

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

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

W I T N E S S E T H:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

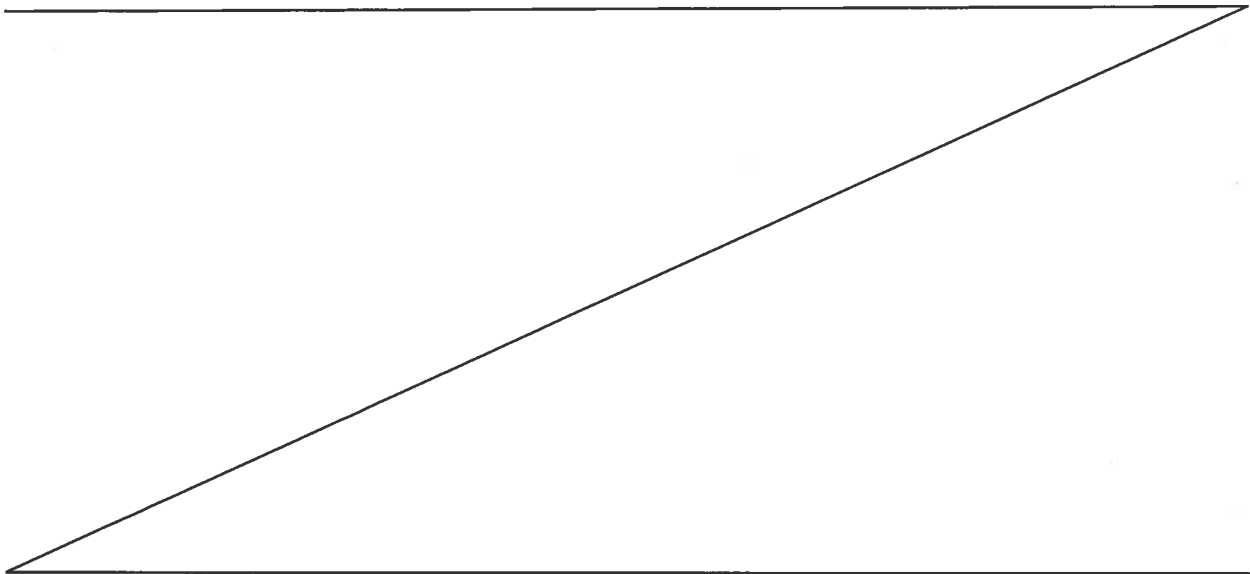
9. **Insurance.** Prior to commencing the scope of services pursuant to this Agreement AF and NA shall provide evidence that each has in full force and effect a commercial general liability (CGL) and if necessary commercial umbrella insurance with a limit of not less than \$1,000,000.00 per occurrence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

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

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

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

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



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

OFFICE OF HAWAIIAN AFFAIRS

Date: 5/4/15

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

"OHA"

NA'I AUPUNI

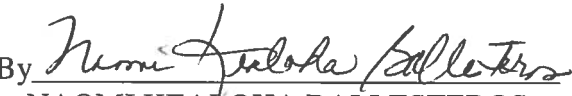
Date: APR 27 2015

By 
JAMES KUHIU ASAM
Its PRESIDENT AND DIRECTOR

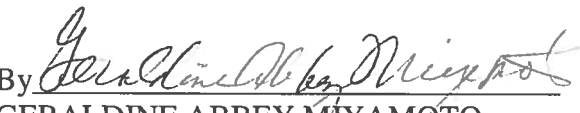
Date: APR 27 2015

By 
PAULINE NAKOOLANI NAMUO
Its VICE PRESIDENT AND DIRECTOR

Date: APR 27 2015

By 
NAOMI KEALOHA BALLESTEROS
Its SECRETARY/TREASURER AND
DIRECTOR

Date: APR 27 2015

By 
GERALDINE ABBEY MIYAMOTO
Its DIRECTOR

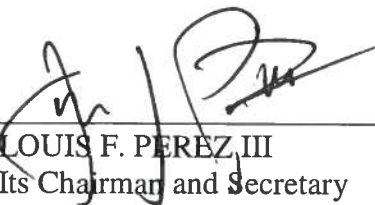
Date: APR 27 2015

By 
SELENA LEHUA SCHUELKE
Its DIRECTOR

"NA"

AKAMAI FOUNDATION

Date: 4-27-15


By 
LOUIS F. PEREZ III
Its Chairman and Secretary

Date: 4-28-15

By 
JOHNNY CHANKHAMANY
Its President and Director


"AF"

APPROVED AS TO CONTENT



KAWIKA RILEY
OHA Chief Advocate

Date: 4/29/15

APPROVED AS TO FORM:


ERNEST M. KIMOTO
Corporate Counsel for OHA

Date: 4-29-15


WILLIAM K. MEHEULA
Counsel for NA

Date: 4/29/15