

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

March 9, 2018

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

Land Board Members:

SUBJECT: REQUEST APPROVAL OF THE TRIPARVATA FOREST
STEWARDSHIP MANAGEMENT PLAN AND FOREST
STEWARDSHIP AGREEMENT WITH TRIPARVATA LLC TAX MAP
KEY (3) 7-9-001:019, NORTH KONA DISTRICT, ISLAND OF
HAWAII

AND

REQUEST APPROVAL OF DECLARATION OF EXEMPTION TO
CHAPTER 343, HAWAII REVISED STATUTES FOR THE PROJECT

BACKGROUND:

The State of Hawai'i Forest Stewardship Program (FSP) provides technical and financial assistance to private landowners and land managers committed to the stewardship, conservation, and restoration of important forest resources across the state. These private properties provide a variety of public benefits for the residents of Hawai'i, including but not limited to: fresh water capture and production, decreased soil erosion, wildlife habitat, forest products, recreational and educational opportunities, and local jobs. The assistance provided by FSP enables private landowners to develop and implement long-term multi-resource management plans to conserve, restore, and maintain forested areas on their property.

The program was established through Chapter 195F-6, Hawaii Revised Statutes (HRS). The Department of Land and Natural Resources has the authority to provide financial assistance to approved Forest Stewardship projects for private landowners to manage, protect, and restore important natural forest resources on forested and formerly forested properties. The Forest Stewardship Program is implemented pursuant to Chapter 195F, HRS, and Hawaii Administrative Rules (HAR) Section 109. The program provides cost-share reimbursement for the development of long-term forest management plans and for the implementation of approved Forest Stewardship management plans.

To participate in FSP, interested landowners and managers follow a sequence of application steps in the process of developing a long-term Forest Stewardship management plan. These plans are submitted by the landowner for review by the Forest Stewardship Advisory Committee (FSAC). Landowners interested in enrolling in FSP, submit an application to the FSAC, whom reviews the project based on program eligibility requirements and assures the proposed project is in line with the program's goals of conservation, restoration and/or forest production. After this initial review, the FSAC recommends the development of a Forest Stewardship management plan. Landowners create a forest management plan that is reviewed and approved by both Division and the FSAC, and may be recommended for approval by the Department.

The award of cost-share support for Forest Stewardship management plan implementation follows a similar process to the development of a management plan. Upon approval of a project's Forest Stewardship management plan, the FSAC reviews the implementation schedule and budget summary to ensure that the practice costs are reasonable and follow the program's approved cost-share rates. The FSAC recommends cost-share support for project implementation based on the 10-year implementation schedule that is submitted to the Board of Land and Natural Resources (Board) for consideration. Review and approval of the Forest Stewardship project and management plan, as well as authorization of cost-share support for the project by the Board is required for the Department to enter into the Forest Stewardship Agreement. The Division has previously worked with the Department of the Attorney General to developing a Forest Stewardship Agreement template (Attachment A) for eligible projects.

The Triparvata Forest Stewardship project proposes to actively manage and restore approximately 60 acres of native forest on Tax Map Key number (3)7-9-001:019, in the North Kona District of Hawai'i County. The Forest Stewardship project area is designated by the State of Hawai'i as Agriculture District and as Agriculture by the County of Hawai'i. The Triparvata Forest Stewardship project is located on the western slopes of Mauna Loa, in an area known as Hōkūkano, and was once part of the Greenwell Estate. The project area is southeast of Honua'ula Forest Reserve. The 60-acre project area was historically a pristine montane dry forest and shrubland area. The area is now characterized as having a sparse native cover of 'ōhi'a, koa, and māmane, and a predominantly invasive grass understory. The native vegetation has been degraded by feral ungulates, logging, wildfires, and colonization by invasive plants. In areas where the understory is dominated by invasive weed species, natural recruitment of native species is limited.

The FSAC approved the Triparvata management plan at their meeting on September 8, 2017 and the State Forester/Division Administrator approved the Forest Stewardship Management Plan on January 16, 2018 (Attachment B).

DISCUSSION:

The Division is requesting approval of a Forest Stewardship Agreement with Triparvata LLC for the implementation of the Triparvata Forest Stewardship management plan and project. Over the course of the 10-year management plan, Triparvata LLC intends to promote:

- (1) Reforestation of 30 acres of kikuyu grass-dominated rangeland to a native montane dry forest/shrubland via the planting of native canopy species, and

- (2) Restoration of 30 acres of existing open canopy koa/mamane/naio forest/shrubland via natural resource protection and enrichment plantings.

The 30 acres of reforestation will be established in 5-acre management unit increments, with one unit established every year for six years. This will be followed by restoration of the remaining 30-acres during the last four years, labeled by zones 1 and 2 (Attachment B).

The 85.1 acre property is composed of montane dry forest and shrubland vegetation, but is primarily dominated by invasive grasses and herbaceous plants, such as kikuyu grass and fireweed. The most abundant native species are koa and naio; however, the naio are severely impacted by non-native thrips and are limited to the pahoe-hoe lava outcroppings on the property. While no endangered plants were observed on the project area, native birds have been seen on the property including 'io, 'ōpe'ape'a, pueo, and nēnē. Management approaches under the project will focus on controlling invasive species and planting regionally appropriate native species.

The first proposed management activity for the Triparvata project will be installation of perimeter fences to exclude feral and managed ungulates, as recommended by FSP. A 15-foot fuelbreak along the interior of the fence will also be installed to protect the restoration efforts from wildland fires. Following the completion of the fence and the fuelbreak, all feral and managed ungulates will be removed and preparation of the site for out-planting will begin, including chemical and manual weed control of the kikuyu grass and fireweed. Due to the lack of consistent rain in the project area, an irrigation specialist will be consulted to install an efficient irrigation system that reduces water waste and utilizes the gradient of the property to reduce energy requirements. The irrigation will assist with seedling survival and establishment. Outplanting of native trees and shrubs will be hand planted in a 15 foot by 15 foot spacing, with an irregular distribution of trees (65%), and shrubs and/or herbaceous plants (35%). Ongoing maintenance such as weed control and nutrient management of the established areas will be undertaken on a regular basis after the initial planting and throughout the 10 years of the contract. Rodent bait and bait stations will be regularly maintained to mitigate the damage to seedlings by rodents, which is common in the area, and to improve native recruitment. Monitoring of the reforestation and restoration efforts will be ground-based and completed by the landowner and annually by Division staff.

A total of **\$152,060** in state Forest Stewardship funding is requested to provide cost-share support for the Triparvata Forest Stewardship management plan and the Triparvata LLC Forest Stewardship Agreement. Triparvata LLC will be contributing an equal amount of **\$152,060** toward the implementation of their project through the Forest Stewardship Program. The costs associated with the proposed practices are consistent with the intensity of management required for this type of project. Cost-share funds are provided as reimbursement payments for implementation of approved management practices through the State fiscal year 2028. In addition, Triparvata LLC has agreed to continue maintenance of the installed Forest Stewardship practices for an additional five years following the completion of the state cost-share contributions, or through State fiscal year 2023.

CHAPTER 343, HAWAII REVISED STATUTES – ENVIRONMENTAL ASSESSMENT:

In accordance with the requirements of Chapter 343, Hawaii Revised Statutes (HRS), and Section 11-200-8, Hawaii Administrative Rules (HAR), and the Exemption List for the Department of Land and Natural Resources as approved by the Environmental Council on June

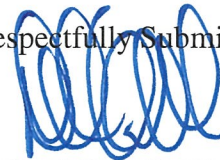
5, 2015, the subject project is exempt from the preparation of an environmental assessment pursuant to the exemption classes listed in Attachment C.

RECOMMENDATIONS:

That the Board:

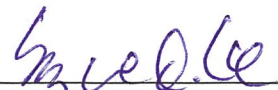
1. Approve the Triparvata Stewardship management plan;
2. Approve cost-share support in the amount of **\$152,060** for the implementation of the Triparvata Forest Stewardship management plan;
3. Authorize the Chairperson to amend, finalize and execute a Forest Stewardship Agreement with Triparvata LLC to participate in the State Forest Stewardship Program subject to the following:
 - A. Availability of State Forest Stewardship funds; and
 - B. Review and approval as to form of the Forest Stewardship Agreement by the Department of the Attorney General.
4. Declares, after considering the potential effects of the proposed project as provided by Chapter 343, HRS, and Chapter 11-200, HAR, that this project will likely have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment under the exemption classes listed in the Declaration of Exemption (Attachment C).

Respectfully Submitted,



DAVID G. SMITH, Administrator
Division of Forestry and Wildlife

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

Attachment: (Attachment A, B, C)

**STATE OF HAWAII
FOREST STEWARDSHIP AGREEMENT**

This AGREEMENT, made this _____ day of _____, 20____, by and between the BOARD OF LAND AND NATURAL RESOURCES, STATE OF HAWAII ("STATE"), by its Chairperson, whose address is 1151 Punchbowl Street, Honolulu, Hawaii 96813, and _____, ("LANDOWNER") whose address and federal and state taxpayer identification numbers are as follows: _____

Business address

Federal and state taxpayer identification numbers

RECITALS

WHEREAS, Chapter 195F, Hawaii Revised Statutes (HRS), provides for the establishment of a forest stewardship program to encourage and assist private landowners in managing, protecting, and restoring important watersheds, native vegetation, fish and wildlife habitats, isolated populations of rare and endangered plants, and other forest lands that are not recognized as potential natural area reserves; and

WHEREAS, in accordance with HRS Chapter 195F and Title 13, Subtitle 5, Part 1, Chapter 109 of the Hawaii Administrative Rules (HAR), the LANDOWNER has applied, and qualifies, for participation in the forest stewardship program; and

WHEREAS, the LANDOWNER has submitted a forest stewardship management plan, as set forth in Exhibit A hereto, that the STATE agrees is consistent with the policies, goals, and objectives of the forest stewardship program; and

WHEREAS, the STATE desires to assist the LANDOWNER in implementing the forest stewardship management plan with financial and other assistance; and

WHEREAS, money is available to fund this agreement pursuant to: Act 195, SLH 1993, Hawaii Revised Statutes, Section 247-7.

NOW, THEREFORE, in consideration of the promises contained in this AGREEMENT, the STATE and the LANDOWNER agree as follows:

A. SCOPE OF SERVICES

The LANDOWNER hereby agrees to implement the forest stewardship management plan set forth in Exhibit A and the project described in the “Scope of Services” set forth in Attachment S1 in proper and satisfactory manner as determined by the STATE, both of which are hereby made a part of this AGREEMENT. The STATE hereby agrees to assist the LANDOWNER in implementing the forest stewardship management plan, all in accordance with the terms and conditions set forth in Attachments S1, S2, S3, S4, S5, and S6, attached hereto.

B. COMPENSATION

The LANDOWNER shall be compensated for performance of the project under this AGREEMENT according to the “Compensation and Payment Schedule,” set forth in Attachment S2, which is hereby made a part of this Agreement.

C. TIME OF PERFORMANCE

The performance required of the LANDOWNER under this AGREEMENT shall be completed in accordance with the “Time of Performance” set forth in Attachment S3, which is hereby made a part of this AGREEMENT.

D. CERTIFICATE OF EXEMPTION FROM CIVIL SERVICE

The “State of Hawaii Certificate of Exemption from Civil Service,” set forth in Attachment S4, is hereby made a part of the AGREEMENT.

E. OTHER TERMS AND CONDITIONS

The “State of Hawaii Special and General Conditions for Forest Stewardship Program Agreements,” set forth in Attachment S5, and the General Conditions attached hereto, are hereby made a part of this AGREEMENT. For the purposes of this AGREEMENT the term “CONTRACTOR” in the “General Conditions” shall mean the LANDOWNER.

F. STANDARDS OF CONDUCT DECLARATION

The "Standards of Conduct Declaration" by LANDOWNER, set forth in Attachment S6, is hereby made a part of this AGREEMENT. For the purposes of this AGREEMENT the term "CONTRACTOR" in the "Standards of Conduct Declaration" shall mean the LANDOWNER.

IN WITNESS WHEREOF, the parties execute this AGREEMENT by their signatures to be effective as of the date first above written.

STATE

By _____
Chairperson of the Board of Land and Natural
Resources

Print Name

Date _____

LANDOWNER

By _____

Print Name

Date _____

Approved by the Board of
Land and Natural Resources on

_____.

APPROVED AS TO FORM:

Deputy Attorney General

LANDOWNER'S ACKNOWLEDGMENT

STATE OF HAWAII)
) SS.
COUNTY OF _____)

On this _____ day of _____, 20____, before me personally appeared _____, to me personally known, who being by me duly sworn, did say the he/she is the _____, the LANDOWNER named in the foregoing instrument, and the he/she is authorized to sign said instrument on behalf of the LANDOWNER, and acknowledges that he/she executed said instrument as the free act and deed of the LANDOWNER.

Notary Public, State of Hawaii

My Commission Expires: _____

Date of the Notarized Document: _____

Number of Pages: _____

Identification or Description of the Document being Notarized: _____

Printed Name of Notary: _____ Circuit

Notary's Signature and Notary's Official Stamp or Seal Date



STATE OF HAWAII

CONTRACTOR'S STANDARDS OF CONDUCT DECLARATION

For the purposes of this declaration:

"Agency" means and includes the State, the legislature and its committees, all executive departments, boards, commissions, committees, bureaus, offices; and all independent commissions and other establishments of the state government but excluding the courts.

"Controlling interest" means an interest in a business or other undertaking which is sufficient in fact to control, whether the interest is greater or less than fifty per cent (50%).

"Employee" means any nominated, appointed, or elected officer or employee of the State, including members of boards, commissions, and committees, and employees under contract to the State or of the constitutional convention, but excluding legislators, delegates to the constitutional convention, justices, and judges. (Section 84-3, HRS).

On behalf of _____, CONTRACTOR, the undersigned does declare as follows:

1. CONTRACTOR ☐ is ☐ is not a legislator or an employee or a business in which a legislator or an employee has a controlling interest. (Section 84-15(a), HRS).
2. CONTRACTOR has not been represented or assisted personally in the matter by an individual who has been an employee of the agency awarding this Contract within the preceding two years and who participated while so employed in the matter with which the Contract is directly concerned. (Section 84-15(b), HRS).
3. CONTRACTOR has not been assisted or represented by a legislator or employee for a fee or other compensation to obtain this Contract and will not be assisted or represented by a legislator or employee for a fee or other compensation in the performance of this Contract, if the legislator or employee had been involved in the development or award of the Contract. (Section 84-14 (d), HRS).
4. CONTRACTOR has not been represented on matters related to this Contract, for a fee or other consideration by an individual who, within the past twelve (12) months, has been an agency employee, or in the case of the Legislature, a legislator, and participated while an employee or legislator on matters related to this Contract. (Sections 84-18(b) and (c), HRS).

CONTRACTOR understands that the Contract to which this document is attached is voidable on behalf of the STATE if this Contract was entered into in violation of any provision of chapter 84, Hawaii Revised Statutes, commonly referred to as the Code of Ethics, including the provisions which are the source of the declarations above. Additionally, any fee, compensation, gift, or profit received by any person as a result of a violation of the Code of Ethics may be recovered by the STATE.

* Reminder to Agency: If the "is" block is checked and if the Contract involves goods or services of a value in excess of \$10,000, the Contract must be awarded by competitive sealed bidding under section 103D-302, HRS, or a competitive sealed proposal under section 103D-303, HRS. Otherwise, the Agency may not award the Contract unless it posts a notice of its intent to award it and files a copy of the notice with the State Ethics Commission. (Section 84-15(a), HRS).

CONTRACTOR

By _____
(Signature)

Print Name _____

Print Title _____

Name of Contractor _____

Date _____



STATE OF HAWAII

SCOPE OF SERVICES

SECTION 1 - SCOPE OF WORK

- 1.1 MANAGEMENT AREA - The project area to be managed is the _____ Forest Stewardship project area; TMK NUMBER(S) _____ as designated on maps found in _____ to this AGREEMENT.
- 1.2 THE PRIMARY OBJECTIVES - The STATE and LANDOWNER shall direct their efforts under this AGREEMENT to do the following: fund the management of and manage the natural resources of the _____ Forest Stewardship project area ("Forest Stewardship project area") in accordance with the MANAGEMENT PLAN, attached as _____ to this AGREEMENT, and all approved amendments thereto, with the intention of _____ in the community.
- 1.3 SCOPE OF WORK - The LANDOWNER shall perform the following technical and professional services:
- (a) Management plan. The LANDOWNER shall carry out the management activities outlined in the approved MANAGEMENT PLAN, attached as _____ to this AGREEMENT.
 - (b) Consultation. The LANDOWNER shall be available for consultation regarding progress, upon request by the STATE.
- 1.4 AUTHORITY TO CARRY OUT MANAGEMENT PLAN - The LANDOWNER hereby represents that it has authority to carry out the MANAGEMENT PLAN and that it is the landowner of "Forest Stewardship project area" as defined in Section 195F-2, Hawaii Revised Statutes, as amended.
- 1.5 NO INCONSISTENT ACTIVITIES - The LANDOWNER shall not take any action on the "Forest Stewardship project area", which will undermine or conflict with the approved MANAGEMENT PLAN.

II. SECTION 2 - CONTROL AND PROGRESS OF THE WORK



STATE OF HAWAII

SCOPE OF SERVICES

2.1 REPORTS - The LANDOWNER shall submit to the STATE, reports showing work accomplished at the following times:

- (a) Progress Reports. A progress report shall be due on December 31 of each year under this AGREEMENT for which funding has been approved. This report shall include a description of the approved MANAGEMENT PLAN accomplishments and activities, areas needing technical advice, an accounting of expenditures with documentation, and proposed modifications to the current year's management activities. This report shall be submitted to the STATE within 30 days following the due date. If the LANDOWNER would like more than 2 reimbursements per year, a progress report shall accompany each reimbursement request and the "Forest Stewardship project area" shall be made available for a site visit by Department of Land and Natural Resources personnel.
- (b) Annual Report. An annual report shall be due on or before June 30 of each year under this AGREEMENT for which funding has been approved. In the event the contract is executed less than 6 months prior to June 30, then no annual report is due on June 30 of that year. This report shall include a description of MANAGEMENT PLAN accomplishments and activities, areas needing technical advice, and proposed modifications to the next year's approved management objectives, projects and budget. This report shall also include a detailed accounting of expenditures for the preceding 12-month period to provide the basis for the annual reconciliation of the STATE's and the LANDOWNER's respective shares of funding as determined pursuant to Attachment S2, Section 1.1. This report shall be submitted to the STATE within 60 days of due date. This report may also request, subject to approval by the STATE, changes to the management plan, for either or both the practice implementation schedule and/or the budget/payment schedule in order to best consolidate and rectify the past year's outcomes or lack thereof.



STATE OF HAWAII

SCOPE OF SERVICES

- 2.2 DELEGATION OF AUTHORITY - As used herein and throughout this AGREEMENT, unless the context clearly indicates otherwise, the STATE shall include the State of Hawaii Department of Land and Natural Resources and its authorized employees, agents and representatives.



STATE OF HAWAII

COMPENSATION AND PAYMENT SCHEDULE

SECTION 1 – PAYMENT

1.1 SCOPE OF PAYMENT -

- (a) STATE's Payment. In full satisfaction of the STATE's funding share of the approved MANAGEMENT PLAN, which is contingent upon satisfactory completion by the LANDOWNER of the management activities described in the approved MANAGEMENT PLAN, attached as Exhibit A to this AGREEMENT, the STATE agrees to pay the LANDOWNER a total sum not to exceed _____.
_____00/100 Dollars (\$_____) according to the schedule outlined below that includes fiscal year 20XX through 20XX for completion of the management activities described in the approved MANAGEMENT PLAN. Payments shall be made by the STATE to the LANDOWNER as partial annual reimbursements for actual expenditures made by the LANDOWNER in completing the management activities described in the approved MANAGEMENT PLAN only after the corresponding progress or annual report has been reviewed by the STATE and all reported management activity accomplishments have been verified following an inspection of the "Forest Stewardship project area" by the STATE. Actual expenditures may include but are not limited to in-kind services such as heavy equipment operation and sources of labor. All funds to be paid by the STATE to the LANDOWNER shall be encumbered on an annual basis for the forthcoming fiscal year provided that the STATE has approved the continuation of management activities outlined in _____ of this AGREEMENT for the forthcoming fiscal year.

If in any fiscal year the allocated annual funds are not exhausted due to the LANDOWNER not completing all management activities described in the MANAGEMENT PLAN for that year, the LANDOWNER may request that these funds be incorporated in the following year's encumbrances to complete the management activities which were not completed. If there are sufficient funds available to accommodate LANDOWNER's request and the STATE approves the



STATE OF HAWAII

COMPENSATION AND PAYMENT SCHEDULE

request, this change will be incorporated by written amendment to the AGREEMENT.

If in any fiscal year the STATE does not appropriate, and/or the STATE does not approve the expenditure of, funds sufficient to meet the STATE's funding share of the approved MANAGEMENT PLAN, this AGREEMENT shall automatically terminate without penalty at the end of the last fiscal year for which any funds have been appropriated and approved, subject to Attachment S5, Section 4.1, regarding partial State funding.

- (b) LANDOWNER's Share. In full satisfaction of the LANDOWNER's funding share of the approved MANAGEMENT PLAN, the LANDOWNER agrees to fully complete the management activities described in the approved MANAGEMENT PLAN, and to initially assume all corresponding actual annual expenditures in expectation of the STATE's partial reimbursement for satisfactory completion of these management activities. Expenditures for implementation of the approved MANAGEMENT PLAN which are less than the amounts allocated in the approved budget may be made by the LANDOWNER in its discretion so long as the quality of materials and work as called for in the approved MANAGEMENT PLAN are not adversely affected.



STATE OF HAWAII

COMPENSATION AND PAYMENT SCHEDULE

PATRICK & SHEILA CONANT FOREST STEWARDSHIP

PROJECT BUDGET/PAYMENT SCHEDULE:

YEAR	Total Budget	Land Owner share	State Share
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
Total			

1.2 PAYMENT SCHEDULE –

- (a) Progress Payment. Within 30 days following receipt of the progress report as provided in Attachment S1, Section 2.1(a) for each year for which the STATE has agreed to pay the LANDOWNER as outlined in the schedule above and for which funding has been appropriated, the STATE shall pay to the LANDOWNER a portion of the STATE's funding share of the approved MANAGEMENT PLAN as a partial reimbursement of actual expenditures made to complete approved management activities. This payment shall be subject to the LANDOWNER's satisfactory completion of the corresponding approved management activities described in the approved MANAGEMENT PLAN, attached as Exhibit A to this AGREEMENT, and calculated on the basis of actual expenditures made by the LANDOWNER. This payment shall also be subject to the STATE's approval of such progress report.
- (b) Annual/Final Payment. Within 30 days of receipt of the annual report as provided in Attachment S1, Section 2.1(b), the STATE shall pay to the LANDOWNER the balance of the STATE's approved annual funding share. This payment shall be subject to the LANDOWNER's satisfactory completion of the corresponding



STATE OF HAWAII

COMPENSATION AND PAYMENT SCHEDULE

annual management activities described in the approved MANAGEMENT PLAN, attached as Exhibit A to this AGREEMENT, and calculated on the basis of actual expenditures made by the LANDOWNER.

- (1) Annual or Final Acceptance and Payment - Annual or final acceptance means a written notice from the STATE to the LANDOWNER advising the LANDOWNER of the satisfactory fulfillment of the AGREEMENT's annual or final requirements.

- 1.3 UNAUTHORIZED WORK - The LANDOWNER shall not receive matching STATE funds for management activities not designated in the approved MANAGEMENT PLAN. All work completed by the LANDOWNER prior to receipt of a fully-executed copy of this AGREEMENT, and prior to STATE approval of funding for any subsequent years and prior to STATE approval of any subsequent amendments to the approved MANAGEMENT PLAN, shall be at the LANDOWNER's own volition and risk, including work performed during the period of any deliberations by the STATE in anticipation of approval; provided, however, that if funding and/or amendments applicable to such work are subsequently approved, the LANDOWNER may be paid for such work even if performed prior to such approval.

SECTION 2 - FISCAL RECORDS MAINTENANCE, RETENTION, AND ACCESS

- 2.1 The LANDOWNER shall maintain, in accordance with generally acceptable accounting practices, fiscal records and supporting documents and related files, papers and reports that adequately reflect all direct and indirect expenditures and management and fiscal practices materially related to the LANDOWNER's performance of services paid for by State funds under this AGREEMENT.
 - (a) The STATE, the Comptroller of the State of Hawaii, and any of their authorized representatives, the committees (and their staff) of the Legislature of the State of Hawaii, and the Legislative Auditor of the State of Hawaii shall have the right of access to any book, document, paper, file, or other records of the LANDOWNER



STATE OF HAWAII

COMPENSATION AND PAYMENT SCHEDULE

that is materially related to the performance by the LANDOWNER of services funded by the STATE under this AGREEMENT, in accordance with generally accepted audit procedures, for the purposes of monitoring and evaluating the LANDOWNER's performance of services and the LANDOWNER's management program and fiscal practices to assure the proper and effective expenditure of funds under this AGREEMENT; provided, however, that no party conducting any such audit or examination shall copy, distribute, or retain any of such information or records, with the understanding that it is not the intention that the LANDOWNER's financial and other records and information be made public.

- (b) The right of access shall not be limited to the required retention period but shall last as long as the records are retained. The LANDOWNER shall retain all records related to the LANDOWNER's performance of services funded under this AGREEMENT for at least 3 years after the date of submission of the LANDOWNER's annual reports for any designated period and payment for such expenditures by the STATE in accordance with its matching share, except that if any litigation, claim, negotiation, investigation, audit, or other action involving the records has been started before the expiration of the 3-year period, the LANDOWNER shall retain the records until completion of the action and resolution of all issues that arise from it or until the end of the regular 3-year retention period, whichever occurs later.



STATE OF HAWAII

TIME OF PERFORMANCE

SECTION 1 - EXECUTION OF AGREEMENT

- 1.1 EXECUTION OF AGREEMENT - This AGREEMENT shall be promptly executed by the STATE and the LANDOWNER upon approval by each party.
- 1.2 CERTIFICATION AND APPROVAL OF AGREEMENT - This AGREEMENT shall not be considered binding upon the STATE, unless the availability of the funds therefore has been duly certified as prescribed by Section 103-39, Hawaii Revised Statutes, as amended. Further, this AGREEMENT shall not be considered to be fully executed unless the Office of the Attorney General of the State of Hawaii has approved this AGREEMENT as to form.

SECTION 2 - TERM

- 2.1 INITIAL TERM - The initial term will be for a minimum of _____ () years following the completion of any and all management practices for which the LANDOWNER has received cost-share assistance. Accordingly, this AGREEMENT shall commence on the date of full execution hereof and shall be in effect until _____; subject, however to earlier termination as provided in this AGREEMENT.
- 2.2 STATE FUNDING CONDITION - This AGREEMENT is subject to continued funding of the STATE's share of the approved management budget as outlined in Attachment S2, Section 1.1. Annual funding is provided by the Conveyance Tax pursuant to Act 195, SLH 1993, Section 247-7, Hawaii Revised Statutes, whereby twenty-five percent of the amount collected from this tax shall be paid into the natural area reserve fund from which funds are dispersed to the natural area partnership and forest stewardship programs, and by way of Act 269, SLH 2000 to projects undertaken in accordance with watershed management plans. Payments are then made through the forest stewardship program to reimburse landowners for implementing approved stewardship management practices. Any balance remaining in this fund at the end of any fiscal year shall be carried forward



STATE OF HAWAII

TIME OF PERFORMANCE

into the fund for the next fiscal year. If in any fiscal year the STATE does not appropriate, and/or the STATE does not approve the expenditure of, funds sufficient to meet its share of the approved management budget, this AGREEMENT shall automatically terminate without penalty at the end of the last fiscal year for which any funds have been appropriated and approved, subject to Attachment S5, Section 4.1, regarding partial State funding.



STATE OF HAWAII

**CERTIFICATE OF EXEMPTION
FROM CIVIL SERVICE****1. By Heads of Departments Delegated by the Director of the Department of Human Resources Development (“DHRD”).***

Pursuant to a delegation of the authority by the Director of DHRD, I certify that the services to be provided under this Contract, and the person(s) providing the services under this Contract are exempt from the civil service, pursuant to § 76-16, Hawaii Revised Statutes (HRS).

(Signature)_____
(Date)_____
(Print Name)_____
(Print Title)

* This part of the form may be used by all department heads and the heads of attached agencies to whom the Director of DHRD expressly has delegated authority to certify § 76-16, HRS, civil service exemptions. The specific paragraph(s) of § 76-16, HRS, upon which an exemption is based should be noted in the contract file. If an exemption is based on § 76-16(b)(15), the contract must meet the following conditions:

- (1) It involves the delivery of completed work or product by or during a specific time;
- (2) There is no employee-employer relationship; and
- (3) The authorized funding for the service is from other than the "A" or personal services cost element.

NOTE: Not all attached agencies have received a delegation under § 76-16(b)(15). If in doubt, attached agencies should check with the Director of DHRD prior to certifying an exemption under § 76-16(b)(15). Authority to certify exemptions under §§ 76-16(b)(2), and 76-16(b)(12), HRS, has not been delegated; only the Director of DHRD may certify §§ 76-16(b)(2), and 76-16(b)(12) exemptions.

2. By the Director of DHRD, State of Hawaii.

I certify that the services to be provided under this Contract, and the person(s) providing the services under this Contract are exempt from the civil service, pursuant to § 76-16, HRS.

(Signature)_____
(Date)_____
(Print Name)_____
(Print Title, if designee of the Director of DHRD)



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SPECIAL CONDITIONS

SECTION 1 – INSPECTIONS

- 1.1 The STATE shall have the right to make inspections of the “Forest Stewardship project area” after prior notice to the LANDOWNER. In addition, the STATE shall be obligated to inspect the work on the “Forest Stewardship project area” not less frequently than once per year under this AGREEMENT, and more frequently in the case of a LANDOWNER default as provided in Section 4.1(d) below or when the LANDOWNER makes more than 2 reimbursement requests per year as provided in Attachment S1, Section 2.1. The STATE shall notify the LANDOWNER within a reasonable time thereafter of any perceived defaults in the LANDOWNER's implementation of the approved MANAGEMENT PLAN. The LANDOWNER hereby represents that it has authority to allow access to the “Forest Stewardship project area” by the STATE in connection with this AGREEMENT, conditional upon receipt of a liability waiver, acceptable to the LANDOWNER for all state personnel visiting the “Forest Stewardship project area”.

SECTION 2 - AMENDMENTS

- 2.1 The LANDOWNER may propose for approval by the STATE, and the STATE may approve, minor alterations to the approved MANAGEMENT PLAN, which will not have a material adverse impact on the achievement of the overall management objectives of the approved MANAGEMENT PLAN. This includes minor changes to the practice implementation schedule and/or changes in the budget/payments schedule so long as the total management activities do not subtract from or exceed the total scope of the approved MANAGEMENT PLAN and the budget/payments schedule does not exceed the total annual budget allocations up to and including the budget request for that year, and so long as the STATE has sufficient funding available to accommodate such a request.
- 2.1 The LANDOWNER may propose for approval by the STATE, and the STATE may approve, significant changes to the approved MANAGEMENT PLAN or budget to adapt to current conditions. Significant amendments to the approved MANAGEMENT PLAN shall include an amended budget, which will increase the overall STATE's funding share



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above the total amount set forth in the approved budget/payment schedule. The STATE shall make the proposed amendments available for public review prior to final approval.

- 2.3 The proposed amendments may include, without limitation, re-establishment of management priorities, increase or reduction of the specified work, increases to the budget/payments schedule, or time for performance of specified tasks, all as determined considering the natural conditions of the “Forest Stewardship project area,” existing management priorities, threats, potential for decline of the natural resource during any period under consideration, availability of specialized labor or technical expertise, permitting requirements and time needed to obtain permits, and other material factors.
- 2.4 Any proposed expenditures which will increase the overall STATE's funding share above the amount set forth in the approved budget of the approved MANAGEMENT PLAN, which are proposed either as a result of additional costs required to implement the approved MANAGEMENT PLAN or as a result of amendments to the approved MANAGEMENT PLAN, must be mutually agreed upon in advance by and between the STATE and the LANDOWNER. If so agreed upon the approval of these expenditures shall be incorporated in written amendment to this AGREEMENT.
- 2.5 Economic Hardship. Notwithstanding other provisions of this AGREEMENT, in the event that the LANDOWNER determines in good faith that it is financially unable without undue economic hardship to fulfill its funding share as provided in Attachment S2, Section 1.1(b), or to carry out fully the management activities described in the approved MANAGEMENT PLAN, attached as Exhibit A to this AGREEMENT, within the budget and time period established thereby, the LANDOWNER may apply to the STATE to renegotiate the terms thereof.
- (a) Negotiation of Amendment. In such event, the STATE and the LANDOWNER shall meet and negotiate in good faith an acceptable amendment to the approved MANAGEMENT PLAN that seeks to accomplish the significant objectives of the approved MANAGEMENT PLAN reasonably within the LANDOWNER's



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financial means. The amendment may include, without limitation, re-establishment of management priorities and reduction and/or deferral of the specified work, involving significant costs, and/or extension of time for performance of specified tasks, all as determined considering the natural conditions of the “Forest Stewardship project area,” existing management priorities, threats, potential for decline of the natural resource during any period under consideration, other potential sources of funding, and other material factors.

- (b) Disputes. If the STATE and the LANDOWNER are unable to agree reasonably and in good faith on a suitable amendment to the approved MANAGEMENT PLAN, the parties shall refer any such disputes to arbitration as provided in the General Conditions, Section 11.
- (c) No Termination for Economic Hardship. This provision shall not be construed to allow the LANDOWNER or the STATE to terminate this AGREEMENT for economic hardship; it is rather intended to provide a mechanism for reasonable revisions to the approved MANAGEMENT PLAN for economic hardship.

SECTION 3 - PAYBACK OF STATE FUNDS

- 3.1 In the event that the LANDOWNER sells, conveys, or otherwise transfers LANDOWNER’s right, title, or interest in the “Forest Stewardship project area,” or any portion thereof, during the initial term of this AGREEMENT as defined in Attachment S3, Section 2.1, the LANDOWNER shall within 90 days of the sale, conveyance or transfer of title or interest in the “Forest Stewardship project area,” pay back to the STATE a portion of the amount paid by the STATE to the LANDOWNER pursuant to this AGREEMENT. The amount to be paid back to the STATE shall be that fraction of the total matching funds received by the LANDOWNER under this AGREEMENT that is equal to the fraction of the “Forest Stewardship project area” that is sold, conveyed or otherwise transferred by the LANDOWNER.



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3.2 In the event that the LANDOWNER sells, conveys, or otherwise transfers LANDOWNER's right, title, or interest in the "Forest Stewardship project area," or any portion thereof, during the initial term of this AGREEMENT as defined in Attachment S3, Section 2.1, the LANDOWNER will not be required to reimburse the STATE as set forth in Attachment S5, Section 3.1 for the cost-share assistance received if the person(s) who acquire the property contractually agree to assume full responsibility for this AGREEMENT for the initial term of the AGREEMENT, including but not limited to management and financial responsibilities and penalties contained herein. See Agenda Item _____, as amend, approved at the Board of Land and Natural Resources meeting. Nothing in this provision shall relieve the LANDOWNER of its obligations under this AGREEMENT.

SECTION 4 - TERMINATION; DEFAULT; PENALTY PAYBACK

4.1 TERMINATION OF THE AGREEMENT - It is mutually agreed that this AGREEMENT may be terminated for any one of the following reasons on the following terms:

- (a) No State Funding. This AGREEMENT shall be terminated if the STATE does not approve funding for the forthcoming fiscal year of the approved MANAGEMENT PLAN. In such event, this AGREEMENT shall automatically terminate without penalty at the end of the funding period then in effect.
- (b) Partial State Funding. This AGREEMENT may be terminated by the LANDOWNER if the STATE approves only a portion of its share of funding for the forthcoming fiscal year as outlined in the budget provided in the approved MANAGEMENT PLAN.
 - (1) In such event, the LANDOWNER shall elect, by written notice to the STATE, either:
 - (A) to terminate this AGREEMENT without penalty at the end of the funding period then in effect; or



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- (B) to revise the approved MANAGEMENT PLAN and budget in the LANDOWNER's reasonable discretion to accomplish significant management goals which can reasonably be funded with the amount of STATE funding actually approved.
- (c) Transfer to Government Agency. This AGREEMENT may be terminated without penalty if the "Forest Stewardship project area" is transferred or sold to a government agency committed to forest stewardship and that possesses the technical and professional skills to manage the "Forest Stewardship project area" natural resources.
- (d) LANDOWNER Default. This AGREEMENT may be terminated by the STATE upon substantial evidence that progress being made by the LANDOWNER in carrying out the approved MANAGEMENT PLAN is inadequate, incorrect, or insufficient to substantially complete on a timely basis the work called for in the approved MANAGEMENT PLAN subject to the lack of performance notification provisions set forth below.
- (1) Penalties Apply. In the event of termination for default in accordance with these provisions, the penalty payback provisions set forth below shall apply.
- (2) Lack of Performance Notification. In such event, the STATE may terminate for default, provided the STATE adheres to the following procedures for notice and opportunity to cure prior to termination:
- (A) The STATE shall first notify the LANDOWNER in writing of any perceived inadequacy, incorrectness or insufficient progress. The STATE and the LANDOWNER shall meet within two weeks



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thereafter, and every three months thereafter until one year following the date of the notice, and discuss in good faith the perceived failure and the reasons therefore and any subsequent progress or lack thereof. If the reason for the failure is a good faith inability of the LANDOWNER to carry out the terms of the MANAGEMENT PLAN for reasons beyond the LANDOWNER's reasonable control, including without limitation economic hardship as described in Attachment S5, Section 2.5 above, the STATE and the LANDOWNER shall specifically consider the need to amend the approved MANAGEMENT PLAN, including extending the time to carry out the work called for in the approved MANAGEMENT PLAN and/or revising the budget established in the approved MANAGEMENT PLAN, subject to the provisions of Attachment S1, Section 1.5 and Attachment S5, Section 2 of this AGREEMENT regarding amendments to this AGREEMENT and the approved MANAGEMENT PLAN. Following the date of the notice, the STATE shall be obligated to inspect the "Forest Stewardship project area" once each quarter after notifying the LANDOWNER, to determine the updated status of the perceived default.

- (B) Following the expiration of the one year period following notice of default given by the STATE to the LANDOWNER and failure of the LANDOWNER to remedy the default, or to make significant progress to remedy the default if by its nature the default cannot reasonably be remedied within one year, the STATE may elect to notify the LANDOWNER of its intention to terminate this AGREEMENT for default. Such notice shall be in writing, shall state that the STATE will terminate the AGREEMENT for default on a date not less than 3 months thereafter if the LANDOWNER



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does not remedy the default, or to make significant progress to remedy the default if by its nature the default cannot reasonably be remedied within 3 months, and shall specify that penalties as provided under this AGREEMENT shall apply.

- (C) If the LANDOWNER fails to remedy the default within 3 months thereafter, or to make significant progress to remedy the default if by its nature the default cannot reasonably be remedied within 3 months, the STATE may terminate this AGREEMENT effective immediately for default by written notice thereof to the LANDOWNER.
 - (D) The STATE shall be deemed to have complied with these provisions if it attempts in good faith to meet with the LANDOWNER and to inspect the “Forest Stewardship project area” as provided above, whether or not the LANDOWNER cooperates in such procedures.
- (3) All disputes regarding default and termination under this AGREEMENT, which cannot be resolved by the parties, shall be referred to arbitration as provided in the General Conditions, Section 11.
 - (4) If the LANDOWNER has not fully performed its work under this AGREEMENT on expiration or termination of this AGREEMENT, the STATE may withhold the final payment to the LANDOWNER pending full completion of the LANDOWNER's work. This withheld payment shall be paid by the STATE to the LANDOWNER on final acceptance and tax clearance as provided in Attachment S2, Section 1.2 (b) and the General Conditions, Section 17.



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4.2 PENALTY PAYBACK -

(a) Payback and Penalties. In the event that the LANDOWNER defaults on this AGREEMENT as provided in Attachment S5, Section 4.1(d) above and the STATE has followed the Lack of Performance Notification procedures as outlined in Attachment S5, Section 4.1(d)(2) above, the LANDOWNER shall promptly pay to the STATE the following payback and penalty monies:

(1) Refund of State Funds - 3 Years. All funds paid from the initial date of this AGREEMENT by the STATE to the LANDOWNER in the previous 3 years (or such portion thereof as STATE shall have funded if this AGREEMENT shall have been in effect for less than 3 years) shall be returned to the STATE. In the event that this AGREEMENT shall have been in effect for more than 3 years, the LANDOWNER shall be liable to pay back State funds for the immediately preceding 3 years. In addition, the LANDOWNER shall pay to the STATE a penalty of two percent of the total of funds that are returned to the STATE.

(b) No Other Party Liable. Only the LANDOWNER receiving State funding under the FOREST STEWARDSHIP PROGRAM shall be liable to the STATE under this AGREEMENT for the payback and penalty.

(c) Disputes. The LANDOWNER shall have the right to submit any disputes to the arbitration procedure as outlined in the General Conditions, Section 11 if it feels that the imposition of payback, and/or additional penalties is unwarranted.

4.3 VIOLATIONS OF AGREEMENT - It is expressly understood and agreed that violations which are not caused by the LANDOWNER shall not constitute or give rise to a default by the LANDOWNER under this AGREEMENT and no penalty provisions shall apply to the LANDOWNER.



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4.4 EFFECT OF EMINENT DOMAIN -

- (a) Full Condemnation. If any action in eminent domain for the condemnation of the fee title of the entire “Forest Stewardship project area” described herein is filed, or if the “Forest Stewardship project area” is acquired in lieu of eminent domain for a public improvement by a public agency or person or whenever there is any such action or acquisition by the federal government or the state government or any person, instrumentality or agency acting under authority or power of the federal government or the state government, this AGREEMENT shall be deemed null and void without penalty as to the land actually being condemned or so acquired as of the date the action is filed, and upon the termination of such a proceeding, this AGREEMENT shall be null and void without penalty for all land actually taken or acquired.
- (b) Partial Condemnation. When such an action to condemn or acquire less than all the entire “Forest Stewardship project area” is filed, this AGREEMENT shall be deemed null and void without penalty as to the portion so condemned or acquired.
- (c) Adjustment of approved MANAGEMENT PLAN. The land actually taken by the means set forth above in this Section shall be removed from this AGREEMENT and the approved MANAGEMENT PLAN and budget adjusted accordingly on a reasonable basis by the STATE and the LANDOWNER.

SECTION 5 - INCORPORATION OF CHAPTER 195F, HAWAII REVISED STATUTES

- 5.1 Incorporation. The provisions of chapter 195F, Hawaii Revised Statutes, as amended, are incorporated by reference into this AGREEMENT. In the event that there is any conflict between the provisions of this AGREEMENT and the provisions of chapter 195F, Hawaii Revised Statutes, the latter shall be controlling.



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- 5.2 Renumbering. In the event that chapter 195F, or any of the sections under chapter 195F, Hawaii Revised Statutes, are renumbered, any references to the chapter or sections in this AGREEMENT shall be deemed renumbered accordingly.

EXHIBIT A

 Forest Stewardship Management Plan.

GENERAL CONDITIONS

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1. Coordination of Services by the STATE. The head of the purchasing agency ("HOPA") (which term includes the designee of the HOPA) shall coordinate the services to be provided by the CONTRACTOR in order to complete the performance required in the Contract. The CONTRACTOR shall maintain communications with HOPA at all stages of the CONTRACTOR'S work, and submit to HOPA for resolution any questions which may arise as to the performance of this Contract. "Purchasing agency" as used in these General Conditions means and includes any governmental body which is authorized under chapter 103D, HRS, or its implementing rules and procedures, or by way of delegation, to enter into contracts for the procurement of goods or services or both.
2. Relationship of Parties: Independent Contractor Status and Responsibilities, Including Tax Responsibilities.
 - a. In the performance of services required under this Contract, the CONTRACTOR is an "independent contractor," with the authority and responsibility to control and direct the performance and details of the work and services required under this Contract; however, the STATE shall have a general right to inspect work in progress to determine whether, in the STATE'S opinion, the services are being performed by the CONTRACTOR in compliance with this Contract. Unless otherwise provided by special condition, it is understood that the STATE does not agree to use the CONTRACTOR exclusively, and that the CONTRACTOR is free to contract to provide services to other individuals or entities while under contract with the STATE.
 - b. The CONTRACTOR and the CONTRACTOR'S employees and agents are not by reason of this Contract, agents or employees of the State for any purpose, and the CONTRACTOR and the CONTRACTOR'S employees and agents shall not be entitled to claim or receive from the State any vacation, sick leave, retirement, workers' compensation, unemployment insurance, or other benefits provided to state employees.
 - c. The CONTRACTOR shall be responsible for the accuracy, completeness, and adequacy of the CONTRACTOR'S performance under this Contract. Furthermore, the CONTRACTOR intentionally, voluntarily, and knowingly assumes the sole and entire liability to the CONTRACTOR'S employees and agents, and to any individual not a party to this Contract, for all loss, damage, or injury caused by the CONTRACTOR, or the CONTRACTOR'S employees or agents in the course of their employment.
 - d. The CONTRACTOR shall be responsible for payment of all applicable federal, state, and county taxes and fees which may become due and owing by the CONTRACTOR by reason of this Contract, including but not limited to (i) income taxes, (ii) employment related fees, assessments, and taxes, and (iii) general excise taxes. The CONTRACTOR also is responsible for obtaining all licenses, permits, and certificates that may be required in order to perform this Contract.
 - e. The CONTRACTOR shall obtain a general excise tax license from the Department of Taxation, State of Hawaii, in accordance with section 237-9, HRS, and shall comply with all requirements thereof. The CONTRACTOR shall obtain a tax clearance certificate from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of the Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR have been paid and submit the same to the STATE prior to commencing any performance under this Contract. The CONTRACTOR shall also be solely responsible for meeting all requirements necessary to obtain the tax clearance certificate required for final payment under sections 103-53 and 103D-328, HRS, and paragraph 17 of these General Conditions.
 - f. The CONTRACTOR is responsible for securing all employee-related insurance coverage for the CONTRACTOR and the CONTRACTOR'S employees and agents that is or may be required by law, and for payment of all premiums, costs, and other liabilities associated with securing the insurance coverage.

- g. The CONTRACTOR shall obtain a certificate of compliance issued by the Department of Labor and Industrial Relations, State of Hawaii, in accordance with section 103D-310, HRS, and section 3-122-112, HAR, that is current within six months of the date of issuance.
- h. The CONTRACTOR shall obtain a certificate of good standing issued by the Department of Commerce and Consumer Affairs, State of Hawaii, in accordance with section 103D-310, HRS, and section 3-122-112, HAR, that is current within six months of the date of issuance.
- i. In lieu of the above certificates from the Department of Taxation, Labor and Industrial Relations, and Commerce and Consumer Affairs, the CONTRACTOR may submit proof of compliance through the State Procurement Office's designated certification process.

3. Personnel Requirements.

- a. The CONTRACTOR shall secure, at the CONTRACTOR'S own expense, all personnel required to perform this Contract.
- b. The CONTRACTOR shall ensure that the CONTRACTOR'S employees or agents are experienced and fully qualified to engage in the activities and perform the services required under this Contract, and that all applicable licensing and operating requirements imposed or required under federal, state, or county law, and all applicable accreditation and other standards of quality generally accepted in the field of the activities of such employees and agents are complied with and satisfied.

4. Nondiscrimination. No person performing work under this Contract, including any subcontractor, employee, or agent of the CONTRACTOR, shall engage in any discrimination that is prohibited by any applicable federal, state, or county law.

5. Conflicts of Interest. The CONTRACTOR represents that neither the CONTRACTOR, nor any employee or agent of the CONTRACTOR, presently has any interest, and promises that no such interest, direct or indirect, shall be acquired, that would or might conflict in any manner or degree with the CONTRACTOR'S performance under this Contract.

6. Subcontracts and Assignments. The CONTRACTOR shall not assign or subcontract any of the CONTRACTOR'S duties, obligations, or interests under this Contract and no such assignment or subcontract shall be effective unless (i) the CONTRACTOR obtains the prior written consent of the STATE, and (ii) the CONTRACTOR'S assignee or subcontractor submits to the STATE a tax clearance certificate from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR'S assignee or subcontractor have been paid. Additionally, no assignment by the CONTRACTOR of the CONTRACTOR'S right to compensation under this Contract shall be effective unless and until the assignment is approved by the Comptroller of the State of Hawaii, as provided in section 40-58, HRS.

- a. Recognition of a successor in interest. When in the best interest of the State, a successor in interest may be recognized in an assignment contract in which the STATE, the CONTRACTOR and the assignee or transferee (hereinafter referred to as the "Assignee") agree that:

- (1) The Assignee assumes all of the CONTRACTOR'S obligations;
- (2) The CONTRACTOR remains liable for all obligations under this Contract but waives all rights under this Contract as against the STATE; and
- (3) The CONTRACTOR shall continue to furnish, and the Assignee shall also furnish, all required bonds.

- b. Change of name. When the CONTRACTOR asks to change the name in which it holds this Contract with the STATE, the procurement officer of the purchasing agency (hereinafter referred to as the "Agency procurement officer") shall, upon receipt of a document acceptable or satisfactory to the

Agency procurement officer indicating such change of name (for example, an amendment to the CONTRACTOR'S articles of incorporation), enter into an amendment to this Contract with the CONTRACTOR to effect such a change of name. The amendment to this Contract changing the CONTRACTOR'S name shall specifically indicate that no other terms and conditions of this Contract are thereby changed.

- c. Reports. All assignment contracts and amendments to this Contract effecting changes of the CONTRACTOR'S name or novations hereunder shall be reported to the chief procurement officer (CPO) as defined in section 103D-203(a), HRS, within thirty days of the date that the assignment contract or amendment becomes effective.
 - d. Actions affecting more than one purchasing agency. Notwithstanding the provisions of subparagraphs 6a through 6c herein, when the CONTRACTOR holds contracts with more than one purchasing agency of the State, the assignment contracts and the novation and change of name amendments herein authorized shall be processed only through the CPO's office.
- 7. Indemnification and Defense. The CONTRACTOR shall defend, indemnify, and hold harmless the State of Hawaii, the contracting agency, and their officers, employees, and agents from and against all liability, loss, damage, cost, and expense, including all attorneys' fees, and all claims, suits, and demands therefore, arising out of or resulting from the acts or omissions of the CONTRACTOR or the CONTRACTOR'S employees, officers, agents, or subcontractors under this Contract. The provisions of this paragraph shall remain in full force and effect notwithstanding the expiration or early termination of this Contract.
 - 8. Cost of Litigation. In case the STATE shall, without any fault on its part, be made a party to any litigation commenced by or against the CONTRACTOR in connection with this Contract, the CONTRACTOR shall pay all costs and expenses incurred by or imposed on the STATE, including attorneys' fees.
 - 9. Liquidated Damages. When the CONTRACTOR is given notice of delay or nonperformance as specified in paragraph 13 (Termination for Default) and fails to cure in the time specified, it is agreed the CONTRACTOR shall pay to the STATE the amount, if any, set forth in this Contract per calendar day from the date set for cure until either (i) the STATE reasonably obtains similar goods or services, or both, if the CONTRACTOR is terminated for default, or (ii) until the CONTRACTOR provides the goods or services, or both, if the CONTRACTOR is not terminated for default. To the extent that the CONTRACTOR'S delay or nonperformance is excused under paragraph 13d (Excuse for Nonperformance or Delay Performance), liquidated damages shall not be assessable against the CONTRACTOR. The CONTRACTOR remains liable for damages caused other than by delay.
 - 10. STATE'S Right of Offset. The STATE may offset against any monies or other obligations the STATE owes to the CONTRACTOR under this Contract, any amounts owed to the State of Hawaii by the CONTRACTOR under this Contract or any other contracts, or pursuant to any law or other obligation owed to the State of Hawaii by the CONTRACTOR, including, without limitation, the payment of any taxes or levies of any kind or nature. The STATE will notify the CONTRACTOR in writing of any offset and the nature of such offset. For purposes of this paragraph, amounts owed to the State of Hawaii shall not include debts or obligations which have been liquidated, agreed to by the CONTRACTOR, and are covered by an installment payment or other settlement plan approved by the State of Hawaii, provided, however, that the CONTRACTOR shall be entitled to such exclusion only to the extent that the CONTRACTOR is current with, and not delinquent on, any payments or obligations owed to the State of Hawaii under such payment or other settlement plan.
 - 11. Disputes. Disputes shall be resolved in accordance with section 103D-703, HRS, and chapter 3-126, Hawaii Administrative Rules ("HAR"), as the same may be amended from time to time.
 - 12. Suspension of Contract. The STATE reserves the right at any time and for any reason to suspend this Contract for any reasonable period, upon written notice to the CONTRACTOR in accordance with the provisions herein.
 - a. Order to stop performance. The Agency procurement officer may, by written order to the CONTRACTOR, at any time, and without notice to any surety, require the CONTRACTOR to stop all or any part of the performance called for by this Contract. This order shall be for a specified

period not exceeding sixty (60) days after the order is delivered to the CONTRACTOR, unless the parties agree to any further period. Any such order shall be identified specifically as a stop performance order issued pursuant to this section. Stop performance orders shall include, as appropriate: (1) A clear description of the work to be suspended; (2) Instructions as to the issuance of further orders by the CONTRACTOR for material or services; (3) Guidance as to action to be taken on subcontracts; and (4) Other instructions and suggestions to the CONTRACTOR for minimizing costs. Upon receipt of such an order, the CONTRACTOR shall forthwith comply with its terms and suspend all performance under this Contract at the time stated, provided, however, the CONTRACTOR shall take all reasonable steps to minimize the occurrence of costs allocable to the performance covered by the order during the period of performance stoppage. Before the stop performance order expires, or within any further period to which the parties shall have agreed, the Agency procurement officer shall either:

- (1) Cancel the stop performance order; or
 - (2) Terminate the performance covered by such order as provided in the termination for default provision or the termination for convenience provision of this Contract.
- b. Cancellation or expiration of the order. If a stop performance order issued under this section is cancelled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, the CONTRACTOR shall have the right to resume performance. An appropriate adjustment shall be made in the delivery schedule or contract price, or both, and the Contract shall be modified in writing accordingly, if:
- (1) The stop performance order results in an increase in the time required for, or in the CONTRACTOR'S cost properly allocable to, the performance of any part of this Contract; and
 - (2) The CONTRACTOR asserts a claim for such an adjustment within thirty (30) days after the end of the period of performance stoppage; provided that, if the Agency procurement officer decides that the facts justify such action, any such claim asserted may be received and acted upon at any time prior to final payment under this Contract.
- c. Termination of stopped performance. If a stop performance order is not cancelled and the performance covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop performance order shall be allowable by adjustment or otherwise.
- d. Adjustment of price. Any adjustment in contract price made pursuant to this paragraph shall be determined in accordance with the price adjustment provision of this Contract.

13. Termination for Default.

- a. Default. If the CONTRACTOR refuses or fails to perform any of the provisions of this Contract with such diligence as will ensure its completion within the time specified in this Contract, or any extension thereof, otherwise fails to timely satisfy the Contract provisions, or commits any other substantial breach of this Contract, the Agency procurement officer may notify the CONTRACTOR in writing of the delay or non-performance and if not cured in ten (10) days or any longer time specified in writing by the Agency procurement officer, such officer may terminate the CONTRACTOR'S right to proceed with the Contract or such part of the Contract as to which there has been delay or a failure to properly perform. In the event of termination in whole or in part, the Agency procurement officer may procure similar goods or services in a manner and upon the terms deemed appropriate by the Agency procurement officer. The CONTRACTOR shall continue performance of the Contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services.
- b. CONTRACTOR'S duties. Notwithstanding termination of the Contract and subject to any directions from the Agency procurement officer, the CONTRACTOR shall take timely, reasonable, and

necessary action to protect and preserve property in the possession of the CONTRACTOR in which the STATE has an interest.

- c. Compensation. Payment for completed goods and services delivered and accepted by the STATE shall be at the price set forth in the Contract. Payment for the protection and preservation of property shall be in an amount agreed upon by the CONTRACTOR and the Agency procurement officer. If the parties fail to agree, the Agency procurement officer shall set an amount subject to the CONTRACTOR'S rights under chapter 3-126, HAR. The STATE may withhold from amounts due the CONTRACTOR such sums as the Agency procurement officer deems to be necessary to protect the STATE against loss because of outstanding liens or claims and to reimburse the STATE for the excess costs expected to be incurred by the STATE in procuring similar goods and services.
- d. Excuse for nonperformance or delayed performance. The CONTRACTOR shall not be in default by reason of any failure in performance of this Contract in accordance with its terms, including any failure by the CONTRACTOR to make progress in the prosecution of the performance hereunder which endangers such performance, if the CONTRACTOR has notified the Agency procurement officer within fifteen (15) days after the cause of the delay and the failure arises out of causes such as: acts of God; acts of a public enemy; acts of the State and any other governmental body in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. If the failure to perform is caused by the failure of a subcontractor to perform or to make progress, and if such failure arises out of causes similar to those set forth above, the CONTRACTOR shall not be deemed to be in default, unless the goods and services to be furnished by the subcontractor were reasonably obtainable from other sources in sufficient time to permit the CONTRACTOR to meet the requirements of the Contract. Upon request of the CONTRACTOR, the Agency procurement officer shall ascertain the facts and extent of such failure, and, if such officer determines that any failure to perform was occasioned by any one or more of the excusable causes, and that, but for the excusable cause, the CONTRACTOR'S progress and performance would have met the terms of the Contract, the delivery schedule shall be revised accordingly, subject to the rights of the STATE under this Contract. As used in this paragraph, the term "subcontractor" means subcontractor at any tier.
- e. Erroneous termination for default. If, after notice of termination of the CONTRACTOR'S right to proceed under this paragraph, it is determined for any reason that the CONTRACTOR was not in default under this paragraph, or that the delay was excusable under the provisions of subparagraph 13d, "Excuse for nonperformance or delayed performance," the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to paragraph 14.
- f. Additional rights and remedies. The rights and remedies provided in this paragraph are in addition to any other rights and remedies provided by law or under this Contract.

14. Termination for Convenience.

- a. Termination. The Agency procurement officer may, when the interests of the STATE so require, terminate this Contract in whole or in part, for the convenience of the STATE. The Agency procurement officer shall give written notice of the termination to the CONTRACTOR specifying the part of the Contract terminated and when termination becomes effective.
- b. CONTRACTOR'S obligations. The CONTRACTOR shall incur no further obligations in connection with the terminated performance and on the date(s) set in the notice of termination the CONTRACTOR will stop performance to the extent specified. The CONTRACTOR shall also terminate outstanding orders and subcontracts as they relate to the terminated performance. The CONTRACTOR shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated performance subject to the STATE'S approval. The Agency procurement officer may direct the CONTRACTOR to assign the CONTRACTOR'S right, title, and interest under terminated orders or subcontracts to the STATE. The CONTRACTOR must still complete the performance not terminated by the notice of termination and may incur obligations as necessary to do so.

- c. Right to goods and work product. The Agency procurement officer may require the CONTRACTOR to transfer title and deliver to the STATE in the manner and to the extent directed by the Agency procurement officer:

- (1) Any completed goods or work product; and
- (2) The partially completed goods and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "manufacturing material") as the CONTRACTOR has specifically produced or specially acquired for the performance of the terminated part of this Contract.

The CONTRACTOR shall, upon direction of the Agency procurement officer, protect and preserve property in the possession of the CONTRACTOR in which the STATE has an interest. If the Agency procurement officer does not exercise this right, the CONTRACTOR shall use best efforts to sell such goods and manufacturing materials. Use of this paragraph in no way implies that the STATE has breached the Contract by exercise of the termination for convenience provision.

- d. Compensation.

- (1) The CONTRACTOR shall submit a termination claim specifying the amounts due because of the termination for convenience together with the cost or pricing data, submitted to the extent required by chapter 3-122, HAR, bearing on such claim. If the CONTRACTOR fails to file a termination claim within one year from the effective date of termination, the Agency procurement officer may pay the CONTRACTOR, if at all, an amount set in accordance with subparagraph 14d(3) below.
- (2) The Agency procurement officer and the CONTRACTOR may agree to a settlement provided the CONTRACTOR has filed a termination claim supported by cost or pricing data submitted as required and that the settlement does not exceed the total Contract price plus settlement costs reduced by payments previously made by the STATE, the proceeds of any sales of goods and manufacturing materials under subparagraph 14c, and the Contract price of the performance not terminated.
- (3) Absent complete agreement under subparagraph 14d(2) the Agency procurement officer shall pay the CONTRACTOR the following amounts, provided payments agreed to under subparagraph 14d(2) shall not duplicate payments under this subparagraph for the following:
 - (A) Contract prices for goods or services accepted under the Contract;
 - (B) Costs incurred in preparing to perform and performing the terminated portion of the performance plus a fair and reasonable profit on such portion of the performance, such profit shall not include anticipatory profit or consequential damages, less amounts paid or to be paid for accepted goods or services; provided, however, that if it appears that the CONTRACTOR would have sustained a loss if the entire Contract would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss;
 - (C) Costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to subparagraph 14b. These costs must not include costs paid in accordance with subparagraph 14d(3)(B);
 - (D) The reasonable settlement costs of the CONTRACTOR, including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the Contract and for the termination of subcontracts thereunder, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of property allocable to the terminated portion of this Contract. The total sum to be paid the CONTRACTOR under this subparagraph shall not exceed the

total Contract price plus the reasonable settlement costs of the CONTRACTOR reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under subparagraph 14d(2), and the contract price of performance not terminated.

- (4) Costs claimed, agreed to, or established under subparagraphs 14d(2) and 14d(3) shall be in accordance with Chapter 3-123 (Cost Principles) of the Procurement Rules.

15. Claims Based on the Agency Procurement Officer's Actions or Omissions.

- a. Changes in scope. If any action or omission on the part of the Agency procurement officer (which term includes the designee of such officer for purposes of this paragraph 15) requiring performance changes within the scope of the Contract constitutes the basis for a claim by the CONTRACTOR for additional compensation, damages, or an extension of time for completion, the CONTRACTOR shall continue with performance of the Contract in compliance with the directions or orders of such officials, but by so doing, the CONTRACTOR shall not be deemed to have prejudiced any claim for additional compensation, damages, or an extension of time for completion; provided:

- (1) Written notice required. The CONTRACTOR shall give written notice to the Agency procurement officer:
- (A) Prior to the commencement of the performance involved, if at that time the CONTRACTOR knows of the occurrence of such action or omission;
 - (B) Within thirty (30) days after the CONTRACTOR knows of the occurrence of such action or omission, if the CONTRACTOR did not have such knowledge prior to the commencement of the performance; or
 - (C) Within such further time as may be allowed by the Agency procurement officer in writing.
- (2) Notice content. This notice shall state that the CONTRACTOR regards the act or omission as a reason which may entitle the CONTRACTOR to additional compensation, damages, or an extension of time. The Agency procurement officer, upon receipt of such notice, may rescind such action, remedy such omission, or take such other steps as may be deemed advisable in the discretion of the Agency procurement officer;
- (3) Basis must be explained. The notice required by subparagraph 15a(1) describes as clearly as practicable at the time the reasons why the CONTRACTOR believes that additional compensation, damages, or an extension of time may be remedies to which the CONTRACTOR is entitled; and
- (4) Claim must be justified. The CONTRACTOR must maintain and, upon request, make available to the Agency procurement officer within a reasonable time, detailed records to the extent practicable, and other documentation and evidence satisfactory to the STATE, justifying the claimed additional costs or an extension of time in connection with such changes.

- b. CONTRACTOR not excused. Nothing herein contained, however, shall excuse the CONTRACTOR from compliance with any rules or laws precluding any state officers and CONTRACTOR from acting in collusion or bad faith in issuing or performing change orders which are clearly not within the scope of the Contract.

- c. Price adjustment. Any adjustment in the price made pursuant to this paragraph shall be determined in accordance with the price adjustment provision of this Contract.

16. Costs and Expenses. Any reimbursement due the CONTRACTOR for per diem and transportation expenses under this Contract shall be subject to chapter 3-123 (Cost Principles), HAR, and the following guidelines:

- a. Reimbursement for air transportation shall be for actual cost or coach class air fare, whichever is less.
- b. Reimbursement for ground transportation costs shall not exceed the actual cost of renting an intermediate-sized vehicle.
- c. Unless prior written approval of the HOPA is obtained, reimbursement for subsistence allowance (i.e., hotel and meals, etc.) shall not exceed the applicable daily authorized rates for inter-island or out-of-state travel that are set forth in the current Governor's Executive Order authorizing adjustments in salaries and benefits for state officers and employees in the executive branch who are excluded from collective bargaining coverage.

17. Payment Procedures; Final Payment; Tax Clearance.

- a. Original invoices required. All payments under this Contract shall be made only upon submission by the CONTRACTOR of original invoices specifying the amount due and certifying that services requested under the Contract have been performed by the CONTRACTOR according to the Contract.
- b. Subject to available funds. Such payments are subject to availability of funds and allotment by the Director of Finance in accordance with chapter 37, HRS. Further, all payments shall be made in accordance with and subject to chapter 40, HRS.
- c. Prompt payment.
 - (1) Any money, other than retainage, paid to the CONTRACTOR shall be disbursed to subcontractors within ten (10) days after receipt of the money in accordance with the terms of the subcontract; provided that the subcontractor has met all the terms and conditions of the subcontract and there are no bona fide disputes; and
 - (2) Upon final payment to the CONTRACTOR, full payment to the subcontractor, including retainage, shall be made within ten (10) days after receipt of the money; provided that there are no bona fide disputes over the subcontractor's performance under the subcontract.
- d. Final payment. Final payment under this Contract shall be subject to sections 103-53 and 103D-328, HRS, which require a tax clearance from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR have been paid. Further, in accordance with section 3-122-112, HAR, CONTRACTOR shall provide a certificate affirming that the CONTRACTOR has remained in compliance with all applicable laws as required by this section.

18. Federal Funds. If this Contract is payable in whole or in part from federal funds, CONTRACTOR agrees that, as to the portion of the compensation under this Contract to be payable from federal funds, the CONTRACTOR shall be paid only from such funds received from the federal government, and shall not be paid from any other funds. Failure of the STATE to receive anticipated federal funds shall not be considered a breach by the STATE or an excuse for nonperformance by the CONTRACTOR.

19. Modifications of Contract.

- a. In writing. Any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract permitted by this Contract shall be made by written amendment to this Contract, signed by the CONTRACTOR and the STATE, provided that change orders shall be made in accordance with paragraph 20 herein.
- b. No oral modification. No oral modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract shall be permitted.

- c. Agency procurement officer. By written order, at any time, and without notice to any surety, the Agency procurement officer may unilaterally order of the CONTRACTOR:
 - (A) Changes in the work within the scope of the Contract; and
 - (B) Changes in the time of performance of the Contract that do not alter the scope of the Contract work.
- d. Adjustments of price or time for performance. If any modification increases or decreases the CONTRACTOR'S cost of, or the time required for, performance of any part of the work under this Contract, an adjustment shall be made and this Contract modified in writing accordingly. Any adjustment in contract price made pursuant to this clause shall be determined, where applicable, in accordance with the price adjustment clause of this Contract or as negotiated.
- e. Claim barred after final payment. No claim by the CONTRACTOR for an adjustment hereunder shall be allowed if written modification of the Contract is not made prior to final payment under this Contract.
- f. Claims not barred. In the absence of a written contract modification, nothing in this clause shall be deemed to restrict the CONTRACTOR'S right to pursue a claim under this Contract or for a breach of contract.
- g. CPO approval. If this is a professional services contract awarded pursuant to section 103D-303 or 103D-304, HRS, any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract which increases the amount payable to the CONTRACTOR by at least \$25,000.00 or ten per cent (10%) of the initial contract price, whichever increase is higher, must receive the prior approval of the CPO.
- h. Tax clearance. The STATE may, at its discretion, require the CONTRACTOR to submit to the STATE, prior to the STATE'S approval of any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract, a tax clearance from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR have been paid.
- i. Sole source contracts. Amendments to sole source contracts that would change the original scope of the Contract may only be made with the approval of the CPO. Annual renewal of a sole source contract for services should not be submitted as an amendment.

20. Change Order. The Agency procurement officer may, by a written order signed only by the STATE, at any time, and without notice to any surety, and subject to all appropriate adjustments, make changes within the general scope of this Contract in any one or more of the following:

- (1) Drawings, designs, or specifications, if the goods or services to be furnished are to be specially provided to the STATE in accordance therewith;
 - (2) Method of delivery; or
 - (3) Place of delivery.
- a. Adjustments of price or time for performance. If any change order increases or decreases the CONTRACTOR'S cost of, or the time required for, performance of any part of the work under this Contract, whether or not changed by the order, an adjustment shall be made and the Contract modified in writing accordingly. Any adjustment in the Contract price made pursuant to this provision shall be determined in accordance with the price adjustment provision of this Contract. Failure of the parties to agree to an adjustment shall not excuse the CONTRACTOR from proceeding with the Contract as changed, provided that the Agency procurement officer promptly and duly makes the provisional adjustments in payment or time for performance as may be reasonable. By

proceeding with the work, the CONTRACTOR shall not be deemed to have prejudiced any claim for additional compensation, or any extension of time for completion.

- b. Time period for claim. Within ten (10) days after receipt of a written change order under subparagraph 20a, unless the period is extended by the Agency procurement officer in writing, the CONTRACTOR shall respond with a claim for an adjustment. The requirement for a timely written response by CONTRACTOR cannot be waived and shall be a condition precedent to the assertion of a claim.
- c. Claim barred after final payment. No claim by the CONTRACTOR for an adjustment hereunder shall be allowed if a written response is not given prior to final payment under this Contract.
- d. Other claims not barred. In the absence of a change order, nothing in this paragraph 20 shall be deemed to restrict the CONTRACTOR'S right to pursue a claim under the Contract or for breach of contract.

21. Price Adjustment.

- a. Price adjustment. Any adjustment in the contract price pursuant to a provision in this Contract shall be made in one or more of the following ways:
 - (1) By agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;
 - (2) By unit prices specified in the Contract or subsequently agreed upon;
 - (3) By the costs attributable to the event or situation covered by the provision, plus appropriate profit or fee, all as specified in the Contract or subsequently agreed upon;
 - (4) In such other manner as the parties may mutually agree; or
 - (5) In the absence of agreement between the parties, by a unilateral determination by the Agency procurement officer of the costs attributable to the event or situation covered by the provision, plus appropriate profit or fee, all as computed by the Agency procurement officer in accordance with generally accepted accounting principles and applicable sections of chapters 3-123 and 3-126, HAR.
- b. Submission of cost or pricing data. The CONTRACTOR shall provide cost or pricing data for any price adjustments subject to the provisions of chapter 3-122, HAR.

22. Variation in Quantity for Definite Quantity Contracts. Upon the agreement of the STATE and the CONTRACTOR, the quantity of goods or services, or both, if a definite quantity is specified in this Contract, may be increased by a maximum of ten per cent (10%); provided the unit prices will remain the same except for any price adjustments otherwise applicable; and the Agency procurement officer makes a written determination that such an increase will either be more economical than awarding another contract or that it would not be practical to award another contract.

23. Changes in Cost-Reimbursement Contract. If this Contract is a cost-reimbursement contract, the following provisions shall apply:

- a. The Agency procurement officer may at any time by written order, and without notice to the sureties, if any, make changes within the general scope of the Contract in any one or more of the following:
 - (1) Description of performance (Attachment 1);
 - (2) Time of performance (i.e., hours of the day, days of the week, etc.);
 - (3) Place of performance of services;

- (4) Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for the STATE in accordance with the drawings, designs, or specifications;
 - (5) Method of shipment or packing of supplies; or
 - (6) Place of delivery.
- b. If any change causes an increase or decrease in the estimated cost of, or the time required for performance of, any part of the performance under this Contract, whether or not changed by the order, or otherwise affects any other terms and conditions of this Contract, the Agency procurement officer shall make an equitable adjustment in the (1) estimated cost, delivery or completion schedule, or both; (2) amount of any fixed fee; and (3) other affected terms and shall modify the Contract accordingly.
 - c. The CONTRACTOR must assert the CONTRACTOR'S rights to an adjustment under this provision within thirty (30) days from the day of receipt of the written order. However, if the Agency procurement officer decides that the facts justify it, the Agency procurement officer may receive and act upon a proposal submitted before final payment under the Contract.
 - d. Failure to agree to any adjustment shall be a dispute under paragraph 11 of this Contract. However, nothing in this provision shall excuse the CONTRACTOR from proceeding with the Contract as changed.
 - e. Notwithstanding the terms and conditions of subparagraphs 23a and 23b, the estimated cost of this Contract and, if this Contract is incrementally funded, the funds allotted for the performance of this Contract, shall not be increased or considered to be increased except by specific written modification of the Contract indicating the new contract estimated cost and, if this contract is incrementally funded, the new amount allotted to the contract.
24. Confidentiality of Material.
- a. All material given to or made available to the CONTRACTOR by virtue of this Contract, which is identified as proprietary or confidential information, will be safeguarded by the CONTRACTOR and shall not be disclosed to any individual or organization without the prior written approval of the STATE.
 - b. All information, data, or other material provided by the CONTRACTOR to the STATE shall be subject to the Uniform Information Practices Act, chapter 92F, HRS.
25. Publicity. The CONTRACTOR shall not refer to the STATE, or any office, agency, or officer thereof, or any state employee, including the HOPA, the CPO, the Agency procurement officer, or to the services or goods, or both, provided under this Contract, in any of the CONTRACTOR'S brochures, advertisements, or other publicity of the CONTRACTOR. All media contacts with the CONTRACTOR about the subject matter of this Contract shall be referred to the Agency procurement officer.
26. Ownership Rights and Copyright. The STATE shall have complete ownership of all material, both finished and unfinished, which is developed, prepared, assembled, or conceived by the CONTRACTOR pursuant to this Contract, and all such material shall be considered "works made for hire." All such material shall be delivered to the STATE upon expiration or termination of this Contract. The STATE, in its sole discretion, shall have the exclusive right to copyright any product, concept, or material developed, prepared, assembled, or conceived by the CONTRACTOR pursuant to this Contract.
27. Liens and Warranties. Goods provided under this Contract shall be provided free of all liens and provided together with all applicable warranties, or with the warranties described in the Contract documents, whichever are greater.

28. Audit of Books and Records of the CONTRACTOR. The STATE may, at reasonable times and places, audit the books and records of the CONTRACTOR, prospective contractor, subcontractor, or prospective subcontractor which are related to:
- a. The cost or pricing data, and
 - b. A state contract, including subcontracts, other than a firm fixed-price contract.
29. Cost or Pricing Data. Cost or pricing data must be submitted to the Agency procurement officer and timely certified as accurate for contracts over \$100,000 unless the contract is for a multiple-term or as otherwise specified by the Agency procurement officer. Unless otherwise required by the Agency procurement officer, cost or pricing data submission is not required for contracts awarded pursuant to competitive sealed bid procedures.
- If certified cost or pricing data are subsequently found to have been inaccurate, incomplete, or noncurrent as of the date stated in the certificate, the STATE is entitled to an adjustment of the contract price, including profit or fee, to exclude any significant sum by which the price, including profit or fee, was increased because of the defective data. It is presumed that overstated cost or pricing data increased the contract price in the amount of the defect plus related overhead and profit or fee. Therefore, unless there is a clear indication that the defective data was not used or relied upon, the price will be reduced in such amount.
30. Audit of Cost or Pricing Data. When cost or pricing principles are applicable, the STATE may require an audit of cost or pricing data.
31. Records Retention.
- (1) Upon any termination of this Contract or as otherwise required by applicable law, CONTRACTOR shall, pursuant to chapter 487R, HRS, destroy all copies (paper or electronic form) of personal information received from the STATE.
 - (2) The CONTRACTOR and any subcontractors shall maintain the files, books, and records that relate to the Contract, including any personal information created or received by the CONTRACTOR on behalf of the STATE, and any cost or pricing data, for at least three (3) years after the date of final payment under the Contract. The personal information shall continue to be confidential and shall only be disclosed as permitted or required by law. After the three (3) year, or longer retention period as required by law has ended, the files, books, and records that contain personal information shall be destroyed pursuant to chapter 487R, HRS or returned to the STATE at the request of the STATE.
32. Antitrust Claims. The STATE and the CONTRACTOR recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the purchaser. Therefore, the CONTRACTOR hereby assigns to STATE any and all claims for overcharges as to goods and materials purchased in connection with this Contract, except as to overcharges which result from violations commencing after the price is established under this Contract and which are not passed on to the STATE under an escalation clause.
33. Patented Articles. The CONTRACTOR shall defend, indemnify, and hold harmless the STATE, and its officers, employees, and agents from and against all liability, loss, damage, cost, and expense, including all attorneys fees, and all claims, suits, and demands arising out of or resulting from any claims, demands, or actions by the patent holder for infringement or other improper or unauthorized use of any patented article, patented process, or patented appliance in connection with this Contract. The CONTRACTOR shall be solely responsible for correcting or curing to the satisfaction of the STATE any such infringement or improper or unauthorized use, including, without limitation: (a) furnishing at no cost to the STATE a substitute article, process, or appliance acceptable to the STATE, (b) paying royalties or other required payments to the patent holder, (c) obtaining proper authorizations or releases from the patent holder, and (d) furnishing such security to or making such arrangements with the patent holder as may be necessary to correct or cure any such infringement or improper or unauthorized use.

34. Governing Law. The validity of this Contract and any of its terms or provisions, as well as the rights and duties of the parties to this Contract, shall be governed by the laws of the State of Hawaii. Any action at law or in equity to enforce or interpret the provisions of this Contract shall be brought in a state court of competent jurisdiction in Honolulu, Hawaii.
35. Compliance with Laws. The CONTRACTOR shall comply with all federal, state, and county laws, ordinances, codes, rules, and regulations, as the same may be amended from time to time, that in any way affect the CONTRACTOR'S performance of this Contract.
36. Conflict Between General Conditions and Procurement Rules. In the event of a conflict between the General Conditions and the procurement rules, the procurement rules in effect on the date this Contract became effective shall control and are hereby incorporated by reference.
37. Entire Contract. This Contract sets forth all of the agreements, conditions, understandings, promises, warranties, and representations between the STATE and the CONTRACTOR relative to this Contract. This Contract supersedes all prior agreements, conditions, understandings, promises, warranties, and representations, which shall have no further force or effect. There are no agreements, conditions, understandings, promises, warranties, or representations, oral or written, express or implied, between the STATE and the CONTRACTOR other than as set forth or as referred to herein.
38. Severability. In the event that any provision of this Contract is declared invalid or unenforceable by a court, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining terms of this Contract.
39. Waiver. The failure of the STATE to insist upon the strict compliance with any term, provision, or condition of this Contract shall not constitute or be deemed to constitute a waiver or relinquishment of the STATE'S right to enforce the same in accordance with this Contract. The fact that the STATE specifically refers to one provision of the procurement rules or one section of the Hawaii Revised Statutes, and does not include other provisions or statutory sections in this Contract shall not constitute a waiver or relinquishment of the STATE'S rights or the CONTRACTOR'S obligations under the procurement rules or statutes.
40. Pollution Control. If during the performance of this Contract, the CONTRACTOR encounters a "release" or a "threatened release" of a reportable quantity of a "hazardous substance," "pollutant," or "contaminant" as those terms are defined in section 128D-1, HRS, the CONTRACTOR shall immediately notify the STATE and all other appropriate state, county, or federal agencies as required by law. The Contractor shall take all necessary actions, including stopping work, to avoid causing, contributing to, or making worse a release of a hazardous substance, pollutant, or contaminant, and shall promptly obey any orders the Environmental Protection Agency or the state Department of Health issues in response to the release. In the event there is an ensuing cease-work period, and the STATE determines that this Contract requires an adjustment of the time for performance, the Contract shall be modified in writing accordingly.
41. Campaign Contributions. The CONTRACTOR is hereby notified of the applicability of 11-355, HRS, which states that campaign contributions are prohibited from specified state or county government contractors during the terms of their contracts if the contractors are paid with funds appropriated by a legislative body.
42. Confidentiality of Personal Information.
- a. Definitions.
- "Personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either name or data elements are not encrypted:
- (1) Social security number;
 - (2) Driver's license number or Hawaii identification card number; or

- (3) Account number, credit or debit card number, access code, or password that would permit access to an individual's financial information.

Personal information does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

"Technological safeguards" means the technology and the policy and procedures for use of the technology to protect and control access to personal information.

b. Confidentiality of Material.

- (1) All material given to or made available to the CONTRACTOR by the STATE by virtue of this Contract which is identified as personal information, shall be safeguarded by the CONTRACTOR and shall not be disclosed without the prior written approval of the STATE.
- (2) CONTRACTOR agrees not to retain, use, or disclose personal information for any purpose other than as permitted or required by this Contract.
- (3) CONTRACTOR agrees to implement appropriate "technological safeguards" that are acceptable to the STATE to reduce the risk of unauthorized access to personal information.
- (4) CONTRACTOR shall report to the STATE in a prompt and complete manner any security breaches involving personal information.
- (5) CONTRACTOR agrees to mitigate, to the extent practicable, any harmful effect that is known to CONTRACTOR because of a use or disclosure of personal information by CONTRACTOR in violation of the requirements of this paragraph.
- (6) CONTRACTOR shall complete and retain a log of all disclosures made of personal information received from the STATE, or personal information created or received by CONTRACTOR on behalf of the STATE.

c. Security Awareness Training and Confidentiality Agreements.

- (1) CONTRACTOR certifies that all of its employees who will have access to the personal information have completed training on security awareness topics relating to protecting personal information.
- (2) CONTRACTOR certifies that confidentiality agreements have been signed by all of its employees who will have access to the personal information acknowledging that:
 - (A) The personal information collected, used, or maintained by the CONTRACTOR will be treated as confidential;
 - (B) Access to the personal information will be allowed only as necessary to perform the Contract; and
 - (C) Use of the personal information will be restricted to uses consistent with the services subject to this Contract.

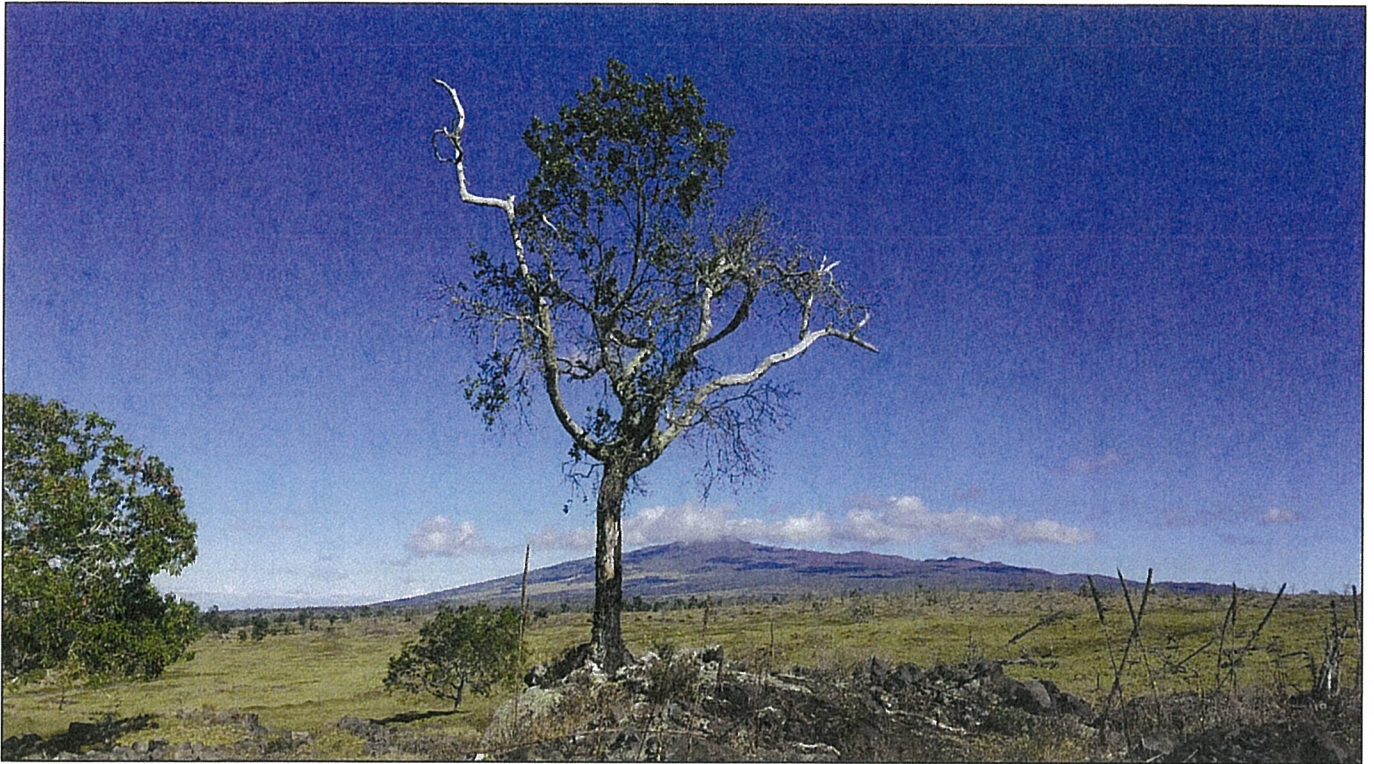
d. Termination for Cause. In addition to any other remedies provided for by this Contract, if the STATE learns of a material breach by CONTRACTOR of this paragraph by CONTRACTOR, the STATE may at its sole discretion:

- (1) Provide an opportunity for the CONTRACTOR to cure the breach or end the violation; or
- (2) Immediately terminate this Contract.

In either instance, the CONTRACTOR and the STATE shall follow chapter 487N, HRS, with respect to notification of a security breach of personal information.

e. Records Retention.

- (1) Upon any termination of this Contract or as otherwise required by applicable law, CONTRACTOR shall, pursuant to chapter 487R, HRS, destroy all copies (paper or electronic form) of personal information received from the STATE.
- (2) The CONTRACTOR and any subcontractors shall maintain the files, books, and records that relate to the Contract, including any personal information created or received by the CONTRACTOR on behalf of the STATE, and any cost or pricing data, for at least three (3) years after the date of final payment under the Contract. The personal information shall continue to be confidential and shall only be disclosed as permitted or required by law. After the three (3) year, or longer retention period as required by law has ended, the files, books, and records that contain personal information shall be destroyed pursuant to chapter 487R, HRS or returned to the STATE at the request of the STATE.



Forest Stewardship Management Plan

Hōkūkano Ranch, Hōkūkano Ahupua'a, North Kona District



PO Box 250
Pa'auilo, HI 96776

Responsible Foresters:

Nick Koch & Willie Rice
nick_koch@forestsolutionsinc.com
willie_rice@forestsolutionsinc.com
Tel +1 808 776 9900
Fax +1 808 776 9901

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1. CLIENT AND PROPERTY INFORMATION

Client

Landowner Name: Triparvata LLC / Nora Beck Judd, Manager

Address: 83-1010 Kamuku Place
Captain Cook, HI 96704

Email: doggle_99@hotmail.com

Phone | Fax: +1 (808) 989-2736

TMK number: (3) 7-9-001:019

State Zoning: Agricultural

County Zoning: Ag-20a

Total property acreage: 85.1 acres

Proposed stewardship area: 60 acres
30 acres restoration, 30 acres reforestation

Elevational range: 4,300 ft – 4,450 ft

Slope: 0% - 15%

Perennial/Intermittent Streams: None

Consultant

Company: Forest Solutions, Inc.

Name: Willie Rice & Nick Koch

Title: Senior Forester

Address: 42-378 Kalapahapu'u Road
P.O. Box 250
Pa'auilo, HI 96776

Email: willie_rice@forestsolutionsinc.com

Phone | Fax: +1 (808) 776-9900 x238 | +1 (808) 776-9901

Plan Completion Date:

2. FSP SIGNATURE PAGE

Professional Resource Consultant Certification:

I have prepared this Forest Stewardship Plan. Resource professionals have been consulted and/or provided input as appropriate during the preparation of this plan.

Prepared by: Forest Solutions, Inc.

Professional Resource Consultant's Signature/Date: Nicholas Koch November 17, 2017

Professional Resource Consultant's Name: Nicholas Koch

Applicant Certification:

I have reviewed this Forest Stewardship Plan and hereby certify that I concur with the recommendations contained within. I agree that resource management activities implemented on the lands described shall be done so in a manner consistent with the practices recommended herein.

Prepared for: Tripavata LLC

Applicant: Nora Beck Judd, Manager

Applicant's Signature/Date: Nora Beck Judd 12/31/2017

Applicant's Name: Nora B. Judd

State Forester's Approval:

This plan meets the criteria established for Forest Stewardship Plans by Hawaii's Forest Stewardship Advisory Committee. The practices recommended in the plan are eligible for funding according to state of Hawai'i Forest Stewardship Program guidelines and administrative rules.

Approved by: [Signature]

State Forester's Signature/ Date: [Signature] 1/16/18

State Forester's Name: _____

Forest Stewardship Advisory Committee

Approved by the Forest Stewardship Committee on September 08, 2017 in Honolulu.

3. Executive Summary

The goal for this Forest Stewardship Management Plan is to restore a native koa-mamane forest in an area that has been devastated by logging, fires and feral ungulates. Through a combination of restoration and reforestation the non-native dominated rangeland will develop into a native plant dominated montane forest and shrubland that will improve bird habitat, increase biodiversity and provide an ecological retreat for visitors. The property is 85.1 acres, of which approximately 30-acres is proposed for reforestation and 30-acres for restoration; however, the long-term goal is to reforest the entire property. The scope of this Forest Stewardship Management Plan spans ten (10) years from date of initial implementation, and would strive to reforest 5-acres of forest per year along the boundaries of the property as well as promote the growth of the existing forest cover through weed control and enrichment planting. This management plan has the following management objectives:

- i. Reforest a native montane dry forest and shrubland with primary species koa, māmane, and ‘iliahi on 30-acres of kikuyu grass dominated rangeland.
- ii. Restore a native montane dry forest and shrubland via protection measure and enrichment plantings on 30-acres of open canopy koa-mamane-naio forest and shrubland on lava substrate.
- iii. Enhance the habitat for the native fauna by re-establishing a high diversity of native plant species.
- iv. Mitigate wildland fire risks.

In the long term, the vision of the applicant is to provide an eco-friendly space for solitary retreat in the midst of a healthy and diverse forest.

4. Introduction

4.1. Project background and objectives

The goal for this Forest Stewardship Management Plan is to preserve, restore and reforest with historic vegetation an area that has mostly been destroyed by logging, fires, and feral ungulates. The open canopy forest areas that still exist on the landscape indicate clearly that a healthy native dominated forest can return and hopefully be a new home to native fauna. To achieve the objectives of removing non-native species and converting the area to a native species dominated landscape, the targeted management practices will include excluding the feral ungulate population, suppressing non-native species to encourage existing native species growth and recruitment, reforesting with native species, and mitigating the wildfire threat. The vision for this property is to provide a respite for themselves and visitors to enjoy a low impact, energy efficient, and ecologically respectful lifestyle and over time restore and expand a native forest.

4.2. Site description

Parcel and location

The Triparvata LLC property, TMK (3) 7-9-001:019, is a rectangular property which encompasses a total of 85.1 acres. It is located in an area known as Hōkūkano on the western slopes of Mauna Loa at 4,400-feet above the town of Kealahou, Hawai'i island (Figure 1). It is entirely within the agricultural district of the State of Hawaii Land Use Districts (SLUD) and Ag-20a of the Hawaii County zoning. These two government zones allow for unimpeded restoration and agricultural activities to occur on the Triparvata LLC property.

The property covers a narrow elevational range of only 150-feet (4,300 – 4,450 feet) and slopes of less than 15%. Although at the property level it is flat and uniform, the most determining feature for restoration will be the pahoehoe lava surface which covers approximately 30% of the area and creates a constantly undulating terrain with many different micro-sites.

Access is via a gated private road which is paved for half the distance and improved gravel the remaining distance to the property. Access to this private road is directly from Mamalahou highway (Hwy 11). This road is regularly maintained and will benefit all restoration operations. The property is also surrounded by an access road which the owner has a right-of-way access to.

The total area proposed for restoration is approximately 60-acres and located within the interior boundary of the entire property (Figure 2).

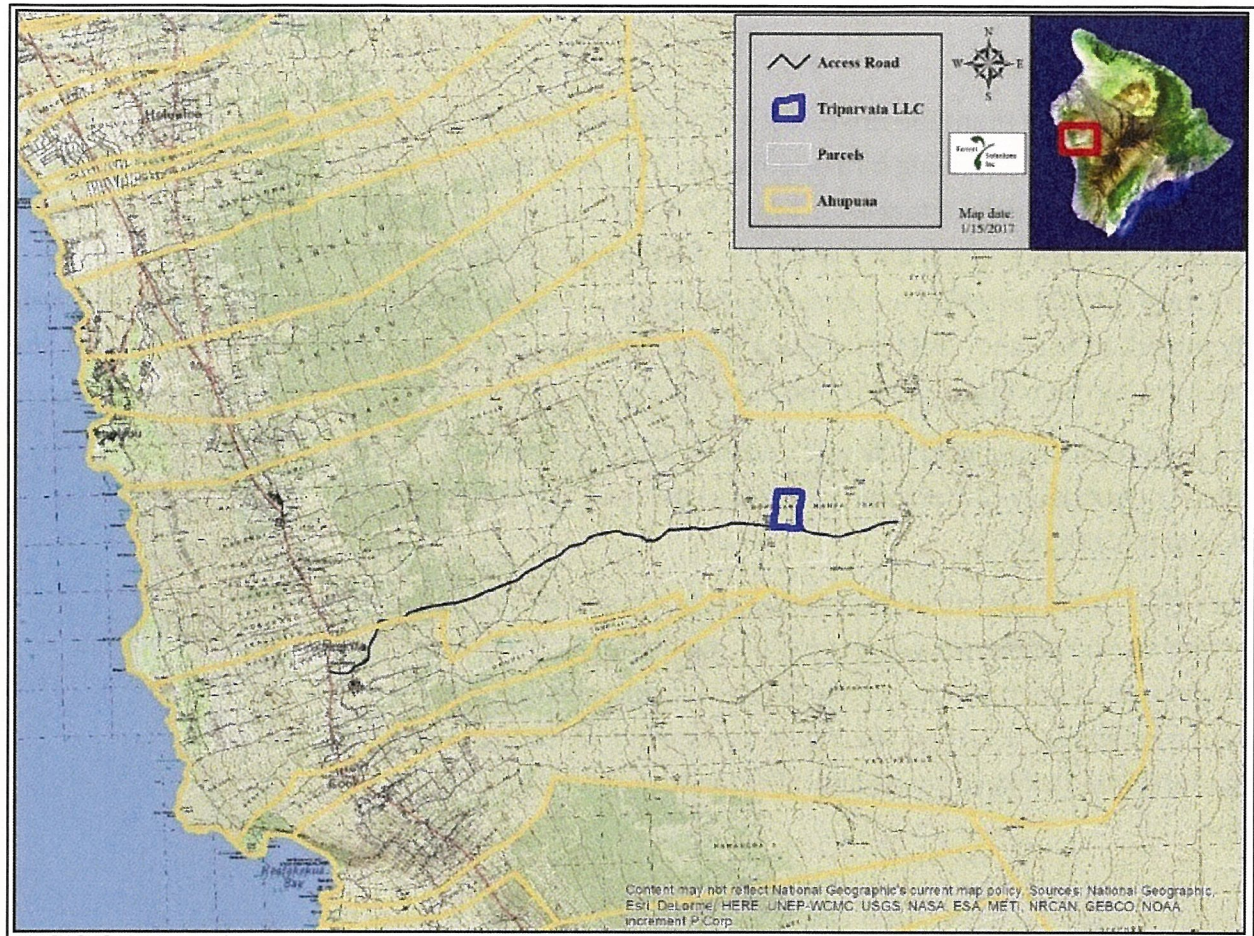


Figure 1. Property locator map.



Figure 2. Aerial imagery view with property extent indicated by the yellow boundary (85-acres).

4.2.1. Site History

4.2.1.1. Land use history

This property is within the montane dry forest and shrubland ecosystems and was composed at one time of a pristine native forest with a thriving bird population. This area was widely known as a popular location for Hawaiian bird catchers to collect feathers. In the mid-19th century commercial interests started to prevail in the area among them being wool, dairy and beef. By the mid-20th century the site, then a part of the Greenwell Estate (11,000 acres), was being converted to pasture for cattle and sheep grazing. This area was most likely subject to koa and 'iliahi harvesting throughout the 20th century as well. Since this time, the property and the surrounding area has been used for pasture.

In 1986 the Greenwell Estate land was sold and named Hōkūkano Ranch by the new owners. The property owner later subdivided the land into ranchettes which included this property.

In December 2007, a fire burned across the property, ignited by a lightning strike. At the time the landcover was principally alien grassland, however there still existed pockets of open canopy native forests in rocky areas and lone, mature trees throughout. Much of the native cover was lost during the fire, converting more area to kikuyu rangeland. The landuse remained the same after the fire.

4.2.1.2. Historical or cultural resources

Although Hōkūkano is a large area with a rich archeological history no cultural resources or historical artifacts are known on this property. During a reconnaissance of the property we found a historic ranching rock wall along the southern boundary. There were also scars from firebreaks and fire scars on logs.

In the unlikely event that objects of historical, cultural, or archaeological importance are discovered during any forest management activities, work near the find will halt and these items will be reported to the State Historic Preservation Division of the Department of Land and Natural Resources (SHPD, dlnr@hawaii.gov, (808) 692-3015).

4.2.1.3. Aesthetic values and infrastructure

The property holds aesthetic and intrinsic values primarily to the owner who purchased the property for this reason. Exceptional views exist throughout the property of Hualālai, Mauna Loa and Mauna Kea and there are some beautiful remnant native trees (Figure 3). It is the owners vision to preserve and enhance these values through restoration and reforestation to a native landscape.

The only infrastructure currently on the property is a gravel driveway which has used surrounding substrate material. No built infrastructure exists; however, a home site is a part of the planned development to serve as the caretakers' cottage (Figure 4). Eventually the owner would like to have up to 5 small, temporary



Figure 3. Fire scarred logs can be found scattered throughout the property.

structures nestled amongst the trees as solitary retreats. This future infrastructure would be designed to have a minimal impact on the landscape, but must include basic amenities.



Figure 4. This photo shows the gravel driveway and the physical nature of the largest existing native species on the property.

4.3. Plant ecosystems and forest health

4.3.1. Current vegetation description

Across the property, the species composition is almost entirely non-native, dominated by invasive alien grasses and herbaceous plants. The dominant plant species is kikuyu grass as seen in Figure 5. The most abundant native species is naio (severely impacted by thrips) and koa which are only located on pahoe-hoe lava outcrops. Please see the species list in Table 1 & Table 2 for a full list of species present.



Figure 5. Photo example of existing vegetation within the kikuyu grass rangeland.

Properties that share a boundary and are privately owned, contain much of the same vegetation which has also been impacted by grazing and fire. A non-native dominated open rangeland characterizes this area best.



Figure 6. Photo example of existing vegetation within the very open koa-mamane forest on pahoe-hoe

Table 1. Present plant species list November, 2015.

Species name	Species	Status	Abundance	HWRA [‡]
Trees				
tropical ash	<i>Fraxinus uhdei</i>	Naturalized	Rare	11
Monterey pine	<i>Pinus radiata</i>	Naturalized	Rare	5
iliahi	<i>Santalum paniculatum</i>	Endemic	Rare	---
koa	<i>Acacia koa</i>	Endemic	Rare	---
mamane	<i>Sophora chrysophylla</i>	Endemic	Rare	---
naio	<i>Myoporum sandwicense</i>	Endemic	Rare	---
ohia	<i>Meterosiderous polymorpha</i>	Endemic	Uncommon	---
Bushes/Shrubs				
Mysore raspberry	<i>Rubus niveus</i>	Naturalized	Uncommon	19
aalii	<i>Dodonaea viscosa</i>	Indigenous	Rare	---
pukiawe	<i>Leptecophylla tameiameia</i>	Indigenous	Rare	---
ulei	<i>Osteomeles anthyllidifolia</i>	Indigenous	Rare	---
Grasses				
kikuyu grass	<i>Cenchrus clandestinus</i>	Naturalized	Very Abundant	#N/A
meadow ricegrass	<i>Ehrharta spicata</i>	Naturalized	Common	#N/A
Natal redtop	<i>Melinis repens</i>	Naturalized	Uncommon	#N/A
rattail grass	<i>Sporobolus indicus</i>	Naturalized	Uncommon	#N/A
yellow foxtail	<i>Setaria parviflora</i>	Naturalized	Uncommon	#N/A
NO NATIVE GRASSES				
Ferns				
downy wood fern	<i>Cyclosorus dentatus</i>	Naturalized	Uncommon	#N/A
maidenhair fern	<i>Adiantum hispidulum</i>	Naturalized	Uncommon	#N/A
NO NATIVE FERNS				
‡ https://sites.google.com/site/weedriskassessment/				

Table 2. Present plant species list November, 2015 continued.

Species name	Species	Status	Abundance	HWRA [‡]
Herbaceous plants and Vines				
balloon plant	<i>Asclepias physocarpa</i>	Naturalized	Common	8
bull thistle	<i>Cirsium vulgare</i>	Naturalized	Common	18.5
chenopodium	<i>Dysphania carinata</i>	Naturalized	Occasional	#N/A
corn speedwell	<i>Veronica arvensis</i>	Naturalized	Occasional	#N/A
dog tail	<i>Buddleja asiatica</i>	Naturalized	Occasional	9
fireweed	<i>Senecio madagascariensis</i>	Naturalized	Very Abundant	23
Geranium, wild	<i>Geranium dissectum</i>	Naturalized	Occasional	#N/A
German ivy	<i>Delairea odorata</i>	Naturalized	Occasional	14
horseweed	<i>Conyza canadensis</i>	Naturalized	Occasional	#N/A
horseweed, hairy	<i>Conyza bonariensis</i>	Naturalized	Occasional	#N/A
hyptis	<i>Hyptis pectinata</i>	Naturalized	Occasional	#N/A
Indian paintbrush	<i>Castilleja arvensis</i>	Naturalized	Occasional	#N/A
mullein	<i>Verbascum thapsus</i>	Naturalized	Common	11
pamakani, Hamakua	<i>Ageratina riparia</i>	Naturalized	Common	#N/A
peppergrass	<i>Lepidium virginicum</i>	Naturalized	Occasional	17
plantain, broad-leaved	<i>Plantago major</i>	Naturalized	Occasional	#N/A
scarlet pimpernel	<i>Anagallis arvensis</i>	Naturalized	Occasional	#N/A
sheep sorrel	<i>Rumex acetocella</i>	Naturalized	Occasional	#N/A
sour bush	<i>Pluchea carolinensis</i>	Naturalized	Occasional	15
Spanish needle	<i>Bidens pilosa</i>	Naturalized	Occasional	23
stinking everlasting	<i>Helichrysum foetidum</i>	Naturalized	Occasional	#N/A
stinkweed	<i>Tagetes minuta</i>	Naturalized	Occasional	20
vervain	<i>Verbena litoralis</i>	Naturalized	Occasional	#N/A
yellow wood sorrel, ihi ai	<i>Oxalis corniculata</i>	Naturalized	Occasional	#N/A
ohelo	<i>Vaccinium reticulatum</i>	Endemic	Rare	---
‡ https://sites.google.com/site/weedriskassessment/				

4.3.2. Historic vegetation description (Montane Dry Forest and Shrubland)

The ecotype in this area is montane dry forest and shrubland. Typical historic species can still be found on the property in low numbers such as 'ōhi'a, koa, māmane, 'iliahi, naio, 'a'ali'i, pūkiawe, 'ohelo and 'ūlei as referenced above.

GAP landcover maps identify two types of forest in this montane zone; koa-mamane forest and sparse 'ōhi'a native shrubland with sparse 'ōhi'a.

A typical montane dry forest is affected by an inversion layer that limits the moisture from occurring at elevations higher than 3,500-ft. Total annual rainfall is defined to be between 11 and 47-inches (mean total annual rainfall is 28-inches on the property). Vegetation characterizing this area should consist of 'ōhi'a, mamane, naio, 'iliahi and koa. Tree canopy is quite diverse and can range in height from 15 – 60-feet and the understory consists of a moderately dense and diverse shrubland which includes ferns, grasses and forbs. The diversity of species increases over time as ash blows into the basalt lava substrate and organic matter is collected¹.

4.3.3. Pathogens, insects and invasive animals

During our site visit the most threatening problems identified were overgrazing from feral ungulates (cattle and sheep) and naio thrips. Both threats will be addressed in this project via fencing to preclude the feral ungulates and naio will not be planted because of its expected poor growth and survival.

Constant watchfulness for these threats should always be sustained as they can rapidly change. Other threats which should also be closely monitored are rapid 'ōhi'a death (ROD) and koa psyllids.

Other problematic mammals known to traverse the property are mongoose (*Herpestes javanicus*), cat (*Felis catus*) and rodents, the later having the most severe impact on the successful natural regeneration of 'iliahi.

4.3.4. Wildfire

The most recent fire on the property was in 2007. Wildfire is and will continue to be the highest threat to restoration and infrastructure on this property due to its location, climate, vegetation composition and historical fire occurrence. Even if the property was to be fully restored across the 85 acres this would lower the fire risk on the property but not in the adjacent lands which the property owner has no control over.

4.3.5. Hydrology

4.3.5.1. Streams and wetlands

The property does not contain any streams or wetlands; however the water infiltration rate is typically very high in the lava lands of the Kona district. However, very heavy, seasonal rains can create overland flow.

4.3.5.2. Rainfall patterns

Mean annual total rainfall in this location is 28 inches per year and ranges from 1.9 to 3 inches per month (Figure 7)². This is a fairly narrow range for rainfall accumulation, which is a concern for vegetation

¹NatureServe. 2009. International Ecological Classification Standard: Terrestrial Ecological Classifications. NatureServe Central Databases. Arlington, VA, U.S.A. Data current as of 06 February 2009.

² Giambelluca, T.W., Q. Chen, A.G. Frazier, J.P. Price, Y.-L. Chen, P.-S. Chu, J.K. Eischeid, and D.M. Delaporte, 2013: Online Rainfall Atlas

establishment during restoration.

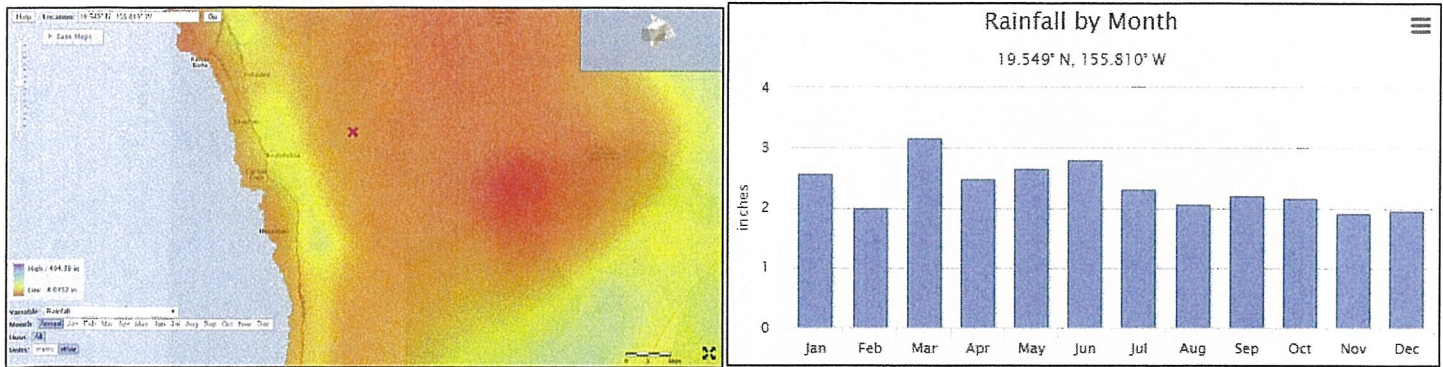


Figure 7. The property is located at the "X" and is within a dry area.

4.3.6. Soils

4.3.6.1. Soil classification

Parent material of all soils found on the property are either organic material or basic volcanic ash fields over pahoehoe lava flows.

65% - Hokukano-Manahaa complex

25% - Kekake gravelly highly decomposed plant material

10% - Lava flows-Kekake complex

These are cobbly and shallow soils where the depth to the first restrictive layer is typically less than 30-inches. They are also well drained soils with a high runoff potential³. Within the first 5-inches organic material or a medial silt loam will be found. The soils have very low water storage capacities.

The soils (where they exist) and climate on the property are not favorable for plant establishment; intensive irrigation is planned to compensate for the climate and soils.

³<http://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>

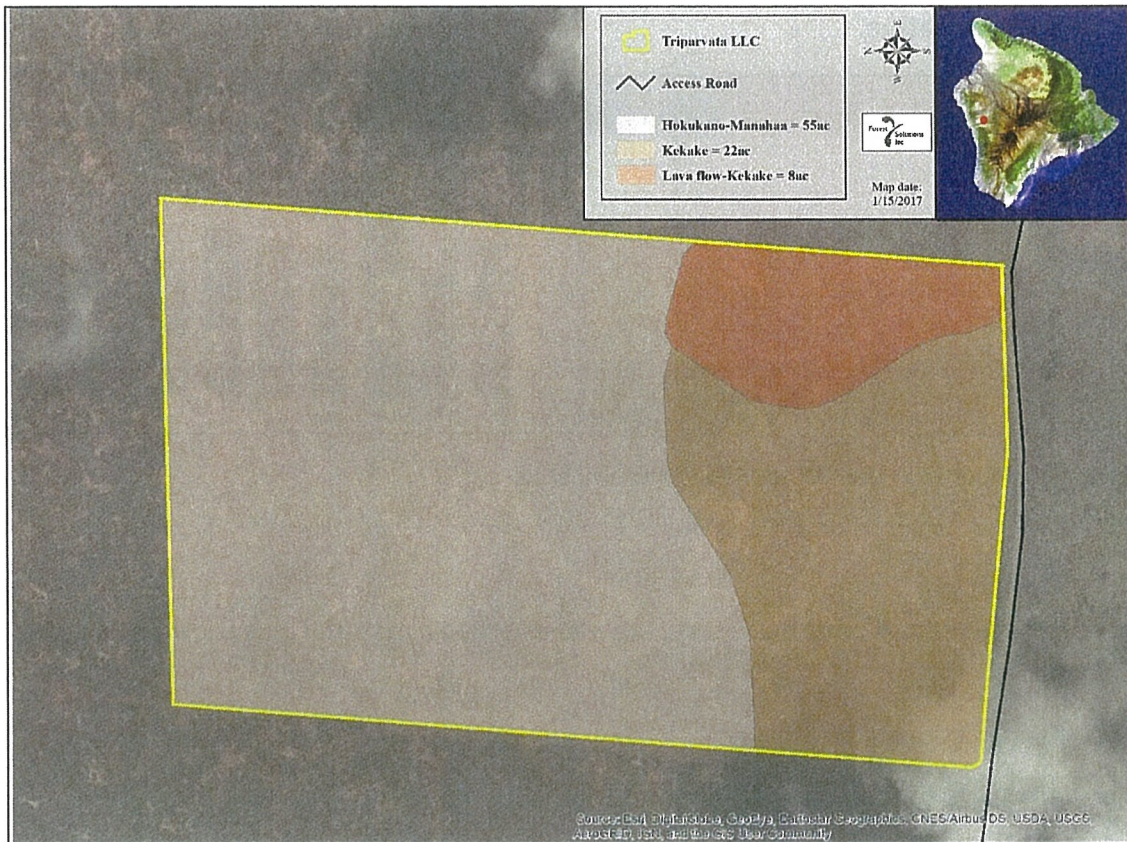


Figure 8. Property soils map.

4.3.7. Threatened and endangered species

Endangered species were not observed on the property during our site survey, nor is the property owner aware of any on site as indicated by previous site visits by professionals. However, there are several vertebrates known to exist throughout the landscape, they include:

‘io – *Buteo solitarius*

‘ōpe‘ape‘a – *Lasiurus semotus*

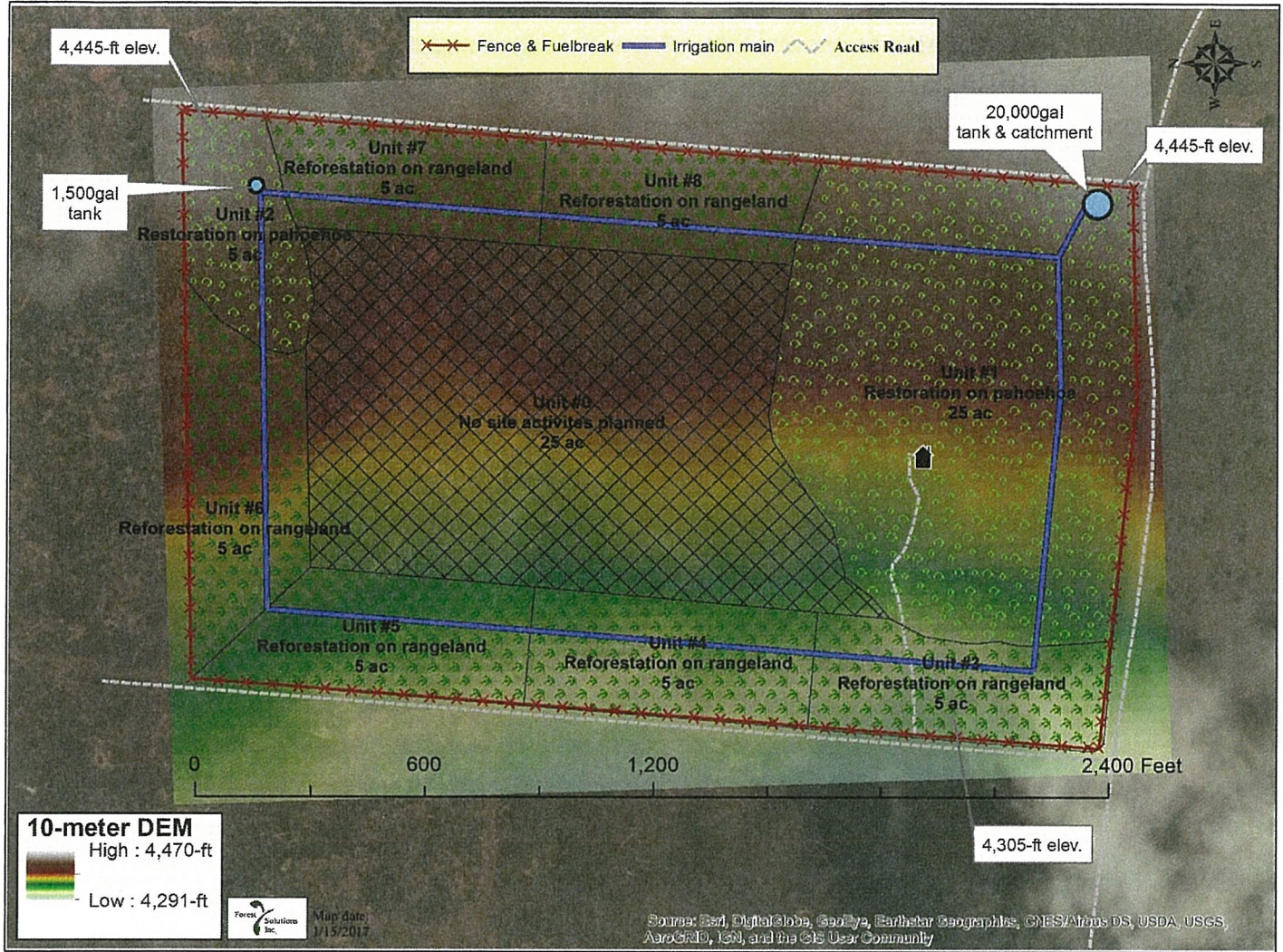
pu‘eo – *Asio flammeus sandwichensis*

nēnē – *Branta sandvicensis*

4.4. Additional threat assessments

The primary threats have been previously identified as wildfire and invasive species dominance. An additional threat to the restoration project could be prolonged drought brought upon by climate change. This is an unpredictable threat and expected to be mitigated by having a water source on site for irrigation.

Figure 9. FSP Site plan map.



5. Management Prescriptions

The following set of forest management prescriptions for the 30-acre reforestation and 30-acre restoration sites are recommended as the actions necessary to achieve the objectives of the FSP. These actions generally include the establishment, protection and maintenance of a native forest buffer surrounding the property, and include the following forest stewardship management practices including:

- 1) Fencing
- 2) Fuelbreak
- 3) Site preparation
- 4) Irrigation
- 5) Tree/shrub establishment
- 6) Mulching
- 7) Maintenance and monitoring

The project is planned to be implemented over 10-years with approximately 5-acres established every year for 6-years followed by enrichment of the 30-acre restoration area during the last 4-years.

5.1. Fencing (NRCS code 382)

Fencing is the first step toward re-establishing a native forest that is in an area threatened by feral ungulates. A 6-foot hogwire fence will be installed along the perimeter boundary of the restoration area equaling approximately 7,900-ft. Difficulties encountered will include topographic relief, lava substrate and brush. In order to make a strong fence that will endure, proper alignment, marking, and clearing will occur prior to installation. Fencing will meet the minimum specifications of applicable programs(s), the following is recommended.

1. 6-ft (72-inch) hogwire (woven wire), 12-14 gauge, galvanized steel, with smaller openings along the ground
 - a. Strung approximately 2-inches above ground
2. 8-foot galvanized T-post
 - a. Spaced between 12-15 ft and at all low and/or high points
3. Either 8-ft x 4-5-inch diameter pressure treated wood or 8-ft x 2-inch diameter galvanized steel pipe posts (with water tight end caps), braced in corners and at gates.
 - a. Spacing approximately 200-ft
4. Single strand 12-gauge barbwire
 - a. Strung between ground and hogwire
5. All galvanized clips, gates, and other hardware
6. An additional single or double strand of smooth 12-gauge wire can be strung at the top (barbed wire should be avoided here).

It is important to get the fence line as straight as possible so that it can be pulled to an appropriate tension. This will prevent sagging and premature fence failure from falling trees and branches.

5.2. Fuelbreak (NRCS code 383)

Fire is an ever-present threat in this dry environment therefore all restoration plantings should be protected by a fuelbreak along the inside of the fenceline. This fuelbreak will modify the exiting vegetation, primarily kikuyu grass, to diminish the risk of the spread of fire into the restoration area.

A 15-foot wide strip along the entire inside boundary of the fence will serve as the fuelbreak to protect the restoration area and property. These fuelbreaks will leverage the existing 4-wheel drive roads, also along boundaries, which in combination make an excellent fuelbreak and defensible space. Fine fire fuels will be controlled to minimize the possibility to carry a fire by either motor-manual means (i.e. weedwhacker or mower) or with herbicide (either glyphosate or imazapyr) using a backpack sprayer. All slash or medium to large fuels will also be removed from this strip by hand and using a chainsaw as required.

Maintenance will occur regularly and as site conditions require to provide the intended protection being mindful of quickly growing fine fuels during wet periods.

5.3. Site preparation (NRCS code 490)

Planting areas will need to be prepared by removing undesired species competition. Herbicide control, with either glyphosate or imazapyr, is expected to be the most useful and productive for removal of grass and herbs. Larger shrubs will need to be either sawn or cut with a machete by hand and removed from the planting site. The goal is to remove all nearby undesirable plants within an area of 2 to 3-feet of every planting site. This cleared area will be maintained using sheet mulching/weed mats or surrounding material suitable for mulching to allow for unimpeded growth of the native plants.

Within the restoration sites undesirable species will be removed between years 2 and 4 to release the existing native vegetation and promote the recruitment of new individuals.

5.4. Irrigation (NRCS code 436, 441, 636)

Micro-irrigation or drip irrigation is recommended to be used to help with seedling survival and establishment throughout the planned project area without excessive water waste. An irrigation specialist should be consulted to determine the best system for the project's needs. A specialist will incorporate such things as water pressure, nozzle quantity, nozzle outputs and pipe size so that all plants receive consistent and ample volumes of water.

Some planting sites within the restoration areas may be cost prohibitive to install irrigation due to the complexities of location and terrain. In these cases, the owner may choose to hand water.

A main irrigation line will be required to circle the entire property and should be placed near the interior boundary of the planting, far from the risk of fires on the boundary. Due to the 5-acre per year establishment plan, all sub-main irrigation components should be planned to be reusable and moved as necessary from year-to-year.

Irrigation removal should be based on plant survival and desired growth rates.

The following table is a proposed water use schedule which should be modified according to weather and desired plant growth:

Timeframe	Week 1	Week 2-Month 3	Month 3 – 6	Month 6+
Frequency	Every other day	Once per week	Once a fortnight	As desired
Amount	0.5 gallon	1 gallon	1 gallon	1 gallon
Capacity (5 ac)	1,750 gal/wk	4,000 gal /mo	2,000 gal/mo	N/A

To supply water, two extra resources are needed: water storage tanks and increased water catchment area. Two tanks are envisioned for the property, a main tank with a capacity of 20,000-gallons that will be located near the main access road so that it can be easily filled during dry periods. This tank will be installed in the first year. Due to the north and south upper boundaries being similar in elevation, it may not be possible to water plantings along the north boundary. Therefore, we recommend an additional tank of 1,500-gallons that will supply water to the northern boundary restoration sites and will be used as a transfer tank. This transfer tank will be supplied with water via pumping from the main tank and then gravity feed the plantings below. The logic behind this tank is that it will be much cheaper and efficient to pump water for a short period to fill the small tank rather than during a whole irrigation cycle. It will not be needed, due to the planting schedule, until year 5.

Currently the main water tank is planned to be filled from the catchment area provided by the main residence. However, the main tank can also be utilized to increase the total catchment area and hopefully limit the amount of water needed from off sight. The cost of increased catchment surface area will be much cheaper than paying for the additional water hauling it might offset. Nonetheless, supplemental water has been budgeted for by means of contract water hauling from a nearby supplier.

5.5. Tree and shrub establishment (NRCS code 612)

Hand planting will be done throughout the year and accomplished using hand-tools as appropriate for the nursery stock. The nursery from which seedlings will be sourced has not been identified yet. Mechanical equipment cannot be used in these shallow soils. The soil surface should be perforated to a depth slightly greater than the length of the seedling root stock, and the seedling should be placed into this hole. The root collar should be marginally lower than the level of the soil, between 1/8" and 1/4", with the root mass oriented vertically; the tip of the root mass should not bend outwards (so-called "J-rooting"). Soil is then covered around the root system and slightly compacted so that the possibility of air pockets is minimized.

In reforestation areas, the spacing and distribution of species should conform to approximately 15' x 15' spacing. This is approximately 200 trees per acre and will provide an appropriate canopy cover at maturity. The distribution of tree, shrub and herbaceous species should be planted irregularly to mimic a natural setting. An ideal distribution is 65% tree species and 35% shrub or herbaceous species per acre from the list included in Table 3.

In restoration areas, the spacing and distribution of species is planned to be irregular and take advantage of existing appropriate micro-sites that have a combination of soil, shade, mulching and protection by existing plants. Plant density will vary as determined by existing and regenerating plants. These plantings will not

occur until year 7, to allow the forest to regenerate naturally after fencing out the feral ungulates and allow work to focus on the reforestation areas. At about year 7 we expect to see the results and have a better indication of which areas need enriching.

Table 3. Recommended native plant list

Trees			Shrubs/Groundcovers		
Genus	Species	Common	Genus	Species	Common
<i>Acacia</i>	<i>koa</i>	koa	<i>Chenopodium</i>	<i>oahuense</i>	aweoweo
<i>Antidesma</i>	<i>pulvinatum</i>	hame	<i>Coprosma</i>	<i>ernodeoides</i>	kukaenene
<i>Coprosma</i>	<i>montana</i>	pilo	<i>Dodonaea</i>	<i>viscosa</i>	aalii
<i>Myrsine</i>	<i>lanaiensis</i>	kolea	<i>Euphorbia</i>	<i>celastroides</i>	akoko
<i>Myrsine</i>	<i>lessertiana</i>	kolea lau nui	<i>Osteomeles</i>	<i>anthyllidifolia</i>	ulei
<i>Nestegis</i>	<i>sandwicensis</i>	olopua	<i>Vaccinium</i>	<i>reticulatum</i>	ohelo
<i>Pittosorum</i>	<i>confertiflorum</i>	hoawa	<i>Styphelia</i>	<i>tameiameiae</i>	pukiawe
<i>Santalum</i>	<i>ellipticum</i>	iliahi	<i>Wikstroemia</i>	<i>phillyreifolia</i>	akia
<i>Santalum</i>	<i>paniculatum</i>	iliahi	<i>Wikstroemia</i>	<i>sandwicensis</i>	akia
<i>Sophora</i>	<i>chrysophylla</i>	mamane			

5.6. Mulching (NRCS code 484)

Mulching includes the use of various methods to shade out competition after planting and conserve soil moisture. Either black sheet mulching (also known as a weed mat) or cardboard should be placed around every plant and cover 4 square feet. Sheet mulching will need to be pinned or weighted down appropriately to prevent its removal in high winds or by other means.

5.7. Maintenance

5.7.1.1. Nutrient management (NRCS code 590)

A fertilizer treatment assists with early seedling growth and development, and is recommended to help establish native seedlings. Typically, a 4-oz. dose of fertilizer is distributed evenly within a 8" diameter area centered on the seedling stem. An organic low dose fertilizer can be used such as chicken manure (3-2-2 or similar about \$25 per 25lbs) and applied at planting.

5.7.1.2. Weed control (NRCS code 314, 315)

Competition control of undesirable weedy species will be done using mulching as explained in §5.6. A rigorous plan of maintenance should be followed during wet times of the year to keep weeds from out-competing native plants. Hand weeding and herbicide will be required as necessary.

Reforestation areas will be controlled twice per year when weed growth demands it. Each year the area

to control increases eventuating at a maximum of 30-acres controlled twice per year. Weed control is continued through the 10-years to help the growth of the native plants.

Restoration areas are by default partially planted and once the area is fenced the weed growth will be significant. Therefore, to combat this, we have scheduled a weed control within the restoration areas in the first year after the fence is constructed. Weed control continues on an annual basis over the next 7-years to help aid in restoration. When planting begins in this area in year 7, the additional plants will not significantly add to the weed control work and therefore costs remain the same. The restoration area is controlled throughout the 10-years as well.

There are many grasses and herbs to control throughout the property, but specifically tropical ash will be removed however, the Monterey pine will not.

5.7.1.3. Ecological Monitoring/Integrated Pest Management (NRCS code 595)

Some degree of ecological monitoring is an important component of forest management and can be enjoyed by visiting parties as part of a recreation program.

For the scale of tree planting proposed in this plan, the property owner can maintain an effective monitoring program by periodically spot-checking survival simply by counting seedlings which have survived and comparing this number to the seedlings planted within the 5-acre forest restoration areas. This will provide feedback on the efficacy of prescriptions which will help with subsequent restoration efforts.

Although long-term ecological and zoological monitoring is beyond the scope of this management plan, the landowner may implement an ancillary or passive monitoring program to track observations as vegetation composition changes. This type of monitoring can be a part of a visitor program and can provide feedback to help the restoration area flourish.

An important component of this IPM is to monitor the resident rodent population and eliminate as much of these invasive species as possible to help insure future seedling recruitment. Rodent specific bait or bait stations are recommended and will be periodically maintained.

All fence lines will be periodically inspected and/or quickly repaired to ensure their proper function. They will also be inspected following large storms and wind events that might cause damage.

6. Budget and Schedule

The preceding management prescriptions are planned around a specific budget and implementation schedule based around the establishment of 5-acres every year for 6 years. Each prescription is assigned to a corresponding USDA NRCS code, and is given a per-unit cost. Costs for site preparation and maintenance are calculated on a per-acre basis. Costs of seedlings are calculated per individual plant, and costs of fencing, fuelbreak, irrigation and mulching are calculated on a unit cost per foot or square foot. An annual budget for each of ten (10) years is provided below in (Table 4). A yearly work schedule by month is also provided in detailed (Table 5). **Budgets have been prepared such that operational costs are allocated by year. The total project budget is \$282,920 (not including the management plan component) for ten years.**

Table 4. Annual budget of operations for 10-years. Some costs increase as area worked increases, e.g. weed control, whereas most remain constant as 5-acres are consistently worked every year.

Monthly Activity Schedule & Budget	Cost unit ⁻¹	# Unit	Unit	Total Cost	Year									
					1	2	3	4	5	6	7	8	9	10
Fence construction	\$12.00	7,900	feet	\$94,800	\$ 94,800	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Fence maintenance	\$0.10	7,900	feet	\$7,900	\$ 790	\$ 790	\$ 790	\$ 790	\$ 790	\$ 790	\$ 790	\$ 790	\$ 790	\$ 790
Fuelbreak construction	\$350	2.8	acres	\$980	\$ 980	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Fuelbreak maintenance	\$150	2.8	acres	\$4,200	\$ 420	\$ 420	\$ 420	\$ 420	\$ 420	\$ 420	\$ 420	\$ 420	\$ 420	\$ 420
Site preparation	\$150	60	acres	\$9,000	\$ -	\$ 2,250	\$ 2,250	\$ 2,250	\$ 750	\$ 750	\$ 750	\$ -	\$ -	\$ -
Irrigation system	\$900.00	30	acres	\$27,000	\$ -	\$ 4,500	\$ 4,500	\$ 4,500	\$ 4,500	\$ 4,500	\$ 4,500	\$ -	\$ -	\$ -
Irrigation reservoir	varies	2	tank	\$8,000	\$ 6,000	\$ -	\$ -	\$ -	\$ 2,000	\$ -	\$ -	\$ -	\$ -	\$ -
Water harvest catchment	\$15.00	576	sq.ft	\$8,640	\$ 8,640	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Water hauling	\$0.07	varies	gallon	\$13,500	\$ -	\$ 1,500	\$ 1,500	\$ 1,500	\$ 1,500	\$ 1,500	\$ 1,500	\$ 1,500	\$ 1,500	\$ 1,500
Establishment-reforest	\$3.50	6,000	seedlings	\$21,000	\$ -	\$ 3,500	\$ 3,500	\$ 3,500	\$ 3,500	\$ 3,500	\$ 3,500	\$ -	\$ -	\$ -
Establishment-reforest	\$2.50	6,000	planting	\$15,000	\$ -	\$ 2,500	\$ 2,500	\$ 2,500	\$ 2,500	\$ 2,500	\$ 2,500	\$ -	\$ -	\$ -
Mulching-reforest	\$0.28	24,000	sq.ft	\$6,720	\$ -	\$ 1,120	\$ 1,120	\$ 1,120	\$ 1,120	\$ 1,120	\$ 1,120	\$ -	\$ -	\$ -
Nutrient Mgmt-reforest	\$50	30	acres	\$1,500	\$ -	\$ 250	\$ 250	\$ 250	\$ 250	\$ 250	\$ 250	\$ -	\$ -	\$ -
Weed control-reforest	\$50	30	acres	\$19,500	\$ -	\$ 500	\$ 1,000	\$ 1,500	\$ 2,000	\$ 2,500	\$ 3,000	\$ 3,000	\$ 3,000	\$ 3,000
Establishment-restore	\$3.50	1,500	seedlings	\$5,250	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,750	\$ 1,750	\$ 1,750
Establishment-restore	\$2.50	1,500	planting	\$3,750	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,250	\$ 1,250	\$ 1,250
Mulching-restore	\$0.28	6,000	sq.ft	\$1,680	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 560	\$ 560	\$ 560
Nutrient Mgmt-restore	\$12.50	30	acres	\$375	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 125	\$ 125	\$ 125
Weed control-restore	\$75	30	acres	\$22,500	\$ 2,250	\$ 2,250	\$ 2,250	\$ 2,250	\$ 2,250	\$ 2,250	\$ 2,250	\$ 2,250	\$ 2,250	\$ 2,250
Monitoring/IPM	\$45	60	acres	\$2,025	\$ -	\$ 225	\$ 225	\$ 225	\$ 225	\$ 225	\$ 225	\$ 225	\$ 225	\$ 225
Subtotal:					\$113,880	\$ 19,805	\$ 20,305	\$ 20,805	\$ 21,805	\$ 20,305	\$ 20,805	\$ 11,870	\$ 11,870	\$ 11,870
Applicant share:					\$ 56,940	\$ 9,903	\$ 10,153	\$ 10,403	\$ 10,903	\$ 10,153	\$ 10,403	\$ 5,935	\$ 5,935	\$ 5,935
FSP Share:					\$ 56,940	\$ 9,903	\$ 10,153	\$ 10,403	\$ 10,903	\$ 10,153	\$ 10,403	\$ 5,935	\$ 5,935	\$ 5,935
Annual subtotal:					\$113,880	\$ 19,805	\$ 20,305	\$ 20,805	\$ 21,805	\$ 20,305	\$ 20,805	\$ 11,870	\$ 11,870	\$ 11,870
Running total:					\$113,880	\$133,685	\$153,990	\$174,795	\$196,600	\$216,905	\$237,710	\$249,580	\$261,450	\$273,320

Table 5. Annual schedule of work by month. An additional 5-acres of weed control-reforestation is added every year until it reaches a maximum of 30-acres at year 7.

Monthly Activity Schedule & Budget	Month											
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Fuelbreak maintenance			2.8ac								2.8ac	
Fence maintenance												
Site preparation			5ac									
Irrigation system			5ac									
Establishment				5ac								
Mulching				5ac								
Nutrient Mgmt				5ac								
Weed control-reforest					5ac						5ac	
Water hauling												
Weed control-restore					30ac							
Monitoring/IPM												

7. References

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DAVID Y. IGE
GOVERNOR OF
HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

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FIRST DEPUTY

JEFFREY T. PEARSON, P.E.
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KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

DECLARATION OF EXEMPTION

Regarding the preparation of an environmental assessment under the authority of
Chapter 334, HRS and Chapter 11-200-8, HAR

Project Title:	Triparvata Forest Stewardship Management Plan and Forest Stewardship Agreement with Triparvata LLC
Project Number:	N/A
Project Location:	Kealahakua/North Kona District/Hawaii County, Hawaii Tax Map Key (3) 7-9-001:019
Chapter 343 Trigger(s):	Use of State Funds
Project Description:	<p>Forest Stewardship Agreement and associated management plan for the Native Forest Restoration at Triparvata LLC. The project proposes to actively manage and restore approximately 60 acres characterized as having a sparse native cover of 'ōhi'a, koa, and māmane, and a predominantly invasive understory. The native vegetation has been degraded by feral ungulates, logging, wildfires, and colonization by invasive plants. In areas where the understory is dominated by invasive weed species, natural recruitment of native species is limited. The specific long-term goal of this FSP project is to restore and reforest these 60 acres to benefit native plants, wildlife, and other important resources.</p> <p>Over the course of the 10-year management plan and agreement, Triparvata LLC intends to promote the (1) reforestation of 30 acres of kikuyu grass dominated rangeland to a native montane dry forest/shrubland with native canopy tree species koa, māmane, and 'iliahi, and (2) the restoration of 30 acres of open canopy koa/mamane/naio forest/shrubland via natural resource protection and enrichment plantings. The first management activity will be installation of perimeter fences to exclude feral ungulates, which is recommended for FSP and a fuelbreak to protect from fire. Site preparation will include chemical and manual weed control of weedy species, such as kikuyu grass and fireweed. After invasive weeds have been controlled, the cleared areas will be maintained using sheet mulching and weed mats. The irrigation will assist with seedling survival and establishment. Outplanting of native trees and shrubs will be hand planted at 15ft x 15ft spacing, with an irregular distribution of trees (65%), and shrubs and/or herbaceous plants (35%).</p>

	Ongoing maintenance such as weed control and nutrient management of the established areas will be undertaken on a regular basis after the initial planting and throughout the 10 years of the contract. Rodent bait and bait stations will be regularly maintained to mitigate the damage to seedlings by rodents, which are common in the area, and to improve native recruitment. Monitoring of the reforestation and restoration efforts will be ground-based and completed by the landowner.
Consulted Parties:	U.S. Department of Agriculture, Natural Resources Conservation Service; U.S. Department of Interior, Fish and Wildlife Service; Department of Land and Natural Resources Commission on Water Resource Management; County of Hawaii, Department of Planning
Authorization:	Approved by the Environmental Council on June 5, 2015
Exemption Class & Description:	<p>Activities and actions associated with this project fall under the following Exemption Classes and Descriptions which are included in the Exemption List for the Department of Land and Natural Resources. http://oeqc2.doh.hawaii.gov/Agency_Exemption_Lists/State-Department-of-Land-and-Natural-Resources-Exemption-List-2015-06-05.pdf</p> <p>Exemption Class No. 3, Item 1, Fences around or to manage rare, threatened or endangered plants, 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.</p> <p>Exemption Class No. 4, Item 6, Minor vegetation clearing and management, including mowing, pruning, trimming, and application of federal and state approved herbicides in conformance with label instructions.</p> <p>Exemption Class No. 4, Item 8, Removal of invasive vegetation utilizing cutting, mowing, application of federal and state approved herbicides in conformance with label instructions, distribution of biocontrol agents approved by the State of Hawaii, and other approved methods.</p> <p>Exemption Class No. 4, Item 12, 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.</p> <p>Exemption Class No. 4, Item 13, Gathering plant seed, cuttings, or other vegetative matter for propagation.</p>

	Exemption Class No. 4, Item 22, 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 removal of introduced vegetation, reintroduction of native species into their historic range, or construction of fencing. This exemption would not apply to biocontrol of invasive species or commercial logging.
Determination:	The Board of Land and Natural Resources declares that this project will likely have minimal or no significant impact on the environment and is therefore exempt from the preparation of an environmental assessment under the above exemption classes.

Suzanne D. Case, Chairperson
Board of Land and Natural Resources

Date