

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Division of Forestry and Wildlife  
Honolulu, Hawaii 96813

March 11, 2016

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

Land Board Members:

**SUBJECT:** REQUEST FOR APPROVAL TO ENTER INTO A NEW LONG-TERM COOPERATIVE LEASE WITH THE ZOOLOGICAL SOCIETY OF SAN DIEGO D/B/A SAN DIEGO ZOO GLOBAL FOR OPERATION OF THE OLINDA ENDANGERED SPECIES FACILITY LOCATED AT OLINDA, MAUI

AND

REQUEST FOR AUTHORIZATION FOR THE CHAIRPERSON TO NEGOTIATE AND SIGN THE LEASE AFTER APPROVAL TO FORM BY THE DEPARTMENT OF ATTORNEY GENERAL'S OFFICE

**BACKGROUND:**

In 1996, the Division approached the Board to obtain permission to outsource aspects of the State's Captive Propagation Program. This was viewed as advantageous as it enabled the hiring of experts to operate the program thus providing a high level of expertise at a reasonable cost. It also allowed DOFAW to focus its limited resources on management and restoration of habitat on the 800,000 acres of state lands that the Division manages, and on other essential recovery actions for endangered species. The US Fish and Wildlife Service, a key Partner in our endangered bird recovery efforts, had recently entered into a contract with The Peregrine Fund, Inc. (TPF) to operate a newly developed captive propagation facility on the island of Hawaii. This presented the opportunity to consolidate both facilities under one manager -- thus integrating captive propagation and reintroduction programs in Hawaii. The Board approved the privatization of the captive propagation program with TPF in March 1996, issued a 20-year lease on the State's facilities at Olinda, and began a series of contracts to operate the State's program that continued through Fiscal Year 2000.

In October of 1999, the Peregrine Fund notified the Department that they believed the next needed level of achievement in the program would be best accomplished by the transition of TPF's operational role to another entity, and recommended the Zoological Society of San Diego

(ZSSD) for that role. On December 10, 1999, the Board approved the assignment of TPF's FY00 contract obligations and liabilities to ZSSD. On June 9, 2000, the Department presented a plan to transition the operation of the facilities, and the Board at that time authorized the Division to transfer the lease from the Peregrine Fund to the Zoological Society of San Diego, which was eventually finalized on November 17, 2000 through Board approval.

The original general lease (No. S-5490) expires on March 1, 2016 and we wish to enter into a new long term lease under the same general terms and conditions with the Zoological Society of San Diego, subject to approval by the Attorney General and the lessee. The land under question was set aside on January 25<sup>th</sup>, 1986 by Executive Order No. 3320 (Attachment A) for the Olinda Endangered Species Propagation Facility under the control and management of the Department of Land and Natural Resources, Division of Forestry and Wildlife before being leased to the Peregrine Fund in 1996.

PRIOR BOARD ACTIONS DIRECTLY RELATED TO THE SUBJECT LEASE

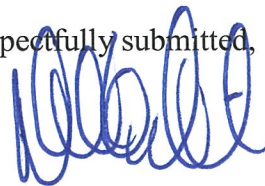
1. November 17, 1995. The Board approved a request to enter into a long term cooperative lease with The Peregrine Fund for the management of the Olinda Endangered Species Facility on the Island of Maui. (Attachment B)
2. November 17, 2000. The Board approved a consent to assign general lease No. S-5490, The Peregrine Fund, Inc, Assignor to the Zoological Society of San Diego, Assignee, Makawao, Olinda, Maui, Tax Map Key: 2-4-13:4 &53. (Attachment C)

RECOMMENDATIONS:

That the Board:

- 1) Approve a request to enter into a new long term cooperative lease with the Zoological Society of San Diego dba San Diego Zoo Global for the management and operation of endangered species rearing facility at Olinda, Maui.
- 2) Delegate authority to the Chairperson to execute the new long term lease subject to approval as to form by the Attorney General's Office.

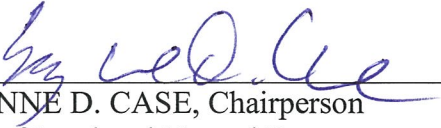
Respectfully submitted,



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DAVID SMITH, Administrator  
Division of Forestry and Wildlife

APPROVED FOR SUBMITTAL:

  
\_\_\_\_\_  
SUZANNE D. CASE, Chairperson  
Board of Land and Natural Resources

Attachments

- A. Executive Order No. 3320 designating the boundaries of the Olinda Endangered Species Propagation Facility.
- B. General Lease No. S-5490 between the State of Hawaii and The Peregrine Fund, Inc. covering the Olinda Endangered Species Propagation Facility.
- C. Assignment of Lease No. S-5490 from The Peregrine Fund, Inc. to the Zoological Society of San Diego.

Executive Order No. 3320

Setting Aside Land for Public Purposes

By this Executive Order, I, the undersigned, Governor of the State of Hawaii, by virtue of the authority in me vested by Section 171-11, Hawaii Revised Statutes, and every other authority me hereunto enabling, do hereby order that the public land hereinafter described be, and the same is, hereby set aside for the following public purposes:

FOR THE OLINDA ENDANGERED SPECIES PROPAGATION FACILITY, to be under the control and management of the Department of Land and Natural Resources, Division of Forestry and Wildlife, State of Hawaii, being the lands situate at Makawao, Maui, Hawaii, and designated as the OLINDA ENDANGERED SPECIES PROPAGATION FACILITY, comprised of the following:

PARCEL A, 41.28 acres, more or less,  
C.S.F. No. 20,289 and dated October 15,  
1985, Exhibits "A" and "B", description and  
map.

PARCEL B, 4.75 acres, more or less,  
C.S.F. No. 20,289 and dated October 15,  
1985, Exhibits "A" and "B", description and  
map.

The attached Exhibits "A" and "B" are a survey description and a survey map prepared by the Survey Division, Department of Accounting and General Services, State of Hawaii.

SUBJECT to disapproval by the Legislature by two-thirds vote of either the Senate or the House of Representatives or by majority vote of both, in any regular or special session next following the date of this Executive Order.

In Witness Whereof, I have hereunto set my hand and caused the Great Seal of the State of Hawaii to be affixed.  
Done at the Capitol at Honolulu this 25<sup>th</sup> day of January, Nineteen Hundred and 86

George Ariyoshi  
Governor of the State of Hawaii

Approved as to form:

Chelvin Hoang  
Deputy Attorney General

Dated: December 5, 1985



STATE OF HAWAII

SURVEY DIVISION

DEPT. OF ACCOUNTING AND GENERAL SERVICES

HONOLULU

C.S.F. No. 20,289

October 15, 1985

OLINDA ENDANGERED SPECIES PROPAGATION FACILITY

PARCELS A AND B

Makawao, Maui, Hawaii

PARCEL A

Comprising the following:

- A. Portions of the Government Land of Makawao.
- B. All of Lots 26, 29, 30, 31 and a portion of Lot 22 of the Olinda House Lots.
- C. Portion of the Abandoned Government Road.

Beginning at the north corner of this parcel of land, the southerly boundary of Grant 8073 to Sophia Abreu and on the westerly side of Piiholo Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PIIHOLO" being 14,304.92 feet South and 4863.28 feet East, thence running by azimuths measured clockwise from True South:-

- |    |              |  |
|----|--------------|--|
| 1. | 331° 30'     | 3.15 feet along the westerly side of Piiholo Road;   |
| 2. | 11° 53' 30"  | 97.97 feet along the westerly side of Piiholo Road;  |
| 3. | 341° 29' 30" | 108.81 feet along the westerly side of Piiholo Road; |
| 4. | 322° 51'     | 203.61 feet along the westerly side of Piiholo Road; |
| 5. | 306° 44' 30" | 198.05 feet along the westerly side of Piiholo Road; |
| 6. | 42° 16'      | 84.41 feet along the westerly side of Piiholo Road;  |
| 7. | 35° 39' 30"  | 121.18 feet along the westerly side of Piiholo Road; |

October 15, 1985

8.	2° 52' 30"	110.07 feet	along the westerly side of Piiholo Road;
9.	338° 04'	125.00 feet	along the westerly side of Piiholo Road;
10.	322° 20'	339.44 feet	along the westerly side of Piiholo Road;
11.	334° 00'	101.28 feet	along the westerly side of Piiholo Road;
12.	* 68° 09'	61.85 feet	along Parcel 5 of the Addition to Waihou Spring Forest Reserve;
13.	111° 46'	40.00 feet	along Parcel 5 of the Addition to Waihou Spring Forest Reserve;
14.	20° 07'	84.60 feet	along Parcel 5 of the Addition to Waihou Spring Forest Reserve;
15.	61° 35'	96.70 feet	along Parcel 5 of the Addition to Waihou Spring Forest Reserve;
16.	37° 11'	94.60 feet	along Parcel 5 of the Addition to Waihou Spring Forest Reserve;
17.	57° 01'	184.80 feet	along Parcel 5 of the Addition to Waihou Spring Forest Reserve;
18.	38° 09'	358.50 feet	along Parcel 5 of the Addition to Waihou Spring Forest Reserve;
19.	6° 31'	157.20 feet	along Parcel 5 of the Addition to Waihou Spring Forest Reserve;
20.	89° 04'	187.30 feet	along Parcel 5 of the Addition to Waihou Spring Forest Reserve;
21.	59° 01'	113.50 feet	along Parcel 5 of the Addition to Waihou Spring Forest Reserve;
22.	14° 39'	88.60 feet	along Parcel 5 of the Addition to Waihou Spring Forest Reserve;
23.	63° 28'	90.20 feet	along the northerly side of Olinda Road;
24.	91° 28'	51.90 feet	along the northerly side of Olinda Road;
25.	119° 28'	90.90 feet	along the northerly side of Olinda Road;
26.	144° 35'	91.70 feet	along the northerly side of Olinda Road;
27.	169° 42'	172.30 feet	along the northerly side of Olinda Road;

October 15, 1985

- |     |          |   |
|-----|----------|---|
| 28. | 140° 14' | 368.75 feet along the northerly side of Olinda Road;  |
| 29. | 221° 58' | 348.50 feet along Parcel B of the Olinda Endangered Species Propagation Facility;   |
| 30. | 153° 53' | 160.00 feet along Parcel B of the Olinda Endangered Species Propagation Facility;   |
| 31. | 160° 42' | 174.90 feet along Parcel B of the Olinda Endangered Species Propagation Facility;   |
| 32. | 234° 45' | 106.97 feet along the Hawaii Agricultural Experiment Station, Governor's Executive Order 476;   |
| 33. | 142° 43' | 122.10 feet along the Hawaii Agricultural Experiment Station, Governor's Executive Order 476;   |
| 34. | 186° 15' | 122.00 feet along the Hawaii Agricultural Experiment Station, Governor's Executive Order 476;   |
| 35. | 149° 40' | 84.90 feet along the Hawaii Agricultural Experiment Station, Governor's Executive Order 476;  |
| 36. | 234° 45' | 1159.66 feet along Grant 8294 to Antone de Souza Medeiros and Grant 8073 to Sophia Abreu to the point of beginning and containing an AREA OF 41.28 ACRES. |

PARCEL B

Being portion of the Government Land of Makawao.

Beginning at the south corner of this parcel of land, the west corner of Parcel A of the Olinda Endangered Species Propagation Facility and on the northerly side of Olinda Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PIIHOLO" being 15,895.51 feet South and 3827.65 feet East, thence running by azimuths measured clockwise from True South:-

- |    |         |  |
|----|---------|--|
| 1. | 62° 17' | 231.08 feet along the northerly side of Olinda Road; |
|----|---------|--|

October 15, 1985

2. 126° 30' 16.20 feet along the northerly side of Olinda Road;
3. 190° 42' 30" 79.10 feet along the northerly side of Olinda Road;
4. Thence along the northerly side of Olinda Road on a curve to the left with a radius of 103.96 feet, the chord azimuth and distance being:  
140° 41' 15" 159.32 feet;
5. Thence along the northerly side of Olinda Road on a curve to the right with a radius of 76.24 feet, the chord azimuth and distance being:  
140° 40' 15" 116.82 feet;
6. 190° 40' 30" 39.01 feet along the northerly side of Olinda Road;
7. 234° 45' 582.19 feet along the Hawaii Agricultural Experiment Station, Governor's Executive Order 476;
8. 340° 42' 174.90 feet along Parcel A of the Olinda Endangered Species Propagation Facility;
9. 333° 53' 160.00 feet along Parcel A of the Olinda Endangered Species Propagation Facility;
10. 41° 58' 348.50 feet along Parcel A of the Olinda Endangered Species Propagation Facility to the point of beginning and containing an AREA OF 4.75 ACRES.

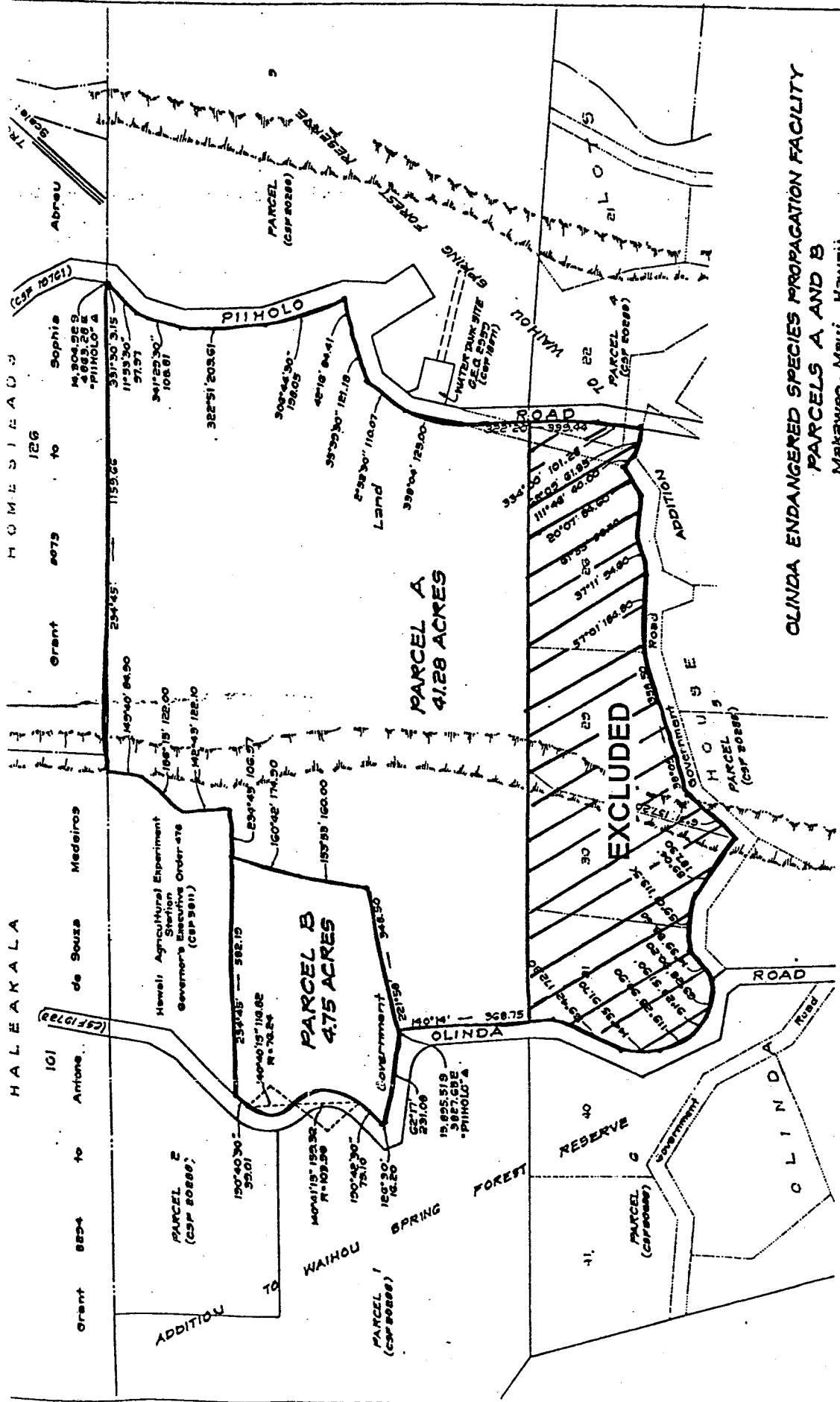
SURVEY DIVISION  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
STATE OF HAWAII

By: Joseph M. Matsuno  
Joseph M. Matsuno  
Land Surveyor

pt

Compiled from CSF's 6221,  
9851 and other Govt.  
Survey Records.





**OLINDA ENDANGERED SPECIES PROPAGATION FACILITY  
 PARCELS A AND B**  
 Makawao, Maui, Hawaii  
 Scale: 1 inch = 200 feet

JOB No. 981/88  
 C. B. G. J. Marfano

R-811

**UNRECORDED**

STATE OF HAWAII  
BUREAU OF CONVEYANCES  
RECORDED

OCT 09, 1998 01:00 PM

Doc No(s) 0

/s/CARL T. WATANABE  
ACTING  
REGISTRAR OF CONVEYANCES

CONVEYANCE TAX: \$0.00

**UNRECORDED**

LAND COURT SYSTEM

Return by Mail ( ) Pickup ( ) To:

Tax Map Key No. (2)-4-13:4 & 53

STATE OF HAWAII

DEPARTMENT OF LAND AND NATURAL RESOURCES

GENERAL LEASE NO. S5490

between

STATE OF HAWAII

and

THE PEREGRINE FUND, INC.,  
a Pennsylvania corporation

covering

OLINDA ENDANGERED SPECIES PROPAGATION FACILITY

situate at

Olinda, Maui, Hawaii

TABLE OF CONTENTS

	<u>Page</u>
TERM OF LEASE .....	1
ANNUAL RENTAL .....	1
REOPENING OF ANNUAL RENTAL .....	1
INTEREST RATE/SERVICE CHARGE .....	3
RESERVATIONS:	
1. Minerals and waters .....	4
2. Prehistoric and historic remains .....	4
3. Ownership of improvements .....	4
AGREEMENTS AND COVENANTS BETWEEN PARTIES:	
1. Payment of rent .....	5
2. Taxes, assessments, etc.....	5
3. Utility services .....	5
4. Covenant against discrimination .....	5
5. Sanitation .....	5
6. Waste and unlawful, improper or offensive use of premises .....	5
7. Compliance with laws .....	5
8. Inspection of premises .....	6
9. Improvements .....	6
10. Repairs to improvements .....	6
11. Liens .....	6
12. Character of use .....	6
13. Assignments, etc. ....	6
14. Subletting .....	7
15. Indemnity .....	7
16. Costs of litigation .....	7
17. Liability insurance .....	7
18. Bond, performance .....	8
19. Lessor's lien .....	8
20. Mortgage .....	9
21. Breach .....	9
22. Condemnation .....	9
23. Right to enter .....	10
24. Inspection by prospective bidders .....	10
25. Acceptance of rent not a waiver .....	10
26. Extension of time .....	10
27. Justification of sureties .....	11
28. Waiver, modification, reimposition of bond and liability insurance provisions .	11

TABLE OF CONTENTS (cont'd)

	<u>Page</u>
29. Quiet enjoyment .....	11
30. Surrender .....	12
31. Non-warranty .....	12
32. Hazardous materials.....	12
33. Hawaii law .....	13
34. Exhibits - Incorporation in lease .....	13
35. Headings .....	13
36. Partial invalidity .....	13
 SPECIAL CONDITIONS:	
37. Withdrawal .....	13
38. Fire and extended coverage insurance .....	14
39. Non-use and abandonment .....	14
40. Audit and examination of books, etc. ....	14
41. Mutual termination .....	15
42. Clearances .....	15
43. Certification of tax exemption .....	15
44. Time is of the essence .....	15
45. Compliance with goals and objectives .....	15
46. Plan of operation .....	15
47. Funding of facility .....	15
48. Facility staffing .....	16
49. Annual report .....	16
50. Misrepresentation .....	16
51. Performance .....	16
52. Garbage, rubbish, and other refuse .....	17
53. Abandoned vehicles .....	17
54. Signs and advertising .....	17
55. Name of facility .....	17
56. Ingress and egress .....	17
57. Inventory of equipment .....	17
58. Contractual partnerships related to facility .....	18
59. Easements .....	18
60. Bird rehabilitation .....	18
61. Endangered plants .....	18
 DEFINITIONS .....	 19
 SIGNATURE PAGE .....	 20
 ACKNOWLEDGMENT PAGE .....	 21

STATE OF HAWAII

DEPARTMENT OF LAND AND NATURAL RESOURCES

GENERAL LEASE NO. S-5490

THIS LEASE, made this 1st day of March, 1996, by and between the STATE OF HAWAII, hereinafter referred to as the "Lessor," by its Board of Land and Natural Resources, called the "Board," and The Peregrine Fund, Inc., a Pennsylvania corporation, authorized to do business in Hawaii, whose address is 5666 West Flying Hawk Lane, Boise, Idaho, 83709, hereinafter referred to as the "Lessee";

WITNESSETH:

The Lessor, pursuant to Sections 171-43.1 and 183D-7(b), Hawaii Revised Statutes, and for and in consideration of the rent to be paid and of the terms, covenants and conditions herein contained, all on the part of the Lessee to be kept, observed and performed, does lease unto the Lessee, and the Lessee does lease from the Lessor the premises situate at Olinda, Maui, Hawaii, identified as Olinda Endangered Species Propagation Facility, more particularly described in Exhibit "A" and delineated on Exhibit "B," both attached hereto and made parts hereof.

TO HAVE AND TO HOLD the leased premises unto the Lessee for the term of twenty (20) years, commencing on the 1st day of March, 1996, up to and including the 1st day of March, 2016, unless sooner terminated as hereinafter provided, the Lessor reserving and the Lessee yielding and paying to the Lessor at the Office of the Department of Land and Natural Resources, Honolulu, Oahu, State of Hawaii, an annual rental as provided hereinbelow, payable in advance, without notice or demand, in annual installments on March 1st of each and every year during the term as follows:

A. For the twenty (20) years, the sum of ONE AND NO/100 DOLLAR (\$1.00) per annum.

B. The annual rental reserved shall be reopened and redetermined as of the day following the expiration of the twentieth (20th) year of the term.

C. Determination of rental upon reopening of the annual rental. The rental for any ensuing period shall be the fair market rental at the time of reopening or as otherwise

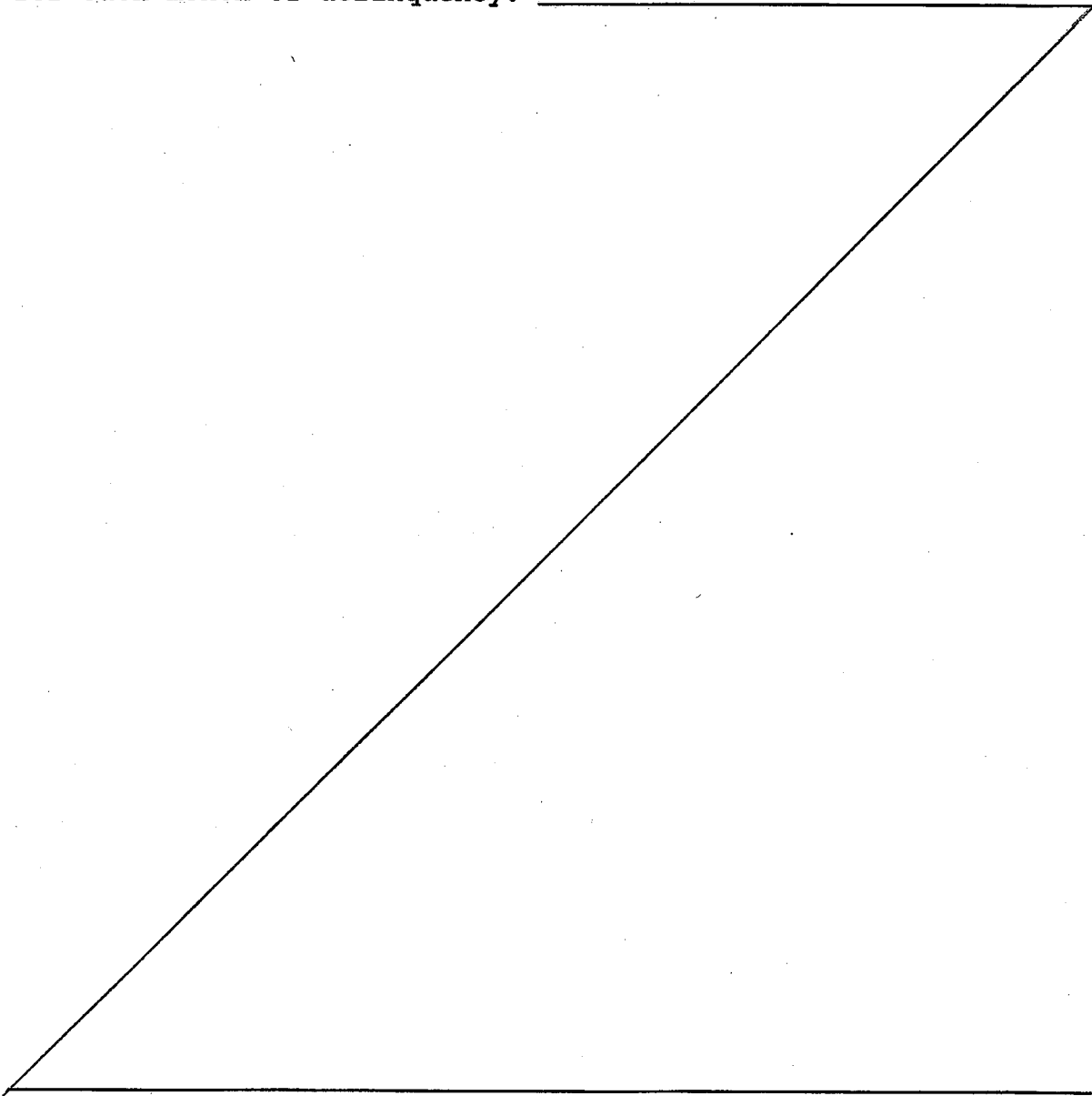
determined appropriate under Hawaii Revised Statutes Sections 171-43.1 by the Lessor. Except as provided herein, the provisions in Hawaii Revised Statutes, Chapter 658, shall be followed. At least six (6) months prior to the time of reopening, the fair market rental shall be determined by an appraiser whose services shall be contracted for by the Lessor, and the Lessee shall be promptly notified by certified mail, return receipt requested, of the fair market rental as determined by Lessor's appraiser; provided, that should the Lessee fail to notify Lessor in writing within thirty (30) days after receipt thereof that Lessee disagrees with the fair market rental as determined by Lessor's appraiser and that Lessee has appointed its own appraiser to prepare an independent appraisal report, then the fair market rental as determined by Lessor's appraiser shall be deemed to have been accepted by Lessee and shall be the fair market rental as of the date of reopening. If Lessee has notified Lessor and appointed his appraiser as stated hereinabove, Lessee's appraiser shall complete his appraisal and the two appraisers shall then exchange their reports within forty-five (45) days from the date of Lessee's appointment of the appraiser.

The two appraisers shall review each other's reports and make every effort to resolve whatever differences they may have. However, should differences still exist fourteen (14) days after the exchange, the two appraisers shall within seven (7) days thereafter appoint a third appraiser who shall also prepare an independent appraisal report based on the review of the two appraisal reports prepared and any other data. Copies thereof shall be furnished to the first two appraisers within forty-five (45) days of the appointment. Within twenty (20) days after receiving the third appraisal report, all three shall meet and determine the fair market rental in issue. The fair market rental as determined by a majority of the appraisers shall be final and binding upon both Lessor and Lessee, subject to vacation, modification or correction in accordance with the provisions of Sections 658-8 and 658-9, Hawaii Revised Statutes. Each party shall pay for its own appraiser and the cost of the services of the third appraiser shall be borne equally by the Lessor and the Lessee. All appraisal reports shall become part of the public record of the Lessor.

In the event that the appraisers are unable to determine the fair market rental before the reopening date, or by the foregoing prescribed time, whichever is later, the Lessee shall pay the fair market rental as determined by Lessor's new appraised value until the new rent is determined and the rental paid by Lessee shall then be subject to retroactive adjustments as appropriate to reflect the fair market rental determined as set forth hereinabove. However, Lessee or Lessee's appraiser's

failure to comply with the procedures set forth above shall constitute a waiver of Lessee's right to contest the new rent, and the Lessee shall pay the rent as determined by Lessor's appraiser without any retroactive adjustments. Alternatively, Lessor may treat this failure as a breach of this lease and terminate the lease.

D. The interest rate on any and all unpaid or delinquent rentals shall be at one percent (1%) per month, plus a service charge of FIFTY AND NO/100 DOLLARS (\$50.00) per month for each month of delinquency.



RESERVING UNTO THE LESSOR THE FOLLOWING:

1. Minerals and waters. (a) All minerals as hereinafter defined, in, on or under the premises and the right, on its own behalf or through persons authorized by it, to prospect for, mine and remove the minerals and to occupy and use so much of the surface of the ground as may be required for all purposes reasonably extending to the mining and removal of the minerals by any means whatsoever, including strip mining. "Minerals," as used herein, shall mean any or all oil, gas, coal, phosphate, sodium, sulphur, iron, titanium, gold, silver, bauxite, bauxitic clay, diaspore, boehmite, laterite, gibbsite, alumina, all ores of aluminum and, without limitation thereon, all other mineral substances and ore deposits, whether solid, gaseous or liquid, including all geothermal resources, in, on, or under the land, fast or submerged; provided, that "minerals" shall not include sand, gravel, rock or other material suitable for use and used in general construction in furtherance of the Lessee's permitted activities on the premises and not for sale to others. (b) All surface and ground waters appurtenant to the premises and the right on its own behalf or through persons authorized by it, to capture, divert or impound the same and to occupy and use so much of the premises required in the exercise of this right reserved; provided, however, that as a condition precedent to the exercise by the Lessor of the rights reserved in this paragraph, just compensation shall be paid to the Lessee for any of Lessee's improvements taken.

2. Prehistoric and historic remains. All prehistoric and historic remains found on the premises.

3. Ownership of improvements. The ownership of all improvements of whatever kind or nature, including but not limited to fences and stockwater system(s) located on the land prior to or on the commencement date of this lease, excluding those improvements constructed during the term of this lease unless provided otherwise.



THE LESSEE COVENANTS AND AGREES WITH THE LESSOR AS FOLLOWS:

1. Payment of rent. The Lessee shall pay the rent to the Lessor at the times, in the manner and form provided in this lease and at the place specified above, or at any other place the Lessor may from time to time designate, in legal tender of the United States of America.

2. Taxes, assessments, etc. The Lessee shall pay or cause to be paid, when due, the amount of all taxes, rates, and assessments of every description as to which the premises or any part, or any improvements, or the Lessor or Lessee, are now or may be assessed or become liable by authority of law during the term of this lease; provided, however, that with respect to any assessment made under any betterment or improvement law which may be payable in installments, Lessee shall be required to pay only those installments, together with interest, which becomes due and payable during the term.

3. Utility services. The Lessee shall pay when due all charges, duties and rates of every description, including water, sewer, gas, refuse collection or any other charges, as to which the premises or any part, or any improvements, or the Lessor or Lessee may become liable for during the term, whether assessed to or payable by the Lessor or Lessee.

4. Covenant against discrimination. The use and enjoyment of the premises shall not be in support of any policy which discriminates against anyone based upon race, creed, sex, color, national origin, religion, marital status, familial status, ancestry, physical handicap, disability, age or HIV (human immunodeficiency virus) infection.

5. Sanitation. The Lessee shall keep the premises and improvements in a strictly clean, sanitary and orderly condition.

6. Waste and unlawful, improper or offensive use of premises. The Lessee shall not commit, suffer or permit to be committed any waste, nuisance, strip or unlawful, improper or offensive use of the premises or any part, nor, without the prior written consent of the Lessor, cut down, remove or destroy, or suffer to be cut down, removed or destroyed, any trees now growing on the premises.

7. Compliance with laws. The Lessee shall comply with all of the requirements of all municipal, state, and federal authorities and observe all municipal, state and federal laws applicable to the premises, now in force or which may be in force.

8. Inspection of premises. The Lessee shall permit the Lessor and its designated agents, at all reasonable times during the lease term, to enter the premises and examine the state of its repair and condition, with twenty-four (24) hours prior notification, except in emergency situations.

9. Improvements. The Lessee shall not at any time during the term construct, place, maintain and install on the premises any building, structure or major improvement of any kind and description except with the prior written approval of the Board and upon those conditions the Board may impose, including any adjustment of rent, unless otherwise provided in this lease. The Lessee shall own these improvements until the expiration or termination pursuant to a breach of the lease, at which time the ownership shall at the option of the Lessor, remain and become the property of the Lessor or shall be removed by Lessee at its sole cost and expense.

Upon termination and/or expiration of the lease and if desired by the Lessor, the Lessee at its expense, shall remove any and all improvements installed or constructed upon the premises and restore said premises to a reasonable condition satisfactory to the Lessor.

10. Repairs to improvements. The Lessee shall, at its own expense, keep, repair, and maintain all buildings and improvements now existing or hereafter constructed or installed on the premises that are utilized by the Lessee, in good order, condition and repair, reasonable wear and tear excepted.

11. Liens. The Lessee shall not commit or suffer any act or neglect which results in the premises, any improvement, or the leasehold estate of the Lessee becoming subject to any attachment, lien, charge, or encumbrance, except as provided in this lease, and shall indemnify, defend, and hold the Lessor harmless from and against all attachments, liens, charges, and encumbrances and all resulting expenses.

12. Character of use. The Lessee shall use or allow the premises leased to be used solely to support restoration and conservation of native Hawaiian birds and other birds as agreed to by the parties hereto.

13. Assignments, etc. The Lessee shall not transfer, assign, or permit any other person to occupy or use the premises or any portion or transfer or assign this lease or any interest, either voluntarily or by operation of law, and any transfer or assignment made shall be null and void; provided that with the prior written approval of the Board the assignment and transfer of this lease or any portion may be made only if it is to a non-profit corporate successor of the Lessee.

14. Subletting. The Lessee shall not rent or sublet the whole or any portion of the premises.

15. Indemnity. The Lessee shall indemnify, defend, and hold the Lessor harmless from and against any claim or demand for loss, liability, or damage, including claims for bodily injury, wrongful death, or property damage, arising out of or resulting from: 1) any act or omission on the part of Lessee relating to Lessee's use, occupancy, maintenance, or enjoyment of the premises; 2) any failure on the part of the Lessee to maintain the premises and sidewalks, roadways and parking areas adjacent thereto in Lessee's use and control, and including any accident, fire or nuisance, growing out of or caused by any failure on the part of the Lessee to maintain the premises in a safe condition; and 3) from and against all actions, suits, damages, and claims by whomsoever brought or made by reason of the Lessee's non-observance or non-performance of any of the terms, covenants, and conditions of this lease or the rules, regulations, ordinances, and laws of the federal, state, municipal or county governments. The Lessor will hold harmless the Lessee for activities performed by State agents on the premises that are not part of Lessee's operations.

16. Costs of litigation. In case the Lessor shall, without any fault on its part, be made a party to any litigation commenced by or against the Lessee (other than condemnation proceedings), the Lessee shall pay all costs, including reasonable attorney's fees, and expenses incurred by or imposed on the Lessor; furthermore, the Lessee shall pay all costs, including reasonable attorney's fees, and expenses which may be incurred by or paid by the Lessor in enforcing the covenants and agreements of this lease, in recovering possession of the premises, or in the collection of delinquent rental, taxes, and any and all other charges.

17. Liability insurance. The Lessee shall procure and maintain, at its cost and expense and acceptable to the Lessor, in full force and effect throughout the term of this lease, commercial general liability insurance, in an amount acceptable to the Board, with an insurance company(s) licensed to do business in the State of Hawaii. The policy or policies of insurance shall name the State of Hawaii as an additional insured. The insurance shall cover the entire premises, including all buildings, improvements, and grounds and all roadways or sidewalks on or adjacent to the premises in the use or control of the Lessee.

The Lessee, prior to entry and use of the premises or within fifteen (15) days from the effective date of this lease, whichever is sooner, shall furnish the Lessor with a certificate(s) showing the policy(s) to be initially in force, keep the certificate(s) on deposit during the entire lease term,

and furnish a like certificate(s) upon each renewal of the policy(s). This insurance shall not be cancelled, limited in scope of coverage, or nonrenewed until after thirty (30) days written notice has been given to the Lessor.

The Lessor shall retain the right at any time to review the coverage, form, and amount of the insurance required by this lease. If, in the opinion of the Lessor, the insurance provisions in this lease do not provide adequate protection for the Lessor, the Lessor may require Lessee to obtain insurance sufficient in coverage, form, and amount to provide adequate protection. The Lessor's requirements shall be reasonable but shall be designed to assure protection for and against the kind and extent of the risks which exist at the time a change in insurance is required. The Lessor shall notify Lessee in writing of changes in the insurance requirements and Lessee shall deposit copies of acceptable insurance policy(s) or certificate(s) thereof, with the Lessor incorporating the changes within thirty (30) days of receipt of the notice.

The procuring of the required policy(s) of insurance shall not be construed to limit Lessee's liability under this lease nor to release or relieve the Lessee of the indemnification provisions and requirements of this lease. Notwithstanding the policy(s) of insurance, Lessee shall be obligated for the full and total amount of any damage, injury, or loss caused by Lessee's negligence or neglect connected with this lease.

It is agreed that any insurance maintained by the Lessor will apply in excess of, and not contribute with, insurance provided by Lessee's policy.

18. Bond, performance. The Lessee shall, at its own cost and expense, within thirty (30) days after the date of receipt of this lease document, procure and deposit with the Lessor and thereafter keep in full force and effect during the term of this lease a good and sufficient surety bond, conditioned upon the full and faithful observance and performance by Lessee of all the terms, conditions, and covenants of this lease, in an amount of FIVE HUNDRED AND NO/100 DOLLARS (\$500.00). This bond shall provide that in case of a breach or default of any of the lease terms, covenants, conditions, and agreements, the full amount of the bond shall be paid to the Lessor as liquidated and ascertained damages and not as a penalty.

19. Lessor's lien. The Lessor shall have a lien on all the buildings and improvements placed on the premises by the Lessee, on all property kept or used on the premises, whether the same is exempt from execution or not and on the rents of all

improvements and buildings located on the premises for all Lessor's costs, attorney's fees, rent reserved, for all taxes and assessments paid by the Lessor on behalf of the Lessee, and for the payment of all money provided in this lease to be paid by the Lessee, and this lien shall continue until the amounts due are paid.

20. Mortgage. Lessee shall not mortgage, hypothecate, or pledge the premises, any portion, or any interest in this lease.

21. Breach. Time is of the essence in this agreement and if the Lessee shall fail to pay the rent, or any part, at the times and in the manner provided within thirty (30) days after delivery by the Lessor of a written notice of breach or default, or if the Lessee shall become bankrupt, or shall abandon the premises, or if this lease and premises shall be attached or taken by operation of law, or if any assignment is made of the Lessee's property for the benefit of creditors, or if Lessee shall fail to observe and perform any of the covenants, terms, and conditions contained in this lease and on its part to be observed and performed, and this failure shall continue for a period of more than sixty (60) days after delivery by the Lessor of a written notice of breach or default, by personal service, registered mail or certified mail to the Lessee at its last known address and to each mortgagee or holder of record having a security interest in the premises, the Lessor may, subject to the provisions of Section 171-21, Hawaii Revised Statutes, at once re-enter the premises, or any part, and upon or without the entry, at its option, terminate this lease without prejudice to any other remedy or right of action for arrears of rent or for any preceding or other breach of contract; and in the event of termination, at the option of the Lessor, all buildings and improvements shall remain and become the property of the Lessor or shall be removed by Lessee; furthermore, Lessor shall retain all rent paid in advance to be applied to any damages.

22. Condemnation. If at any time, during the term of this lease, any portion of the premises should be condemned, or required for public purposes by any county or city and county, the rental shall be reduced in proportion to the value of the portion of the premises condemned. The Lessee shall be entitled to receive from the condemning authority (a) the value of growing crops, if any, which Lessee is not permitted to harvest and (b) the proportionate value of the Lessee's permanent improvements so taken in the proportion that it bears to the unexpired term of the lease; provided, that the Lessee may, in the alternative, remove and relocate its improvements to the remainder of the premises occupied by the Lessee. The Lessee shall not by reason of the condemnation be entitled to any claim against the Lessor

for condemnation or indemnity for leasehold interest and all compensation payable or to be paid for or on account of the leasehold interest by reason of the condemnation shall be payable to and be the sole property of the Lessor. The foregoing rights of the Lessee shall not be exclusive of any other to which Lessee may be entitled by law. Where the portion taken renders the remainder unsuitable for the use or uses for which the premises were leased, the Lessee shall have the option to surrender this lease and be discharged and relieved from any further liability; provided, that Lessee may remove the permanent improvements constructed, erected and placed by it within any reasonable period allowed by the Lessor.

23. Right to enter. The Lessor or the County and their agents or representatives shall have the right to enter and cross any portion of the premises for the purpose of performing any public or official duties; provided, however, in the exercise of these rights, the Lessor or the County shall not interfere unreasonably with the Lessee or Lessee's use and enjoyment of the premises.

24. Inspection by prospective bidders. The Lessor shall have the right to authorize any person or persons to enter upon and inspect the premises at all reasonable times following a published notice for its proposed disposition for purposes of informing and apprising that person or persons of the condition of the lands preparatory to the proposed disposition; provided, however, that any entry and inspection shall be conducted during reasonable hours after notice to enter is first given to the Lessee, and shall, if the Lessee so requires, be made in the company of the Lessee or designated agents of the Lessee; provided, further, that no authorization shall be given more than two years before the expiration of the term of this lease.

25. Acceptance of rent not a waiver. The acceptance of rent by the Lessor shall not be deemed a waiver of any breach by the Lessee of any term, covenant, or condition of this lease, nor of the Lessor's right of re-entry for breach of covenant, nor of the Lessor's right to declare and enforce a forfeiture for any breach, and the failure of the Lessor to insist upon strict performance of any term, covenant, or condition, or to exercise any option conferred, in any one or more instances, shall not be construed as a waiver or relinquishment of any term, covenant, condition, or option.

26. Extension of time. Notwithstanding any provision contained in this lease, when applicable, the Board may for good cause shown, allow additional time beyond the time or times specified in this lease for the Lessee to comply, observe, and perform any of the lease terms, conditions, and covenants.

27. Justification of sureties. Any bonds required by this lease shall be supported by the obligation of a corporate surety organized for the purpose of being a surety and qualified to do business in the State of Hawaii, or by not less than two personal sureties, corporate or individual, for which justifications shall be filed as provided in Section 78-20, Hawaii Revised Statutes; provided, however, the Lessee may furnish a bond in like amount, conditioned as aforesaid, executed by it alone as obligor, if, in lieu of any surety or sureties, it shall also furnish and at all times thereafter keep and maintain on deposit with the Lessor security in certified checks, certificates of deposit (payable on demand or after a period the Lessor may stipulate), bonds, stocks or other negotiable securities properly endorsed, or execute and deliver to the Lessor a deed or deeds of trust of real property, all of a character which is satisfactory to Lessor and valued in the aggregate at not less than the principal amount of the bond. It is agreed that the value of any securities which may be accepted and at any time thereafter held by the Lessor shall be determined by the Lessor, and that the Lessee may, with the approval of the Lessor, exchange other securities or money for any of the deposited securities if in the judgment of the Lessor the substitute securities or money shall be at least equal in value to those withdrawn. It is further agreed that substitution of sureties or the substitution of a deposit of security for the obligation of a surety or sureties may be made by the Lessee, but only upon the written consent of the Lessor and that until this consent is granted, which shall be discretionary with the Lessor, no surety shall be released or relieved from any obligation.

28. Waiver, modification, reimposition of bond and liability insurance provisions. Upon substantial compliance by the Lessee of the terms, covenants, and conditions contained in this lease on its part to be observed or performed, the Lessor at its discretion may in writing, waive or suspend the performance bond and/or improvement bond requirements or may, in writing, modify the particular bond(s) or liability insurance requirements by reducing its amount; provided, however, that the Lessor reserves the right to reactivate the bonds or reimpose the bond(s) and/or liability insurance in and to their original tenor and form at any time throughout the term of this lease.

29. Quiet enjoyment. The Lessor covenants and agrees with the Lessee that upon payment of the rent at the times and in the manner provided and the observance and performance of these covenants, terms, and conditions on the part of the Lessee to be observed and performed, the Lessee shall and may have, hold, possess, and enjoy the premises for the term of the lease, without hindrance or interruption by the Lessor or any other person or persons lawfully claiming by, through, or under it.

30. Surrender. The Lessee shall, at the end of the term or other sooner termination of this lease, peaceably deliver unto the Lessor possession of the premises, together with all improvements existing or constructed thereon or Lessee shall remove such improvements, at the option of the Lessor. Furthermore, upon the expiration, termination, and/or revocation of this lease, should the Lessee fail to remove any and all of Lessee's personal property from the premises, after notice thereof, the Board may remove any and all personal property from the premises and either deem the property abandoned and dispose of the property or place the property in storage at the cost and expense of Lessee, and the Lessee does agree to pay all costs and expenses for disposal, removal, or storage of the personal property. This provision shall survive the termination of the lease.

31. Non-warranty. The Lessor does not warrant the conditions of the premises, as the same are being leased as is.

32. Hazardous materials.

A. Lessee shall not cause or permit the escape, disposal or release of any hazardous materials except as permitted by law. Lessee shall not allow the storage or use of such materials in any manner not sanctioned by law or by the highest standards prevailing in the industry for the storage and use of such materials, nor allow to be brought onto the premises any such materials except to use in the ordinary course of Lessee's business, and then only after written notice is given to Lessor of the identity of such materials and upon Lessor's consent which consent may be withheld at Lessor's sole and absolute discretion. If any lender or governmental agency shall ever require testing to ascertain whether or not there has been any release of hazardous materials by Lessee, then the Lessee shall be responsible for the reasonable costs thereof. In addition, Lessee shall execute affidavits, representations and the like from time to time at Lessor's request concerning Lessee's best knowledge and belief regarding the presence of hazardous materials on the premises placed or released by Lessee.

Lessee agrees to indemnify, defend, and hold Lessor harmless, from any damages and claims resulting from the release of hazardous materials on the premises occurring while Lessee is in possession, or elsewhere if caused by Lessee or persons acting under Lessee. These covenants shall survive the expiration or earlier termination of the lease.

For the purpose of this lease "hazardous material" shall mean any pollutant, toxic substance, hazardous waste, hazardous material, hazardous substance, or oil as defined in or pursuant to the Resource Conservation and Recovery Act, as



amended, the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, the Federal Clean Water Act, or any other federal, state, or local environmental law, regulation, ordinance, rule, or by-law, whether existing as of the date hereof, previously enforced, or subsequently enacted.

B. Lessee shall not be liable for any loss or damage arising from any hazardous waste on the premises (if any) prior to the commencement of this lease

33. Hawaii law. This lease shall be construed, interpreted, and governed by the laws of the State of Hawaii.

34. Exhibits - Incorporation in lease. All exhibits referred to are attached to this lease and hereby are deemed incorporated by reference.

35. Headings. The article and paragraph headings 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 lease.

36. Partial invalidity. If any term, provision, covenant or condition of this lease should be held to be invalid, void or unenforceable, the remainder of this lease shall continue in full force and effect and shall in no way be affected, impaired or invalidated thereby.

#### SPECIAL CONDITIONS:

37. Withdrawal. The Lessor shall have the right to withdraw the premises, or any portion, at any time during the term of this lease upon giving reasonable notice and without compensation, except as otherwise provided in the lease, for public uses or purposes, including residential, commercial, industrial, or resort developments, for constructing new roads or extensions, or changes in line or grade of existing roads, for rights of way and easements of all kinds, and shall be subject to the right of the Board to remove soil, rock or gravel as may be necessary for the construction of roads and rights of way within or without the premises; provided, that upon the withdrawal, or upon the taking which causes any portion of the land originally leased to become unusable for the specific use or uses for which it was leased, the rent shall be reduced in proportion to the value of the land withdrawn or made unusable, and if any permanent improvement constructed upon the land by the Lessee is destroyed or made unusable in the process of the withdrawal or taking, the proportionate value shall be paid based upon the unexpired term of the lease.

38. Fire and extended coverage insurance. The Lessee, at its cost and expense, shall procure and maintain at all times during the term of this lease for structures and premises as utilized by the Lessee, fire and extended coverage insurance with an insurance company(s) licensed to do business in the State of Hawaii, insuring all buildings and improvements erected on the land leased in the joint names of Lessor and Lessee, with the standard mortgage clause for Mortgagee, if any, as their interest may appear, in an amount equal to the replacement cost of the facilities and shall pay the premiums at the time and place required under the policy.

In the event of total or partial loss, any proceeds derived from the policy(s) shall be used by the Lessee for rebuilding, repairing, or otherwise reinstating the same buildings in a good and substantial manner according to plans and specifications approved in writing by the Board; provided, however, that with the approval of the Lessor, the Lessee may surrender this lease and pay the balance owing on any mortgage and the Lessee shall then receive that portion of the proceeds which the unexpired term of this lease at the time of the loss or damage bears to the whole of the term, the Lessor to be paid the balance of the proceeds.

The Lessee shall furnish the Lessor on or before June 30, 1996, a certificate showing the policy(s) to be in full force and effect and shall furnish a like certificate upon each renewal of the policy(s). Each certificate(s) shall contain or be accompanied by an assurance of the insurer not to cancel the insurance, limit the scope of the coverage, or fail or refuse to renew the policy(s) until after thirty (30) days written notice has been given to the Lessor.

All rights or claims of subrogation against the State of Hawaii, its officers, employees, and agents are waived.

39. Non-use and abandonment. If the Lessee shall, at any time for a continuous period of one (1) year, fail or cease to use said premises for the purposes stated in Paragraph 12 herein, or abandon all or any portion of said premises, this lease shall cease and terminate.

40. Audit and examination of books, etc. Lessee shall at all times maintain full and accurate records relating to Lessee's operations and activities upon and in connection with said leased premises. Lessor reserves the right to audit, examine, and to make copies of all Lessee's books, accounts, records, and receipts, during regular working hours upon reasonable notice given by Lessor.

It is understood that accounting procedures used by the Lessee shall be procedures which comply with generally accepted accounting procedures. Lessee shall keep its financial records in a manner which meets the reporting requirements for those federal aid funds provided by Lessor. Lessor shall provide Lessee with said reporting requirements before the beginning of each fiscal year, but no later than July 1st, annually.

41. Mutual Termination. The Lessor or Lessee may terminate this lease at any time without cause, by giving thirty (30) days' notice of its intention to terminate.

42. Clearances. The Lessee shall be responsible for obtaining all necessary federal, state or county clearances.

43. Certification of tax exemption. The Lessee shall be certified to be tax exempt under Sections 501(c)(1) or 501(c)(3) of the Internal Revenue Code of 1986, as amended. The premises shall be used by the Lessee for which its charter was issued and for which it was certified by the Internal Revenue Service.

44. Time is of the essence. Time is of the essence in all provisions of this lease.

45. Compliance with goals and objectives. The Lessee shall comply with its objective and goals as stated in its Articles of Incorporation in operating its programs and activities under this lease.

46. Plan of operation. The Lessee shall submit a plan of operation to the Board upon the effective date of this lease and annually thereafter with the submission of the Annual Report, pursuant to paragraph 49 below, to include, but not limited to the following:

- a. general operation,
- b. staffing,
- c. species and numbers of species of birds held,
- d. interim Facility development and repair, and
- e. other information and programs as deemed appropriate by Lessee.

47. Funding of facility. The Lessor agrees to seek and commits to use its best efforts to provide funding for the program and to help maintain the Facility from the effective date of this lease, subject to annual appropriation by the Hawaii legislature and the Governor of Hawaii and other budget priorities.

Other funds for staff salaries and benefits, and the remainder of the Facility operational costs will be provided by the United States Fish & Wildlife Service through Section 6 and other types of federal funding sources. Private sector support will be secured by Lessee for the remaining financial gaps and to otherwise support funding increases over time.

48. Facility staffing.

A. Lessee shall assume responsibility for providing an adequate employee staff for the Facility, reserving the exclusive right to make employee selections, provide job descriptions, salaries, and benefits in compliance with the laws of the United States of America and the State of Hawaii.

B. Lessee shall not be responsible or liable in any manner for any claims or damages based on any employment-based claim, including wrongful discharge by any former Hawaii State employee(s), jointly or severally, employed prior to the effective date of this lease.

49. Annual report. The Lessee shall submit an annual progress report and financial statement by September 1 of each year regarding its operations during that year to the Department. The Lessee, Lessor, and a representative of the United States Fish & Wildlife Service, Pacific Region, shall conduct an annual meeting to discuss mutual issues of concern regarding the operation and management of the Facility and related programs and projects.

50. Misrepresentation. The Lessee shall in no way misrepresent its relationship with the State of Hawaii with respect to programs and activities conducted therein in any of its publications, literature, promotional materials, or public utterances or presentations of any sort.

51. Performance. Performance under this lease shall be coordinated with a representative of the Department to be designated by the Chairperson who shall act as the principal liaison between the Lessee and the Department to help interpret the conditions of the lease, resolve policy questions, to expedite decisions, and to inspect and monitor the work performed. The Lessee, in turn, shall designate a project director who shall maintain close and frequent communication with the Department representative.

In the event of any disagreement over the interpretive and/or implementation of this lease, Lessor and Lessee shall attempt to mutually resolve such questions in a reasonable and equitable manner consistent with the purposes and spirit of this

lease. In the event that agreement cannot be reached, any questions or disputes shall then be referred to the Chairperson and his determination shall be final.

52. Garbage, rubbish, and other refuse. The Lessee shall dispose of all garbage, rubbish, and other refuse caused by or resulting from its operation in containers provide by the Lessee. Piling of boxes, cartons, barrels, or other similar items in an unsightly or unsafe manner, on or about the premises and the Facility is forbidden.

53. Abandoned vehicles. Lessor shall remove all abandoned or non-operating vehicles prior to the date of occupation by the Lessee. Lessee shall take all steps necessary to prevent the placing or storing of abandoned vehicles within the premises. Any and all abandoned vehicles within the premises shall be removed by Lessee at Lessee's cost and expense.

54. Signs and advertising. The Lessee shall not, without the prior written consent of the Lessor, install or place permanent signs within or at the Facility, except Lessee may install appropriate signs which clearly indicate the name of the Lessee, the name of the Facility, public information, and appropriate warning signs.

55. Name of facility. The Lessee may, at its sole discretion, rename the Facility to reflect accurately the management and purpose of the Facility as contemplated under the lease.

56. Ingress and egress. The Lessee, its employees, customers, guests, agents, contractors, suppliers of material, furnishers of services, and/or invitees, in common with others, shall have the exclusive right, except as provided in paragraph 3 hereinabove, of ingress to and egress from the facility to or from which such persons shall reasonably require ingress or egress in such manner, upon such terms and such locations as the Lessee may designate.

57. Inventory of equipment. Prior to the Lessee's occupation of the leased premises, Lessor shall conduct an inventory of all removable equipment, tools, furnishings, vehicles, animal records and files, and other items of whatever kind which are not fixtures and which are the property of the State of Hawaii. Lessor and Lessee shall enter into a separate agreement with respect to any removable equipment, tools, furnishings, and other items of whatever kind which will remain at the Facility to be used by Lessee.

58. Contractual partnerships related to facility. Lessor shall reveal and provide to Lessee a list of all written, including copies thereof, or oral contractual relationship between the Department and other Hawaii state agencies, federal agencies, or private contractors of whatever kind for whatever purpose related to the Facility within thirty (30) days of the effective date of this lease. Lessee shall have the discretion to terminate this lease immediately, but no later than ninety (90) days from receipt of said contractual relationships if Lessee cannot terminate, at its sole discretion, any contractual relationship it determines to be disagreeable and in conflict with Lessee's intended use of the Facility.

59. Easements. Lessor shall reveal to Lessee any easements or covenants of whatever kind which are associated with or are tied to the leased premises within thirty (30) days of the effective date of this lease.

60. Bird rehabilitation. Lessee shall, at the request of Lessor, care for any Hawaiian state or federally listed endangered or threatened bird to provide appropriate treatment and rehabilitation. Said care, treatment, and rehabilitation shall be prescribed in the sole discretion of Lessee.

61. Endangered plants. The Lessor will not hold the Lessee responsible to initiate any action for the health and survival of any endangered plants found on the premises before the commencement date of this lease.

Definitions.

1. The use of any gender shall include all genders, and if there is more than one lessee, then all words used in the singular shall extend to and include the plural.

2. As used in this lease, unless clearly repugnant to the context:

(a) "Chairperson" means the Chairperson of the Board of Land and Natural Resources of the State of Hawaii or his successor.

(b) "Lessee" means and includes the Lessee, its officers, employees, invitees, successors or permitted assigns.

(c) "Holder of record of a security interest" means a person who is the owner or possessor of a security interest in the land leased and who has filed with the Department of Land and Natural Resources and with the Bureau of Conveyances of the State of Hawaii a copy of this interest.

(d) "Premises" means the land leased and all buildings and improvements now or hereinafter constructed and installed on the land leased.

(e) "Waste" includes, but is not limited to, (1) permitting the premises, or any portion, to become unduly eroded or failure to take proper precautions or make reasonable effort to prevent or correct the erosion; (2) permitting a substantial increase in noxious weeds in uncultivated portions of the premises; and (3) failure to employ all of the usable portions of the premises.

(f) "Days" shall mean calendar days, unless otherwise specified.

(g) "Department" shall mean the Department of Land and Natural Resources, State of Hawaii.

(h) "Facility" shall mean the The Olinda Endangered Species Propagation Facility, subject to paragraph 55 hereinabove.

IN WITNESS WHEREOF, the STATE OF HAWAII, by its Board of Land and Natural Resources, has caused the seal of the Department of Land and Natural Resources, to be hereunto affixed and the parties hereto have caused these presents to be executed the day, month and year first above written.

STATE OF HAWAII

Approved by the Board of Land and Natural Resources at its meeting held on November 17, 1995.

By ~~Richard A. Coloma Agana~~  
for Chairperson and Member  
Board of Land and  
Natural Resources

LESSOR

THE PEREGRINE FUND

By William G. Gumb  
Its President

And By \_\_\_\_\_  
Its \_\_\_\_\_

LESSEE

APPROVED AS TO FORM:

William W. Ham  
Deputy Attorney General

Dated: 2/27/96

2629



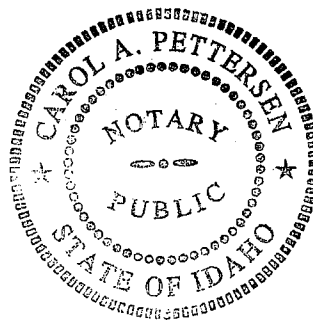
STATE OF Idaho )  
COUNTY OF Ada ) SS.

On this 1st day of March, 1996,  
before me appeared William BURNHAM and  
\_\_\_\_\_ to me personally known, who,  
being by me duly sworn, did say that they are the President  
and \_\_\_\_\_, respectively of The Peregrine Fund, an Idaho  
corporation, and that the seal affixed to the foregoing  
instrument is the corporate seal of said corporation and that  
said instrument was signed and sealed in behalf of said  
corporation by authority of its Board of Directors, and the  
said \_\_\_\_\_ and \_\_\_\_\_ acknowledged said  
instrument to be the free act and deed of said corporation.

Carol A. Pettersen Idaho  
Notary Public, State of

My commission expires: 3/10/01

2629





STATE OF HAWAII

SURVEY DIVISION

DEPT. OF ACCOUNTING AND GENERAL SERVICES  
HONOLULU

C.S.F. No. 20,289

October 15, 1985

OLINDA ENDANGERED SPECIES PROPAGATION FACILITY

PARCELS A AND B

Makawao, Maui, Hawaii

PARCEL A

Comprising the following:

- A. Portions of the Government Land of Makawao.
- B. All of Lots 26, 29, 30, 31 and a portion of Lot 22 of the Olinda House Lots.
- C. Portion of the Abandoned Government Road.

Beginning at the north corner of this parcel of land, the southerly boundary of Grant 8073 to Sophia Abreu and on the westerly side of Piiholo Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PIIHOLO" being 14,304.92 feet South and 4863.28 feet East, thence running by azimuths measured clockwise from True South:-

- |    |              |  |
|----|--------------|--|
| 1. | 331° 30'     | 3.15 feet along the westerly side of Piiholo Road;   |
| 2. | 11° 53' 30"  | 97.97 feet along the westerly side of Piiholo Road;  |
| 3. | 341° 29' 30" | 108.81 feet along the westerly side of Piiholo Road; |
| 4. | 322° 51'     | 203.61 feet along the westerly side of Piiholo Road; |
| 5. | 306° 44' 30" | 198.05 feet along the westerly side of Piiholo Road; |
| 6. | 42° 16'      | 84.41 feet along the westerly side of Piiholo Road;  |
| 7. | 35° 39' 30"  | 121.18 feet along the westerly side of Piiholo Road; |

October 15, 1985

8.	2° 52' 30"	110.07 feet along the westerly side of Piiholo Road;
9.	338° 04'	125.00 feet along the westerly side of Piiholo Road;
10.	322° 20'	339.44 feet along the westerly side of Piiholo Road;
11.	334° 00'	101.28 feet along the westerly side of Piiholo Road;
12.	68° 09'	61.85 feet along Parcel 5 of the Addition to Waihou Spring Forest Reserve;
13.	111° 46'	40.00 feet along Parcel 5 of the Addition to Waihou Spring Forest Reserve;
14.	20° 07'	84.60 feet along Parcel 5 of the Addition to Waihou Spring Forest Reserve;
15.	61° 35'	96.70 feet along Parcel 5 of the Addition to Waihou Spring Forest Reserve;
16.	37° 11'	94.60 feet along Parcel 5 of the Addition to Waihou Spring Forest Reserve;
17.	57° 01'	184.80 feet along Parcel 5 of the Addition to Waihou Spring Forest Reserve;
18.	38° 09'	358.50 feet along Parcel 5 of the Addition to Waihou Spring Forest Reserve;
19.	6° 31'	157.20 feet along Parcel 5 of the Addition to Waihou Spring Forest Reserve;
20.	89° 04'	187.30 feet along Parcel 5 of the Addition to Waihou Spring Forest Reserve;
21.	59° 01'	113.50 feet along Parcel 5 of the Addition to Waihou Spring Forest Reserve;
22.	14° 39'	88.60 feet along Parcel 5 of the Addition to Waihou Spring Forest Reserve;
23.	63° 28'	90.20 feet along the northerly side of Olinda Road;
24.	91° 28'	51.90 feet along the northerly side of Olinda Road;
25.	119° 28'	90.90 feet along the northerly side of Olinda Road;
26.	144° 35'	91.70 feet along the northerly side of Olinda Road;
27.	169° 42'	172.30 feet along the northerly side of Olinda Road;

October 15, 1985

28.	140° 14'	368.75 feet along the northerly side of Olinda Road;
29.	221° 58'	348.50 feet along Parcel B of the Olinda Endangered Species Propagation Facility;
30.	153° 53'	160.00 feet along Parcel B of the Olinda Endangered Species Propagation Facility;
31.	160° 42'	174.90 feet along Parcel B of the Olinda Endangered Species Propagation Facility;
32.	234° 45'	106.97 feet along the Hawaii Agricultural Experiment Station, Governor's Executive Order 476;
33.	142° 43'	122.10 feet along the Hawaii Agricultural Experiment Station, Governor's Executive Order 476;
34.	186° 15'	122.00 feet along the Hawaii Agricultural Experiment Station, Governor's Executive Order 476;
35.	149° 40'	84.90 feet along the Hawaii Agricultural Experiment Station, Governor's Executive Order 476;
36.	234° 45'	1159.66 feet along Grant 8294 to Antone de Souza Medeiros and Grant 8073 to Sophia Abreu to the point of beginning and containing an AREA OF 41.28 ACRES.

PARCEL B

Being portion of the Government Land of Makawao.

Beginning at the south corner of this parcel of land, the west corner of Parcel A of the Olinda Endangered Species Propagation Facility and on the northerly side of Olinda Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PIIHOLO" being 15,895.51 feet South and 3827.65 feet East, thence running by azimuths measured clockwise from True South:-

1.	62° 17'	231.08 feet along the northerly side of Olinda Road;
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October 15, 1985

2. 126° 30' 16.20 feet along the northerly side of Olinda Road;
3. 190° 42' 30" 79.10 feet along the northerly side of Olinda Road;
4. Thence along the northerly side of Olinda Road on a curve to the left with a radius of 103.96 feet, the chord azimuth and distance being:  
140° 41' 15" 159.32 feet;
5. Thence along the northerly side of Olinda Road on a curve to the right with a radius of 76.24 feet, the chord azimuth and distance being:  
140° 40' 15" 116.82 feet;
6. 190° 40' 30" 39.01 feet along the northerly side of Olinda Road;
7. 234° 45' 582.19 feet along the Hawaii Agricultural Experiment Station, Governor's Executive Order 476;
8. 340° 42' 174.90 feet along Parcel A of the Olinda Endangered Species Propagation Facility;
9. 333° 53' 160.00 feet along Parcel A of the Olinda Endangered Species Propagation Facility;
10. 41° 58' 348.50 feet along Parcel A of the Olinda Endangered Species Propagation Facility to the point of beginning and containing an AREA OF 4.75 ACRES.

SURVEY DIVISION  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
STATE OF HAWAII

By: Joseph M. Matsuno  
Joseph M. Matsuno  
Land Surveyor

pt

Compiled from CSF's 6221,  
9851 and other Govt.  
Survey Records.



ASSIGNMENT OF LEASE

THE PEREGRINE FUND, INC., a Pennsylvania corporation authorized to do business in Hawaii, whose address is 5666 West Flying Hawk Lane, Boise, Idaho, 83709, hereinafter referred to as the "ASSIGNOR," for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and for other valuable consideration, has assigned and does hereby assign, transfer and set over unto the ZOOLOGICAL SOCIETY OF SAN DIEGO, INC., a California corporation authorized to do business in Hawaii, whose address is 2920 Zoo Drive, San Diego, California, 92101, hereinafter referred to as the "ASSIGNEE," that certain indenture of lease dated March 1, 1996, from the Board of Land and Natural Resources for and on behalf of the Government of the State of Hawaii, as Lessor, and known as General Lease No. S-5490; and all its right, title and interest under and by virtue of the said lease in and to the premises therein described, being a portion of the Government (crown) land of Makawao, Parcels A and B, situate at Makawao, Maui, Hawaii, known as the Olinda Endangered Species Propagation Facility, and in said lease more particularly described.

TO HAVE AND TO HOLD, the same unto the said Assignee, its successors and permitted assigns, from and after the date hereof, for and during the remaining term of said General Lease, and the rights and privileges in and under said lease, subject always to the rents, covenants, and provisions therein contained and on the part of the Assignee to be kept, observed and performed; and to the consent of the Board of Land and Natural Resources as reflected below.

AND, Assignee, for and in consideration of the execution of this instrument of assignment from the Assignor to the Assignee, hereby accepts the said assignment and transfer of said General Lease and does hereby undertake, and agree with the said Assignor, and the said State of Hawaii, that said Assignee will pay the rent reserved in said lease and keep, observe and perform all of the terms, covenants and conditions therein to be kept, observed and performed.

IN WITNESS WHEREOF, the said Assignor and Assignees have caused this instrument to be executed this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

ASSIGNOR:

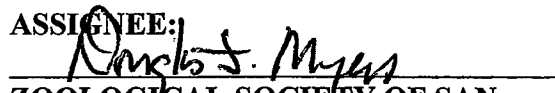


THE PEREGRINE FUND, INC.

LESSOR:

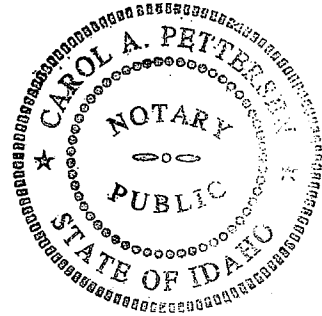
CHAIRPERSON AND MEMBER  
BOARD OF LAND AND NATURAL  
RESOURCES

ASSIGNEE:



ZOOLOGICAL SOCIETY OF SAN  
DIEGO

STATE OF IDAHO )  
 ) SS.  
CITY & COUNTY OF BOISE )



On this 26 day of February, 2001, before me personally appeared William Burnham, to me known to be the person(s) described in and who executed the foregoing document instrument and acknowledged that William Burnham executed the same as HIS free act and deed.

Carol A. Pettersen

Notary Public, State of Idaho  
My Commission expires: 3/13/07



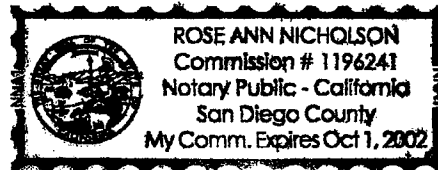
STATE OF CALIFORNIA            )  
  ) SS.  
CITY & COUNTY OF SAN DIEGO)

On this 8<sup>th</sup> day of March, 2001, before me personally appeared  
Douglas S. Myers, to me known to be the person(s) described in and who  
executed the foregoing document instrument and acknowledged that he  
executed the same as his free act and deed.

Douglas S. Myers

Notary Public, State of California  
My Commission expires: 10/01/2002

Rose Ann Nichols





RESOLUTION OF THE BOARD OF TRUSTEES  
ZOOLOGICAL SOCIETY OF SAN DIEGO

RESOLVED, THAT any two of the following persons acting together be and they are hereby authorized to execute any instrument in the name of and on behalf of the Zoological Society of San Diego up to the value of three million dollars [\$3,000,000] (1) to sell securities on behalf of the corporation; (2) to sell real estate on behalf of the corporation; or (3) to open brokerage and securities accounts on behalf of the corporation for the purpose of facilitating the sale of such securities: the Executive Director, Douglas Myers; the Finance Director, Frederick Andrus; and the Controller, Barbara Rose

I, David S. Woodruff, Secretary of the Zoological Society of San Diego, hereby certify that the foregoing is a true copy of a resolution duly adopted by the Board of Trustees of said corporation at a meeting duly held the 23<sup>rd</sup> of May, 2000, at which a quorum was present and voting, and that the same has not been repealed or amended and remains in full force and effect and does not conflict with the Bylaws of said corporation.

3.6.2001

Dated

David S. Woodruff

David S. Woodruff, Ph.D, Secretary

-SEAL-

