SUPPLEMENTAL AGREEMENT NO. 32
TO AGREEMENT FOR PUBLIC, EDUCATIONAL, AND GOVERNMENTAL ACCESS SERVICES

This "Supplemental Agreement No. 32" is entered on December 20, 2019 by and between (1) the **State of Hawaii** ("**STATE**") through its Director of Commerce and Consumer Affairs ("**DIRECTOR**"), and (2) **Maui Community Television, Inc.,** also known as **Akaku: Maui Community Television** ("**CONTRACTOR**"), a Hawaii nonprofit corporation whose business address is 333 Dairy Road, Suite 104-A, Kahului, HI 96732.

RECITALS

WHEREAS, the STATE and CONTRACTOR previously entered into an "Agreement" on June 17, 1999 for, among other things, the management and operation of public, educational, and governmental ("**PEG**") access facilities, equipment, and channels for the three islands of Maui, Lanai, and Molokai ("**tri-islands of Maui County**");

WHEREAS, the term of the Agreement was automatically extended each year for one (1) year terms until June 30, 2004;

WHEREAS, the STATE and CONTRACTOR entered into Supplemental Agreement No. 1 to extend the Agreement from June 30, 2004 to September 30, 2004;

WHEREAS, the STATE and CONTRACTOR thereafter entered into Supplemental Agreement Nos. 2 to 31 and continuously extended the Agreement;

WHEREAS, the Agreement is currently extended to December 31, 2019;

WHEREAS, on July 1, 2011, Act 19 (SLH 2011) ("**Act 19**") took effect and authorizes the DIRECTOR to designate PEG access organizations; provided that such designations shall be exempt from Hawaii Revised Statutes ("**HRS**") chapter 103D;[1]

WHEREAS, on September 2, 2011, the STATE issued Guidelines to Designate PEG Access Organizations Pursuant to Act 19;

WHEREAS, on September 3, 2013, the CONTRACTOR submitted its Application for Designation as the PEG Access Organization for Maui County ("**Application**") to the DIRECTOR;

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[1] Act 93 (SLH 2014), signed into law on June 16, 2014, removed the sunset provision in Act 19, thereby permanently allowing the Director to designate access organizations to oversee PEG channels. The Director's authority to designate access organizations to oversee PEG channels is codified under HRS § 440G-8.3.

WHEREAS, the STATE and the CONTRACTOR are aware that the Federal Communications Commission's ("**FCC**") conclusion in its order, released on August 2, 2019, FCC Docket No. 05-311, that cable related in-kind contributions required by a cable franchise agreement are franchise fees subject to the statutory five percent (5%) cap on franchise fees, may have the potential to affect the STATE's ability to provide funding to CONTRACTOR at levels similar to previous terms of this Agreement;

WHEREAS, the STATE estimates that it will take approximately another year to select and designate a PEG access organization for the tri-islands of Maui County; and

WHEREAS, to allow the uninterrupted provision of PEG access services to cable television subscribers, and to provide time to complete the selection and designation process for a PEG access organization on the tri-islands of Maui County, the STATE and CONTRACTOR desire to enter into another Supplemental Agreement to further extend the Agreement from December 31, 2019 to December 31, 2020.

AGREEMENT

NOW, THEREFORE, in consideration of the promises and mutual covenants contained herein, the STATE and the CONTRACTOR hereby agree as follows:

1. Term of the Agreement

Paragraph A. of the Agreement ("Term") is replaced in its entirety with the following:

"a. The Agreement shall be extended from December 31, 2019 to December 31, 2020.

b. Thereafter, the parties may enter into another Supplemental Agreement to further extend the Agreement."

2. Termination

a. Paragraph M.3. of the Agreement ("Termination") is replaced in its entirety with the following:

"3. The DIRECTOR may, when the interests of the STATE so require, terminate this Agreement for the convenience of the STATE. The DIRECTOR shall give at least sixty (60) calendar days' prior written notice of the termination to the CONTRACTOR."

b. New Paragraph M.4 added:

"4. In the event the CONTRACTOR is designated as a PEG access organization for the tri-islands of Maui County by the DIRECTOR,

and the CONTRACTOR and the DIRECTOR subsequently enter into a new agreement for the management and operation of PEG access facilities, equipment, and channels for the tri-islands of Maui County prior to the expiration of this Agreement, this Agreement shall terminate upon the effective date of the new agreement."

3. Other Provisions of the Agreement

Except as otherwise provided herein, the remaining provisions of the Agreement shall continue to remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Supplemental Agreement No. 32 on December 20, 2019.

STATE OF HAWAII

By: Catherine P. Awakuni Colón

CATHERINE P. AWAKUNI COLÓN
(Print Name)

Title: Director of the Department of Commerce and Consumer Affairs

Date: 12/20/2019

MAUI COMMUNITY TELEVISION, INC. also known as AKAKU: MAUI COMMUNITY TELEVISION

By: _____

JAY APRIL
(Print Name)

Title: President & CEO

Date: 12/9/19

APPROVED AS TO FORM:

_____
Deputy Attorney General