

COUNCIL OF THE COUNTY OF MAUI

**ECONOMIC DEVELOPMENT, ENERGY,
AGRICULTURE, AND RECREATION
COMMITTEE**

February 21, 2014

**Committee
Report No. _____**

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Economic Development, Energy, Agriculture, and Recreation Committee, having met on February 4, 2014, makes reference to County Communication 13-377, from the Managing Director, transmitting a proposed resolution entitled “AUTHORIZING THE FIRST AMENDMENT TO LICENSE THE 100 ACRE PARCEL IDENTIFIED AS TAX MAP KEY NUMBER (2) 3-6-002:004, PURSUANT TO SECTION 3.40.180, MAUI COUNTY CODE”.

The purpose of the proposed resolution is to authorize a First Amendment to the License Agreement dated December 28, 2012, between the County of Maui and Alexander & Baldwin, LLC (“A&B”), a Hawaii limited liability company, to extend A&B’s tenancy on a 100-acre parcel in Kahului, Maui, Hawaii, identified as TMK: (2) 3-6-002:004, for a two-year period, ending on December 27, 2015.

According to the proposed resolution, A&B continues to use the County-owned property solely for cultivating and harvesting sugar cane.

The Chair of your Committee submitted a revised proposed resolution incorporating a map of the property, identified as Exhibit “A” in the License Agreement, which was inadvertently omitted from the Agreement, and nonsubstantive revisions.

Your Committee notes the First Amendment to the License Agreement attached to the proposed resolution deletes the following provisions contained in the License Agreement:

- “Licensee may terminate this license at any time by giving Licensor thirty (30) days prior written notice of such termination.”

COUNCIL OF THE COUNTY OF MAUI
**ECONOMIC DEVELOPMENT, ENERGY,
AGRICULTURE, AND RECREATION
COMMITTEE**

Page 2

Committee
Report No. _____

- “No extension of the term shall be permitted without the approval by resolution of the Council of the County of Maui.”

A Deputy Corporation Counsel indicated the Licensee (A&B) had agreed to forgo its right to terminate the License at any time. He also noted it is in the best interest of the Licensor (County of Maui) to have predictability in the term of the License.

Your Committee noted removal of the second provision would not affect the existing legal requirement, under Section 3.40.180(A), Maui County Code, that an extension of the term be approved by Council resolution.

Your Committee, therefore, supported deleting these provisions.

Your Committee also supported the decision to extend the License Agreement by two years.

Your Committee voted 5-0 to recommend adoption of the revised proposed resolution and filing of the communication. Committee Chair Guzman, and members Baisa, Cochran, Crivello, and White voted “aye”. Committee Vice-Chair Carroll and member Victorino were excused.

Your Committee is in receipt of a revised proposed resolution entitled “AUTHORIZING THE FIRST AMENDMENT TO LICENSE FOR THE 100-ACRE PARCEL NOW IDENTIFIED AS TAX MAP KEY NUMBER (2) 3-6-002:004, PURSUANT TO SECTION 3.40.180, MAUI COUNTY CODE”, approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee’s recommended revisions.

Your Economic Development, Energy, Agriculture, and Recreation Committee **RECOMMENDS** the following:

COUNCIL OF THE COUNTY OF MAUI
**ECONOMIC DEVELOPMENT, ENERGY,
AGRICULTURE, AND RECREATION
COMMITTEE**

Page 3

Committee
Report No. _____

1. That Resolution _____, as revised herein and attached hereto, entitled “AUTHORIZING THE FIRST AMENDMENT TO LICENSE FOR THE 100-ACRE PARCEL NOW IDENTIFIED AS TAX MAP KEY NUMBER (2) 3-6-002:004, PURSUANT TO SECTION 3.40.180, MAUI COUNTY CODE”, be ADOPTED; and
2. That County Communication 13-377 be FILED.

This report is submitted in accordance with Rule 8 of the Rules of the Council.



DON S. GUZMAN, Chair

Resolution

No. _____

AUTHORIZING THE FIRST AMENDMENT TO LICENSE FOR THE 100-ACRE PARCEL NOW IDENTIFIED AS TAX MAP KEY NUMBER (2) 3-6-002:004, PURSUANT TO SECTION 3.40.180, MAUI COUNTY CODE

WHEREAS, the County of Maui and Alexander & Baldwin, LLC ("A&B"), entered into that License Agreement dated December 28, 2012, attached hereto as Exhibit "1" and by reference made a part hereof, for a portion of the area identified as Tax Map Key No. (2) 3-6-002:003 ("Property"); and

WHEREAS, the Property has been subdivided from the larger parcel and is now identified as TMK: (2) 3-6-002:004; and

WHEREAS, A&B continues to utilize the area solely for cultivating and harvesting sugar cane; and

WHEREAS, in accordance with Section 3.40.180, Maui County Code, the term of the License Agreement was for a period of twelve months, with any extension of tenancy requiring approval by the Council of the County of Maui; and

WHEREAS, the County of Maui and A&B desire to extend A&B's tenancy for a two-year period;

WHEREAS, the First Amendment to License, attached hereto as Exhibit "2" and by reference made a part hereof, extends the tenancy under the License for a period of two years; now, therefore,

Resolution No. _____


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

1. That it hereby approves the two-year extension of tenancy to Alexander & Baldwin, LLC; and

2. That it does hereby authorize the Mayor, or the Mayor's duly authorized representative, to execute the First Amendment to License; and

3. That certified copies of this resolution be transmitted to the Mayor; the Director of Finance; and Alexander & Baldwin, LLC.

APPROVED AS TO FORM
AND LEGALITY:



JEFFREY OEOKA
Deputy Corporation Counsel
County of Maui

S:\ALL\JTU\RESOS\Waikapu 100 Acres_A&B License_Reso.wpd

LICENSE AGREEMENT
(100 acres)

THIS LICENSE AGREEMENT is dated **December 28, 2012**, and is by and between the **COUNTY OF MAUI**, a political subdivision of the State of Hawaii with its principal office and mailing address at 200 South High Street, Wailuku, Maui, Hawaii 96793, hereinafter called "**Licensor**" and **ALEXANDER & BALDWIN, LLC**, a Hawaii limited liability company, through its division Hawaiian Commercial & Sugar Company, whose post office address is P. O.Box 266, Puunene, Maui, Hawaii 96784, hereinafter called "**Licensee**".

Licensor hereby exclusively licenses to Licensee that certain property situate at Kahului, Maui, Hawaii, being identified as a portion of Tax Map Key No. (2) 3-6-002-003, comprising a total of approximately 100 acres, as generally shown on the map attached hereto as Exhibit "A" and made a part hereof (the "**Premises**"), together with access thereto, upon and subject to all of the terms and conditions set forth in this Agreement, and subject to all encumbrances affecting the Premises.

1. **Term.** This Agreement shall be a month to month tenancy, with a term commencing as of the date of this Agreement and continuing for a period that shall not exceed a period of one year, provided that Licensor may terminate this license at any time by giving Licensee thirty (30) days prior written notice of such termination.

In the event that Licensee violates any of the terms of this Agreement, Licensor may terminate this license if, after receiving written notice of a default of this agreement, Licensee fails to cure the breach within thirty (30) days, or if the breach cannot be cured within thirty (30) days, Licensee fails to commence action to cure the breach within thirty (30) days and thereafter, fails to diligently act to complete the cure of the default.

Licensee may terminate this license at any time by giving Licensor thirty (30) days prior written notice of such termination.

No extension of the term shall be permitted without the approval by Resolution of the Council of the County of Maui.

2. **License Fees.** Licensee shall pay a license fee ("**rent**") without notice or demand, at the rate of ONE THOUSAND TWO HUNDRED FIFTY AND NO/100 DOLLARS (\$1,250.00) per month, payable on the 1st day of each and every calendar month during the continuance of this license at the principal place of business of Licensor or such other place designated by Licensor, without notice or demand therefor and without any deduction or offset whatsoever.

3. **Real Property Taxes and Assessments.** Licensee shall also, when and as the same become due and payable, pay all taxes and all other assessments and outgoings of any nature whatsoever to which the Premises, or Licensor or Licensee in respect thereof, are now or may during the term of this license become liable, regardless of whether the said taxes, assessments and outgoings are or shall be assessed to or be payable or dischargeable by law by either Licensor or Licensee; provided, however, that with respect to any assessment made under any betterment or improvement law which may be payable in installments, Licensee shall be required to pay only such installments of principal, together with interest on unpaid balances thereof, as shall become due and payable during the term of this license or any party thereof. As to any portions of the Premises which are not separately assessed, Licensee shall reimburse to Licensor, within ten (10) days after Licensor's request therefor, the pro rata amount of said taxes, assessments and outgoings which are attributable to the Premises. Licensee shall be responsible for the payment of any conveyance tax due on this license. Licensee shall pay directly, before the same become delinquent, all charges, duties, rates and other outgoings of every description to which the Premises, or Licensor or Licensee in respect thereof may during the existence of this license be assessed or become liable for electricity, gas, refuse collection, telephone, sewage disposal, water or any other utilities or services or any connections or meters therefor, whether assessed to or payable by Licensor or Licensee, and which are incurred because of Licensee's use or occupancy of the Premises.

4. **General Excise Taxes.** All rent and other amounts payable under this license shall be net above taxes, assessments and charges of any kind otherwise payable by Licensee; and Licensee shall also pay (in addition to rent, taxes, assessments and charges) an amount which, when added to the rent and other reimbursements payable under this license, shall yield to Licensor after the deduction of all Hawaii general excise taxes and any other taxes imposed under any other law on account of the receipt, actual or constructive, by Licensor of the rent and reimbursements payable under this license, a net amount equal to that which Licensor would have realized from such rent and reimbursements had no such taxes been imposed. During such time as the Hawaii General Excise Tax remains at its present rate of four percent (4%) and no other taxes are imposed upon the receipt by Licensor of the rent and other reimbursements due hereunder, such additional amount will be equal to 4.166% of the rent and reimbursements payable under this license.

5. **Use.** Licensee shall at all times use the Premises solely for cultivating and harvesting sugar cane. Licensee will use the Premises for no other purposes without the prior written consent of Licensor, which consent may be granted or withheld in Licensor's sole discretion.

6. **Maintaining the Premises.** Licensee shall, at its own expense, keep the Premises in good, clean, and sanitary order, condition and repair, reasonable wear and tear excepted.

7. **Insurance.** Licensee shall procure at its own cost and expense and keep in force during the entire term of this license, a policy of general comprehensive liability insurance, in form and with such insurance company or companies as shall be approved by Licensor, with such reasonable minimum limits as shall be prescribed by Licensor, in its sole discretion, from time to time but initially with combined single limits for bodily injury and property damage of not less than \$5,000,000 in any one occurrence. Such policy or policies shall cover occurrences arising out of the use, occupancy, misuse or condition of the Premises, improvements thereon, Licensor's adjacent property and other adjoining and nearby areas, name Licensor as an additional insured on a primary basis, be deposited with Licensor, require the insurer to give Licensor at least thirty (30) days' written notice of its intention to cancel, terminate or amend the policy or policies in any material respect, and contain a waiver by the insurer of any right of subrogation to any right of Licensor or Licensee against them or any person acting under them. Licensee's insurance will be deemed primary in the event of loss or damage. Licensee waives all rights of recovery against Licensor to the extent any losses, claims or damages are (i) covered by any policy of insurance available to Licensee and/or (ii) not covered by Licensee's insurance because of deductibles, the inadequacy of policy limits, policy limitations or exclusions, or failure to maintain or preserve coverage as required by this license or by policy terms.

8. **No Representation or Warranties.** Licensor has not made and will not make, any representation or warranty, implied or otherwise, with respect to the condition of the Premises, including but not limited to (a) any express or implied warranty of merchantability or fitness for any particular purpose or (b) any dangerous or defective conditions existing upon the Premises, whether or not such conditions are known to Licensor or reasonably discoverable by Licensee. Licensee accepts the Premises in completely "as is" condition, with full assumption of the risks, and consequences of such conditions. All property, vehicles, approved improvements and equipment of Licensee shall be kept, placed or stored at the sole risk of Licensee, and Licensor shall not be responsible or liable for any damage thereto or loss of theft thereof.

9. **Compliance with Laws.** Licensee shall not make or suffer any unlawful, improper, or offensive use of the Premises. Licensee will comply with all laws and ordinances and governmental rules and regulations, including but not limited to obtaining, at its sole cost and expense, all governmental permits necessary for its use of the Premises.

10. **Nearby Agricultural Activities.** Licensor acknowledges that the growing, harvesting and processing of sugar cane on the Premises may from time to time produce or result in smoke, dust, noise, heat, agricultural chemicals, particulates and similar substances and nuisances (collectively, the "**Agricultural By-Products**") and that the creation of Agricultural By-Products shall not constitute an improper or offensive use of the Premises or a nuisance.

11. **No Liens.** Licensee shall not commit or suffer any act or neglect whereby the Premises or the estate of Licensee in the same, shall at any time become subject to any attachment, lien, charge or encumbrance whatsoever and shall, indemnify, defend and hold harmless Licensors from and against all liens, charges and encumbrances and all expenses resulting therefrom, including reasonable attorneys' fees, it being hereby expressly agreed that Licensee shall have no authority, express or implied, to create any lien, charge or encumbrance upon the Premises.

12. **Indemnification.** Licensee shall indemnify, defend and hold harmless Licensors from and against all actions, suits, investigations, governmental proceedings, damages and claims filed against Licensors, and for all costs and expenses (including attorneys' fees) incurred by Licensors, by whomsoever brought or made by reason of or arising out of (a) the issuance of this license to Licensee, or (b) any act or omission of Licensee or any person claiming by, through or under Licensee, or (c) any mishap, fire, casualty or nuisance occurring or made on the Premises or adjacent property, or (d) the use or occupancy of the Premises by Licensee, the general public or Licensee's invitees, permittees, employees, agents or contractors, or (e) Licensee's breach of any of the terms or conditions of this Agreement.

13. **Hazardous Materials.** Licensee shall at all times, at its own cost and expense, comply with all federal, state and local laws, ordinances, regulations and standards relating to the use, analysis, production, storage, sale, disposal or transportation of any hazardous materials, including oil or petroleum products or their derivatives, solvents, PCB's, explosive substances, asbestos, radioactive materials or waste, and any other toxic, ignitable, reactive, corrosive, contaminating or polluting materials which are now or in the future subject to any governmental regulation (hereinafter collectively referred to as "hazardous substances"). Prior to commencing use of the Premises for any activity involving the storage, use, or distribution of (a) any hazardous substance, or (b) products or materials which (i) includes any hazardous substance as a component and (ii) which, if an accident occurred, might result in the release or discharge of any hazardous substance, Licensee shall give written notice of such proposed use to Licensors. Such notice shall set forth (a) the proposed use and the hazardous substance involved, (b) a hazardous substance management plan describing the actions taken or proposed to be taken by Licensee to assure Licensee's compliance with the requirements of this license, and (c) evidence of insurance or other financial resources available to Licensee sufficient to assure Licensee's ability to comply with its obligations. Upon the expiration or earlier termination or revocation of this license, Licensee shall (a) cause all hazardous substances previously owned, stored, or used by Licensee to be removed from the Premises and disposed of in accordance with applicable provisions of law; (b) remove any storage tanks or containers installed or used by Licensee to store any hazardous substances and repair any damage caused by such removal; (c) cause any soil or other portion of the Premises which has become contaminated by any hazardous substances stored or used by Licensee to be decontaminated, detoxified or otherwise cleaned up in accordance with the requirements of cognizant governmental authorities; and (d) surrender possession of the Premises to Licensors free of the presence or effects of any hazardous substances.

generated or used by Licensee in, on, or about the Premises during the term of this license. Licensee shall indemnify and hold harmless Licensor from and against any and all claims relating to hazardous materials arising from this license. The obligations of Licensee under this section shall survive the expiration or earlier termination of the License without limitation.

14. **Litigation.** In case Licensor is without any fault on its part made a party to any litigation, investigation or governmental proceeding (other than condemnation proceedings) commenced by or against Licensee and arising out of Licensee's operations on the Premises, then Licensee shall and will pay all costs, expenses, damages and reasonable attorneys' fees incurred by or imposed on Licensor by or in connection with such litigation, investigation or governmental proceeding. Licensee shall pay all costs, expenses and reasonable attorneys' fees which may be incurred or paid by Licensor in enforcing any covenant and agreement of this license which may be breached by Licensee, including, without limitation, costs of collection of rent, taxes and other charges.

15. **Assignment.** Licensee shall not directly or indirectly, by operation of law or otherwise, assign, mortgage or encumber this license or sublicense the whole or any portion of the Premises. Any merger, consolidation or liquidation of Licensee or any change in the ownership of or power to vote the majority of Licensee's outstanding voting stock shall constitute an assignment of this license for purposes of this paragraph. Any assignment, mortgage, encumbrance or sublicense made without such consent shall be null and void and shall constitute an event of default by Licensee under this Agreement. No assignment of this license shall release or be deemed to relieve Licensee from the full and faithful performance of any terms and conditions in this Agreement contained and on Licensee's part to be observed and performed, or from any liability for the nonobservance or nonperformance thereof, nor be deemed to constitute a waiver of any rights of Licensor hereunder.

16. **Surrender Upon Termination.** Upon the termination, surrender or expiration of this license, Licensee shall peaceably surrender the Premises to Licensor in good, clean and sanitary condition, order and repair (reasonable wear and tear excepted), and shall restore the land as nearly as is reasonably possible to its condition immediately prior to the planting of the last crop on the Premises.

17. **Condemnation.** In the event at any time during the existence of this license the Premises shall be taken or condemned by any duly constituted authority exercising the right of eminent domain, then and in every such case the estate and interest of Licensee in the Premises so taken shall cease and be determined as of the date possession shall be taken and Licensee shall not by reason of such condemnation be entitled to any claim either against Licensor or others for compensation or indemnity and all compensation payable or to be paid by reason of any such condemnation shall be payable to and be the sole property of Licensor, and Licensee shall have no interest in or claim to such compensation or any part or parts thereof whatsoever; provided, however, that in the event any improvements erected or made by Licensee shall be

condemned and taken, then and in that event all compensation payable for such improvements shall accrue to Licensee.

18. **Late Fees.** In the event Licensee fails to pay any installment of rent, additional rent or other charges hereunder as and when such installment is due, to help defray the additional cost to Licensor for processing such late payments, Licensee shall pay to Licensor a late charge in an amount equal to five percent (5%) of such installment. The failure to pay such amount within ten (10) days after demand therefor shall be an event of default hereunder. The provision for such late charge shall be in addition to all of Licensor's other rights and remedies hereunder or at law and shall not be construed as liquidated damages or as limiting Licensor's remedies in any manner.

19. **Interest on Past Due Amounts.** All amounts which shall become due and payable under this Agreement from Licensee to Licensor shall bear interest payable to Licensor at the rate of one percent (1%) per month from the due date or dates until paid in full; provided that this paragraph shall not be construed to authorize delay in payment of any amounts becoming due hereunder.

20. **Notice.** Any notice or demand to be given to or served upon either Licensor or Licensee in connection with this Agreement shall be deemed to have been sufficiently given or served for all purposes by being sent as registered or certified mail, postage prepaid, addressed to the parties at the respective addresses set forth in the introductory paragraph of this Agreement, or at such other address as a party may from time to time designate in writing to the other party, and any such notice or demand shall be deemed conclusively to have been given or served upon the earlier to occur of the actual date of delivery or three business days after the date of mailing.

21. **No Waiver.** Licensor's acceptance of rent or any other sums paid under this Agreement shall not be deemed to be a waiver by Licensor of any breach by Licensee of any term, covenant or condition of this Agreement herein contained, or of Licensor's right to declare and enforce a forfeiture for any such breach. The failure of Licensor to insist upon strict performance of any of the terms, covenants and conditions of this Agreement, or to exercise any option herein conferred in any one or more instances, shall not be construed as a waiver or relinquishment for the future of any such terms, covenants, conditions or option, but the same shall be and remain in full force and effect. The term "Licensor" in these presents shall include Licensor, its successors and assigns and the term "Licensee" shall include Licensee, its successors and assigns.

22. **Neither Party Deemed to be the Drafter.** All provisions of this Agreement have been negotiated by Licensor and Licensee at arm's length and with the opportunity for full representation of their respective legal counsel and neither party shall be deemed to be the drafter of this Agreement. If this Agreement is ever construed by a court of law, such court shall not construe this Agreement or any provision of this Agreement against either party as the drafter of the Agreement.

23. **Counterparts.** This Agreement may be executed in one or more counterparts, and all of the counterparts shall constitute but one and the same agreement, notwithstanding that all parties hereto are not signatory to the same or original counterpart.


24. **No Other Agreements.** This Agreement supersedes all prior written or oral agreements between the parties hereto, all of which earlier agreements are hereby terminated.

Signatures begin on the following page.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto as of the day and year first above written.

COUNTY OF MAUI


By: 
ALAN M. ARAKAWA
Its: Mayor

By: 
SANANDA K. BAZ FOR DANILO F. AGSALOG
Its: Director of Finance

"Licensor"


ALEXANDER & BALDWIN, LLC
a Hawaii limited liability company

By: 
NELSON N.S. CHIIN
Its SENIOR VICE PRESIDENT

By: 
CHARLES W. LOOMIS
Its ASST SECRETARY

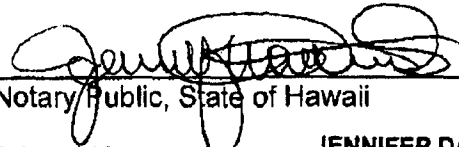
"Licensee"

APPROVED AS TO FORM
AND LEGALITY

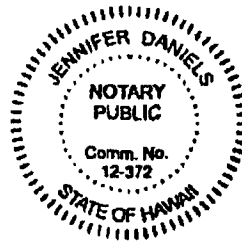

JEFFREY UEOKA
Deputy Corporation Counsel
County of Maui

STATE OF HAWAII)
) SS:
COUNTY OF MAUI)

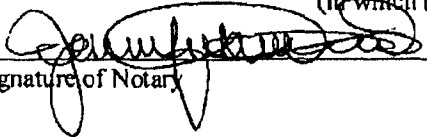
On this 19 day of December, 2012, before me personally appeared ALAN M. ARAKAWA, to me personally known, who, being by me duly sworn, did say that he is the Mayor of the County of Maui, a political subdivision of the State of Hawaii, and executed the foregoing as his free act and deed, and in the capacity shown, having been duly authorized to execute such instrument in such capacity.

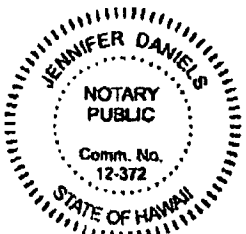


Notary Public, State of Hawaii
Printed Name: JENNIFER DANIELS
My commission expires: 11/11/2016



(Official Stamp or Seal)

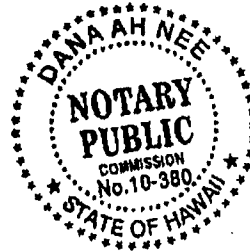
NOTARY CERTIFICATION STATEMENT	
Document Identification or Description: Real Property Purchase and Sale Agreement	
Doc. Date: _____	or <input checked="" type="checkbox"/> Undated at time of notarization.
No. of Pages: <u>12</u>	Jurisdiction: _____ Circuit (in which notarial act is performed)
 _____ Signature of Notary	<u>12/19/2012</u> Date of Notarization and Certification Statement
<u>JENNIFER DANIELS</u> Printed Name of Notary	(Official Stamp or Seal)



STATE OF HAWAII)
) SS:
COUNTY OF MAUI)

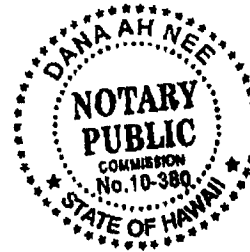
On this 19th day of December, 2012, before me personally appeared SANANDA K. BAZ, to me personally known, who, being by me duly sworn, did say that he is the Acting Director of Finance of the County of Maui, a political subdivision of the State of Hawaii, and executed the foregoing as his free act and deed, and in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Dana Ahnee
Notary Public, State of Hawaii
Printed Name: DANA AH NEE
My commission expires: NOV 14 2014



(Official Stamp or Seal)

NOTARY CERTIFICATION STATEMENT	
Document Identification or Description: Real Property Purchase and Sale Agreement	
Doc. Date: _____	or <input checked="" type="checkbox"/> Undated at time of notarization.
No. of Pages: <u>12</u>	Jurisdiction: <u>2nd</u> Circuit (in which notarial act is performed)
<u>Dana Ahnee</u> Signature of Notary	<u>DEC 19 2012</u> Date of Notarization and Certification Statement
<u>DANA AH NEE</u> Printed Name of Notary	(Official Stamp or Seal)



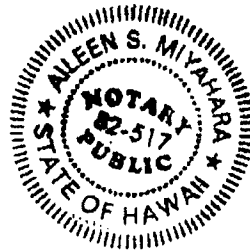
STATE OF HAWAII)
) SS:
CITY AND COUNTY OF HONOLULU)

On this 12th day of December, 2012, before me personally appeared NELSON N.S. CHUN, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Aileen S. Miyahara
Notary Public, State of Hawaii

Printed Name: AILEEN S. MIYAHARA

My commission expires: 7/15/14



(Official Stamp or Seal)

NOTARY CERTIFICATION STATEMENT

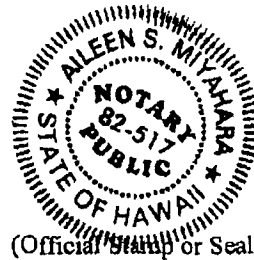
Document Identification or Description: Real Property Purchase and Sale Agreement

Doc. Date: _____ or Undated at time of notarization.

No. of Pages: 12 + Jurisdiction: First Circuit
exhibit (in which notarial act is performed)

Aileen S. Miyahara 12/12/12
Signature of Notary Date of Notarization and Certification Statement

AILEEN S. MIYAHARA
Printed Name of Notary



(Official Stamp or Seal)

STATE OF HAWAII)
) SS:
CITY AND COUNTY OF HONOLULU)

On this 12th day of December, 2012, before me personally appeared
CHARLES W. LOOMIS, to me personally known, who, being by me duly sworn or
affirmed, did say that such person executed the foregoing instrument as the free act and deed of
such person, and if applicable in the capacity shown, having been duly authorized to execute such
instrument in such capacity.

Aileen S. Miyamura
Notary Public, State of Hawaii

Printed Name: AILEEN S. MIYAMARA

My commission expires: 7/15/14



(Official Stamp or Seal)

NOTARY CERTIFICATION STATEMENT

Document Identification or Description: Real Property Purchase and
Sale Agreement

Doc. Date: _____ or Undated at time of notarization.

No. of Pages: 12 + Jurisdiction: First Circuit
exhibit (in which notarial act is performed)

Aileen S. Miyamura 12/12/12
Signature of Notary Date of Notarization and
Certification Statement

AILEEN S. MIYAMARA
Printed Name of Notary



(Official Stamp or Seal)

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LAND COURT SYSTEM

REGULAR SYSTEM

Return by Mail () Pickup () To:

Department of Finance
County of Maui
200 South High Street
Wailuku, Maui, HI 96793

Affects TMK: (2) 3-6-002:004

Pages ____

FIRST AMENDMENT TO LICENSE
(100 acres)

THIS FIRST AMENDMENT TO LICENSE made this _____ day
of _____, 20____, by and between the COUNTY OF MAUI, a
political subdivision of the State of Hawaii, whose address is 200
South High Street, Wailuku, Maui, Hawaii 96793, hereinafter
referred to as the "Licensor", and ALEXANDER & BALDWIN, LLC, a
Hawaii limited liability company, through its division, Hawaiian
Commercial & Sugar Company, whose mailing address is Post Office
Box 266, Puunene, Maui, Hawaii 96784, hereinafter referred to as
the "Licensee";

W I T N E S S E T H:

WHEREAS, Licensor and Licensee entered into that certain
License Agreement dated December 28, 2012, for a 100-acre portion
of the real property identified as Tax Map Key Number:
(2) 3-6-002:003, hereinafter referred to as the "License"; and

WHEREAS, the Property has been subdivided from the larger parcel and is now identified as Tax Map Key Number: (2) 3-6-002:004; and

WHEREAS, Licensor and Licensee desire to amend said License to extend the term of the License for a two-year period; NOW, THEREFORE,

Licensor, for and in consideration of Licensee's covenants and agreements set forth herein, does hereby agree to amend said License as follows:

1. The second paragraph of the License is amended by replacing the phrase "a portion of Tax Map Key No. (2) 3-6-002-003" with the phrase "Tax Map Key No. (2) 3-6-002:004". In addition, the referenced Exhibit "A" (which was inadvertently omitted from the License) is attached as Exhibit "A" to this First Amendment to License.

2. Section 1 is amended in its entirety to read as follows:

"1. Term. This License shall commence upon execution and shall expire on December 27, 2015. In the event that Licensee violates any of the terms of this Agreement, Licensor may terminate this License if, after receiving written notice of a default of this Agreement, Licensee fails to cure the breach within thirty (30) days, or if the breach cannot be cured within thirty (30) days, Licensee fails to commence action to cure the breach within thirty (30) days and thereafter, fails to diligently act to complete the cure of the default".

3. All other terms, conditions, provisions, and covenants of said License not modified by this First Amendment, shall remain unchanged and in full force and effect.

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

LICENSOR:

COUNTY OF MAUI

APPROVED AS TO FORM
AND LEGALITY:

By _____
ALAN M. ARAKAWA
Its Mayor

JEFFREY UEOKA
Deputy Corporation Counsel
County of Maui

S:\ALL\JTU\Waikapu 100 Acres\Lic.Agmt.Amd1.wpd

By _____
DANILO F. AGSALOG
Its Director of Finance

LICENSEE:

ALEXANDER & BALDWIN, LLC

By _____
(Signature)

(Print Name)

Its _____
(Title)

By _____
(Signature)

(Print Name)

Its _____
(Title)

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this _____ day of _____, 20____, before me personally appeared ALAN M. ARAKAWA, to me personally known, who, being by me duly sworn, did say that he is the Mayor of the County of Maui, a political subdivision of the State of Hawaii, and that the seal affixed to the foregoing instrument is the lawful seal of the said County of Maui, and that the said instrument was signed and sealed on behalf of said County of Maui pursuant to Section 7-5.11 and Section 9-18 of the Charter of the County of Maui; and the said ALAN M. ARAKAWA acknowledged the said instrument to be the free act and deed of said County of Maui.

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

Notary Public, State of Hawaii

Print Name: _____

My commission expires: _____

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

Notary Signature: _____	
Date: _____	

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this _____ day of _____, 20____, before me appeared DANILO F. AGSALOG, to me personally known, who being by me duly sworn, did say that he is the Director of Finance of the County of Maui, a political subdivision of the State of Hawaii, and that the seal affixed to the foregoing instrument is the lawful seal of the said County of Maui, and that the said instrument was signed and sealed on behalf of said County of Maui pursuant to Section 9-18 of the Charter of the County of Maui; and the said DANILO F. AGSALOG acknowledged the said instrument to be the free act and deed of said County of Maui.

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

Notary Public, State of Hawaii

Print Name: _____

My commission expires: _____

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

Notary Signature: _____	
Date: _____	

STATE OF _____)
) SS.
)
_____)

On this ____ day of _____, 20____, before me personally appeared _____, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

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

Notary Public, State of _____

Print Name: _____

My commission expires: _____

NOTARY PUBLIC CERTIFICATION		
Doc. Date: _____	not dated at time of notarization	# Pages: _____
Notary Name: _____		Judicial Circuit: _____
Doc. Description: _____		

Notary Signature: _____		
Date: _____		

STATE OF _____)
)
) SS.
_____)

On this ____ day of _____, 20____, before me personally appeared _____, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

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

Notary Public, State of _____

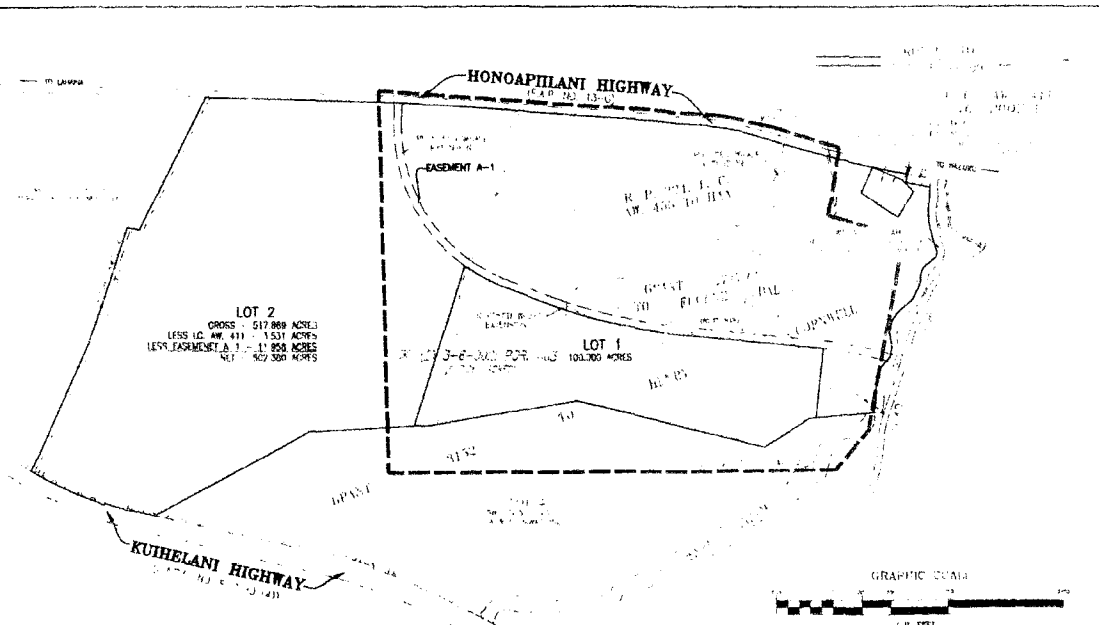
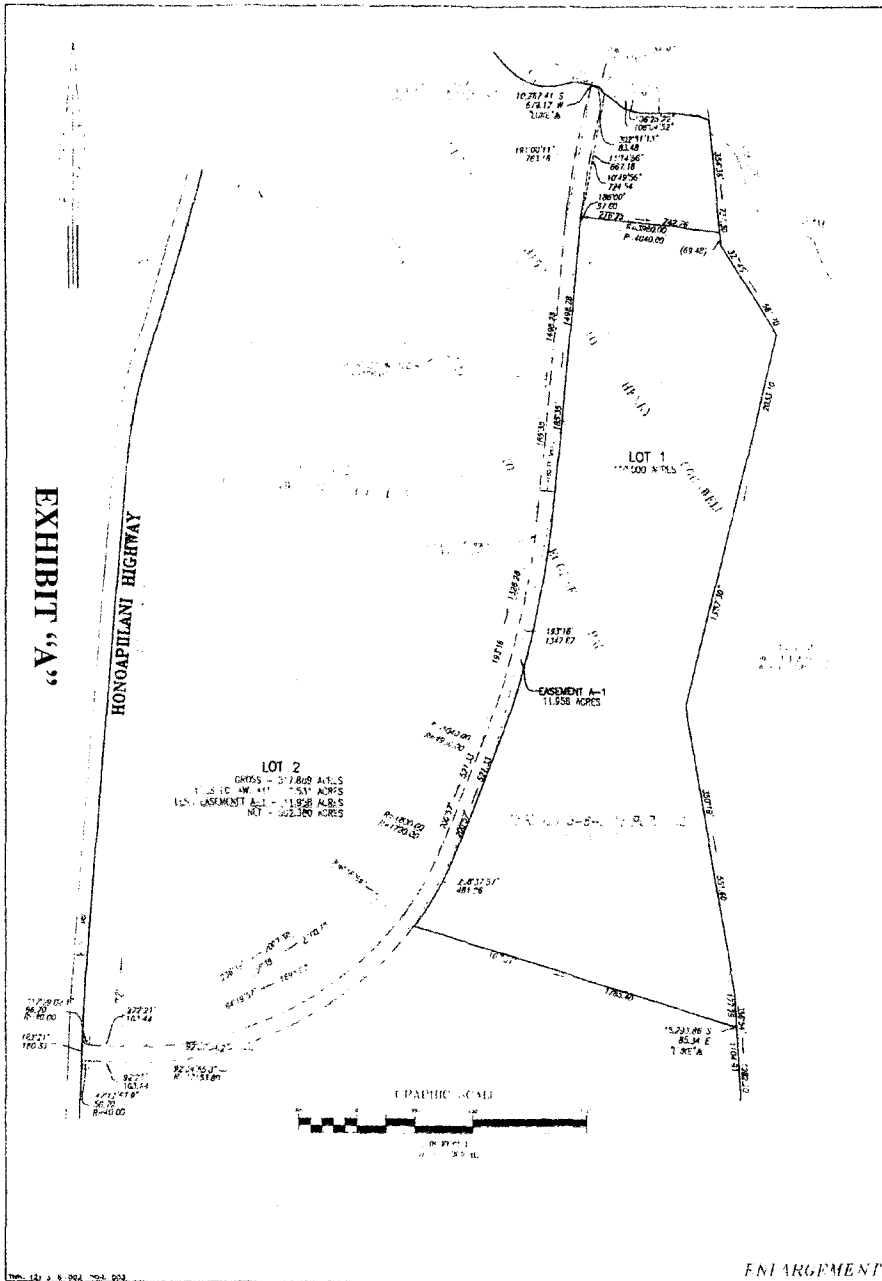
Print Name: _____

My commission expires: _____

NOTARY PUBLIC CERTIFICATION	
Doc. Date: _____	not dated at time of notarization # Pages: _____
Notary Name: _____	Judicial Circuit: _____
Doc. Description: _____	

Notary Signature: _____	
Date: _____	

EXHIBIT "A"



PROPOSED EASEMENT:			
EASEMENT	PURPOSE	APPROX. ACRES	IN FAVOR OF
EASEMENT A-1	TRAIL ACCESS AND UTILITY PURPOSES	11,958 AC.	IN FAVOR OF LOT 2 / IN FAVOR OF LOT 1

EXISTING EASEMENTS:			
EASEMENT	PURPOSE	IN FAVOR OF	DOCUMENT
EASEMENT A-1	FOR TRAIL PURPOSES	IN FAVOR OF HAWAII TROPICAL PLANTATION, INC.	1988-1989
EASEMENT B	FOR UTILITY PURPOSES	IN FAVOR OF HAWAII TROPICAL PLANTATION, INC.	1988-1989
EASEMENT C	FOR UTILITY PURPOSES	IN FAVOR OF HAWAII TROPICAL PLANTATION, INC.	1988-1989
EASEMENT D	FOR UTILITY PURPOSES	IN FAVOR OF HAWAII TROPICAL PLANTATION, INC.	1988-1989
EASEMENT E	FOR UTILITY PURPOSES	IN FAVOR OF HAWAII TROPICAL PLANTATION, INC.	1988-1989

NOTES:

1. ALL METERS AND COORDINATES ARE REFERRED TO GOVERNMENT SURVEY TRANSFORMATION SYSTEM LINES &.
2. ALL METERS AND COORDINATES HAVE BEEN TAKEN FROM RECORDED PLATS AT THE REAL PROPERTY MAPS AND BOOKS.
3. PURSUANT TO HAWAII COUNTY CODE SECTION 3-44.1(1)(C), THE COUNTY OF MAUI IS NOT RESPONSIBLE FOR ANY PUBLIC HIGHWAY EASEMENT (INCLUDING BUT NOT LIMITED TO TRAILWAYS, DRIVE ACCESS, RECREATION TRAILS, OR HIGHWAY EASEMENT), OR ANY OTHER INTEREST IN REAL PROPERTY SHOWN ON THIS MAP OR SHOWN ON THESE PLANS, UNLESS THE HAWAII COUNTY COURSE HAS ACCEPTED ITS POSITION BY A RESOLUTION APPROVED BY A MAJORITY OF COUNTY MEMBERS AT A REGULAR OR SPECIAL MEETING OF THE HAWAII COUNTY COURSE.
4. CORNERS OF LOT 1 ARE MARKED WITH 1/2" IRON NAILS OTHERWISE NOTED.
5. LOT 1 IS LOCATED WITHIN ZONE "Y" AND LOT 2 IS WITHIN ZONES "Y" AND "M". AS SHOWN ON THE MAP, THERE IS A NORTH CROSSROAD WITH A RIGHT-OF-WAY DATE OF SEPTEMBER 25, 2008, IN HAWAII COUNTY, STATE OF HAWAII, WHICH IS THE CURRENT FLOOD HAZARD MAP FOR THE COUNTY WITHIN THE COUNTY OF HAWAII. THE PROPERTY IS SUBJECT TO HAWAII COUNTY AND HAWAII COUNTY ZONING ORDINANCES.
6. BOUNDARY ALONG LOT 4 HAS BEEN TAKEN FROM A MAP OF SURVEY PROVIDED BY AAD HONOLULU, INC.
7. CORNER LINES SHOWN HEREON HAVE BEEN TAKEN FROM RECORDS FILED AT THE REAL PROPERTY MAPS AND BOOKS.

DRIVE ACCESS NOT PERMITTED.
 DRIVE ACCESS PERMITTED.

**WAIALE PARK (LARGE-LOT) SUBDIVISION
 CONSOLIDATION OF PORTIONS OF R.P.
 324, L.C. AW. 455 TO HAA; GRANT 2747 TO
 EUGENE BAL AND GRANT 3152
 TO HENRY CORNWELL
 INTO LOTS 1 AND 2
 AND DESIGNATION OF EASEMENT A-1
 AT WAIKAPU, MAUI, HAWAII**

THIS WORK WAS PREPARED BY ME
 OR UNDER MY SUPERVISION
 ALAN H. HUI
 LICENSED PROFESSIONAL LAND SURVEYOR
 CERTIFICATE NO. 12784

OWNER: WAIALE 905 PARTNERS, LLC.
 ADDRESS: P.O. BOX 1870
 MANATECA, CA 95336
 SUBDIVISION FILE NO. 324/R