

MEMORANDUM OF UNDERSTANDING FOR IMPLEMENTATION OF HAWAI‘I’S MARINE 30 BY 30 INITIATIVE

This Memorandum of Understanding (MOU), effective April 15, 2020, is made and entered into by the Department of Land and Natural Resources, Division of Aquatic Resources, Hawai‘i Community Foundation, and Resources Legacy Fund. The signatories to this MOU may be referred to as Parties.

I. OBJECTIVES

By this MOU the Parties seek to accomplish the following objectives:

- 1.1 To memorialize their agreement to fund and implement a process to achieve the objectives of the State of Hawai‘i’s initiative to effectively manage its nearshore waters, with 30 percent established as marine management areas by 2030 (“Marine 30x30 Initiative”), by establishing a statewide network of marine management areas (MMAs); strengthening measures to manage uses of nearshore waters; ensuring robust monitoring, outreach, and enforcement; and advancing strategic restoration;
- 1.2 To design and implement a transparent and highly participatory process for the development of recommendations and community engagement in the Marine 30x30 Initiative;
- 1.3 To describe the roles and responsibilities of the Parties in order to make the process transparent to the public, help ensure timely advancement of the Marine 30x30 Initiative, enhance opportunities for cooperation, and avoid conflict or confusion;
- 1.4 To reflect the commitment of the Parties to timely and effective implementation of the Marine 30x30 Initiative for Hawai‘i’s people and its ocean environment.

II. RECITALS

- 2.1 In 2016 at the International Union for Conservation of Nature World Conservation Congress, the State of Hawai‘i announced the Sustainable Hawai‘i Initiative, including a goal to achieve effective management in 30 percent of Hawai‘i’s nearshore marine environment by 2030, referred to as the “Marine 30x30 Initiative.” This Initiative carries forward commitments made by public and private organizations that launched the Aloha+ Challenge, an effort to align Hawai‘i with the United Nations Sustainable Development goals, and by partners who issued the Promise to Pae‘āina, calling for measurable change in Hawai‘i’s ocean at the ahupua‘a scale to increase fishery and habitat health.
- 2.2 Through the Marine 30x30 Initiative, the State of Hawai‘i wishes to advance, and philanthropic organizations wish to contribute to, a transparent, highly participatory, and inclusive initiative to engage communities statewide to identify and establish areas for improved management in Hawai‘i’s nearshore marine waters. The Initiative will support broad public participation, and will incorporate expert scientific and cultural guidance to

- achieve its goal of restoring abundance to Hawai‘i’s nearshore waters so that the people of Hawai‘i can enjoy our coastal waters, support local livelihoods, and feed our families.
- 2.3 Hawai‘i Revised Statutes 205A calls for the protection of marine and coastal resources to assure their sustainability and requires the exercise of an overall conservation ethic and practice of stewardship in the protection, use, and development of marine and coastal resources. It further requires preservation of valuable coastal ecosystems, including reefs, of significant biological or economic importance. The statute requires coordination of the management of marine and coastal resources and activities to improve effectiveness and efficiency and directs all State of Hawai‘i agencies to enact rules consistent with its purposes.
- 2.4 Hawai‘i Revised Statutes 205A also establishes the state’s coastal zone management program, which authorizes the state’s Ocean Resource Management Plan (ORMP). The Marine 30x30 Initiative is consistent with the ocean heritage, collaboration, and stewardship priorities in the 2013-2018 ORMP and has been identified as a core component of the 2020-2025 ORMP.
- 2.5 Public and private entities have donated significant time, funding and expertise to develop the Marine 30x30 Initiative, including representatives from the Department of Land and Natural Resources, Division of Aquatic Resources, the Division of Boating and Ocean Recreation, the Division of Conservation and Resource Enforcement, the Office of Planning, the University of Hawai‘i, the Office of Hawaiian Affairs, the National Oceanic and Atmospheric Administration, the Hawai‘i Fishermen’s Alliance for Conservation and Tradition, Kua‘āina Ulu ‘Auamo, The Nature Conservancy, Conservation International, the Harold K.L. Castle Foundation, and others. By this agreement the Parties acknowledge those contributions and seek to build on those cooperative actions and relationships to facilitate implementation of the Marine 30x30 Initiative. The Parties recognize that caring for our nearshore waters is a collective responsibility, a shared kuleana, and invite and encourage sustained engagement of these entities and others in the Marine 30x30 Initiative.
- 2.6 This MOU is meant to describe and clarify roles, responsibilities, and commitments of the Parties to further Marine 30x30 implementation including place-based planning, pono practices, monitoring, and protection and restoration.

III. PARTIES

- 3.1 The Department of Land and Natural Resources (DLNR), headed by an executive Board of Land and Natural Resources, is responsible for managing, administering, and exercising control over the State of Hawai‘i’s public lands, water resources, ocean waters, navigable streams, coastal areas (except commercial harbors), minerals, and all interests therein. The Department’s jurisdiction encompasses nearly 1.3 million acres of state lands, beaches, and coastal waters as well as 750 miles of coastline. It includes state parks; historical sites; forests and forest reserves; aquatic life and its sanctuaries; public fishing areas; boating, ocean recreation, and coastal programs; wildlife and its

sanctuaries; game management areas; public hunting areas; and natural area reserves. DLNR’s mission is to enhance, protect, conserve and manage Hawai‘i’s unique and limited natural, cultural and historic resources held in public trust for current and future generations of the people of Hawai‘i nei, and its visitors, in partnership with others from the public and private sectors.

- 3.2 The Division of Aquatic Resources (DAR) manages the state’s aquatic resources and ecosystems through programs in ecosystem management, place-based management, and fisheries management. Major program areas include projects to: protect and restore the aquatic environment; protect threatened and endangered aquatic species and their habitat; conserve and restore endemic and indigenous aquatic species and their habitat; combat the introduction of invasive species and reduce their impact on ecosystems; effectively manage fisheries; and carry out education and outreach to the public. DAR’s mission is to work with the people of Hawai‘i to manage, conserve and restore the state’s unique aquatic resources and ecosystems for present and future generations.
- 3.3 The Hawai‘i Community Foundation (HCF) is a community foundation that has served philanthropists and community across the state of Hawai‘i for over 100 years. HCF adopted the CHANGE framework to identify Hawai‘i’s strengths, gaps and opportunities through a common set of data. By encouraging partnerships that commit to shared goals, aligned efforts and collective action, HCF is working toward a thriving Hawai‘i for all.
- 3.4 The Resources Legacy Fund (RLF) is an independent non-profit organization that works with philanthropy and governments to support and perform essential services to promote natural resource conservation and social equity. Consistent with its mission, RLF has developed and administered many strategic charitable programs to advance conservation objectives, and has recently launched a program designed to assist the State of Hawai‘i with advancing its marine planning goals. RLF seeks to assist the Parties to implement the Marine 30x30 Initiative by providing technical assistance based on its experiences with similar initiatives and by increasing philanthropic funding for the Initiative.

IV. GENERAL AGREEMENTS

- 4.1 Given the mutual interest of the Parties in restoring nearshore fisheries, conserving marine fish and wildlife resources, and supporting community efforts to sustain effective traditional Hawaiian stewardship practices, the Parties desire to enter into an agreement to fund and implement efforts to achieve the objectives of the Marine 30x30 Initiative.
- 4.2 It is the intent of the Parties to this agreement that participation in implementation of Marine 30x30 Initiative be as inclusive as possible, involving all willing and able federal, state, and local governments, as well as native Hawaiian institutions, community groups, universities, coastal businesses, conservation organizations, fishing interests, and others.
- 4.3 The Parties agree and intend that the processes used to achieve the objectives of this MOU will be transparent to the public. “Transparent” means that there will be regular opportunities for stakeholder and public input, including state Parties convening publicly noticed and open meetings and incorporating public views as well as the best readily

available science. “Transparent” also means that prior to meetings where state agencies make official decisions, the public will receive materials and relevant information in a timely manner to allow for meaningful review and comment.

- 4.4 Within available funding and consistent with legal constraints on expenditures of funds, the Parties commit to designate personnel at sufficient staffing levels and expertise to accomplish those tasks to which they have committed in implementing the Marine 30x30 Initiative, described below.
- 4.5 The Parties commit, consistent with their respective missions, to cooperatively identify and engage with other potential partners who will take on responsibilities for aspects of Marine 30x30 Initiative implementation.
- 4.6 In addition to this MOU, the Parties understand that effective implementation of the Marine 30x30 Initiative may benefit from other actions and agreements by a wide range of entities including governments at the federal and local level, community groups, fishery organizations, fishers, coastal businesses or business organizations, conservation organizations, charitable foundations and others.
- 4.7 The Marine 30x30 Initiative will advance through a series of activities completed in phases. Phase 1 of the Initiative will run through December 2021. Phase 2 of the Initiative will run through December 2024. Subsequent phases will follow, with tasks and deliverables appended to this agreement. The entire Initiative will run through December 2030.
- 4.8 Parties agree that this MOU will remain in effect until December 31, 2030, and that it may be periodically revised or extended as agreed by the Parties.
- 4.9 In addition to quarterly meetings described in Paragraph 5.1(b), the Parties agree to convene to review progress against the goals and agreements in this MOU and make any needed updates to the agreement at least once every two years following execution of this agreement.

V. DLNR AGREEMENTS

- 5.1 DLNR will use its best efforts to do the following:
 - a. Provide state leadership to ensure adequate funding and staffing to DAR, the Division of Boating and Ocean Recreation (DOBOR), the Division of Conservation and Resource Enforcement (DOCARE), and any other divisions or offices whose resources are required to meet the objectives of the Marine 30x30 Initiative, as well as for processes required by statute or regulation to implement the Marine 30x30 Initiative.
 - b. Convene the Parties quarterly to discuss progress of Marine 30x30 Initiative implementation efforts. The Chair of DLNR may engage and convene representatives of public or private entities other than the Parties at these meetings to participate in the discussions. At the meetings, the Parties will report on their

activities representing progress toward or impediments to effective implementation of the Marine 30x30 Initiative. DLNR will provide a physical meeting space and video conference or dial in option for the Parties and invited guests.

- c. Provide office space, telecommunications equipment and support, and general clerical support necessary to fulfill DLNR's obligations under this MOU.

VI. DAR AGREEMENTS

- 6.1 In consultation with the Parties and at the direction of DLNR, DAR commits to coordinating advancement of the Marine 30x30 Initiative in a timely way, including using its best efforts to recruit, hire, and fund qualified staff and contractors to meet the objectives of the Marine 30x30 Initiative.
- 6.2 DAR will annually provide to all Parties a written summary of activities taken to implement the Marine 30x30 Initiative.
- 6.3 Phase 1 of the Initiative will run through December 2021. DAR will complete the following tasks during Phase 1:
 - a. By December 2020, DAR will:
 - i. Release a public document describing the Marine 30x30 Initiative, including its main components and approach to achieving Initiative goals.
 - ii. Convene open houses on each main Hawaiian island to share information about DAR programs and seek input on the Marine 30x30 Initiative, including stakeholder engagement and planning process.
 - iii. Post current information about the Marine 30x30 Initiative on a public webpage to share regular updates.
 - iv. In consultation with ecological and cultural experts, establish ecological and cultural design criteria for MMAs, and indicators to help evaluate management effectiveness.
 - v. In consultation with ecological and cultural experts, review existing MMAs against ecological and cultural design criteria and draft recommendations for improved management effectiveness.
 - vi. Create a framework for public consultation which will include a process for incorporating advice from scientists, cultural experts, and stakeholders.
 - vii. Receive and process community proposals for new MMAs, reviewing proposals against ecological and cultural criteria.

- b. By December 2021, DAR will:
 - i. Create a scientific advisory committee to ensure design of new MMAs is informed by the best readily available science.
 - ii. Create interdisciplinary local stakeholder groups to help review existing MMAs and identify new MMAs.
 - iii. Complete draft management plans for existing MMAs.
 - iv. Review existing types of MMAs in Hawai‘i’s nearshore waters and draft a simplified classification system for communicating MMA rules to the public.
 - v. Convene a follow-up series of outreach meetings on each main Hawaiian island to: seek information from communities about management concerns and priorities; provide updates on work underway as part of Phase 1; and share best readily available science to inform design of new MMAs.

6.4 Phase 2 of the Initiative will run through December 2024. By December 2024, DAR will:

- a. Continue to receive and process new MMA proposals from communities and review them against ecological and cultural criteria.
- b. Engaging interdisciplinary local stakeholder groups, scientific advisors, cultural experts, and communities, advance a public process to identify areas for improved marine management to ensure that 30 percent of nearshore waters around each main Hawaiian island will be established as MMAs by 2030.
- c. Develop a standardized statewide monitoring plan to inform and support adaptive management of marine management areas in Hawai‘i’s nearshore waters.
- d. With support from an independent evaluator, assess progress during Phase 2 and propose any needed changes to the planning process for subsequent phases to ensure that the goals for the Marine 30x30 Initiative will be timely accomplished.
- e. Develop a timeline for Phase 3 with specific tasks and deliverables, including continuing consultation with local stakeholders and continuing advice from ecological and cultural experts, to ensure that 30 percent of nearshore marine waters are established in MMAs by 2030.

VII. HCF AGREEMENTS

7.1 The Hawai‘i Community Foundation (HCF) will use its best efforts to do the following:

- a. Establish a field of interest pooled fund (“Pooled Fund”) where donors from within and outside Hawai‘i can contribute to support the advancement of the Marine 30x30 Initiative, including tracking and accounting for all donations.

- b. Obtain and coordinate philanthropic investments to fulfill the objectives of this MOU. Philanthropic funds may be used to support activities including but not limited to: scientific activities to inform management and monitoring; enhancing collective capacity in planning, mapping, outreach, education, enforcement and communications; supporting public participation and planning including engagement by community groups, networks, and conservation, cultural, and fishing organizations.
- c. Create an advisory committee to make recommendations to HCF leadership regarding Pooled Fund expenditures. The advisory committee will include representatives from state natural resource management agencies, philanthropic institutions with relevant expertise, cultural and scientific experts, and community leaders.
- d. Dedicate senior staff to oversee the Marine 30x30 Initiative Pooled Fund and its advisory committee.
- e. Convene the Pooled Fund advisory committee quarterly and maintain records of its recommendations.
- f. Make final decisions regarding Pooled Fund expenditures taking into consideration advisory committee recommendations.
- g. Prepare and provide to the Parties a description of philanthropic funds contributed to and expended each quarter from the Pooled Fund (“Funding Description”), and make that Funding Description available to the public on the HCF website.
- h. Determine a reasonable fee structure commensurate with the level of staff effort and fund oversight needed, not to exceed 15 percent of the value of total contributions to the Pooled Fund.

VIII. RLF AGREEMENTS

- 8.1 The Resources Legacy Fund (RLF) will use its best efforts to do the following:
- a. Assist DAR by sharing information based on its experience with similar initiatives.
 - b. Provide services to the Parties, including crafting agreements, developing fundraising budgets, sharing tools and templates from past initiatives RLF has managed or supported, and supporting DAR to achieve milestones identified in this MOU.
 - c. Obtain philanthropic investments to fulfill the objectives of this MOU, directing donors to the Pooled Fund housed at the Hawai‘i Community Foundation.

IX. OTHER TERMS

- 9.1 The signatories of this MOU may adjust tasks, deliverables, objectives, and agreements contained in this MOU and in any appendices to this MOU by mutual consent through a written amendment to this MOU.
- 9.2 Each Party to this MOU will notify all the other Parties in writing if a Party determines that any of the commitments made in this MOU are not likely to be met, accompanied by a written proposal to address the delay or shortfall.
- 9.3 Neither this MOU nor any provision hereof may be waived, modified, amended, or discharged except by an instrument in writing signed by the Parties.
- 9.4 This MOU constitutes the entire agreement of the Parties with respect to the matters set forth herein and it supersedes all prior or contemporaneous understandings or agreements among the Parties with respect to the subject matter of the MOU.
- 9.5 Nothing contained in this MOU shall be construed as binding any Party to expend in any one fiscal year any sum in excess of appropriations made by Congress or the Hawai'i Legislature for the purposes of this MOU for that fiscal year.
- 9.6 If a court of competent jurisdiction determines that a provision included in this MOU is legally invalid, illegal, or unenforceable, and such decision becomes final, such provision shall be deemed to be severed and deleted from this MOU and the balance of the MOU shall be reasonably interpreted to achieve the intent of the Parties. The Parties further agree to replace such void or unenforceable provision of this MOU with a valid and enforceable provision that will achieve, to the extent possible, the purposes of the void or unenforceable provision.
- 9.7 This MOU and any amendment may be executed in two or more counterparts, and by each Party on a separate counterpart, each of which, when executed and delivered, shall be an original and all of which together shall constitute one instrument, with the same force and effect as though all signatures appeared on a single document. Amendments to this MOU when executed by the Parties may be added as operative provisions by attachment(s) to the MOU without the necessity for re-circulation and signature of the original MOU in its entirety.
- 9.8 None of the Parties may assign any rights granted by this MOU without prior written approval of the other Parties. Approval of assignment may be granted or withheld in any Party's reasonable discretion. Upon execution of this MOU by three or more Parties, it shall be effective as to those Parties and shall be in effect from that date through December 31, 2030, at which time the Parties will confer on necessary or appropriate revisions to the agreement and agree to an extension of the agreement.

- 9.9 Each Party accepts responsibility for any property damage, injury or death that occurs in connection with its implementation of this MOU to the extent that such damage, injury or death is caused by its own negligent acts or omissions, or willful misconduct, or the negligent acts, omissions, or willful misconduct of its officers, employees and/or agents acting within the scope of their employment, agency or official capacity, to the fullest extent permitted by law.
- 9.10 Any Party shall be entitled to withdraw from this MOU by providing a 10-day notice to the other Parties.
- 9.11 The only remedy of any Party for a breach of this MOU is withdrawal from the MOU as set forth herein. Under no circumstances shall any Party be liable to any other Party in connection with this MOU for any direct, indirect, incidental, or consequential damages or be entitled to any legal or equitable relief other than termination of this MOU.
- 9.12 Nothing in this MOU shall be deemed to create a partnership or any other trust relationship between the Parties, it being expressly understood and agreed that the Parties obligations to each other under this MOU are not fiduciary in nature.
- 9.13 Each signatory below attests that he or she is duly authorized to execute this MOU on behalf of the Party he or she represents.

IN WITNESS WHEREOF, the Parties have caused this MOU to be executed by their duly authorized representatives.

Suzanne Q. Case

Suzanne Case
Chair, Department of Land and Natural Resources

Apr 9, 2020

Date



Brian Neilson
Administrator
Division of Aquatic Resources

4/13/2020

Date

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Digitally signed by Micah A. Kane
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4/15/2020

Micah Kāne
President and CEO
Hawai'i Community Foundation

Date

Michael Mantell

Michael A. Mantell
President
Resources Legacy Fund

04/10/2020

Date