of Lessor but without the execution of a new agreement, Lessee shall be deemed to be using the Leased Area as a Lessee from month to month, subject to all of the conditions, provisions and obligations of this Lease; except that the Lease fee shall be at fair market rental value at highest and best use as established by Lessor if the holding over is without the consent of Lessor, and Lessor shall be entitled to eject Lessee.

**Section 2.5. Extension of Time.** Notwithstanding any provision contained herein to the contrary, whenever applicable, the Lessor, at the Lessor's sole discretion, may for good cause shown, allow additional time beyond the time or times specified herein to the Lessee, in which to comply, observe and perform any of the payments, terms, conditions and covenants contained herein. Any such extension(s) shall not entitle Lessee to any future extension(s).

**Section 2.6. Future Use of the Leased Area.** The beneficial use of the Leased Area by the Lessee includes those communications systems that are used by State, local, and federal government agencies or by entities sponsored by the State or local governments that are not-for-

profit in nature and /or have a defined role in assisting the government in times of disaster or emergency. The Lessee shall not use the Leased Area or permit the use of the Leased Area for commercial business or in support of commercial, for profit, or fee for service communications traffic of any kind. Subject to the foregoing, the Lessor agrees that the Lessee may enter into agreements with others to use the Leased Area without further consent of the Lessor provided the following:

- (a) No fees or rents other than recovery of pro-rata electric utility and/or generator fueling costs are charged or paid; and
- (b) The Lessee provides the Lessor with copies of any agreements made with agencies or entities as described in this Section.

NOTE: Use of the Facility by the Hawaii Electric Light Company (HELCO) shall be by way of a separate agreement, subject to the requirements of and continuing approval of Kahua Ranch Limited.

### **ARTICLE III. RENT**

**Section 3.1. Base Rent.** Starting from the Commencement Date, Lessee agrees to pay to Lessor a rent of \$1.00 per annum, in advance on or before the Commencement Date (with any partial month to be pro-rated) during the term of this Lease, without demand or offset.

**Section 3.2. Security Deposit.** No security deposit of any kind shall be required to be paid by Lessee.

**Section 3.3. Real Property Tax.** Lessee shall be liable for its pro rata share of real property taxes to be paid as additional rent. However, the Lessee may obtain an exemption from real property taxes under Hawaii Revised Statutes, Section 246-36(2), and upon the granting of the exemption, the Lessor's real property taxes will be reduced by the Lessee's pro rata share. Accordingly, after the effective date of the Lessee's tax exemption, neither the pro rata share nor the real property taxes of others shall be actually assessed to or collected against the Lessee in any form, and additional rent relating to the real property taxes shall no longer be payable by the Lessee.

**Section 3.4. General Excise Taxes.** The Lessee shall pay to the Lessor as additional rent, together with each payment of rent or any other payment required hereunder which is subject to the State of Hawaii general excise tax on gross income, as the same may be amended, and all other similar taxes imposed on the Lessor on the rent or other payments in the nature of a gross receipts tax, sales tax, privilege tax or the like, an amount which, when added to the rent or other payment shall yield to the Lessor, after deduction of all taxes payable by the Lessor with respect to all payments, a net amount equal to that which the Lessor would have realized from the payments had no taxes been imposed. As an example, the State of Hawaii general excise tax on gross income will be currently charged at a rate of 4.166%.

**Section 3.5. Operating Costs and Utilities.** Lessee shall be responsible for all operating and maintenance costs which include, without limitation, all costs of any kind, incurred

in operating, cleaning, equipping, protecting, lighting, repairing, managing, insuring, replacing and maintaining the Facility and the Leased Area, including utility service costs and landscaping; provided, however, that upon request of Lessee, Lessor may agree, in its sole discretion but without obligation, to perform repairs on behalf of Lessee and Lessee shall reimburse Lessor for the reasonable costs thereof.

**Section 3.6. Conveyance Tax.** Lessee shall pay to the Lessor as additional rent for any State of Hawaii conveyance tax (if any) which shall be or become payable as a result of this Lease.

#### **ARTICLE IV. ASSIGNMENT BY LESSOR, ATTORNMENT AND SUBORDINATION**

**Section 4.1. Assignment.** Lessor may at any time assign, mortgage or otherwise transfer its interests as Lessor in and to this Lease, or any portion thereof, to any person, and may at any time sell, mortgage or otherwise transfer its interest in and to all or any portion of the Leased Area to any person, in each case without the consent or approval of Lessee. In the event of a sale or conveyance by Lessor of Lessor's interest in the Leased Area, the same shall be subject to this Lease and shall operate to release the then selling or conveying Lessor from any future liability upon any of the covenants or conditions, express or implied, herein contained in favor of Lessee, and in such event Lessee agrees to look solely to the responsibility of the successor in interest of Lessor in and to this Lease. Lessor shall retain liability for all events and matters arising before the date of the conveyance. Prior to transferring its interest in the Leased Area, Lessor shall disclose the existence of this Lease to its successor in interest in the Leased Area.

**Section 4.2. Attornment.** Lessee shall attorn to any assignee, transferee or purchaser of Lessor from and after the date of notice to Lessee of such assignment, transfer or sale in the same manner and with the same force and effect as though this Lease were made, in the first instance, by and between Lessee and such assignee, transferee or purchaser. In the event of the exercise of the power of sale under, or the foreclosure of, any mortgage, trust indenture or other encumbrance placed by Lessor against all or any portion of the Leased Area, Lessee shall upon demand attorn to the purchaser upon the effective date of any such sale or foreclosure of such mortgage or other encumbrance, and shall recognize the purchaser or judgment creditor as Lessor under this Lease.

**Section 4.3. Subordination.** Lessee shall, within thirty (30) days, or any additional days as may be reasonably necessary, from receipt of instruments from Lessor, execute such instruments or further assurances as Lessor shall deem reasonably necessary, to effectuate the attornment set forth in Section 4.2 above, or to evidence or confirm the subordination of this Lease to any mortgages.

**Section 4.4. Estoppel Certificate.** Either party (the "Responsive Party") shall at any time upon not less than thirty (30) days prior written notice from the other party (the "Requesting Party") execute, acknowledge and deliver to the Requesting Party a statement in writing (a) certifying that this Lease as is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease, as so modified, is in full force and

effect) and the date to which the Lease fee and other charges are paid in advance, if any, and (b) acknowledging that there are no, to the Responsive Party's knowledge, uncured defaults on the part of the Requesting Party hereunder, or specifying such defaults if any are claimed. Any such statement may be conclusively relied upon by the permitted assignee, transferee, purchaser, mortgagee or trustee (under a trust indenture) with respect to the Leased Area.

## **ARTICLE V. HOURS OF ENTRY**

Lessee shall be entitled to access to and the quiet enjoyment of the Leased Area at all times during the term of this Lease.

## **ARTICLE VI. NUISANCES**

Lessee assumes and accepts all reasonable risks of nuisances, sprays, odors, chemicals, dust, noise, gun shots, vibration and other effects of Lessor's or its designees' uses of the neighboring property (including but not limited to hunting), even if such uses have an effect on Lessee's use of the Leased Area.

## **ARTICLE VII. OPERATION OF LESSEE'S BUSINESS**

**Section 7.1. Use of Leased Area.** Lessee will use the Leased Area only as permitted in Article I above. Any other activities, including other communications-related activities or the installation of other electronic or communications-related equipment, are prohibited unless previously approved in writing by Lessor, which approval may be given or withheld in Lessor's sole discretion, and which may be conditioned upon the payment of additional sums and fees to Lessor and a change in the terms of this Lease. Lessee shall comply with all laws, rules, regulations and ordinances made by any government authority applicable to Lessee's use of the Leased Area and the Facility. Lessee assumes all risks as to the suitability of the Leased Area for the permitted use.

Lessee agrees that radio frequency emitters operating within the Leased Area will be properly coordinated with and licensed by either the Federal Communications Commission (the "FCC") or the National Telecommunications and Information Administration (the "NTIA"), as appropriate. The Lessee agrees to take all steps necessary to correct and eliminate radio interference caused by the improper operation of radio emitters within the Leased Area.

Lessee shall rely solely on its rights under FCC guidelines and Federal law in the case of interference with the operations of radio systems within the Leased Area. Lessee understands that Lessor does not hold itself out as having telecommunications expertise. Lessor shall have the right to locate other telecommunications equipment and service providers in the vicinity of the Leased Area, provided that the new equipment and/or service providers do not block or obstruct any microwave radio paths in operation to and from the Leased Area.

**Section 7.2. Necessary Approvals.** Lessee shall be responsible for obtaining all necessary government approvals and Lessor shall have no obligations with respect thereto; provided, however, Lessor agrees to execute such consents and to cooperate with Lessee, at

Lessee's sole expense, to the extent it may be necessary to obtain and maintain the necessary approvals, subject to Section 7.4 below.

**Section 7.3. Construction of Lessee's Improvements.** Lessee shall not construct any improvements nor make any alterations to the Leased Area or the Facility without Lessor's prior written consent with the exception that the Lessee may replace, modify, or add antenna systems at any time without prior written consent of the Lessor. All such construction and alteration shall be completed in good workmanlike manner using only new materials, in accordance with governmental regulations, and free and clear of any liens or claims for work, labor or materials. Lessee agrees to cause all of its contractors performing work on, in or about the Leased Area to indemnify and hold harmless Lessor against any liens or damage to the Leased Area or personal injury or death caused by such construction or alteration, and to provide Lessor with a certificate of insurance evidencing compliance with Lessor's insurance requirements attached hereto as Exhibit "C". Lessee is solely responsible for connecting all required utilities to the Facility, and for compliance with the terms of Section 7.4. Lessee shall be solely responsible to obtain all required permits and approvals at Lessee's sole cost.

**Section 7.4. Consent Required For Utilities, Improvements and Landscaping.** Lessee shall use its best efforts to make the Facility and improvements in the Leased Area as inconspicuous and unobtrusive as possible. Prior to the construction or alteration of any improvements or installation of any power lines or other utilities, Lessee shall submit to Lessor for Lessor's review and consent the design plans for any improvements or alterations or utilities in the Leased Area, which plans shall include a construction plan, and renderings to show how such plans comply with this Section. Lessor may withhold consent on various grounds, including but not limited to aesthetic, health, safety and operational reasons, but such consent shall not be unreasonably withheld. In addition, Lessor will not consent to any structure, where the tower structure exceeds 150 feet in height or where the appurtenances thereto exceed an additional 25 feet in height. Lessor shall have the right to withhold consent in its sole discretion as to any equipment, improvement or other item not shown in Exhibit "B". Consent by Lessor shall not be deemed a warranty or representation as to the adequacy of Lessee's plans in any way and Lessee shall be solely liable for complying with all legal and engineering requirements. All of Lessee's visible improvements, including but not limited to the Facility, cables and antennae, shall be painted with a color or colors acceptable to Lessor, provided that such colors are available as a standard option from the original equipment manufacturer and in accordance with governmental and environmental approvals received by the Lessee. Lessor's approval of any plans, specifications, or drawings shall not be deemed to be a warranty or other representation on Lessor's part as to the accuracy, completeness, or suitability of such plans, specifications, or drawings or that the improvements therein described are legal or structurally safe or sound, and Lessee shall not be relieved from its responsibility for any errors or omissions therein or any consequences arising from construction pursuant to such approved plans.

Prior to the commencement of any such construction or alteration, Lessee also will furnish to Lessor the name and license number of any and all contractors performing work on behalf of Lessee, an executed copy of the contract(s) for construction and an executed copy of a bond procured by the contractor in an amount not less than one hundred percent (100%) of the contract price and in a form and with one or more sureties satisfactory to Lessor, naming Lessee

and Lessor as obligees and conditioned for the full performance of the contract in accordance with plans and specifications so approved by Lessor, including the payment of all subcontractors, labor, and materialmen, without cost to Lessor; provided, however, that no bond shall be required for a construction or alteration project costing \$50,000 or less in the aggregate. Without limiting the conditions upon which Lessor's consent may be withheld, Lessor may within reason withhold its consent if (a) Lessee is unable to verify its source of funds and cost of improvements to Lessor's satisfaction, or (b) Lessee does not submit plans and specifications prepared by a licensed architect or engineer certifying that the improvements shown in the plans and specifications comply with all applicable legal requirements, or (c) Lessor does not approve of the appearance of the proposed improvements, or (d) Lessee is not in compliance with any of the provisions of this Lease, or (e) Lessee's contractor is not approved by Lessor, or (f) Lessee's contractor is unable to provide the types and amounts of insurance and bonding against liens as may be required by Lessor.

**Section 7.5. Ownership of Improvements and Alterations.** Lessee shall have the right to remove from the Leased Area at any time during the term of this Lease before the expiration or termination of this Lease, any improvements or alterations Lessee has made to the Leased Area, provided that Lessee at its own cost promptly restores any damage to the Leased Area caused by such removal.

Any improvements or alterations remaining on the Leased Area upon Lessee's surrender of the Leased Area to Lessor on expiration or termination of this Lease shall become the property of the Lessor, except that Lessor may elect within thirty (30) days before the expiration of the term of this Lease, or within thirty (30) days after the termination of this Lease, require the Lessee, at Lessee's cost, to remove any improvements or alterations that Lessee has made to the Leased Area. The provisions contained in this Section 7.5 shall survive the expiration, termination, or cancellation of this Lease.

**Section 7.6. Funds for Construction and Operation of the Facility.** Lessee represents that (a) funds from the Lessee's general fund will be used to construct the Facility; (b) the rents for the term of this Lease will be paid from the operational budget of the Department of Accounting and General Services or a successor State agency; and (c) the Leased Area and Facility will be used as set forth in Section 1.1 and Section 2.6 above.

## **ARTICLE VIII. MAINTENANCE AND REPAIRS**

Lessee shall be responsible during the term of this Lease for maintaining the Facility and Lessee's improvements in the Leased Area in good condition and repair, structurally and aesthetically, and for keeping the Leased Area free from debris and waste. Lessee shall comply with all laws pertaining to the Facility and the use of the Leased Area at Lessee's sole expense. If Lessee fails to remove debris and waste from the Leased Area within a reasonable time after receiving from Lessor demand for such removal, Lessor shall have the right but not the obligation to enter the Leased Area and remove such debris and waste at Lessee's expense. ONE HUNDRED FIFTY percent of the reasonable expenses incurred by Lessor in carrying out such a removal shall be deemed to be an additional fee payable by Lessee for the use of the Leased Area and shall be payable by Lessee within thirty (30) days of such written notice from Lessor.

## ARTICLE IX. ASSIGNMENT AND SUBLETTING

Lessee will not assign this Lease or any interest therein or hypothecate, mortgage or in any way create any lien on this Lease or any interest therein, without the consent in writing of Lessor first had and obtained, which consent may be withheld in Lessor's sole and absolute discretion. Notwithstanding the above, Lessee may assign this Lease to another State agency upon written notice to Lessor.

Except as otherwise provided herein, Lessee shall not sublet the Leased Area or otherwise permit third parties to install or operate other communications, electronic or related equipment in the Leased Area or on the Facility without the prior written consent of Lessor, which consent may, in the Lessor's sole discretion, be withheld or conditioned upon the payment of additional sums or fees to Lessor, or a change in the terms of this Lease. Without limiting the generality of the foregoing, it shall be reasonable for Lessor to receive fifty percent (50%) of all consideration received by Lessee as a condition to giving such consent. Nothing in this Lease shall prevent Lessor or others from using the neighboring property or any other property for communications or any other purposes, provided, however, that such use of the neighboring property does not interfere with Lessee's use and occupancy of the Facility and Leased Area.

## ARTICLE X. LESSEE'S RESPONSIBILITIES, LIABILITY, AND INSURANCE

**Section 10.1. Lessee's Responsibilities.** The Lessee shall be responsible, to the extent permitted by law, for damage or injury caused by the Lessee's officers and employees in the course and scope of their employment by Lessee and arising from Lessee's presence on, or use or occupancy of the Leased Area, provided that the Lessee's liability for such damage or injury has been determined by a court or agreed to by Lessee. The Lessee shall pay for such damage or injury provided that funds are appropriated and allotted for that purpose.

**Section 10.2. Insurance.** Lessee, as a sovereignty, is self-insured, and is not required to procure and maintain insurance relating to its use and occupancy of the Leased Area or its operations.

**Section 10.3. Lessee's Prohibited Articles.** Lessee agrees that it will not engage in any activity, or keep or use any article, in or about the Leased Area, which may be prohibited by the standard form of commercial liability insurance policy.

**Section 10.4. Survival.** The Lessee's obligations under this Article shall survive the expiration, termination or cancellation of this Lease.

## ARTICLE XI. EXPENSES OF ENFORCEMENT

If: (a) Lessor shall, without fault on its part, be made a party to any litigation commenced by or against Lessee arising out of Lessee's occupancy of the Leased Area or any act of Lessee concerning the Leased Area or this Lease, or (b) suit shall be brought for recovery by Lessor of possession of the Leased Area, for the recovery of rent or any other amount due

under the provisions of this Lease, or because of Lessee's breach of any other covenant herein and a breach shall be established, or (c) Lessor incurs expenses in enforcing without litigation any of the covenants, conditions or agreements contained in this Lease, including without limitation, expenses incurred to protect its interests in the event that Lessee becomes bankrupt or insolvent, makes an assignment for the benefit of creditors, or files any debtor proceedings or initiates (or has initiated against it) any proceedings under the United States Bankruptcy Act, then Lessee shall pay to Lessor, all reasonable expenses incurred by Lessor in connection therewith, subject to obtaining legislative appropriation for such payment, which shall be diligently pursued by Lessee.

## **ARTICLE XII. LIENS**

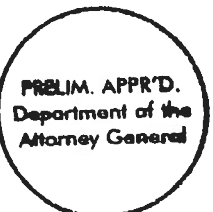
Lessee shall pay all utility charges, assessments and other costs attributable to Lessee's use of the Leased Area, so as not to cause any attachment, judgment, lien, charge or encumbrance whatsoever to be applied against the Leased Area.

## **ARTICLE XIII. DEFAULT**

This Lease is based upon the continuing express condition that, if Lessee shall fail to pay the Lease fee or any part thereof or any other monies under the provisions of this Lease Lessee shall be obligated to pay, on or before the dates the same have become due and payable and such non-payments shall continue for thirty (30) days following Lessee's receipt of written notice of such non-payments from Lessor, or if Lessee shall fail in any other respect faithfully to observe or perform any condition or covenant in this Lease contained and on Lessee's part to be observed and performed and any such default shall continue for thirty (30) days following Lessee's receipt of written notice of such default from Lessor, then and in any such event Lessor may at once enter into and upon the Leased Area or any part thereof in the name of the whole, and upon or without such entry at Lessor's option, terminate this Lease and thereupon take possession of the Leased Area and thereby become wholly vested with all right, title and interest of Lessee therein, and may expel and remove from the Leased Area Lessee and/or those claiming under Lessee and their effects, without resort to any legal process and without being deemed guilty of any trespass or becoming liable for any loss or damage which may be occasioned thereby, and without prejudice to any other remedy or right of action which Lessor may have for collection of Lease fees or for other or preceding breach of covenant by Lessee. Any amounts owing by Lessee to Lessor under the terms of this Lease shall carry interest from the date the same becomes due until paid at the lower of one percent (1%) per month or the maximum rate then allowed by law.

## **ARTICLE XIV. WAIVER OF BREACH**

The waiver by Lessor or Lessee of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of any subsequent breach of the same or of any other term, covenant or condition herein contained; and no covenant herein shall be deemed to have been waived by either party unless such party has waived such covenant in writing.



## ARTICLE XV. NOTICES AND SERVICE OF PROCESS

Any notice may be given by either party to the other by delivering the same to such other party, in writing, or by mailing same by United States certified mail in an envelope with sufficient postage prepaid thereon addressed to such party at the party's address shown on page 1 of this Lease or such other address as provided in writing by such party. For the purpose of this Article, either party may change its address by written notice to the other. Time shall begin to run from actual receipt or refused delivery. The foregoing shall not preclude any other method of providing written notice to a party including, without limitation, reputable overnight delivery service.

## ARTICLE XVI. UTILITIES; GRANT OF ACCESS(S) TO HELCO

Lessor shall reasonably cooperate with Hawaii Electric Light Company ("HELCO"), at Lessee's expense, in HELCO's efforts, if any, to provide service to Lessee. Lessor may require all facilities relating to electrical service to be located in such portion of the neighboring property as designated by Lessor. Lessee will pay all invoices received by the Lessee for service and utility charges before they are due, including but not limited to electricity, trash and other charges of every description for services and utilities provided to or to which the Leased Area or the Facility or any part thereof including any improvements thereon or Lessor or Lessee in respect thereof may during the term of this Lease or during Lessee's use of the Facility or Leased Area become liable, whether assessed to or payable by Lessor or Lessee, before the dates in which said utility charges and other charges become delinquent. If Lessee is using services or utilities through Lessor, Lessee shall pay to Lessor or Lessor's designee Lessee's share of such charges as determined by Lessor in its reasonable discretion before such charges become due. Lessee shall pay all costs to upgrade any systems and equipment if such upgrade is required in order to provide services or utilities to Lessee.

## ARTICLE XVII. ENCUMBRANCES

This Lease is subject to all existing recorded and unrecorded encumbrances. At any time during the term of this Lease, Lessor may create easements and encumbrances upon the Leased Area in addition to any existing easements and encumbrances, provided that any such new easements or encumbrances upon the Leased Area do not unreasonably restrict or interfere with Lessee's use of the Leased Area.

## ARTICLE XVIII. HAZARDOUS MATERIALS

**Section 18.1. Definitions.** As used in this Lease the following terms have the following meanings:

"Hazardous Material" means any substance: (a) the presence of which requires investigation or remediation under any federal, state or local statute, regulation, ordinance, order, action, policy or common law; or (b) which is or becomes defined as a "hazardous waste," "hazardous material," "toxic substance," "hazardous substance," pollutant or contaminant under any federal, state or local statute, regulation, rule or ordinance or amendments thereto including

without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. Section 6901 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. Section 6901, et seq.), the Clean Water Act (33 U.S.C. Section 1251 et seq.), the Clean Air Act (42 U.S.C. Section 7401 et seq.), the Toxic Substances Control Act (15 U.S.C. Sections 2601 through 2629), the Safe Drinking Water Act (42 U.S.C. Sections 300f through 300j); or (c) which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, a petroleum product, asbestos, polychlorinated biphenyl ("PCB"), or otherwise hazardous and is or becomes regulated by any governmental authority, agency, department, commission, board, agency or instrumentality of the United States, the State of Hawaii or any political subdivision thereof; or (d) the presence of which on the Leased Area causes or threatens to cause a nuisance upon the Leased Area or to adjacent properties or poses or threatens to pose a hazard to the health or safety of persons on or about the Leased Area.

"Environmental Requirements" means all applicable present and future statutes, regulations, rules, ordinances, codes, licenses, permits, orders, approvals, plans, authorizations, concessions, franchises, and similar items, of all governmental agencies, departments, commissions, boards, bureaus, or instrumentalities of the United States, states and political subdivisions thereof and all applicable judicial, administrative, and regulatory decrees, judgments, and orders relating to the protection of human health or the environment, including, without limitation: (a) all requirements pertaining to reporting, licensing, permitting, investigation, and remediation of emissions, discharges, releases, or threatened releases of Hazardous Material, chemical substances, pollutants, contaminants, or hazardous or toxic substances, materials or wastes whether solid, liquid, or gaseous in nature, into the air, surface water, groundwater, or land, or relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport, or handling of chemical substances, pollutants, contaminants, or hazardous or toxic substances, materials, or wastes, whether solid, liquid, or gaseous in nature; and (b) all requirements pertaining to the protection of the health and safety of employees or the public.

**Section 18.2. Lessee's Covenant.** Lessee shall not cause, permit or suffer any Hazardous Material to be brought upon, treated, kept, stored, disposed of, discharged, released, produced, manufactured, generated, refined or used upon, about or beneath the Leased Area or any portion thereof by Lessee, its agents, employees, contractors, tenants or invitees, or any other person, except in full compliance with all applicable Hazardous Materials laws. Lessee shall immediately notify Lessor and provide Lessor copies upon receipt of all written complaints, claims, citations, demands, inquires, reports or notices relating to any Hazardous Material on the Leased Area in violation of any Environmental Requirements.

## **ARTICLE XIX. WAIVERS OF LIABILITY AND LOSSES**

**Section 19.1. Waiver of Liability.** Lessee waives all claims against Lessor for injury or damage to person or personal property arising as a result of Lessee's entry upon, occupation and use of the Leased Area or in connection with the activities of Lessee's officers, employees, agents, contractors and subcontractors thereupon, except to the extent that such injury or damage results from the negligence or fault of Lessor or its officers, employees, agents, contractors, or

invitees.

**Section 19.2. Losses.** Except as provided herein, Lessor shall not, under any circumstances, be responsible for any losses or damage to the Facility or any improvements on the Leased Area or loss of service therefrom for any reason whatsoever, including without limitation, damage or loss caused by fire, theft, vandalism, lightning, loss of power, accessibility, shutdown of the Leased Area for necessary repairs or maintenance, loss of FCC License or other authorization, or interference by any third party. Notwithstanding the foregoing, Lessor shall be responsible for such loss or damage arising or resulting directly from the negligence or willful misconduct of Lessor or its officers, employees, agents, contractors, or invitees.

#### **ARTICLE XX. ALL AGREEMENTS ARE CONTAINED HEREIN**

This Lease contains all of the terms, covenants, conditions, stipulations, agreements and provisions agreed upon between the parties hereto with regard to the Leased Area. This Lease supersedes and cancels each and every other agreement, promise and/or negotiation between the parties with reference to the Leased Area. No employee, agent or representative of Lessor or of Lessee has authority to change, modify or alter the terms hereof except by mutual agreement in writing executed by the parties or duly authorized agents or officers of the parties hereto and neither party is nor shall be bound by any inducement, statement, representation, promise or agreement not in conformity herewith.

#### **ARTICLE XXI. CAPTIONS**

The Article captions are inserted merely for convenience and are not to be construed as part of this Lease or in any way affecting it.

#### **ARTICLE XXII. SEVERABILITY**

If any portion of this Lease shall be found or held to be illegal, such illegality shall not affect the remainder of this Lease, which shall remain in full force and effect.

#### **ARTICLE XXIII. BINDING EFFECT**

The terms, covenants and conditions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

#### **ARTICLE XXIV. GOVERNING LAW**

This Lease shall be governed by and construed in accordance with the laws of the State of Hawaii.

#### **ARTICLE XXV. "AS-IS" CONDITION**

Lessee acknowledges that it has carefully inspected the Leased Area and accepts the same "AS-IS", with all faults, known and unknown, including but not limited to any dangerous

or defective conditions. Lessee fully assumes all risks and consequences of the Leased Area. Lessor has made no warranties or representation, express or implied, as to the condition of the Leased Area or its habitability, merchantability or fitness for the uses allowed under this Lease or for any other purpose. Lessor shall have no obligation to provide Lessee with any utility services. Lessor shall have no obligation to maintain, repair, secure or insure the Facility. Lessee assumes all risk arising out of the fact that the Leased Area is not a subdivided lot or easement area approved by any governmental authority. Lessor reserves the right to modify the neighboring property and its uses from time to time, so long as the modification does not unreasonably interfere with Lessee's permitted uses of the Leased Area.

## ARTICLE XXVI. MISCELLANEOUS

**Section 27.1. Time is of the Essence.** Time is of the essence in the performance of all provisions of this Lease.

**Section 27.2. Legal Restrictions.** In the event that the use of the Leased Area under this Lease is in violation of any laws of the United States, State of Hawaii or the County of Hawaii, such use shall immediately terminate. In the event the Lessor desires to obtain any required government approval, including subdivision approvals, so as to conform to applicable laws, Lessee shall cooperate with Lessor to obtain such approvals on the understanding that Lessor shall not be obligated to expend any funds required for improvements to secure such approvals.


**Section 27.3. Waiver of Consequential Damages.** Notwithstanding anything to the contrary contained in this Lease, whether the cause of any damages, loss or liability is insurable, insured or not insured, foreseen or unforeseen, in no event shall either Party be responsible or liable to the other Party for anticipatory profits or any indirect, special, incidental or consequential damages of any kind or nature arising directly or indirectly in connection with the construction, use or operation of the Leased Area or the exercise of any rights related thereto. The foregoing shall apply regardless of the fault, negligence or strict liability of either Party and shall apply whether such losses or damages are based on an action or claim in contract or tort, including negligence, strict liability or otherwise.

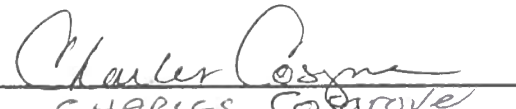
**Section 27.4. Tax Clearances.** Pursuant to Hawaii Revised Statutes, section 103-53, tax clearances from the State of Hawaii Director of Taxation (DOTAX) and the Internal Revenue Service (IRS) are required as a prerequisite to entering into the lease agreement with the present and any future Lessor(s). Tax clearances from the DOTAX and IRS are also required for the final payment of this lease agreement.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands the day and year first above written.

KAHUA RANCH LIMITED,  
a Hawai'i corporation

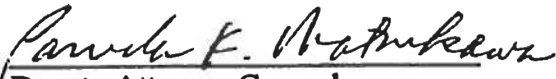
Approved by the Board of Land and  
Natural Resources at its meeting held  
on December 12, 2003.

By:   
Herbert M. Richards  
Its Chairman


And by:   
CHARLES Cosgrove  
Its CFO

APPROVED AS TO LEGALITY, FORM,  
EXCEPTIONS, AND RESERVATIONS:

LESSOR


  
Deputy Attorney General  
Dated: 6/22/10

STATE OF HAWAII

By:   
Chairperson  
Board of Land and Natural Resources

LESSEE

DEPARTMENT APPROVED:

  
Comptroller  
Department of Accounting and General Services



STATE OF HAWAII )  
 ) SS.  
COUNTY OF Hawaii )

On this 20<sup>th</sup> day of Sept., 2013, before me personally appeared Charles Casarone and Herbert M Richards JR to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

*f*

Debora Hart  
Notary Public, State of Hawaii

DEBORA S. HART

My commission expires: 4-1-2017

NOTARY PUBLIC CERTIFICATION  
Debora S Hart Third Circuit  
Doc. Description Lease Agreement  
No. of Pages 26 Date of Doc undated  
Debora Hart Notary  
Notary Signature Date 9-20-2013

*fs*

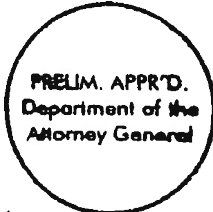


EXHIBIT A

Property Description

## Land Court Description of the Property

All of that certain parcel of land situate at North Kohala, District of North Kohala, Island and County of Hawaii, State of Hawaii, described as follows:

LOT 2, area 1,533.947 acres, more or less, as shown on Map 1, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Consolidation No. 153 of Kahua Ranch Limited.

Being the land described in Transfer Certificate of Title No. 235,677 issued to Kahua Ranch Limited, a Hawaii corporation.

SUBJECT, HOWEVER, to the following encumbrances:

1. Land Court Map 1 of Land Court Consolidation No. 153 shows Triangulation Survey Station "PUU PILI" located on the boundary of Lot 2. Attention is invited to the provisions of Section 172-13 of Hawaii Revised Statutes relative to destruction, defacing or removal of survey monuments.

2. Designation of Easement "1", as shown on Map 1, as set forth by Land Court Order No. 60832, filed September 11, 1981.

3. Designation of Easement "30" (15 feet wide) for road purposes, as shown on Map 4, as set forth by Land Court Order No. 82678, filed February 13, 1987.

4. Easement Agreement dated April 1, 1985, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 18555, at Page 503, made by Kahua Ranch Limited, a Hawaii corporation, in favor of the County of Hawaii, granting a nonexclusive easement to construct, erect, operate, maintain, test, inspect, repair, reconstruct, or replace a 40 foot high radio antenna tower and 8 foot high radio equipment storage building (containing an approximate area of 226 square feet) for a period of 10 years commencing June 1, 1984, and expiring June 1, 1994; subject to the terms and conditions set forth therein. (Not noted on Transfer Certificate of Title referred to herein.)

5. Designation of Easement 32, for access and utility line use, as shown on Map 5, as set forth by Land Court Order No. 123439, filed February 21, 1996.

6. Designation of Easement 33 for radar transmitter site, as shown on Map 5, as set forth by Land Court Order No. 123439, filed February 21, 1996.

7. Short Form Easement, dated March 12, 1996, by and between Kahua Ranch Limited and the Federal Aviation Administration, granting an exclusive right to use Easement 33 and nonexclusive right to use Easement 32.

8. Any unrecorded leases and matters arising from or affecting the same.

9. The rights of native tenants, if any, existing roads and trails, if any, and aboriginal and customary rights, if any.

Note: The above subject to verification by current title report.

## EASEMENT 101

Being a portion of Lot 2, as shown on Map 1 of Land Court Consolidation 153, covered by Transfer Certificate of Title 235677, filed in the Office of the Assistant Registrar of the Land Court.

Land situated at North Kohala, Island of Hawaii, Hawaii.

Beginning at the Southeast corner of this piece of land, on the Northern side of Easement 33, as shown on Map 5 of Land Court Consolidation 153, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU PILI" being 3,864.15 feet North and 4,895.09 feet West, thence running by azimuths measured clockwise from True South:

1.      90° 45'                      110.00 feet along the remainder of Lot 2, as shown on Map 1 of Land Court Consolidation 153;
2.      180° 45'                     60.00 feet along the remainder of Lot 2, as shown on Map 1 of Land Court Consolidation 153;
3.      270° 45'                    110.00 feet along the remainder of Lot 2, as shown on Map 1 of Land Court Consolidation 153;
4.      0° 45'                        60.00 feet along the remainder of Lot 2, as shown on Map 1 of Land Court Consolidation 153 to the point of beginning and containing an area of 6,600 Square Feet.

May 17, 2005  
Honolulu, Hawaii  
#02003-11A  
TMK: (3) 5-9-02:002

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Randall M. Hashimoto, LPLS  
Licensed Professional Land Surveyor  
License No. 7549  
License Expires 4/06

## EASEMENT 102

Being a portion of Lot 2, as shown on Map 1 of Land Court Consolidation 153, covered by Transfer Certificate of Title 235677, filed in the Office of the Assistant Registrar of the Land Court.

Land situated at North Kohala, Island of Hawaii, Hawaii.

Beginning at the Southeast corner of this piece of land, on the Northeast corner of Easement 33, as shown on Map 5 of Land Court Consolidation 153, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU PILI" being 3,863.21 feet North and 4,823.10 feet West, thence running by azimuths measured clockwise from True South:

1.        90° 45'                                70.00 feet along the remainder of Lot 2 of Land Court Consolidation 153;
2.        180° 45'                               5.00 feet along the remainder of Lot 2 of Land Court Consolidation 153;
3.        270° 45'                                70.00 feet along the remainder of Lot 2 of Land Court Consolidation 153;
4.        0° 45'                                    5.00 feet along the remainder of Lot 2 of Land Court Consolidation 153 to the point of beginning and containing an area of 350 Square Feet.

May 17, 2005  
Honolulu, Hawaii  
#02003-11A  
TMK: (3) 5-9-02:002

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Randall M. Hashimoto, LPLS  
Licensed Professional Land Surveyor  
License No. 7549  
License Expires 4/06

### EASEMENT 103

Being a portion of Lot 2, as shown on Map 1 of Land Court Consolidation 153, covered by Transfer Certificate of Title 235677, filed in the Office of the Assistant Registrar of the Land Court.

Land situated at North Kohala, Island of Hawaii, Hawaii.

Beginning at the Southeast corner of this piece of land, on the Northern side of Easement 33, as shown on Map 5 of Land Court Consolidation 153, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU PILI" being 3,865.59 feet North and 5,005.08 feet West, thence running by azimuths measured clockwise from True South:

1.        90° 45'                    100.00 feet along the remainder of Lot 2, as shown on Map 1 of Land Court Consolidation 153;
2.        180° 45'                   30.00 feet along the remainder of Lot 2, as shown on Map 1 of Land Court Consolidation 153;
3.        270° 45'                    100.00 feet along the remainder of Lot 2, as shown on Map 1 of Land Court Consolidation 153;
4.        0° 45'                         30.00 feet along the remainder of Lot 2, as shown on Map 1 of Land Court Consolidation 153 to the point of beginning and containing an area of 3,000 Square Feet.

May 17, 2005  
Honolulu, Hawaii  
#02003-11A  
TMK: (3) 5-9-02:002

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Randall M. Hashimoto, LPLS  
Licensed Professional Land Surveyor  
License No. 7549  
License Expires 4/06

## EASEMENT 104

Being a portion of Lot 2, as shown on Map 1 of Land Court Consolidation 153, covered by Transfer Certificate of Title 235677, filed in the Office of the Assistant Registrar of the Land Court.

Land situated at North Kohala, Island of Hawaii, Hawaii.

Beginning at the Northeast corner of this piece of land, on the Southern side of Lot 1, as shown on Map 1 of Land Court Consolidation 153, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU PILI" being 3,980.30 feet North and 4,980.53 feet West, thence running by azimuths measured clockwise from True South:

1. 351° 00' 70.05 feet along the remainder of Lot 2, as shown on Map 1 of Land Court Consolidation 153;
2. 60° 00' 28.00 feet along the remainder of Lot 2, as shown on Map 1 of Land Court Consolidation 153;
3. 140° 00' 93.06 feet along the remainder of Lot 2, as shown on Map 1 of Land Court Consolidation 153
4. 260° 45' 30" 74.07 feet along the Southern side of Lot 1, as shown on Map 1 of Land Court Consolidation 153 to the point of beginning and containing an area of 3,877 Square Feet.

May 17, 2005  
Honolulu, Hawaii  
#02003-11A  
TMK: (3) 5-9-02:002

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Randall M. Hashimoto, LPLS  
Licensed Professional Land Surveyor  
License No. 7549  
License Expires 4/06

## EASEMENT 105

Being a portion of Lot 2, as shown on Map 1 of Land Court Consolidation 153, covered by Transfer Certificate of Title 235677, filed in the Office of the Assistant Registrar of the Land Court.

Land situated at North Kohala, Island of Hawaii, Hawaii.

Beginning at the Southeast corner of this piece of land, on the Northern side of Easement 33, as shown on Map 5 of Land Court Consolidation 153, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU PILI" being 3,865.03 feet North and 4,962.66 feet West, thence running by azimuths measured clockwise from True South:

1. 90° 45' 45.84 feet along the remainder of Lot 2, as shown on Map 1 of Land Court Consolidation 153;
2. 205° 00' 34.73 feet along the remainder of Lot 2, as shown on Map 1 of Land Court Consolidation 153;
3. 330° 00' 28.00 feet along the remainder of Lot 2, as shown on Map 1 of Land Court Consolidation 153;
4. 240° 00' 28.00 feet along the remainder of Lot 2, as shown on Map 1 of Land Court Consolidation 153;
5. 18° 00' 22.95 feet along the remainder of Lot 2, as shown on Map 1 of Land Court Consolidation 153 to the point of beginning and containing an area of 788 Square Feet.

May 17, 2005  
Honolulu, Hawaii  
#02003-11A  
TMK: (3) 5-9-02:002

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Randall M. Hashimoto, LPLS  
Licensed Professional Land Surveyor  
License No. 7549  
License Expires 4/06

ADVANCE PRINT

DATE May 12, 2005

PRELIMINARY  
LAND COURT

STATE OF HAWAII

LAND COURT CONSOLIDATION 153  
DESIGNATION OF EASEMENTS 101 TO 105 INCLUSIVE  
AFFECTING LOT 2 AS SHOWN ON MAP 1

AT NORTH KOHALA, ISLAND OF HAWAII, HAWAII

1150 S. King St.  
Suite 102  
Honolulu, Hawaii 96814  
April 18, 2005

CONTROLPOINT SURVEYING, INC.

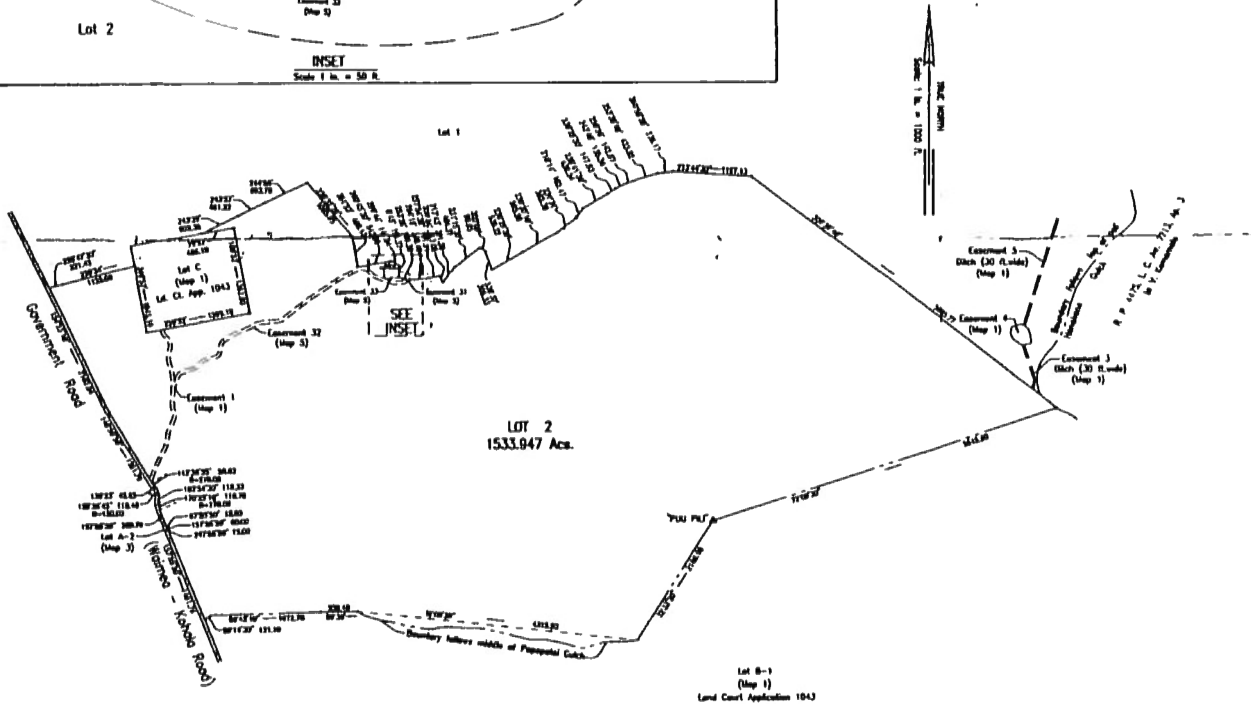
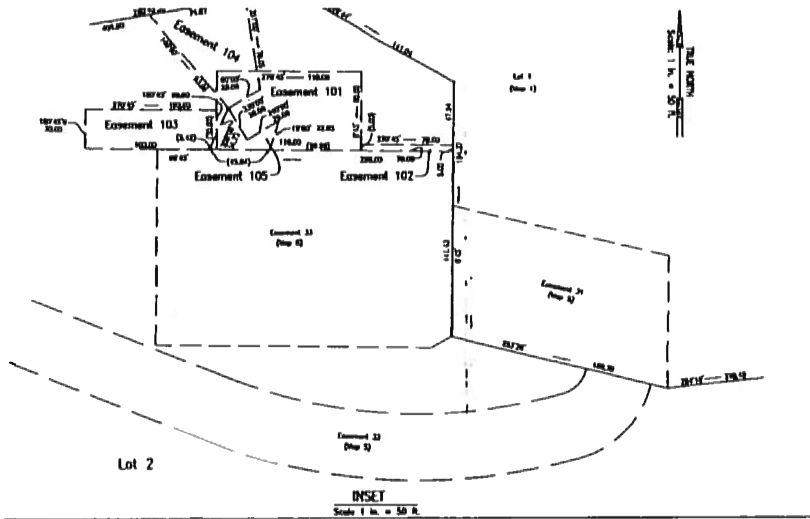
By:  
Licensed Professional Land Surveyor  
Certificate Number 7948  
Land Court Certificate Number 252  
License Expires 4/08

Owner:

Transfer Certificate of [REDACTED]

AUTHORIZED AND APPROVED BY ORDER OF THE JUDGE  
OF THE LAND COURT DATED \_\_\_\_\_  
BY ORDER OF THE COURT.

REGISTRAR OF THE LAND COURT



Note:

Area of Easements:

|                |                   |
|----------------|-------------------|
| Easement 101 = | 6,600 Sq. Ft. for |
| Easement 102 = | 300 Sq. Ft. for   |
| Easement 103 = | 3,000 Sq. Ft. for |
| Easement 104 = | 3,877 Sq. Ft. for |
| Easement 105 = | 787 Sq. Ft. for   |

EXHIBIT B

Leased Premises



**EXHIBIT "C"**  
**(Lessor's Insurance Requirements for Contactors)**

Each contractor of Lessee (a "Contractor") shall provide insurance covering Contractor's responsibilities and those of any subcontractors, with limits no less than the following:

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- A. **Worker's Compensation Insurance** - in limits with coverage as required by Hawaii's Workers Compensation statute; and **Employers Liability coverage** with limits of \$5,000,000 each accident, \$500,000 each Employee by disease and \$500,000 policy limit, by disease;
- B. **Commercial General Liability** - coverage for third party liability arising out of the operations performed by Contractor and any subcontractors including, but not limited to, completed operations and contractual liability. Limits shall be for bodily injury and property damage - \$2,000,000 combined single limit per occurrence and Personal Injury - \$2,000,000 per occurrence. The required limit of insurance may be provided by a single policy or with a combination of primary and excess policies.
- C. **Commercial Automobile Liability** - coverage for third party liability arising out of the operation or use of any owned, non-owned or hired vehicle by Contractor or subcontractor. Limits shall be for bodily injury and property damage - \$1,000,000 combined single limit, per accident; and
- D. **Builders Risk and Installation Floater Insurance** - "all risk" property insurance coverage the building or structure to be constructed, and materials to be used in construction, as well as any Contractor tools or equipment at the Premises. The limit of coverage shall be equal to the completed value of the building or structure and shall insure against all loss excluding earthquakes and flood. The coverage shall be provide by a company authorized to write insurance in the State of Hawaii as an insurer.

Prior to beginning any construction, Contractor shall furnish Lessor a certificate of insurance from insurance carriers satisfactory to Lessor, verifying that the insurance required to be maintained is in full force and effect throughout the term of this agreement. Further, Lessor shall be given thirty (30) days written notice prior to any material change, expiration or cancellation of said insurance. Lessee and Lessor shall be named as an Additional Insured on the above required liability coverages: Commercial General Liability, Commercial Automobile Liability and Umbrella Liability. All policies as stated in this agreement shall include a waiver of subrogation in favor of Lessor and the State of Hawaii.

Contractor shall indemnify, hold harmless and defend the State of Hawaii and Lessor, their officers, employees, parents, subsidiaries, agents and affiliates, from and against any and all demands, claims, suits, costs of defense, attorneys fees, witness fees, including expert witness fees, liabilities and other expenses including damage to property or for injury to or death of any person, including, but not limited to any employee, agent, servant, independent contractor or subcontractor of Contractor, or a member or members of the general public, in any way arising directly or indirectly from or in connection with the construction, installation or other performance of the terms of this agreement by Contractor, its employees, subcontractors or agents, excluding only loss or liability attributable directly to the gross negligence of Lessor. Contractor expressly assumes the burden of proof regarding all causation issues hereunder.