

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

December 13, 2024

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

Land Board Members:

**SUBJECT:** REQUEST FOR DELEGATION OF AUTHORITY TO THE CHAIRPERSON TO NEGOTIATE, APPROVE, EXECUTE, AMEND, EXTEND, AND TERMINATE A MEMORANDUM OF AGREEMENT BETWEEN THE STATE OF HAWAII DEPARTMENT OF EDUCATION AND THE DEPARTMENT OF LAND AND NATURAL RESOURCES FOR THE JOINT MANAGEMENT OF "SHADE TREES FOR SCHOOLS," A PROJECT OF THE KAULUNANI URBAN AND COMMUNITY FORESTRY PROGRAM, SUBJECT TO DEPARTMENT OF THE ATTORNEY GENERAL'S APPROVAL AS TO FORM;

This submittal requests approval of a Memorandum of Agreement (MOA) between the State of Hawaii Department of Education (HDOE) and the State of Hawaii Department of Land and Natural Resources (DLNR; Department) for the joint management of "Shade Trees for Schools," a project of the Kaulunani Urban and Community Forestry Program (Kaulunani).

**BACKGROUND:**

Governing Authorities Cited

Hawaii Revised Statutes (HRS)

Chapter 343 Environmental Impact Statements

Hawaii Administrative Rules (HAR)

Chapter 11.200.1 Environmental Impact Statement Rules

The Urban and Community Forestry program was authorized by the Cooperative Forestry Assistance Act of 1978, Title 16, Part 2105, Section 9, Public Law 95-313, 92 Stat. 365 to support the states in developing programs that benefit our natural resources and communities. This program was re-authorized in the Farm Bill, and funding has been provided to the USDA Forest Service for program implementation. The Forest Service has allocated these funds to the Department of Land and Natural Resources, Division of Forestry and Wildlife (Division) since 1991 for statewide distribution. The State of Hawai'i Urban and Community Forestry Program is called "Kaulunani" ("the beautiful growth"). It is housed in the Department of Land and Natural Resources Division of Forestry and Wildlife. The Kaulunani program is funded by the Division and the USDA Forest Service (Region 5). Urban and Community Forestry is critical to the Department's mission as it initiates and grows partnerships with other state and county agencies and community, non-profit, and civic groups involved in green infrastructure, conservation education, and demonstration tree planting projects throughout the state. By meeting communities where they are and engaging them in nature where they live, Urban and Community Forestry promotes the health of local communities, improves the environment, and grows society's overall appreciation for Hawaii's natural resources.

The Inflation Reduction Act funding from the U.S. Forest Service has enabled the creation of new projects, one of which is the *Shade Trees for Schools* project, which will enhance green infrastructure and tree education on HDOE campuses.

An MOA will establish roles and responsibilities for managing the "Shade Trees for Schools" project of the Kaulunani program. In particular, the MOA will address who is responsible for different project components.

#### DISCUSSION:

The draft MOA (attached) has been reviewed by the Department of Education and its Deputy Attorney General. This MOA will allow DLNR and HDOE to enter into a mutually beneficial agreement, clarifying roles for both departments in implementing and managing "Shade Trees for Schools," a Kaulunani Urban and Community Forestry Program project.

#### CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

The activities to be conducted under the terms of this MOA include the management of "Shade Trees for Schools," a project of the Kaulunani Urban and Community Forestry Program. Activities may consist of those listed in General Exemption Type 1, Part 1 in the Exemption List for the Department of Land and Natural Resources dated November 10, 2020:

8. Operation, repair, and maintenance of existing nurseries, arboreta, and captive propagation facilities.
26. Maintenance of existing landscaping, including planting, trimming, mowing, and irrigation.
27. Maintenance of lands and waters to remove weeds, brushes, grass, and other unwanted vegetation.

28. Routine pruning, trimming, thinning, and removal of trees, excluding commercial logging.

These actions will likely have minimal to no significant effects on the environment and are exempt from the requirement to prepare an environmental assessment per Chapter 343, HRS, and Chapter 11-200-8, Hawaii Administrative Rules, under the Department's exemption classes (Exemption List of the Department of Land and Natural Resources, Reviewed and Concurred Upon by the Environmental Council on June 5, 2015) as detailed in Exhibit B.

RECOMMENDATIONS:

That the Board:

1. Approve entering into a Memorandum of Agreement between the Department of Land and Natural Resources and the Hawaii Department of Education for joint management of "Shade Trees for Schools," a project of the Kaulunani Urban and Community Forestry Program, subject to the Department of the Attorney General's approval as to form;
2. Exempt the Memorandum of Agreement and the "Shade Trees for Schools" project of the Kaulunani Urban and Community Forestry Program from the requirement to prepare an environmental assessment, per sections 343 HRS and Chapter 11-200.1 HAR, and the Department of Land and Natural Resources Exemption List (Exemption Type 1, Part 1) reviewed and concurred on by the Environmental Council on November 10, 2020.

Respectfully Submitted,

TA for



David G. Smith, Administrator

APPROVED FOR SUBMITTAL:



DAWN N.S. CHANG, Chairperson

Exhibit A: Draft MOA

Exhibit B: Draft Declaration of Exemption

MEMORANDUM OF AGREEMENT  
BETWEEN HAWAI'I DEPARTMENT OF EDUCATION  
AND  
THE STATE OF HAWAI'I  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
DIVISION OF FORESTRY AND WILDLIFE  
FOR THE JOINT MANAGEMENT OF "SHADE TREES FOR SCHOOLS," A PROJECT OF THE  
KAULUNANI URBAN AND COMMUNITY FORESTRY PROGRAM

This Memorandum of Agreement (MOA) is made and entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 2024 between the State of Hawai'i, Department of Education, (hereinafter referred to as "DOE") and the State of Hawai'i, Department of Land and Natural Resources by its Board of Land and Natural Resources, (hereinafter referred to as "DLNR"), referred to collectively as the "Parties", for the purpose of the joint and collaborative management of the Shade Trees for Schools Project (hereinafter referred to as "PROJECT"), of the State of Hawai'i Kaulunani Urban and Community Forestry Program (hereinafter referred to as "PROGRAM"), which is an authorized USDA Forest Service Urban and Community Forestry Program, established by Section 9, Urban and Community Forestry Assistance, of the Cooperative Forestry Assistance Act (CFAA) of 1978 (Pub. L. 95-313), as amended by Pub. L. 101-624[1], and as later amended and codified under 16 U.S.C. §2101 *et seq.* Funding is provided to the State of Hawai'i through U.S. Forest Service State Inflation Reduction Act Urban and Community Forestry Competitive Funding Opportunity in support of the PROJECT.

WITNESSETH

WHEREAS, DOE, established under sections 26-12 and 302A-1101, of the Hawaii Revised Statutes, serves as the central support system responsible for: the overall administration of statewide educational policy, interpretation, and development of standards for compliance with state and federal laws; and coordination and preparation of a systemwide budget for the public schools;

WHEREAS, the Department of Land and Natural Resources, Division of Forestry and Wildlife (DOFAW), is a political subdivision of the State of Hawai'i, pursuant to sections 26-15 and 171-3, of the Hawaii Revised Statutes, mandated with the management and administration of the public lands of the State of Hawai'i;

WHEREAS the United States Department of Agriculture, United States Forest Service (U.S. Forest Service or USFS) partners with the PROGRAM.

WHEREAS, a relationship between the DOE and DLNR exists, by which DOE has been named as a collaborator to complete the Shade Trees for Schools Project with the PROGRAM.

WHEREAS, the Parties recognize that they have common goals for the PROJECT, and based further upon this mutual interest and understanding in the efficient administration of their cooperation;

WHEREAS, the Parties wish to agree and confirm that this understanding as stated herein should not be construed as interfering in any way with the basic responsibilities and authority of each party for independent action outside of the PROJECT;

NOW THEREFORE, in consideration of the above premises and in the interest of the mutual advantage of attainment of common objectives, the parties hereto desire to cooperate and mutually agree as follows:

This MOA defines in broad and general terms the basis and intent in cooperation by the Parties.

#### ARTICLE I - PURPOSE

The purpose of this agreement is to outline responsibilities for cooperative management of the PROJECT.

To this end, the Parties agree jointly to manage the PROJECT in such a way as to maximize the benefit to Hawai'i's green infrastructure on Title 1 DOE school campuses that is consistent with the values and desires of the community, DOE, DLNR, and the U.S. Forest Service.

#### ARTICLE II – DEPARTMENT OF EDUCATION CONTRIBUTIONS

To support and facilitate administration of the PROJECT, DOE agrees to:

1. Manage all aspects of the PROJECT assigned to DOE through coordination with the Urban and Community Forestry (UCF) Program Coordinator at DOFAW.
2. Assign a point of contact at DOE for DOFAW who will be the primary person responsible for responding to DOFAW communications, arranging meetings between DOE and DOFAW, and managing the internal DOE handling of DOFAW requests.
3. Assign a point of contact at DOE to be the primary person responsible for PROJECT coordination.
4. Support management and core duties of the PROJECT: to consult with school administrators and DLNR in identifying Title I DOE schools to receive tree and landscape services; develop the scope, solicit for and select the contractor that will implement the tree and landscape services; manage contractor in performing contracted tree and landscape services including: inventory of existing trees, removal of hazard and invasive trees, pruning large trees, installing non-invasive shade trees, monitoring trees and creating maintenance plans to ensure survivability of trees planted; guarantee survivability of all trees planted and replace if needed; and improving irrigation where needed; receive and evaluate the contractor's reports;
5. On a semi-annual basis, submit to the PROGRAM progress reports and financial reports for funds allocated for DOE in support of the PROJECT. On a semi-annual basis, submit invoices for PROJECT expenditures.

### ARTICLE III - DLNR CONTRIBUTIONS

To support and facilitate administration of the PROJECT described herein, DLNR agrees to:

1. Have the DOFAW staff UCF Program Coordinator manage all aspects of the PROJECT as designated to DOFAW through consultation and collaboration with DOE.
2. Provide to USFS semi-annual PROJECT accomplishment updates and evaluation of progress.
3. Have the DOFAW staff UCF Program Coordinator be the final signatory on all reports to the USFS.
4. Support management and core duties of the PROJECT: by (i) providing funding for DOE to hire one or more contractors tree professionals to care for existing desirable trees, remove large invasive and hazard trees, plant new trees; and by (ii) providing a staff person for three years who will liaise between DOE and DLNR; engage with schools in tree care and landscape maintenance appropriate for non-specialists including youth, school staff, and community members; and deliver outreach and education on the value of trees and how to care for trees on DOE campuses.
5. Work collaboratively with DOE to coordinate DLNR activities of the PROJECT.

6. Assign such members of its staff to provide appropriate oversight of the PROJECT. This will include guidance on PROJECT direction, priorities, deliverables, and reporting. Designate a specific person at DOFAW to be the contact for collaboration on issues with DOE who will manage internal DOFAW communication on issues raised by DOE.
7. Provide to DOE, submission requirements for reporting under the PROJECT.
8. Meet with the designated staff person at DOE as needed in order to facilitate PROJECT activities.

#### ARTICLE IV- GENERAL PROVISIONS

1. The Parties agree that this MOA commences upon execution and expires at the end of the PROJECT period, no longer than five years from the issuance of SF-424 forms.
2. The Parties agree that the award amount for this MOA is not to exceed \$975,635 for the duration of this PROJECT.
3. The Parties agree to adhere to the Federal Program Guidelines Applicable to Management of the PROJECT as stated in "Exhibit A", which is hereby incorporated by reference, where not in conflict with state law.
4. The Parties to the MOA shall be free to use any of the project results in official correspondence or publications provided due credit is given to the collective Parties for contribution(s) to the effort. It is understood that the Parties may not publish any results from joint research without consulting the other. Publication may be joint or independent as may be agreed upon, always giving due credit to the contributions of all parties involved in the joint effort.
5. The Parties agree to acknowledge funding from the USDA Forest Service in accordance with their policies for the Inflation Reduction Act.
6. The Parties agree to create a collaborative work plan annually, and DOFAW retains the authority to approve the program of work. This work plan may be reviewed and adapted as needed with mutual agreement.
7. DOE, as a department within the State of Hawai'i, is self-insured. DOFAW, as an instrumentality of the State of Hawai'i, is self-insured.
8. This MOA may be modified only by written mutual agreement between the Parties. Requests for any change to the MOA shall be submitted to the other Parties not less than 60 calendar days prior to the proposed effective date.

9. Written termination requests shall be sent to the Parties not less than thirty (30) days prior to the desired effective date. Termination may occur for any reason and without cause, including, but not limited to, non-compliance with MOA, violations of DLNR laws, regulations, guidelines applicable to the management of the PROJECT and violations of other State laws, and regulations.
10. Copies of all correspondence concerning this MOA shall be sent to representatives of each of the Parties.
11. Correspondence may be directed to:

Hawai'i Department of Education  
% Facilities Maintenance Branch Administrator  
729 Kakoi Street  
Honolulu, HI 96819  
(808) 831-6731

Department of Land and Natural Resources  
Division of Forestry & Wildlife  
% DOFAW Administrator  
1151 Punchbowl St. Ste #325  
Honolulu, HI 96813  
(808) 587-0166

12. All Parties will waive any and all claims against the State of Hawai'i and its officers, agents, employees, or volunteers for any injury, property damage, and/or death caused by any negligence on the part of the State of Hawai'i, its officers, agents, employees, and other volunteers, and agree to hold harmless and indemnify the State of Hawai'i, its officers, agents, employees, and other volunteers from any suits, actions, and claims arising out of or in any way connected with activities of the State of Hawai'i, its officers, agents, or employees.
13. All Parties subject to this MOA are responsible for compliance with Hawaii Revised Statutes Chapters 183 and 171, and violators will be subject to any applicable criminal and/or administrative penalties provided therein.
14. This MOA and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Hawai'i.

IN WITNESS WHEREOF, the Parties hereto have signed their names and executed this agreement. By signing, each of the Parties certify and represent that the person signing is authorized to sign this MOA on the behalf of their respective organization, and are in agreement with all of the above.

Approved by the Board of Land and Natural Resources at its meeting on \_\_\_\_\_

Approved as to Form

\_\_\_\_\_  
Deputy Attorney General, DLNR

*Ryan W Roylo*  
\_\_\_\_\_  
Deputy Attorney General, DOE

For State of Hawai'i,

\_\_\_\_\_  
Chairperson  
Board of Land and Natural Resources

For Hawai'i Department of Education,

*Keenonding* 08/30/2024  
\_\_\_\_\_  
Superintendent  
Department of Education

**EXHIBIT A**

**USDA Forest Service**

**URBAN AND COMMUNITY  
FORESTRY PROGRAM GUIDANCE**

**October, 2020**

*Steven W. Koehn*

Steven W. Koehn  
Director, Cooperative Forestry

10/23/2020

Date

*Beatra Wilson*

Beatra Wilson  
Assistant Director, Cooperative Forestry  
Urban & Community Forestry Program Leader

10/20/2020

Date

*Joe Fox*

Joe Fox  
President  
National Association of Foresters

11-16-2020

Date

*John Erixson*

John Erixson  
Nebraska State Forester  
NASF Urban & Community Forestry Committee Chair

10/27/2020

Date

## **Urban and Community Forestry Program Guidance October, 2020**

### **INTRODUCTION**

This document establishes direction for the USDA Forest Service Urban and Community Forestry (UCF) Program, established by Section 9, Urban and Community Forestry Assistance, of the Cooperative Forestry Assistance Act (CFAA) of 1978 (PL 95-313), as amended by PL 101-624<sup>1</sup>.

The CFAA recognizes the value of non-federal forest lands to the health and welfare of the country and the stewardship for working forests across the urban-rural spectrum. These programs provide a coordinated federal investment to maintain and enhance the public benefits from non-federal lands. The UCF Program was established to improve the condition and extent of community trees and forests, and to promote and expand the social, economic, and ecological benefits they provide in cities, suburbs and towns, nationwide. It accomplishes this by providing technical, financial, and science-based educational assistance to communities, so they can implement urban forestry programs and plant, protect, maintain, and utilize community trees and forests.

### **PROGRAM AUTHORITIES AND STATUTORY PURPOSES**

The UCF Program is authorized by Section 9, Urban and Community Forestry Assistance, of the Cooperative Forestry Assistance Act of 1978 as amended [16 U.S.C. 2105]. This law authorizes the Secretary of Agriculture "to provide financial, technical, and related assistance to State Foresters or equivalent State officials for the purpose of encouraging States to provide information and technical assistance to units of local government and others that will encourage cooperative efforts to plan urban forestry programs and to plant, protect, maintain, and utilize wood from, trees in open spaces, greenbelts, roadside screens, parks, woodlands, curb areas, and residential developments in urban areas."

The law also states, "In providing such assistance the Secretary is authorized to cooperate with interested members of the public including nonprofit private organizations. The Secretary is also authorized to cooperate directly with units of local government and others in implementing this section whenever the Secretary and the affected State Forester or equivalent State official agree that direct cooperation would better achieve the purposes of this section."

The specific purposes of Urban and Community Forestry Assistance as stated in Section 9 are to:

1. improve understanding of the benefits of preserving existing tree cover in urban areas and communities;
2. encourage owners of private residences and commercial properties to maintain trees and expand forest cover on their properties;
3. provide education programs and technical assistance to State and local organizations (including community associations and schools) in maintaining forested lands and individual trees in urban and community settings and identifying appropriate tree species and sites for expanding forest cover;
4. provide assistance through competitive matching grants awarded to local units of government, approved organizations that meet the requirements of Section 501(c)(3) of the Internal Revenue Code of 1986, or other local community tree volunteer groups, for urban and community forestry projects;
5. implement a tree planting program to complement urban and community tree maintenance and open space programs and to reduce carbon dioxide emissions, conserve energy, and improve air quality in addition to providing other environmental benefits;
6. promote the establishment of demonstration projects in selected urban and community settings to illustrate the benefits of maintaining and creating forest cover and trees;

<sup>1</sup> Food, Agriculture, Conservation, and Trade Act of 1990 (Farm Bill) and its successors

7. enhance the technical skills and understanding of sound tree maintenance and arboricultural practices involving the cultivation of trees, shrubs and complementary ground covers, of individuals involved in the planning, development, and maintenance of urban and community forests and trees; and

8. expand existing research and educational efforts intended to improve the understanding of (A) tree growth and maintenance, tree physiology and morphology, species adaptations, and forest ecology; (B) the value of integrating trees and ground covers; (C) the economic, environmental, social and psychological benefits of trees and forest cover in urban and community environments; and (D) the role of trees in conserving energy and mitigating urban heat islands.

The National Urban and Community Forestry Advisory Council (NUCFAC) is authorized and established by Section 9 [16 U.S.C. 2105 (g) (1)] for the purpose of:

(A) Developing a national urban and community forestry action plan:

(B) Evaluating the implementation of that plan; and

(C) Developing criteria for, and submitting recommendations with respect to, the urban and community forestry challenge cost-share program under subsection (f) of this section.

### **PROGRAM IMPLEMENTATION**

The Forest Service provides national UCF Program leadership and coordination. Program delivery primarily occurs at the regional and state level, through State Forestry agencies or equivalent State agencies (including District of Columbia, Puerto Rico, U.S. Virgin Islands and U.S. affiliated islands) and other key partners. These partnerships contribute to regional and statewide linkages of diverse groups focused on developing sustainable local UCF programs that improve the condition and extent of community trees and forests across metropolitan areas and in cities, suburbs and towns. State UCF Councils advise the State Forester on program direction and priorities and provide partnership support to expand the delivery of state programs.

Other external partners, such as academic institutions, federal agencies, non-profit and community-based organizations, as well as local and tribal governments play an important role in expanding public-private partnerships to promote the understanding and management of urban and community forests and related natural resources.

State Forestry agencies and their equivalents, (including the District of Columbia, Puerto Rico, U.S. Virgin Islands and U.S. affiliated islands) provide statewide leadership, direction, networks, program management, including technical, financial and educational assistance. Delivery of the UCF Program relies primarily on the cooperation of State Forestry agencies, local and tribal governments, the private sector, nonprofit and community-based organizations, academic institutions, and Forest Service offices. In the event that a state cannot meet certain program requirements, a requirement may be temporarily waived or modified by mutual agreement of the Forest Service Regional Offices/International Institute of Tropical Forestry (IITF) and State Forestry Agency or equivalent. The waiver or modification must be in writing, state the beginning and end of the time period, and be signed by the State Forester and the Regional Forester/IITF Director.

In addition to state level action, the Forest Service provides financial and technical assistance to national and regional partners and research institutions. These entities leverage available agency resources and produce information and materials that strengthen overall program outcomes across a broad spectrum of partners.

## **ROLES AND RESPONSIBILITIES**

### **USDA Forest Service**

The Forest Service Washington Office State and Private Forestry (WO-SPF) provides national leadership and coordination among agencies and other national groups. In consultation with the Forest Service Regional Offices/ IITF, NUCFAC, the National Association of State Foresters (NASF), other agencies, and partners, the WO-SPF establishes policy, strategies, direction, procedures, priorities, provides management oversight, supports the exchange of information and technology transfer, and addresses emerging issues at the national level. The WO-SPF also coordinates interagency and intra-agency cooperation, facilitates partnerships with non-governmental organizations, and identifies common challenges to be addressed nationally. The WO-SPF is also responsible for annual program accomplishment reporting and staff support for the operations NUCFAC.

NUCFAC is an appointed federal advisory council to the Secretary of Agriculture on urban and community forestry and related issues. The council provides advice and guidance to the USDA regarding strategic objectives to advance urban and community forest health nationwide, and advises the Secretary on USDA's national competitive cost-share challenge grant program. NUCFAC is responsible for producing a 10 year action plan for urban and community forestry that should address at a minimum the following: the current status of urban and community forestry in the U.S., recommendations to improve the current conditions, the state of urban and community forestry research and recommendations for new and expanded research, as well as estimated resources to implement the action plan.

The Forest Service Regional/ IITF Offices manage implementation of the UCF Program within their jurisdictions. These field units convey regional program direction to states and partners, support technology transfer, and technical and financial assistance. They award and monitor grants and agreements, evaluate and communicate program results, identify and address emerging issues and technological and science delivery needs to ensure effective program delivery, and elevate regional priorities of national significance. They promote cooperation and foster partnerships with State Forestry agencies, tribal governments, organizations and other agencies. UCF Program staff collaborate with researchers to identify needs, and develop and transfer resulting tools and products to advance urban and community forestry.

Forest Service Research and Development (R&D) operates urban research units and field offices across the agency's seven research stations. Critical research advances basic and applied science relating to urban trees and forestry resources, urban ecology, ecosystem services and values, watershed rehabilitation, human health and well-being, urban wood utilization, and green infrastructure. The WO-R&D coordinates research efforts, builds science capacity and partnerships, and bridges science and policy to inform science-based decision-making. The UCF Program and R&D work closely together to identify urban research needs, key partners, and opportunities for science delivery.

Forest data collection, analysis, and reporting occurs on an annual basis as part of the Forest Service's Resources Planning Act (RPA) Assessment, Forest Inventory Analysis (FIA), and the Forest Health Monitoring program, providing information needed to assess the status, trends, and sustainability of urban forests across the nation.

The Forest Service assures that the UCF Program is available to all segments of the population without restriction or limitations and that all grant recipients, direct and indirect, comply with Title VI of the Civil Rights Act and other applicable civil rights laws and regulations. State Forestry Agencies and any sub-grantees must also be compliant with relevant Office of Management & Budget (OMB) circulars for auditing purposes.

The Forest Service implements the agency's tribal consultation policy, shares information and technology, provides financial and other assistance to tribes as appropriate, and resolves disputes with tribal governments. The Forest Service will consult with Tribes on decisions regarding agency policies, plans, programs, and actions that could affect tribal rights and interests and will coordinate with other federal and state agencies and local governments during consultation.

### **State Forestry Agencies**

State Forestry agencies, or equivalent State organizations, (including the District of Columbia, Puerto Rico, U.S. Virgin Islands and U.S. affiliated islands), provide statewide leadership and delivery of State UCF Programs, engage in Region/ IITF cooperation, and participate in and advance national and strategic priorities.

State Forestry agencies, or their equivalents, deliver financial, technical and/or educational related assistance for the establishment and growth of sustainable local urban and community forestry programs, oversee the delivery of federal cost-share assistance, and report on program accomplishments. They are responsible for implementing federal program direction and authorities, consulting with the State UCF Council, and integrating urban and community forestry issues and priorities into State Forest Action Plans.

State Forestry agencies create and maintain partnerships, engaging the public, including regional and local units of government, tribal government, academic institutions, non-profits and community-based organizations to support, invest, and build capacity for urban forestry programs, practices and policies.

### **Other Key Partners**

Other key partners are essential in encouraging and supporting the development and implementation of urban and community forestry programs. They assist by serving on advisory councils, committees, or boards, and they serve an important role in engaging communities to plan and implement activities. These partners implement collaborative urban and community forestry projects and strengthen and promote urban and community forestry policies, programs, and research. These organizations may receive financial, technical, and/or educational assistance for projects that align with national program authorities and State Forest Action Plan priorities. Partners include, but are not limited to: federal agencies, regional and local units of government, non-profit organizations, volunteers and community-based organizations, academic institutions, tribal governments, and professional and trade associations.

## **CORE PROGRAM REQUIREMENTS**

The USDA Forest Service, acting for the Secretary of Agriculture, has determined that States, including the District of Columbia, Puerto Rico, U.S. Virgin Islands and U.S. affiliated islands, must meet four core program performance requirements, as described below, to receive federal funding:

1. An urban and community forestry program coordinator
2. Volunteer/partnership coordination
3. An urban and community forestry council
4. State program strategic planning

States may implement these core program requirements in a variety of ways to best meet their unique state legal and program needs, including the use of grants, contracts and/or agreements. However, failure to comply with these basic requirements will result in an adjustment of annual State allocations by the Region/ IITF until all four of the elements are satisfied. In order to receive full funding, each State shall document that it meets the program requirements in its annual grant narrative.

### **Urban and Community Forestry Program Coordinator**

Each State shall establish and maintain a full-time UCF Program Coordinator position. This individual, in cooperation with other State staff, works with urban and community forestry partners to plan and deliver the State UCF program. The coordinator is the State Forester's UCF program manager and is the primary contact for the Forest Service regional counterpart. State UCF Coordinators should have competency, knowledge, experience, or certification in the urban forestry profession or a related discipline. With Region/ IITF approval, State Forestry agencies may contract for services to meet this requirement, however, the services must be rendered by a single, qualified, full-time principal contact and accountability for program delivery must remain with the State Forestry agency.

### **Volunteer/Partnership Coordination**

Each state shall provide volunteer/partnership coordination in addition to the State's UCF Program Coordinator. This function is to deliver technical assistance to local governments, communities, and volunteer based organizations and to extend external partnerships, leverage program support, and diversity stakeholder and citizen engagement in State UCF Programs. This full time equivalent function may be one staff, split across staffs, a contract/consultant, or non-profit partnership, etc. as approved by the Region/ IITF. Each state should determine the most effective way for the individual(s) or partners to deliver state wide coverage and work cooperatively and in coordination with the State UCF Program Coordinator.

### **Urban and Community Forestry Council**

Each State shall have an appropriately broad-based UCF Council that consists of governmental agencies, industry, academic institutions, nonprofit and community-based organizations, and grassroots volunteers concerned with urban and community forestry, and reflects diverse public participation. States are encouraged to utilize the State Council to expand delivery of the state program, leverage external resources, grow public-private partnerships, and build a vibrant statewide constituency empowered to promote urban forestry statewide. The State Council is, at minimum, required to advise and/or assist the State Forester in the development of program emphasis, priorities and implementation, and periodic review and revision of the 5 Year State Strategic Plan/ State Forest Action Plan.

### **State Program Strategic Planning**

States shall incorporate UCF program strategic planning in the State Forest Action Plan. Planning will be future oriented, identify action items to achieve priority goals and objectives, and be based on a current assessment of resource needs and conditions. Planning will address the following components:

- Sustaining the Statewide UCF Program
- Enhancing, protecting and conserving the state's urban and community forest resources
- Building local capacity to actively manage urban and community forests
- Identifying emerging strategic issues and priorities and how they may relate to national and/or Region/ IITF strategic priorities at a landscape scale.

A State may develop a separate five-year state UCF Strategic Plan to address the above and incorporate it by reference into its State Forest Action Plan.

### **CORE FUNDING**

Funding is distributed according to the Performance-Based Methodology for Allocating Urban and Community Forestry Program Funds. Each Region/ IITF office will distribute funds in consultation with State Forestry agencies in compliance with the performance-based allocation methodology (Appendix A). Regions/ IITF offices may dedicate up to 10% of the regional allocation for regional strategic priorities in addition to the percentage of UCF Program funds allocated to competitive resource allocation grants.

Forest Service funding for State and local programs is not intended to substitute for State and local urban and community forestry funds. The federal share of program or project support to any direct recipient shall not exceed 50-percent.

By agreement of the State Forester(s) and Region(s)/ IITF, UCF funds may be provided to other key partners for delivery of UCF Program assistance. These funds must be used for activities identified in the 5 Year State Strategic Plan and/or the State Forest Action Plan and be consistent with UCF program direction.

### **STATE SUB-GRANTS**

States are encouraged to offer competitive grants for developing and managing sustainable urban and community forestry programs. If state sub-grants are provided, sub-grants shall:

1. Establish matching criteria for funds and comply with UCF Program authorities, appropriate Office of Management and Budget (OMB) Circulars, and applicable Federal and State regulations.
2. Have a work plan and a defined product or measurable outcomes consistent with the program purposes.
3. Meet the American Standards for Nursery Stock (ANSI Z60.1) and ANSI A300 Part 6 for tree planting and comply with industry standards for tree care as defined by the American National Standards Institute (ANSI A300 series) and related industry best management practices.
4. Recognize the USDA-Forest Service in products and projects developed using Forest Service program funds, and include a non-discrimination statement on all printed materials.

### **MONITORING AND ACCOUNTABILITY**

The Forest Service and States will negotiate targets for performance annually and include these in the annual grant narrative. Targets for other key partners will be established, as needed, and be included in the grant or agreement narrative. Grant narratives shall reflect compliance with the core program requirements. Direct grant recipients shall provide performance and accomplishment reports annually.

#### **Forest Service WO/Regional/ IITF offices will:**

1. Report accomplishments and performance annually including information on state grants, national or regional projects, competitive resource allocation grants, and grants to others as directed by congressional priorities, recommended by NUCFAC, and/or agreed to with affected State Forestry agencies.
2. Report annually the amount granted to each state for operation of its UCF Program.
3. Evaluate State UCF Program effectiveness and compliance with program authorities and direction, at least every five years, through technical assist visits.
4. Reviews will comply with Forest Service Manual Chapter 1460 requirements. When a Cooperative Forestry Management Review takes place, the UCF Program shall be included.

#### **States will:**

1. Provide accomplishment and performance reports, including information on all sub-grants, program highlights, and innovative state products or technologies, to the Forest Service on an annual basis.
2. Report annually on other performance measures as agreed upon with NASF such as: hours of volunteer service, amount of state UCF funding, sub-grant awards, and amount of local match provided.

3. In order for State Forestry agencies to compete for federal funds, states will maintain records substantiating the ‘Managing’ or ‘Developing’ status of each community they report as participating in the UCF Program. For ‘Developing’ status, one or more of the following elements must be documented, along with records of state technical assistance provided to those developing communities. For ‘Managing’ status, the first four elements (a – d) must be documented:

a) **Management Plan:** Developing, using, and periodically updating a management plan

demonstrates a community’s commitment to the comprehensive management of its community tree and forest resources.

b) **Professional Staff:** Communities employ knowledgeable, skilled professionals who can

effectively inform UCF management decisions. Professional staff members have education, training, and experience in the fields of urban forestry, forestry, arboriculture, and/or horticulture. This performance element is intended to ensure that the person with the primary responsibility for program management has the training and experience to properly and professionally manage the urban forest resource and advance the community’s UCF program.

c) **Ordinance:** Tree ordinances guide the community in the proper care, establishment,

conservation, and protection of community trees and forests. These ordinances must be codified, followed, and routinely enforced by some mechanism within the community. Effective public policies are not always contained in a single “Tree Ordinance.”

d) **Advocacy or Advisory Group:** Many local UCF programs began through the efforts of local

community groups, and these groups often serve as a catalyst to encourage active local urban forest resource management for the long term. This performance element aims to ensure that community residents and program stakeholders are informed, educated, and engaged in the development and implementation of a sound community forestry program at the local level.

e) **State Assistance:** This measure aims to track which communities have been helped by states to improve their local urban and community forestry programs.

## NATIONAL AND REGIONAL PRIORITIES

The Forest Service national office (WO-SPF), and Forest Service Region/ IITF offices, may establish program emphasis areas and deliver national and/or regional strategic initiatives, which may evolve or change from year-to-year. Such initiatives are intended to advance the UCF program and will be communicated to and coordinated with affected partners.

States will be encouraged to take advantage of national, Region/ IITF and strategic initiatives to advance state and local program priorities and objectives.

National and regional priorities will be transmitted through the program budget and financial direction on an annual basis.

## Appendix A

### **Performance-Based Methodology for Allocating Urban & Community Forestry Program Funds**

FS Administrative Edits October 2020

April 2005

#### **Introduction**

The purpose of the Urban and Community Forestry Program is to provide technical, financial, educational, and research services to communities so they can plant, protect and maintain community trees and forests, and utilize wood from these trees, to maximize environmental, social and economic benefits. Program performance will be measured on an annual basis by tracking the percentage of U.S. population living in communities that are: 1) managing, or 2) developing programs to plant, protect, and maintain their urban and community trees and forests (as compared to total U.S. population living in communities). This performance methodology, detailed in I - IV below:

- Measures and rewards performance using nationally accepted standards;
- Ensures that no state is precluded from participating in the program;
- Includes a mechanism to fund nationally and regionally significant projects;
- Provides different areas of the country flexibility to address their unique needs;
- Supports the agency mission to sustain the health, diversity and productivity of the Nation's forests and grasslands to meet the needs of present and future generations.

#### **I. Determining funds for allocation to Regions, and International Institute of Tropical Forestry (Regions/IITF)**

The Washington Office will reserve the following from the Appropriation received from Congress:

- Congressional priorities (earmarks)
- WO operations
- National projects/initiatives, e.g., challenge cost share grants and other initiatives developed in consultation with the National Association of State Foresters (NASF)
- Funds for the U.S. Territories & Freely Associated States of the Pacific

#### **II. Allocation of Funds to Regions/IITF (national performance)**

Remaining funds shall be allocated to Regions/IITF based upon their percentage of the total U.S. population living in communities within each unit's administrative boundary that are managing<sup>2</sup> or developing<sup>3</sup> programs to plant, protect, and maintain their urban and community trees and forests.

#### **III. Distribution of funds from Regions/IITF to States (regional performance)**

1. Before distributing funds to the states, each Region/IITF will reserve funds for the following:

<sup>2</sup> Communities "managing" programs have achieved all of the following national performance measures: management plan, professional staff, ordinance, and an advisory or advocacy group (see performance measure descriptions on the next page, item IV).

<sup>3</sup> Communities with "developing" programs have received state assistance to achieve at least one, but less than four, of the following national performance measures: management plan, professional staff, ordinance, and an advisory or advocacy group (see performance measure descriptions on the next page, item IV). *Urban and Community Forestry—Program Guidance* 11

- Operations and technical assistance.
- Funding for competitive, regionally significant projects within or among Regions/IITF using up to 10% of regional allocations in consultation with the applicable State Foresters.

**2. Allocation Performance Elements:** Remaining funds shall be distributed from the Region/IITF to each state based upon each state's share of the FS unit's total population living in communities that are:

- Managing programs to plant, protect, and maintain their urban and community trees and forests, and
- Developing programs to plant, protect, and maintain their urban and community trees and forests. (See footnote on preceding page for definition of "managing" and "developing.")

Regions/IITF will assign weights to the allocation elements with no less than 20% of the funds assigned to either the "managing" or "developing" element, in consultation with affected State Foresters. Forest Service Regional Foresters and Director of IITF retain the authority to adjust funding distributions, in consultation with affected State Foresters, to maintain a basic UCF program at \$200,000 for states meeting national program direction and requirements. The Deputy Chief may adjust the national distribution to ensure that all FS Regions and IITF have sufficient funding to support continuation of technical assistance activities and program operations.

This new performance-based methodology provides for transition to full implementation so that, if possible, no state would receive a reduction in funding greater than 10% a year, phased in over a three-year period (FY 2006 – FY 2008).

#### **IV. National Performance Measures**

The following national performance measures are quantifiable indicators of successful technical, financial, and educational assistance to communities.

1. **Management Plan:** Communities that have an active plan that outlines the future management of the community's public trees and forests. The plan must be developed from a professionally-based resource assessment and/or inventory, recently used by the community to guide management decisions and/or resource allocation, and updated as needed to incorporate new information.
2. **Professional Staff:** Communities that employ or directly retain through written agreement individuals who advise and/or assist in the establishment, conservation, protection, and maintenance of urban and community trees and forests and who have one or more of the following credentials:
  - a degree in urban forestry or closely related field,
  - a credential of International Society of Arboriculture Certified Arborist, American Society of Consulting Arborists Registered Arborist, Society of American Foresters Certified Forester, or equivalent, and/or
  - at least three years of experience practicing arboriculture or urban forestry according to industry standards and best management practices.
3. **Ordinance:** Communities that have adopted and can present documentation of local, community-wide laws that 1) identify who has the responsibility for oversight of urban and community forestry activities and 2) direct the use of best management practices for the establishment, conservation, protection, and/or maintenance of public urban and community trees and forests.
4. **Advocacy/Advisory Organizations:** Communities with active organizations that are formalized or chartered to advise on and/or advocate for the establishment, conservation, protection, and maintenance of urban and community trees and forests

## EXEMPTION LIST FOR THE DEPARTMENT OF LAND AND NATURAL RESOURCES

November 10, 2020

### GENERAL NOTES

This exemption list for the Department of Land and Natural Resources (“Department” or “DLNR”) is a technical, non-substantive revision of the version reviewed and concurred on by the Environmental Council on March 3, 2020. The revision from the March 3, 2020 version is to rename the categories to be consistent with 2019 revisions to Hawaii Administrative Rules (“HAR”) §11-200.1-15.

The March 3, 2020 list was prepared to comply with 2019 revisions to the Hawaii Administrative Rules (“HAR”) §11-200.1. This revision separates exemption lists into categories listed in §11-200.1-16 (a)(1) and (2). Activities categorized as “Part 1” will fall under §11-200.1-16 (a) (1). Activities categorized as “Part 2” will require an exemption notice and fall under §11-200.1-16 (a) (2). Additionally, the qualifiers limiting the actions to state lands or Department facilities were removed to cover the activities being permitted in the Conservation District as well as Department-initiated actions occurring on partner lands. This list supersedes all previous exemption lists of the DLNR and its Divisions, including the following: (1) December 4, 1991 DLNR Department-wide list (2) January 19, 1976 DLNR Division of Fish and Game list (3) September 19, 1984 DLNR Division of Water and Land Development list (4) April 28, 1986 DLNR Division of Land Management list (5) December 4, 1991 DLNR State Parks list (6) March, 1995 DLNR Division of Boating and Ocean Recreation list (7) June 12, 2008 DLNR Division of Forestry and Wildlife list (8) July 13, 2011 DLNR additions to Department-wide list (9) May 17, 2012 DLNR addition to Department-wide list, and (10) June 5, 2015 DLNR Department-wide list.

Hawaii Revised Statutes (“Haw. Rev. Stat.”) Chapter 343 authorizes the Environmental Council to establish procedures to exempt specific types of action from the preparation of an environmental assessment because the action will have minimal or no significant effect on the environment. The Department, through time and experience, developed the following exemption list identifying particular activities that fall within the exempt classes described in Hawaii Administrative Rules (“HAR”) §11-200.1 subchapter 8. All exemptions under subchapter 8 are inapplicable when the cumulative impact of planned successive actions in the same place, over time, is significant, or when an action that is normally insignificant in its impact on the environment may be significant in a particularly sensitive environment.

### **General Exemption Type 1**

*Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving minor expansion or minor change of use beyond that previously existing.*

#### PART 1

1. Removal of boulders, rocks, hazardous trees, marine debris, and other similar hazards necessary to maintain lands and waters in a safe condition.
2. Rescue of threatened or endangered species.
3. Maintenance dredging of small quantities of material from existing launching ramps, navigation channels, and berthing areas, not to exceed their originally designed depths and as permitted by the U.S. Army Corps of Engineers, Honolulu District, under a Nationwide Permit 35 (Maintenance Dredging

of Basins), with disposal of dredged material at approved landfill sites or the placement of sand on adjacent areas in accordance with Haw. Rev. Stat. § 205A-44.

4. Operation, repair and maintenance, of existing structures and facilities, including baseyards, offices, cabins, sheds, and fencing.
5. Repair or maintenance of existing signs, buoys, markers, and aids to navigation.
6. Operation, repair and maintenance of existing fisheries facilities, involving capture, containment, sustaining, experimentation, and husbandry of various freshwater, estuarine, and marine fishes, invertebrates, and other aquatic organisms.
7. Operation, repair and maintenance of existing fish aggregating devices and artificial reefs.
8. Operation, repair and maintenance of existing nurseries, arboreta, and captive propagation facilities.
9. Operation, repair and maintenance of existing loading docks, piers, piles, boat launch ramps, offshore mooring facilities, and other similar support structures, as permitted by the U.S. Army Corps of Engineers, Honolulu District, under a Nationwide Permit.<sup>1</sup>
10. Operation, repair and maintenance of existing recreational facilities, such as campsites, cabins, shelters, and other similar structures, and the appurtenant support facilities and structures.
11. Operation, repair or maintenance of existing fire tool caches, fuel breaks, and helispots.
12. Repair and maintenance of existing bollards, walls, gates, fences, lighting, and other similar items necessary for the security or continued operation of a facility or structure.
13. Repair and maintenance of existing utilities and drainage systems.
14. Repairs to existing ground water, surface water, or climatological monitoring equipment, and other similar monitoring and data collection equipment, and the structures that house or protect them.
15. Repairs necessary to maintain existing electrical, telemetry or communications systems and the structures that house or protect them.
16. Repair and maintenance of existing bridges and flumes.
17. Repair and maintenance of existing water diversions and intake structures, including valves, gates, intake boxes, and lines, in order to collect or improve the collection at the location of the existing water source diversion works.
18. Repair and maintenance of existing water tanks, water catchment basins, water units, pumps and controls, pipes, channels, dikes, and moats.
19. Repair and maintenance of existing dam or reservoir structures and appurtenant features, including outlet works repair, gate replacements, ditch clearing, replacement of catwalk and access ways, spillway

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<sup>1</sup> The previous exemption list limited this action to permit #3 "Maintenance," which was removed in this version to be consistent with the other categorical permits issued that would fall under this type of activity.

modifications to safely pass anticipated flood waters, and spillway reconstruction to mitigate possible failures.

20. Repair, maintenance, or relining of conveyance structures associated with existing dam or reservoir structures.

21. Repair and maintenance work on or the breaching of existing dam or reservoir structures of an emergency nature due to storm, earthquake, or other natural disaster or other forms of damage, latent defects in construction, and conditions not previously observed during routine inspections that results in a condition that poses a significant hazard to public safety and the environment. The work necessary to mitigate the danger posed to the environment and public safety includes emergency clearing and grading for breaching or stabilization work, installation and operation of siphons and pumping systems to discharge water from the reservoir, construction of seepage drains, and the construction of seepage monitoring berms.

22. Repair and maintenance of historic and archaeological sites to maintain the integrity of historic structures, archaeological features and sites in compliance with Chapter 13-275, Hawaii Administrative Rules, "Rules Governing Procedures for Historic Preservation Review for Governmental Projects Covered Under Section 6E-7 and 6E-8, Hawaii Revised Statutes" which requires review by the State Historic Preservation Division for agency actions that may affect historic properties.

23. Maintenance of existing boardwalks, trails and unpaved roads.

24. Maintenance of rights-of-way other than public rights-of-ways.

25. Repair and maintenance of existing roadways, roadway shoulders, road structures and signage, parking areas, walkways, bikeways, multi-use pathways, driveways, and boat launch ramps (includes grading, resurfacing, infilling, sealing, grooving, cleaning, chipping, painting and patching).

26. Maintenance of existing landscaping, including planting, trimming, mowing, and irrigation.

27. Maintenance of lands and waters to remove weeds, brushes, grass and other unwanted vegetation.

28. Routine pruning, trimming, thinning, and removal of trees, excluding commercial logging.

29. Termite and pest control treatment using Environmental Protection Agency and State Department of Agriculture approved pesticides under the supervision of certified applicators provided that treatment is limited to existing structures, facilities, or equipment.

30. Repair and maintenance of existing machinery, equipment, vessels, and vehicles used to support Departmental operations.

31. Removal and disposal of rubbish and debris from lands and waters.

32. Removal of silt, debris, sand and limu from above high water mark, from river and stream mouths, and from boat launching ramps.

33. Clearing of shoreline areas and submerged lands of non-natural hazardous objects and materials such as sunken/derelict craft remnants, oil spill residues, etc.

34. Storage of construction equipment and materials for a limited period of time as necessary to support planned or existing construction or repair.
35. Law enforcement, regulation compliance, resources and environmental monitoring, debris or property removal, and other administrative measures.
36. Transfer of management authority over state-owned land, such as setting aside of state lands to or from other government agencies through a Governor's executive order.
37. Transfer of title to land.
38. Acquisition of land or interests in land.
39. Creation or termination of easement, covenants, or other rights in structures or land.
40. Leases of state land involving negligible or no expansion or change of use beyond that previously existing.
41. Subdivision or consolidation of lots not previously subdivided.
42. The award of grants under Haw. Rev. Stat. Chapter 173A provided that the grant does not fund an activity that causes any material change of use of land or resources beyond that previously existing.
43. Conduct public meetings and hearings for the purpose of the collection and dissemination of public information, to discuss matters under the jurisdiction of the Department, to develop administrative rules, guidelines or other public policy, and other similar purposes.
44. Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing.
45. Use of lands and waters by those exercising traditional and customary practices for minor non-commercial purposes or for the gaining of traditional ecological knowledge.
46. Granting to a person the privilege to conduct operations involving the provision of goods, wares, merchandise, or services to the general public including, but not limited to, tours, food and beverage operations, retail operations, rental operations, or communications and telecommunications services in or on an existing building, facility, or area.

## PART 2

1. Mitigation of any hazardous conditions that present imminent danger as determined by the Department Director and that are necessary to protect public health, safety, welfare, or public trust resources.
2. Upon determination by the Department Director that an emergency exists, emergency mitigation and restoration work to prevent damage from continuing to occur and to restore the topographical features and biological resources.

## **General Exemption Type 2**

*Replacement or reconstruction of existing structures and facilities where the new structure will be located generally on the same site and will have substantially the same purpose, capacity, density, height, and dimensions as the structure replaced.*

#### PART 1

1. Replacement or reconstruction of existing structures and facilities, including baseyards, offices, cabins, sheds, and fencing.
2. Replacement or reconstruction of existing signs, markers, buoys, or aids to navigation.
3. Replacement or reconstruction of existing fisheries facilities.
4. Replacement or reconstruction of existing recreational facilities, such as campsites, cabins, shelters, and other similar structures, and the appurtenant support facilities and structures.
5. Replacement or reconstruction of existing bollards, walls, gates, fences, lighting and other similar items necessary for the security or continued operation of a facility or structure.
6. Minor upgrades or replacement of existing utilities and drainage systems. Drainage improvements will generally consist of the installation of culverts, pipes, and construction of gutters or other similar infrastructure where minor flooding occurs.
7. Replacement of cesspools with individual wastewater systems located generally on the same site with substantially the same purpose and capacity.
8. Replacement or reconstruction of existing sewage and water pumping stations and treatment facilities to maintain established codes and standards, provided that reconstructions that expand the capacity or geographical service area of existing facilities shall not be exempt.
9. Replacement or reconstruction of existing ground water, surface water, or climatological monitoring equipment, and other similar monitoring and data collection equipment, and the structures that house or protect them.
10. Replacement or reconstruction of existing electrical, telemetry, or communications systems and the structures that house or protect them.
11. Replacement or reconstruction of existing bridges and flumes.
12. Replacement or reconstruction of existing water diversions and intake structures, including valves, gates, intake boxes, and lines, in order to collect or improve the collection at the location of the existing water source diversion works.
13. Replacement or reconstruction of existing water tanks, water catchment basins, water units, pumps and controls, pipes, channels, dikes, and moats, in a size commensurate with existing system and source capacities and requirements to provide service in existing water systems.
14. Replacement or reconstruction of existing drainageways and waterways.

15. Replacement or reconstruction of existing dam or reservoir structures and appurtenant features, including outlet works repair, gate replacements, ditch clearing, replacement of catwalk and access ways, spillway expansion or improvements, and spillway reconstruction to mitigate possible failures.
16. Rehabilitation and restoration of existing structures and features at historic and archaeological sites in compliance with Chapter 13-275, Hawaii Administrative Rules, "Rules Governing Procedures for Historic Preservation Review for Governmental Projects Covered Under Section 6E-7 and 6E-8, Hawaii Revised Statutes" which requires review by the State Historic Preservation Division for agency actions that may affect historic properties.
17. Replacement or reconstruction of existing boardwalks, trails, and unpaved roads.
18. Replacement or reconstruction of existing roadways, roadway shoulders, road structures and signage, parking areas, walkways, bikeways, multi-use pathways, driveways, and boat launch ramps.
19. Replacement or renovation of existing landscaping or vegetation.
20. Re-vegetate burned or eroded areas to encourage the succession of selected plant species to prevent soil erosion and promote the goals of the Department.
21. Replacement or reconstruction of existing machinery, equipment, vessels, or vehicles used to support Departmental operations.
22. Minor alterations and repairs required to bring existing buildings, structures, facilities, and equipment into compliance with current building codes and applicable federal and state regulations.
23. Replacement or reconstruction of existing nurseries, arboreta, and captive propagation facilities.
24. Repairs and modifications to existing sewage and water pumping stations and treatment facilities to maintain established codes and standards, provided that modifications that expand the capacity or geographical service area of existing facilities shall not be exempt.

## PART 2

1. Replacement or reconstruction of fish aggregating devices or artificial reefs.
2. Replacement or reconstruction of existing loading docks, piers, piles, boat launch ramps, offshore mooring facilities, and other similar support structures, not to exceed the footprint of the existing facility, as permitted by the U.S. Army Corps of Engineers, Honolulu District, under a Nationwide Permit.<sup>2</sup>

### **General Exemption Type 3**

*Construction and location of single new, small facilities or structures and the alteration and modification of the facilities or structures and installation of new, small, equipment and facilities and the alteration and modification of the equipment or facilities, including but not limited to: (A) Single family residences less than 3,500 square feet, as measured by the controlling law under which the proposed action is being considered, if not in conjunction with the building of two or more such units; (B) Multi-unit structures*

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<sup>2</sup> The previous exemption list limited this action to permit #3 "Maintenance," which was removed in this version to be consistent with the other categorical permits issued that would fall under this type of activity.

*designed for not more than four dwelling units if not in conjunction with the building of two or more such structures; (C) Stores, offices and restaurants designed for total occupant load of twenty individuals or fewer per structure, if not in conjunction with the building of two or more such structures; and (D) Water, sewage, electrical, gas, telephone, and other essential public utility services extensions to serve such structures or facilities; accessory or appurtenant structures including garages, carports, patios, swimming pools, and fences; and acquisition of utility easements.*

#### PART 1

1. Improvement of existing trails and construction or improvement of boardwalks on existing trails for recreation, education, and management.
2. Construction of security features, including fencing, gates, cameras, and other similar items.
3. Installation of weatherports and radio repeaters and other similar communications equipment and related infrastructure for natural resource management purposes or for emergency response.
4. Construction of drainage swales and structures and other similar surface runoff management techniques with minimal or no effect on the environment.
5. Re-burial of previously identified or inadvertently discovered remains over fifty (50) years old, with Department and landowner approval and according to guidelines provided in HAR Chapter 13-300.
6. Installation and removal of irrigation systems.
7. Utility service connection and installation.
8. Construction and location of new, small facilities or structures necessary to support or enhance safe and effective management of lands and waters, such as utility sheds, storage buildings, nurseries, trash containers, fire caches, tollbooths, gates, safety enhancements (e.g., handrails, guard rails, ramps), covered or open areas for endangered species, game birds and mammals, auxiliary buildings for food or equipment storage, incubators and brooders, open-top breeding and release pens, field aviaries, and hacking boxes, and for watershed and native forest management and restoration, and other similar structures.
9. Construction and location of new, small facilities or structures necessary to support or enhance public recreational use of lands and waters, such as outdoor showers, signage, interpretive kiosks, viewing platforms, tables, grills, lifeguard stations, improvements necessary for compliance with the Americans with Disabilities Act, and other similar structures.
10. Construction, placement or installation of signage, pavement markings, buoys, or other similar structures.
11. Placement of aerators for increasing the dissolved oxygen content for fish populations in reservoirs, nurseries, ponds.
12. Installation and operation of automatic feeding devices in reservoirs, ponds or other impoundments.
13. Installation of glare screens, bollards, guard rails, vehicular access barriers, and other similar appurtenances designed to protect the public.

14. Construction or placement of utilities (telecommunications, electrical, solar panels, drainage, waterlines, sewers) and related equipment (such as transformers, poles, cables, wires, pipes) accessory to existing facilities.
15. Installation of alarm systems, camera systems, and similar surveillance items for security and safety purposes.
16. Construction of walls, fencing, or screens around buildings, structures, facilities, or equipment.
17. Construction of water tanks with less than 20,000 gallon capacity.
18. Installation of water catchment systems, lines, and faucets.
19. Placement or construction of gas tanks for fueling cooking stoves installed in or near existing structures.
20. Placement or construction of accessory structures such as office trailers, trash enclosures, bus shelters, picnic shelters, parking and fee collection facilities, checking stations, dock boxes, mooring cleats, bumpers, and mooring buoys, blocks and piles, and other similar structures accessory to existing facilities.
21. Installation of hurricane or wind protection devices and other minor structural accessories that will facilitate resistance to damaging effects of natural hazards.
22. Interior alterations and renovations to offices, buildings or structures that do not increase the floor area or change the maximum occupancy to include: a. installation of office partitions, utility outlets or connections, air conditioning, lighting, and security systems; b. renovations required to bring existing structures into compliance with current building codes and applicable health, safety, and access regulations; c. renovations that will result in energy or other operational/cost savings; or d. other similar interior alterations.
23. Expand utilities as need dictates in existing structures.
24. Construction required to maintain or upgrade existing utilities.

## PART 2

1. Natural resource management actions that the Department declares are designed specifically to monitor, conserve, or enhance the status of native species or native species' habitats, such as fences around or to manage rare, threatened or endangered plants. Fences shall contain step-overs or other features that permit pedestrian access for cultural and recreational use.
2. Construction and location of new, small facilities or structures necessary to support or enhance safe and effective management of lands and waters, such as baseyards, caretaker's residences, work cabins and shelters, sanitation facilities, and other similar structures.
3. Construction and location of new, small facilities or structures necessary to support or enhance public recreational use of lands and waters, such as comfort stations and related individual wastewater

disposal systems, sanitation facilities, pavilions, shelters, cabins, campgrounds, and other similar structures.

4. Construction of roadways with distances less than 1,000 yards (excluding access roads) and walkways.
5. Construction of off-street parking facilities having capacities of up to 25 passenger vehicle stalls.
6. Installation of automatic fish feeding devices in reservoirs, ponds, or other impoundments and fish aggregating devices within pre-approved sites.
7. Installation of marine vessel sewage pump out stations and supporting facilities.
8. Construction of irrigation ditches, flumes and structures having less than 200 gpm.
9. Construction of Civil Defense emergency system facilities.
10. Installation of rearing pens for cage culture of fishes and aquatic organisms.
11. Construction or placement of lighting systems for street lights, and outdoor security lighting.
12. Construction of interior roadways, driveways, parking areas, sidewalks, pathways, aisles, curbs, gutters, and other similar items.
13. Rearing pens for cage culture of various freshwater, estuarine, and marine fishes, invertebrates, and other aquatic organisms.

#### **General Exemption Type 4**

*Minor alterations in the conditions of land, water, or vegetation.*

##### **PART 1**

1. Improvements of previously existing graded parking and storage yard areas, including paving, infilling, grading and compacting.
2. Minor vegetation clearing and management, including mowing, pruning, trimming, and application of federal and state approved herbicides in conformance with label instructions.
3. Removal of invasive vegetation utilizing cutting, mowing, application of federal and state approved herbicides in conformance with label instructions, distribution of biocontrol agents already approved and permitted by the State of Hawaii, and other approved methods. This exemption would not apply to issuing permits for initial releases of biocontrol of invasive species which are regulated and permitted by the Department of Agriculture or commercial logging.
4. Vegetation clearing and removal work to mitigate rockfall or on or near the embankment, spillway, or outlet works of a dam facility of vegetation that could pose a threat to the embankment or impede inspection of the facility.
5. Establish temporary or permanent vegetative cover including trees, shrubs, grasses, and sod for landscaping, reforestation, soil stabilization, watershed protection, native wildlife habitat, native ecosystem restoration, and rare plant preservation; provided, however, that this exemption shall not

apply to vegetation that is likely to be invasive or for tree plantings for which harvesting is planned or is reasonably foreseeable.

6. Gathering plant seed, cuttings, or other vegetative matter for propagation.
7. Minor ground adjustments (e.g., grading, grubbing, cutting, clearing, or filling) that do not require grading permits.
8. Minor alterations in waters, including restoration of native species and control of invasive weeds, algae, invertebrates, fishes or other invasive aquatic organisms.
9. Control of pests utilizing federal and state approved pesticides, herbicides, fungicides, and toxicants in conformance with label instructions; traps, snares, lures, and repellents; and other approved methods.
10. Management of surface water runoff, including installation of minor drainage ditches and implementation of other stormwater best management practices and low impact development techniques (e.g., bioretention areas, permeable pavers, etc.).
11. Minor alteration of retaining walls, excluding seawalls.
12. Removal or filling of unused or unusable cesspools pursuant to federal and state regulations.
13. Construction, in accordance with established state standards, required to seal production, monitoring, and geothermal wells, that have been permanently discontinued, that are unsealed, leaking, polluting, deteriorating in quality, uncontrollable, buried, or that are in such a state of disrepair that continued use is impractical or unsafe.
14. Fire management activities, including prevention and restoration measures, when conducted in accordance with Departmental and Division procedures.
15. Captive propagation of birds, mammals, invertebrates, or aquatic organisms; cultivation of plants. Housing, care, feeding, veterinarian examination, breeding (pairing, hatching, brooding, fledgling, rearing), cross fostering, double clutching nests, and experimental studies of native species (including those which are rare, threatened or endangered), game birds and game mammals.
16. The reintroduction or supplementation (e.g., stocking) of native, formerly native, or established species into suitable habitat within their historic or established range, where no or negligible environmental disturbances are anticipated.
17. Establishment of helispots for fire control, natural resource management, and rescue.
18. Repair, modify, and clear existing drainageways and waterways to maintain in safe working condition.

## PART 2

1. Upon determination by the Department Director that an emergency exists, emergency mitigation and restoration work to prevent further damage from occurring and to restore the topographical features and biological resources.

2. Clearing of new fuel breaks and other similar fire pre-suppression actions to reduce fire potential and minimize fire severity.
3. Controlled burning of vegetation less than ten (10) acres in size to improve wildlife habitat where non-native vegetative cover constitutes greater than 75% of the area.
4. Beach restoration, sand dune restoration, and sand pushing activities of less than 10,000 cubic yards of beach quality sand.
5. Conduct removal of unexploded ordnance.
6. Grading work to stabilize existing slopes and mitigate rockfall, including work required to mobilize equipment.
7. Construction of walkways and pathways and other similar items.

### **General Exemption Type 5**

*Basic data collection, research, experimental management, and resource and infrastructure testing and evaluation activities that do not result in a serious or major disturbance to an environmental resource.*

#### **PART 1**

1. Conduct surveys or collect data on existing environmental conditions (e.g, noise, air quality, water flow, water quality, etc.).
2. Non-destructive data collection and inventory, including field, aerial and satellite surveying and mapping.
3. Conduct topographic, sounding, wave, littoral transport, bathymetric, and location surveys.
4. Periodic collection of data by the State Office of Conservation and Coastal Lands ("OCCL") for the purpose of monitoring existing beaches to include identification, mapping, and analysis of offshore sand deposits, bathymetry mapping, sub-bottom profiling (to measure the thickness of existing sand deposits), vibracore sampling (to conduct grain size analysis to determine suitability of a sand source for beach restoration), deposit depth probing (jet probing of sand depths), and marine biological and water quality surveys to identify sensitive resources or areas of concern.
5. Installation of new, small groundwater, surface water, or climatological monitoring and data collection equipment, structures that house or protect this equipment, and installation of electrical, telemetry, or communications systems to service this equipment.
6. Construct or rehabilitate groundwater monitoring stations in accordance with established state standards, install groundwater monitoring equipment, and collect data.
7. Conduct subsurface investigations (borings) provided the average surface area disturbed is less than one square foot and the implementing division consults with the State Historic Preservation Division on exempting such borings or investigations.
9. Installation of staff gages, water monitoring and reporting equipment at dam facilities and appurtenant works to include trenching work and construction of supporting features such as

equipment sheds, transmitting devices, solar panels, and minimal site grading and improvements for the safe operations and installation of these features.

10. Phase II Investigation work on a dam or reservoir, including soil sampling and drilling, water monitoring, and/or test pit excavations. This may include clearing or construction of site improvements needed to mobilize equipment or personnel to accomplish the task.

11. Conduct geothermal exploration activity that involves non-invasive geophysical operations for testing and analysis. Activities conducted under this exemption shall comply with all applicable federal, state and county laws, rules, regulations, guidelines and standards. This exemption would not apply in Urban or Conservation land use districts or in sensitive environments.

12. Conduct terrestrial and marine archaeological surveys.

13. Research that the Department declares is designed specifically to monitor, conserve, or enhance native species or native species' habitat.

14. Implanting transponders and affixing tags, transmitters, markers, or other similar devices to birds, mammals, invertebrates, or aquatic organisms to record movement, longevity, growth, distribution, behavior, and other activities; taking disease or blood samples from birds, mammals, invertebrates, or aquatic organisms; and placing remote monitoring devices (to determine animal movement), cameras, equipment and feeders.

15. Game and non-game wildlife surveys, vegetation and rare plant surveys, aquatic life surveys, inventory studies, new transect lines, photographing, recording, sampling, collection, culture, and captive propagation.

16. Research to identify, monitor, control, or eradicate introduced species.

17. Conduct assessment and survey of unexploded ordnance.

18. Appraisal of real property for land exchange proposals, determination of acquisition/sales price, rental establishment or the establishment of royalties.

19. Conduct planning and feasibility studies.

20. Permission to enter lands for the purpose of conducting those activities listed above.

## PART 2

1. Construction of test wells with casing diameter of not more than 12 inches to provide ground truth for water resources investigations, the suggested size will enable the aquifer to be tested for its physical, chemical, biological qualities, as well as providing a pumping test to determine the specific capacity of the aquifer. Test wells shall not be developed to serve water unless an EIS or negative declaration is prepared.

2. Research or experimental wildlife and plant management actions, including controlled grazing or burning as a management tool.

3. Experimental management actions to identify, monitor, control, or eradicate introduced species.

4. Experimental management actions that the Department declares are designed specifically to monitor, conserve, or enhance native species or native species' habitat.

### **General Exemption Type 6**

*Demolition of structures, except those structures that are listed on the National Register or Hawaii Register of Historic Places.*

#### **PART 1**

1. Construction, in accordance with established state standards, required to seal wells, that have been permanently discontinued, that are unsealed, leaking, polluting, deteriorating in quality, uncontrollable, buried, or that are in such a state of disrepair that continued use is impractical or unsafe.
2. Demolition and removal of existing structures, facilities, utilities, and other improvements, except those structures located on any historic site as designated in the National Register or Hawaii Register as provided for in the National Historic Preservation Act of 1966, 16 U.S.C §§470 et. seq., as amended, or Haw. Rev. Stat. Chapter 6E.
3. Demolition and removal of experimental devices or other equipment, when such devices or equipment are no longer used or needed.
4. Demolition and removal of abandoned private property.
5. Demolition and removal of unauthorized improvements.

### **General Exemption Type 7**

*Zoning variances except shoreline setback variances.*

#### **PART 1**

1. Application for zoning variance for use of state lands disposed to private parties or to governmental agencies, except shoreline setback variances.

### **General Exemption Type 8**

*Continuing administrative activities.*

#### **PART 1**

1. Purchase of supplies, equipment, materials, motor vehicles, boats, and services.
2. Contracts for small purchases, professional services, competitive sealed proposals, competitive sealed bidding, or purchase of goods and services which are exempt from Haw. Rev. Stat. Chapter 103D.
3. Requests for federal, state, county or private assistance grants to support ongoing operations or implement programs of the Department.
4. Personnel-related actions.
5. Training, environmental interpretation, public safety efforts and other educational activities.