

R-1091

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

DEC 29, 1999 03:00 PM

Doc No(s) 99-206268

/s/CARL T. WATANABE
ACTING
REGISTRAR OF CONVEYANCES

Y

LAND COURT SYSTEM

REGULAR SYSTEM

Return by Mail	<input type="checkbox"/>	Pickup	<input checked="" type="checkbox"/>	To:
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CARLSMITH BALL
1001 Bishop Street, Suite 2200
Honolulu, Hawaii 96813

Attention: Eric A. James
Telephone: 523-2500

TITLE OF DOCUMENT:

GRANT OF EASEMENT AND COVENANTS

PARTIES TO DOCUMENT:

GRANTOR: 1250 OCEANSIDE PARTNERS

GRANTEE: COUNTY OF HAWAII
25 Aupuni Street
Hilo, Hawaii 96720

TAX MAP KEY(S): (3)8-1-004:portion of 3 (This document consists of 36 pages.)

GRANT OF EASEMENT AND COVENANTS

THIS INDENTURE, made this 16th day of September, 1999, by and between the 1250 OCEANSIDE PARTNERS, a Hawaii limited partnership, whose principal place of business and post office address is 78-6831 Alii Drive, Suite K-15, Kailua-Kona, Hawaii 96740, hereinafter called "Grantor", and the COUNTY OF HAWAII, a political subdivision of the State of Hawaii, whose principal place of business and post office address is 25 Aupuni Street, Hilo, Hawaii 96720, hereinafter called "Grantee".

W I T N E S S E T H:

WHEREAS, Grantor owns the fee simple title to the parcels of land described in Exhibits "A" and "B" attached hereto and made a part hereof; and

WHEREAS, in connection with Grantee's approval of Ordinances 96-7 and 9-68 of the County of Hawaii, and Special Management Area Use Permit No. 345, Grantor is required to satisfy certain public access conditions to Kainaliu Bay and its adjacent shoreline; and

WHEREAS, in accordance to the above referenced Ordinances and Use Permit, Grantor has prepared, and Grantee has approved that certain Shoreline Park Management and Public Access Plan dated November, 1998 (the "Plan") relating to the development of the shoreline park area described therein (the "Park"); and

WHEREAS, Grantor desires to satisfy the aforesaid public access conditions for the Park by granting to Grantee the easement rights herein granted, and undertaking the covenants set forth herein, upon and subject to the following terms and conditions.

NOW, THEREFORE, this Indenture witnesseth that:

1. Grant of Easement. Grantor, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration to it paid, receipt whereof is hereby acknowledged, does hereby grant and convey unto the Grantee a perpetual nonexclusive easement for use by the general public for the purposes described in Sections 2 and 3 below, on the terms and conditions herein set forth, over, across and through the easement areas more particularly described in said **Exhibit "A"** ("Easement Area A") and in said **Exhibit "B"** ("Easement Area B"), both of which are attached hereto and incorporated herein by reference.

TO HAVE AND TO HOLD the same unto the Grantee, its successors and assigns, forever.

2. Use of Easement Area A. Effective upon Grantor's completion of the Park Improvements (described in Section 4. below) (or portions thereof), Grantee and the general public shall have the right to use the portions of Easement Area A where such Park Improvements have been completed, subject to the limitations set forth herein, solely for the purpose of (i) ingress, egress to the portion of Easement Area B where the Park Improvements have been completed, and (ii) parking of motor vehicles used for such purposes in the parking stalls provided for public use, as more fully shown on **Exhibit "A-1"**.

3. Use of Easement Area B. Effective upon Grantor's completion of the Park Improvements (or portions thereof), Grantee and the general public shall have the right to use the portions of Easement Area B where such Park Improvements have been completed, subject to the limitations set forth herein, solely for recreational purposes in accordance with

the Plan. Without limiting the foregoing, no portion of Easement Area B shall be used, pursuant to this Grant of Easement and Covenants, in any manner for vehicular purposes including without limitation, use by bicycles, mopeds, scooters, motorcycles or other wheeled vehicles.

4. Construction of Improvements. The Grantor shall construct on Easement Areas A and B the parking and other park improvements required by the terms and conditions of Paragraph K of County of Hawaii Ordinance No. 96-7 and Paragraph H of County of Hawaii Ordinance No. 96-8, as same may be amended from time to time (collectively the "Park Improvements"), within the time periods required by such Ordinances. Grantor will provide the Grantee with written notice as portions of the Park Improvements are completed, and upon such notification, such portions of the Park Improvements shall then be made available for use by Grantee and the general public as set forth in Sections 2 and 3 above. Prior to such notice, Grantee and the general public shall not have any right to use or otherwise go over, across or through the portions of Easement Areas A and B that have not been improved by Grantor as provided herein.

5. Maintenance of Easement Areas. The Grantor shall maintain Easement Areas A and B, including without limitation, the maintenance and repair of the Park Improvements. The Grantor shall have the right, from time to time, to delegate this maintenance responsibility to third parties including, without limitation, Hokuli'a Community Association, Inc., a Hawaii nonprofit corporation.

6. Grantor's Reservation of Rights. Grantor, its successors and assigns, shall retain and reserve the right to use Easement Areas A and B, before and after construction

of the Park Improvements, for purposes of installing or maintaining utilities or other improvements that may be located on, under or adjacent to said Easement Areas and to utilize said Easement Areas for purposes connected with the development and operation of the Hokuli'a planned community and the adjoining lands, as may be necessary or appropriate.

7. Control and Regulation of Easement Areas. The use of Easement Areas A and B by Grantee and the general public shall at all times be strictly in accordance with the Rules and Provisions attached hereto as Exhibit "C", as amended from time to time, and incorporated herein by reference ("Rules"). In the interest of preserving the safety, security, health and well being of all persons using Easement Areas A and B, and the adjacent lands and uses, the Grantor, or such entity as the Grantor may designate and appoint ("Management"), shall have the full right and authority to enforce the Rules in Easement Areas A and B, and to take all actions permitted in the Rules in the event of any violation of the Rules, or the terms of this Grant of Easement and Covenants, by any person or entity using Easement Areas A or B.

The Grantor reserves the right to amend the Rules at any time, subject to the prior written approval of the Director of the County of Hawaii Planning Department, which approval may not be unreasonably withheld.

8. Restrictions on Access. Management shall have the right to control or prevent or limit access to portions of Easement Area B that, in Management's judgement, pose a danger to the public or that require protection from the public to preserve the area from overuse. Management shall also have the right to restrict access to Easement Area B during the periods that the public parking area shown on **Exhibit "A-1"** is full. Management shall

also have the right to control or prevent access to Easement Areas A or B in the event of a County or State declared emergency.

9. Statutory Authority. The Grantor and Grantee agree that this Grant of Easement and Covenants is intended to comply with Chapter 205A, as amended, of the Hawaii Revised Statutes. The Grantor and Grantee further agree that the general public's use of Easement Areas A and B for the purposes permitted hereunder constitutes use for "recreational purposes" within the meaning of the Hawaii Recreational Use Statute, Hawaii Revised Statutes Chapter 520.

10. Satisfaction of Conditions. The Grantee hereby acknowledges and agrees that the execution and delivery of this Grant of Easement and Covenants by the Grantor, and the Grantor's performance of its obligations hereunder, shall satisfy the public access conditions for the Park that are contained in County of Hawaii Ordinance Nos. 96-7 and 96-8, and Special Management Area Use Permit No. 345 issued to Grantor. This Grant of Easement and Covenants shall terminate automatically (a) if County of Hawaii Ordinance No. 96-7 or No. 96-8 is repealed, or if the lands described therein are otherwise rezoned, or (b) if Special Management Area Use Permit No. 345 is revoked or rescinded.

11. Abandonment. The Grantee may voluntarily abandon all or any portion of the Easement Areas, which abandonment may be accomplished by resolution of the Council of the County of Hawaii, and upon such abandonment the easement granted herein and the obligations imposed hereunder with respect to the Easement Areas or the portion thereof so abandoned and which has been described in said resolution shall thereupon terminate.

12. Clearing of Grantor's Title. In the event of abandonment or termination of this Grant, the Grantee will execute and acknowledge an appropriate instrument evidencing the same, in proper recordable form provided by Grantor.

13. Condemnation. In the event the Easement Areas shall be taken or condemned in whole or in part by any authority having the power of eminent domain, including the Grantee, the use of the Easement Areas allowed by this Grant of Easement and Covenants shall not be considered to be evidentiary of the value of the Easement Areas, and the Easement Areas shall have the same value as the land adjoining them, and all compensation and damages awarded on account of the condemnation or taking shall be payable to Grantor, without any apportionment to the Grantee.

14. Encumbrances. The Grantee will not commit or suffer any act or neglect whereby the Easement Areas shall at any time become subject to any attachment, judgment, lien, charge or encumbrance whatsoever, and will indemnify, defend and hold Grantor harmless from and against all loss, costs and expenses, including reasonable attorneys' fees with respect thereto. The Grantee shall promptly discharge or cause to be discharged every attachment, judgment, lien, charge or encumbrance of any nature that may be filed against the Easement Areas or on account of the Grantee's use of the Easement Areas. Should any claim or lien be filed against the Easement Areas, or any action or proceeding be instituted affecting the title to the Easement Areas, or imposing an obligation on Grantor to the knowledge of the Grantee, the Grantee shall give Grantor written notice thereof as soon as the Grantee obtains knowledge thereof. Notwithstanding the above, the restrictions against encumbrances contained herein shall not apply to any civil fines, liens or other assessments

made by Grantee against the Easement Areas based upon the failure of Grantor to comply with applicable permits, laws or regulations with respect to the Park.

15. Construction. The terms "Grantor" and "Grantee" as used herein shall mean and include the Grantor and Grantee above named, respectively, and their respective successors in trust, successors and assigns. The headings of the paragraphs herein are inserted only for convenience and reference and shall in no way define, describe or limit the scope or intent of any provision of this agreement. No party shall be deemed the drafter of this instrument. If this instrument is ever construed by a court of law, such court shall not construe this instrument or any provision hereof against any party as drafter.

16. Assignment. The Grantee's rights under this Grant of Easement and Covenants may not be assigned..

17. Governing Law. This Grant of Easement and Covenants shall be governed by the laws of the State of Hawaii.

18. Modification. This Grant of Easement and Covenants shall not be modified except by an instrument in writing signed by Grantor and Grantee.

19. Entire Agreement. It is expressly understood and agreed that nothing in this Grant of Easement and Covenants or the use granted herein shall be construed to convey any rights to any person or persons, including the Grantee, by implication or otherwise, except to the extent expressly granted herein.

IN WITNESS WHEREOF, the parties hereto have executed this instrument the
day and year first above written.

1250 OCEANSIDE PARTNERS

By RED HILL 1250, INC.

Its General Partner

Richard L. Humphreys
By: RICHARD L. HUMPHREYS

Its VICE-PRESIDENT

"Grantor"

APPROVED AS TO FORM:

COUNTY OF HAWAII

[Signature]
Deputy Corporation Counsel
ASST.

By *[Signature]*
Its Mayor

"Grantee"

STATE OF HAWAII)
)
COUNTY OF HAWAII) SS.

On this 18TH day of SEPTEMBER, 1999 before me SUZANNE S. Redmill, a duly commissioned and sworn Notary Public in and for the State of Hawaii, personally appeared STEPHEN K. YAMASHIRO, to me personally known, who, being by me duly sworn, did say that he is the Mayor of the COUNTY OF HAWAII, a municipal corporation of the State of Hawaii; that the seal affixed to the foregoing instrument is the corporate seal of said COUNTY OF HAWAII; that the foregoing instrument was signed and sealed on behalf of the COUNTY OF HAWAII by authority given to said Mayor of the County of Hawaii by Section 5-1.3(g) of the County Charter, County of Hawaii (1991), as amended; and said STEPHEN K. YAMASHIRO acknowledged said instrument to be the free act and deed of said COUNTY OF HAWAII.

In witness whereof, I have hereunto set my hand and affixed my official seal on the day and year last above written.

[Seal]

Suzanne S. Redmill
Notary Public, State of Hawaii
My commission expires: JUNE 11, 2000
Suzanne S. Redmill

DESCRIPTION

Hokuli'a Shoreline Park
Easement A

Being a portion of Grant 1651 to Charles Hall

Situated at HOKUKANO 1st and 2nd,
North Kona, Island of Hawaii, Hawaii

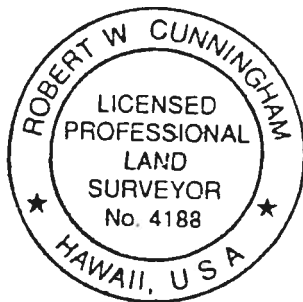
Beginning at the Northeast corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU OHAU" being 2,863.08 feet North and 1,932.01 feet West, thence running by azimuths measured clockwise from True South:

- | | | |
|----|--------------|---|
| 1. | 63° 00' | 146.46 feet along the remainder of Grant 1651 to Charles Hall; |
| 2. | 26° 00' | 214.09 feet along the remainder of Grant 1651 to Charles Hall; |
| 3. | 343° 30' | 45.00 feet along the remainder of Grant 1651 to Charles Hall; |
| 4. | 77° 00' | 310.00 feet along the remainder of Grant 1651 to Charles Hall; |
| | | Thence along Shoreline (Vegetation Line) as of February 10, 1984, the direct azimuth and distance between points being: |
| 5. | 188° 25' 50" | 397.97 feet; |
| 6. | 272° 45' | 455.80 feet along HOKUKANO Village to the point of beginning and containing an Area of 2.59 Acres, more or less. |


Note: Description compiled from available data.

680 Ala Moana Boulevard
First Floor
Honolulu, Hawaii 96813

December 3, 1999

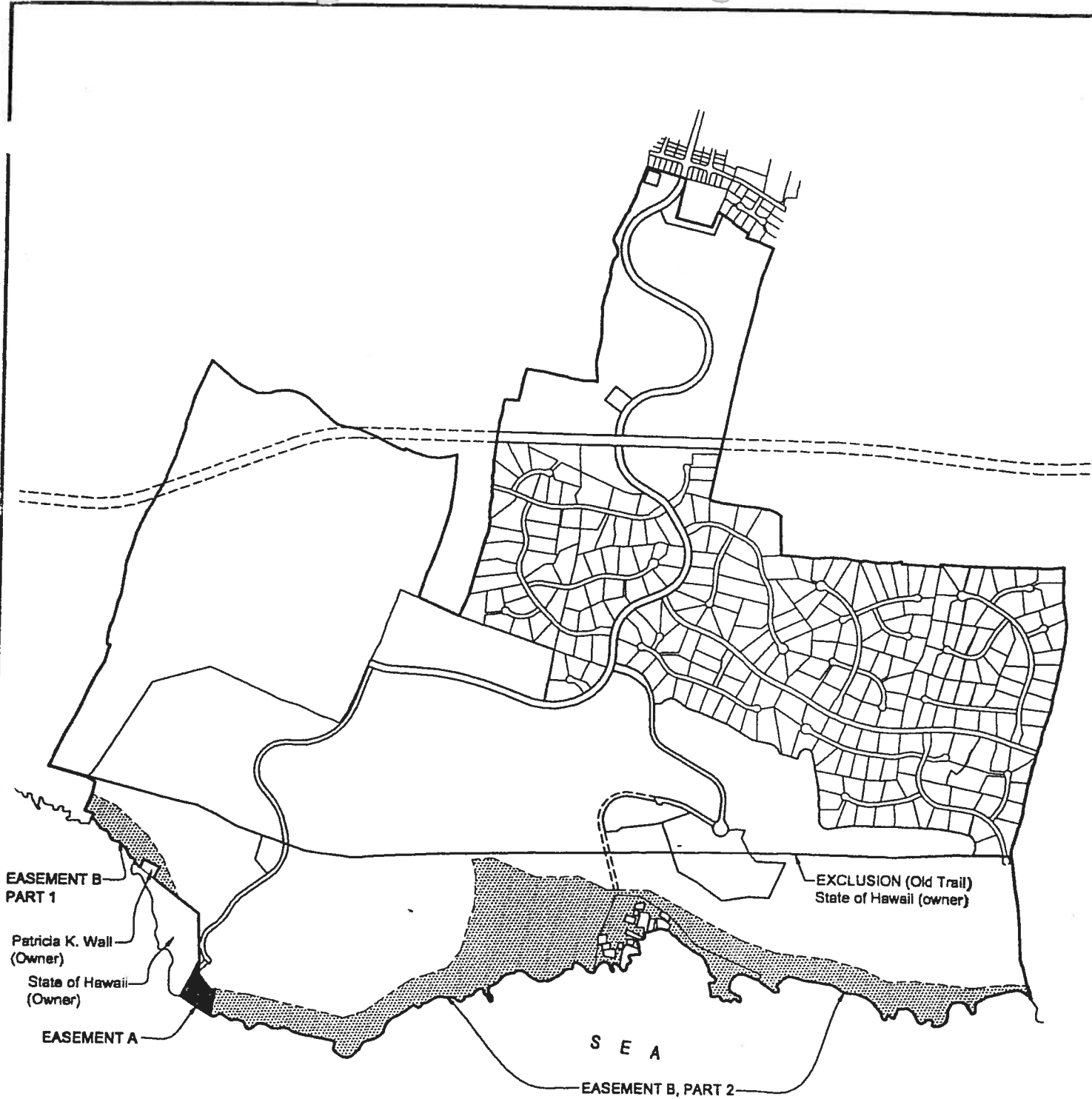


BELT COLLINS HAWAII LTD.


Licensed Professional Land Surveyor
Certificate Number 4188

Together with non-exclusive easements for access purposes over and across Roadway Lots 14, 15, 16, and 17, inclusive, and Easement Area 14, as shown on File Plan No. _____, filed in the Bureau of Conveyances of the State of Hawaii,

Exhibit A
Page 2 of 2



HOKULI'A SHORELINE PARK EASEMENTS

DECEMBER 6, 1999

LEGEND

-  EASEMENT A
-  EASEMENT B



GRAPHIC SCALE: 1 in. = 1600 ft.

EXHIBIT "A-1"

DRAWN BY: J. L. BROWN, 12/1/99

DESCRIPTION

Hokuli'a Shoreline Park
Easement B, Part 1

Being a portion of Grant 1651 to Charles Hall

Situated at Hokukano 1st and Honuaino 4th,
North Kona, Island of Hawaii, Hawaii

Beginning at the South corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU OHAU" being 3,386.18 feet North and 1,381.18 feet West, thence running by azimuths measured clockwise from True South:

1. 193° 00' 384.67 feet along "Hokukano Village";
2. 275° 46' 30" 146.99 feet along the remainder of Grant 1651 to Charles Hall;
3. 180° 50' 207.12 feet along the remainder of Grant 1651 to Charles Hall;
4. 92° 50' 30" 103.81 feet along the remainder of Grant 1651 to Charles Hall;
5. 193° 00' 80.00 feet along "Hokukano Village" to Shoreline (Vegetation Line)
as of February 10, 1984;
Thence along Shoreline (Vegetation Line) as of February 10,
1984, the direct azimuth and distance between points being:
6. 200° 50' 37" 719.11 feet;
7. 266° 10' 60.01 feet along the remainder of Grant 1651 to Charles Hall;
8. 176° 10' 101.90 feet along the remainder of Grant 1651 to Charles Hall;
9. 266° 10' 207.41 feet along the remainder of Grant 1651 to Charles Hall;
10. 1° 00' 307.60 feet along the remainder of Grant 1651 to Charles Hall;
11. 18° 00' 497.68 feet along the remainder of Grant 1651 to Charles Hall;
12. 30° 19' 324.00 feet along the remainder of Grant 1651 to Charles Hall;

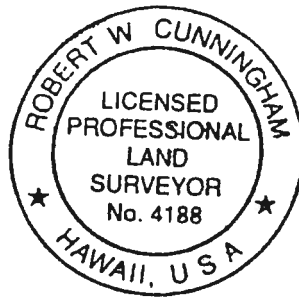
13. 42° 00'

513.00 feet along the remainder of Grant 1651 to Charles Hall to the point of beginning and containing an Area of 7.67 acres, more or less.

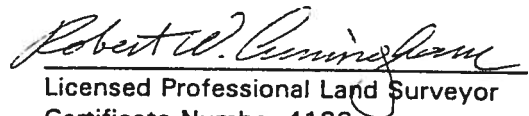
Note: Description compiled from available data.

680 Ala Moana Boulevard
First Floor
Honolulu, Hawaii 96813

December 3, 1999



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Licensed Professional Land Surveyor
Certificate Number 4188

DESCRIPTION

Hokuli'a Shoreline Park
Easement B, Part 2

Being all of Grant 13,000 to Maud A. Greenwell and portions of Grant 1651 to Charles Hall, Grant 1745 to John Cavanagh, Royal Patent 1670 to John D. Parish on a portion of Land Commission Award 387, Part 4, Section 2 to the American Board of Commissioners for Foreign Missions And Royal Patents 4386 and 7146, Land Commission Award 8452, Apana 11 to A. Keahokalole

Situated at Hokukano 1st and 2nd, Kanaeue 1st and 2nd, Halekii, Keekee 1st and 2nd, Ilikahi, Kanakau 1st and 2nd Kalukalu 1st, 2nd and 3rd and Onouli 1st, North Kona and South Kona, Island of Hawaii, Hawaii

Beginning at the Northeast corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU OHAU" being 2,561.02 feet North and 2,143.58 feet West, thence running by azimuths measured clockwise from True South:

- | | | |
|-----|----------|--|
| 1. | 343° 30' | 411.00 feet along the remainder of Grant 1651 to Charles Hall; |
| 2. | 348° 20' | 1,123.00 feet along the remainder of Grant 1651 to Charles Hall; |
| 3. | 317° 00' | 256.00 feet along the remainder of Grant 1651 to Charles Hall; |
| 4. | 300° 00' | 641.00 feet along the remainder of Grant 1651 to Charles Hall; |
| 5. | 316° 00' | 441.00 feet along the remainder of Grant 1651 to Charles Hall; |
| 6. | 282° 00' | 259.00 feet along the remainder of Grant 1651 to Charles Hall; |
| 7. | 260° 00' | 573.00 feet along the remainder of Grant 1651 to Charles Hall; |
| 8. | 247° 00' | 304.00 feet along the remainder of Grant 1651 to Charles Hall; |
| 9. | 232° 00' | 205.00 feet along the remainder of Grant 1651 to Charles Hall; |
| 10. | 329° 00' | 221.00 feet along the remainder of Grant 1651 to Charles Hall; |

- | | | |
|-----|--------------|--|
| 11. | 359° 00' | 543.00 feet along the remainders of Grant 1651 to Charles Hall and R.P. 1670 to John D. Parish on a portion of L.C. Aw. 387, Part 4, Section 2 to A.B.C.F.M.; |
| 12. | 1° 00' | 353.00 feet along the remainder of Grant 1745 to John Cavanagh; |
| 13. | 335° 00' | 489.00 feet along the remainder of Grant 1745 to John Cavanagh; |
| 14. | 2° 42' 30" | 1,190.00 feet along the remainder of Grant 1745 to John Cavanagh; |
| 15. | 355° 16' | 440.00 feet along the remainder of Grant 1745 to John Cavanagh; |
| 16. | 341° 20' | 606.00 feet along the remainder of Grant 1745 to John Cavanagh; |
| 17. | 351° 27' | 400.00 feet along the remainder of Grant 1745 to John Cavanagh; |
| 18. | 2° 19' | 313.00 feet along the remainders of Grant 1745 to John Cavanagh and R.P. 4386 and 7146, L.C. Aw. 8452, Apana 11 to A. Keohokalole; |
| 19. | 332° 30' | 327.00 feet along the remainder of R.P. 4386 and 7146, L.C. Aw. 8452, Apana 11 to A. Keohokalole; |
| 20. | 340° 51' | 628.00 feet along the remainder of R.P. 4386 and 7146, L.C. Aw. 8452, Apana 11 to A. Keohokalole; |
| 21. | 329° 00' | 452.00 feet along the remainder of R.P. 4386 and 7146, L.C. Aw. 8452, Apana 11 to A. Keohokalole; |
| 22. | 340° 00' | 180.00 feet, more or less, along the remainder of R.P. 4386 and 7146, L.C. Aw. 8452, Apana 11 to A. Keohokalole to a stonewall;

Thence along stonewall, along Grant 2862 to Awahua to Highwater Mark at Seashore, the direct azimuth and distance between points being: |
| 23. | 50° 19' | 161.21 feet;

Thence along Highwater Mark at Seashore for the next two (2) courses, the direct azimuths and distances between points being: |
| 24. | 148° 45' 15" | 1,704.39 feet; |

25. 169° 44' 25" 1,429.95 feet;

Thence along top of bluff for the next nine (9) courses, the direct azimuths and distances between points being:

26. 161° 12' 287.21 feet to a spike in concrete;

27. 91° 49' 84.67 feet;

28. 35° 01' 110.10 feet;

29. 80° 35' 70.00 feet;

30. 161° 50' 115.00 feet;

31. 197° 15' 70.00 feet;

32. 164° 50' 65.00 feet;

33. 239° 50' 110.00 feet;

34. 320° 35' 50.00 feet;

35. 247° 25' 60.00 feet to top of bluff;

Thence along top of bluff for the next six (6) courses, the direct azimuths and distances between points being:

36. 199° 50' 85.00 feet;

37. 225° 20' 210.00 feet;

38. 181° 15' 135.00 feet;

39. 190° 10' 145.00 feet;

40. 201° 45' 115.00 feet;

41. 177° 26' 129.60 feet;

42. 87° 00' 10.00 feet to Highwater Mark at Seashore;

Thence along Highwater Mark at Seashore for the next two (2) courses, the direct azimuths and distance between points being:

43. 159° 45' 125.00 feet;

44. 136° 55' 165.00 feet;

45. 67° 25' 50.00 feet to a point at Highwater Mark at Seashore;

Thence along Highwater Mark at Seashore, the direct azimuth and distance between points being:

46. 147° 58' 78.30 feet;

47. 175° 30' 15.00 feet along Government Reserve;

48. 74° 40' 108.60 feet along Government Reserve;

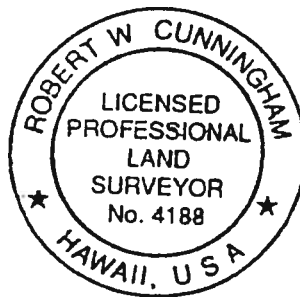
49. 352° 40' 20.00 feet along Government Reserve to Highwater Mark at Seashore;
Thence along Highwater Mark at Seashore, the direct azimuth and distance between points being:
50. 105° 05' 275.00 feet;
51. 252° 30' 45.00 feet to top of bluff;
Thence along top of bluff for the next three (3) courses, the direct azimuths and distances between points being:
52. 146° 35' 89.90 feet;
53. 157° 10' 120.00 feet;
54. 101° 30' 166.40 feet;
55. 253° 38' 2.90 feet to Shoreline (Vegetation Line) as of February 10, 1984;
Thence along Shoreline (Vegetation Line) as of February 10, 1984, for the next six (6) courses, the direct azimuths and distances between points being:
56. 184° 46' 30" 245.93 feet;
57. 146° 26' 06" 704.73 feet;
58. 133° 48' 40" 1,078.20 feet;
59. 123° 45' 55" 1,152.88 feet;
60. 175° 19' 20" 805.52 feet;
61. 166° 46' 43" 762.75 feet;
62. 257° 00' 310.00 feet along the remainder of Grant 1651 to Charles Hall to the point of beginning and containing a Gross Area of 108.09 Acres, more or less, and a Net Area of 104.71 Acres, more or less, after excluding and deducting the following:
- | | |
|---|-----------|
| L.C. Aw. 7035, Apana 2 to Kaiwaiwa (TMK 8-1-04:6) | 0.14 Acre |
| L.C. Aw. 7197, Apana 2 to Kamahale (TMK 8-1-04:7) | 0.18 Acre |
| L.C. Aw. 7210, Apana 2 to Kini (TMK 8-1-04:8) | 0.08 Acre |
| L.C. Aw. 7212, Apana 2 to Kaiaino (TMK 8-1-04:18) | 0.17 Acre |
| L.C. Aw. 8157-C, Apana 2 to Kamakahiona (TMK 8-1-04:16) | 0.22 Acre |
| L.C. Aw. 8157-BB to Kalamala (TMK 8-1-04:9) | 0.17 Acre |
| L.C. Aw. 8157-E, Apana 2 to Kamaheaiku (TMK 8-1-04:17) | 0.10 Acre |

L.C. Aw. 8455-C, Apana 2 to Kuluiki (TMK 8-1-04:11)	0.25 Acre
L.C. Aw. 8455-E, Apana 2 to Pauole (TMK 8-1-04:12)	0.70 Acre
L.C. Aw. 8455-F, Apana 2 to Ialua (TMK 8-1-04:13)	0.50 Acre
L.C. Aw. 8455-G, Apana 1 to Makauwaa (TMK 8-1-04:14)	0.07 Acre
L.C. Aw. 8455-H, Apana 2 to Makole (TMK 8-1-04:19)	0.35 Acre
L.C. Aw. 8455-I to Nawai (TMK 8-1-04:15)	0.22 Acre
<u>L.C. Aw. 9753-B, Apana 2 to Paiwa (TMK 8-1-04:20)</u>	<u>0.23 Acre</u>
TOTAL =	3.38 Acres

Note: Description compiled from available data.

680 Ala Moana Boulevard
 First Floor
 Honolulu, Hawaii 96813

December 3, 1999



BELT COLLINS HAWAII LTD.

Robert W. Cunningham

 Licensed Professional Land Surveyor
 Certificate Number 4188

EXHIBIT C

Park Rules and Procedures

I. INTRODUCTION

A. Purpose

The purpose of these rules and provisions are to govern the use and protection of all lands and historical and natural resources within the Hokuli'a shoreline park (Park) area.

B. Definitions

"Abandoned property" means any and all property, including personal property, items, materials, equipment, fixtures, motor vehicles, or vessels, that have been left unattended for a continuous period of more than twenty-four hours without the written permission of the park management (Management) or its authorized representative.

"Animals" mean all animals, wild and domestic.

"Authorized representative" means any person authorized by the Management to act for the Management in the administration of these rules and regulations.

"Camper" means any person engaged in a camping activity.

"Camping" means remaining within a designated camping area during park closing hours or sleeping during nighttime hours on the premises or the use or occupation of the premises by one or more persons who remain or intend to remain on the premises between the hours of twelve midnight and one half hour before sunrise, except persons with special permits or other types or permits or authorization from the management or its authorized representative to remain on the premises for other purposes.

"Motor vehicle" means a motor vehicle of any type, including, but not limited to, automobiles, trucks, go-carts, motorcycles, motor scooters, mopeds, dune buggies, or ATVs, whether the vehicle is licensed or unlicensed.

"Park area" or "Hokuli'a shoreline park" means property owned in fee by 1250 Oceanside Partners that is described in Exhibits A and B of the Grant of Easement and Covenants to which these rules are attached.

"Park management" or "management" means the management entity established by 1250 Oceanside or its legal designee, which is responsible for the management, maintenance, security, and operation of the shoreline park area.

"Premises" means any lands within the shoreline park area.

"Picnic" means an outing with food provided by members of the group and eaten in the open.

"Reasonable conduct" means behavior or activity that is fair, proper, just, moderate and suitable under the circumstances. Such behavior or activity may fairly, justly and reasonably be required of an individual or group of individuals while in the Park.

"Recreational trailer" means a vehicle propelled by its own power or by some independent power and used as a dwelling.

"Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a roadway or highway, including mopeds, and other devices moved by human power.

"1250 Oceanside" or "Owner" shall mean 1250 Oceanside Partners, the Fee Owner of the Park area, and its successors and assigns.

C. Hours of Use

The park may be used by the public only between the hours of 7:00 a.m. and 15 minutes after sunset daily; provided, however, that Management may issue night fishing, special use, or camping permits pursuant to Section 5 as specified herein.

D. Access

1. 1250 Oceanside shall have the right to control or prevent access to the park by all persons whose presence in Management's judgement shall be adverse to the safety, character, or interests of the park or of users of the park.

2. In case of invasion, mob riot, public excitement, or other commotion, Management reserves the right to prevent access to the park during the continuance of the same for the safety of park users and the protection of the property in the park

3. Persons violating the park rules and regulations may be denied subsequent use of the park by Management in its sole discretion, and may be subject to expulsion and penalties, as set forth in Section 4 herein described.

E. Noise

All activities conducted at the park shall not exceed a reasonable and prudent noise level, and in no event shall such activities exceed 60 DBA sound pressure level.

F. Hazardous Activities

No activities shall be conducted in the park that are or may be unsafe or hazardous to any person or property. Management reserves the right to stop any activity within the park that it determines in its sole judgement, has become unsafe or a hazard.

G. Obstruction of Passageways

No trails or passages in the park shall be obstructed or used for any purpose other than foot trail within the park, or ingress or egress from the park.

H. Lost Articles

Any person finding lost articles shall deposit them at the Management's office, leaving their name and address.

I. Intoxication

Management reserves the right to exclude from the park any person who, in Management's judgement, is intoxicated or under the influence of liquor or drugs so as to create a risk to persons or property and said person shall be subject to expulsion and penalties set forth in Section IV herein.

J. Standard of Reasonable Conduct

Without limiting the generality of any of the park rules and regulations, any activities not covered hereby shall be subject to a standard of reasonable conduct.

K. No Liability

Neither management nor owner shall be liable for any damage or injury to anyone or anything that may occur as a result of enforcement or failure to enforce these park rules and regulations.

L. Nonwaiver

Failure to enforce these park rules and regulations on any occasion shall not be construed as a waiver and shall in no way affect Management's right to subsequently enforce these park rules and regulations.

M. Lifeguards

Neither owner nor Management will be responsible for providing lifeguard services.

II. REGULATED ACTIVITIES

The following activities are allowed only in designated areas indicated by appropriate signage:

A. Picnicking

Picnicking or any outing with food provided by members of the group; provided, however, that a permit is obtained when required pursuant to Section V herein.

B. Fires

All fires (i) shall be confined in barbeque pits designated and provided by Management; (ii) shall not be allowed to burn in a manner that may threaten surrounding shrubs, grass, trees, or other combustible matter, or endanger structures that could be burned, scorched or damaged; (iii) when no longer needed, shall be completely extinguished and coals shall be deposited in designated ash disposal pits provided by Management; (iv) shall not be left unattended.

C. Parking

All parking of motor or other vehicles shall only be in designate Park parking areas provided, however, that Management may direct persons utilizing the park through the issuance of a permit as set forth in Section V hereof, to park in areas other than those specifically designated for public parking. In the event of an infraction of this rule, violators shall be subject to expulsion and penalties set forth in Section IV herein below, and Management shall be entitled to have the offending vehicle towed to the holding area of a towing service and to charge the owner or driver of the vehicle the full amount of the towing cost.

D. Access

All vehicular and pedestrian ingress to and egress from the park shall be confined to access ways that have been designated for such purposes; provided, however, that Management may direct persons utilizing portions of the park through the issuance of a permit as set forth in Section V hereof, to utilize access ways other than those specifically designated for public use.

III. PROHIBITED ACTIVITIES

The following activities are prohibited in the park:

A. Alcoholic Beverages

Possessing or drinking any alcoholic beverage, except in connection with public gatherings or special events for which permits have been issued in accordance with Section V, hereinbelow.

B. Illegal Drugs

Possessing or using narcotics, controlled substances, or any illegal drug.

C. Disorderly Conduct

Disorderly conduct, including but not limited to, fighting, violent or tumultuous behavior, making unreasonable noise or offensive or abusive or threatening utterances or gestures.

D. Audio Devices

Operating or using any electrical or battery powered audio device, including but not limited to, radios, tape recorders, television sets, amplified musical instruments, compact disc players, and noise producing devices used as electrical generating plants, or other equipment driven by motors or engines in a manner and at times that create excessive noise or annoyance to park users or others outside the park (see Section I.E, Noise, above).

E. Public Address Systems

Operating or using public address systems, whether fixed or portable, or vehicle mounted, on land, water or roadways, except when the use or operation is in connection with public gatherings or special events for which permits have been issued by Management in accordance with Section V hereinbelow, or when the use is in conjunction with emergency or rescue operations.

F. Communication Equipment

Installing or operating aerials, antennas, transmitting or radio, telephone, television or other communication equipment (except hand held portable devices, cellular phones or equipment within vehicles).

G. Camping

Camping, unless specifically allowed by Management through the issuance of a permit, as set forth in Section V hereof. Camping Permits will provide for a maximum of three (3) nights and successive permits for a particular site must be separated by a minimum of one night.

H. Recreational Trailers

Using recreational trailers or other camper units.

I. Closing Hours

Remaining in the park between the closing hours of 15 minutes after sunset through 7:00 a.m. unless specifically permitted by Management through the issuance of a permit, as set forth in Section V hereof.

J. Animals

Bringing animals into the park, except properly leashed seeing-eye dogs accompanied by their masters shall be permitted. Running at large, herding, driving across, raising or grazing animals.

K. Natural Resources

1. Molesting, disturbing, injuring, trapping, taking, catching, possessing, poisoning, introducing or killing any wild bird or animal or disturbing the habitat of any such bird or animal.

2. Gathering or collecting any natural product, including, but not limited to, sea shells, fruits, berries, flowers, seeds, pine cones, driftwood and pebbles for commercial uses or purposes.

3. Destroying, digging, removing, or possessing any tree, shrub, or plant of any kind.

4. Destroying, disturbing, or mutilating any geological feature or digging or removing sand, earth, gravel, mineral, rock fossil, coral or any other substance.

L. Bicycles, Skateboards, Roller Skates, Roller Blades

Riding bicycles, skateboards, or roller skates/blades.

M. Horseback Riding

Riding horses or any other animal.

N. Motorized Vehicles

1. Except on park access roads and designated parking areas, driving or riding vehicles or motorized bikes, including, but not limited to, automobiles, trucks, vans, motorcycles, motor bikes, mopeds, scooters, ATVs, motorized go-carts or trail bikes, and in no event unlicensed vehicles other than those vehicles operated by the park management and used for park operation, management or maintenance.

2. Leaving motor vehicles or other property unattended so as to interfere with the safe and orderly management and use of the park.

3. Abandoning motor vehicles (as defined in '290-1 of the Hawai'i Revised Statutes, as amended) or other property (as defined in '171-1 of the Hawai'i Revised statutes, as amended).

4. Operation of motorized hobby crafts such as aircraft, automobiles, and similar motorized vehicles.

O. Gambling

Gambling, betting, or wagering money on the outcome of a game or contest or other event.

P. Aircraft

1. Landing or launching of aircraft, including, but not limited to, airplanes, airships, balloons, gliders, hang gliders, helicopters, parachutes, dirigibles, and other similar means of conveyance.

2. Kite flying

Q. Metal Detectors

Possessing or using a mineral or metal detector, magnetometer or other metal detecting device.

R. Agricultural Activities

Cultivating soil, planting or producing crops, farming, or any other agricultural activity; provided, however, that Management may conduct landscaping or other ongoing maintenance, cultural, demonstration or educational activities.

S. Nudity

Nudity, which shall be defined as the uncovered post-pubertal human genitals, pubic areas, or the nipples or areola of post-pubertal human female breasts.

T. Golf

Golfing, hitting or driving golf balls.

U. Firearms

Possessing or using firearms, including, but not limited to, bow and arrows, crossbows, firearms, pellet or BB guns, power heads, bang sticks, slingshots, or other implements designed to discharge missiles.

V. Soliciting

Soliciting, canvassing, begging or peddling of any kind, including, but not limited to, displaying merchandise, demanding or requesting gifts, money or services, or dispensing information.

W. Rubbish

1. Bringing, carrying or transporting garbage, trash, rubbish, refuse or waste from outside the park for deposit or dumping in the park.

2. Burning of trash.

3. Draining or dumping garbage, trash, rubbish, refuse or waste other than in receptacles provided for these purposes.

4. Littering or scattering rubbish or other materials in places other than trash receptacles provided in the park.

X. Electrical Equipment

Using portable motor driven electrical generating plants, pumps, compressors, or other portable motor driven machines, except through the issuance of a permit by Management.

Y. Explosives

Possessing or using explosives, including, but not limited to, fireworks and firecrackers.

Z. Lodging

Establishing a temporary or permanent lodging or residence other than that which may be established by Management and permitted by the State and County for the purpose of providing a caretakers' residence.

AA. Boats

1. Transporting, bringing or carrying boats (including sailboats, powerboats, canoes, kayaks, jet skis, and/or motorized rafts), or any other aquatic vehicles onto, into or through the park.

2. Moving, tying, storing, repairing or cleaning any boat, canoe, raft or other vessel, except through the issuance of a permit by Management.

BB. Water Pollution/Contamination

Polluting or contaminating any water used for drinking purposes, natural body of water, pools, ponds or the ocean.

CC. Toilet Facilities

Urinating or defecating other than in the designated toilet facilities provided at the park.

DD. Archaeological/Historical Resources

1. Appropriating, damaging, removing, excavating, disfiguring, defacing or destroying objects of antiquity, prehistoric ruins and monuments; provided, however, that Management may permit, with the concurrence of the State Department of Land and Natural Resources, qualified persons or institutions to examine ruins, reestablish archaeological sites, excavate archaeological sites or gather objects of antiquity for safe keeping.

2. Destroying, defacing, or removal of any natural or historical feature or natural or historical resource.

EE. Monuments

Installing any monument, memorial, tablet, or other commemorative installation.

FF. Vandalism

Intentionally or wantonly destroying, injuring, defacing, removing, disturbing or possessing in any manner any geologic feature, objects of antiquity, prehistoric ruins, monuments or feature, public or private building, sign, equipment, monument, marker or other structure.

IV. PENALTIES

A. Violation of Rules

Any user or potential user of the park shall be subject to immediate exclusion and/or expulsion from the park if, in Management's sole determination:

1. A violation of the rules and regulations set forth herein has occurred.
2. Such action is necessary to enforce any provision in the rules and regulations set forth in this document.
3. Said user or potential user has failed to obey orders of park management personnel and/or orders of Federal, State or County law enforcement officers.

B. Penalties

Any violation of these park rules and regulations shall subject the violator to:

1. Civil and for criminal liability for damages to public or private property and/or confiscation by appropriate governmental authorities of any prohibited materials, machines, tools, vehicles or equipment.
2. Permanent prohibition from future entry into and use of the park facilities.

V. PERMITS

A. Classification of Permits

Permits shall be required for the following uses and activities in the manner specified herein below:

1. Group Use Permit:

Any group larger than twenty-five members that desires to picnic in the park shall be required to obtain a Group Use Permit from Management.

2. Special Use Permit:

a. Special uses shall be permitted only with a Special Use Permit issued by Management. Special uses are group functions, other than group picnics, considered compatible with the functions and purposes of each individual area, facility or unit of the park, including, but not limited to, assemblies, celebrations, festivals, gatherings, meetings, pageants, parades, public expressions of views, rallies, shows, weddings, filming or photography sessions and other community events or activities.

b. Before any motion picture film, video recording, television production, or sound track is made that involves the use of professional casts, models, settings, or crews, by any person other than bona fide newsreel or news television personnel, a Special Use Permit must be obtained from Management that shall be subject to terms and conditions set by Management.

c. Before any still photograph may be taken by a commercial photographer for commercial purposes, a Special Use Permit must be obtained from Management that shall be subject to terms and conditions set by Management.

B. Camping Permit:

All persons, groups, organizations, or associations desiring to camp within the park area shall obtain a Camping Permit from the Management authorizing the use of specific camping areas. However, the following provisions shall apply to camping:

1. Use of recreational trailers is prohibited within the park area.
2. The Management shall establish the location and term of the camping activity.
3. Installation or construction of permanent camping facilities is prohibited except by the Management with authorization from the Board of Land and Natural Resources.
4. Digging or leveling of the ground at any campsite is prohibited.
5. Camping equipment shall be completely removed and the campsite cleaned before departure from the site.
6. Night Fishing Permit:

Access to the park after closing hours (after 15 minutes post sunset) for purposes of night fishing and for spearing shall be permitted only with a Night Fishing Permit issued by Management.

C. Authority to Use Permits

Management shall have the exclusive authority to issue Group Use, Special Use, Camping, and Night Fishing Permits ("Permits"). Management shall be entitled to impose conditions upon the issuance of Permits and for may impose an administrative fee for requested Permits. The following conditions shall apply to all Permits:

1. Permits shall be issued on a first come, first serve basis.
2. All responsible persons twenty-one years of age or older shall be eligible to secure Permits.
3. Permits shall be obtained by submitting an application in person or by mail to Management.
4. Requests for Group Use Permits and Special Use Permits shall be submitted to Management a maximum of thirty (30) days before the date of the use being requested and shall include the date, time, duration, nature and place of the proposed event, an estimate of the number of persons expected to attend, and a statement of equipment and facilities to be used in connection therewith. If the event is for the purpose of raising funds, a statement of how the profits will be used is required. Requests for Night Fishing Permits shall include the same information, but shall be submitted to Management a minimum of five (5) working days and a maximum of thirty (30) days before the date of the use being requested.

Requests for Camping Permits shall include the same information, and shall be submitted to Management a minimum of five (5) working days and a maximum of thirty (30) days prior to the date of the use being requested.

5. Management shall have fifteen (15) days from receipt of an application for a Group Use Permit or Special Use Permit, five (5) days from receipt of an application for a Camping Permit, and three (3) days from receipt of an application for a Night Fishing Permit, to either grant or deny the application.

6. Permits shall not be transferrable.

7. Persons or organizations to whom permits are issued (the Apermittee@) are bound by the Permit conditions stipulated on or attached to the permit, and any applicable Federal, State and County laws, ordinances and rules and regulations.

8. All permittees shall, upon request, show the Permit to any law enforcement officer, security personnel, or employee of Management.

9 Other procedures, terms and conditions deemed necessary by Management may be adopted by Management in order to carry out the provisions of this section, or any applicable Federal, State and County laws, ordinances and rules and regulations.

10 As a condition of granting a Permit by Management, the permittee shall agree to hold the Owner and Management harmless and indemnify Owner and Management from any liability or damages resulting from the use of the park by the permittee or by any of the permittee's guests. Each Permit shall specifically provide the following:

"The permittee shall indemnify, defend and hold harmless Owner and Management, its officers, directors, stockholders, attorneys, agents, servants, representatives, employees, corporate affiliates, predecessors and successors interest (collectively, the "indemnitees") from and against any and all past, present and future claims, actions, causes of action, suits at law or inequity, liabilities, demands, losses, decrees, judgements, awards, liens, costs, fees, damages, expenses (including attorneys' fees) and compensation of whatsoever kind or nature, resulting from, arising out of, connected with, or traceable either directly or indirectly to any and all matters relating to the use of the park by the permittee or by any of the permittee's guests. The permittee shall reimburse indemnitees or pay over to indemnitees immediately when due all judgements and claims for damages that indemnitees shall pay or become liable to pay by reason of such use of the park by the permittee or by any of the permittee's guests, and will make such payment to indemnitees as soon as indemnitees become liable therefore, whether or not indemnitees shall have paid out such or any part thereof."

11 Permits shall set forth the day and time the permittee shall be allowed to remain in the park.

12 Management may require the permittee at the permittee's own cost, to provide licensed security services, in the interest of public safety and welfare and for the protection of property.

13 Requests for Permits shall each be considered on their own merits, including their effect on the park, facilities, and the public's use and enjoyment thereof.

14 The Permit may contain conditions relating to protection and use of the park area for the purposes for which it is maintained, and reasonable limitations on the size of the group, time and area within which the event is being permitted.

15 The Permit may contain conditions relating to parking and access for the use being permitted.

D0 Denial of Permit Applications

An application for a Permit may be denied when:

1 The Park or Park facilities are closed or will be closed because of damages, or because of scheduled or ongoing construction, repairs or maintenance activities, dangerous weather conditions; County or State declared emergency or because of other reasons.

2 Natural or civil disturbances occur or threaten to occur, including, but not limited to, tsunamis, floods, earthquakes, storms, riots, and demonstrations.

3 There are inadequate facilities or space to accommodate the needs of the applicant for the permit.

4 The applicant has a prior record of noncompliance with permit conditions or violations of park rules and regulations.

5 The event will present a clear and present danger to public health and safety.

6 A prior permit for the same time and place has been or will be granted.

7 The event will significantly interfere or conflict with the public's general use and enjoyment of the park

8 The event will threaten, endanger, or disturb natural and historical resources of the park.

9 Applications or requests for permits are not received by Management within the time periods specified in Section V.B.4 herein.

10 The proposed event includes activities that may be a violation of any Federal, State or County law or ordinance.

E0 Cancellation of Permit

A Permit may be canceled or terminated at any time without advance notice when:

1 A state of emergency is declared by Management or governmental authorities.

2 Natural or civil disturbances occur or threaten to occur, including, but not limited to, tsunamis, floods, earthquakes, storms, riots, demonstrations and employee strikes.

- 3 A permittee creates a clear and present danger to public health and safety.
- 4 A permittee violates permit conditions, provisions of these park rules and regulations, or any Federal, State or County law or ordinances.