

MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE COUNTY OF HAWAII AND COOPER CENTER COUNCIL

THIS AGREEMENT made this 20<sup>th</sup> day of March, 2012, between the County of Hawai'i, Department of Parks and Recreation, hereinafter known as "County" and Cooper Center Council, hereinafter known as "CCC;"

WITNESSETH:

WHEREAS, one of the stated purposes of CCC is to facilitate public purpose functions of the Volcano community at Volcano Park (excluding the Skate Park located in the Carlson Multi-Purpose Covered Court, hereinafter known as the Skate Park), in cooperation with the County and State of Hawai'i, the Federal government, and/or non-governmental organizations so that the local and unique public interests of the Volcano community are served; and

WHEREAS, the County of Hawai'i Department of Parks and Recreation, through its Parks Community Partnership Program (PCPP), seeks to engage in partnerships with non-profit community organizations such as CCC; and

WHEREAS, the program is established by the Department for the purposes of, a) providing, through non-profit partners, for facility improvements, maintenance, and programs that otherwise could not be provided by limited county resources, b) enhancing the sense of community ownership and responsibility for facilities, and c) facilitating uniqueness and appropriateness of County Parks and Recreation facilities; and

WHEREAS, the County is interested in entering into a cooperative arrangement with CCC to carry out the purposes stated above; and

WHEREAS, CCC has completed and the County has accepted the Parks Community Partnership Program Agreement attached as "Exhibit A" pages 1 and 2; and

4. Fixtures, Equipment, Supplies, and Utilities: Procurement and/or financing of fixtures, equipment, and supplies to operate the Volcano Park (excluding The Skate Park) shall be the responsibility of CCC. Except that the County shall provide for reasonable utility costs and grounds maintenance.
5. Use of facilities by CCC and Benefiting Organizations: CCC and its benefiting member organizations are allowed free reserved use of the facilities for their activities, as long as those activities are either free and open to the public or are meetings of civic organizations such as those of community associations, service clubs, etc. CCC or any organization or persons having any for-profit activities at Volcano Park shall be assessed user fees in compliance with the Rules and Regulations of the Department of Parks and Recreation, County of Hawaii, Rule 6, Rules Relating To User Fees, except that when for-profit activities are held and all monies collected are used exclusively in carrying out the elements of the partner agreement, facility improvements, maintenance, or public programs.
6. Programs, Activities and Classes: Either CCC or the County, or both together in partnership, may provide programs, activities, and classes at Volcano Park (excluding The Skate Park). They shall cooperate on scheduling based on what provides the best services to the community. The suitability of the type of programs and activities offered by CCC is subject to review and approval of the Director of Parks and Recreation or authorized designee.
7. Farmers' Market: CCC may host a Farmers' Market at Cooper Center every Sunday morning. The Farmers' Market is a community service, an economic development activity, and social hub for the Volcano community. Facility use fees will be waived, and all vendor fees generated from this activity shall be collected by CCC to be used exclusively for facility improvements, maintenance, or public programs at Volcano Park (excluding The Skate Park).



WHEREAS, it is the intent and purpose of this agreement to set forth the relationship between the two parties, which establishes their mutual rights and responsibilities, with respect to such cooperative relationship;

NOW, THEREFORE, the County and CCC in consideration of the mutual covenants and agreements hereinafter contained agree during the life of this agreement as follows:

1. Liaison: Both CCC and the County shall designate a liaison and alternate to serve as their representative to help interpret the conditions of this agreement, resolve policy questions, expedite decisions, inspect and monitor the work performed, and insure compliance with department rules and regulations.
2. Maintenance of facilities: CCC shall inspect all facilities (excluding the Skate Park) and either provide repairs and maintenance, or inform and make arrangements with the County to provide what is needed. The County, through its assigned Recreation Director, Maintenance supervisor, or other staff, shall regularly inspect the facility and communicate with the Cooper Center Council liaison, to insure that the facilities remain safe and operate within all applicable federal, State and County requirements.
3. Alterations or Improvements: CCC shall not make any alterations or repairs of a structural nature to the premises without the written consent of the Director of Parks and Recreation. A proposal and plan, or drawings of the proposed alterations or repairs shall accompany the request for approval. CCC will comply with all Federal, State, and County laws and regulations, including but not limited to, all building and fire codes. Any necessary regulatory permits and/or variances, including but not limited to, building, electrical, plumbing, and fire permits, special use permits or variances, must be obtained after approval by the Director.

and restoration to CCC.

14. Assignments Etc.: CCC shall not transfer, assign, or encumber the said premises or any portion thereof, nor permit any other person to occupy or use the said premises or any portion thereof.
15. Indemnification: CCC will indemnify, defend, and hold the County of Hawaii harmless from and against any claim or demand for loss, liability or damage, including claims for property damage, and personal injury arising out of any accident on the premises which occur during the activities of CCC. CCC will carry Comprehensive General Liability insurance of Five Hundred Thousand and No/100 Dollars (\$500,000) for each occurrence and Ten Thousand and No/100 (\$10,000) property damage, to cover the activities of CCC and its members for their activities at Volcano Park (excluding The Skate Park). Certificates of the insurance policies shall be filed with the Director of Parks and Recreation; such policies shall contain a clause whereby the insurance company agrees to give notice in writing to the Director of Parks and Recreation of any cancellation or alteration of such policies at least SIXTY (60) DAYS prior to such cancellation or alteration.
16. Accident/Injury Reporting: CCC shall assure that all accidents or incidents that may cause any individual to suffer injury relative to any CCC program, activity, or facility use, will be reported to the Department within three days of the accident or incident. A CCC representative will complete and submit the PCPP Accident Report Form attached as (Exhibit B), and mail to the Director of Parks and Recreation, 101 Pauahi Street, Suite 6, Hilo, Hawai'i 96720.
17. Effective Date, Termination: This Agreement shall become effective upon its execution, and may be terminated by either the County or CCC upon thirty (30) days written notice.



8. Establishment of Usage Policy and Rental Fees: The usage policy and rental fees shall abide by RULE 6, RULES RELATING TO USER FEES and RULE 8, RULES RELATING TO THE USE OF PARK FACILITIES of the Rules and Regulations of the Department of Parks and Recreation, except that usage policy and fees for CCC programs and activities shall be established by CCC with approval by the County. "Exhibit C" outlines the current CCC usage policy and fees, which may from time to time, be amended by submission to, and approval of the Director of Parks and Recreation or authorized designee.
9. Proceeds: All of the proceeds realized by CCC in its activities at Volcano Park (excluding The Skate Park) shall be used solely for the benefit of the public at Volcano Park.
10. Premises: CCC agrees with respect to the premises at all times to use due care for public safety, and agrees to maintain the premises in a safe condition, and in accordance with the terms and conditions of this Agreement.
11. Clearances, Licenses, Taxes: CCC shall obtain and pay for all licenses and permits required in the operations aforesaid, and be responsible for and pay any and all Federal and State taxes that are now or may hereafter be levied.
12. Nondiscrimination: The use and enjoyment of the premises shall not be in support of any activity or policy which discriminates against anyone based upon race, religion, color, sex, age, disability, or national origin
13. Removal of Supplies, Improvements and Equipment: Upon termination of this Agreement as hereinafter provided, CCC shall remove its supplies, fixtures, improvements and equipment, within sixty (60) days and restore the premises to their original condition, reasonable wear and tear excepted; provided, however, that in the event CCC fails to so remove and restore the premises, the County shall remove, or arrange to have removed, the same and charge such removal

STATE OF HAWAII )

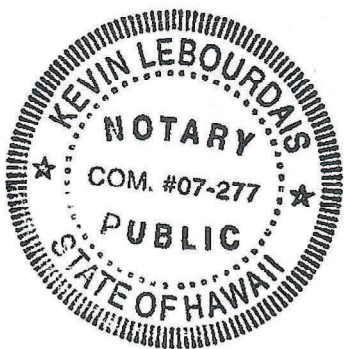
) SS:

COUNTY OF HAWAII )

On this 23<sup>d</sup> day of FEBRUARY, 20 12, before me personally appeared Linda Ugalde, to me known to be the person described in and who executed the foregoing instrument, as President of the Cooper Center Council, and acknowledged that she executed the same in behalf of the organization and acknowledged the instrument to be the free act and deed of the organization.

K. Lebourda  
Notary Public, State of Hawaii

My commission expires: JUNE 17, 2015



Doc. Date: 2/13/12 No. of Pages: 6

Notary Name: KEVIN LEBOURDAIS 3<sup>rd</sup> Circuit

Doc. Description: Memorandum of Understanding between the County of Hawaii and Cooper Center Council - Volcano Park (Excluding The Skate Park)

K. Lebourda  
Notary Signature

2/23/12  
Date

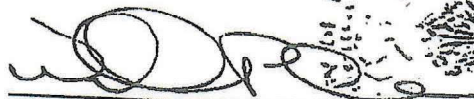
18. Severability: Should any term, provision, condition or other portion of this Agreement or the application thereof be held to be inoperative, invalid or unenforceable, the remainder of the Agreement or the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable shall not be affected thereby and shall continue in full force and effect.

19. Amendment

The parties hereto reserve the right to amend this Agreement in the future from time to time as may be mutually agreed. No amendment hereto shall be effective unless written and signed by the authorized representatives of both parties.

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

COUNTY OF HAWAII




Its Mayor: William P. Kenoi

COOPER CENTER COUNCIL




Its President: LINDA UGALDE

RECOMMEND APPROVAL:

  
ROBERT A. FITZGERALD, Director  
Department of Parks and Recreation  
County of Hawai'i

APPROVED AS TO FORM:

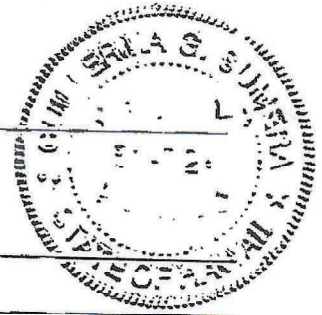
  
Deputy Corporation Counsel  
County of Hawaii



STATE OF HAWAI'I )  
 )  
COUNTY OF HAWAI'I ) SS.

On March 20, 2012, before me personally appeared WILLIAM P. KENOI, to me personally known, who, being by me duly sworn, did say that he is the Mayor of the County of Hawai'i, a municipal corporation of the State of Hawai'i, that the seal affixed to the foregoing instrument is the corporate seal of said County of Hawai'i, the foregoing instrument was signed and sealed on behalf of the County of Hawai'i by authority given to said Mayor of the County of Hawai'i by Sections 5-1.3 and 13-13 of the County Charter, County of Hawai'i (2010), as amended, and said WILLIAM P. KENOI acknowledged said instrument to be the free act and deed of said County of Hawai'i.

Guillermo G. Sumera  
Notary Public, State of Hawai'i  
Printed Name: Guillermo G. Sumera  
My commission expires: 9/22/13



NOTARY CERTIFICATION STATEMENT

Document Identification or Description: Memorandum of Understanding  
Between the County of Hawai'i and Cooper Center Council

Doc Date: March 20, 2012

☐ Undated at time of notarization.

No. of Pages: 8

Jurisdiction: Third Circuit

Guillermo G. Sumera  
Signature of Notary

3/20/12  
Date of Notarization and  
Certification Statement

Guillermo G. Sumera

Printed Name of Notary

