

**MEMORANDUM OF AGREEMENT**

**HAWAII PUBLIC RADIO**

and the

**UNIVERSITY OF HAWAII**

for the benefit of the

University of Hawai'i at Mānoa  
Office of Student Life and Development – KTUH)

This Memorandum of Agreement (MOA), made this 8<sup>th</sup> day of March 2015<sup>48</sup>, by and between Hawaii Public Radio (HPR), a N/A, whose principal business address is 738 Kaheka Street, Honolulu, Hawai'i 96814 (hereafter "HPR") and the University of Hawai'i, whose business address is Bachman Hall, 2444 Dole Street, Honolulu, Hawai'i 96822 (hereafter the "UNIVERSITY") for the benefit of the University of Hawai'i at Mānoa, Office of Student Life and Development (hereafter "UHM OSLD") and KTUH – University of Hawai'i at Mānoa College Student Radio, whose business address is 2445 Campus Road, HH203, Honolulu, Hawai'i 96822 (hereafter "KTUH").

**WITNESSETH THAT:**

WHEREAS, since about 1969, the UNIVERSITY, with the assistance of UHM OSLD, has operated KTUH as a radio station operated primarily by UNIVERSITY students; and

WHEREAS, since its inception, KTUH, with the assistance of the UHM OSLD, has consistently sought to upgrade and increase its broadcasting range and capability; and

WHEREAS, HPR, since its establishment, has operated as a non-profit radio station whose programming format has included cultural, educational, current events, and entertainment related programming; and

WHEREAS, HPR, like KTUH, has consistently sought to upgrade and increase its broadcasting range and capability; and

WHEREAS, on July 17, 2007, HPR entered into a lease from the State of Hawai'i Board of Land and Natural Resources (hereafter the "Land Board") for a site in the Tantalus area on the island of O'ahu (hereafter the "HPR Leased Area") for a term of thirty (30) years (hereafter the "HPR Lease") and completed the construction of a building facility (hereafter the "HPR Building") and a broadcast antenna on the leased site (hereafter the "HPR Broadcast Antenna"); and

WHEREAS, while HPR has been broadcasting from its HPR Broadcast Antenna and improved its broadcasting range and capability, HPR has indicated that there is space for KTUH to install a broadcasting transmitter and booster in the HPR Building and on the HPR Broadcast Antenna; and

WHEREAS, HPR and the UNIVERSITY, for the benefit of KTUH, desire to have KTUH install and co-locate a KTUH 7 kilowatt transmitter in the HPR Building and a 3 bay antenna on the HPR Broadcast Antenna (hereafter collectively the "KTUH Transmitter"), subject to the terms and conditions contained in this MOA; and

WHEREAS, HPR and the UNIVERSITY plan to seek such approval from the State Department of Land and Natural Resources and/or Land Board as may be necessary under the HPR Lease to accomplish the co-location of a KTUH Transmitter to the HPR Building and HPR Broadcast Antenna (hereafter collectively the "KTUH Co-location"),

NOW, THEREFORE, in consideration of the mutual covenants and promises herein made, the parties do hereby agree as follows:

I. Term of Agreement:

The term of this MOA shall be for the duration of the HPR Lease, including any extensions to the HPR Lease and/or HPR's continued ownership of the HPR Broadcast Antenna.

II. KTUH Relocation Area:

HPR and the UNIVERSITY acknowledge and agree that the KTUH Co-location will be accomplished by installing the KTUH Transmitter partially in the HPR Building (as shown on the map attached hereto as Exhibit A and incorporated herein by reference) and partially on the HPR Broadcast Antenna (as shown on the map attached hereto as Exhibit B and incorporated herein by reference), which together shall comprise the HPR Lease area to be made available to the UNIVERSITY for the KTUH Transmitter and the KTUH Co-location under this MOA.

III. UNIVERSITY responsibilities:

A. Installation and operation of the KTUH Transmitter. The UNIVERSITY shall be responsible, at the UNIVERSITY's expense, for installing, connecting, and operating the KTUH Transmitter upon and at the HPR Antenna.

B. Payment of pro-rata share of common expenses. The UNIVERSITY will be responsible for paying a pro-rata share of one third (1/3) of common expenses incurred in relation to the maintenance and repair of the HPR Broadcast Antenna (hereafter the "UNIVERSITY's Share").

1. UNIVERSITY's Share. The UNIVERSITY's Share was determined based on the number of broadcast stations operating from the HPR Building and the HPR Broadcast Antenna, with HPR having and operating two (2) broadcast stations and KTUH having and operating one (1) broadcast station. Such expenses shall include periodic servicing and repair of the HPR Broadcast Antenna and emergency or short notice repairs but shall not include any costs to upgrade, improve, or expand the broadcasting range or quality of the HPR Broadcast Antenna.

2. HPR Budget. HPR shall notify the UNIVERSITY in writing at least thirty (30) days prior to the start of each fiscal year (July 1) regarding the estimated annual amount of the maintenance and repair costs for the HPR Broadcast Antenna ("HPR Budget") and the amount of the UNIVERSITY's Share. The UNIVERSITY shall review the HPR Budget and the UNIVERSITY's Share and notify HPR within ten (10) days of receiving the HPR Budget of any issues or concerns that the UNIVERSITY may have with respect to the HPR Budget and/or the UNIVERSITY's Share. HPR shall address the UNIVERSITY's issues/concerns and respond to the UNIVERSITY's within ten (10) days

of receiving the UNIVERSITY's response. This process shall be repeated until mutual agreement is reached on the HPR Budget and the UNIVERSITY's Share.

3. Reconcile HPR Antenna Costs. HPR shall, within thirty (30) days of the end of each fiscal year, reconcile the HPR Budget which consists of the estimated HPR Broadcast Antenna maintenance and repair expenses (hereafter collectively the "HPR Antenna Costs") with the actual amount of HPR Antenna Costs incurred by HPR. If there is a deficit in the payment of the UNIVERSITY's Share of the HPR Antenna Costs, the UNIVERSITY shall be responsible for paying such deficit to HPR within sixty (60) days. If the UNIVERSITY's Share of the HPR Antenna Costs paid by the UNIVERSITY is more than it was obligated to pay based on the actual amount of HPR Antenna Costs incurred by HPR, HPR shall refund the full amount of such overpayment to the UNIVERSITY or credit the UNIVERSITY for the full amount of such overpayment against the next succeeding payment(s) of the UNIVERSITY's Share.
4. UNIVERSITY's right to audit. The UNIVERSITY may audit the HPR Budget and the accounting and reconciliation of the HPR Antenna Costs. If not presently a part of the HPR Antenna Costs, the parties will mutually agree upon whether any additional expenses relating to the operation of the HPR Broadcast Antenna incurred by HPR can be included in the present HPR Antenna Costs
- C. Install electric sub meter. The UNIVERSITY shall install or have installed, at the UNIVERSITY's expense, an electrical sub meter at a location to be agreed upon between HPR and the UNIVERSITY to monitor the UNIVERSITY's usage of electricity.
- D. Utility services. The UNIVERSITY shall install, activate, and operate or have installed, activated, and operated electricity/power, phone, and data line connections and services that the UNIVERSITY may require in connection with the operation of the KTUH Transmitter (hereafter collectively the "UH Utility Lines"). The UNIVERSITY shall be responsible for paying for such installation, activation, and operation of the UH Utility Lines. Because the UNIVERSITY will pay for such installation, activation, and operation of the UH Utility Lines, the UNIVERSITY will not be responsible for paying for any electrical, phone, and data line any electricity/power costs as part of the HPR Antenna Costs.
- E. Repair/maintenance. The UNIVERSITY shall repair and maintain the KTUH Transmitter, at the UNIVERSITY's expense, and the UNIVERSITY shall give HPR prior written notice before performing or conducting any major repairs and/or upgrades to the KTUH Transmitter. The UNIVERSITY is not required to give HPR such prior written notice for routine or minor repairs and upkeep.
- F. Comply with applicable laws. The UNIVERSITY, in installing, connecting, and operating the KTUH Transmitter, will comply with all applicable federal, state, and county laws, statutes, rules, regulations, and ordinances.

IV. HPR responsibilities.

- A. Grant of entry. HPR shall grant and provide the UNIVERSITY with access to the HPR Leased Area, the HPR Broadcast Antenna, and the HPR Building to allow the UNIVERSITY to install, connect, operate, maintain, repair, upgrade, and remove the KTUH Transmitter, including, without limitation, providing to the

UNIVERSITY, at no cost to the UNIVERSITY, keys and combinations to locks, as may be necessary to allow the UNIVERSITY such access to the HPR Leased Area, the HPR Broadcast Antenna, and the HPR Building.

- B. Use of HPR generator. HPR will allow the UNIVERSITY to connect to and use the HPR generator(s) located on the HPR Leased Area in case of emergencies and power outages.
- C. Maintenance and repair of HPR areas. HPR shall be responsible, at HPR's expense, for keeping the HPR Leased Area, the HPR Broadcast Antenna, and the HPR Building (collectively the "HPR Areas") in good condition and repair and shall maintain the same, including, without limitation, making all structural repairs (e.g., roof replacement) and expending such capital costs as may be necessary to keep the HPR Areas in good condition and repair. HPR shall not include as part of the HPR Antenna Costs and/or charge the UNIVERSITY for any such structural repairs or capital costs incurred by HPR.
- D. Grant for others to use HPR Areas. HPR shall give the UNIVERSITY written notice prior to granting other persons or entities the right to install, connect, use, or operate from the HPR Broadcast Antenna and/or the HPR Building. HPR shall promptly and timely respond to any concerns raised or identified by the UNIVERSITY and try to resolve such concerns prior to allowing such other persons and entities access to the HPR Areas.
- V. Insurance. The UNIVERSITY, as an agency of the State of Hawai'i, is self-insured and is willing to provide HPR with a Statement of Self-Insurance (which will be prepared by the State of Hawaii Department of Accounting and General Services Risk Management Office) upon request by HPR..
- VI. Modifications to the MOA

Any modifications to this MOA shall be in writing and signed by both parties.

IN WITNESS WHEREOF, the parties, by their duly authorized officers, have executed this MOA as of the date first above written, to be effective as of said date.

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[Signature pages to follow]

HPR:

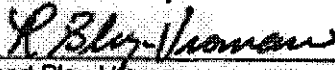
Hawaii Public Radio

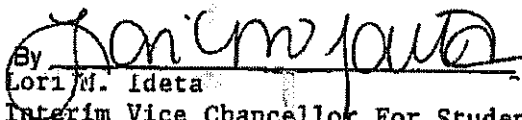
By   
Michael Titterton  
Its President

DATE: 1/27/15


UNIVERSITY:

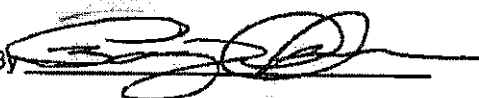
UNIVERSITY OF HAWAII, a body corporate  
and state university of the State of Hawaii

By   
Robert Bley-Vroman  
Its Chancellor, University of Hawaii at Manoa  
Its Chancellor

By   
Lori M. Ideta  
Interim Vice Chancellor For Students  
University of Hawaii at Manoa

Recommend Approval:

By   
Mechilins-Isched Alicia DeVoll  
Chair, UHM Student Media Broadcast Board  
University of Hawaii at Manoa

By   
Paige Okamura  
KTUH General Manager