

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

February 28, 2025

Chairperson and Members
Board of Land and Natural Resources
State of Hawai'i
Honolulu, Hawai'i

Land Board Members:

SUBJECT: REQUEST DELEGATION OF AUTHORITY TO THE CHAIRPERSON TO NEGOTIATE, APPROVE, EXECUTE, AMEND, EXTEND, AND TERMINATE A MEMORANDUM OF AGREEMENT BETWEEN THE STATE OF HAWAII OFFICE OF HAWAIIAN AFFAIRS AND THE DEPARTMENT OF LAND AND NATURAL RESOURCES FOR THE COLLABORATIVE IMPLEMENTATION OF MANAGEMENT PRACTICES FOR CLIMATE MITIGATION AND FOREST RESILIENCE, SUBJECT TO DEPARTMENT OF THE ATTORNEY GENERAL'S APPROVAL AS TO FORM

PURPOSE:

This submittal requests approval of a Memorandum of Agreement (MOA) between the State of Hawai'i Office of Hawaiian Affairs (OHA) and the State of Hawai'i Department of Land and Natural Resources (DLNR; Department) for the collaborative implementation of management practices for climate mitigation and forest resilience on OHA lands.

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 U.S. Department of Agriculture Forest Service (USDA-FS) has provided funding to support state programs for payments to landowners for climate mitigation and forest resilience management practices, including OHA's land management projects. Funding for this project is provided by The Inflation Reduction Act Forest Landowner Support under Funding Opportunity Number USDA-FS-2024-IRA-FLS-03 and Assistance Listing 10.731: Inflation Reduction Act Landscape Scale Restoration for the awarded project titled "Hawaii Landowner Cost Share Payment Programs." Funds from the USDA-FS have been awarded to the DLNR Division of Forestry and Wildlife (Division), which will

pay OHA for implementing management practices for climate mitigation and forest resilience projects on OHA lands.

The Division has prepared a draft MOA (Exhibit A). A MOA will establish roles and responsibilities for the collaborative implementation of management practices for climate mitigation and forest resilience projects on OHA lands. In particular, the MOA will address who is responsible for different project components.

DISCUSSION:

This MOA will allow DLNR and OHA to enter into a mutually beneficial agreement, clarifying the role of both departments in implementing and managing the climate mitigation and forest resilience projects on OHA lands. The OHA has preliminarily reviewed the draft MOA (Exhibit A).

Dispersal of funds will allow the implementation of OHA land management practices that target geographies on Hawai'i Island and O'ahu. This includes Wao Kele O Puna (WKP) Forest, a 26,000-acre lowland wet 'ōhi'a (*Metrosideros polymorpha*) forest purchased by OHA in 2016. WKP is managed under a community and practitioner-developed forest plan that builds abundance for native forests and Hawaiian culture and serves as a model for Indigenous communities. Other activities will support reforestation and agroforestry across approximately 140 acres on OHA's Wahiawā Lands. Funds from this project will help implement OHA's 2018 Conceptual Master Plan contingent upon available grant funding and consistent with project deliverables (EXHIBIT A).

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

The activities to be conducted under this MOA's terms include managing climate mitigation and forest resilience projects using federal funds on OHA lands. OHA will be the lead agency for Chapter 343 compliance, as required per the draft MOA. Activities and actions associated with each project activity are still being finalized. These activities are anticipated to fall under the Exemption Classes and Descriptions included in the Exemption List for the Department of Land and Natural Resources (approved by the Environmental Council on November 10, 2020). OHA will file an exemption notice for any project actions included on the Exemption list that are not de minimis. OHA will prepare an environmental assessment or impact statement if any action does not fall within the exemption list.

RECOMMENDATIONS:

That the Board:

1. Delegate authority to the Chairperson to negotiate, approve, execute, amend, extend, and terminate a Memorandum of Agreement between the Department of Land and Natural Resources and the Office of Hawaiian Affairs for collaborative implementation and management of climate mitigation and

forest resilience projects on OHA lands, subject to the Department of the Attorney General's approval as to form.

Respectfully Submitted,



David G. Smith, Administrator
Division of Forestry and Wildlife

APPROVED FOR SUBMITTAL:



DAWN N.S. CHANG, Chairperson
Board of Land and Natural Resources

Exhibit A: Draft MOA

MEMORANDUM OF AGREEMENT
BETWEEN THE OFFICE OF HAWAIIAN AFFAIRS
AND
THE STATE OF HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF FORESTRY AND WILDLIFE
FOR THE JOINT MANAGEMENT OF INFLATION REDUCTION ACT FUNDING TO
SUPPORT CLIMATE MITIGATION AND FOREST RESILIENCE
ON OHA FOREST LANDS

This Memorandum of Agreement (MOA) is made and entered into on this _____ day of _____, 2025 between the Office of Hawaiian Affairs, (hereinafter referred to as "OHA") 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 collaborative implementation of management practices for climate mitigation and forest resilience on OHA lands (hereinafter referred to as the "PROJECT"). Funding is provided to the State of Hawai'i for the PROJECT by the U.S. Department of Agriculture Forest Service (hereinafter referred to as "USDA-FS") Inflation Reduction Act Forest Landowner Support under Funding Opportunity Number USDA-FS-2024-IRA-FLS-03 and Assistance Listing 10.731: Inflation Reduction Act Landscape Scale Restoration for the awarded project titled "Hawaii Landowner Cost Share Payment Programs."

WITNESSETH

WHEREAS, OHA, established at the Hawaiian Constitutional Convention of 1978, is a semi-autonomous state agency responsible for improving the wellbeing of all Native Hawaiians;

WHEREAS, DLNR is a political subdivision of the State of Hawai'i, pursuant to sections 26-15 and 171-3, of the Hawai'i Revised Statutes, mandated with the management and administration of the public lands of the State of Hawai'i;

WHEREAS, the USDA-FS is providing funding for the PROJECT.

WHEREAS, a relationship between OHA and DLNR exists, by which OHA has been managing their forested lands with the assistance of DLNR's Division of Forestry and Wildlife ("DOFAW") with the same long-term goals of climate mitigation and forest resilience. OHA has also been named as a collaborator to complete climate mitigation and forest resilience management practices with the PROJECT;

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 1 – 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 forests and climate resilience, which is consistent with the values and desires of the people of Hawai'i, OHA, DLNR, and the USDA-FS.

ARTICLE II – OHA CONTRIBUTIONS

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

1. Manage all aspects of the PROJECT assigned to OHA through coordination with the Cooperative Resources Management Forester at DOFAW.
2. Assign a point of contact at OHA who will be the primary person responsible for PROJECT planning and coordination including responding to DOFAW communications, arranging meetings between OHA and DOFAW, and managing the internal OHA handling of DOFAW requests.
3. Coordinate OHA compliance for identified land management practices implemented through this PROJECT, as required by Hawaii Revised Statutes Chapter 343.

4. Support implementation of OHA land management practices supported by the PROJECT target geographies on Hawai'i Island and O'ahu as described in EXHIBIT A.
 - a. Wao Kele O Puna (WKP) Forest - 26,000-acre lowland wet 'ōhi'a (*Metrosideros polymorpha*) forest purchased by OHA in 2016. WKP is managed under a community and practitioner-developed forest plan that builds abundance for native forest and Hawaiian culture and serves as a model for Indigenous communities.
 - b. Wahiawā Lands – 511 acres surrounding the Kūkaniloko Birthstones acquired by OHA in 2012 to protect the site against development and ensure future uses are consistent with Hawaiian cultural values. The site is the piko (center, naval cord) of O'ahu where the highest ranking ali'i (royalty) were historically born and one of the most sacred sites in Hawai'i. The project includes reforestation and agroforestry across approximately 140 acres based on OHA's 2018 Conceptual Master Plan.
5. On a semi-annual basis, submit to the PROJECT progress reports and financial reports for funds allocated for OHA in support of the PROJECT. On a semi-annual basis, submit invoices for PROJECT expenditures. Funding advances are authorized and will be provided upon request, as needed.

ARTICLE III – DNLR CONTRIBUTIONS

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

1. Have the DOFAW staff Cooperative Resources Management Forester manage all aspects of the PROJECT as designated to DOFAW through consultation and collaborations with OHA.
2. Provide to USDA-FS semi-annual PROJECT accomplishment updates and evaluation of progress.
3. Have DOFAW staff Cooperative Resources Management Forester be the final signatory on all reports to the USDA-FS.
4. Support the PROJECT by providing funding for management practices outlined in EXHIBIT A.
5. Work collaboratively with OHA to coordinate DNLR activities on the PROJECT.

6. Assign such members of its staff to provide appropriate oversight of the PROJECT. This will include annual monitoring, guidance on PROJECT direction, priorities, deliverables, and reporting. Designate a specific person at DOFAW to be the contact for collaboration and communication on issues with OHA who will manage internal DOFAW communication on issues raised by OHA.
7. Provide to OHA, submission requirements for reporting under the PROJECT.
8. Meet with the designated staff person at OHA 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 federal grant performance period (December 31, 2028).
2. The Parties agree that the award amount for this MOA is not to exceed \$500,000 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 B”, 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-FS 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. The work plan may be reviewed and adapted as needed with mutual agreement.
7. OHA, 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:

Office of Hawaiian Affairs
c/o OHA Integrated Assets Manager and Keone Oldroyd, Aho Pueo Mahele
Mālama 'Āina – Legacy Land Agent
560 N Nimitz Hwy #200,
Honolulu, HI 96817
keoneo@oha.org
(808) 582-0511

Department of Land and Natural Resources
Division of Forestry & Wildlife
c/o DOFAW Administrator and Tanya Rubenstein, Cooperative Resource
Management Forester
1151 Punchbowl Street, Ste #325
Honolulu, HI 96813
Tanya.Rubenstein@hawaii.gov
(808) 333-6803

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 Hawai'i, its officers, agents, or employees.

13. All Parties subject to this MOA are responsible for compliance with Hawai'i Revised Statutes Chapters 183 and 171, and visitors will be subject to any applicable criminal and/or administrative penalties provided therein.

14. This MOA and the provisions contained herein shall be constructed, controlled, and interpreted according to the laws of the State of Hawai'i.

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

Approved as to Form

Deputy Attorney General, DLNR

Deputy Attorney General, OHA

For State of Hawai'i

Chairperson
Board of Land and Natural Resources

For Office of Hawaiian Affairs,

Administrator
Office of Hawaiian Affairs

EXHIBIT A

Property	Cost	Activity	Acres	Per Unit Cost	Management Practice
Priority Projects					
Wahiawa	\$ 280,000	REPI site preparation	140	\$2,000/acre	Tree and shrub site preparation
Wahiawa	\$ 142,065	Wilt resistant koa establishment	77	\$6.15/tree	Tree and shrub establishment
WKOP	\$ 30,000	Puu Kauka fencing (remote, 1200 ft)	7	\$25/ft	Ungulate fencing
WKOP	\$ 46,748	WKOP 5-acre fencing (2000 ft)	5	\$23.37/ft	Ungulate fencing
SUBTOTAL \$ 498,813					
Alternate Projects					
Wahiawa	\$ 5,535	Additional koa establishment	3	\$6.15/tree	Tree and shrub establishment
Wahiawa	\$ 81,720	Ohia establishment	80	\$6.81/tree	Tree and shrub establishment
Wahiawa	\$ 119,400	Iliahi establishment	80	\$9.95/tree	Tree and shrub establishment
WKOP	\$ 52,500	WKOP weed control (remote)	30	\$1750/acre	Weed control

EXHIBIT B

Grant Award # 25-DG-11052021-214

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