

State of Hawaii
DEPARTMENT OF LAND AND NATURAL RESOURCES
Engineering Division
Honolulu, HI 96813

November 10, 2016

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

**Delegation of Authority to the Chairperson to
Approve, Procure and Enter Construction Contracts for Projects at
Iao Valley State Monument to Remediate Conditions Caused by the Heavy Rainfall
and Extensive Flooding on September 11-14, 2016**

BACKGROUND:

During the period of September 11-14, 2016, heavy rainfall and extensive flooding was experienced on the Wailuku Stream in the upper Iao Valley. Heavy damage was experienced at the Iao Valley State Monument. Damages included severe erosion of the streambank which now threatens the structural integrity of the parking lot and access road, a washout of two loop trails, accelerated rockfall hazard at three (3) sites, and possible damage to the footing of the pedestrian bridge leading to the Iao Needle lookout.

On September 16, 2016, the Governor signed an emergency proclamation for the counties of Maui and Kalawao, State of Hawaii (Attachment 1). The proclamation states, in part, “do hereby proclaim the counties of Maui and Kalawao, State of Hawaii, to be disaster areas for the purposes of implementing the emergency management functions as allowed by law, authorizing the expenditure of State monies as appropriated for the speedy and efficient relief of the damages, losses, and suffering resulting from the emergency or disaster...”

The proclamation also suspended a number of statutes, as allowed under Hawaii Revised Statutes (HRS) §§ 127A-12 and 127A-13.

The proclamation stated that “the disaster emergency relief period shall commence September 13, 2016, and shall continue until terminated automatically pursuant to section 127A-14, Hawaii Revised Statutes, or by a separate proclamation, whichever occurs first.” HRS § 127A-14 states, in part, “A state of emergency and a local state of emergency shall terminate automatically sixty days after the issuance of a proclamation of a state of emergency or local state of emergency, respectively, or by a separate proclamation of the governor or mayor, whichever occurs first.”

The proclamation further states, “Notwithstanding the termination of a disaster emergency relief period, any contracts, agreements, procurements, programs, or employment of personnel entered into by reason of the provisions of this proclamation relating to his (sic) emergency shall continue.”

DISCUSSION:

Engineering and State Parks Division staff have been working together to address the damage which will require two phases. In the first phase, a consultant is hired to provide technical advice and to provide designs to remedy the damage. In the second phase, a construction contractor is hired to implement the designed remediation. This work is limited to work needed to reopen the Monument and will not include any work on the damaged loop trails.

Engineering Division has already started the first phase by procuring a consultant contract for technical advice and designs, pursuant to the proclamation. By the time the proclamation expires, staff anticipates that the remediation designs will be near completion and that the construction project will be ready to be put out for bid shortly thereafter. Due to the type of damage, extensive engineering is being accomplished to ensure a quality, structurally sound solution. The major scope of work items under this effort include:

- Provide protection at the base on the eroded slope by installing a grouted riprap structure. This will minimize undermining of the toe of the slope.
- Shotcrete the exposed face of the slope to provide structural support of the slope
- Reinforce the foundation of the pedestrian bridge to restore structural integrity
- Remove boulders that became exposed due to high runoff. These boulders are a hazard to visitors and workers

The construction cost is currently estimated to be \$2M. A conceptual design of the slope protection work is attached (Attachment 2).

The proclamation suspends a number of statutes. Among those included:

- Chapter 6E, Hawaii Revised Statutes. Historic preservation.
- Chapter 103D, Hawaii Revised Statutes. Hawaii public procurement code
- Chapter 174C, Hawaii Revised Statutes. State water code.
- Chapter 183C, Hawaii Revised Statutes. Conservation district.
- Chapter 343, Hawaii Revised Statutes. Environmental impact statements.

To move these projects into the construction phase, we request the delegation of authority to the Chairperson to approve, procure and enter contracts for the necessary construction projects. Typically when we have asked for authorization for the Chairperson to sign contracts for construction projects, we have also asked the Board to authorize the Chairperson to sign supplemental contracts for those projects if necessary and appropriate. We are therefore also asking the Board to delegate to the Chairperson the authority to sign supplemental contracts for construction projects, if necessary.

RECOMMENDATION:

1. That the Board delegate authority to the Chairperson to approve, procure, award and enter construction contracts and, if necessary, supplemental contracts for various construction projects that are executed either under the authority of the Governor's Emergency Proclamation dated September 16, 2016 or as otherwise provided by law, subject to

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available funding, release of funds by the Governor, and review and approval as to form by the Department of the Attorney General.

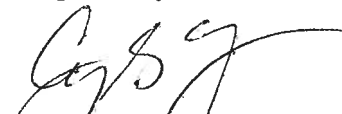
2. That the Board finds that because the emergency proclamation suspended the statutes indicated in the discussion above, there is no requirement for the Department or the Chairperson to comply with those statutes prior to the issuance of the construction contracts to remediate the damage caused by the heavy rainfall and flooding that is the subject of the emergency proclamation.

Requested by:



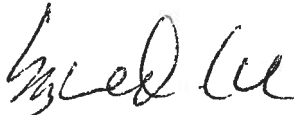
CURT A. COTTRELL, Administrator
Division of State Parks

Respectfully Submitted,



CARTY S. CHANG
Chief Engineer

APPROVED FOR SUBMITTAL:



SUZANNE D. CASE
Chairperson

Attachments:

1. Emergency Proclamation dated September 16, 2016
2. Conceptual Design for Slope Protection Work

OFFICE OF THE GOVERNOR
STATE OF HAWAII

PROCLAMATION

By the authority vested in me as Governor by the Constitution and laws of the State of Hawai'i, in order to provide relief for disaster damages, losses, and suffering, and to protect the health, safety, and welfare of the people, I, DAVID Y. IGE, Governor of the State of Hawai'i, hereby determine, designate and proclaim as follows:

WHEREAS, Hawai'i has suffered a disaster occurrence of heavy rains and flooding that has caused extensive damage to private and public property throughout the entire State and impacting the counties of Maui and Kalawao, State of Hawai'i, thereby endangering the health, safety, and welfare of the people; and

WHEREAS, this occurrence of a severe, sudden, and extraordinary event of heavy rains and flooding has caused damages, losses, and suffering of such character and magnitude to affect the health, welfare, and living conditions of a substantial number of persons, and to affect the economy of the State, and is expected to be of such a nature as to warrant rehabilitative assistance from the State; and

WHEREAS, the Legislature of the State of Hawai'i has appropriated from the general revenues of the State, monies as may be necessary for expenditure by or under the direction of the Governor for the immediate relief of the conditions created by the disaster; and

WHEREAS, in expending such monies, the Governor may allot any portion to any agency, office, or employee of the state or a county for the most expeditious and efficient relief of the conditions created by the disaster; and

WHEREAS, pursuant to sections 127A-14 and 127A-16, Hawai'i Revised Statutes, the Governor is authorized to determine whether an emergency or disaster has occurred, or there is an imminent danger or threat of an emergency or disaster and authorize actions under chapter 127A, Hawai'i Revised Statutes, and the expenditure of funds thereunder; and

WHEREAS, pursuant to section 127A-13(a)(3), Hawai'i Revised Statutes, the Governor is authorized to suspend any law which impedes or tends to impede or is detrimental to the expeditious and efficient execution of, or to conflict with, emergency functions, including laws specifically made applicable to emergency personnel; and

WHEREAS, pursuant to section 127A-13(a)(2), Hawai'i Revised Statutes, the Governor is further authorized to relieve hardship and inequities or obstructions to the public health, safety, and welfare found by the Governor to exist in the laws and to result from the operation of federal programs or measures taken under chapter 127A, Hawai'i Revised Statutes, by suspending laws in whole or in part, or by alleviating the provisions of laws on such terms and conditions as the Governor may impose; and

WHEREAS, pursuant to section 127A-12(b)(8), Hawai'i Revised Statutes, the Governor may suspend chapter 103D and sections 103-50, 103-53, 103-55, 105-1 to 105-10, and 464-4, Hawai'i Revised Statutes, and I find that these provisions, in whole or in part, impede or tend to impede the expeditious discharge of emergency disaster relief functions for this occurrence and that compliance therewith is impracticable due to existing conditions; and

WHEREAS, pursuant to section 127A-12(b)(13), Hawai'i Revised Statutes, the Governor may require each public utility, or any person owning, controlling, or operating a critical infrastructure facility as identified by the Governor, to protect and safeguard its or the person's property, or to provide for the protection and safeguarding thereof; and provide for the protection and safeguarding of all critical infrastructure and key resources, including the regulation or prohibition of public entry thereon, or the permission of the entry upon such terms and conditions as the Governor may prescribe; and

WHEREAS, pursuant to section 127A-12(a)(5), Hawai'i Revised Statutes, the Governor may direct or control, as may be necessary for emergency management alerts, warnings, notifications, and activations; warnings and signals for alerts and any type or warning device, system, or method to be used in connection therewith; partial or full mobilization of personnel in advance of or in response to an actual emergency or disaster; the conduct of civilians and the movement and cessation of movement of

pedestrians and vehicular traffic during, before, and after alerts, emergencies, or disasters; and

WHEREAS, pursuant to section 127A-13(a)(5), Hawai'i Revised Statutes, the Governor may shut off water mains, gas mains, electric power connections, or suspension of other services; and

WHEREAS, pursuant to section 127A-13(a)(6), Hawai'i Revised Statutes, the Governor may direct and control the mandatory evacuation of the civilian population; and

WHEREAS, pursuant to section 127A-12(b)(16), Hawai'i Revised Statutes, the Governor is further authorized to order and direct government agencies, officials, officers, and employees of the State, to take such action and employ such measures for law enforcement, medical, health, firefighting, traffic control, warnings and signals, engineering, rescue, construction, emergency housing, other welfare, hospitalization, transportation, water supply, public information, training, and other emergency functions as may be necessary, and utilize the services, materials, and facilities of the agencies and officers; and

WHEREAS, pursuant to section 127A-12(b)(9), Hawai'i Revised Statutes, the Governor may appoint, employ, train, equip, and maintain, with compensation, or on a volunteer basis without compensation and without regard to chapters 76, 78, and 88, such agencies, officers, and other persons as the Governor deems necessary to carry out emergency management functions; determine to what extent any law prohibiting the holding of more than one office or employment applies to the agencies, officers, and other persons; and subject to the provisions of chapter 127A, Hawai'i Revised Statutes, provide for the interchange of personnel, by detail, transfer, or otherwise, between agencies or departments of the State; and

WHEREAS, pursuant to section 127A-12(b)(19), Hawai'i Revised Statutes, the Governor may take any and all steps necessary or appropriate to carry out the purposes of chapter 127A, Hawai'i Revised Statutes notwithstanding that powers in section 127A-13(a) may only be exercised during an emergency period; and

NOW, THEREFORE, I, DAVID Y. IGE, Governor of the State of Hawai'i, hereby determine that an emergency or disaster contemplated by section 127A-14, Hawai'i Revised Statutes has occurred in the above areas in the State of Hawai'i, and do hereby proclaim the counties of Maui and Kalawao, State of Hawai'i, to be disaster areas for the purpose of implementing the emergency management functions as allowed by law, authorizing the expenditure of State monies as appropriated for the speedy and efficient relief of the damages, losses, and suffering resulting from the emergency or disaster, and hereby authorize and invoke the following measures under the Hawai'i Revised Statutes:

1. Section 127A-16, Hawai'i Revised Statutes, by the activation of the Major Disaster Fund.
2. Sections 127A-13 and 127A-12, Hawai'i Revised Statutes, and in order to provide emergency relief as a result of this event, I hereby suspend as allowed by federal law, the following statutes:
 - a. Chapter 6E, Hawai'i Revised Statutes, **historic preservation**.
 - b. Section 37-41, Hawai'i Revised Statutes, **appropriations to revert to state treasury**.
 - c. Section 37-74(d), Hawai'i Revised Statutes, **program execution**, except for sub-sections 37-74(d)(2) and 37-74(d)(3), Hawai'i Revised Statutes, and any such transfers or changes shall be considered authorized transfers or changes for purposes of section 34-74(d)(1) for legislative reporting requirements.
 - d. Section 40-66, Hawai'i Revised Statutes, **lapsing of appropriations**.
 - e. Chapter 46, Hawai'i Revised Statutes, **county organization and Administration** as any county ordinance, rule, regulation, law, or provision in any form applies to any county permitting, licensing, zoning, variance, processes, procedures, fees, or any other requirements that hinder, delay, or impede the purpose of this Proclamation.

- f. Chapter 89, Hawai'i Revised Statutes, **collective bargaining in public employment.**
- g. Chapter 89C, Hawai'i Revised Statutes, **public officers and employees excluded from collective bargaining.**
- h. Section 102-2, Hawai'i Revised Statutes, **contracts for concessions in government buildings; bid requirements.**
- i. Section 103-2, Hawai'i Revised Statutes, **general fund.**
- j. Section 103-50, **building design to consider needs of persons with disabilities.**
- k. Section 103-53, Hawai'i Revised Statutes, **contracts with the State or counties; tax clearances, assignments.**
- l. Section 103-55, Hawai'i Revised Statutes, **wages, hours, and working conditions of employees of contractors performing services.**
- m. Chapter 103D, Hawai'i Revised Statutes, **Hawai'i public procurement code.**
- n. Chapter 104, Hawai'i Revised Statutes, **wages and hours of employees on public works.**
- o. Sections 105-1 to 105-10, Hawai'i Revised Statutes, **use of government vehicles, limitations.**
- p. Section 127A-30, Hawai'i Revised Statutes, **rental or sale of essential commodities during a state of emergency; prohibition against price increases.**
- q. Chapter 171, Hawai'i Revised Statutes, **public lands, management and disposition of.**
- r. Chapter 174C, Hawai'i Revised Statutes, **state water code.**
- s. Chapter 180, Hawai'i Revised Statutes, **soil and water conservation districts.**

- t. Chapter 180C, Hawai'i Revised Statutes, **soil erosion and sediment control.**
- u. Chapter 183, Hawai'i Revised Statutes, **forest reserves, water development, zoning.**
- v. Chapter 183C, Hawai'i Revised Statutes, **conservation district.**
- w. Chapter 183D, Hawai'i Revised Statutes, **wildlife.**
- x. Chapter 184, Hawai'i Revised Statutes, **state parks and recreation areas.**
- y. Chapter 195, Hawai'i Revised Statutes, **natural areas reserves system.**
- z. Chapter 195D, **conservation of aquatic life, wildlife, and land plants.**
- aa. Chapter 198D, Hawai'i Revised Statutes, **Hawai'i statewide trail and access system.**
- ab. Chapter 205, Hawai'i Revised Statutes, **land use commission.**
- ac. Chapter 205A, Hawai'i Revised Statutes, **coastal zone management.**
- ad. Chapter 264, Hawai'i Revised Statutes, **highways.**
- ae. Chapter 269, Hawai'i Revised Statutes, **public utilities commission.**
- af. Chapter 286, Hawai'i Revised Statutes, **highway safety.**
- ag. Chapter 341, Hawai'i Revised Statutes, **environmental quality control.**
- ah. Chapter 342B, Hawai'i Revised Statutes, **air pollution.**
- ai. Chapter 342D, Hawai'i Revised Statutes, **water pollution.**
- aj. Chapter 342E, Hawai'i Revised Statutes, **non-point source pollution management and control.**

- ak. Chapter 342F, Hawai'i Revised Statutes, **noise pollution.**
 - al. Chapter 343, Hawai'i Revised Statutes, **environmental impact statements.**
 - am. Chapter 343D, Hawai'i Revised Statutes, **environmental disclosure.**
 - an. Chapter 344, Hawai'i Revised Statutes, **state environmental policy.**
 - ao. Section 464-4, Hawai'i Revised Statutes, **public works required to be supervised by certain professionals.**
 - ap. Sections 601-1.5, 708-817, 708-818, 708-820, 708-830.5, and 708-840, Hawai'i Revised Statutes, to the extent that these sections contain provisions for the suspension, tolling, extension, or granting of relief from deadlines, time schedules, or filing requirements in civil, criminal, or administrative matters before the courts of the state or to the extent that these sections contain provisions for criminal penalties that are automatically heightened by reason of any declared disaster or emergency.
3. Section 127A-12(b), Hawai'i Revised Statutes, and in order to provide emergency disaster relief, I hereby direct all state agencies and officers to cooperate with and extend their services, materials, and facilities as may be required to assist in all efforts to eliminate the danger.

I FURTHER DECLARE that a disaster emergency relief period shall commence September 13, 2016, and shall continue until terminated automatically pursuant to section 127A-14, Hawai'i Revised Statutes, or by a separate proclamation, whichever

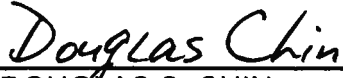
occurs first. Notwithstanding the termination of a disaster emergency relief period, any contracts, agreements, procurements, programs, or employment of personnel entered into by reason of the provisions of this proclamation relating to his emergency shall continue.

Done at the State Capitol, this
16th day of September, 2016.

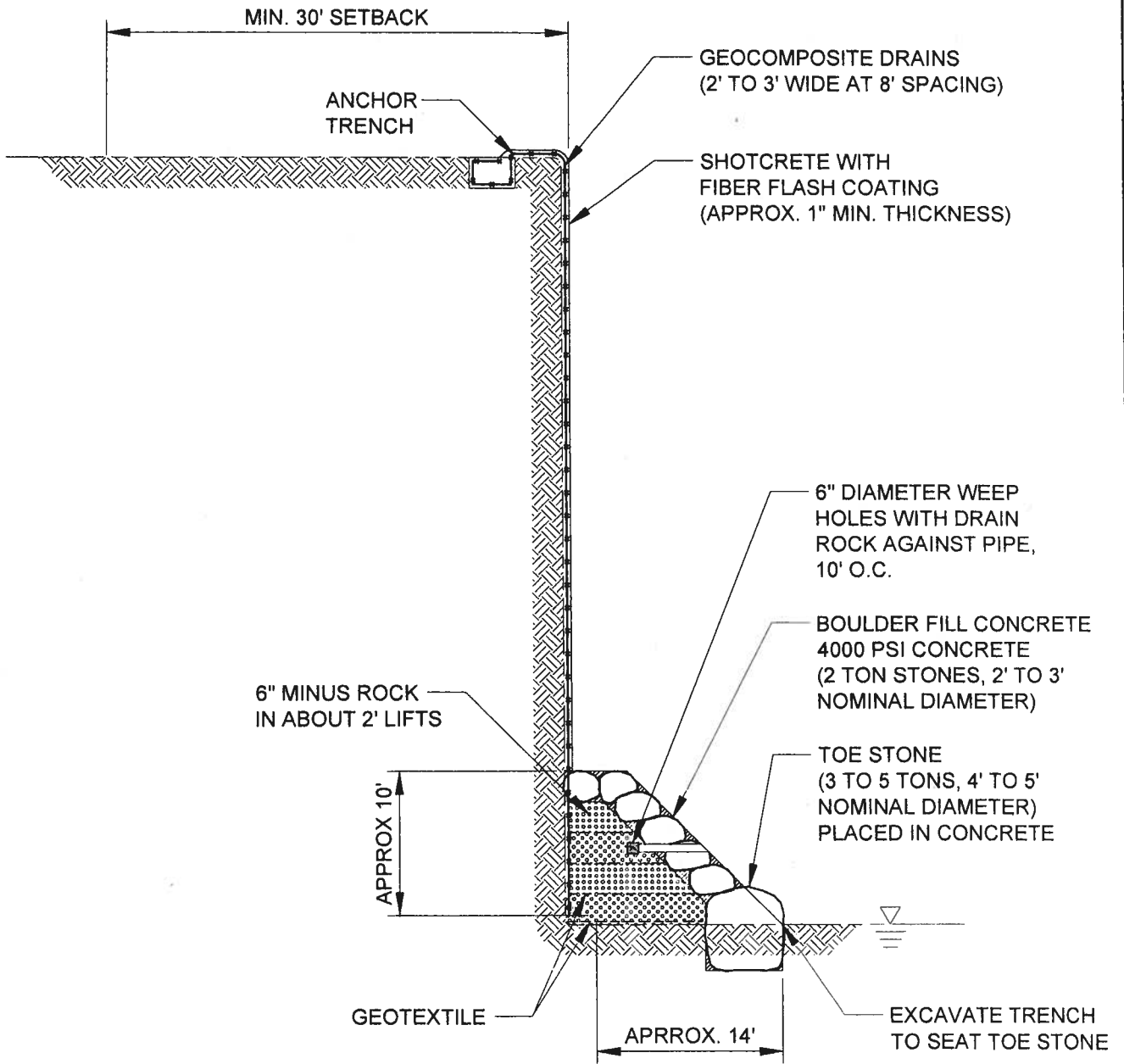


DAVID Y. IGE,
Governor of Hawai'i

APPROVED:



DOUGLAS S. CHIN
*Attorney General
State of Hawai'i*



**CONCEPTUAL
REMEDIAL MEASURES TO OPEN PARK**

IAO VALLEY STATE PARK
WAILUKU, OAHU, HAWAII

ATTACHMENT 2

	GEOLABS, INC.	
	<i>Geotechnical Engineering</i>	
	DATE SEPTEMBER 2016	DRAWN BY ASP
SCALE NOT TO SCALE	WO 7417-00	

CAD User: ASPASIONJR File Last Updated: September 27, 2016 2:42:25pm Plot Date: September 28, 2016 - 12:49:33pm
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