

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

March 22, 2019

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

Land Board Members:

**SUBJECT: REQUEST APPROVAL AND AUTHORIZATION OF THE CHAIRPERSON TO NEGOTIATE AND EXECUTE A MEMORANDUM OF AGREEMENT BETWEEN THE FRIENDS OF HAWAII'S URBAN FOREST DBA SMART TREES PACIFIC AND THE STATE OF HAWAII DEPARTMENT OF LAND AND NATURAL RESOURCES FOR THE PURPOSE OF THE JOINT AND COOPERATIVE MANAGEMENT OF THE KAULUNANI URBAN AND COMMUNITY FORESTRY PROGRAM**

AND

DECLARE THAT, AFTER CONSIDERING THE POTENTIAL EFFECTS OF THE PROPOSED PROJECT AS PROVIDED BY CHAPTER 343, HRS, AND CHAPTER 11-200, HAR, THIS PROJECT WILL PROBABLY HAVE MINIMAL OR NO SIGNIFICANT EFFECT ON THE ENVIRONMENT AND IS THEREFORE EXEMPT FROM THE PREPARATION OF AN ENVIRONMENTAL ASSESSMENT.

This submittal requests approval of a Memorandum of Agreement (MOA) between the State of Hawaii Department of Land and Natural Resources (DLNR) and Friends of Hawaii's Urban Forest dba Smart Trees Pacific (STP) for the purpose of the joint and cooperative management of the Kaulunani Urban and Community Forestry Program (Kaulunani).

**BACKGROUND:**

The Urban and Community Forestry program was authorized by the Cooperative Forestry Assistance Act of 1978, Title 16, Part 2105, Section 9, Public Law 95-313, 92 Stat. 365 for the purpose of supporting the states in the development of programs that benefit our natural resources and communities. This program was re-authorized in the Farm Bill and funding since has been provided to the USDA Forest Service for program implementation. The Forest Service has allocated these funds to the Department of Land and Natural Resources, Division of Forestry and Wildlife

(DOFAW/State Forester) since 1991 for statewide distribution. The State of Hawai'i Urban and Community Forestry Program is called "Kaulunani" (lit. the beautiful growth), and is housed in the Department of Land and Natural Resources Division of Forestry and Wildlife (DOFAW). The Kaulunani program is funded by DOFAW and the USDA Forest Service (Region 5). Urban and Community Forestry is critical to the DLNR mission as it initiates and grows partnerships with other state and county agencies, as well as community, non-profit, and civic groups involved in green infrastructure, conservation-education, and demonstration tree planting projects throughout the state. By meeting communities where they are and engaging them in nature where they lived, Urban and Community Forestry promotes the health of local communities, improves the environment, and grows societies overall appreciation for Hawaii's natural resources.

From the initiation of the program in Hawai'i, the DOFAW has managed Kaulunani as a contracted program initially utilizing individual contractors to serve as the Forest Service required coordinator positions. To further grow Kaulunani, DOFAW, with support from the U.S. Forest Service, began transitioning from individual contractors to working with community partners and non-profits to meet the state program goals. Since 2011, DOFAW has been contracting the Friends of Hawaii's Urban Forest dba Smart Trees Pacific, a 501c(3) whose mission is to "promote and provide resources to select, install, establish, and care for trees to provide solutions for the natural and human environment," to administer and implement Kaulunani in partnership with the DOFAW and the U.S. Forest Service. This beneficial transition has brought about new partnerships, and it allowed the program to grow through expanded capacity and the ability to apply for grants available to non-profit organizations.

Over the past year, to manage Kaulunani more efficiently, the partners including DOFAW, the U.S. Forest Service, and STP determined that a direct grant award to STP would greatly improve grant implementation and reduce overall grant management burden. The U.S. Forest Service provides for this action via a direct holdback grant (i.e.: issued directly to STP instead of through DOFAW to STP). This type of granting arrangement is allowed by the U.S. Forest Service, provided DOFAW agrees and approves as the state supporter and cooperater of the program.

This MOA is a foundation piece to establishes roles and responsibilities to manage the Kaulunani program and is a critical piece for transparency under the direct holdback grant. In particular, the MOA address who is responsible for core program requirements between the Department and STP to be eligible to receive federal funding, including support for: the urban and community forestry program coordinator; support for volunteer/partnership coordination; support for an urban and community forestry council; and state program strategic planning. In addition, the MOA addresses who will provide accomplishment and performance reports and annually reporting as agreed upon with National Association of State Foresters such as hours of volunteer service; amount of state UCF funding; sub-grant awards; and amount of local match provided.

## DISCUSSION:

In 2018 the USDA Forest Service (Region 5) conducted a five year review of DOFAW's State and Private Forestry programs. One of the recommendations was the development of a Memorandum of Agreement between DOFAW and STP to outline roles and responsibilities between the parties. To fulfill this recommendation, the Division and STP have prepared a draft MOA, which has been reviewed by the Forest Service and preliminarily reviewed by the Department of the Attorney General (Exhibit A). This MOA will allow the Division and STP to enter into a mutually beneficial agreement, clarifying roles for both organizations in the implementation and management of the Kaulunani Urban and Community Forestry Program.

## CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

The activities to be conducted under the terms of this MOA include the management of the Kaulunani Urban and Community Forestry Program including supporting the management of a UCF Advisory Council, providing technical guidance and support to community groups, supporting Arbor Day events and Tree City USA certification, and promoting outreach and education on the importance of trees and greenspaces.


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

RECOMMENDATIONS:

That the Board:

1. Approve entering into a Memorandum of Agreement between the State of Hawaii Department of Land and Natural Resources and the Friends of Hawaii's Urban Forest dba Smart Trees Pacific for the purpose of joint and cooperative management of the Kaulunani Urban and Community Forestry Program;
2. Authorize the Chairperson to negotiate, sign, execute and amend a Memorandum of Agreement between the State of Hawaii Department of Land and Natural Resources and the Friends of Hawaii's Urban Forest, dba Smart Trees Pacific, for the purpose of joint and cooperative management of the Kaulunani Urban and Community Forestry Program, subject to Department of the Attorney General's approval as to form; and
3. Approve a declaration of exemption from Chapter 343, Hawaii Revised Statutes, requirement to prepare an environmental assessment of the actions proposed in this Memorandum of Agreement.

Respectfully submitted,

  
\_\_\_\_\_  
for David G. Smith, Administrator  
Division of Forestry and Wildlife

APPROVED FOR SUBMITTAL:


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

Exhibit A: Draft MOA  
Exhibit B: Draft Declaration of exemption

## EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title: Memorandum of Agreement between Department of Land and Natural Resources and Friends of Hawaii's Urban Forest dba Smart Trees Pacific

Project / Reference No.: Kaulunani MOA

Project Location: State of Hawaii - statewide

Project Description: Memorandum of Agreement (MOA) between the State of Hawaii Department of Land and Natural Resources and Friends of Hawaii's Urban Forest dba Smart Trees Pacific (STP) for the purpose of the joint and cooperative management of the Kaulunani Urban and Community Forestry Program (Kaulunani). The State of Hawai'i Urban and Community Forestry Program is called "Kaulunani" (lit. the beautiful growth), and is housed in the Department of Land and Natural Resources Division of Forestry and Wildlife (DOFAW). The Kaulunani program is funded by DOFAW and the USDA Forest Service (Region 5). Urban and Community Forestry is critical to the DLNR mission as it initiates and grows partnerships with other state and county agencies, as well as community, non-profit, and civic groups involved in green infrastructure, conservation-education, and demonstration tree planting projects throughout the state. This MOA is a foundation piece to establishes roles and responsibilities to manage the Kaulunani program and is a critical piece for transparency under the direct holdback grant. In particular, the MOA address who is responsible for core program requirements between the Department and STP to be eligible to receive federal funding, including support for: the urban and community forestry program coordinator, support for volunteer/partnership coordination, support for an urban and community forestry council, and state program strategic planning. The activities to be conducted under the terms of this MOA include the management of the Kaulunani Urban and Community Forestry Program including supporting the management of a UCF Advisory Council, providing technical guidance and support to community groups, supporting Arbor Day events and Tree City USA certification, and promoting outreach and education on the importance of trees and greenspaces.

Chap. 343 Trigger(s): State Land & Funds

Exemption Class No(s): Exemption Class 1, Action 4, 11, 32, 33, 34, 42;  
Exemption Class 4, Action 22;  
Exemption Class 5, Action 2, 15;  
Exemption Class 10, Action 1-5

Exemption Class 1 – *Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing.*

*4. Fire management activities, including prevention and restoration measures, when conducted in accordance with Departmental and Division procedures.*

*11. Operation, repair and maintenance of existing nurseries, arboreta, and captive propagation facilities.*

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

*33. Maintenance of state lands and waters to remove weeds, brushes, grass and other unwanted vegetation.*

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

*42. Actions that are intended to maintain or support the sustainability of those natural resources under the jurisdiction of the Department, including law enforcement, regulation compliance, resources and environmental monitoring, debris or property removal, and other administrative and management measures.*

*Exemption Class 2 – Replacement or reconstruction of existing structure and facilities where the new structure will be located generally on the same site and will have substantially the same purpose, capacity, density, height, and dimensions as the structure replaced.*

*5. Replacement or reconstruction of existing nurseries, arboreta, and captive propagation facilities.*

*22. Replacement or renovation of existing landscaping or vegetation.*

*23. Re-vegetate burned or eroded areas to encourage the succession of selected plant species to prevent soil erosion and promote the goals of the Department.*

*Exemption Class 4 - Minor alteration in the conditions of land, water, or vegetation.*

*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.*

*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.*

*Exemption Class 5 - Basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource.*

*2. Non-destructive data collection and inventory, including field, aerial and satellite surveying and mapping.*

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

*Exemption Class 10 - Continuing administrative activities including, but not limited to, purchase of supplies and personnel-related actions.*

*1. Purchase of supplies, equipment, materials, motor vehicles, boats, and services.*

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

Cumulative Impact of Planned Successive Actions in Same Place Significant?: No. Any successive actions in the same place are expected to have positive impacts such as increased urban tree canopy or improved understanding among the public about the importance of trees.

Action May Have Significant Impact on Particularly Sensitive Environment?: No. No particularly sensitive environments are involved in this project or program.

Analysis: The project will probably have minimal or no significant effect on the environment except a positive impact with regard in more trees (native and non-invasive) planted, more trees maintained, more outreach and education on the benefits of trees to public.

Consulted Parties: Kaulunani Urban & Community Advisory Council: Chair, Alex Connelly, and Vice Chair, Leonard Bisel.  
Office of Hawaiian Affairs: Chief Executive Officer, Kamana'opono Crabbe

Declaration: The Board finds that this project will probably have minimal or no significant effect on the environment and declares that this project is exempt from the preparation of an environmental assessment.

MEMORANDUM OF AGREEMENT  
BETWEEN SMART TREES PACIFIC  
AND  
THE STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
DIVISION OF FORESTRY AND WILDLIFE  
FOR THE JOINT MANAGEMENT OF THE KAULUNANI URBAN AND COMMUNITY  
FORESTRY PROGRAM

This Memorandum of Agreement (MOA) is made and entered into on this \_\_\_\_ day of \_\_\_\_\_, 2019 by between Friends of Hawaii's Urban Forest dba Smart Trees Pacific, a Hawaii nonprofit corporation, (hereinafter referred to as "STP") and the State of Hawaii, Department of Land and Natural Resources by its Board of Land and Natural Resources, (hereinafter referred to as "DLNR"), referred to collectively as the "Parties", for the purpose of the joint and collaborative management of the State of Hawaii Kaulunani Urban and Community Forestry Program (hereinafter referred to as "PROGRAM"), which is an authorized USDA Forest Service Urban and Community Forestry Program, established by Section 9, Urban and Community Forestry Assistance, of the Cooperative Forestry Assistance Act (CFAA) of 1978 (Pub. L. 95-313), as amended by Pub. L. 101-624[1], and as later amended and codified under 16 U.S.C. §2101 *et seq.* Funding is provided to the State of Hawaii through U.S. Forest Service State and Private Forestry Assistance Program in support of the PROGRAM.

WITNESSETH

WHEREAS, STP is a private nonprofit organization under the laws of the State of Hawaii for the purpose of promoting and providing resources to select, install, establish, and care for trees to provide solutions for the natural and human environment;

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



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

WHEREAS, a relationship between the STP and DLNR has existed, by which STP has provided contract services for the management of the PROGRAM for over seven years;

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

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

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

This Memorandum of Agreement (MOA) defines in broad and general terms the basis and intent in cooperation by the Parties. Additional activities may be developed between the Parties, which outline specific projects.

#### ARTICLE I - PURPOSE

The purpose of this agreement is to outline a cooperative program to be administered between the Parties through collaborative efforts.

To this end, the Parties agree jointly to strengthen and expand the reach of the PROGRAM. This effort is to continue managing the PROGRAM in such a way as to maximize the benefit to Hawai'i's urban forests that is consistent with the values and desires of the community, DLNR, and the U.S. Forest Service.

#### ARTICLE II – SMART TREES PACIFIC CONTRIBUTIONS

To support and facilitate administration of the PROGRAM, described herein STP agrees to:

1. Manage all aspects of the PROGRAM assigned to STP through consultation and collaboration with the Urban and Community Forestry (UCF) Program Coordinator on staff at DOFAW and the PROGRAM Urban and Community Forestry Council (Advisory Council).
2. Support management and core duties of the PROGRAM: including providing volunteer and partnership coordination, supporting an Advisory Council, and supporting projects that further strategic priorities identified in the State of Hawai'i Forest Action Plan.
3. Administer a grants program as a part of the PROGRAM, supported by the PROGRAM Advisory Council and DOFAW.
4. Complete the semi-annual activities including progress reports and financial reports for funds provided to STP in support of the Program and submit them to DOFAW and the U.S. Forest Service (USFS).
5. Provide PROGRAM matching information in writing, including information regarding cash and in-kind contributions collected and tracked by STP in support of the PROGRAM and PROGRAM grants to DOFAW for quarterly financial reporting purposes.
6. Seek and leverage additional funding for the PROGRAM where needed and support exists.
7. Submit annual reports of PROGRAM accomplishments as outlined by the USFS Community Achievement Report System (CARS), report accessed via the National Information Center Portal system on behalf of the PROGRAM.
8. Provide to DOFAW quarterly program accomplishment updates and plans for the next period.
9. Collaboratively write annual PROGRAM narrative for USFS grants with DOFAW and the PROGRAM Advisory Council.
10. Hold at least three PROGRAM Advisory Council meetings during the fiscal year.
11. Involve the PROGRAM Advisory Council and DOFAW with all PROGRAM components.
12. Enhance public awareness of the PROGRAM by seeking out new PROGRAM Advisory members and increasing the diversity of members.
13. Promote the PROGRAM community grant program with new groups that share the same vision.

14. Maintain and grow a network of synergistic partners whose work overlaps with the PROGRAM.
15. Support community engagement in urban forestry, such as the Citizen Forester program as a key outreach and volunteer initiative.
16. Continue supporting Arbor Day events to improve visibility for the PROGRAM and promote tree planting and promotion efforts statewide.
17. Promote the Tree City USA and/or Tree Campus USA programs and work towards increasing the number and capacity of Hawai'i's Tree Cities.
18. Organize semi-annual meetings with STP Board of Directors or Board Proxy and DOFAW to facilitate open communications between the Parties.
19. Assign a point of contact at STP for DOFAW who will be the primary person responsible for responding to DOFAW communications, arranging meetings between STP and DOFAW, and managing the internal STP handling of DOFAW requests.
20. Assign a point of contact at STP to be the primary person responsible for PROGRAM volunteer and partnership coordination.

### ARTICLE III - DLNR CONTRIBUTIONS

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

1. Have the DOFAW staff UCF Program Coordinator manage all aspects of the PROGRAM as designated to DOFAW through consultation and collaboration with the PROGRAM Advisory Council and STP.
2. Have the DOFAW staff UCF Program Coordinator be the final signatory on all reports to the USFS.
3. Support management of the PROGRAM and its core duties including: providing program coordination, supporting an Urban and Community Forestry Council, and supporting projects that further strategic priorities identified in the State of Hawaii Forest Action Plan.
4. Work collaboratively with STP to develop priority projects under the PROGRAM.
5. Assign such members of its staff to provide appropriate oversight of the PROGRAM. This will include guidance on PROGRAM direction, priorities, project development, and funding and grant opportunities. Designate a specific person at DOFAW to be the

contact for collaboration on issues with STP who will manage internal DOFAW communication on issues raised by STP.

6. Supply semi-annually to STP, all available financial information including matching for all PROGRAM funds held by DOFAW to enable program budget management.
7. Provide to STP, standard operating procedures for procurement of DOFAW funds and administration of DOFAW paperwork.
8. Provide to STP, submission requirements for reporting under the PROGRAM.
9. Provide a copy of the SF 425 forms for DOFAW-managed PROGRAM funds to STP.
10. Support the PROGRAM by participation on the PROGRAM Advisory Council.
11. Meet with the designated staff person at STP at least monthly and as needed in order to facilitate PROGRAM activities.

#### ARTICLE IV- GENERAL PROVISIONS

1. The Parties agree to review, adapt as needed, and consider renewing this MOA after five years.
2. The Parties agree to adhere to the Federal Program Guidelines Applicable to Management of the PROGRAM as stated in "Exhibit A", which is hereby incorporated by reference, where not in conflict with state law.
3. The Parties to the MOA shall be free to use any of the project results in official correspondence or publications provided due credit is given to the collective Parties for contribution(s) to the effort. It is understood that the Parties may not publish any results from joint research without consulting the other. Publication may be joint or independent as may be agreed upon, always giving due credit to the contributions of all parties involved in the joint effort.
4. The Parties agree to create a collaborative work plan annually, and DOFAW retains the authority to approve the program of work. This work plan may be reviewed and adapted as needed with mutual agreement.
5. STP must maintain appropriate insurance coverage to ensure that all its employees, contractors and property are covered if damaged, injured, or killed,

as appropriate, according to standards acceptable to DLNR. DOFAW, as an instrumentality of the State of Hawai'i, is self-insured.

6. STP must maintain and provide documentation of its status as a 501(c)(3) exempt organization in good standing on an annual basis.
7. This Agreement may be modified only by written mutual agreement between the Parties. Requests for any major change shall be submitted to the other Parties not less than 60 calendar days prior to the proposed effective date.
8. Written termination requests shall be sent to the Parties not less than one month prior to the desired effective date. Termination may occur for any reason and without cause, as well as non-compliance with MOA, violations of DLNR laws, regulations, guidelines applicable to the management of the PROGRAM and violations of other State laws, and regulations.
9. Copies of all correspondence concerning this Agreement shall be sent to representatives of each of the Parties.
10. Correspondence may be directed to:  
  
Smart Trees Pacific  
% Kevin Eckert  
PO Box 1343  
Kailua, HI 96734  
(808) 254-4161  
  
Department of Land and Natural Resources  
Division of Forestry & Wildlife  
DOFAW Administrator  
1151 Punchbowl St. Honolulu, HI 96813  
(808) 587-0166
11. All Parties will waive any and all claims against the State of Hawai'i and its officers, agents, employees, or volunteers for any injury, property damage, and/or death caused by any negligence on the part of the State of Hawai'i, its officers, agents, employees, and other volunteers, and agree to hold harmless and indemnify the State of Hawai'i, its officers, agents, employees, and other volunteers from any suits, actions, and claims arising out of or in any way connected with activities of the State of Hawai'i, its officers, agents, employees or other volunteers.

12. Any person subject to this MOA are responsible for compliance with Hawaii Revised Statutes Chapters 183 and 171, and violators will be subject to any applicable criminal and/or administrative penalties provided therein.
13. This Agreement shall become effective upon date of the final signature and shall continue in full effect for the duration of the PROGRAM with the possibility of extending it upon mutual agreement.
14. This MOA and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Hawai'i.

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

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

Approved as to Form

\_\_\_\_\_  
Deputy Attorney General

For State of Hawai'i,

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

For Friends of Hawaii's Urban Forest  
dba Smart Trees Pacific

\_\_\_\_\_  
Board President